THE COUNTY COMMISSIONERS
OF KENT COUNTY, MARYLAND
AGENDA

August 1, 2023

6:00 PM Call to Order/Pledge of Allegiance/Moment of Silence

Meeting Announcements - Time Is Allotted At The End Of Each Meeting For The Commissioners To Receive Comments From The Public

Public Notices

Alcoholic Beverage Hearing

White Swan Investors, LLC trading as The White Swan Tavern

Code Home Rule Bill No. 2-2023 Industrial Structures In 301 Corridor

Adoption Notice

Consent Items

#1 - Regular Session Minutes, July 25, 2023

#2 - Liquor Minutes, July 25, 2023

#3 - American Diabetes Association, Raffle Only, August 13, 2023

Legislative Session

Jamie Williams, Director, Economic and Tourism Development

Introduction of Code Home Rule No. 4-2023, Residential Sprinkler Property Tax Credit Extension

Human Resources Director

Jim Miller, Director, Human Resources

Finance Department Restructuring Recommendation

Jim Miller, Director, Human Resources

Finance Associate Vacancy

Kent Alcohol and Tobacco Enforcement KATE

Sondra M. Blackiston, Clerk/Kate Manager

License Update

Recognition

Jillyn Coleman, Director, Parks & Recreation

Recognition of Aquatic Staff (Lifeguards, Pool Cashiers) and Summer Camp Staff

Departmental Appointments

Bill Mackey, Director, Planning, Housing and Zoning

A Resolution to forward to the Kent County Agriculture Advisory Commission and the Kent County Planning Commission, for their comments and recommendations, a proposal to revise Chapter 222, Zoning, of the County Code of Kent County,

Maryland, also known as the Land Use Ordinance, as part of comprehensive rezoning.

Carla Gerber, Deputy Director, Planning, Housing, and Zoning

Maryland Agricultural Land Preservation Foundation FY2024 Easement Rankings

Proposed Draft Of The Kent County Comprehensive Land Use Ordinance

Proposed DRAFT Land Use Ordinance Document

Track Changes Version

Proposed DRAFT Land Use Ordinance Document

Clean Copy

Public Comment/Media Review

Procedures For Public Comment

American Rescue Plan Act Funds

American Rescue Plan Act (ARPA) Funds Spend Plan

Contingency Fund

Contingency and Use of Fund Balance Report

Closed Session

Shelley Heller, County Administrator

Personnel
The meeting was closed under the Annotated Code of Maryland, General Provisions Article § 3-305(b) (1) To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; or any other personnel matter that affects one or more specific individuals.

(Meetings are conducted in Open Session unless otherwise indicated. All or part of County Commissioners' meetings can be held in closed session under the authority of the MD Open Meetings Law by vote of the Commissioners. Breaks are at the call of the President. Please note that times listed for specific items on the agenda are only estimates, and that the order of agenda items may change as time dictates or allows. Meetings are subject to audio and video recordings.)

Alcoholic Beverage Hearing
8/1/2023
County Commissioners Meeting

Item Summary:
White Swan Investors, LLC trading as The White Swan Tavern

ATTACHMENTS:

Description

08.29.23 White Swan Investors, LLC trading as The White Swan Tavern Hearing Notice

Board of License Commissioners
Ronald H. Fithian, President | Albert H. Nickerson, Member | John F. Price, Member
Shelley L. Heller, County Administrator | Thomas N. Yeager, County Attorney

NOTICE

Application has been made by Members: Christian Havemeyer, Jameson C. Culp, and Karyn B. McAuliffe; representing White Swan Investors, LLC., for a Class B, Country Inn, Beer, Wine, and Liquor License on the premises known as:

The White Swan Tavern
231 High Street
Chestertown, MD 21620

which shall authorize the holder thereof to sell Beer, Wine, and Liquor at the place therein described, for on-premises consumption to a registered guest. A hearing on the application will be held in the County Commissioners' Hearing Room, R. Clayton Mitchell, Jr. Government Center, 400 High Street, Chestertown, MD on August 29, 2023, at 10:00 a.m. at which time any exceptions to the application will be heard.

By order of:

THE BOARD OF LICENSE COMMISSIONERS
FOR KENT COUNTY, MARYLAND

Sondra M. Blackiston, Clerk/KATE Manager

PUBLISH KCN 08/03/23, 08/10/23

Code Home Rule Bill No. 2-2023 Industrial Structures In 301 Corridor
8/1/2023
County Commissioners Meeting

ATTACHMENTS:

Description

CHR Bill No. 2-2023 Industrial Structures In 301 Corridor, Adoption Notice

CHR Bill No. 2-2023 Industrial Structures In 301 Corridor, DRAFT Legislation

The County Commissioners of Kent County
Ronald H. Fithian, President | Albert H. Nickerson, Member | John F. Price, Member
Shelley L. Heller, County Administrator | Thomas N. Yeager, County Attorney

PUBLIC NOTICE

Adoption of Code Home Rule Bill No. 2-2023 Industrial Structures In 301 Corridor

AN ACT to amend Chapter 222, Zoning, of the Public Local Laws of Kent County, Maryland, also known as the Kent County Land Use Ordinance, in order to update Article V. District Regulations, Section 11. Commercial District, § 11.5 Density, Area, Height, Width, and Yard Requirements, by adding a new provision to regulate the height of industrial structures in general and by adding a new provision to regulate the permitted height of industrial structures in the 301 Corridor; to update Article V. District Regulations, Section 14. Employment Center District, § 14.5 Density, Height, Width, Bulk, and Fence Requirements, by adding a new provision to regulate the permitted height of industrial structures in the 301 Corridor; to update Article V. District Regulations, Section 15. Industrial District, §15.5 Density, Height, Width, and Fence Requirements, by adding a new provision to regulate the permitted height of industrial structures in the 301 Corridor; and to update Article XI, Definitions, Section 2. Definitions, by adding a new definition for the Route 301 Corridor, inserted as item #278.25.

This legislation was adopted on July 18, 2023, without amendments; and the provisions of this Act shall take effect on July 28, 2023. This bill in its entirety is on file at the Commissioners' Office, 400 High Street, Chestertown, Maryland, Monday through Friday, 8:30 a.m. to 4:30 p.m., and on the County's website at www.kentcounty.com.

By order of:

THE COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND

Sondra M. Blackiston, Clerk

PUBLISH: KCN 08/03/23, 08/10/23, 08/17/23

THE COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND

May 16, 2023 **Legislative Session Day**
Legislative Session Day **May 16, 2023**

CODE HOME RULE
BILL NO. 2-2023

INTRODUCED BY: Ronald H. Fithian, President of the Board of County Commissioners for Kent County, Maryland.

AN ACT to amend Chapter 222, Zoning, of the Public Local Laws of Kent County, Maryland, also known as the Kent County Land Use Ordinance, in order to update Article V. District Regulations, Section 11. Commercial District, § 11.5 Density, Area, Height, Width, and Yard Requirements, by adding a new provision to regulate the height of industrial structures in general and by adding a new provision to regulate the permitted height of industrial structures in the 301 Corridor; to update Article V. District Regulations, Section 14. Employment Center District, § 14.5 Density, Height, Width, Bulk, and Fence Requirements, by adding a new provision to regulate the permitted height of industrial structures in the 301 Corridor; to update Article V. District Regulations, Section 15. Industrial District, § 15.5 Density, Height, Width, and Fence Requirements, by adding a new provision to regulate the permitted height of industrial structures in the 301 Corridor; and to update Article XI, Definitions, Section 2. Definitions, by adding a new definition for the Route 301 Corridor, inserted as item #278.25.

THE COUNTY COMMISSIONERS
OF KENT COUNTY, MARYLAND

_____
Ronald H. Fithian, President

INTRODUCED, read the first time, May 16, 2023, ordered posted and public hearing scheduled on June 13, 2023, at 10:00 a.m. in the County Commissioners Hearing Room, R. Clayton Mitchell, Jr., Kent County Government Center, 400 High Street, Chestertown, Maryland.

By order of:

_____
Sondra M. Blackiston, Clerk

PUBLIC HEARING

HAVING been posted and notice of the time and place of the hearing and copies having been made available to the public and the press, a public hearing was held on June 13, 2023. Reported favorably [with] [without] amendments; read the second time and ordered to be considered on July 18, 2023, a legislative session day.

CAPITALS & BOLD INDICATES MATTER ADDED TO EXISTING LAW.
~~Strike through~~ indicates matter deleted from existing law.

A BILL ENTITLED CHR 2-2023 INDUSTRIAL STRUCTURES IN 301 CORRIDOR

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND that the Kent County Land Use Ordinance is hereby amended as follows:

SECTION 1.

ARTICLE V.
DISTRICT REGULATIONS

SECTION 11. COMMERCIAL DISTRICT

. . .

11.5 DENSITY, AREA, HEIGHT, WIDTH, AND YARD REQUIREMENTS

. . .

Height [1]	
- **INDUSTRIAL *STRUCTURE***	**45 FEET**
- **INDUSTRIAL *STRUCTURE* IN 301 CORRIDOR**	**60 FEET**
- Commercial *structure*	45 feet
- Residential *structure*	38 feet
- Fence [2]	
- Security	8 feet
- Ornamental	
Front and *side yard*	4 feet
Rear yard	8 feet

[1] Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; standpipes; and flag poles.

[2] Fences do not need to meet yard requirements.

CAPITALS & BOLD INDICATES MATTER ADDED TO EXISTING LAW.
~~Strike through~~ indicates matter deleted from existing law.

SECTION 2.

ARTICLE V.
DISTRICT REGULATIONS

SECTION 14. EMPLOYMENT CENTER DISTRICT

. . .

14.5 DENSITY, HEIGHT, WIDTH, BULK, AND FENCE REQUIREMENTS

	STANDARD	INDUSTRIAL SUBDIVISION
. . .		
Height		
- Industrial *structure*	45 feet	45 feet
- **INDUSTRIAL *STRUCTURE* IN 301 CORRIDOR**	**60 FEET**	**60 FEET**
- Residential *structure*	35 feet	35 feet
- Towers, silos, etc.	150 feet [5]	150 feet [5]
- Fence [6]		
- Security	8 feet	8 feet
- Ornamental		
Front and *Side*	4 feet	4 feet
Rear	8 feet	8 feet
Maximum building footprint		
- Distribution Center		
- Route 301 Corridor	NA	NA
- Other locations	75,000 sq. ft.	75,000 sq. ft.
- Other industrial *buildings*		
- Route 301 Corridor	NA	NA
- Other locations	250,000 sq. ft.	250,000 sq. ft.
- Office *buildings* *	10,000 sq. ft.	10,000 sq. ft.

[5] Except in the *Airport* Safety Zone

[6] Fences do not need to meet the yard requirements.

CAPITALS & BOLD INDICATES MATTER ADDED TO EXISTING LAW.
~~Strike through~~ indicates matter deleted from existing law.

SECTION 3.

ARTICLE V.
DISTRICT REGULATIONS

SECTION 15. INDUSTRIAL DISTRICT

. . .

15. 5 DENSITY, HEIGHT, WIDTH, BULK, AND FENCE REQUIREMENTS

	STANDARD	INDUSTRIAL SUBDIVISION
. . .		
Height		
- Industrial *structure*	45 feet	45 feet
- **INDUSTRIAL *STRUCTURE* IN 301 CORRIDOR**	**60 FEET**	**60 FEET**
- Residential *structure*	35 feet	35 feet
- Towers, silos, etc.	150 feet [5]	150 feet [5]
- Fence [6]		
- Security	8 feet	8 feet
- Ornamental		
Front and *Side*	4 feet	4 feet
Rear	8 feet	8 feet
Maximum building footprint		
- Distribution Center		
- Route 301 Corridor	NA	NA
- Other locations	75,000 sq. ft.	75,000 sq. ft.
- Other industrial *buildings*		
- Route 301 Corridor	NA	NA
- Other locations	250,000 sq. ft.	250,000 sq. ft.
- Office *buildings**	10,000 sq. ft.	10,000 sq. ft.

[5] Except in the *Airport* Safety Zone.

[6] Fences do not need to meet the yard requirements.

CAPITALS & BOLD INDICATES MATTER ADDED TO EXISTING LAW.
~~Strike through~~ indicates matter deleted from existing law.

SECTION 4.

ARTICLE XI.
DEFINITIONS

SECTION 2. DEFINITIONS

. . .

278. Rooming House - A *building* where, for compensation and by prearrangement for definite periods, lodging, meals, or lodging and meals are provided for three or more persons but containing no more than five guest rooms or *rental units*.

278.25 ROUTE 301 CORRIDOR - ONE OF TWO GROWTH AREAS IN KENT COUNTY IDENTIFIED BY THE COMPREHENSIVE PLAN, WHICH INCLUDES LAND ADJACENT TO AND ONE MILE EAST AND ONE MILE WEST OF THE NINE-MILE-LONG SECTION OF U.S. ROUTE 301, AS IT PASSES FROM NORTH TO SOUTH THROUGH KENT COUNTY, MARYLAND, AND ADDING THOSE PROPERTIES THAT ARE ZONED EMPLOYMENT CENTER AND INDUSTRIAL, WHICH ARE LOCATED ALONG MD 299 IN MASSEY.

278.5 Rural Inn*** - A facility for the purpose of providing overnight lodging to the general public for compensation and only by prearrangement, and at which dining facilities may also be offered for guests and the general public, in accordance with the following:

. . .

CAPITALS & BOLD INDICATES MATTER ADDED TO EXISTING LAW.
~~Strike through~~ indicates matter deleted from existing law.

SECTION 5. **BE IT FURTHER ENACTED** by the County Commissioners of Kent County that this Act shall take effect on the _____day of_____, 2023.

Read Third Time _____

PASSED this _____day of _____, 2023.

Failed of Passage _____

By order of:

_____
Sondra M. Blackiston, Clerk

THE COUNTY COMMISSIONERS
OF KENT COUNTY, MARYLAND

(SEAL)

_____
Ronald H. Fithian, President

_____
Albert H. Nickerson, Member

_____
John F. Price, Member

ORDERED a fair summary thereof or the entire bill shall be published in at least one newspaper of general circulation in the County, not less than three times at weekly intervals within a four-week period.

CAPITALS & BOLD INDICATES MATTER ADDED TO EXISTING LAW.
~~Strike through~~ indicates matter deleted from existing law.

#1 - Regular Session Minutes, July 25, 2023
8/1/2023
County Commissioners Meeting

ATTACHMENTS:
Description

#2 - Liquor Minutes, July 25, 2023
8/1/2023
County Commissioners Meeting

ATTACHMENTS:
Description

#3 - American Diabetes Association, Raffle Only, August 13, 2023
8/1/2023
County Commissioners Meeting

ATTACHMENTS:

Description

American Diabetes Association, Raffle Only, August 13, 2023

Permit# 16-2023

MULTIPLE GAMING DEVICE AND RAFFLE PERMIT APPLICATION

Pursuant to the provisions of the Annotated Code of Maryland, Criminal Law §§ 13-1701 to 13-1706.

Name of Organization: AMERICAN DIABETES ASSOCIATION

Address of Organization: 2451 CRYSTAL DRIVE STE 900 ARLINGTON, VA 22202

Telephone: (703) 253 4804

Is the organization formed or located in Kent County?	Yes	(No)
Does the organization serve the residents of Kent County?	(Yes)	No
Is this organization tax exempt under the provisions of the Internal Revenue Code?	(Yes)	No

Tax Exempt Number: 131623888

Person responsible for complying with permit regulations and requirements:

Name: PHIL ANDERSON

Address: 21182 SPRINGCOVE RD ROCK HALL, MD 21661

E-Mail: PHILANDERSONRE@GMAIL.COM

Telephone: (410) 708 9809

Type of permit sought: (X) Raffle Only ( ) Combined gaming devices used in a single fund-raising event

Location address of fund-raising affair: PIRATES & WENCHES WATERFRONT

MAIN STREET - ROCK HALL MD

Are these premises owned, leased, or regularly occupied by the organization named above? Yes (No)

Date(s) of fund-raising: SUNDAY AUGUST 13

Date and Time of Drawing: SUNDAY AUGUST 13 Begin at: 9AM End at: 4PM

If you are seeking a permit authorizing only a raffle that is not conducted in combination with other gaming activity, please sign below.

If, however, you are seeking to conduct a fund-raiser using more than one gaming activity in a single event, please complete the following page.

Signature of person completing this application: [signature]

Please Select One:

(X) Pick Up Phil Anderson 410-708-9809

( ) Mail Permit (will be mailed to person responsible)

RECEIVED
JUL 26 2023
BY: MT

Jamie Williams, Director, Economic and Tourism Development
8/1/2023
County Commissioners Meeting

Item Summary:
Introduction of Code Home Rule No. 4-2023, Residential Sprinkler Property Tax Credit Extension

ATTACHMENTS:

Description

CHR6-2019

CHR Bill No. 4-2023 Residential Sprinkler Property Tax Credit Extension DRAFT Legislation

THE COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND

December 3, 2019
Legislative Session Day

Legislative Session Day
December 3, 2019

CODE HOME RULE
BILL NO. 6-2019

INTRODUCED BY: P Thomas Mason, President of the Board of County Commissioners for Kent County, Maryland.

AN ACT to amend Chapter 152 Taxation by adding Article X Residential Sprinkler System Tax Credit to the Code of Public Local Laws of Kent County, Maryland. The purpose of this addition is to allow a real property tax credit when a sprinkler system is installed.

RECEIVED
CLERK, CIRCUIT COURT
2020 JAN 23 P 2:
KENT COUNTY

THE COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND

P. Thomas Mason

P. Thomas Mason, President

INTRODUCED, read first time, December 3, 2019, ordered posted and public hearing scheduled on January 7, 2020, at 6:00 p.m. in the County Commissioners Hearing Room, R. Clayton Mitchell, Jr., Kent County Government Center, 400 High Street, Chestertown, Maryland.

By Order of:

Sondra M. Blackiston

Sondra M. Blackiston, Clerk

PUBLIC HEARING

HAVING been posted and notice of time and place of hearing and copies having been made available to the public and the press, a public hearing was held on January 7, 2020. Reported favorably without amendments; read second time and ordered to be considered on January 21, 2020, a legislative session day.

CAPITALS & BOLD INDICATES MATTER ADDED TO EXISTING LAW.
~~Strike through~~ indicates matter deleted from existing law.

A BILL ENTITLED CHR 6-2019
RESIDENTIAL SPRINKLER PROPERTY TAX CREDIT

SECTION 1.

NOW THEREFORE BE IT ENACTED BY THE COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND that Chapter 152 Taxation is hereby amended to add Article X, Residential Sprinkler System Tax Credit §§ 152-38, 152-39, and 152-40 as follows:

ARTICLE X
RESIDENTIAL SPRINKLER PROPERTY TAX CREDIT

§ 152-38 STATUTORY AUTHORIZATION

PURSUANT TO AUTHORIZATION CONTAINED IN § 9-232 OF THE TAX-PROPERTY ARTICLE, ANNOTATED CODE OF MARYLAND, KENT COUNTY MAY GRANT, BY LAW A PROPERTY TAX CREDIT AGAINST THE COUNTY PROPERTY TAX IMPOSED ON IMPROVEMENTS TO REAL PROPERTY IF THERE IS INSTALLED IN THE IMPROVEMENTS A COMPLETE AUTOMATIC FIRE PROTECTION SPRINKLER SYSTEM, INSTALLED IN ACCORDANCE WITH ACCEPTED CODES AND STANDARDS EXTABLISHED BY THE MARYLAND STATE FIRE PREVENTION COMMISSION.

§ 152-39 DEFINITIONS.

IN THIS ARTICLE, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

QUALIFIED PROPERTIES - RESIDENTIAL PROPERTIES THAT:

A. INCLUDE A COMPLETE AUTOMATIC FIRE PROTECTION SPRINKLER SYSTEM; AND

B. ARE USED AS A PRINCIPAL RESIDENCE OF THE HOMEOWNER; AND

C. HAVE COMPLETED CONSTRUCTION BETWEEN JANUARY 1, 2020 AND DECEMBER 31, 2023.

§ 152-40 TAX CREDIT GRANTED; EXPIRATION OF PROVISIONS.

A. KENT COUNTY GRANTS A TAX CREDIT AGAINST THE COUNTY REAL PROPERTY TAX IMPOSED ON QUALIFIED PROPERTIES.

B. THE TAX CREDIT ALLOWED UNDER THIS SECTION IS THE LESSER OF:

(1) THE TOTAL COST OF THE SPRINKLER SYSTEM; OR

(2) FIVE THOUSAND DOLLARS.

C. APPLICATION OF CREDIT:

(1) THE AMOUNT OF THE CREDIT APPLIED IN A TAX YEAR MAY NOT EXCEED THE AMOUNT OF THE COUNTY PROPERTY TAX IMPOSED ON THE PROPERTY IN THAT TAX YEAR.

(2) ANY AMOUNT OF THE CREDIT NOT TAKEN IN THE TAX YEAR IN WHICH THE APPLICATION IS GRANTED MAY BE CARRIED OVER FOR AN ADDITIONAL TWO YEARS.

D. AN APPLICATION FOR A TAX CREDIT SHALL BE SUBMITTED TO THE CHIEF FINANCE OFFICER ON THE FORM THAT THE CHIEF FINANCE OFFICER DESIGNATES.

E. A TAX CREDIT GRANTED UNDER THIS ARTICLE MAY NOT BE TRANSFERRED TO ANY SUBSEQUENT OWNER.

F. THIS ARTICLE EXPIRES ON DECEMBER 31, 2023.

BE IT FURTHER ENACTED by the County Commissioners of Kent County that this Act shall take effect on the 6th day of March, 2020.

Read Third Time January 21, 2020.

PASSED this 21st day of January, 2020.

Failed of Passage _____

By Order of:

Sondra M. Blackiston

Sondra M. Blackiston, Clerk

CAPITALS & BOLD INDICATES MATTER ADDED TO EXISTING LAW.
~~Strike through~~ indicates matter deleted from existing law.

THE COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND

(SEAL)



P. Thomas Mason, President

Ronald H. Fithian, Member

Robert N. Jacob, Jr. Member

ORDERED a fair summary thereof of the entire bill shall be published in at least one newspaper of general circulation in the County, not less than three times at weekly intervals within a four-week period.

THE COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND

Month X, 2023 **Legislative Session Day**
Legislative Session Day **Month X, 2023**

CODE HOME RULE
BILL NO. 4-2023

INTRODUCED BY: Ronald H. Fithian, President of the Board of County Commissioners for Kent County, Maryland.

AN ACT to amend Chapter 152 Taxation, Article X. Residential Sprinkler Property Tax Credit of the Code of Public Local Laws of Kent County, Maryland. The purpose of this amendment is to extend the expiration date of a real property tax credit when a sprinkler system is installed.

THE COUNTY COMMISSIONERS
OF KENT COUNTY, MARYLAND

_____
Ronald H. Fithian, President

INTRODUCED, read the first time, Month X, 2023, ordered posted and public hearing scheduled on Month X, 2023, at 6:00 p.m. in the County Commissioners Hearing Room, R. Clayton Mitchell, Jr., Kent County Government Center, 400 High Street, Chestertown, Maryland.

By order of:

_____
Sondra M. Blackiston, Clerk

PUBLIC HEARING

HAVING been posted and notice of the time and place of the hearing and copies having been made available to the public and the press, a public hearing was held on Month X, 2023. Reported favorably [with] [without] amendments; read the second time and ordered to be considered on Month X, 2023, a legislative session day.

DRAFT

CAPITALS & BOLD INDICATES MATTER ADDED TO EXISTING LAW.
~~Strike through~~ indicates matter deleted from existing law.

A BILL ENTITLED CHR 4-2023 RESIDENTIAL SPRINKLER PROPERTY TAX CREDIT EXTENSION

SECTION 1. NOW THEREFORE BE IT ENACTED BY THE COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND that Chapter 152 Taxation, Article X is hereby amended to extend the expiration date of qualified properties and provisions as follows:

Article X
Residential Sprinkler Property Tax Credit

§ 152-38 Statutory authorization.

Pursuant to authorization contained in § 9-232 of the Tax-Property Article, Annotated Code of Maryland, Kent County may grant, by law a property tax credit against the County property tax imposed on improvements to real property if there is installed in the improvements a complete automatic fire protection sprinkler system, installed in accordance with accepted codes and standards established by the Maryland State Fire Prevention Commission.

§ 152-39 Definitions.

In this article, the following words have the meanings indicated.

QUALIFIED PROPERTIES - Residential properties that:

A. Include a complete automatic fire protection sprinkler system; and

B. Are used as a principal residence of the homeowner; and

C. Have completed construction between January 1, 2020, and December 31, ~~2023~~ **2027**.

§ 152-40 Tax credit granted; expiration of provisions.

A. Kent County grants a tax credit against the County real property tax imposed on qualified properties.

B. The tax credit allowed under this section is the lesser of:

(1) The total cost of the sprinkler system; or

(2) Five thousand dollars.

C. Application of credit:

(1) The amount of the credit applied in a tax year may not exceed the amount of the County property tax imposed on the property in that tax year.

DRAFT

CAPITALS & BOLD INDICATES MATTER ADDED TO EXISTING LAW.
~~Strike through~~ indicates matter deleted from existing law.

(2) Any amount of the credit not taken in the tax year in which the application is granted may be carried over for an additional two years.

D. An application for a tax credit shall be submitted to the Chief Finance Officer on the form that the Chief Finance Officer designates.

E. A tax credit granted under this article may not be transferred to any subsequent owner.

F. This article expires on December 31, ~~2023~~ **2027**.

DRAFT

CAPITALS & BOLD INDICATES MATTER ADDED TO EXISTING LAW.

~~Strike through~~ indicates matter deleted from existing law.

SECTION 2. **BE IT FURTHER ENACTED** by the County Commissioners of Kent County that this Act shall take effect on the _____ day of_____, 2023.

Read Third Time _____

PASSED this _____ day of _____, 2023.

Failed of Passage _____

By order of:

_____
Sondra M. Blackiston, Clerk

THE COUNTY COMMISSIONERS
OF KENT COUNTY, MARYLAND

(SEAL)

_____
Ronald H. Fithian, President

_____
Albert H. Nickerson, Member

_____
John F. Price, Member

ORDERED a fair summary thereof or the entire bill shall be published in at least one newspaper of general circulation in the County, not less than three times at weekly intervals within a four-week period.

DRAFT

CAPITALS & BOLD INDICATES MATTER ADDED TO EXISTING LAW.
~~Strike through~~ indicates matter deleted from existing law.

Jim Miller, Director, Human Resources
8/1/2023
County Commissioners Meeting

Item Summary:
Finance Department Restructuring Recommendation

ATTACHMENTS:
Description

Jim Miller, Director, Human Resources
8/1/2023
County Commissioners Meeting

Item Summary:
Finance Associate Vacancy

ATTACHMENTS:
Description

Sondra M. Blackiston, Clerk/Kate Manager
8/1/2023
County Commissioners Meeting

Item Summary:
License Update

ATTACHMENTS:

Description

08.01.23 KATE License Update, Frank M. Jarman American Legion Post #28

07.25.23 Frank M. Jarman American Legion Post #36, Close out Inspection

08.01.23 4776 Frank M. Jarman American Legion Post #36 License Surrendered

Kent County MARYLAND

Kent Alcohol and Tobacco Enforcement

To: Commissioners Fithian, Price, and Nickerson
From: Bonnie S. Pearsall, Inspector, and Sondra M. Blackiston, Clerk/KATE Manager
Date: August 1, 2023
Subject: Frank M. Jarman American Legion Post #36; License No. 4776 Surrendered

Memorandum

License Update:

The KATE Team has been working with the Legion to address concerns about operations that were outside of the scope of its license. A closeout inspection of the Frank M. Jarman American Legion Post #36 was completed on July 25, 2023. No alcohol is on the premise; a bulk transfer permit is not applicable. License No. 4776 a Class C Beer, Wine, and Liquor license was voluntarily surrendered before its expiration date. A prorated refund will be granted per Annotated Code of Maryland, Alcoholic Beverages 24-1408. This action brings the matter to a conclusion.

This transaction will be recorded in the monthly report of retail license activity required by the Comptroller of Maryland, Field Enforcement Division.

BOARD OF LICENSE COMMISSIONERS OF KENT COUNTY, MARYLAND

Kent Alcohol and Tobacco Enforcement
400 High Street, Chestertown, MD 21620
Office: 410-810-2212 ■ Cell: 443-282-5785

Inspection Report Type: Routine **Follow-Up Type:**

Date and Time: July 25, 2023 2:02 PM

Name of Establishment: Frank M. Jarman American Legion Post #36

Address:9155 American Legion Drive **City, State, Zip:** Chestertown, MD 21620

Phone Number: 410-778-9885

License No.: 4776 **License Types:** C, BWL

TIPs Certified Person on Premise at Time of Inspection: No

Absentee Log Filled: No **Comment:** Surrendered Alcohol License

Licenses Publicly Displayed:

Alcohol License: No **Comment:** Surrendered Alcohol Licenseh

Fire Marshal Load Capacity: N/A **Comment:**

Kent County Health Department Food Service Facility License: N/A

Comment:

Maryland Sales & Use Tax License: No **Comment:** Surrendered Alcohol License

Maryland Traders License: No **Comment:** Surrendered Alcohol License

Keg Registration: N/A **Comment:**

Taps Properly Labeled: N/A **Comment:**

Dispensing System Cleaned Every 7 Days: N/A

Comment:

Dispensing System Cleaning Records Properly Maintained: N/A

Comment:

Financial Records Maintained for 2 Years:

BOARD OF LICENSE COMMISSIONERS OF KENT COUNTY, MARYLAND

Kent Alcohol and Tobacco Enforcement
400 High Street, Chestertown, MD 21620
Office: 410-810-2212 ■ Cell: 443-282-5785

Alcohol: Yes — **Comment:**

Food: Yes — **Comment:**

Alcohol Awareness Training Records: No — **Comment:** Surrendered Alcohol License

Interior Signage Posted Against Selling to Minors: Yes — **Comment:**

Exterior Signage Posted Against Drinking in Parking Lot: Yes — **Comment:**

Prohibited Hours Posted (2 am - 6 am): Yes — **Comment:**

Consumption After Hours: No — **Comment:**

Storage:

On License Premise: Yes — **Comment:**

Controlled Storage: No — **Comment:** Surrendered Alcohol License

Off-Premise Storage Permit: N/A — **Comment:**

Does There Need to Be a Follow-Up?: No

Notations/Warnings: Close out inspection. Surrendered

Violations: None

Email: paulshowalter007@gmail.com

Verify Email Address: paulshowalter@gmail.com

Licensee/Employee Name (Print): Ralph Morgan

Signature:



Inspector Name (Print):

BOARD OF LICENSE COMMISSIONERS OF KENT COUNTY, MARYLAND

Kent Alcohol and Tobacco Enforcement
400 High Street, Chestertown, MD 21620
Office: 410-810-2212 ■ Cell: 443-282-5785

Signature:



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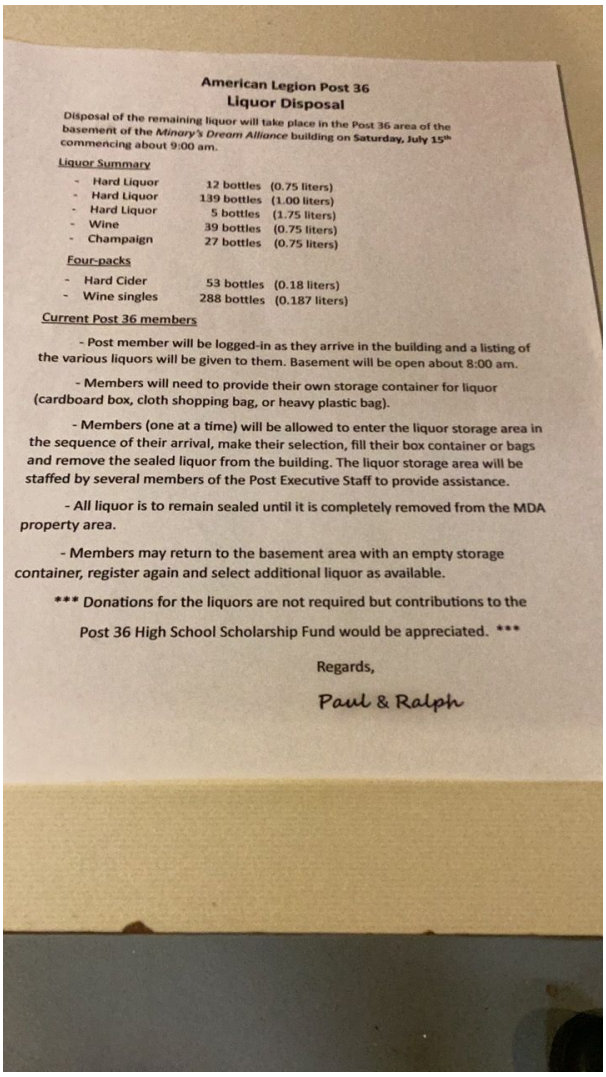
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American Legion Post 36
Liquor Disposal

Disposal of the remaining liquor will take place in the Post 36 area of the basement of the *Minary's Dream Alliance* building on **Saturday, July 15th** commencing about 9:00 am.

Liquor Summary

- Hard Liquor	12 bottles	(0.75 liters)
- Hard Liquor	139 bottles	(1.00 liters)
- Hard Liquor	5 bottles	(1.75 liters)
- Wine	39 bottles	(0.75 liters)
- Champaign	27 bottles	(0.75 liters)

Four-packs

- Hard Cider	53 bottles	(0.18 liters)
- Wine singles	288 bottles	(0.187 liters)

Current Post 36 members

- Post member will be logged-in as they arrive in the building and a listing of the various liquors will be given to them. Basement will be open about 8:00 am.

- Members will need to provide their own storage container for liquor (cardboard box, cloth shopping bag, or heavy plastic bag).

- Members (one at a time) will be allowed to enter the liquor storage area in the sequence of their arrival, make their selection, fill their box container or bags and remove the sealed liquor from the building. The liquor storage area will be staffed by several members of the Post Executive Staff to provide assistance.

- All liquor is to remain sealed until it is completely removed from the MDA property area.

- Members may return to the basement area with an empty storage container, register again and select additional liquor as available.

*** Donations for the liquors are not required but contributions to the Post 36 High School Scholarship Fund would be appreciated. ***

Regards,

Paul & Ralph

RECEIVED
JUL 25 2023

№ 4776

STATE OF MARYLAND

ALCOHOLIC BEVERAGE LICENSE

BOARD OF LICENSE COMMISSIONERS OF KENT COUNTY

CLASS A

Beer, Wine, Liquor	
Beer and Wine	
Beer	
Wine	
Extended Privilege (EXPR)	
BWLT-Tasting:	
Beer, Wine, Liquor	
Beer and Wine	
Beer	
Wine	

CLASS B

Beer, Wine, Liquor	
Beer and Wine	
Beer	
Bed and Breakfast (BWL)	
Country Inn (BWL)	
Brewery (B)	
Wine Shop and Lounge (W)	
Caterer's Privilege (CP)	
Corkage Privilege (CKP)	
Extended Privilege (EXPR)	

CLASS C

Beer, Wine, Liquor	X
Corkage Privilege (CKP)	

CLASS D

Beer, Wine, Liquor	
Beer	
Brewery (B)	
Extended Privilege (EXPR)	

THEATER VENUE

Beer, Wine, Liquor	

****

This is to certify that: **Paul Showalter, Commander**
Roy A. Mears, Member
Ralph H. Morgan, Finance Officer

Corporate name:

is licensed by the STATE OF MARYLAND, to keep for sale and sell alcoholic beverages for the class indicated:

T/A: **Frank M. Jarman American Legion Post #36**
Located: **9155 American Legion Drive**
Chestertown, MD 21620

This license is issued under Authority of the Alcoholic Beverages Article of the Annotated Code of Maryland.

This license continues in force, unless revoked or suspended, until the last day of the month, **April 2024**

Cost of license: **$500.00** Issued the 19th day of April, 2023 Registration No. **00738459**

Patricia Merrick
Kent County Chief Finance Officer

Revised 11/21

A license holder shall frame the license under glass and display the license conspicuously in the licensed premises.

Jillyn Coleman, Director, Parks & Recreation
8/1/2023
County Commissioners Meeting

Item Summary:
Recognition of Aquatic Staff (Lifeguards, Pool Cashiers) and Summer Camp Staff

ATTACHMENTS:

Description

08.01.23 Aquatics and Day Camp Staff Certificates of Recognition

Certificate of Recognition

This is proudly presented to

Aaron Saunders

is hereby recognized

for your devotion, commitment, and hard work. You have made an impact on your supervisors, co-workers, and community. You have stepped up when called upon and have provided a great amount of value to Kent County Parks and Recreation and the patrons that we serve. You exemplify our mission and have proven to be a tremendous asset to Kent County.

We, The County Commissioners of Kent County, Maryland, thank you for your professionalism, outstanding dedication, and public service to the community.

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Ronald H. Fithian, President

Albert H. Nickerson, Member

John F. Price, Member

August 1, 2023

Certificate of Recognition

This is proudly presented to

Abigail Lum

is hereby recognized

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Certificate of Recognition

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Addisyn Litton

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Alexis Landon

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Alexis Morris

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Alyesha Williams

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Anna Squire-Southworth

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Ashanti Roberts

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Ashlyn Orr

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Carrigan Barrett

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Chanelle Copper

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Drew Davis

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John Connolly

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Jaunita Demby

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Kaitlin Beck

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Kiara Smith

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Liam Gallo

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Lily Golden

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Logan Loller

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Makenna Schultz

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Mary Jane Joiner

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Tilghman Overton

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John F. Price, Member

August 1, 2023

Certificate of Recognition

This is proudly presented to

Vanessa Maddox

is hereby recognized

for your devotion, commitment, and hard work. You have made an impact on your supervisors, co-workers, and community. You have stepped up when called upon and have provided a great amount of value to Kent County Parks and Recreation and the patrons that we serve. You exemplify our mission and have proven to be a tremendous asset to Kent County.

We, The County Commissioners of Kent County, Maryland, thank you for your professionalism, outstanding dedication, and public service to the community.

THE COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND

Ronald H. Fithian, President

Albert H. Nickerson, Member

John F. Price, Member

August 1, 2023

Bill Mackey, Director, Planning, Housing and Zoning
8/1/2023
County Commissioners Meeting

Item Summary:
A Resolution to forward to the Kent County Agriculture Advisory Commission and the Kent County Planning Commission, for their comments and recommendations, a proposal to revise Chapter 222, Zoning, of the County Code of Kent County, Maryland, also known as the Land Use Ordinance, as part of comprehensive rezoning.

A clean copy and a tracked-changes version of the Proposed DRAFT Land Use Ordinance for Review is provided at the end of this agenda packet.

ATTACHMENTS:

Description

08.01.23 Resolution 2023-14 Kent County Agriculture Advisory Commission and the Kent County Planning Commission, A Proposal to Revise Chapter 222, As Part of Comprehensive Rezoning

RESOLUTION 2023-14

COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND

A RESOLUTION TO FORWARD TO THE KENT COUNTY AGRICULTURE ADVISORY COMMISSION AND THE KENT COUNTY PLANNING COMMISSION, FOR THEIR COMMENTS AND RECOMMENDATIONS, A PROPOSAL TO REVISE CHAPTER 222, ZONING, OF THE COUNTY CODE OF KENT COUNTY, MARYLAND, ALSO KNOWN AS THE LAND USE ORDINANCE, AS PART OF COMPREHENSIVE REZONING.

WHEREAS, the Board of County Commissioners of Kent County, Maryland has been undertaking a review of the full text of the Kent County Land Use Ordinance as part of a comprehensive rezoning process, pursuant to Md. Code Ann, Land Use, Title 4 Zoning; and,

WHEREAS, although this process is legislative in nature, it is legally separate from the adopted zoning text amendment process set forth in the Kent County Land Use Ordinance and therefore not subject to its requirements; and,

WHEREAS, the Board desired to obtain the comments and recommendations of the Kent County Agriculture Advisory Commission and the Kent County Planning Commission, prior to the introduction of a new Kent County Land Use Ordinance via a Code Home Rule Bill for legislative review; and,

WHEREAS, the Board does hereby determine that updating the text of the Kent County Land Use Ordinance serves to promote the health, safety, and general welfare of Kent County, Maryland.

NOW, THEREFORE, BE IT RESOLVED, that on August 1, 2023, the Board hereby forwards to the Kent County Agriculture Advisory Commission and Kent County Planning Commission the attached in order to obtain comments and recommendations from said advisory commissions, which may be included in a Code Home Rule Bill for consideration by the Board in the future as part of comprehensive rezoning.

ADOPTED this day, August 1, 2023.

ATTEST:

Sondra M. Blackiston, Clerk

THE COUNTY COMMISSIONERS
OF KENT COUNTY, MARYLAND

Ronald H. Fithian, President

Albert H. Nickerson, Member

John F. Price, Member

Carla Gerber, Deputy Director, Planning, Housing, and Zoning
8/1/2023
County Commissioners Meeting

Item Summary:
The Maryland Agricultural Land Preservation Foundation (MALPF) is accepting easement applications for the FY 2024 acquisition cycle. Regulations require that the County Commissioners review and approve the applications submitted to MALPF for appraisal and consideration for easement acquisition.

ATTACHMENTS:

Description

08.01.23 Michelle Cable, Executive Director, Maryland Agricultural Land Preservation Foundation, Preservation Easement Applications to Sell

The County Commissioners of Kent County
Ronald H. Fithian, President | Albert H. Nickerson, Member | John F. Price, Member
Shelley L. Heller, County Administrator | Thomas N. Yeager, County Attorney

August 1, 2023

Ms. Michelle Cable, Executive Director
Maryland Agricultural Land Preservation Foundation
50 Harry S. Truman Parkway
Annapolis, Maryland 21401

Dear Ms. Cable:

The County Commissioners of Kent County approved the following ranked list of applications to sell preservation easements to the Maryland Agricultural Land Preservation Foundation for FY2024:

Name	Acres	Rank
Bonnie Hill	257.59	1
Langenfelder Family LLLP	303.00	2
Jones Family Farm Inc	192.36	3
B and K Family Farm	202.00	4
Jennifer Debnam	210.77	5
Tom Wiltbank	300.00	6
John Rigdon	322.18	7
Casey and Megan Owings	107.68	8
Gregg and Christine Asplundh	330.93	9
Langenfelder Family LLLP	188.00	10
Harmony Crest LP	126.32	11
Michael Boyle	164.38	12
Fry Family Farm	270.00	13
Jones Family Farm Inc	280.31	14
Harmony Crest LP	300.00	15
Tom Speakman	93.77	16
Davidson and Ellen Coleman	148.18	17
Fry Family Farm	194.30	18
Strong Associates II, LP	111.48	19
Rich Levels of Mill Creek	228.60	20
Four Additional Applications		
Chris Jackman	113.18	21
Lynn Foster	110.46	22
Jack Coleman	157.75	23
Goose Chase Farm, LLC	380.48	24

If you have any questions, please do not hesitate to contact our local Program Administrator, Ms. Carla Gerber at 410-778-7474.

Sincerely,

THE COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND

Ronald H. Fithian, President

Albert Nickerson, Member

John Price, Member

KCC/CMG/tlt
cc: Agricultural Preservation Advisory Board

Proposed DRAFT Land Use Ordinance Document
8/1/2023
County Commissioners Meeting

Item Summary:
Track Changes Version

ATTACHMENTS:

Description

Proposed LUO for Review - Tracked Changes 2023-08-01



LAND USE ORIDNANCE

DRAFT FOR COMMENT

AUGUST 1, 2023

TRACKED CHANGES

TABLE OF CONTENTS

Article I. Enactment 1

Section 1. General Provisions 2
Title 2
Purpose and Intent 2
Applicability 3
Compliance with Regulations 3
Validity of Ordinance 3
Repeal of Conflicting Ordinances 3
Conflict within Ordinance 4
Conflict with Other Regulations 4
Section 2. Zoning Map 4
Map Incorporation into Zoning Code 4
Revision of the District Map 4
Periodic Review 5
Section 3. Zoning Map Amendment Process 5
Section 4. Zoning Text Amendment Process 6
Section 5. Boards and Commissions 7
Section 6. Nonconformities 9

Article II. Districts 13

Section 1. General Provisions 14
Establishment of Zoning Districts 14
Critical Area Zoning Districts Generally 14
Establishment of Critical Area Line 14
Interpretation of District Boundaries 15
Section 2. Agricultural (AZD) 16
Section 3. Resource Conservation District (RCD) 23
Section 4. Rural Character (RC) 31
Section 5. Critical Area Residential (CAR) 37
Section 6. Community Residential (CR) 43
Section 7. Village (V) 49
Section 8. Intense Village (IV) 57
Section 9. Commercial (C) 64
Section 10. Commercial Critical Area (CCA) 69
Section 11. Marine (M) 73
Section 12. Employment Center (EC) 78
Section 13. Employment Center Critical Area (ECCA) 83

Article III. Uses 86

Section 1. General Provisions (including Uses Not Listed) 87
Section 2. Permitted Uses and Conditions 87

TABLE OF CONTENTS

Article IV. Processes 142

Section 1. General Provisions 143
Section 2. Subdivisions (including Subdivision Standards) 153
Section 3. Site Plans (including General Design Standards) 165
Section 4. Special Exception Process 187
Section 4. Variances 193
Section 5. Waivers 198
Section 6. Permits, Fees, and Code Enforcement 202
Section 7. Historic Preservation Documentation 210

Article V. Zoning Regulations 212

Section 1. General Provisions 213
Section 2. Parking and Loading 216
Section 3. Signs 221
Section 4. Standards for Utility-Scale Solar Energy Systems 231

Article VI. Environmental Regulations 236

Section 1. General Provisions 237
Section 2. Critical Area Program 240
Section 3. Forest Conservation Act 279
Section 4. Erosion and Sediment Control 295
Section 5. Stormwater Management 311
Section 6. Floodplain Management 329

Article VII. Definitions 344

Section 1. General Provisions 345
Section 2. Definitions 345

ARTICLE I. ENACTMENT

SECTION 1 GENERAL PROVISIONS

1.1 TITLE

This Ordinance shall be known as the Land Use Ordinance for Kent County, Maryland. It provides a unified, comprehensive approach to *regulations* that affect land use including Zoning, *Subdivision*, *Forest Conservation*, *Floodplain* Management, *Sediment* and *Erosion* Control, *Stormwater Management*, and the Chesapeake Bay *Critical Area*.

1.2 PURPOSE AND INTENT

The purpose of this Ordinance is to implement the Kent County *Comprehensive Plan* and to promote the health, safety, general welfare, and prosperity of the present and future inhabitants of Kent County, by:

(A) Giving effect to policies and proposals of the Kent County *Comprehensive Plan*.

(B) Reducing financial burdens imposed on the community by preventing unwise land use that requires costly infra*structure*, harms existing communities, or is in areas of natural hazards such as *floodplain*s, *shoreline cliff*s, *steep slopes*, and areas subject to *erosion*.

(C) Minimizing damage to public and private property.

(D) Providing for the preservation and enhancement of the attractiveness of Kent County through good design and arrangement, and the provision of adequate *public utilities*, *open space*, services, and facilities.

(E) Enhancing the County's employment base.

(F) Protecting and preserving Kent County's agricultural industry and the prime agricultural *soil*s essential to the conduct of this industry.

(G) Providing efficiency in the process of *development*.

(H) Protecting Kent County's significant *historic structures* and areas from destruction or encroachment.

(I) Protecting the biological and environmental quality of Kent County, including *forest*, water quality, habitat, and *wetlands*.

(J) Reducing the effects of land use on land *erosion* or stream *channel erosion*.

(K) Dividing the territory of Kent County, Maryland into zoning districts; governing the use of the land and the intensity of such use, including *bulk* and height.

(L) Implementing the *Floodplain* Management provisions to provide public awareness for *flood*ing prevention, to protect individuals from unknowingly buying land and *structure*s subject to *flood* hazard, and to encourage appropriate construction practices in order to prevent or minimize future *flood* damage.

(M) Implementing the *Stormwater Management* provisions to reduce local *flood*ing, to control *adverse impact*s associated with increased *stormwater*, and to improve or substantially maintain after *development* the predevelopment runoff characteristics of the *site*.

1.3 APPLICABILITY

(A) The provisions of this Ordinance shall apply to the unincorporated territory of Kent County, Maryland.

(B) Except as otherwise provided by this Ordinance, all land use that occurs within the unincorporated territory of Kent County, Maryland shall comply with the applicable terms and requirements of this Ordinance.

(C) No *lot* shall be created which does not conform to the applicable requirements of this Ordinance, unless a variance is granted by the Board of Appeals.

1.4 COMPLIANCE WITH REGULATIONS

Hereafter, the following shall not take place unless in conformity with the *regulations* set forth in this Ordinance:

(A) Change of a use of any land and *structure*s, except that existing *structures* may be used for any permitted use, special exception, or *accessory use* allowed in the zoning district where they are located.

(B) Construction, reconstruction, modification, extension, ~~or~~ expansion, or relocation of *building*s or *structure*s.

(C) Placement of fill, grading, and land *excavation*.

(D) Land and forest *clearing*.

(E) Dumping or storage of materials.

(F) *Subdivision*s including lot line adjustments.

1.5 VALIDITY OF ORDINANCE

If any section, paragraph, ~~*subdivision*~~ subsection, clause, phrase, or provision of this Ordnance shall be ~~ad~~judged invalid or held unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any part of the provisions thereof, other than the part so decided to be invalid or unconstitutional.

1.6 REPEAL OF CONFLICTING ORDINANCES

The Kent County Land Use Ordinance adopted December 3, 2002, and all amendments are hereby ~~repealed~~replaced by this Ordinance and any amendments from time to time.

1.7 CONFLICT WITHIN ORDINANCE

In the event of any conflict between the limitations, requirements, or standards contained in different provisions of this Ordinance, the more restrictive provision shall apply, unless context would imply otherwise. In the case of any ambiguities or discrepancies within or between these provisions, such matters shall be explained and interpreted, if possible, in a manner which gives effect to each part and which avoids or minimizes conflicts among such parts, as may be possible.

1.8 CONFLICT WITH OTHER REGULATIONS

In the event that this regulation conflicts with other federal, State, or local *regulations*, the more restrictive regulation shall prevail, except for the Critical Area. In cases involving the Critical Area, the standards in State law or the provisions in State agency rules and regulations shall govern.

SECTION 2 ZONING MAP

2.1 MAP INCORPORATION INTO ZONING CODE

The boundaries of zoning districts as shown on the official zoning maps of Kent County are hereby made a part of this chapter. The official zoning maps, together with amendments thereto, shall be kept by the Planning Department in both digital and printed form. In the event of a conflict between the digital and printed versions, the digital version shall control. ~~Such land and the district classifications thereof shall be shown on the map designated as the "Zoning District Map of Kent County, Maryland," dated and signed by the President of the County Commissioners and attested by the Clerk of the County Commissioners upon adoption. This Zoning District Map and all notations, dimensions, references, and symbols thereon shall be considered a part of this Ordinance and shall be filed as a part of this Ordinance with Kent County Department of Planning and Zoning. The original map shall be marked "Original Copy" and is not to be altered or removed from the Department of Planning and Zoning except by Court Subpoena.~~ Copies of the Official Zoning Map shall be available for inspection in the Department of Planning and Zoning.

2.2 ~~ANNUAL~~ REVISION OF THE DISTRICT MAP

No later than March 31 of the year following adoption of this Ordinance, copies of the map shall be available to the public. ~~In each calendar year thereafter, the Zoning Map shall be revised no later than March 31, reflecting changes in permitted uses, district boundaries or classification, and land use *regulations* as of December 31 of the preceding year~~.

2.3 PERIODIC REVIEW

~~At least every six years~~Following adoption of a new or revised Kent County Comprehensive Plan, the *Planning Commission* and County Commissioners shall review the land use *regulations* and zoning district map for consistency with the *Comprehensive Plan*, deficiencies or difficulties in administration, or any other reason the County Commissioners may determine. This Ordinance does not provide regulations for the Comprehensive Rezoning process. The Comprehensive Rezoning process may be set forth independently of this Ordinance by policy, practice, or if desired by adopted Resolution.

SECTION 3 ZONING MAP AMENDMENT PROCESS

3.1 ZONING MAP

1. The application for an amendment to the Zoning Map of this Land Use Ordinance shall, at a minimum, specify the map and parcels sought to be amended, the current and proposed zoning classification, and recite the reasons for the proposed amendment.
2. Applications for zoning map amendments may only be submitted by the property owner or owners of the subject property for which a zoning map amendment is being requested, or by the County Commissioners of Kent County. The Planning Commission may make a recommendation to the County Commissioners to request the initiation of an application.
3. When reviewing a zoning map amendment, the *Planning Commission* will address the suitability of the property in question for the uses permitted under the proposed zoning.
4. Before approving any proposed map amendment, the County Commissioners shall hold a public hearing. Notice of any public hearing shall be given prior to the date of the hearing. The time, date, place, and nature of the hearing shall be published in a newspaper having general circulation in Kent County. The property shall also be conspicuously posted with the date, time, place, and nature of the hearing. The notices shall refer to places where the zoning map amendment may be examined, and online publication is sufficient.
5. Per Md. Code Ann., Land Use, § 4-204, an application for a zoning map amendment, other than an amendment proposed during a Comprehensive Rezoning process, must meet the requirements of the *change or mistake* rule. Applicants are advised to seek legal counsel.
6. An application may not be filed for a reclassification of all or part of any land for which a reclassification has been denied by the legislative body on the merits in the 12 months before the date of the application, per Md. Code Ann., Land Use, § 4-204.
7. Applications for map amendments will follow the process outlined immediately below.

SECTION 4 ZONING TEXT AMENDMENT PROCESS

4.1 ZONING TEXT

1. The County Commissioners may amend, supplement, or change the ~~boundaries of the districts or the~~ regulations of this Ordinance. Any zoning text amendment may be initiated by resolution of the County Commissioners, motion of the *Planning Commission*, submittal by County staff, or petition of any ~~property owner~~person using forms specified by the Department.

2. The application for a zoning text amendment to ~~the text of~~ this ~~Land Use~~ Ordnance will~~, at a minimum,~~ state ~~in particular~~ the article, section, and paragraph sought to be amended. The application shall contain the ~~language~~ text of the proposed amendment and shall recite the reasons for such proposed change ~~in text~~.

3. Before taking any action on any proposed zoning text amendment, revision, supplement, or change, the County Commissioners will submit the proposal to the *Planning Commission* for review and recommendation. The *Planning Commission* may hold a public hearing on any proposed amendment, revision, supplement, or change before submitting its recommendation to the County Commissioners. The *Planning Commission* may request any pertinent data and information as it deems necessary.

4. In its recommendation, the *Planning Commission* shall address:

   (A) The public need for the proposed amendment; and

   (B) The extent to which the proposed amendment complies with or deviates from the Comprehensive Plan and the *Critical Area* Law.

   (C) ~~When reviewing an amendment to the zoning map, the *Planning Commission* shall address the suitability of the property in question for the uses permitted under the proposed zoning.~~

5. The *Planning Commission* will not recommend the adoption of the amendment unless it finds that the adoption of the amendment is in the public interest ~~and~~, in that, it furthers the health, safety, and general welfare of the community, ~~not solely for the interest of the~~ as well as the interests of an individual land owner~~applicant~~.

6. Failure of the *Planning Commission* to report to the County Commissioners within 60 days following its first meeting after the proposal was referred ~~to them~~ will be deemed approval.

7. Before approving any proposed change or amendment, the County Commissioners shall hold a public hearing thereon. Notice of any public hearing shall be given ~~at least 15 days~~ prior to the date of the hearing. The time, date, place, and nature of the hearing shall be published in a newspaper having general circulation in Kent County. ~~The property shall also be conspicuously posted with the date, time, place, and nature of the hearing.~~ The notices shall refer to places where the plans, ordinances, or amendment may be examined, and online publication is sufficient.

~~In order to approve an amendment to the zoning map, except in the case of a Countywide comprehensive rezoning, the County Commissioners shall find either:~~

~~(A) A change in the character of the neighborhood since the last countywide rezoning and such change is not the result of an action planned by the County; or~~

~~(B)~~(A) ~~A mistake in the original zoning~~.

8. The County Commissioners shall render its decision ~~within ninety (90) days of the hearing~~ within a reasonable timeframe. An application may be deferred for additional research.

9. Petitions for amendments, revisions, supplements, or changes denied by the County Commissioners on their merits, or substantially similar petitions, shall not be ~~considered~~ allowed to be filed by an applicant for ~~one year~~12 months after the denial. The Board of County Commissioners itself may propose a similar petition of its own at any time.

10. Any persons aggrieved by any decision of the County Commissioners may within 30 days after such decision appeal to the Circuit Court of Kent County.

11. Amendments dealing with *Critical Area* Districts or *Critical Area* related items shall not be effective, until effective under Md. Code Ann., Natural Resources ~~Article~~§ 8-1809, as the same may be amended from time to time.

SECTION 5 BOARDS AND COMMISSIONS

It is the intent of this section to identify the duties of the Board of Appeals and *Planning Commission*. Each Board or Commission shall adopt rules of its business, such rules to be made available to the public upon request.

5.1 BOARD OF APPEALS

The Board of Appeals shall have the following powers:

1. Administrative Appeals - To hear and decide appeals of any decision or determination made by the ~~*Administrator*~~ Department or any County staff member in the enforcement and administration of this Ordinance, unless clearly specified otherwise in this Ordinance.

2. Special Exceptions - To hear and decide applications for special exceptions as set forth herein.

3. *Variances* - To authorize, upon application, *variances* ~~from~~ related to *yard* setbacks, height, *bulk*, parking, signs, loading, *shoreline cliff*, 15% *slope*, *pier length*, *impervious surface*, *stream protection corridor*, *forest conservation retention* provisions, *floodplain* requirements, ~~and~~ *buffer* requirements, and any non-use-related provision of this Ordinance.

4. Other Powers - The Board may have additional powers as may be designated by the County Commissioners of Kent County.

5. Conditions - In the granting of *variances*, appeals, and special exceptions, the Board may limit the approval by such conditions as the case may require.

6. Right of Entry - The Board of Appeals is hereby authorized to enter upon open land in Kent County for the purpose of reviewing applications pending before the Board. Such entry is only to be in the form of a publicly noticed and ADA-accessible public meeting on the site.

5.2 PLANNING COMMISSION

The *Planning Commission* shall have the following powers:

1. *Comprehensive Plan* – To develop and approve a plan which shall be recommended to the legislative body for adoption. The plan is the principal document outlining County direction, policy, and action regarding land use. While other plans and ordinances provide more detailed information and policy, all plans and laws shall be consistent with and conform to the *Comprehensive Plan* in the manner as prescribed by Maryland State law, as set forth in Md. Code Ann., Land Use, §1-303.

2. Recommendations to County Commissioners – To make recommendations to the County Commissioners on Land Use Ordinance text amendments, zoning map amendments, and courses of actions necessary to implement the *Comprehensive Plan*.

3. Recommendations to the Board of Appeals – To make recommendations to the Board of Appeals on *variances* and certain special exceptions as set forth in this Ordinance. The Commission shall address the extent to which the *variance* or special exception complies with or deviates from the *Comprehensive Plan*. The Commission may recommend conditions and limitations on the approval of *variance*s and special exceptions.

4. *Subdivision*s – To review and approve *subdivision*s of land as set forth in this Ordinance and Md. Code Ann., Land Use, §5-105.

5. *Site plans* – To review and approve *site plans* as set forth in this Ordinance.

6. Other Powers – The *Planning Commission* may have additional powers as may be designated by the County Commissioners of Kent County.

7. Conditions – In the granting of *subdivision*s and *site plans*, the *Commission* may limit the approval by such conditions as the case may require.

8. Right of Entry – The *Planning Commission* is hereby authorized to enter upon open land in Kent County for the purpose of reviewing applications pending before the Commission. Such entry is only to be in the form of a publicly noticed and ADA-accessible public meeting on the site.

SECTION 6 NONCONFORMITIES

NONCONFORMING USES

6.1 LEGAL NONCONFORMING USES, DEFINED

1. Any use of a *lot* shall be considered a legal nonconforming use, if it:
   (A) Does not conform to one or more use *regulations* of this Ordinance;
   (B) Existed on the effective date of this Ordinance;
   (C) Has not been abandoned; and
   (D) Either conformed to the *regulations* of or was considered to be a legal nonconforming use by the Land Use Ordinance in effect the day before the effective date of this Land Use Ordinance.
2. The existence of a legal nonconforming use shall be presumed valid, based on documents that indicate evidence of the use prior to the adoption of this Ordinance, submitted by the property owner, lessee, or other relevant party, unless specifically determined by the ~~Zoning *Administrator.*~~Department to be insufficient to validate the presence of the use.
3. The intermittent or illegal use of a *lot* shall not be sufficient to establish the existence of a legal nonconforming use.
4. The existence of a use on a part of a *lot* shall not be construed to establish a legal nonconforming use on any other part of such *lot*.

6.2 CONTINUANCE OF LEGAL NONCONFORMING USES

A legal nonconforming use shall be permitted to continue, subject to *regulations* of this Section.

6.3 ABANDONMENT OF LEGAL NONCONFORMING USES

For the purposes of this Ordinance, the discontinuance of a use for a period exceeding two years shall constitute abandonment of such use. Whether a nonconforming use has discontinued is a question of fact and shall be decided by the ~~Zoning *Administrator*. At the Zoning *Administrator*'s discretion, a review of a nonconforming use may be submitted to the~~ Board of Appeals for a determination of whether and for what duration a nonconforming use has discontinued. A public hearing will be required, and the process for notice will be utilized as set forth in Article IV.

6.4 ENLARGEMENT OF LEGAL NONCONFORMING USES

Except in the case of private school or *houses of worship* that existed prior to April 12, 1988, no legal nonconforming use may be enlarged, increased, or extended so as to occupy any portion of a *lot* or *structure* where the legal nonconforming use did not exist on the effective date of this Ordinance or so as to occupy any portion of a *lot* or *structure* where the use was abandoned.

6.5 LEGAL NONCONFORMING USES IN THE CRITICAL AREA

Any legal nonconforming use within the *Critical Area* which existed on April 12, 1988, may continue without intensification or expansion unless such use has been abandoned for more than one year, or otherwise in accordance with Section 27.01.02.07 of the Code of Maryland *Regulations*.

6.6 ORDINARY REPAIR AND MAINTENANCE

The normal maintenance and repair, or the replacement, installation, or relocation of nonbearing partitions, fixtures, wiring, or plumbing may be performed on any *structure* that is devoted in whole or in part to a legal nonconforming use. Life safety code updates and requirements for any improvements related to ADA accessibility, or any other required update, change, improvement, or additional equipment that is required by any governmental agency or quasi-public agency will not be considered to affect the status of the use including any required expansions under such.

NONCONFORMING STRUCTURES

6.7 LEGAL NONCONFORMING STRUCTURES, DEFINED

1. Any *structure* shall be considered a legal nonconforming *structure* if it:
   - (A) Does not conform to one or more non-use *regulation* of this Ordinance;
   - (B) Existed on the effective date of this Ordinance;
   - (C) Is not a *sign*; and
   - (D) Either conformed to the *regulations* of or was considered to be a legal nonconforming *structure* by the Land Use Ordinance in effect the day before the effective date of this Land Use Ordinance.
2. Whether a *structure* is nonconforming shall be a question of fact and shall be decided by the ~~Zoning *Administrator*~~Department as an administrative decision; a public hearing is not required. If the case is complex, the Planning Director may refer the matter to the Board of Appeals. If the Board of Appeals is to decide the matter, then a public hearing will be required, and the process for notice will be utilized as set forth in Article IV.

6.8 CONTINUANCE OF LEGAL NONCONFORMING STRUCTURES

A legal nonconforming *structure* may continue to exist, subject to the *regulations* of this Section.

6.9 ORDINARY REPAIR AND MAINTENANCE OF LEGAL NONCONFORMING STRUCTURES

The normal maintenance and repair of a legal nonconforming *structure* may be performed, provided that any portion of the *structure* undergoing such maintenance or repair either (1)

conforms to all non-use *regulations* of this Ordinance, or (2) does not increase its degree of structural nonconformity.

6.10 REPAIR OR RECONSTRUCTION OF LEGAL NONCONFORMING STRUCTURES AFTER CALAMITY

1. There shall be no repair or reconstruction of a damaged legal nonconforming *structure* unless all of the following conditions are met:

   (A) The damage, destruction, or removal of the *structure* was not voluntarily caused by the property owner or property owner's agent;

   (B) A permit is obtained prior to repair or reconstruction of the damaged or destroyed *structure;*

   (C) Repair or reconstruction begins within two years after the calamity; and

   (D) The repair or reconstruction does not result in an increase in the degree of nonconformity.

2. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring of a *structure* to a safe condition by order of a public official.

6.11 ALTERATIONS OR ENLARGEMENTS TO LEGAL NONCONFORMING STRUCTURES

No legal nonconforming *structure* may be altered or enlarged unless one or more of the following conditions are met:

1. The portion of the *structure* that is proposed to be altered or enlarged will, after the *alteration* or enlargement, comply with all standards and *regulations* of this Ordinance and will not increase the percent of *impervious surface* on the *lot* above that required in the Ordinance. If no regulatory minimum is established, this provision will not apply;

2. The legal nonconforming *structure* has been used as a private school without abandonment since April 12, 1988;

3. The legal nonconforming *structure* has been used as a *house of worship* without abandonment since April 12, 1988.

4. The legal nonconforming *structure* is a *dwelling* that existed as of April 12, 1988, and is located in the *modified buffer* and conforms to the standards set forth in this section.

6.12 EXPANSION OF EXISTING DWELLINGS IN THE MODIFIED BUFFER

*Dwelling*s existing as of April 12, 1988, in the *modified buffer* may be enlarged, provided that:

1. All opportunities for expansion outside the minimum 100-foot *buffer* are exhausted; and

2. An area of *natural vegetation* equal to three times the footprint of the expansion shall be planted in the 100-foot *buffer*. If there is not enough area in the *buffer* to accommodate the required planting, the required planting shall occur on the same property.

6.13 RELOCATION OF NONCONFORMING STRUCTURES

No legal nonconforming *structure* shall be relocated in whole or in part to another *lot* or to another location on the same *lot* unless, after relocation, every portion of the *structure* conforms to all applicable *site development regulations*.

NONCONFORMING LOTS

6.14 NONCONFORMING LOTS, DEFINED

1. A *lot* which was legally created and properly recorded but which does not satisfy the minimum *lot area* and/or the minimum *lot width* applicable to the zoning district in which it is located shall be considered a nonconforming *lot*.
2. Whether a *lot* is nonconforming shall be a question of fact and shall be decided by the ~~Zoning *Administrator*~~Department as an administrative decision; a public hearing is not required. If the case is complex, the Planning Director may refer the matter to the Board of Appeals. If the Board of Appeals is to decide the matter, then a public hearing will be required, and the process for notice will be utilized as set forth in Article IV.

6.15 CONTINUANCE OF NONCONFORMING LOTS

1. Nonconforming *lots* may continue to exist, subject to the *regulations* of this Section.
2. Nonconforming *lot*s may be occupied by any use permitted by the *regulations* for the district in which it is located.
3. Nonconforming *lot*s may be developed with *structures* that comply with all *site development regulations* set forth by this Ordinance.
4. A variance will not be required for any permitted use, allowable special exception, or permitted accessory use to be located on such a *lot*.

6.16 SUBDIVISION OF NONCONFORMING LOTS

~~No~~ A nonconforming *lot* may not be subdivided unless each resulting *lot* conforms to the minimum *lot area* and the minimum *lot width regulations* applicable to the zoning district in which it is located, unless a variance is granted by the Board of Appeals per this Ordinance.

NONCONFORMING SIGNS

6.17 NONCONFORMING SIGNS

Regulations concerning nonconforming signs may be found in Article V of this Ordinance.

ARTICLE II. DISTRICTS

SECTION 1 GENERAL PROVISIONS

1. ESTABLISHMENT OF ZONING DISTRICTS

In order to regulate and restrict the location and use of land and *structure*s for trade, industry, residence, and for other purposes; to regulate and restrict the location, height, and size of *structure*s hereafter erected or structurally altered; to regulate the size of *yard*s, and other *open space*; and to regulate the *density* of population, these zoning districts are hereby established:

DISTRICT NAME	NOMINAL DENSITY	CRITICAL AREA
Agricultural (AZD)	1:30 units per acre	
Resource Conservation District (RCD)	1:20 units per acre	Critical Area
Rural Character (RC)	1:20 units per acre	
Critical Area Residential (CAR)	1:1 unit per acre	Critical Area
Community Residential (CR)	1:1 unit per acre	
Village (V)	8 units per acre	
Intense Village (IV)	12 units per acre	
Commercial (C)		
Commercial *Critical Area* (CCA)		Critical Area
Marine (M)	2 units per acre	Critical Area
Employment Center (EC)	1:20 units per acre* *intra-family transfer	
Employment Center Critical Area (ECCA)	1:20 units per acre* *intra-family transfer	Critical Area

Note: Districts without any land area have been removed from the zoning districts list. The Rural Residential and the Community Residential districts were combined into Community Residential. The Commercial and the Crossroads Commercial districts were combined into Commercial. The Employment Center and Industrial districts were combined into the Employment Center district, and Industrial Critical Area – LDA was re-titled as Employment Center Critical Area.

2. CRITICAL AREA ZONING DISTRICTS GENERALLY

The 12 zoning districts in this Land Use Ordinance comprise two categories. The first category is the zoning districts for land located in the State of Maryland's Critical Area for the Chesapeake and Atlantic Coastal Bays. These are the RCD, CAR, CCA, M, and ECCA. State of Maryland Critical Area laws and regulations apply in these districts. The remaining districts are outside the Critical Area. Critical Area law and regulations do not apply; other laws and regulations such as Forest Conservation regulations apply. The Environmental Regulations are set forth in Article VI.

3. ESTABLISHMENT OF CRITICAL AREA LINE

The *Critical Area* Line shall be shown on the map designated as the "*Critical Area* Line Map of Kent County, Maryland" ~~dated and signed~~adopted by ~~the President of~~ the County Commissioners ~~and attested by the Clerk of County Commissioners upon adoption~~. Such map delineates the *Critical Area* and shall be used to determine if such land is located within the *Critical Area*. For any land referenced to be within the *Critical Area* according to the "*Critical Area* Line Map of Kent County" one must follow the *Critical Area* requirements and *regulations* as follows:

(A) If referenced on the "Zoning Map" as a *Critical Area* zoning district, then the established zoning district must be adhered by.

(B) If according to the "*Critical Area* Line Map" the land is within the *Critical Area* then the requirements and *regulations* of the most similar *Critical Area* zoning district and the established *Critical Area* designation must be followed. This includes Title 27 of the Code of Maryland *Regulations* (COMAR).

(C) This Section shall remain in effect while Kent County undertakes its Comprehensive Rezoning and Update process, which will result in a new Comprehensive Land Use Ordinance" and "Zoning Map." The "*Critical Area* Line Map" will be incorporated into the "Zoning Map" and will no longer be a stand-alone map. Upon the adoption of the Comprehensive Land Use Ordinance and "Zoning Map," this Section shall be abrogated and of no further force and effect. This Section may then be designated as "RESERVED."

4. INTERPRETATION OF ZONING DISTRICT BOUNDARIES

Where uncertainties exist with respect to the district boundary, the following applies:

(A) Where a boundary is given a position within a *street*, *alley*, or *easement*, the boundary shall be deemed to be the center of the *right of way* of the *street*, *alley*, or *easement*.

(B) If the actual location of a *street*, *alley*, or *easement* varies from the location shown on the map, the actual location shall control.

(C) Where a boundary is shown as being located a specific distance from a *street* or other physical feature, this distance shall control.

(D) Where the district boundary approximately coincided with *lot line*s, the *lot line* shall be construed to be the district boundary unless otherwise indicated.

(E) Where district boundaries do not coincide with *lot line*s and *street*s, and where no dimensions are shown, the location of the boundary shall be determined by use of the scale shown on the map.

(F) Where a property is split by a zoning boundary including special districts, the rules of the zone shall apply to that portion of the land located in each district.

SECTION 2 AGRICULTURAL ZONING DISTRICT (AZD)

2.1 STATEMENT OF INTENT

The purpose of the Agricultural Zoning District is to encourage the use of agricultural land for farming and other agricultural businesses and to limit the use of these lands for non-agricultural purposes. *Agriculture,* including animal husbandry on properties at least 20 acres or larger in size, is the preferred and primary use in the Agricultural Zoning District. In general, the District will consist of large contiguous areas predominantly devoted to *agriculture* or *forest*ry and principally composed of Class I, II, and III *soils*. The District will contain some sensitive areas not well suited to *agriculture* to provide large contiguous areas. The sum of these areas consists of enough land to help maintain a derived-demand market for the necessary agricultural support services in the County. In addition, the District is to provide for *farm*, *home occupations*, and *cottage industries* that are compatible with *agriculture* as a means to further diversify the County's economy.



Figure 1: Diagram illustrating the desired, general character of the Agricultural Zoning District.

2.2 PERMITTED USES AND STRUCTURES

A *building* or land shall be used only for the following ~~uses and *structures*~~. Detailed limitations and standards for these uses may be found in Article III. Administrative special exceptions are indicated by letter "A." "B" indicates exceptions that require only Board of Appeals review. All other exceptions require Planning Commission and Board of Appeals reviews per Article IV.

Uses in Agricultural Zoning District (AZD) Article III lists requirements for permitted uses and conditions related to special exceptions	Permitted by right	Permitted by right on *farms* only	Special Exception	*Accessory Use* on *farms* only	*Accessory Use* on all properties
Accessory *dwelling unit*					X
Accessory *farm building*s, including barns, cribs, stables, sheds, tool rooms, shops, bins, tanks, and silos				X	
Accessory *farm dwelling*s				X	
Accessory *off-street parking* and loading of non-commercial vehicles that have current licenses and are operable					X
Accessory *off-street parking* of one commercial vehicle					X
Accessory open or enclosed storage of *farm* materials, products, equipment, fertilizer or chemicals, or vehicles, located at least 200 feet from all property lines				X	
Accessory *roadside stand* for the sale of *farm* products				X	
Accessory residential storage *structure*s with a ground *floor area* of more than ~~1,200~~ 2,000 square feet or a height that exceeds ~~17 feet~~ the height of the primary residential structure on parcels less than 5 acres			A		
Accessory structures in a *front yard* of *through* or *corner lots*			A		
Adaptive reuse of existing structures in AZD, located on parcels under 20 acres			A		
Adaptive reuse of *historic structures* for uses not otherwise listed			X		
Accessory sheds on properties less than 20 acres in area			A		
Airports, landing fields, helistops, or heliports			X		
Agriculture	X				
Agritourism on farms, defined in Article VII		X			
Animal husbandry, *aquaculture*		X			
Animal husbandry, farms, including horses		X			
Animal, husbandry, feedlot or confinement dairy			X		
Animal husbandry, horses on non-farms			X		
Animal husbandry, limited livestock and fowl			X		

Uses in Agricultural Zoning District (AZD) Article III lists requirements for permitted uses and conditions related to special exceptions	Permitted by right	Permitted by right on *farms* only	Special Exception	*Accessory Use* on *farms* only	*Accessory Use* on all properties
Animal husbandry, poultry houses on farms only			X		
Animal husbandry, special – backyard chickens					X
Animal husbandry, special – small sheep or goats					X
Animal husbandry, *stable - private*	X				
Animal husbandry, *stable - commercial*	X				
Appurtenant signs					X
~~*Aquaculture*, including accessory processing and sales~~	~~X~~				
Assisted living facilities with five to eight beds			A		
Assisted living facilities with no more than four beds					X
Camp, day or boarding, private or commercial, but not recreational vehicle or migrant labor camps, for the purpose of conserving and enjoying the natural resources.	X				
Cemetery, including crematorium and mausoleum			X		
Circus or carnival, midways and amusement parks, maze fields and other temporary recreational uses, for a specified period	X				
Cottage industries, tradesmen and artisan shops			A		
Country inns			X		
Country stores			X		
Day care groups			A		
Day care homes					X
Detached *single family dwellings*	X				
*Dog kennel*s, commercial					X
Erosion and *flood* control *structures*	X				
~~*Excavationcontractor's yard*~~			~~X~~		
Exposition center or fairgrounds			B		
Farm brewery, as defined by the State of Maryland	X				
Farm employee housing			X		
~~*Feedlot* or confinement dairy~~			~~X~~		
Golf courses, public or private			X		
Greenhouses, wholesale or retail	X				
Guest house, one, but not including *mobile homes*				X	
*Home occupation*s in main or accessory *building*s					X
Hunting blinds, pits, or preserves	X				
Hunting trailer, one, temporary				X	

Uses in Agricultural Zoning District (AZD) Article III lists requirements for permitted uses and conditions related to special exceptions	Permitted by right	Permitted by right on *farms* only	Special Exception	*Accessory Use* on *farms* only	*Accessory Use* on all properties
~~Keeping, dairying or raising for sale of animals, fish, birds, or reptiles~~		~~X~~			
~~Keeping of backyard chickens~~					~~X~~
Livestock auction houses, located on farms in AZD	~~X~~		X		
Migrant labor camps			X		
Mobile homes existing and in use as of January 16, 1996	X				
~~More than four horses and mules on land less than 20 acres in size~~			~~X~~		
Multi-Family and Two-Family Dwellings, in AZD	X				
Parking of commercial vehicles on a farm				X	
Personal wireless facility towers			X		
Personal wireless facilities, collocated on existing towers	X				
Poultry houses ~~in AZD and RCD~~	X				
Poultry houses on parcels where the owner cannot handle the waste generated by the poultry houses			X		
Private garages, *swimming pools*, game courts, and other customary residential out*building*s and *structures*					X
Private schools			X		
Public and private *forests*, wildlife reservations and similar conservation projects	X				
Public and private parks and playgrounds for the purpose of conserving and enjoying natural resources.	X				
Public landings			B		
Public uses, *buildings*, and utilities			X		
Railroad *right of ways*	X				
Retreats			X		
Rifle and pistol ranges			B		
Roadside stands					X
Rural inns			X		
Sand and gravel pits, including *excavation* or extraction			X		
Sanitary landfill or rubblefill, public			X		
Satellite dish, private, with an antenna of 3 feet or less in diameter					X
Satellite dish, private, with an antenna exceeding 3 feet in diameter					X

Uses in Agricultural Zoning District (AZD) Article III lists requirements for permitted uses and conditions related to special exceptions	Permitted by right	Permitted by right on *farms* only	Special Exception	*Accessory Use* on *farms* only	*Accessory Use* on all properties
Sawmills and mulching operations, temporary, for cutting timber and landscaping materials grown on the *premises*	X				
School buses, parked, limited to five				X	
School buses, parked, limited to two					X
~~*Sewage sludge land application*~~			~~X~~		
Short-term vacation rentals (STVR)					X
Solar energy systems, small					X
Solar energy systems, utility scale			X		
~~*Stable, private*~~	~~X~~				
~~*Stable, public*~~	~~X~~				
Storage of boats, campers, boat trailers, and camper trailers					X
Structures for the buying, processing, and/or sale of animal products, commercial, located at least 600 feet from all property lines			X		
Structures for the buying, processing, and/or sale of non-animal farm products related to *agriculture* no more than 10,000 square feet in floor area	X				
Structures for the buying, processing, and/or sale of non-animal *farm* products related to *agriculture*, over 10,000 square feet in floor area but less than 50,000 square feet in area			B		
Temporary *MET Tower* of any height					X
Veterinary *hospitals* or *clinics* and animal shelters	X				
Waste management *structures*, where not otherwise stipulated in this Ordinance				X	
Wedding venues on farms with Board of Appeals approval			X		
Wind energy systems, small			X		
Wind energy systems, small, accessory				X	

2.3 DENSITY, AREA, HEIGHT, WIDTH AND YARD REQUIREMENTS

	STANDARD *DEVELOPMENT*	~~ENCLAVE *DEVELOPMENT*~~
STANDARDS FOR THE *SUBDIVISION* OF *LOTS*		
Gross *density* (*dwelling units*/acre)	0.033 (1/30)[1,6]7	~~0.1 (1/10)[2]~~
Minimum *lot* size		
- *On-site* individual septic system	¾ acre	~~N/A~~
- Community sewage system	½ acres	~~N/A~~
Maximum *lot* size	N/A	~~¾ acre~~
Minimum *lot width*	75 feet	~~N/A~~
Maximum *lot width*	N/A	~~75 feet~~
Maximum percentage of property in *lots*	10%[3]	~~10%~~
Maximum *lots* fronting on existing public road	2[4]	~~N/A~~
STANDARDS FOR *BUILDING* AND *STRUCTURE* HEIGHT, WIDTH, AND PLACEMENT		
Minimum *yard*		
- Front (*primary road*)	100 feet	~~20 feet~~
- Front (all other *roads*)	75 feet	~~20 feet~~
- Side	15 feet	~~8 feet~~
- Rear	30 feet	~~10 feet~~
- Waterfront	100 feet	~~100 feet~~
- *Accessory structures* on *farms* in the side and *rear yard*	25 feet	~~25 feet~~
- Accessory residential *structures* in *rear yard*		
Side	10 ~~3~~ feet	~~3 feet~~
Rear	10 ~~5~~ feet	~~5 feet~~
Maximum *front yard*	N/A	~~40 feet~~
Maximum *structure* height[5]		
- Primary Residential or Agricultural *structure*	38 feet	~~38 feet~~
- Accessory Residential Structure (a special exception may be granted to exceed max)	Height of existing primary residential structure	
- Fence height[6]		
- Security	8 feet	~~8 feet~~
- Agricultural	5 feet	~~5 feet~~
- Ornamental		
Side and Rear	8 feet	~~8 feet~~
Front	4 feet	~~4 feet~~
Lot line setback from External Access Road	N/A	~~600 feet~~
Lot line setback from *Protected Lands*	N/A	~~600 feet~~
Maximum Enclave size	N/A	~~10 *dwelling units*~~
Minimum Enclave size	N/A	~~3 *dwelling units*~~
Maximum number of Enclaves	N/A	~~1 per parcel~~

FOOTNOTES

1 Accessory dwelling units do not count toward the density calculation in AZD.

~~2 Accessory dwelling units do not count toward the density calculation.~~

2 Parcels 100 acres or larger do not count toward the maximum developed percentage of the property.

3 Parcels created before December 3, 2002, do not count toward the two permitted road front parcels. The Planning Commission may waive this requirement, if the proposal meets the waiver requirements in this Ordinance.

4 Height of structures may be further restricted by the Kent County *Airport* Safety Requirements as defined in this Ordinance. Except in an area defined as the Kent County Airport Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles. ~~Accessory structures on parcels less than 5 acres in size may not exceed 17 feet in height without a special exception.~~

5 Fences do not need to meet the yard requirements.

6 Agricultural Easement Program – Nothing in this regulation shall limit the ability of a participant in the Agricultural Easement Program to convey real property impressed with an easement to his or her child provided the easement was recorded with the Kent County Clerk of Circuit Court prior to October 1, 2003.

~~1. Enclave Design Standards~~

~~(A) The purpose of the Enclave *development* pattern is to:~~

~~i. Minimize the loss of productive agricultural land; and~~

~~ii. Maintain the visual quality of the County's agricultural landscape.~~

~~(B) All plans should minimize the use of tillable *soils* for *development* and maximize the use of *sloped* and *forested* areas, which are otherwise less productive for agricultural uses.~~

~~(C) The design and location of the Enclave shall minimize the impacts to neighboring agricultural operations and hunting so as not to restrict the rights of adjacent landowners.~~

~~(D) The *applicant* must show that the agricultural land remaining after *subdivision* is suitable for a commercially viable agricultural enterprise.~~

~~(E) Enclaves shall be located so as to leave large blocks of open agricultural land throughout the Agricultural Zoning District.~~

~~(F) Access to the Enclave must be from a single internal road.~~

~~(G) The appearance of an Enclave from an external public road shall be that of a grouping of *farm buildings* in that they are clustered together and obviously a use subsidiary to the prime use of the land – *agriculture*.~~

~~(H) Landscaping that defines the access road along its entire length is desirable.~~

~~(I) The Enclave shall be planned and designed as a single unit with careful consideration given to the relationship of *structures* to one another, landscaping, *buffer*ing, *screen*ing, views, light and air, and internal circulation.~~

~~(J) Strong provision should be made for walking as opposed to vehicular connections within the Enclave.~~

~~(K) *Street* widths, alignments, and parking should be carefully scaled to the size of the Enclave.~~

~~(L) The *street*scape of the Enclave should be designed in detail to avoid repetitious *setbacks*, driveways, elevations, and landscaping.~~

~~(M) Where an Enclave incorporates an existing historic *building*, *building* heights, exterior features, and *building* arrangement should be harmonious with the *historic structure*. *Street* widths, alignments, and parking should be carefully scaled to the size of the Enclave.~~

~~(N) Deed restrictions shall include language recognizing that the *lots* are in an agricultural area and refer to the right to *farm* law.~~

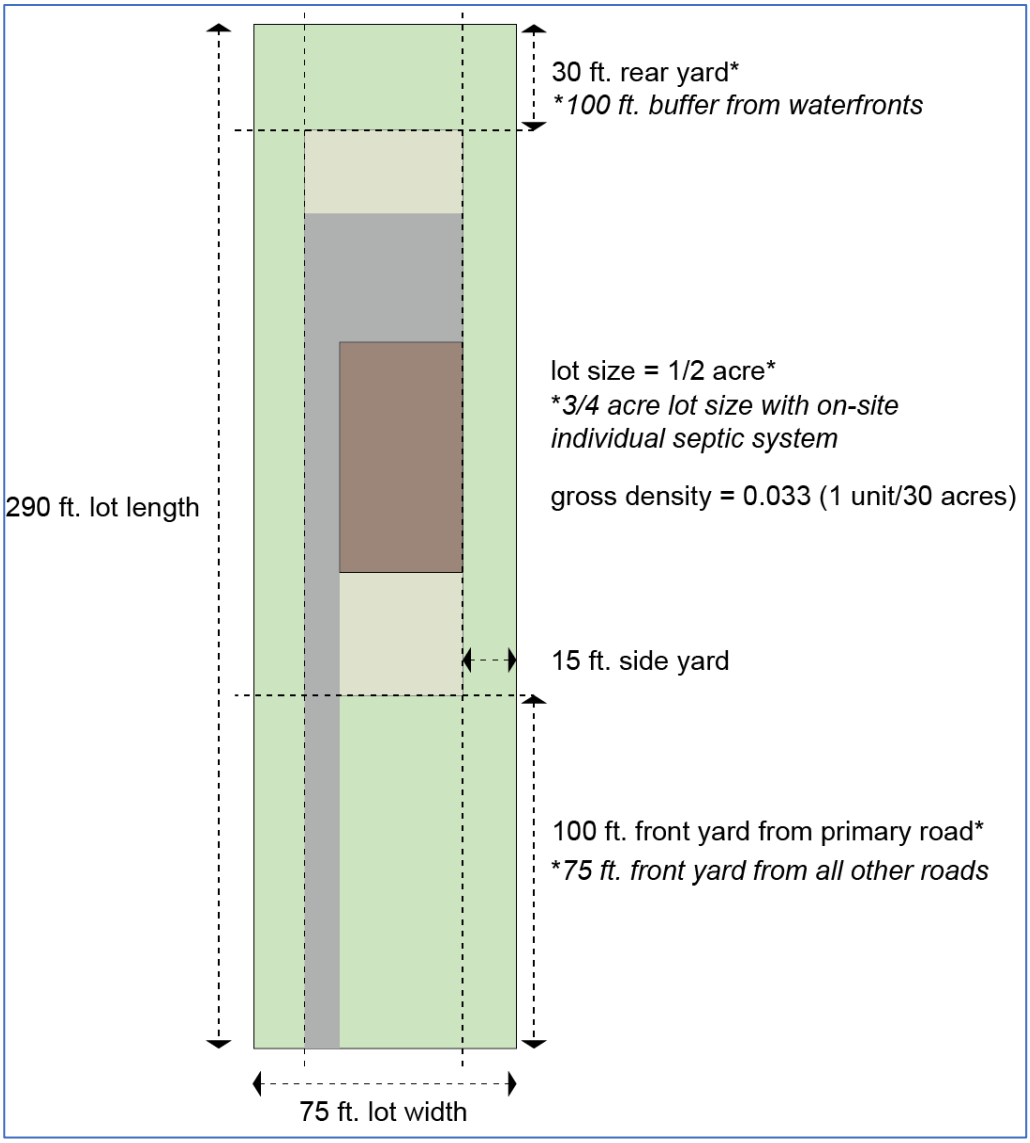


Figure 2: Regulatory diagram of a lot in the Agricultural Zoning District ~~(non-enclave)~~.
~~Figure 4 on right: Regulatory diagram of a lot in the Agricultural Zoning District (enclave).~~

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SECTION 3 RESOURCE CONSERVATION DISTRICT (RCD)

3.1 STATEMENT OF INTENT

1. This district is intended to:

   (A) Conserve, protect, and enhance the overall ecological values of the *Critical Area*, its biological productivity, and its diversity;

   (B) Provide adequate breeding, feeding, and wintering habitats for those wildlife populations that require the Chesapeake Bay, its tributaries, or coastal habitats to sustain populations of those species;

   (C) Conserve the existing *developed woodland*s and *forest*s for the water quality benefits that they provide; and

   (D) Conserve the land and water resource base necessary to maintain and support such uses as *agriculture*, *forest*ry, fisheries' activities, and *aquaculture*.

2. It includes areas characterized by *nature-dominated* environments (that is, *wetlands*, *forest*s, abandoned fields) and resource-utilization activities (that is, *agriculture*, *forest*ry, fisheries' activities, or *aquaculture*).

3. RCD is the Critical Area complementary district to the Agricultural Zoning District (AZD). Regulations are intended to mirror the AZD and provide for a Critical Area version of AZD.



Figure 3: Diagram illustrating the desired character of the Resource Conservation District.

3.2 PERMITTED USES AND *STRUCTURES*

A *building* or land shall be used only for the following ~~uses and *structures*~~. Detailed limitations and standards for these uses may be found in Article III. Administrative special exceptions are indicated by letter "A." "B" indicates exceptions that require only Board of Appeals review. All other exceptions require Planning Commission and Board of Appeals reviews per Article IV.

Uses in the Resource Conservation District (RCD) Article III lists requirements for permitted uses and conditions related to special exceptions	Permitted by right	Permitted by right on *farms* only	Special Exception	*Accessory Use* on *farms* only	*Accessory Use* on all properties
Accessory *dwelling unit*					X
Accessory *farm building*s, including barns, cribs, stables, sheds, tool rooms, shops, bins, tanks, and silos				X	
Accessory *farm dwelling*s				X	
Accessory *off-street parking* and loading of non-commercial vehicles that have current licenses and are operable					X
Accessory *off-street parking* of one commercial vehicle					X
Accessory open or enclosed storage of *farm* materials, products, equipment, fertilizer or chemicals, or vehicles, located at least 200 feet from all property lines				X	
Accessory *roadside stand* for the sale of *farm* products				X	
Accessory residential storage *structure*s with a ground *floor area* of more than ~~1,200~~ 2,000 square feet or a height that exceeds ~~17 feet~~ the height of the primary residential structure on parcels less than 5 acres			A		
Accessory structures in the *front yard* requirement of waterfront parcels			A		
Accessory structures in *front yard* of a *through* or *corner lot*			A		
Adaptive reuse of *historic structures* for uses not otherwise listed			X		
Agriculture	X				
Agritourism on farms, defined in Article VII			X		
Animal husbandry, *aquaculture*		X			
Animal husbandry, farms, including horses		X			
Animal husbandry, horses on non-farms			X		
Animal husbandry, special – backyard chickens					X
Animal husbandry, special – small sheep or goats					X
Animal husbandry, *stable - private*	X				
Animal husbandry, *stable - commercial*	X				
Appurtenant signs					X

Uses in the Resource Conservation District (RCD) Article III lists requirements for permitted uses and conditions related to special exceptions	Permitted by right	Permitted by right on *farms* only	Special Exception	*Accessory Use* on *farms* only	*Accessory Use* on all properties
~~*Aquaculture*, including accessory processing and sales~~	~~X~~				
Camp, day or boarding, private or commercial, but not recreational vehicle or migrant labor camps, for the purpose of conserving and enjoying the natural resources	X				
*Campground*s existing and in use as of August 1, 1989	X				
Conference center			X		
Existing *Conference center*s, *resort*s, *retreat*s, *hotel*s, and motels existing and in use as of August 1, 1989	X				
Convalescent, group, or homes for the aged if located in *dwellings* existing as of December 1, 1985	X				
Country Inn			X		
Day care groups			A		
Day care homes					X
Detached *single family dwelling*s	X				
Existing permitted *marina*s ~~in the Resource Conservation District~~	X				
Exposition center or fairgrounds			B		
Farm employee housing			X		
Golf courses, public or private			X		
*Home occupation*s in main or accessory *building*s					X
Hunting blinds, pits, or preservers	X				
Hunting trailer, one, temporary				X	
~~Keeping, dairying or raising for sale of animals, fish, birds, or reptiles~~		~~X~~			
~~Keeping of backyard chickens~~					~~X~~
Mobile homes existing and in use as of January 16, 1996	X				
~~More than four horses and mules on land less than 20 acres in size~~			~~X~~		
Personal wireless facility towers			X		
Personal wireless facilities, collocated on existing towers	X				
Poultry houses ~~in AZD and RCD~~	X				
*Private club*s			B		
Private garages, *swimming pools*, game courts, and other customary residential out*building*s and *structures*					X
Private *pier*s, *community piers*, and private shared *pier*s					X

Uses in the Resource Conservation District (RCD) Article III lists requirements for permitted uses and conditions related to special exceptions	Permitted by right	Permitted by right on *farms* only	Special Exception	*Accessory Use* on *farms* only	*Accessory Use* on all properties
Public and private *forests*, wildlife reservations and similar conservation projects	X				
Public and private parks and playgrounds for the purpose of conserving and enjoying the natural resources.	X				
Public landings			B		
Public uses, *buildings*, and utilities			X		
Railroad *right of ways*	X				
Resorts			X		
Retreats			X		
Roadside stands					X
Sand and gravel pits, including *excavation* or extraction			X		
Satellite dish, private, with an antenna exceeding 3 feet in diameter					X
Satellite dish, private, with an antenna of 3 feet or less in diameter					X
School buses, parked, limited to two					X
Short-term vacation rentals (STVR)					X
Solar energy systems, small					X
Solar energy systems, utility scale		X			
~~*Stable, private*~~	~~X~~				
~~*Stable, public*~~	~~X~~				
Storage of boats, campers, boat trailers, and camper trailers					X
Temporary *MET Tower* of any height					X
Tie-out pilings of private *piers*, *community piers*, and private shared *piers*			X		
Waste management *structures*, where not otherwise stipulated in this Ordinance				X	
Wind energy systems, small			X		
Wind energy systems, small, accessory				X	

3.3 DENSITY, AREA, HEIGHT, WIDTH AND YARD REQUIREMENTS

STANDARDS FOR THE *SUBDIVISION* OF *LOTS*	
Gross *density* (*dwelling units*/ac)	1 *dwelling unit* per 20 acres[1]
Minimum *lot* size	
- *On-site* individual septic system	¾ acre
- Community sewage system	½ acre
Minimum *lot width*	75 feet
STANDARDS FOR *BUILDING* AND *STRUCTURE* HEIGHT, WIDTH, AND PLACEMENT	
Minimum *yard*	
- Front	50 feet
- Side	15 feet
- Rear	30 feet
- *Shoreline cliff*	1.5 x *cliff height* + 20 feet
- Waterfront	Minimum 100-foot *buffer*
- *Accessory structures* on *farms* in the side and *rear yard*	25 feet
- Accessory residential *structures* in *rear yard*	
Side	~~3~~10 feet
Rear	~~5~~10 feet
Maximum *structure* height[2]	
- Primary Residential or Agricultural *structure*	38 feet
- Accessory Residential Structure (a special exception may be granted to exceed max)	Height of existing primary residential structure
- Fence height[3]	
- Security	8 feet
- Agricultural	5 feet
- Ornamental	
Side and Rear	8 feet
Front	4 feet

1 Parcels of more than one acre improved by more than one dwelling unit, existing as of December 1, 1985, may be subdivided into parcels of land not less than one-half (½) acre each for each dwelling unit situated on the one-half (½) acre, or more, being subdivided. Accessory dwelling units that comply with Article III do not count toward the density calculation.

2 Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; standpipes; and flag poles.

3 Fences do not need to meet the yard requirements.

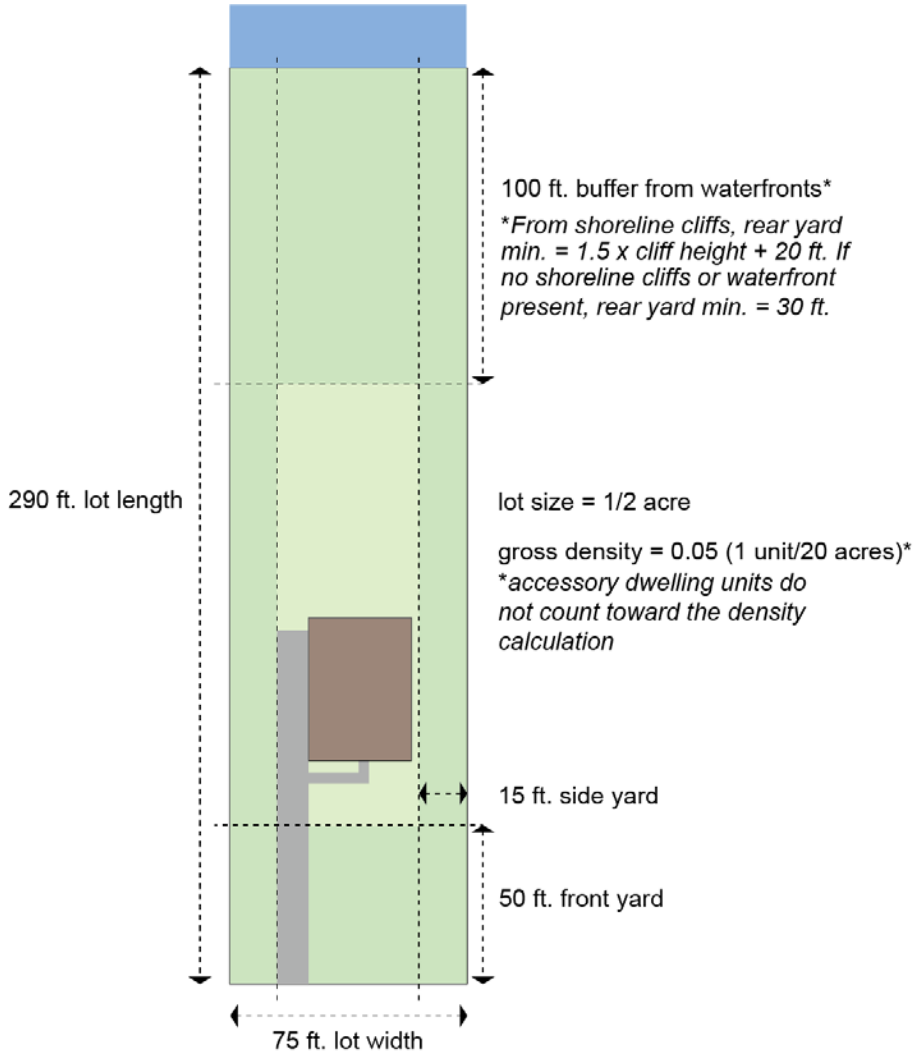


Figure 4: Regulatory diagram of a lot in the Resource Conservation District.

SECTION 4 RURAL CHARACTER DISTRICT (RC)

4.1 STATEMENT OF INTENT

The purpose of this district is to provide for the local market demand for rural *lots*, including large estate *lots* on 20 acres or more, in a manner that maintains rural character and in a location that minimizes conflicts with *agriculture*. The District may function as a transition between the incorporated towns, villages, residential *developments*, and the Agricultural Zoning District. To maintain their rural character, *developments* will follow strict design standards for protecting significant rural features, preserving scenic views, and *historic structures* as well as designing with *topography* and sensitively locating new *buildings*. Recreational uses such as golf courses, racquet courts, and stables are appropriate in this district. Public water and sewer ~~will~~ may not be extended into this district except to correct a public health emergency.



Figure 5: Diagram illustrating the desired character in the Rural Character District.

4.2 PERMITTED USES AND STRUCTURES

A *building* or land shall be used only for the following ~~uses and *structures*~~. Detailed limitations and standards for these uses may be found in Article III. Administrative special exceptions are indicated by letter "A." "B" indicates exceptions that require only Board of Appeals review. All other exceptions require Planning Commission and Board of Appeals reviews per Article IV.

Uses in Rural Character District (RC) Article III lists requirements for permitted uses and conditions related to special exceptions	Permitted by right	Permitted by right on *farms* only	Special Exception	Accessory Use on farms only	Accessory Use on all properties
Accessory *dwelling unit*					X
Accessory *farm building*s, including barns, cribs, stables, sheds, tool rooms, shops, bins, tanks, and silos				X	
Accessory *farm dwelling*s				X	
Accessory *off-street parking* and loading of non-commercial vehicles that have current licenses and are operable					X
Accessory *off-street parking* of one commercial vehicle					X
Accessory open or enclosed storage of *farm* materials, products, equipment, fertilizer or chemicals, or vehicles				X	
Accessory residential storage *structure*s with a ground *floor area* of more than ~~1,200~~2,000 square feet or a height that exceeds ~~17 feet~~the height of the primary residential structure on parcels less than 5 acres			A		
Accessory structures in a *front yard* of *through* or *corner lot*			A		
Adaptive reuse of *historic structures* for uses not otherwise listed			X		
Agriculture	X				
Animal husbandry, *aquaculture*		X			
Animal husbandry, farms, including horses		X			
Animal husbandry, horses on non-farms			X		
Animal husbandry, special – backyard chickens					X
Animal husbandry, special – small sheep or goats					X
Animal husbandry – *stable private*	X				
Animal husbandry – *stable commercial*	X				
Airports, landing fields, helistops, or heliports			X		
Appurtenant signs					X
~~*Aquaculture*, including accessory processing and sales~~	~~X~~				
Assisted living facilities with five to eight beds			A		

Uses in Rural Character District (RC) Article III lists requirements for permitted uses and conditions related to special exceptions	Permitted by right	Permitted by right on *farms* only	Special Exception	Accessory Use on farms only	Accessory Use on all properties
Assisted living facilities with no more than four beds					X
Camp, day or boarding, private or commercial, but not recreational vehicle or migrant labor camps, for the purpose of conserving and enjoying the natural resources	X				
Cemetery, including crematorium and mausoleum			X		
Conference center			X		
Cottage industries, tradesmen, and artisan shops			A		
Country inns			X		
Country stores			X		
Day care groups			X		
Day care homes					X
Detached *single family dwellings*	X				
Dog kennels, commercial			X		
Exposition center or fairgrounds			X		
Golf courses, public or private			X		
Greenhouses, wholesale or retail	X				
Guest house, one, but not including *mobile homes*				X	
Home occupations in main or accessory *buildings*					X
Hunting blinds, pits, or preservers	X				
Hunting trailer, one, temporary				X	
~~Keeping, dairying or raising for sale of animals, fish, birds, or reptiles~~		~~X~~			
~~Keeping of backyard chickens~~					~~X~~
Mobile homes existing and in use as of January 16, 1996	X				
~~More than four horses and mules on land less than 20 acres in size~~			~~X~~		
Parking of commercial vehicles on a farm				X	
Personal wireless facility towers			X		
Personal wireless facilities, collocated on existing towers	X				
Private clubs			X		
Private garages, *swimming pools*, game courts, and other customary residential out*buildings* and *structures*					X
Private schools			X		
Public and private *forests*, wildlife reservations and similar conservation projects	X				

Uses in Rural Character District (RC) Article III lists requirements for permitted uses and conditions related to special exceptions	Permitted by right	Permitted by right on *farms* only	Special Exception	Accessory Use on farms only	Accessory Use on all properties
Public and private parks and playgrounds for the purpose of conserving and enjoying the natural resources.	X				
Public landings			X		
Public uses, *buildings*, and utilities			X		
~~Raising of livestock and fowl, but not including commercial *feedlots*, confinement dairies, or poultry houses~~			~~X~~		
Raising of small animals, commercial, including birds, bees, fish, rabbits or other creatures, but not including *dog kennels*			X		
Recreational facilities, privately or commercially owned			X		
Resorts			X		
Retreats			X		
Roadside stands					X
Rural inns			X		
~~Sand and gravel pits, *excavation* or extraction~~			~~X~~		
Satellite dish, private, with an antenna exceeding 3 feet in diameter					X
Satellite dish, private, with an antenna of 3 feet or less in diameter					X
School buses, parked, limited to five				X	
School buses, parked, limited to two					X
Short-term vacation rentals (STVR)					X
Solar energy systems, small					X
~~*Stable, private*~~	~~X~~				
~~*Stable, public*~~	~~X~~				
Storage of boats, campers, boat trailers, and camper trailers					X
Temporary MET Tower of any height					X
Wind energy systems, small			X		
Wind energy systems, small, accessory				X	

4.3 DENSITY, AREA, HEIGHT, WIDTH AND YARD REQUIREMENTS

STANDARDS FOR THE *SUBDIVISION* OF *LOTS*	
Number of *lots* (*dwelling units*/acre)	1 *dwelling units* per 20 acres[1]
Minimum *lot* size	¾ acre
Minimum *lot width*	75 feet
STANDARDS FOR *BUILDING* AND *STRUCTURE* HEIGHT, WIDTH, AND PLACEMENT	
Minimum *yard*	
- Front	50 feet
- Side	15 feet
- Rear	30 feet
- Waterfront	100 feet
- *Accessory structures* on *farms* in the side and *rear yard*	25 feet
- Accessory residential *structures* in *rear yard*	
Side	10 ~~3~~ feet
Rear	10 ~~5~~ feet
Maximum *structure* height[2]	
- Primary Residential or Agricultural *structure*	38 feet
Accessory Residential Structure (a special exception may be granted to exceed max)	Height of existing primary residential structure
- Fence[3]	
- Security	8 feet
- Agricultural	5 feet
- Ornamental	
Side and Rear	8 feet
Front	4 feet

1 Accessory dwelling units are not counted toward permitted density.

2 Height of structures may be further restricted by the Kent County *Airport* Safety Requirements as defined in SECION 33.4 ZONING DISTRICT SPECIFIC DESIGN STANDARDS of this Ordinance. Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles~~. Accessory structures on parcels less than 5 acres in size may not exceed 17 feet in height without a special exception~~.

3 Fences do not need to meet the yard requirements.

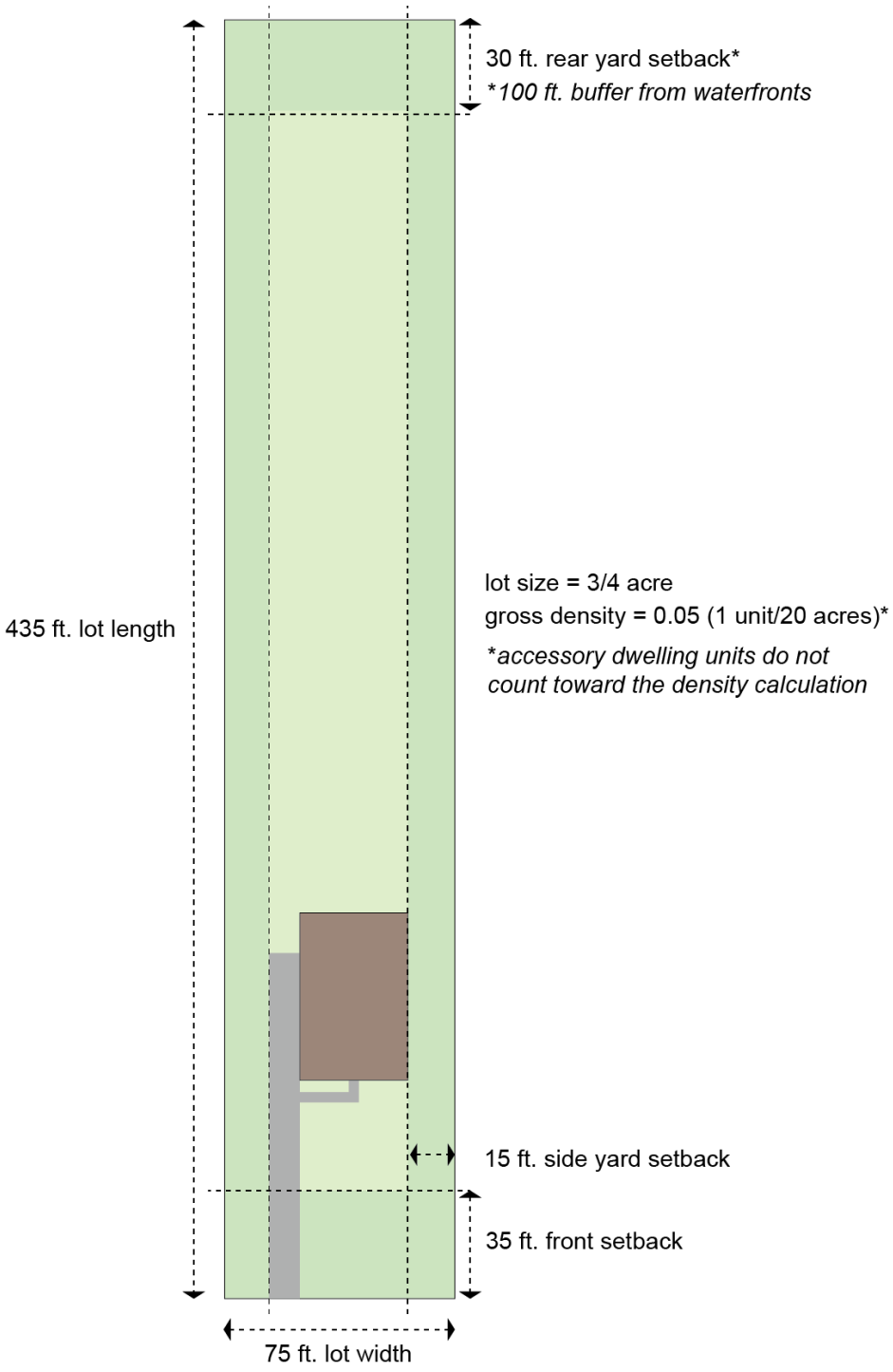


Figure 6: Regulatory diagram of a lot in the Rural Character District.

SECTION 5 CRITICAL AREA RESIDENTIAL (CAR)

5.1 STATEMENT OF INTENT

This district is intended to allow low *density* residential *development* in areas where the impact on the natural environment is minimal. The purpose of this district is to maintain, or if possible to improve, the quality of runoff and groundwater entering the Chesapeake Bay and its tributaries and to maintain existing areas of natural habitats while allowing limited residential *development* that conforms to environmental standards and that reflects the scale and character of existing *development*. These areas must have one of the following characteristics:

(A) Housing *density* ranges from one *dwelling unit* per five acres, up to four *dwelling unit*s per acre.

(B) Areas not dominated by *agriculture*, *wetlands*, *forest*, *barren land*, surface water or space; or

(C) Areas having public sewer or water, or both.

(D) Areas meeting the conditions of an Intense *Development* Area but less than 20 acres insize.

The Critical Area Residential district is complementary to the Community Residential district (CR). Regulations are intended to mirror the CR and to provide for a Critical Area version of the CR.



Figure 7: Diagram illustrating the desired character in the Critical Area Residential District.

5.2 PERMITTED USES AND STRUCTURES

A *building* or land shall be used only for the following ~~uses and *structures*~~. Detailed limitations and standards for these uses may be found in Article III. Administrative special exceptions are indicated by letter "A." "B" indicates exceptions that require only Board of Appeals review. All other exceptions require Planning Commission and Board of Appeals reviews per Article IV.

Uses in Critical Area Residential (CAR) Article III lists requirements for permitted uses and conditions related to special exceptions	Permitted by right	Special Exception	Accessory Uses
Accessory *dwelling unit*			X
Accessory *off-street parking* and loading of non-commercial vehicles that have current licenses and are operable			X
Accessory *off-street parking* of one commercial vehicle			X
Accessory residential storage *structure*s with a ground *floor area* of more than ~~1,200~~2,000 square feet or a height that exceeds ~~17 feet~~the height of the primary residential structure on parcels less than 5 acres		A	
Accessory structures in the *front yard* requirement of waterfront parcels		A	
Accessory structures in a *front yard*s of a *through* or *corner lot*		A	
Agriculture	X		
Animal husbandry, *aquaculture*		X	
Animal husbandry, farms, including horses		X	
Animal husbandry, horses on non-farms		X	
Animal husbandry, special – backyard chickens			X
Animal husbandry, special – small sheep or goats			X
Animal husbandry, *stable - private*	X		
Animal husbandry, *stable - commercial*	X		
Airports, landing fields, helistops, or heliports		X	
Appurtenant signs			X
~~*Aquaculture*, including accessory processing and sales~~		~~X~~	
Assisted living facilities with five to eight beds		A	
Assisted living facilities with no more than four beds			X
Camp, day or boarding, private or commercial, but not recreational vehicle or migrant labor camps, for the purpose of conserving and enjoying the natural resources	X		
Cemetery, including crematorium and mausoleum		X	
Conference center		X	

Uses in Critical Area Residential (CAR) Article III lists requirements for permitted uses and conditions related to special exceptions	Permitted by right	Special Exception	Accessory Uses
Cottage industries, tradesmen, and artisan shops		A	
Country inns		X	
Day care groups		A	
Day care homes			X
Detached *single family dwellings*	X		
*Dog kennel*s, commercial		B	
Golf courses, public or private		X	
Greenhouses, wholesale or retail	X		
*Home occupation*s in main or accessory *building*s			X
~~Keeping of backyard chickens~~			~~X~~
Mobile homes existing and in use as of January 16, 1996	X		
~~More than four horses and mules on land less than 20 acres in size~~		~~X~~	
Private clubs		B	
Private garages, *swimming pools*, game courts, and other customary residential out*building*s and *structures*			X
Private *pier*s, *community piers*, and private shared *pier*s			X
Private schools		X	
Public and private *forests*, wildlife reservations and similar conservation projects	X		
Public and private parks and playgrounds for the purpose of conserving and enjoying the natural resources.	X		
Public landings		B	
Public uses, *building*s, and utilities		X	
~~Raising of small animals, commercial, including birds, bees, fish, rabbits or other creatures, but not including *dog kennels*~~		~~X~~	
Recreational facilities, privately or commercially owned		X	
Resorts		X	
Retreats		X	
*Roadside stand*s			X
Sand and gravel pits, including *excavation* or extraction		X	
Satellite dish, private, with an antenna exceeding 3 feet in diameter			X
Satellite dish, private, with an antenna of 3 feet or less in diameter			X
School buses, parked, limited to two			X
Short-term vacation rentals (STVR)			X
Solar energy systems, small			X
~~*Stable, private*~~	~~X~~		

Uses in Critical Area Residential (CAR) Article III lists requirements for permitted uses and conditions related to special exceptions	Permitted by right	Special Exception	Accessory Uses
~~*Stable, public*~~	~~X~~		
Storage of boats, campers, boat trailers, and camper trailers			X
Temporary MET Tower of any height			X
Tie-out pilings of private *piers*, *community piers*, and private shared *piers*		X	
Wind energy systems, small		X	

5.3 DENSITY, AREA, HEIGHT, WIDTH AND YARD REQUIREMENTS

STANDARDS FOR THE *SUBDIVISION* OF *LOTS*	
Gross *density* (*dwelling units*/acre)	1 *dwelling unit* per acre[1]
Minimum *lot* size	½ acre
Minimum *lot width*	75 feet
STANDARDS FOR *BUILDING* AND *STRUCTURE* HEIGHT, WIDTH, AND PLACEMENT	
Minimum *yard*	
- Front	35 feet
- Side	10 feet
- Rear	30 feet
- Waterfront	Minimum 100-foot *buffer* or *modified buffer*[2]
- *Shoreline cliff*	1.5 x *cliff height* + 20 feet
- *Accessory structures* on *farms* in the side and *rear yard*	25 feet
- Accessory residential *structures* in *rear yard*	
Side	5 ~~3~~ feet
Rear	5 feet
Maximum *structure* height[3]	
- Primary Residential or Agricultural *structure*	38 feet
Accessory Residential Structure (a special exception may be granted to exceed max)	Height of existing primary residential structure
- Fence[4]	
- Security	8 feet
- Agricultural	5 feet
- Ornamental	
Side and Rear	8 feet
Front	4 feet

1 Accessory dwelling units are not included in density calculations.

2 Modifications for structures existing prior to April 12, 1988, may be permitted as per Article VI.

3 Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; standpipes; and flag poles~~. Accessory structures on parcels less than 5 acres in size may not exceed 17 feet in height without a special exception~~.

4 Fences do not need to meet yard requirements.

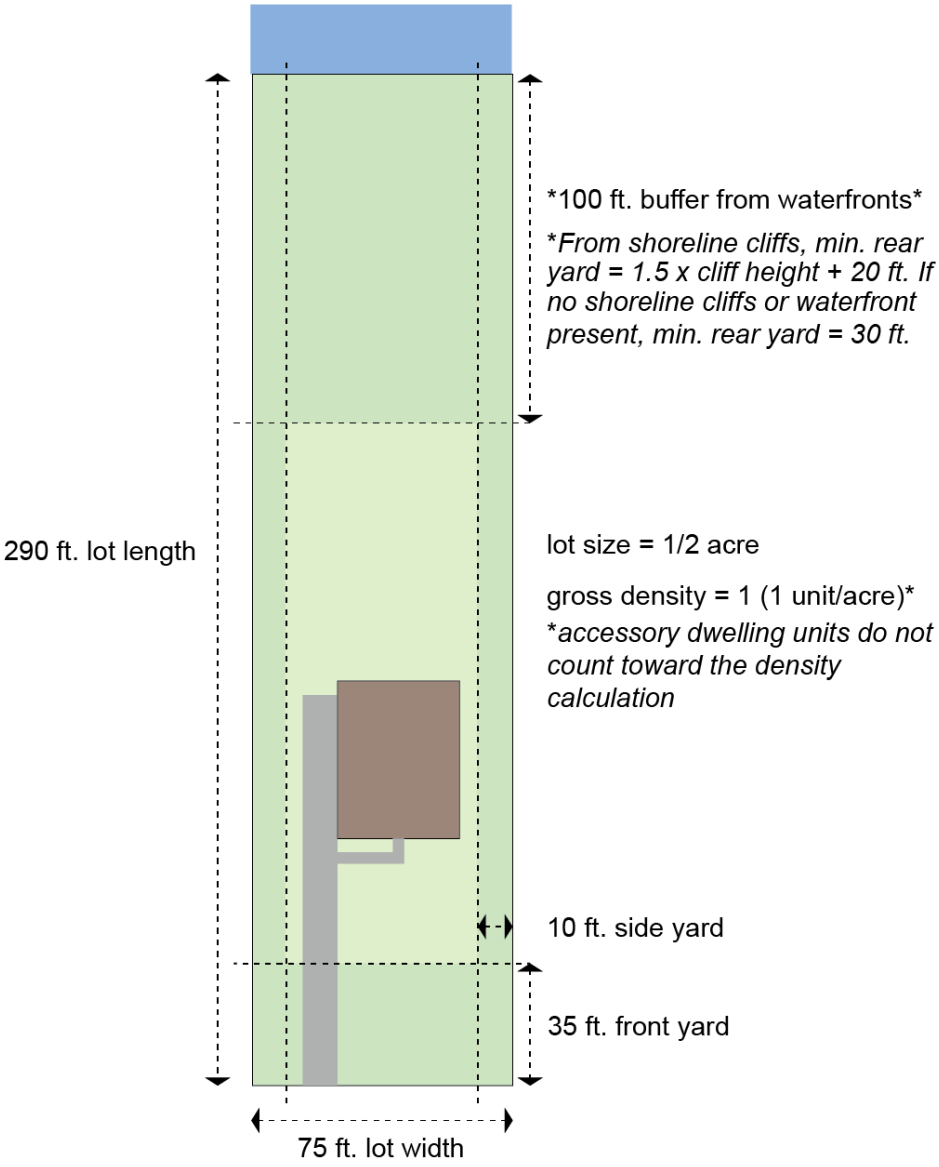


Figure 8: Regulatory diagram of a lot in the Critical Area Residential District.

SECTION 6 COMMUNITY RESIDENTIAL (CR)

6.1 STATEMENT OF INTENT

The purpose of this district is to provide for single *family* residential *development* in areas of existing residential *development*, together with facilities and *accessory use*s normally compatible with residential surroundings, and at the same time to permit agricultural uses and to preserve *open space*s and rural character. This district is located in areas near existing rural development, neighborhood developed areas, villages and incorporated towns. This district combines the former Community Residential (CR) district with the Rural Residential (RR) district, while retaining the higher density of CR at 1 unit per acre, as opposed to the lower density of RR at 1 unit per three acres. The permitted uses of both have been combined with all the uses being preserved.



Figure 9: Diagram illustrating the desired character of the Community Residential District.

6.2 PERMITTED USES AND STRUCTURES

A *building* or land shall be used only for the following ~~permitted uses and *structures*~~. Detailed limitations and standards for these uses are found in Article III. Administrative special exceptions are indicated by letter "A." "B" indicates exceptions that require only Board of Appeals review. All other exceptions require Planning Commission and Board of Appeals reviews per Article IV.

Uses in Community Residential (CR) Article III lists requirements for permitted uses and conditions related to special exceptions. RR indicates uses that are from the original Rural Residential District.	Permitted by right	Special Exception	*Accessory Use* on *farms* only	*Accessory Use* on all properties
Accessory *dwelling unit*				X
Accessory *farm building*s, including barns, cribs, stables, sheds, tool rooms, shops, bins, tanks, and silos			X	
Accessory *farm dwelling*s			X	
Accessory *off-street parking* and loading of non-commercial vehicles that have current licenses and are operable				X
Accessory *off-street parking* of one commercial vehicle				X
Accessory open or enclosed storage of *farm* materials, products, equipment, fertilizer or chemicals, or vehicles			X	
Accessory residential storage *structure*s with a ground *floor area* of more than ~~1,200~~2,000 square feet or a height that exceeds ~~17 feet~~the height of the primary residential structure on parcels less than 5 acres		A		
Accessory structures in a *front yard* of a *through* or *corner lot*		A		
Adaptive reuse of *historic structures* for uses not otherwise listed		X		
Agriculture	X			
Animal husbandry, *aquaculture*		X		
Animal husbandry, farms, including horses		X		
Animal husbandry, horses on non-farms		RR		
Animal husbandry, limited livestock and fowl		RR		
Animal husbandry, special – backyard chickens				X
Animal husbandry, special – small sheep or goats				X
Animal husbandry, *stable private*	X			
Animal husbandry, *stable commercial*	X			
Airports, landing fields, helistops, or heliports		X		
Appurtenant signs				X
~~*Aquaculture*, including accessory processing and sales~~		~~RR~~		
Assisted living facilities with five to eight beds		A		
Assisted living facilities with no more than four beds				X

Uses in Community Residential (CR) Article III lists requirements for permitted uses and conditions related to special exceptions. RR indicates uses that are from the original Rural Residential District.	Permitted by right	Special Exception	*Accessory Use* on *farms* only	*Accessory Use* on all properties
Camp, day or boarding, private or commercial, but not recreational vehicle or migrant labor camps, for the purpose of conserving and enjoying the natural resources	X			
Cemetery, including crematorium and mausoleum		X		
Conference center		X		
Cottage industries, tradesmen, and artisan shops		A		
Country inns		X		
Country stores		X		
Day care groups		A		
Day care homes				X
Detached *single family dwellings*	X			
Dog kennels, commercial		B		
Golf courses, public or private		X		
Greenhouses, wholesale or retail	X			
Guest house, one, but not including *mobile homes*			X	
Home occupations in main or accessory *buildings*				X
Houses of worship		X		
Hunting trailer, one, temporary			X	
Keeping of backyard chickens				X
Mobile homes existing and in use as of January 16, 1996	X			
~~More than four horses and mules on land less than 20 acres in size~~		~~RR~~		
Parking of commercial vehicles on a farm			X	
Private clubs		B		
Private garages, *swimming pools*, game courts, and other customary residential out*buildings* and *structures*				X
Private schools		X		
Public and private *forests*, wildlife reservations and similar conservation projects	X			
Public and private parks and playgrounds for the purpose of conserving and enjoying the natural resources.	X			
Public landings		B		
Public utilities and *structures*		X		
~~Raising of livestock and fowl, but not including commercial *feedlots*, confinement dairies, or poultry houses~~		~~RR~~		

Uses in Community Residential (CR) Article III lists requirements for permitted uses and conditions related to special exceptions. RR indicates uses that are from the original Rural Residential District.	Permitted by right	Special Exception	*Accessory Use* on *farms* only	*Accessory Use* on all properties
~~Raising of small animals, commercial, including birds, bees, fish, rabbits or other creatures, but not including *dog kennels*~~		~~X~~		
Recreational facilities, privately or commercially owned		X		
Resorts		X		
Retreats		X		
Roadside stands				X
Rural inns		X		
~~Sand and gravel pits, *excavation* or extraction~~		~~RR~~		
Satellite dish, private, with an antenna exceeding 3 feet in diameter				X
Satellite dish, private, with an antenna of 3 feet or less in diameter				X
School buses, parked, limited to five			X	
School buses, parked, limited to two				X
Short-term vacation rentals (STVR)				X
Solar energy systems, small				X
~~*Stable, private*~~	~~X~~			
~~*Stable, public*~~	~~X~~			
Storage of boats, campers, boat trailers, and camper trailers				X
Temporary *MET Tower* of any height				X
Wind energy systems, small		X		
Wind energy systems, small, accessory			X	

6.3 DENSITY, AREA, HEIGHT, WIDTH AND YARD REQUIREMENTS

STANDARDS FOR THE *SUBDIVISION* OF *LOTS*	
Gross *density* (*dwelling units*/acre)	1 *dwelling units* per acre[1]
Minimum *lot* size	½ acre
Minimum *lot width*	75 feet
STANDARDS FOR *BUILDING* AND *STRUCTURE* HEIGHT, WIDTH, AND PLACEMENT	
Minimum *yard*	
- Front	35 feet
- Side	10 feet
- Rear	30 feet
- Waterfront	100 feet
- *Accessory structures* on *farms* in the side and *rear yard*	25 feet
- Accessory residential *structures* in *rear yard*	
Side	5 ~~3~~ feet
Rear	5 feet
Maximum *structure* height[2]	
- Primary Residential or Agricultural *structure*	38 feet
Accessory Residential Structure (a special exception may be granted to exceed max)	Height of existing primary residential structure
- Fence[3]	
- Security	8 feet
- Agricultural	5 feet
- Ornamental	
Side and Rear	8 feet
Front	4 feet

1 Accessory dwelling units are not included in density calculations.

2 Height of structures may be further restricted by of the Kent County *Airport* Safety Requirements as defined in this Ordinance. Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles~~. Accessory structures on parcels less than 5 acres in size may not exceed 17 feet in height without a special exception~~.

3 Fences do not need to meet yard requirements.

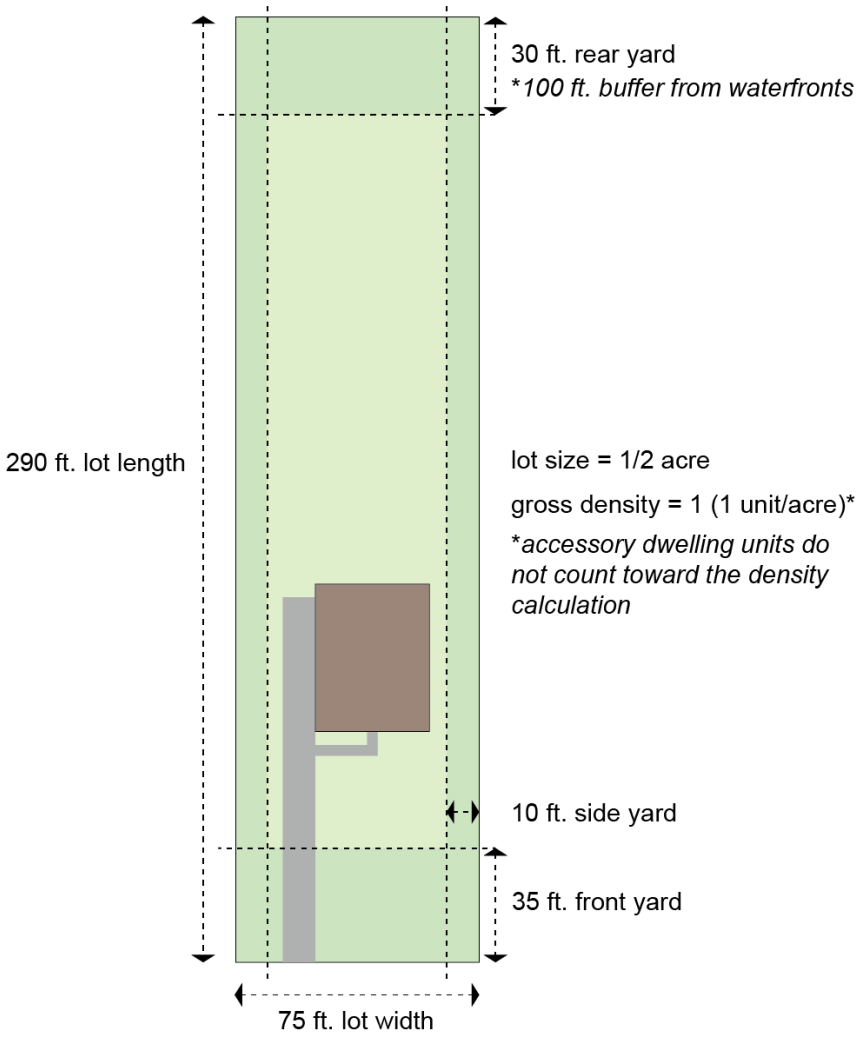


Figure 10: Regulatory diagram of a lot in the Community Residential District.

SECTION 7 VILLAGE DISTRICT (V)

7.1 STATEMENT OF INTENT

1. The purpose of this district is to provide for high quality residential, neighborhood business, and office *development*. In those areas served by public water and sewer, this zone will be characterized by a wide variety of housing types, densities, and uses. In those areas without *public utilities*, this zone will be largely single *family* and some business uses with the possibility of multi-*family* residential ~~when it does not hazard public health and is consistent with the Village Master Plan for the area~~.

2. This district is created to:

   (A) Encourage planned neighborhoods of residential *development* in existing towns and communities ~~on~~with access to *major thoroughfare*s.

   (B) Permit a variety of housing types including accessory dwelling units.

   (C) Provide incentives for residential *development* by allowing variations in *lot* size, *density*, *frontage*, and *yard* requirements.

   (D) Encourage compact *development* and promote economic development.

   (E) Promote village-scale mixing of uses and the *development* of non-residential uses that complement and enhance the character, vitality, and attractiveness of the community as a place to live and work including expanding existing businesses.

   (F) Encourage designs that allow for ~~the filling in of vacant areas~~infill and create *development* that is compatible with the character of existing ~~*lots* and~~ *building*s.



Figure 11: Diagram illustrating the desired character of single-family housing developments in the Village District.

Figure 12: Diagram illustrating the desired character of multi-family housing developments in the Village District.

7.2 PERMITTED USES AND STRUCTURES

A *building* or *structure* shall be used only for the following ~~uses and *structures*~~. Detailed limitations and standards for these uses are found in Article III. Administrative special exceptions are indicated by letter "A." "B" indicates exceptions that require only Board of Appeals review. All other exceptions require Planning Commission and Board of Appeals reviews per Article IV.

Uses in Village District (V) Article III lists requirements for permitted uses and conditions related to special exceptions.	Permitted by right	Special Exception	*Accessory Use* on all properties
Accessory *dwelling unit*			X
Accessory *off-street parking* of one commercial vehicle			X
Accessory structures in the *front yard*s of *through* or *corner lot*s		A	
Accessory vehicle parking			X
Adaptive reuse of *historic structures* for uses not otherwise listed		X	
Agriculture	X		
Animal husbandry, special – backyard chickens			X
Animal husbandry special – small sheep or goats			X
Appurtenant signs			X
Assisted living facilities with no more than four beds			X
*Automobile service station*s, but not including repair		X	
Boat sales, boat and outboard motor repairs and boat storage	X		
Cemetery, including crematorium and mausoleum		X	
Convalescent, nursing, or *group home*s for the aged with five or more beds		X	
Curio shops, craft shops, antique stores, and similar uses	X		
Data processing centers	X		
Day care groups		A	
Day care homes			X
Detached *single family dwelling*s	X		
Existing commercial or industrial uses and *structure*s in the Village District	X		
Financial institutions	X		
Fire and rescue stations	X		
Funeral homes	X		
Home and business services such as grounds care, cleaning, exterminators, landscaping, and other repair and maintenance services	P		
*Home occupation*s in main or accessory *building*s			X
Houses of worship	X		
Indoor movie theaters, playhouses, and dinner theaters	X		

Uses in Village District (V) Article III lists requirements for permitted uses and conditions related to special exceptions.	Permitted by right	Special Exception	*Accessory Use* on all properties
Marine supply store including indoor outboard motor sale	X		
*Mobile home park*s		X	
Mobile homes existing and in use as of January 16, 1996	X		
*Multi-family dwelling*s	X		
Neighborhood retail businesses	X		
Offices	X		
Outdoor recreation, miniature golf, but not golf courses		X	
*Person*al service establishments	X		
Personal wireless facilities, collocated on existing towers	X		
Printing and publishing		X	
*Private club*s		B	
Private garages, swimming pools, game courts, and other customary residential out*building*s and *structures*			X
Private schools		X	
Public uses, *building*s, and utilities	X		
Recreational uses indoor, commercial	X		
*Restaurant*s without drive through facilities	X		
Retreats		X	
Rooming, boarding, and *lodging house*s	X		
Rural inns		X	
Satellite dish, private, with an antenna exceeding 3 feet in diameter			X
Satellite dish, private, with an antenna of 3 feet or less in diameter			X
School bus parking *lot*		X	
School buses, parked, limited to two			X
Self-storage	X		
Septic tank maintenance and excavation		X	
Short-term vacation rentals (STVR)			X
Solar energy systems, small			X
Storage of boats, campers, boat trailers, and camper trailers			X
Temporary *MET Tower* of any height			X
Town houses	X		
*Two-family dwelling*s	X		
Uses and *structures* which are customarily accessory and clearly incidental and subordinate to the permitted use			X
Wind energy systems, small		X	

7.3 DENSITY, AREA, HEIGHT, WIDTH, AND YARD REQUIREMENTS FOR ALL NEW CONSTRUCTION AND ADDITIONS EXCEPT FOR TWO-FAMILY, TOWNHOUSE, AND MULTI-FAMILY USES

STANDARDS FOR THE *SUBDIVISION* OF *LOT*S **Note – These standards have been divided into two sub-sections (see next sub-section)**	
Gross *density* (dwelling units/acre)	4
Minimum *lot* size	9,500 square feet
Minimum *lot frontage*	50 feet
STANDARDS FOR *BUILDING* AND *STRUCTURE* HEIGHT, WIDTH, AND PLACEMENT	
Minimum *yard*	
- Front	20 feet
- Side	8 feet
- Rear	10 feet
- Accessory residential *structure*s in *rear yard*	
Side	5 ~~3~~ feet
Rear	5 feet
Maximum *structure* height[1]	
- Commercial	38 feet
- Primary Residential	38 feet
- Accessory Residential Structure (a special exception may be granted to exceed max)	Height of existing primary residential structure
- Fence[2]	
- Security	8 feet
- Agricultural	5 feet
- Ornamental	
Side and Rear	8 feet
Front	4 feet

1 Height of structures may be further restricted by of the Kent County *Airport* Safety Requirements as defined in this Ordinance. Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

2 Fences do not need to meet yard requirements.

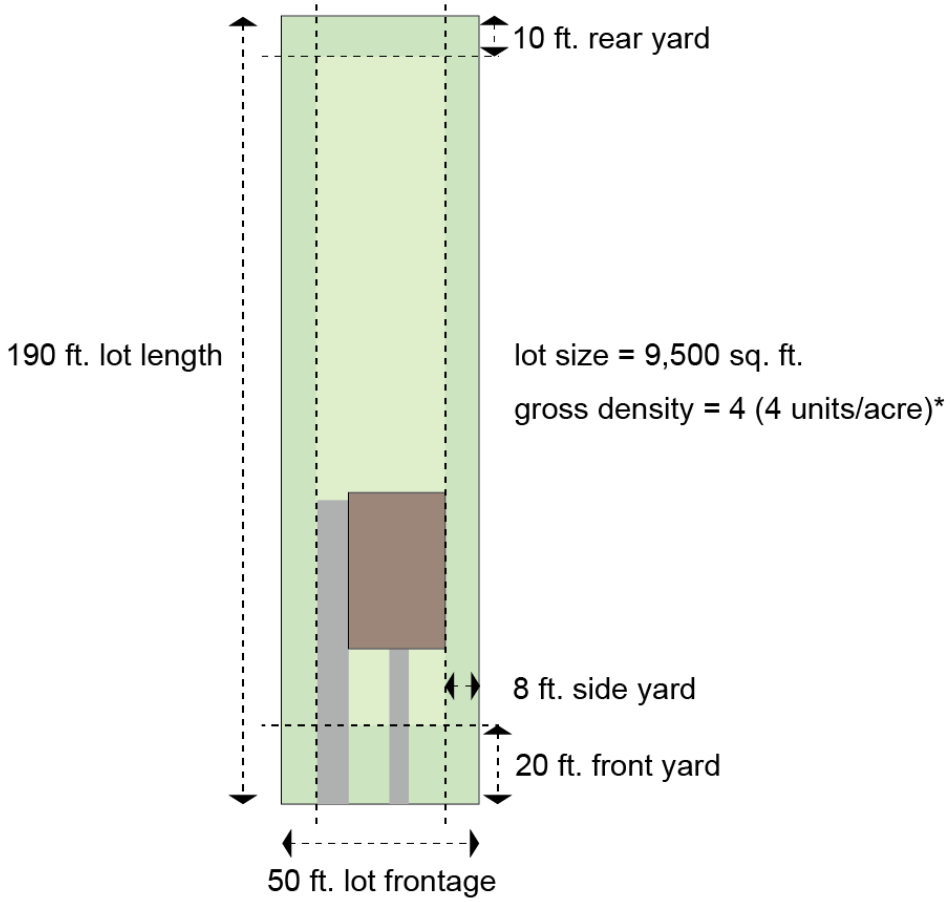


Figure 13: Regulatory diagram of a lot with single-family housing in the Village District.

7.4 DENSITY, AREA, HEIGHT, WIDTH, AND YARD REQUIREMENTS FOR ALL NEW CONSTRUCTION AND FOR ANY ADDITIONS TO TWO-FAMILY, TOWNHOUSE, AND MULTI-FAMILY USES

STANDARDS FOR THE *SUBDIVISION* OF *LOTS* **Note – This is a new sub-section proposed to be added to the Land Use Ordinance, which would increase the permitted density in this zoning district from 4 units per acre to 8 units**	
Gross *density* (*dwelling units*/acre)	8 *dwelling units* per acre
Minimum *lot frontage*	50 feet
STANDARDS FOR *BUILDING* AND *STRUCTURE* HEIGHT, WIDTH, AND PLACEMENT	
Minimum *yard*	
- Front	20 feet
- Side	12 feet; none in between connected units
- Rear	20 feet
- Accessory residential *structures* in *rear yard*	
Side	~~3~~5 feet
Rear	5 feet
Maximum Primary *structure* height[1]	
- Two-*Family*	38 feet
- *Townhouse*	38 feet
- Multi-*Family*	42 feet
- Accessory Residential Structure (a special exception may be granted to exceed max)	Height of existing primary residential structure
- Fence[2]	
- Security	8 feet
- Agricultural	5 feet
- Ornamental	
Side and Rear	8 feet
Front	4 feet
Parking Location	*Rear yard* only

1 Height of structures may be further restricted by of the Kent County *Airport* Safety Requirements as defined in this Ordinance. Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

2 Fences do not need to meet yard requirements.

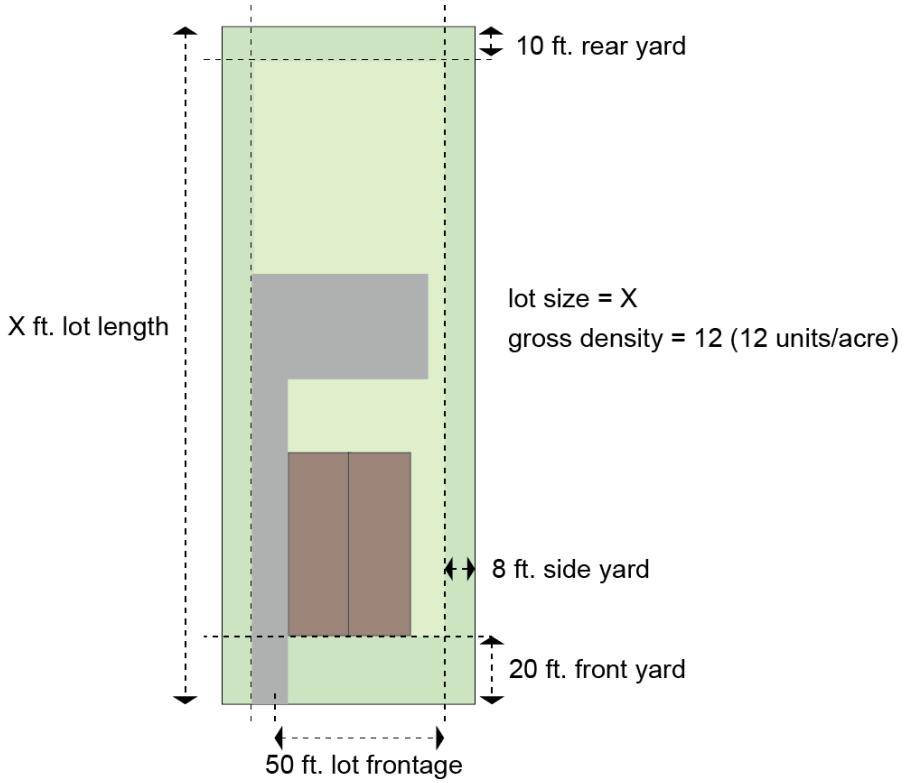


Figure 14: Regulatory diagram of a lot with multi-family housing in the Village District.

SECTION 8 INTENSE VILLAGE DISTRICT (IV)

8.1 STATEMENT OF INTENT

The purpose of this district is to provide for a high-quality and well-designed mix of commercial, office, and residential areas with an emphasis on uses and intensities that make efficient use of public facilities and limit sprawling *development*. It is intended that residences, shops, and offices are in close proximity to each other, as is found in the traditional village pattern, and that the resulting mix of uses form lively, prosperous neighborhoods that serve as an attractive place to live, work, shop, and play. The district may act as a transition between town and the more rural areas of the County. *Building*s in this district shall be oriented to the *street* and provision made for pedestrian access so that the character of the area is interpreted as pedestrian.

This district is intended to be used sparingly and in areas where high-density residential projects as well as more intense concentrations of commercial uses are desired. A new sub-section has been added to allow up to 12 units per acre for *two-family dwellings*, *townhouses*, and *multi-family dwelling* uses. New designations are appropriate in growth areas or near boundaries of municipalities as well as near the boundaries of existing *developments* in unincorporated areas.





Figure 15: Diagram illustrating the desired character of two-family housing development in the Intense Village District.

Figure 16: Diagram illustrating the desired character of multi-family housing developments in the Intense Village District.

8.2 PERMITTED USES AND STRUCTURES

A *building* or land shall be used only for the following ~~uses and *structures*~~. Detailed limitations and standards for these uses are found in Article III. Administrative special exceptions are indicated by letter "A." "B" indicates exceptions that require only Board of Appeals review. All other exceptions require Planning Commission and Board of Appeals reviews per Article IV.

Uses in Intense Village District (IV) Article III lists requirements for permitted uses and conditions related to special exceptions.	Permitted by right	Special Exception	*Accessory Use* on all properties
Accessory dwelling unit			X
Accessory employee housing			X
Accessory *off-street parking* of one commercial vehicle			X
Accessory structures in the *front yards* of *through* or *corner lots*		A	
Accessory vehicle parking			X
Adaptive reuse of *historic structures* for uses not otherwise listed		X	
Animal husbandry, special – backyard chickens			X
Appurtenant signs			X
Assisted living facilities with no more than four beds			X
Automobile repair		X	
Automobile service stations	X		
Car wash		X	
Cemetery, including crematorium and mausoleum			X
Conference center		X	
Convalescent, nursing, or *group homes* for the aged with five or more beds		X	
Cottage industries, tradesmen and artisan shops		A	
Country inns	X		
Day care groups		A	
Day care homes			X
Detached *single family dwellings*	X		
Financial institutions	X		
Fire and rescue stations	X		
Funeral homes	X		
Home and business services such as grounds care, cleaning, exterminators, landscaping, and other repair and maintenance services	X		
Home occupations in main or accessory *buildings*			X
Hospitals, rehabilitation facilities, and similar institutions for human care		X	

Uses in Intense Village District (IV) Article III lists requirements for permitted uses and conditions related to special exceptions.	Permitted by right	Special Exception	*Accessory Use* on all properties
*Hotel*s and motels	X		
Houses of worship	X		
Indoor movie theaters, playhouses, and dinner theaters	X		
*Multi-family dwelling*s	X		
Neighborhood retail businesses	X		
Offices	X		
Outdoor entertainment		X	
Outdoor recreation, miniature golf, but not golf courses		X	
*Person*al service establishments	X		
Personal wireless facilities, collocated on existing towers	X		
Printing and publishing		X	
*Private club*s		X	
Private garages, swimming pools, game courts, and other customary residential out*buildings* and *structures*			X
Private schools		X	
Public uses, *building*s, and utilities	X		
Pubs, taverns, and bars, including open air facilities		X	
Recreational uses, indoor, commercial	X		
Resorts		X	
*Restaurant*s without drive through facilities	X		
Rooming, boarding, and *lodging house*s	X		
Satellite dish, private, with an antenna of 3 feet or less in diameter			X
Satellite dish, private, with an antenna exceeding 3 feet in diameter			X
School bus parking *lot*		X	
School buses, parked, limited to two			X
Self storage	X		
Short-term vacation rentals (STVR)			X
Solar energy systems, small			X
Storage of boats, campers, boat trailers, and camper trailers			X
Temporary *MET Tower* of any height			X
Town houses	X		
*Two-family dwelling*s	X		
Uses and *structures* which are customarily accessory and clearly incidental and subordinate to the permitted use			X
Wind energy systems, small		X	

8.3 *DENSITY*, AREA, HEIGHT, WIDTH, AND *YARD* REQUIREMENTS FOR ALL *NEW CONSTRUCTION* AND ANY ADDITIONS EXCEPT FOR TWO-FAMILY, TOWNHOUSE, AND MULTI-FAMILY USES

STANDARDS FOR THE *SUBDIVISION* OF *LOTS* **Note – These standards have been divided into two sub-sections (see next sub-section)**	
Gross *density* (*dwelling units*/acre)	8 *dwelling units* per acre
Minimum *lot* size	5,000 square feet
Minimum *lot frontage*	40 feet – or set during formal site plan review
STANDARDS FOR *BUILDING* AND *STRUCTURE* HEIGHT, WIDTH, AND PLACEMENT	
Minimum *yard*	
- Front	20 feet – or set during formal site plan review
- Side	10 feet – or set during formal site plan review
- Rear	10 feet – or set during formal site plan review
- Accessory residential *structures* in *rear yard*	
Side	10 ~~3~~ feet
Rear	10 ~~5~~ feet
Maximum *structure* height[1]	
- Commercial	40 feet
- Primary Residential	40 feet
- Accessory Residential Structure (a special exception may be granted to exceed max)	Height of existing primary residential structure
- Fence[2]	
- Security	8 feet
- Agricultural	5 feet
- Ornamental	
Side and Rear	8 feet
Front	4 feet

1 Height of structures may be further restricted by of the Kent County *Airport* Safety Requirements as defined in this Ordinance. Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

2 Fences do not need to meet yard requirements.

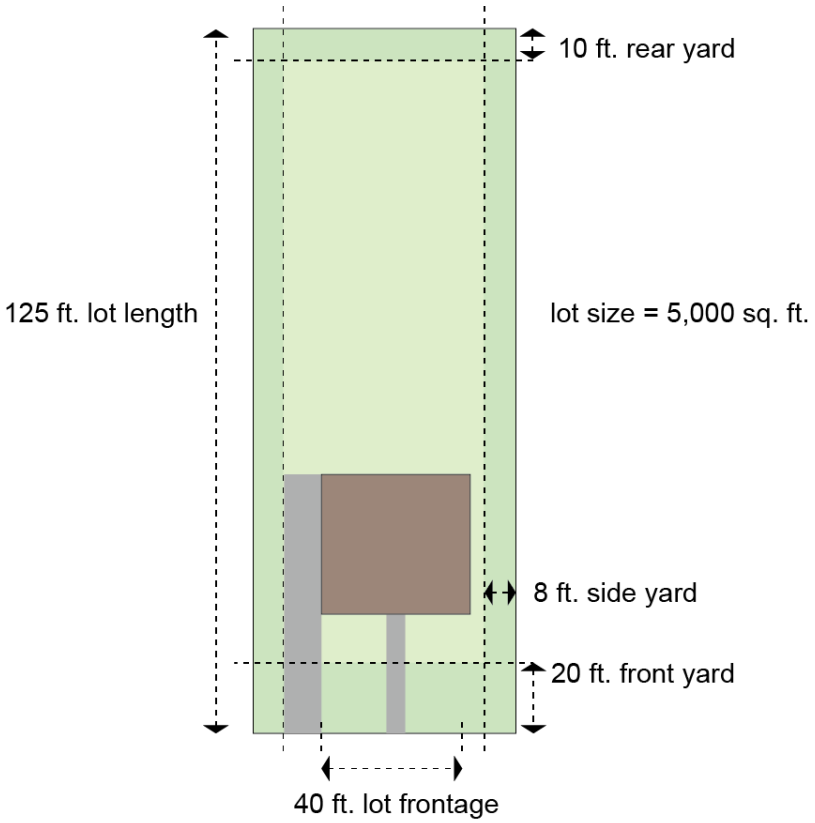


Figure 17: Regulatory diagram of a single-family housing lot in the Intense Village District.

8.4 DENSITY, AREA, HEIGHT, WIDTH, AND YARD REQUIREMENTS FOR ALL NEW CONSTRUCTION AND ADDITIONS TO TWO-FAMILY, TOWNHOUSE, AND MULTI-FAMILY USES

STANDARDS FOR THE SUBDIVISION OF LOTS **Note – This is a new sub-section proposed to be added to the Land Use Ordinance, which would increase the permitted density in this zoning district from 8 units per acre to 12 units**	
Gross *density* (*dwelling units*/acre)	12 *dwelling units* per acre
Minimum *lot* size	Duplex~~/triplex~~ 4,000 square feet Townhouse 2,000 square feet
Minimum *lot frontage*	30 feet – or set during formal site plan review
STANDARDS FOR BUILDING AND STRUCTURE HEIGHT, WIDTH, AND PLACEMENT	
Minimum *yard*	
- Front	20 feet – or set during formal site plan review
- Side	12 feet – or set during formal site plan review
- Rear	20 feet – or set during formal site plan review
- Accessory residential *structures* in *rear yard*	
Side	10 ~~3~~ feet
Rear	10 ~~5~~ feet
Maximum *structure* height[1]	
- Two-*Family*	40 feet
- *Townhouse* - Multi-*Family*	40 feet 50 feet
- Accessory Structure (a special exception may be granted to exceed max)	Height of existing primary residential structure
- Fence[2]	
- Security	8 feet
- Agricultural	5 feet
- Ornamental	
Side and Rear	8 feet
Front	4 feet
Parking Location	*Rear yard* only

1 Height of structures may be further restricted by of the Kent County *Airport* Safety Requirements as defined in this Ordinance. Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

2 Fences do not need to meet yard requirements.

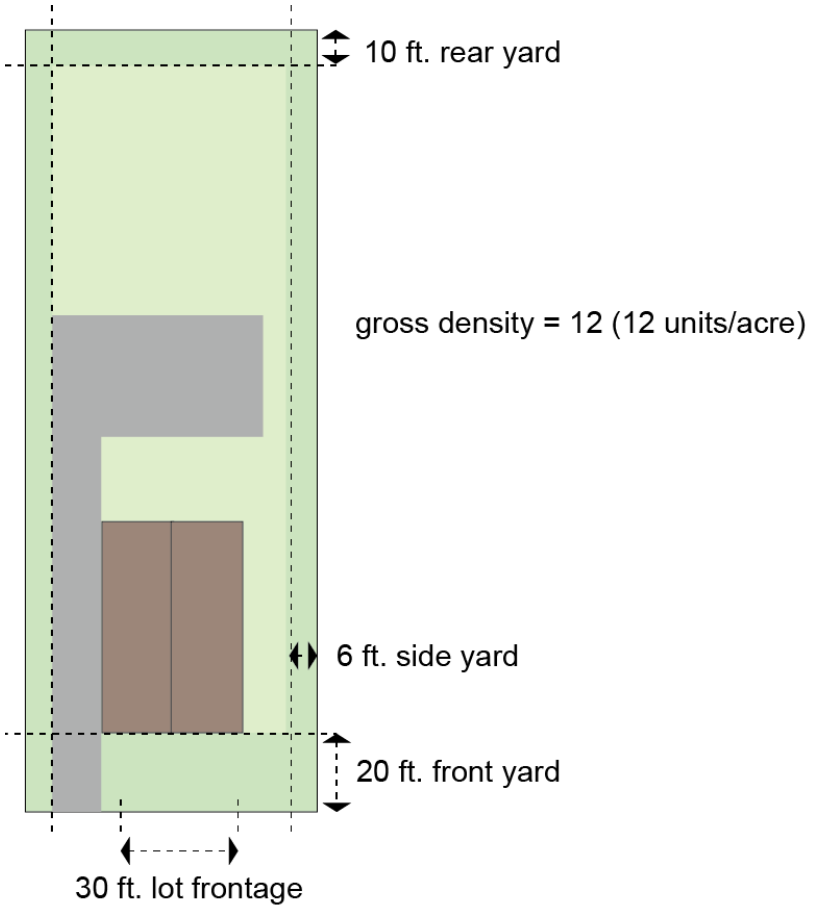


Figure 18: Regulatory diagram of a multi-family housing lot in the Intense Village District.

SECTION 9 COMMERCIAL DISTRICT

9.1 STATEMENT OF INTENT

The purpose of this district is to provide appropriate locations for a broad range of commercial activities such as retail, wholesale, and contracting activities, ~~accommodate commercial and service activities that are not normally located in central business concentrations. These uses are~~ which are primarily oriented to highway locations and which may include services and destination retail. Consequently, the district is located along major arterial highways or at the intersections of State and/or County highways. It is further intended that this District shall be for the purpose of limiting sprawl~~ing *development*~~ by providing *site*s with adequate *frontage* and depth to permit controlled access to public *street*s. Because these uses are subject to public view, which is of concern to the whole community, they should provide an appropriate appearance, controlled traffic movement, ample landscaping, and protect adjacent properties from the traffic and visual impacts associated with the commercial activity. Whenever possible, *frontage* of the district shall not exceed depth.

This district combines the former Commercial district and Crossroads Commercial (CC). The permitted uses have been combined. Uses allowed only within the US 301 Corridor are specified.

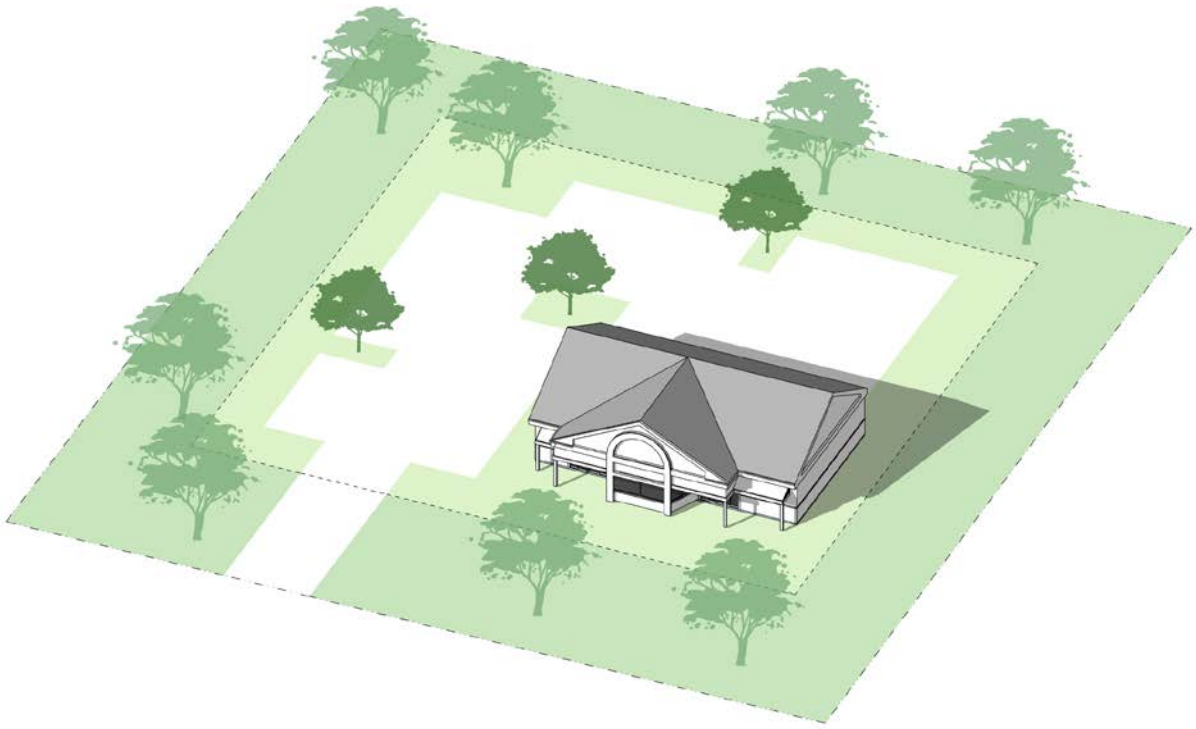


Figure 19: Diagram illustrating the desired character of the Commercial District.

9.2 PERMITTED USES AND STRUCTURES

A *building* or land shall be used only for the following ~~uses and *structures*~~, ~~in all cases~~ subject to *site plan* review for proposed new uses by the *Planning Commission* or where applicable the Planning Director. Detailed limitations and standards for these uses may be found in Article III. Administrative special exceptions are indicated by letter "A." "B" indicates exceptions that require only Board of Appeals review. All other exceptions require Planning Commission and Board of Appeals reviews per Article IV.

Uses in Commercial District Article III lists requirements for permitted uses and conditions related to special exceptions. Uses from the Crossroads Commercial District only are marked as CC. Uses from the Commercial District only are marked as C. X indicates uses from both districts before combining.	Permitted by right	Special Exception	*Accessory Use* on all properties
Accessory employee housing			X
Accessory truck parking			X
Accessory uses and *structures* normally associated with permitted uses and not otherwise listed			C
Agriculture	X		
Appurtenant signs			X
Automobile repair	CC		
Automobile sales, service, and rental	X		
*Automobile service station*s	CC		
Boat *building* and boat repair		X	
Building materials sales	C		
Car wash provided the wastewater is recycled	CC		
Circus or carnival, midways and amusement parks, maze fields and other temporary recreational uses, for a specified period	X		
Class D Alcohol Retail Business, as defined by the State of Maryland	CC		
Cottage industries, tradesmen, and artisan shops		A	
Country inns	CC		
Data processing centers	C		
Distribution centers and warehousing	C		
Financial institutions	X		
Fire and rescue stations	CC		
Home and business services such as grounds care, cleaning, exterminators, landscaping, and other repair and maintenance services	CC		
*Hotel*s and motels	X		
Machinery and equipment sales, service, and rental	C		
Manufacture, processing, fabrication, and assembly of products	C		
Manufacture, processing and assembling of food products		X	

Uses in Commercial District Article III lists requirements for permitted uses and conditions related to special exceptions. Uses from the Crossroads Commercial District only are marked as CC. Uses from the Commercial District only are marked as C. X indicates uses from both districts before combining.	Permitted by right	Special Exception	*Accessory Use* on all properties
Microbrewery, as defined by the State of Maryland	X		
Mini storage facilities	C		
Modular *building* sales	CC		
Offices – administrative, business, sales, and professional	X		
Personal wireless facility towers		X	
Personal wireless facilities, collocated on existing towers	X		
Public uses, *building*s, and utilities	X		
Radio and television tower, commercial		X	
Recreational facilities, privately or commercially owned		X	
*Restaurant*s without drive through facilities	X		
Retail businesses with less than 60,000 square feet of gross floor area	C		
Retail businesses with more than 60,000 square feet of gross floor area		X	
Retail businesses located in the Route 301 Corridor	X		
Retail nurseries and greenhouses	CC		
Roadside stands	CC		
School bus parking *lot*		X	
School buses, parked, limited to two			X
Shopping Centers		X	
*Single family dwelling*s		A	
Storage of office supplies or merchandise re to a permitted use			X
Solar energy systems, small			X
Solar energy systems, utility scale		X	
Temporary *MET Tower* of any height			X
Truck parking lot		X	
*Truck stop*s		X	
*Truck terminal*s		X	
Veterinary *hospital*s and offices	CC		
~~Wayside stands selling vegetable and agricultural produce~~	~~CC~~		
Wind energy systems, small		X	
Wind energy systems, small, accessory			X

9.3 DENSITY, AREA, HEIGHT, WIDTH, AND YARD REQUIREMENTS

STANDARDS FOR THE *SUBDIVISION* OF *LOTS*	
Minimum *lot* size	NA
Minimum *frontage*	
- Public road	100 feet
STANDARDS FOR *BUILDING* AND *STRUCTURE* HEIGHT, WIDTH, AND PLACEMENT	
Minimum *yard*	
- Front	50 feet
- Side & *Rear yard*	50 feet with *buffer*ing from adjoining AZD, RCD, RC, RR, CAR, ~~CR,~~ V, IV~~, & IVCA~~
	30 feet from ~~CC,~~ C, CCA, M, EC, ~~I,~~ ~~I~~EC CA, ~~& ICA~~ which may be reduced to 0 if emergency and maintenance vehicle access are acceptably addressed and if the adjoining property is a compatible use
- Waterfront	100 feet
Height[1]	
- Industrial *structures*	45 feet
- Industrial *structures* in 301 Corridor	60 feet
- Commercial *structure*	45 feet
- Residential *structure*	38 feet
- Fence[2]	
- Security	8 feet
- Ornamental	
Front and *side yard*	4 feet
Rear yard	8 feet

1 Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

2 Fences do not need to meet yard requirements.

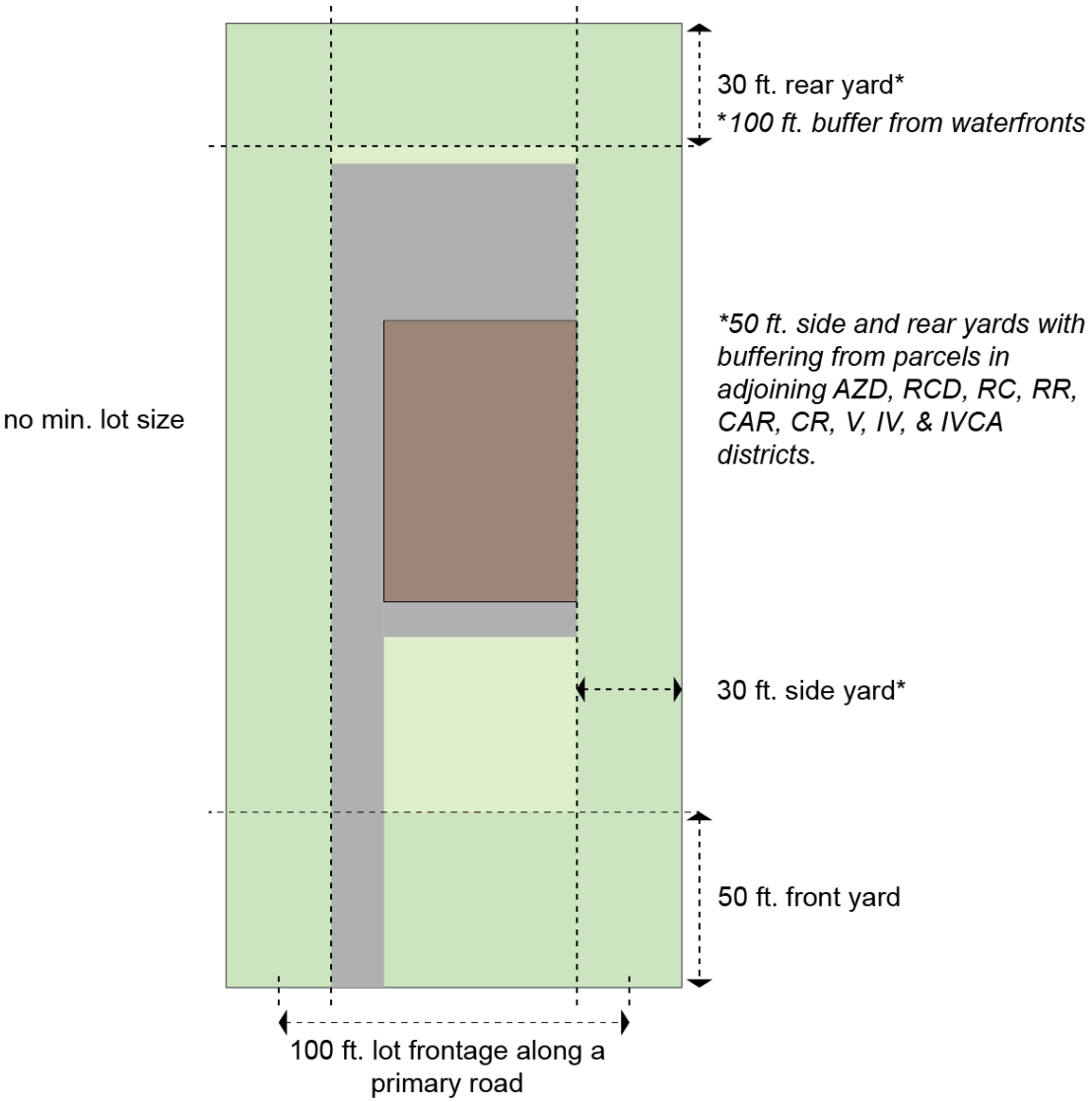


Figure 20: Regulatory diagram of a lot in the Commercial District.

SECTION 10 COMMERCIAL CRITICAL AREA (CCA)

10.1 STATEMENT OF INTENT

The purpose of this district is to accommodate commercial and service activities that are not normally located in central business concentrations. These uses are primarily oriented to highway locations and include services and destination retail. Consequently, the district is located along major arterial highways. It is further intended that this District shall be for the purpose of limiting sprawling *development* by providing *site*s with adequate *frontage* and depth to permit controlled access to public *street*s. Because these uses are subject to public view, which is of concern to the whole community, they should provide an appropriate appearance, controlled traffic movement, ample landscaping, and protect adjacent properties from the traffic and visual impacts associated with the commercial activity. Whenever possible, *frontage* of the district shall not exceed depth.

The Commercial Critical Area (CCA) district is complementary to the Commercial (C) district. Regulations are intended to mirror the C district and provide a Critical Area version of C district.

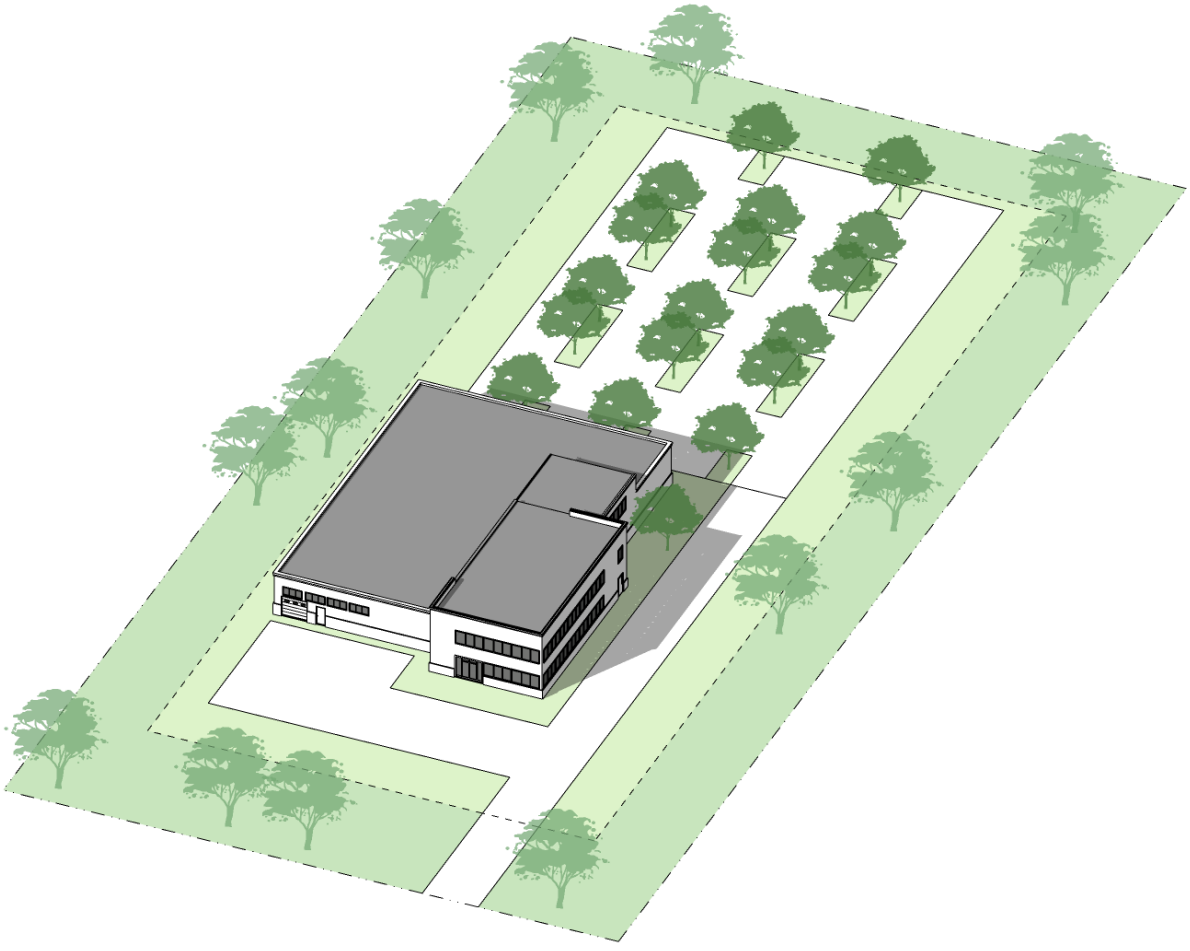


Figure 21: Diagram illustrating the desired character of the Commercial Critical Area District.

10.2 PERMITTED USES AND STRUCTURES

A *building* or land shall be used only for the following, ~~uses and *structures*, in all cases~~ subject to *site plan* review by the *Planning Commission*, or where applicable the Planning Director. Detailed limitations and standards for these uses are found in Article III. Administrative special exceptions are indicated by letter "A." All other exceptions require Planning Commission and Board of Appeals reviews per Article IV.

Uses in Commercial *Critical Area* (CCA) Article III lists requirements for permitted uses and conditions related to special exceptions.	Permitted by right	Special Exception	*Accessory Use* on all properties
Accessory employee housing			X
Accessory truck parking			X
Accessory uses and *structures* normally associated with permitted uses			X
Agriculture	X		
Appurtenant signs			X
Automobile sales, service, and rental	X		
Boat *building* and boat repair		X	
Building materials sales	X		
Circus or carnival, midways and amusement parks, maze fields and other temporary recreational uses, for a specified period	X		
Cottage industries, tradesmen and artisan shops		A	
Financial institutions	X		
*Hotel*s and motels	X		
Machinery and equipment sales, service, and rental	X		
Mini storage facilities	X		
Offices – administrative, business, sales, and professional	X		
Personal wireless facility towers		X	
Personal wireless facilities, collocated on existing towers	X		
Public uses, *building*s, and utilities	X		
Recreational facilities, privately or commercially owned		X	
*Restaurant*s without drive through facilities	X		
Retail businesses located in the Route 301 Corridor	X		
*Single family dwelling*s		A	
Solar energy systems, small			X
Solar energy systems, utility scale		X	
Temporary *MET Tower* of any height			X
*Truck stop*s		X	
Wind energy systems, small		X	
Wind energy systems, small, accessory			X

10.3 DENSITY, AREA, HEIGHT, WIDTH, AND YARD REQUIREMENTS

STANDARDS FOR THE *SUBDIVISION* OF *LOTS*	
Minimum *lot* size	NA
Minimum *frontage*	
- Public road	100 feet
STANDARDS FOR *BUILDING* AND *STRUCTURE* HEIGHT, WIDTH, AND PLACEMENT	
Minimum *yard*	
- Front	50 feet
- Side & *Rear yard*	50 feet with *buffer*ing from adjoining AZD, RCD,RC, ~~RR,~~ CAR, CR, V, IV~~, & IVCA~~
	30 feet from ~~CC,~~ C, CCA, M, EC,~~ I,~~ ~~I~~ECCA,~~ &~~ ~~ICA~~ which may be reduced to 0 if emergency and maintenance vehicle access are acceptably addressed and if the adjoining property is a compatible use
- Waterfront	Minimum 100-foot *buffer* or *modified buffer*[1]
Height[2]	
- Commercial *structure*	45 feet
- Residential *structure*	38 feet
- Fence[3]	
- Security	8 feet
- Ornamental	
Front and Side	4 feet
Rear	8 feet

1 Modifications for structures existing prior to April 12, 1988, may be permitted per regulations set forth in Article VI.

2 Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; standpipes; and flag poles.

3 Fences do not need to meet yard requirements.

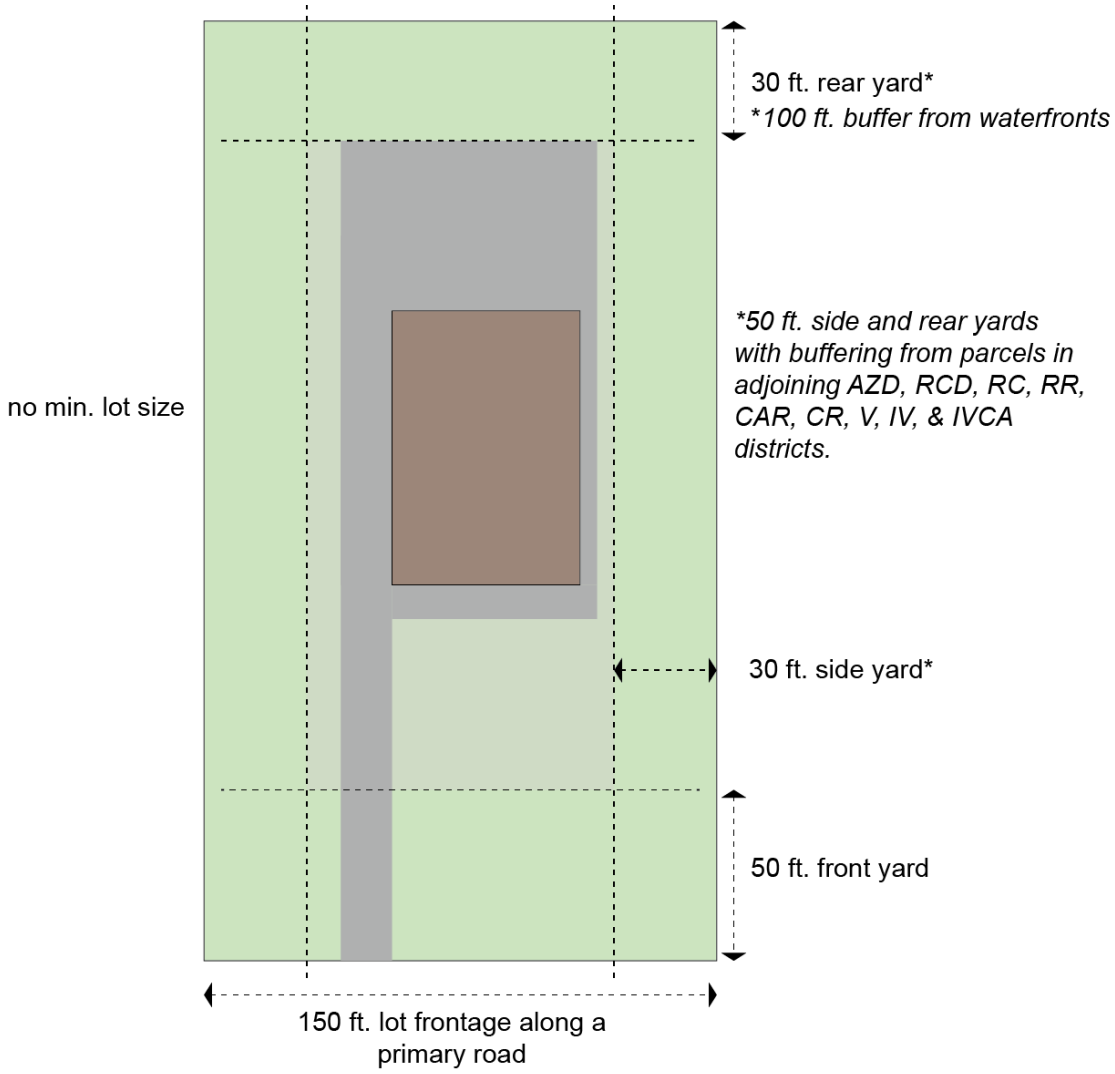


Figure 22: Regulatory diagram of a lot in the Commercial Critical Area District.

SECTION 11 MARINE DISTRICT (M)

11.1 STATEMENT OF INTENT

The purpose of this district is to provide land for full-service *marinas*, including out-of-water boat storage, repair, and other services normally associated with *marinas*. Marine industrial uses, including boat *building*, are permitted in appropriate locations subject to applicable sanitation and pollution laws and ordinances. *Retrofitting* of *stormwater management* is encouraged and standards are provided to improve the quality of runoff that enters the Chesapeake Bay and its tributaries. It is important to note that not all existing marinas would need to be zoned Marine.

The Marine District is intended to: 1) improve the quality of runoff from developed areas that enters the Chesapeake Bay or its *tributary streams*; 2) accommodate additional mixed-use *development* provided that water quality is not impaired; 3) minimize the expansion of intensely developed areas into portions of the *Critical Area* designated as habitat protection areas and resource conservation areas; 4) conserve and enhance fish, wildlife, and *plant habitat*s to the extent possible within intensely developed areas; and, 5) encourage the use of *retrofitting* measures to address existing *stormwater management* problems.

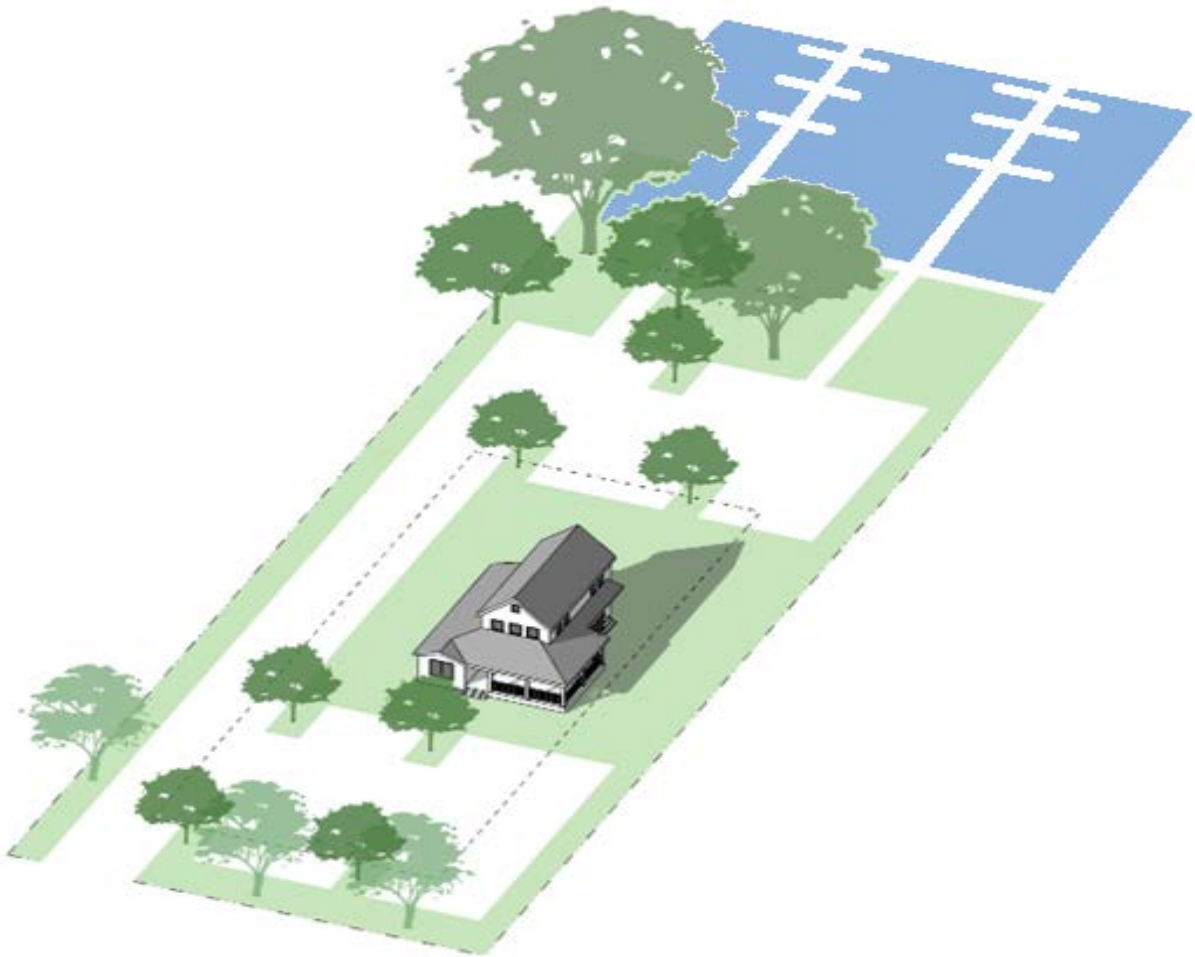


Figure 23: Diagram illustrating the desired character of the Marine District.

11.2 PERMITTED USES AND STRUCTURES

A building or land shall be used only for the following, ~~uses and *structures*, in all cases~~ subject to *site plan* review by the *Planning Commission* or where applicable the Planning Director. Detailed limitations and standards for these uses are found in Article III. Administrative special exceptions are indicated by letter "A." "B" indicates exceptions that require only Board of Appeals review. All other exceptions require Planning Commission and Board of Appeals reviews per Article IV.

Uses in Marine District (M) Article III lists requirements for permitted uses and conditions related to special exceptions.	Permitted by right	Special Exception	*Accessory Use* on all properties
Accessory employee housing			X
Adaptive reuse of *historic structures* for uses not otherwise listed		A	
Airports, landing fields, helistops, or heliports		X	
Appurtenant signs			X
Bath houses, pump out *structures*, and other *accessory structures* normally associated with permitted uses			X
Boat building and boat repair, located at least 100 feet from any residential district	X		
Boat docks, *piers* and wharves	X		
Boat rental, sales, supplies, instruction, and other services customarily associated with a full-service marina	X		
Boat sales, boat and outboard motor repairs and boat storage	X		
Boat storage, out of water	X		
Country inns		X	
Dormitories for employees		B	
Dredge spoil *sites*		X	
Erosion and flood control structures	X		
Existing *conference centers*, *resorts*, *retreats*, *hotels*, and *motels*	X		
Fuel storage and sale for marine purposes only			X
Marinas	X		
Multi-level boat storage		X	
Off-street parking and loading, including the parking of commercial vehicles related to the operation of an *on-site* business			X
~~Out-of-water boat storage~~	~~X~~		
Private clubs		B	
Private destination/residence clubs	X		
Public landings	X		
Public utility lines and accessory structures	X		
Pubs, taverns, and bars, including open air facilities		X	

Uses in Marine District (M) Article III lists requirements for permitted uses and conditions related to special exceptions.	Permitted by right	Special Exception	*Accessory Use* on all properties
*Restaurant*s without drive through facilities	X		
Satellite dish with an antenna exceeding 3 feet in diameter			X
Satellite dish, private, with an antenna of 3 feet or less in diameter			X
Seafood processing		X	
Solar energy systems, small			X
Stores or shops for the conduct of retail sales			X
Temporary *MET Tower* of any height			X
Wind energy systems, small, accessory			X

11.3 DENSITY, HEIGHT, WIDTH, BULK AND FENCE REQUIREMENTS

STANDARDS FOR THE *SUBDIVISION* OF *LOTS*	
Gross *density* (*lots*/acre)	2
Minimum *lot* size	½ acre
Minimum *frontage*	
- Road	100 feet
- Waterfront	100 feet
STANDARDS FOR *BUILDING* AND *STRUCTURE* HEIGHT, WIDTH, AND PLACEMENT	
Minimum *yard*	
- Front	30 feet
- Side	
- Adjacent to CC, CCA, M	8 feet
- Adjacent to other districts	25 feet
- Rear	
- Adjacent to CC, CCA, M	10 feet
- Adjacent to other districts	25 feet
- Waterfront	Minimum 100-foot *buffer* or *modified buffer*[1]
- *Shoreline cliff*	1.5 x *cliff height* + 20 feet
- Minimum *pier*	
- *Side yard*	30 feet
- Accessory *Buildings*	
- Side	~~3~~ 10 feet
- Rear	~~5~~ 10 feet
Height	
- *Buildings*	38 feet
- Covered *pier*[2]	38 feet
- Fence	
- Security	8 feet
- Ornamental	
- Front & Side	4 feet
- Rear	8 feet

1 Modifications for structures existing prior to April 12, 1988, may be permitted as per Article VI.

2 Height of covered piers shall be measured from Mean High Tide.

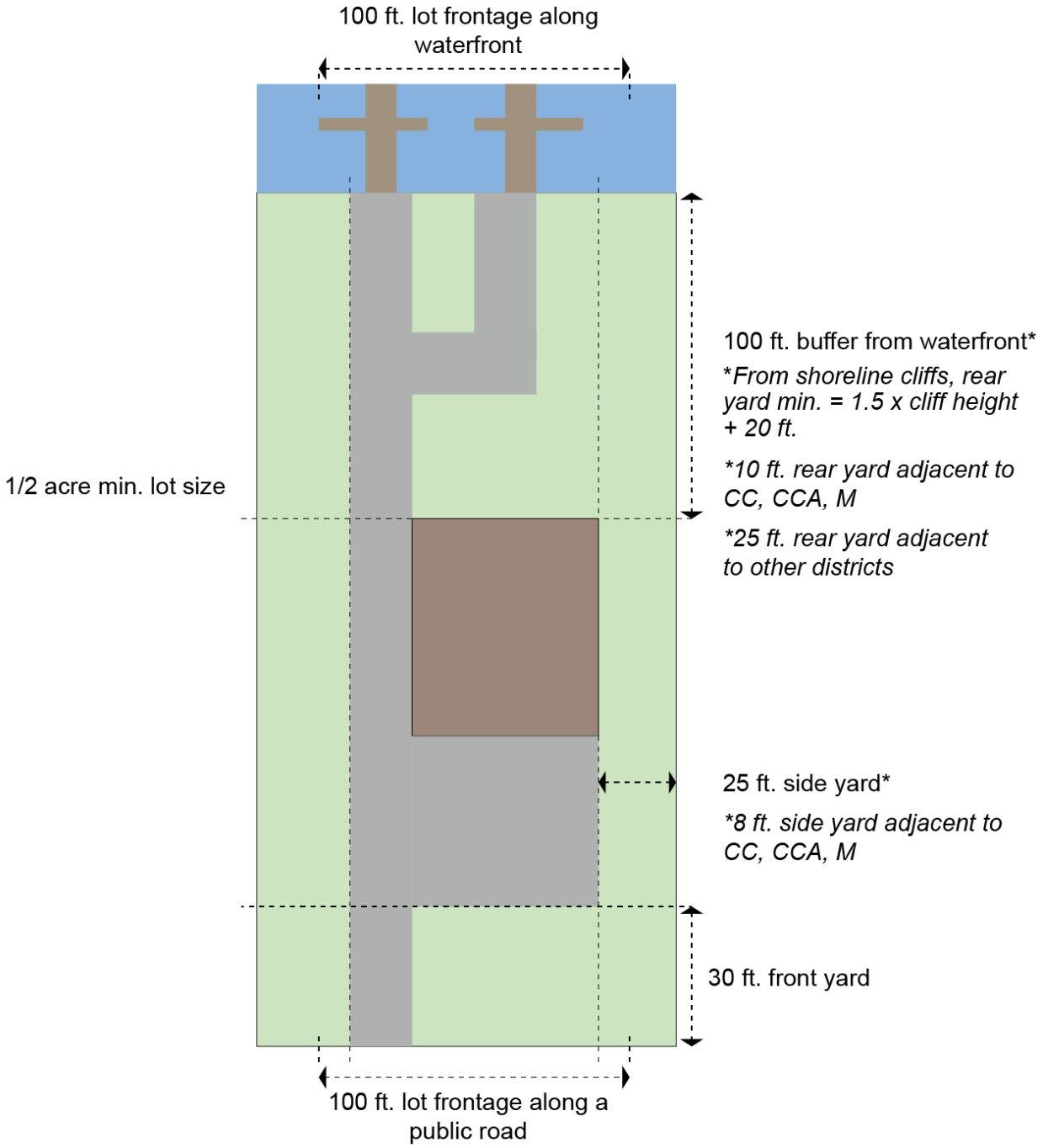


Figure 24: Regulatory diagram of a lot in the Marine District.

SECTION 12 EMPLOYMENT CENTER DISTRICT (EC)

12.1 STATEMENT OF INTENT

Employment Center districts are ~~defined~~ intended to include a mix of light industrial, office, and other employment uses as well as commercial planned *developments* ~~primarily for light industrial uses which~~that are environmentally sound, sustainable, and compatible with adjacent uses. They are further defined as areas devoted to industrial, office, and employment uses which present an attractive appearance, provide for flexibility, and complement surrounding land use character by means of appropriate ~~setting~~design of *buildings*, ~~and~~ service areas, and landscape treatments.

It is intended that Employment Center districts be located in areas having one or more major highways, and/or access to rail, and ~~clearly demonstrated suitable for the intended uses in so far as physical characteristics and relationship~~ complementary to surrounding *development*. Light industrial uses may include those uses which manufacture, process, store, package, or distribute goods and materials, and are, in general, dependent on raw materials that are refined elsewhere.

Employment Center districts in the Route 301 Corridor permit buildings with larger footprints and increased buildings heights, in order to provide for the desired economic development in the Route 301 growth area, as envisioned by the Kent County Comprehensive Plan.

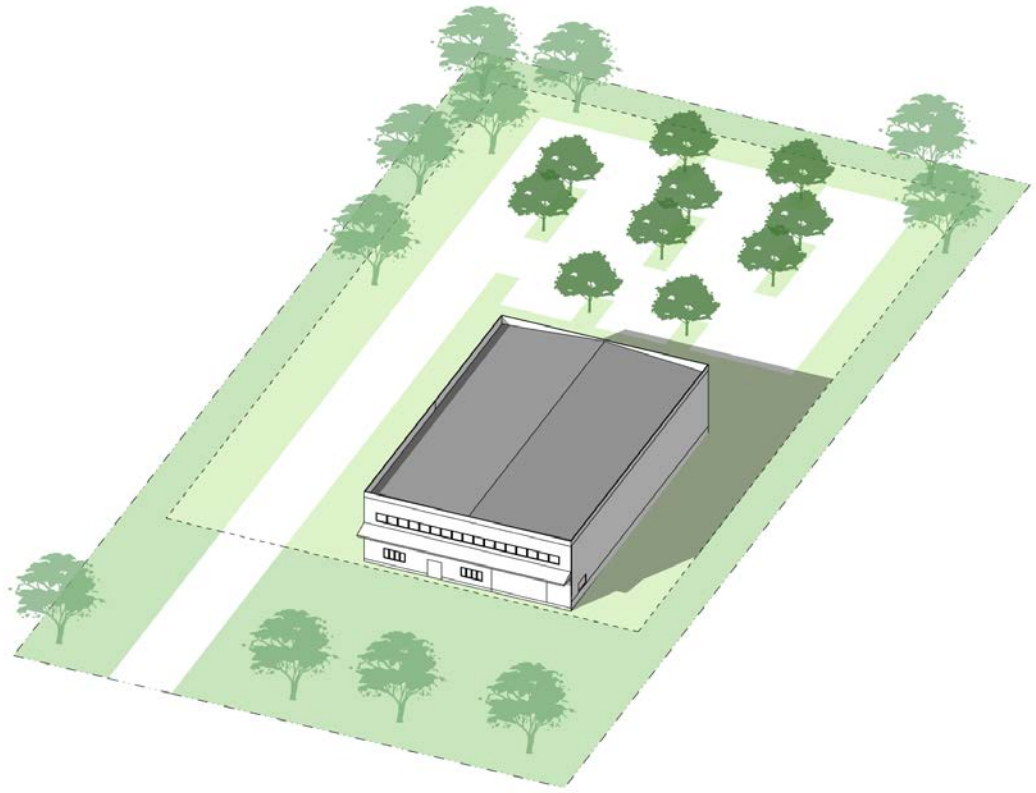


Figure 25: Diagram illustrating the desired character of the Employment Center District.

12.2 PERMITTED USES AND STRUCTURES

For every commercial and industrial *structure* and use erected, reconstructed, altered, or enlarged after the effective date of this Ordinance, a *site plan* shall be filed. No *building* permit shall be issued until said *site plan* is approved by the *Planning Commission* or where applicable the Planning Director. Detailed limitations and standards for uses may be found in Article III. Special exceptions require Planning Commission and Board of Appeals reviews per Article IV.

Uses in Employment Center District (EC) Article III lists requirements for permitted uses and conditions related to special exceptions. "X" indicates uses that are permitted in both Employment Center district and Industrial district. "EC" indicates uses that are permitted only in the original Employment Center district. The "I" indicates uses permitted in the original Industrial district.	Permitted by right	Special Exception	*Accessory Use* on all properties
Accessory employee housing			X
Agriculture	X		
Airports, landing fields, helistops, or heliports	X		
Animal shelters	I		
Blacksmith, welding and machine shops	X		
Boat building and boat repair	X		
Boat storage, out-of-water			X
~~*Contractors' yard*~~	~~I~~		
Data processing centers	X		
Day care groups			X
Distribution centers and warehousing	X		
Excavation, landscaping, or other contractor's yard	X		
Manufacture of concrete and ceramics products, commercial *sawmills*, sewage treatment plants, and lumberyards	EC		
Manufacture, processing, and distribution of hot mix asphalt	I		
Manufacture, processing, fabrication, and assembly of products	X		
Offices	EC		X
~~Out-of-water boat storage~~			~~X~~
Personal wireless facilities, collocated on existing towers	X		
Personal wireless facility towers		X	
Production of biofuels (formerly in the Industrial zoning district only)		X	
Public uses, *buildings*, and utilities	X		
Public utility *buildings*, *structures*, water treatment plants, and transmission lines	X		
Radio and television tower, commercial		X	
Restaurants without drive through facilities			X
Restaurants with drive through facilities in the Route 301 Corridor		X	

Uses in Employment Center District (EC) Article III lists requirements for permitted uses and conditions related to special exceptions. "X" indicates uses that are permitted in both Employment Center district and Industrial district. "EC" indicates uses that are permitted only in the original Employment Center district. The "I" indicates uses permitted in the original Industrial district.	Permitted by right	Special Exception	*Accessory Use* on all properties
Retail businesses with less than 60,000 square feet of gross floor area	X		
Retail businesses with more than 60,000 square feet of gross floor area		X	
Retail businesses in the Route 301 Corridor	X		
Retail sales of products produced *on-site*			X
Single family dwelling, one per existing property	X		
Solar energy systems, small			X
Solar energy systems, utility scale	X		
Storage and office trailers, temporary during construction	X		
Temporary *MET Tower* of any height			X
Truck terminal	X		
Uses and *structures* which are customarily accessory and clearly incidental and subordinate to the permitted use			X
Vocational and trade schools	X		
Wind energy systems, small		X	
Wind energy systems, small, accessory			X

12.3 DENSITY, HEIGHT, WIDTH, BULK, AND FENCE REQUIREMENTS

STANDARDS FOR THE *SUBDIVISION* OF *LOTS*	
Gross *density* (*dwelling units*/ acre)	1 *dwelling units* per 20 acres[1]
Maximum residential *lot* size	2 acres
Minimum *lot frontage*	75 feet
STANDARDS FOR *BUILDING* AND *STRUCTURE* HEIGHT, WIDTH, AND PLACEMENT	
Minimum *yard*	
- Front	
- Existing *Primary road*	100 feet
- Other *roads*	As approved during subdivision review
- Side and Rear	
- Adjacent to ECCA	15 feet
- Adjacent to C, CCA, M, AZD, RCD	40 feet
- Adjacent to V, CR, CAR	100 feet
- Adjacent to public road	100 feet[2]
Height	
- Industrial *structure*	45 feet
- Industrial *structure* in 301 Corridor	60 feet
- Residential *structure*	35 feet
- Towers, silos, etc.	150 feet[3]
- Fence[4]	
- Security	8 feet
- Ornamental	
Front and Side	4 feet
Rear	8 feet
Maximum *building* footprint	
- Distribution Center	
- Route 301 Corridor	NA
- Other locations	75,000 sq. ft.
- Other industrial *buildings*	
- Route 301 Corridor	NA
- Other locations	250,000 sq. ft.
~~- Office *buildings*~~	~~10,000 sq. ft.~~ [was a required minimum]

1 Intrafamily transfers only

2 May be reduced or increased during site plan review

3 Except in the *Airport* Safety Zone

4 Fences do not need to meet the yard requirements.

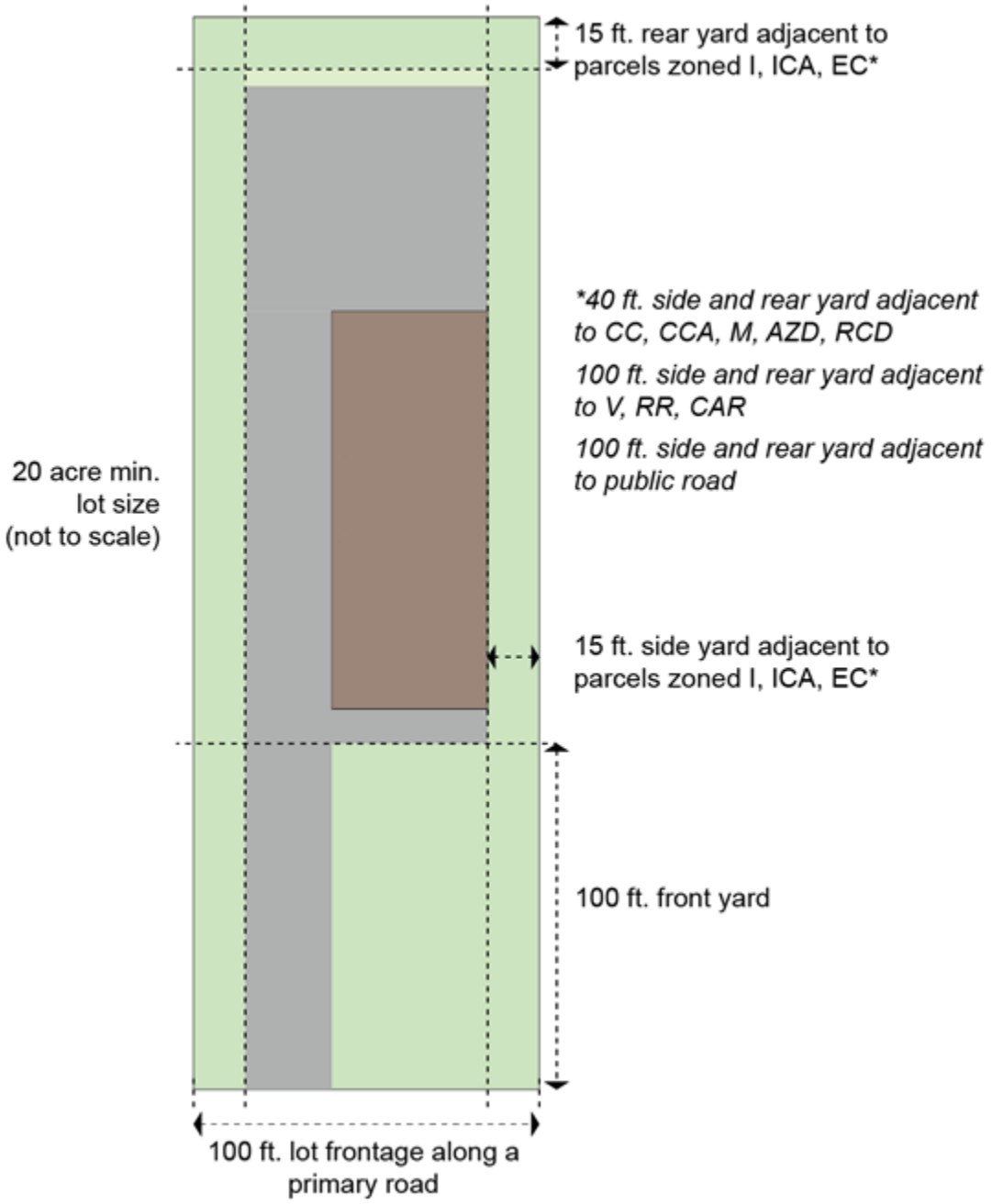


Figure 26. Regulatory graphic of a lot in the Employment Center District.

SECTION 13 EMPLOYMENT CENTER CRITICAL AREA (ECCA)

13.1 STATEMENT OF INTENT

This district is intended to provide for a range of light industrial, office, and other employment uses which are environmentally sound, sustainable, and compatible with adjacent uses. Furthermore, the district is primarily limited to light manufacturing and support businesses. Light industries include those which manufacture, process, store, package or distribute goods and materials and are, in general, dependent on raw materials refined elsewhere. The ECCA District is intended to: 1) improve the quality of runoff from developed areas that enters the Chesapeake Bay or its *tributary streams*; 2) accommodate additional mixed-use *development* provided that water quality is not impaired; 3) minimize the expansion of intensely developed areas into portions of the *Critical Area* designated as habitat protection areas and resource conservation areas; 4) conserve and enhance fish, wildlife, and *plant habitat*s to the extent possible within intensely developed areas; and 5) encourage the use of *retrofitting* measures to address existing *stormwater management* problems.

The ECCA zoning district is intended to be complementary to the Employment Center (EC) zoning district. Regulations are intended to mirror the EC and provide for a Critical Area version of EC.

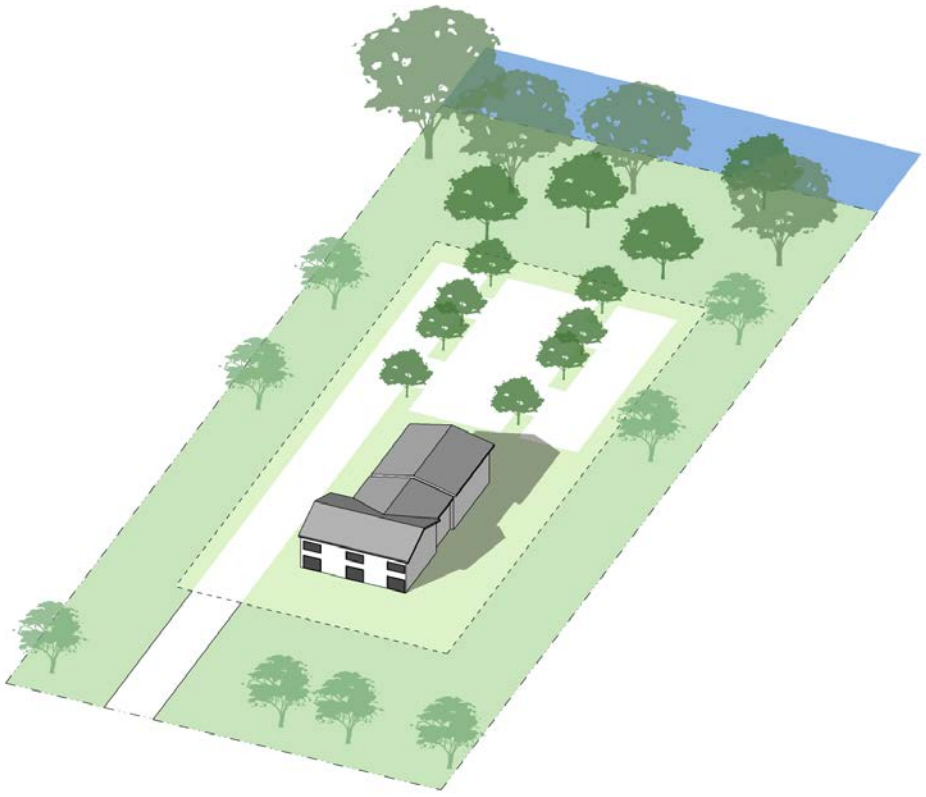


Figure 27 Diagram illustrating the desired character of the ECCA District.

13.2 PERMITTED PRINCIPAL USES AND STRUCTURES

For every industrial *structure* and use erected, reconstructed, altered, or enlarged after the effective date of this Ordinance, a *site plan* shall be filed. No *building* permit shall be issued until said *site plan* is approved by the *Planning Commission*, or where applicable the Planning Director. Detailed limitations and standards for these uses may be found in Article III. Special exceptions require Planning Commission and Board of Appeals reviews per Article IV.

Uses in Employment Center Critical Area (ECCA) Article III lists requirements for permitted uses and conditions related to special exceptions.	Permitted by right	Special Exception	*Accessory Use* on all properties
Accessory employee housing			X
Agriculture	X		
Airports, landing fields, helistops, or heliports	X		
Blacksmith, welding and machine shops	X		
Boat building and boat repair	X		
Boat storage, out of water			X
Excavation, landscaping and other contractors' yard	X		
Day care groups			X
Distribution centers and warehousing	X		
Manufacture of concrete and ceramics products, commercial *sawmills*, sewage treatment plants, and lumberyards	X		
Manufacture, processing, fabrication, and assembly of products	X		
Offices			X
~~Out-of-water boat storage~~			~~X~~
Personal wireless facilities, collocated on existing towers	X		
Public utility *buildings*, *structures*, water treatment plants, and transmission lines	X		
Restaurants without drive through facilities			X
Retail sales of products produced *on-site*			X
Single family dwelling, one per existing property	X		
Solar energy systems, small			X
Storage and office trailers, temporary during construction	X		
Temporary *MET Tower* of any height			X
Transmission towers	X		
Uses and *structures* which are customarily accessory and clearly incidental and subordinate to the permitted use			X
Vocational and trade schools	X		
Wind energy systems, small		X	
Wind energy systems, small, accessory			X

13.3 DENSITY, HEIGHT, WIDTH, BULK, AND FENCE REQUIREMENTS

STANDARDS FOR THE *SUBDIVISION* OF *LOT*S	
Gross *density* (*dwelling units*/ acre)	1 *dwelling units* per 20 acres[1]
Maximum residential *lot* size	2 acre
Minimum *frontage*	75 feet
- Existing *Primary road*	100 feet[2]
- Other *roads*	[3]
- Adjacent to EC	15 feet
- Adjacent to AZD, RCD, C, CCA, M	40 feet[4]
- Adjacent to CAR, CR, V, IV	100 feet[4]
- Adjacent to public road	100 feet[3]
- Waterfront	Minimum 100 ft. *buffer* or *modified buffer*[5]
- *Shoreline cliff*	1.5 x *cliff height* + 20 ft.
STANDARDS FOR *BUILDING* AND *STRUCTURE* HEIGHT, WIDTH, AND PLACEMENT	
Height	
- Industrial *structure*	45 feet
- Residential *structure*	35 feet
- Towers, silos, etc.	150 feet[6]
- Security	8 feet
Front and Side	4 feet
Rear	8 feet
- Distribution Center	75,000 sq. ft.
- Other industrial *building*s	250,000 sq. ft.

1 Intrafamily transfers only.

2 May be reduced or increased during site plan review.

3 As approved during subdivision review.

4 When a side or rear lot line coincides with a side or rear lot line of a property located in a non-employment center zone, the required yard shall be landscaped and screened and shall be unoccupied by buildings, structures, or parking area.

5 Buffers in designated areas may be modified according to the standards in Article VI.

6 Additional height restrictions may apply to properties in *Airport* Safety Zones.

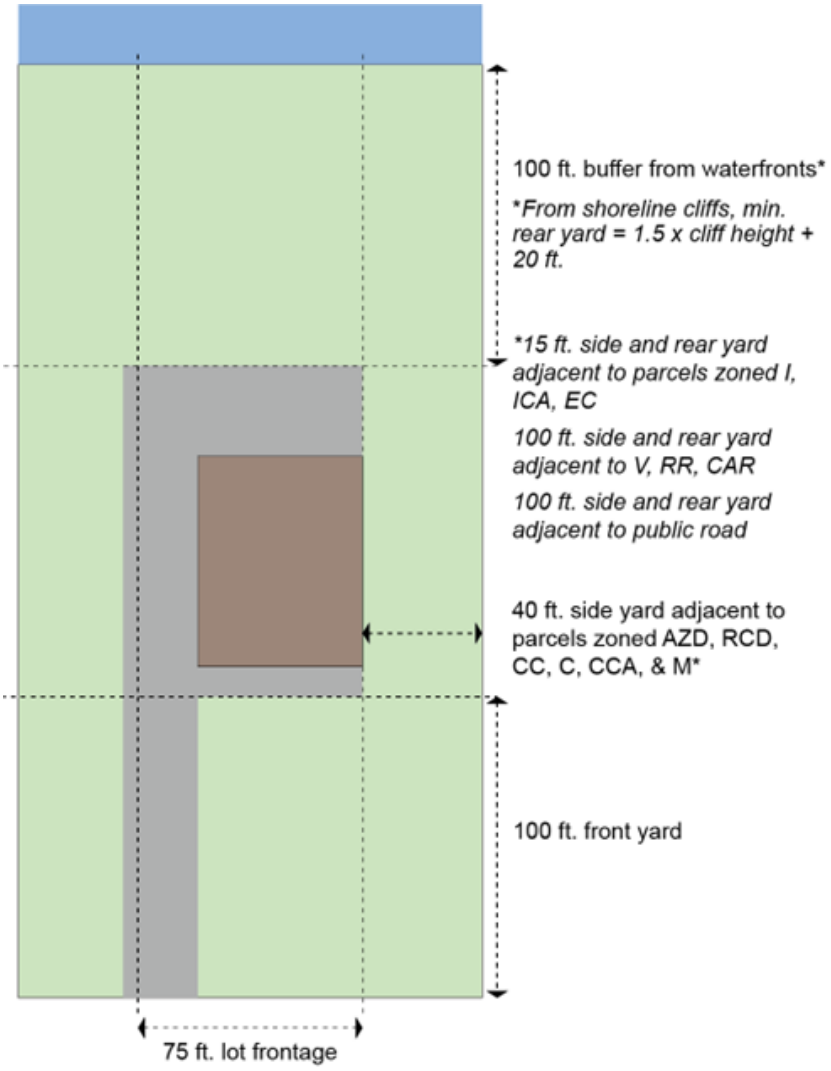


Figure 28: Regulatory diagram of a lot in the ECCA District.

ARTICLE III. USES

SECTION 1 GENERAL PROVISIONS

1. For the purposes of this Land Use Ordinance, permitted uses are listed for the various zoning districts in the applicable matrices included for each zoning district in Article II.

2. Unless the contrary is clear from the context of the lists or other regulations of this Ordinance, uses not specifically listed in a zoning district matrix are prohibited. Uses listed are to be interpreted as inclusively as may be reasonable.

3. When listed uses are indicated in the applicable zoning district matrix as being permitted by right or as accessory uses permitted by right, then the conditions below are required for the use to operate.

4. When listed uses are indicated in the applicable zoning district matrix as being permitted by special exception, then the conditions below are required to be evaluated by the approving authority, which in some cases is the Board of Appeals and in other cases the Planning Director, or the Planning Director's designee. When required, the Planning Commission makes recommendations to the Board of Appeals on special exceptions. The list for each of these categories is found in Article IV under the Special Exceptions section.

SECTION 2 PERMITTED USES AND CONDITIONS

A *building* or land will be used only for the following purposes, when indicated as such on each district's table of permitted uses and structures, and subject to any listed conditions:

1. Accessory *dwelling unit*, one, in principal or *accessory structures.* *Accessory dwelling units do not count against the density of the zoning district.* Such use will be permitted as accessory uses in AZD, RCD, RC, ~~RR,~~ CAR, CR, and V only when all of the following conditions are satisfied:

   (A) The property owner resides on the *premises*.

   (B) The accessory *dwelling unit* is subordinate to the principal *dwelling* in size and appearance.

   (C) The accessory *dwelling unit* may not be subdivided or conveyed separately from the primary *dwelling unit*. The accessory *dwelling unit* may be rented.

   (D) The appearance of the *structure* and property remains that of a *single family dwelling.*

   (E) If the entrance to the accessory *dwelling unit* is separate from that of the primary *dwelling*, the entrance to the accessory *dwelling unit* will be from the side or *rear yard*.

   (F) One parking space is provided in the *rear yard* for the accessory *dwelling unit*.

   (G) The *structure* meets all applicable Kent County Codes, including the *building* code, and Health Department *regulations*.

Such use will be permitted as an accessory use in *RCD* only when all of the following additional conditions are satisfied:

(H) The accessory *dwelling unit* is located within the primary *dwelling unit,* or its entire perimeter is within 100 feet of the primary *dwelling unit*.

(I) The accessory *dwelling unit* does not exceed 900 square feet in total enclosed area.

(J) The accessory *dwelling unit* is served by the same sew~~er~~age disposal system as the primary *dwelling unit*.

(K) If the accessory *dwelling unit* is located within the primary *dwelling unit*, it will not increase the amount of ~~*impervious surfaces*~~*lot coverage* already attributed to the primary *dwelling unit by more than 900 square feet*.

2. Accessory employee housing. Such use will be permitted as an accessory use in the M, EC, and ECCA only when the accessory employee housing is used for *persons* permanently employed on the *premises.* Such use will be limited to two housing units.

3. Accessory *farm building*s, including barns, cribs, stables, sheds, tool rooms, shops, bins, tanks, and silos, but not animals~~.~~ ~~All *structures* for the keeping of animals will be located a minimum of 100 feet from any property line~~. No *building*s are permitted in the *buffer or stream protection corridor*.

4. Accessory *farm dwelling*s. Such uses are limited to one dwelling on all *farms*, except that two dwellings will be permitted on *farms* with at least 50 tillable acres. In the RCD, the total number of dwellings will not exceed one *dwelling* per 20 acres. These *dwelling*s will share a common entrance and will be occupied by permanent employees of the *farm* or immediate members of the *family* owning or operating the *farm*. All accessory *farm dwelling*s will be landscaped and *screen*ed from adjacent properties. In the RCD, RC, and CR, accessory *farm dwelling*s may not be *mobile homes*.

5. Accessory open or enclosed storage of *farm* materials, products, equipment, fertilizer or chemicals, or vehicles. Such storage is in connection with the farming operation of the owner. All of the following uses will be located at least 200 feet from all property lines:

(A) Assembly of equipment, in a *totally enclosed building* not exceeding 10,000 square feet in size, and repair of all equipment normally used in *agriculture*.

(B) Storage of grain, flour, and feed blending and packaging, including milling, drying, and storing.

(C) Petroleum storage. Petroleum storage will not ~~to~~ exceed 10,000 gallons and is subject to applicable safety codes, ordinances, and statutes.

6. Accessory *off-street parking* and loading of non-commercial vehicles that have current licenses and are operable.

7. Accessory *off-street parking* of one commercial vehicle. Such use will be permitted as an accessory use only when all of the following conditions are satisfied:

(A) In the AZD, RCD, RC, CAR, and CR Districts, the vehicle is parked only in the *rear yard.*

(B) In the V and IV Districts, the vehicle is only parked in the *side* or *rear yard* of *dwellings.*

(C) The vehicle is used by the occupant of the *dwelling*.

(D) The vehicle does not exceed 16,000 pounds manufacturer's gross vehicle weight.

(E) No major repair is conducted *on-site*.

(F) No engines may run when parked *on-site*. Electrical refrigeration units may run.

(G) Honey wagons, sanitation, garbage, or other trucks used to transport odorous, flammable, or hazardous materials are prohibited.

(H) The vehicle has a current license and is operable.

8. Accessory *roadside stand* for the sale of *farm* products.

9. Accessory residential storage *structure*s with a *floor area* of more than ~~1,200~~2,000 square feet or a height that exceeds ~~17 feet~~the height of the primary residential structure on parcels less than 5 acres. When special exception approval is required in the district matrix, this may be reviewed via an administrative special exception process.

10. Accessory sheds on properties with only agricultural uses, which are less than 20 acres.

11. *Accessory structures* in the *front yard* of *through* or *corner lots*. When special exception approval is required in the district matrix, this may be reviewed via an administrative special exception process.

12. *Accessory structures* in the *front yard* requirement of waterfront parcels require a special exception, except for swimming pools, swimming pool equipment, and related structures which may be permitted without special exception. When special exception approval is required in the district matrix, this may be reviewed via an administrative special exception process.

13. Accessory truck parking.

14. *Accessory uses* and *structures* normally associated with permitted uses and not otherwise listed.

15. Accessory vehicle parking. Such use will be limited to those vehicles used as a part of principal permitted uses or approved special exceptions provided the vehicles have current licenses and are operable. Parking areas will be approved during *site plan* review.

16. Adaptive reuse of existing structures in AZD, located on parcels under 20 acres.

(A) The *site* will have access to a public road adequate for the traffic generated;

(B) The proposed use will not generate traffic of a type or amount inappropriate for access *roads* and the surrounding area;

(C) The use does not require road improvements detrimental to the character of the area;

(D) The number of *dwellings* will not exceed the *density* permitted in the district in which the *structure* is located;

(E) The proposed use does not create an unacceptable impact by way of noise, odor, noxious materials or other nuisances; and

(F) Landscaping is in keeping with the character of the *building or location*.

~~(A)~~(G) This may be reviewed via an administrative special exception process.

17. Adaptive reuse of *historic structures* for uses not otherwise permitted. Such uses are subject to the following conditions:

(A) *Structures* will be listed in the Kent County Historic *Site* Survey or approved as a historically significant *structure* by the *Planning Commission*;

(B) It is shown that exterior changes to *site structures* will be minimized~~. Extensions or enlargement of the principal and *accessory structures* may not exceed 25% of the gross *floor area* of each individual *building* above that which existed as of August 1, 1989~~. Enlargements will be designed in keeping with the character of the *building*;

(C) Landscaping is in keeping with the character of the *building*;

(D) The *site* will have access to a public road adequate for traffic generated;

(E) The proposed use will not generate traffic of a type or amount inappropriate for all access *roads* and the surrounding area;

(F) The use does not require road improvements detrimental to the character of the area;

(G) The number of *dwellings* will not exceed the *density* permitted in the district in which the *structure* is located;

(H) The proposed use does not create an unacceptable impact by way of noise, odor, noxious materials or other nuisances; and

(I) In RCD, adaptive reuse projects will be limited to non-commercial and non-industrial uses.

18. *Agriculture.* An *agriculture* use may include horticultural, hydroponics, general farming, orchards, groves, or nurseries for the growing or propagation of plants, *trees*, and shrubs. All farming activities related to animals are regulated as animal husbandry (see categories below), which are permitted individually as separate, specific uses within zoning districts.

19. *Agritourism* as defined in Article VII of this Ordinance. A site plan review will be required.

20. *Airports*, landing fields, helistops, or heliports. Such uses will be permitted as special exceptions only when all of the following conditions are satisfied:

(A) Flight obstructions, such as towers, chimneys, other tall *structures*, or natural obstructions, do not fall within the approach zone to any proposed runway or landing strips of the landing field or *airport; and*

(B) The use complies with the recommendations of the Federal and State Aviation Authorities; and

(C) Runways are designed to minimize the approach and takeoff areas over residential areas; and

(D) Applications for special exceptions for private airstrips, heliports, and helistops will comply with the following:

i. The takeoff and landing flight path will be a minimum of 1,000 feet in any direction from any residence or public *building*; and

ii. The takeoff and landing path of the aircraft will have a minimum of 250 feet vertical clearance over surrounding property unless a navigation *easement* is reached with the affected property owners for a lesser clearance; and

iii. No business such as the sale or leasing of aircraft, maintenance, or flight instructions will be permitted; and

iv. The *applicant* will maintain a flight operation's log that will be open for inspection by representatives of the Department; and

v. Approvals will be for a period not to exceed 5 years.

21. Animal husbandry, *aquaculture*, including accessory processing and sales.

Where permitted by special exception, the following conditions will be satisfied:

(A) Open or uncovered storage of shells, bones, and refuse does not occur on *site*; and

(B) No curing or smoking occurs on *site*; and

(C) All *structures* for processing and all disposal areas for materials and byproducts of processing are a minimum of 600 feet from all property lines; and

(D) Seafood processing facilities and disposal areas are not in the *100-year floodplain; and*

(E) The operation is managed according to a management plan approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department; and

(F) Parking, processing and disposal areas are *screen*ed from adjacent properties and public *roads*; and

(G) Access *roads* are capable of handling the type of traffic generated by the operation.

22. Animal husbandry, farm, including horses – this use includes keeping, dairying, or raising for sale ~~of~~ animals, fish, birds, horses, or reptiles on 20 acres or more. Such use is permitted only when all of the following conditions are satisfied:

    (A) Such use ~~will not be~~is only permitted ~~except~~ on a farm of 20 acres or more.

    (B) Such use will not include poultry houses, *feedlots*, ~~horses, mules,~~ or confinement dairies.

    (C) Nutrient management plans are required for all animal husbandry uses; however, the Planning Director may ~~waive~~set aside the requirement for a nutrient management plan for 4-H and FFA projects.

23. Animal husbandry, limited livestock and fowl – this use does not include commercial *feedlots*, confinement dairies, or poultry houses. Such uses will be permitted as special exception only when all of the following conditions are satisfied:

    (A) All *building*s for the housing of animals are 200 feet from the property line.

    (B) Waste management *structure*s are 600 feet from the nearest property line.

    (C) No part of the operation will be in the 100-year *floodplain*.

    (D) The operation is managed according to a waste and nutrient management plan approved by the Natural Resources Conservation Service, the University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that phosphorus is a problem or is likely to become a problem, the plan will use phosphorus based nutrient management. When in the opinion of the Board of Appeals, *Planning Commission*, or Planning Director additional review is needed by an outside agency, the application and waste and nutrient management plan may be forwarded to the Maryland Department of the Environment or any other appropriate agency.

    (E) *Sediment* and *stormwater management plan*s are approved by the appropriate agency and are implemented.

    (F) The *applicant* will prepare a management plan that demonstrates that the facility will be operated in a safe and environmentally sound manner and will not create a hazard to the surrounding area and *waterway*s.

    (G) To assure continued compatibility with the surrounding area, the Board may place additional restrictions on any number of the following:

        i. *Screen*ing and landscaping from adjacent properties and public *roads*

        ii. Exterior displays, lighting, and sign*s*

        iii. The location of access routes to the *site*, both on and *off-site*

        iv. The type of waste disposal, e.g. injection, disk, etc.

        v. Monitoring wells and surface water testing where appropriate

vi. Manner and route of moving waste from one *site* to another

vii. Waste and nutrient management plans for properties receiving waste

24. Animal husbandry, *feedlot* or confinement dairy. Such use will be permitted as special exception only when all of the following conditions are satisfied:

(A) All *buildings*, corals, and waste management *structures* are 600 feet from the nearest property line.

(B) No part of the operation will be in the *100-year floodplain*.

(C) The operation is managed according to a waste and nutrient management plan approved by the Natural Resources Conservation Service, the University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that phosphorus is a problem or is likely to become a problem, the plan will use phosphorus based nutrient management. When in the opinion of the Board of Appeals, *Planning Commission*, or Planning Director additional review is needed by an outside agency, the application and waste and nutrient management plan may be forwarded to the Maryland Department of the Environment or any other appropriate agency.

(D) *Sediment* and *stormwater management plans* are approved by the appropriate agency and are implemented.

(E) The *applicant* will prepare a management plan that demonstrates that the *feedlot* or confinement dairy will be operated in a safe and environmentally sound manner and will not create a hazard to the surrounding area and *waterways*.

(F) To assure continued compatibility with the surrounding area, the Board may place additional restrictions on the following:

i. *Screen*ing and landscaping from adjacent properties and public *roads*

ii. Exterior displays, lighting, and sign*s*

iii. The location of access routes to the *site*, both on and *off-site*

iv. The type of waste disposal, e.g. injection, disk etc.

v. Monitoring wells and surface water testing where appropriate

vi. Manner and route of moving waste from one *site* to another

vii. Waste and nutrient management plans for properties receiving waste

25. Animal husbandry, horses on non-farms – More than four horses and mules on ~~land~~a single property less than 20 acres in size. Such use will be permitted as special exception only, when all of the following conditions are satisfied:

(A) There will be no more than one horse or mule per acre of available pasture on the *site*.

(B) No waste management facility or *structure* for the keeping of animals is in the *100-year floodplain*.

(C) The feeding and watering of animals are conducted a minimum of 50 feet from any body of water, including *tributary streams* and *wetlands*.

(D) The operation is managed according to a waste and nutrient management plan approved by the Natural Resources Conservation Service, the University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that phosphorus is a problem or is likely to become a problem, the plan will use phosphorus-based nutrient management. When in the opinion of the Board of Appeals, *Planning Commission*, or the Planning Director, that additional review is needed by an outside agency, the application and accompanying waste and nutrient management plan may be forwarded to the Maryland Department of the Environment or any other appropriate agency.

26. Animal husbandry, poultry houses. Such uses are subject to the following conditions:

(A) Poultry houses may only be located on farms that are 20 acres or more in area.

(B) Poultry houses, waste management facilities, composters, and the area for the disposal of animals will be a minimum of 600 feet from all property lines.

(C) No poultry house, waste management facility or composter will be in the *100-year floodplain*.

(D) The operation is managed according to waste and nutrient management plans, approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that phosphorous is a problem or has the potential to become a problem, the plan will use phosphorus based nutrient management. When in the opinion of the Planning Director additional review is necessary from an outside agency, the Planning Director may forward the plan to the Maryland Department of the Environment or any other appropriate agency.

Land in Kent County owned by the owner/operator of the poultry house will be able to handle the manure and waste generated. The acreage requirements identified in the approved waste and nutrient management plan will be used to determine if an operation meets this requirement.

(E) Manure storage sheds and composter appropriate to the size of the operation will be included and will be constructed prior to receiving the first flock of chickens.

~~Poultry houses on parcels where the owner cannot handle the waste generated by the poultry houses. Where the owner cannot handle the waste generated by the poultry houses, such use~~ will ~~be permitted as special exception only when all of the following conditions are satisfied:~~

~~(A) All *buildings* and waste management *structures* are 600 feet from the nearest property line.~~

~~(B) No part of the operation will be in the 100-year *floodplain*.~~

~~(C) The operation is managed according to a waste and nutrient management plan approved by the Natural Resources Conservation Service, the University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that phosphorus is a problem or is likely to become a problem, the plan will use phosphorus based nutrient management. When in the opinion of the Board of Appeals, *Planning Commission*, or Planning Director additional review is needed by an outside agency, the application and waste and nutrient management plan may be forwarded to the Maryland Department of the Environment or any other appropriate agency.~~

~~(D) *Sediment* and *stormwater management plans* are approved by the appropriate agency and are implemented.~~

~~(E) The *applicant* will prepare a management plan that demonstrates that the poultry houses will be operated in a safe and environmentally sound manner and will not create a hazard to the surrounding area and *waterways*.~~

~~(F) To assure continued compatibility with the surrounding area, the Board may place additional restrictions on the following:~~

~~i. *Screening* and landscaping from adjacent properties and public *roads*~~

~~ii. Exterior displays, lighting, and *signs*~~

~~iii. The location of access routes to the *site*, both on and *off site*~~

~~iv. The type of waste disposal, e.g. injection, disk, etc.~~

~~v. Monitoring wells and surface water testing where appropriate~~

~~vi. Manner and route of moving waste from one *site* to another~~

~~vii. Waste and nutrient management plans for properties receiving waste~~

27. Animal husbandry, special – backyard chickens. Such uses will be permitted as accessory uses only when all of the following conditions are satisfied:

(A) Backyard chickens are defined as females of the species *Gallus gallus domesticus* kept for non-commercial purposes. The keeping of males of the species is not permitted.

(B) The maximum number of chickens, 4 months or older, permitted on any *lot* is determined by *lot* size:

i. No chickens are permitted on a *lot* of less than ¼ acre;

ii. No more than 5 chickens are permitted on a *lot* of ¼ acre to 1 acre;

iii. No more than 8 chickens are permitted on *lot*s of more than 1 acre.

(C) The area for keeping backyard chickens will be enclosed in such a fashion that the chickens are confined and not able to leave the owner's property. Back*yard* chickens will be provided with a covered, predator-proof coop or cage that is well ventilated. Hens will have access to an outdoor enclosure that is adequately fenced to contain the birds on the property.

(D) *Structures* (coops) for the housing of backyard chickens will meet the permitting requirements of this Ordinance. For movable coops, the permit application will show the area in which the coop will be moved. A copy of the Maryland Poultry Registration Form will accompany the *building* permit application.

(E) Coops will be *setback* a minimum of 15 feet from any property line.

(F) Coops may be placed in *rear yard*s only.

(G) Each coop will be kept clean and free of odors and materials that can attract vermin. Feed will be kept in secure containers so as not to attract vermin.

(H) Waste will be composted or removed from the property

(I) The outdoor slaughtering of chickens is not permitted

28. Animal husbandry, special – sheep or goats, kept for noncommercial purposes, will be:

(A) Female or neutered and dehorned males.

(B) The maximum number of sheep or goats permitted on any lot is determined by lot size:

i. No sheep or goats are permitted on a lot of less than two acres.

ii. ~~ii.~~ A maximum of three small ruminants per acre of grazable area within the lot is permitted with a maximum of eight total.

(C) The animals will be provided with a covered shelter with bedding and an outdoor enclosure that is adequately fenced to contain the animals on the property.

(D) Structures for the housing of animals should meet the permitting requirements of the Ordinance.

(E) Shelter should be setback a minimum of 40 feet from any property line, in rear yards only, and kept clean and free from odors and materials that can attract vermin.

(F) The operation is managed according to waste and nutrient management plans, approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that phosphorus is a problem or has the potential to become a problem, the plan

will use phosphorus based nutrient management. When in the opinion of the Planning Director additional review is necessary from an outside agency, the Planning Director may forward the plan to the Maryland Department of the Environment or any other appropriate agency.

(G) Feed will be kept in secure containers so as not to attract vermin.

(H) Bedding and waste materials will be composted or removed from the property.

(I) The outdoor slaughtering of sheep or goats is not permitted.

(J) Sheep or goats brought into the State of Maryland will meet the Code of Maryland Regulations, Chapter 15.11.18. Requirements for Sheep and Goats for the Eradication of Scrapie.

29. Animal husbandry, *stable - private*. Such use is subject to the following conditions:

(A) The *lot* will be two acres or more; and

(B) Any *structure* for the keeping of animals will be located a minimum of 100 feet from any property line; and

(C) There will be no more than one horse per acre of land. Only available pasture acreage will be used to compute the number of horses allowed on a parcel; and

(D) The operation is managed according to waste and nutrient management plans, approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that phosphorous is a problem or has the potential to become a problem, the plan will use phosphorus based nutrient management. When in the opinion of the Planning Director additional review is necessary from an outside agency, the Planning Director may forward the plan to the Maryland Department of the Environment or any other appropriate agency.

30. Animal husbandry, *stable - commercial*. Such use is subject to the following conditions:

(A) The *lot* is 20 acres or more; and

(B) Any *structure* for the keeping or feeding of animals and waste management *structure*s will be a minimum of 400 feet from any property line; and

(C) No waste management facility or *structure* for the keeping of animals is in the 100-year *floodplain*; and

(D) The feeding and watering of animals are conducted a minimum of 100 feet from tidal water and *tributary streams*, both tidal and non-tidal, and 50 feet from *non-tidal wetlands*; and

(E) The operation is managed according to waste and nutrient management plans, approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that

phosphorous is a problem or has the potential to become a problem, the plan will use phosphorus based nutrient management. When in the opinion of the Planning Director additional review is necessary from an outside agency, the Planning Director may forward the plan to the Maryland Department of the Environment or any other appropriate agency.

31. *Animal shelters.* An *animal shelter* use is permitted only as defined by the County Code of Public Laws.

32. Appurtenant signs. Such uses will be in accordance with Article V.

33. Assisted living facilities with five to eight beds. When special exception approval is required, this may be reviewed via an administrative special exception process. Such use is permitted as a special exception only when all of the following criteria are satisfied:

    (A) The property owner resides on the *premises*; and

    (B) The assisted living facility is subordinate and accessory to the principal *dwelling* in size and appearance and is in the same *structure* as the principal *dwelling unit*. Expansions will be designed in keeping with or to enhance the character of the other *building*s; and

    (C) The rooms for the use are not designed or constructed to be separate *dwelling unit*s and may not be sold as separate *dwelling unit*s; and

    (D) The appearance of the *structure* and property remain that of a *single family dwelling* so that the average neighbor is unaware of the assisted living facility's existence; and

    (E) The *structure* meets all applicable Kent County Codes, including the *building* code, and Health Department requirements; and

    (F) The *applicant* has received approval from the appropriate State of Maryland agencies; and

    (G) The facility does not create an unacceptable environmental impact by way of noise, odor, noxious materials, or other nuisances.

34. Assisted living facilities with no more than four beds. Such use is permitted as an accessory use only when all of the following criteria are satisfied:

    (A) The property owner resides on the *premises*.

    (B) The assisted living facility or *group home* is subordinate and accessory to the principal *dwelling* in size and appearance and is in the same *structure* as the principal *dwelling unit*.

    (C) The rooms for the use are not designed or constructed to be separate *dwelling unit*s and may not be sold as separate *dwelling unit*s.

    (D) The appearance of the *structure* and property remain that of a *single family dwelling*.

(E) The *structure* meets all applicable Kent County Codes, including the *building code and Health Department requirements*.

35. *Automobile repair.* Such use is permitted as a special exception only when ~~the following condition is satisfied:~~ automobiles waiting for repair are stored in a *building* or in the *rear yard* and screened from adjacent properties.

36. *Automobile service station*s, not including auto repair. An *automobile service station* use is subject to *site plan* review. Such use is permitted as a special exception only when ~~the following condition is satisfied:~~ major repairs or bodywork are not conducted *onsite*.

37. Automobile sales, service, and rental.

38. Bath houses, pump out *structures*, and other *accessory structures* normally associated with permitted uses.

39. Blacksmith, welding and machine shops. For a blacksmith, welding and machine shop use, outdoor storage of materials is prohibited unless otherwise approved by the *Planning Commission* and subject to such conditions as may be determined by the *Planning Commission*

40. Boat *building* and boat repair. A boat building and boat repair use will be located at least 100 feet from any residential district.

41. Boat docks, piers and wharves. Boat docks, piers and wharves will not exceed 25% of the waterway, or the edge of the channel, whichever is less.

42. Boat rental, sales, supplies, instruction, and other services customarily associated with a full-service *marina.*

43. Boat sales, boat and outboard motor repairs and boat storage. Boat sales, boat and outboard motor repairs and boat storage uses will be permitted only when all of the following conditions are satisfied:

(A) The property will front on ~~2~~two public *roads*;

(B) All repairs are conducted inside a *building*;

(C) The storage area and repair access area will be *screen*ed on all sides with wood fencing a minimum of 6 feet in height;

(D) The repair shop *building* and the storage and repair access area will be set back at least 100 feet from adjacent properties that are zoned for residential use;

(E) The open area for display of boats will be limited to 3,000 square feet in size; and

(F) This use is subject to *site plan* review.

44. Boat storage, out-of-water boat storage. In the M District, this use does not include multi-level boat storage.

45. *Building* materials sales.

46. *Camp, day or boarding*, private or commercial, but not *recreational vehicle* or migrant labor camps, for the purpose of conserving and enjoying ~~the~~ natural resources.

47. *Campgrounds. Campgrounds* include only those *campgrounds* existing and in use as of August 1, 1989, in the Resource Conservation District. It is the intent of this section to provide for the continued existence and operation as well as the intensification or expansion of *campgrounds* existing and in use as of August 1, 1989, in the RCD. It is not the intent to permit the creation of new *campgrounds*, but rather to protect those enterprises that existed in the RCD on August 1, 1989. Any expansion or intensification of an existing *campground*, including the addition of *site*s or conversion of existing *site*s to allow for additional *recreational vehicle*s, will require growth allocation.

48. Car wash. A car wash use will require that the waste~~r~~ water is recycled. Such use is permitted as a special exception only when the following conditions are satisfied:

    (A) The car wash is designed to allow adequate traffic flow for cars to enter and exit the facility safely; and

    (B) Single bay facilities with automated brushes and multiple bay self service facilities will provide a space for the parking of one car per bay to be used as a dry down area. Facilities using a conveyor or chain drag system for moving motor vehicles through the washing area will provide space at the *building* exit for three times the number of vehicles that can be accommodated at one time within the *structure*; and

    (C) Vacuum facilities will comply with the *setback*s for a primary *structure* in the applicable zoning district; and

    (D) Appropriate permits are obtained from the State of Maryland.

49. Cemetery, including crematorium and mausoleum. Such use will be permitted only when all of the following conditions are satisfied:

    (A) Burial p*lot*s will be 10 feet from all property lines. *Buildings* will comply with the *yard* requirements for the applicable zoning district.

    (B) Mausoleums will be a minimum of 75 feet from a public road and 50 feet from the side and rear property lines.

    (C) Crematoriums will be 200 feet from all property lines.

    (D) In the IV District, such uses will be permitted only when accessory to a *house of worship* located on the same parcel.

50. Circus or carnival, midways and amusement parks, maze fields and other temporary recreational uses, for a specified period. The Planning Director may require a *site plan* and place conditions as may be appropriate to assure the compatibility of the temporary recreational use ~~with this district~~.

51. Class D Alcohol Retail Business, as defined by the State of Maryland.

52. *Conference center.* Such use will be permitted as a special exception only when the following conditions have been satisfied:

(A) In the IV District, the project will collectively consist of 15 acres but not more than 750 acres. In RCD, RR, RC, and CAR, the project will collectively consist of at least 50 acres but not more than 750 acres.

(B) The *conference center* will consist of 100 but not more than 225 guest rooms.

(C) At least 100 square feet of meeting space will be provided per guest room.

(D) Permanent theme parks, amusement parks, and/or stadiums are prohibited.

(E) Where applicable, the *applicant* has applied for growth allocation from the County. Special exception approval will not be valid without the granting of growth allocation.

(F) The Board will make specific findings on the availability of public and governmental services. Proposed improvements will be appropriate to the character of the area.

(G) Where they exist, *historic structures* will be incorporated into the overall project.

(H) Significant view corridors, both from the *site* and onto the *site* will be preserved in so much as possible.

(I) The height of all *structures* will not exceed 38 feet.

(J) The design of the *conference center* and *accessory uses* will reflect and complement the rural character of the area or neighborhood.

(K) The number of *dwelling units* will not exceed that which is permitted in the applicable zoning district. *Dwelling units* may be detached or attached.

(L) Continuous residential *lot development* aligned with golf course fairways will be prohibited within the *Critical Area* and discouraged elsewhere.

(M) Parking *lot*s will be landscaped as required for commercial *development*s.

(N) Permitted *accessory uses*, subject to the approval of the Board of Appeals, including *restaurants*; recreational facilities such as tennis courts and *swimming pools*; spas; retail use provided the establishments are in the main *building* with the entrance to the retail use from the inside the *building*; stables but not an equestrian center; other recreation amenities but not including trap, skeet, clay birds, paint ball or other similar firearm activities; *piers*; and other *accessory uses* that are customarily associated with a *conference center*. The *applicant* will describe all proposed *accessory uses* in the application for a special exception. The Board of Appeals may deny or limit the size and extent of *accessory uses*.

(O) The number of *slips* on the accessory *pier* will not exceed 20% of the number of guest rooms and the use of the *slips* will be limited to use by those using the

conference facilities. Accessory *piers* will meet all requirements applicable to *marinas* such as pump outs, restrooms, and showers.

(P) All *structures* will comply with the minimum 100-foot *buffer* and will be 200 feet from all side and rear property lines, whichever is greater.

(Q) A golf course will meet all the requirements found in this Article III.

(R) In RCD, RC, RR, and CAR, at least 60% of the property will be in *open space*.

(S) The Board of Appeals may place additional restrictions on the following:

i. Additional *yard* requirements for all *structures*, including patios and places of public assembly

ii. Lighting

iii. Landscaping and *screen*ing

iv. Outdoor activities, outdoor music, and their hours of operation

v. Access

(T) Application for a *conference center* will include a sketch plan and renderings of all primary and each type of *accessory structure*.

53. Contractors' *yard*. See *Excavation, landscaping, and other contractor's yard.*

54. Convalescent, group, or homes for the aged if located in *dwelling*s existing as of December 1, 1985, in RCD, provided exterior changes are minimized and extension or enlargement of principle and *accessory structures* may not exceed 50% of the gross *floor area* of each individual *building*.

55. Convalescent, nursing, or *group home*s for the aged with five or more beds.

56. *Cottage industries, tradesmen and artisan shops*. Such uses will be permitted as an administrative special exceptions only when all of the following conditions are satisfied:

(A) Except on *farm*s, the *cottage industry* will be secondary to the use of the property for *dwelling* purposes and will be less than 60% of the living area, ~~1,200~~ 2,000square feet, or in an existing *accessory structure*, whichever is greater. The square footage limitation includes outdoor storage areas but not required parking. Additional area may be granted via review by the Board of Appeals.

(B) On *farm*s, the *cottage industry* will be secondary to the *farm*. The *cottage industry* is limited to 4,000 square feet in size or an existing *building*, whichever is greater. The square footage limitation includes outdoor assembly and storage areas but not required parking. Additional area may be granted via review by the Board of Appeals.

(C) The use is secondary in ~~size and~~ scope to the residential or agricultural use of the property.

(D) The *building*s associated with the use are not visually intrusive or inappropriate to their setting. New *building*s and expansions will be designed in keeping with or to enhance the character of the other *building*s.

(E) The *cottage industry* does not create an unacceptable environmental impact by way of noise, odor, noxious materials, or other nuisances.

(F) The *cottage industry* does not generate traffic of a type or amount inappropriate for all access *roads* and the surrounding area. It does not require significant road improvements detrimental to the character of the area.

(G) Sureties required by the Department may be set aside by the Planning Director.

(H) The following uses will not be allowed:

i. Any activity that may reasonably be expected to result in excessive noise, smoke, dust, odors, heat, or glare beyond that which is common to the zoning district. The proposed use will conform to the maximum permissible sound levels in Article III for Employment Center uses;

ii. Use or manufacture of products or operations that are dangerous in terms of risk of fire, explosion, or hazardous emissions; and,

iii. Any other use deemed incompatible with a residential or agricultural area.

57. *Country inn*s. A *country inn* use is subject to *site plan* review. Such uses will be permitted as special exception only when all of the following conditions are satisfied:

(A) Such *structures* have existed prior to August 1, 1989, except on properties with more than 25 acres in the Marine District.

(B) The number of rooming units provided on the *site* is limited to fifteen excluding resident management quarters.

(C) Boarding and dining facilities in AZD, RCD, RC, CR, CAR, IV, C, and M may be permitted only when attendant to rooming units and further provided that such facilities are limited to a maximum seating capacity of forty *person*s. Such dining facilities may be provided to patrons other than boarders. No dining facility will be permitted in RCD.

(D) The *site* has access to a public road. This access will be capable of supporting the passage of emergency vehicles. The Board may require improvements to existing access *roads*.

(E) There will be sufficient acreage for the proposed use and activities.

(F) Extension or enlargement of principal and *accessory structures* including the addition of new structures and new buildings are permitted, and they should maintain features and character that are consistent with the *structures* already located on the campus of the permitted use that existed as of August 1, 1989.

(G) Adequate landscaping will be provided to *screen* all parking areas from adjoining residential properties. Landscaping or *screen*ing proposed will be shown on a *site plan* as required by this Ordinance.

58. *Country stores. Country stores will* be located only along *primary* and *secondary roads.* Such uses will be permitted as special exception only when all of the following conditions are satisfied:

(A) The *structure* existed prior to August 1, 1989.

(B) Property on which the store is located will abut upon and have safe access to a *primary* or *secondary road* as shown on the *Major Thoroughfare* Map.

(C) Extension or enlargement of the principal and *accessory structures* does not exceed 50% of the gross *floor area* of each *building* above that which existed as of August 1, 1989.

59. Curio shops, craft shops, antique stores, and similar uses. Such uses will be consistent with the character of the town area. Such uses will be limited to a gross *floor area* of 1,500 square feet per individual building. *New construction* will require *site plan* review.

60. Data processing centers. Such uses are subject to *site plan* review.

61. Detached *single family dwellings* – see also *Single family dwellings* in this section.

62. *Day care groups*. When special exception approval is required, this may be reviewed via an administrative special exception process. Such uses will be permitted as a special exception only when all of the following conditions are satisfied:

(A) Outdoor activity areas are fenced and *screen*ed.

(B) Two drop-off/pick-up parking spaces are provided.

(C) *Structure*d play areas for active play or play *structures* are not in the *front yard* and are 10 feet from the side or rear property line.

(D) The *structure* retains its residential character, if located in a residential setting.

(E) *Day care groups* in the RCD will be permitted only in *dwelling*s existing prior to December 1, 1985.

63. *Day care homes.* Such uses will be permitted as accessory uses only when all of the following conditions have been satisfied:

(A) Outdoor play areas are fenced and *screen*ed.

(B) *Structure*d areas for active play or play *structures* will not be in the *front yard* and will be a minimum of 10 feet from the side or rear property line.

(C) One drop off / pickup space is provided.

(D) Structural or decorative additions will be designed to be compatible with the residential character of the neighborhood, if located in a residential setting.

~~Signs will be limited to two square feet.~~

64. Distribution centers and warehousing. Distribution and ware-housing uses are permitted only when any single *building* footprint does not exceed 75,000 square feet in size. The restriction on *building* footprint does not apply to the Employment Center District in the Route 301 corridor. In reviewing the *site plan*, the *Planning Commission*, or where applicable the Planning Director, will consider the following:

(A) The impact of the proposed business or industry on existing or planned public facilities.

(B) The impact of the operation of the facility on the surrounding area.

(C) The health, safety, and welfare of employees and residents of the neighborhood.

(D) In so far as possible, all uses will be conducted entirely within a completely enclosed *structure* or be completely *screen*ed. Outdoor storage of materials and unfinished products is prohibited unless otherwise approved by the *Planning Commission* and subject to such conditions as may be determined by the *Planning Commission* during the *site plan* review process. Screening for requests that involve only outdoor storage may be approved by minor site plan.

65. *Dog kennels*, commercial. Such uses will be permitted by special exception or as an accessory use only when all of the following conditions are satisfied:

(A) Any open dog pens, runs, cages, or kennels will be at least 200 feet from any side or rear *lot line*.

~~*Dog kennels*, commercial, will be permitted as accessory uses only when all of the following conditions are satisfied:~~

~~(A) Any open dog pens, runs, cages, or kennels will be 200 feet from any side or rear *lot line*.~~

(B) The operation is managed according to waste and nutrient management plans approved by the Natural Resources Conservation Service, the University of Maryland Cooperative Extension Service, and the Kent County Health Department.

66. Dormitories for employees. Such uses will be permitted by special exception only when all of the following conditions are satisfied:

(A) The *structure* meets the design standards for multi-*family* residential *development* as set forth in applicable regulations in Article V of this Ordinance.

(B) The *structure* is *screen*ed, if possible, from adjacent *roads*, *waterway*s, and properties.

(C) The *applicant* proves that the *structure* is necessary to house employees.

(D) Residents are limited to employees of the *marina*.

(E) Dormitories are not in the minimum 100-foot *buffer*.

67. Dredge spoil *sites.* Such uses will be permitted as special exception only when all of the following conditions are satisfied:

(A) The *site* does not receive dredge spoils that exceed 100,000 cubic *yard*s per existing parcel as of the date of the adoption of this ordinance unless used in conjunction with an approved surface mine *reclamation*. The disposition of dredge spoils used in conjunction with a surface mine *reclamation* will have all permits required by the State of Maryland and the application will demonstrate that measures are provided to protect the groundwater, stabilize pH, and to generally protect the environment of the area.

(B) Material is limited to clean dredge spoil which is tested according to the *regulations* of the State of Maryland.

(C) Prime *farm*land is not used for a dredge spoil *site*.

68. *Excavation, landscaping, or other contractor's yard.* Such use includes outdoor storage of the contractor's equipment and equipment parts; temporary stockpiling of *soils*, sand, gravel, stone, recyclable brick, concrete, blacktop materials, pipes, iron, tires, and tanks.

Such use will only be permitted when all of the following conditions are satisfied:

~~The contractor has an approved sand and gravel pit on the same parcel of land or on an adjacent parcel of land owned by the contractor upon which the contractor's *excavation* business is located.~~

~~The *contractor's yard* area and gravel pit area will be separately designated and permitted. None of the activities permitted by this subsection may occur within the sand and gravel pit area.~~

(A) The *con*tract*or's yard* permit area will be larger than two (2) acres and smaller than twenty (20) acres.

(B) The *con*tract*or's yard* will not be visible year-round from an adjacent parcel of land or public road. The contractor may use natural *topography* and vegetation or may construct *berms* or plant vegetation to satisfy this requirement.

(C) Storage of tires and equipment will be limited to contractor's own *excavation yard* use.

(D) Temporary storage of pipe, iron, and tanks, which are not part of the contractor's equipment, will not exceed two years.

~~The special exception will be for a period not to exceed five years.~~

69. Existing commercial or industrial uses and *structures* in the Village District. It is the intent of this Section to provide for the continued existence and operation as well as the reasonable expansion of commercial and industrial uses which exist in the Village District, provided that such uses or *structures* do not constitute a nuisance or a source of significant environmental pollution. It is not the intent hereof to allow the creation of new commercial or industrial uses which are not permitted under this Section, but rather to

protect those enterprises which existed in the Village District as of August 1, 1989. An expansion will require *site plan* review.

70. Existing permitted *marinas* in the Resource Conservation District – It is the intent of this section to provide for the continued existence and operation as well as the reasonable expansion of *marinas* in the RCD zoned areas of the County, provided that such uses do not constitute a nuisance or a source of significant environmental pollution. It is not the intent to allow the creation of new *marinas*, but rather to protect those enterprises which existed in the RCD on April 12, 1988. An expansion will require *site plan* review by the *Planning Commission* or where applicable the Planning Director. After *development* there will be a net improvement in water quality at or leaving the *site*. All *marinas* in the RCD will comply with all *regulations* in SECTION 29 MARINE DISTRICT of this Ordinance.

71. Existing *conference centers*, *resorts*, *retreats*, *hotels*, and *motels,* existing and in use as of August 1, 1989. It is the intent of this section to provide for the continued existence and operation as well as the expansion of *conference centers*, *resorts*, *retreats*, *hotels*, and *motels* existing and in use as of August 1, 1989. It is not the intent to permit the creation of new *conference centers*, *resorts*, *retreats*, *hotels*, or *motels*, but rather to protect those enterprises that existed in the Resource Conservation District on August 1, 1989. An expansion will require *site plan* review by the *Planning Commission* and will require a net improvement in water quality at or leaving the *site* and may require growth allocation.

72. Exposition center or fairgrounds. Such uses will be permitted as special exception only when all of the following conditions are satisfied:

    (A) The fair ground or exposition center does not result in the *development* of a major sports arena for football, baseball, drag racing, motor cross, auto racing, or other major sports activities.

    (B) In the RCD, such uses will be temporary. The Planning Director may require a *site plan* and place conditions as may be appropriate to assure the compatibility of the temporary recreational use.

73. Farm brewery, as defined by the State of Maryland.

74. Financial institutions. Such uses are subject to *site plan* review.

75. Fire and rescue stations. Such uses are subject to *site plan* review.

76. Fuel storage and sales for marine purposes only.

77. Funeral homes. Such uses are subject to *site plan* review.

78. Golf courses, public or private. Such uses will be permitted as special exceptions only when all of the following conditions are satisfied:

    (A) The golf course is at least a regulation par 72, 18-hole golf course.

    (B) The course is managed according to a water conservation plan that addresses water use, including irrigation, and the recapture and reuse of water sources.

Irrigation will be the minimum necessary for the operation and maintenance of the course and associated facilities.

(C) The course is managed according to integrated pest management and nutrient management plans approved by the University of Maryland Extension Service and the Natural Resources Conservation Service.

(D) The *site* will have access to a public road that can handle the traffic generated by the operation and access of emergency vehicles. The Board of Appeals may require improvements to existing access *roads*. Should improvements be required, a bond, irrevocable letter of credit, or other surety will be posted running to the County Commissioners.

(E) The course, including the layout and routing of holes, will be designed to preserve and maintain to the extent possible natural *topography*, significant *tree*s and landmarks, vegetation, and cover. *Wildlife corridor*s will be preserved and enhanced whenever possible.

(F) *Buffer*s, no-mow, and no-spray zones will be adjacent to existing or created *wetlands*, water bodies, and habitat areas. Native grasses and vegetation will be used within these zones.

(G) A 100-foot landscaped area from tees, greens, and fairways will be provided along adjacent property lines. Landscaping will be designed to complement other landscaping occurring naturally on the *site*. Whenever possible, existing vegetation will be incorporated into the *landscape plan*.

(H) The golf course and driving range will not include lighting. Lighting of the clubhouse, parking, and other areas will be ~~thatthat~~ the minimum necessary for the safety and security of the operation, its employees, and its customers. Lighting fixtures will not exceed 18 feet in height unless mounted on a *building* and will be designed to avoid glare onto adjacent properties and *roadways* and will not interfere with traffic or create a traffic hazard. Lighting will be shielded, color corrected, and dark-sky compliant.

(I) Parking *lot*s will comply with the landscaping and *screen*ing standards per Article V of this Ordinance.

(J) Whenever possible, historic *buildings* should be restored and used as a part of the operation.

(K) To assure continued compatibility with the surrounding area, the Board may place additional restrictions on the following:

i. Proposed method of irrigation

ii. The location of the driving range, holes, cart ways, tees, fairways, roughs, water hazards, maintenance facilities, irrigation, and pumping station

iii. *Accessory uses* such as clubhouses, *restaurants*, bars, day care, pro shops, pools, tennis courts, comfort facilities, maintenance facilities, golf cart

storage, driving range, sod *farm* for golf course, practice holes, practice putting green, and parking. In RCD the following *accessory use*s will require growth allocation: clubhouses, *restaurant*s, bars, day care, pro shops, pools, tennis courts, comfort facilities, golf cart storage and parking.

79. Greenhouses, wholesale, or retail. In the RC, CAR, and CR Districts, *structures* will be located at least 200 feet from any property line and will be adequately landscaped.

80. *Guest house,* one, but not including *mobile homes.* Such use will be permitted as an accessory use only when all of the following conditions are satisfied:

(A) The house is used exclusively for non-paying guests; and

(B) No house will be used as a permanent residence nor be rented or sold separately from the principal *dwelling*.

81. Home and business services such as grounds care, cleaning, exterminators, landscaping, and other repair and maintenance services. Such uses are subject to site plan review. Such uses do not include septic tank maintenance and excavation.

82. *Home occupation*s in main or accessory *buildings.*

(A) Intent – The conduct of business in residential units may be permitted under the provisions of this section. It is the intent of this section to:

i. Ensure the compatibility of *home occupation*s with other uses permitted in the residential districts;

ii. Maintain and preserve the character of residential neighborhoods by regulating the operation of *home occupation*s;

iii. Guarantee to all residents freedom from excessive noise, excessive traffic, nuisance, fire hazard, and other possible effects of commercial uses being conducted in residential areas; and,

iv. Promote the efficient use of public services and facilities by assuring these services are provided to the residential population for which they were planned and constructed, rather than to new commercial uses.

(B) Conditions - Such *home occupations* in main or accessory *buildings* will be permitted as accessory uses only when all of the following conditions are satisfied:

i. A *home occupation* will be incidental to the use of a *dwelling unit* for residential purposes and will be conducted only by members of the *family* residing in the *dwelling unit* plus no more than one non-resident assistant or employee.

ii. There will be no outdoor storage of materials or products on the *premises*.

iii. The *home occupation* will not cause any external effect associated with the *home occupation*, such as increased noise, excessive lighting, or offensive odor, which is incompatible with the characteristics of the residential zone. There will be no illegal discharge of any materials, fluids, or gases into the sewer system or any other manner of discharging such items in *violation* of any applicable government code.

iv. No traffic will be generated by such *home occupation* in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such *home occupation* will be met off the *street* and other than in a required *front yard*.

~~A *home occupation* will limit any external evidence of an occupation to one identification *sign* not to exceed 2 square feet in area.~~

(C) *De Minimus* impact uses. *Home occupation*s with impacts no greater than those of expected and customary activities at any single-family home, for example, crafting, which are then offered for online sales only. In such cases, a use permit may be issued to document the *de minimus* impact use at the site.

83. *Hospital*s, rehabilitation facilities, and similar institutions for human care. Such use does not include animal *hospital*s.

84. *Hotel*s and motels. Such uses are subject to *site plan* review.

85. Houses of worship. *New construction* of such uses will require *site plan* review. *Houses of worship* will be permitted as special exception only when all of the following conditions are satisfied:

(A) Outdoor public announcement systems and drive in facilities are prohibited.

(B) The Board specifically approves *accessory uses*. In no case will an *accessory use* be of a type and scale that is normally found in commercial operations.

(C) Parking areas will be *screen*ed and landscaped according to the standards found in Article V.

(D) Any new day care use may be permitted as an accessory use without special exception approval for such uses proposed within existing buildings without additions. Projects that require additions or new buildings are a new special exception, and such projects will be reviewed as a new or amended application.

86. Hunting blinds, pits, or preserves but not including trailers and mobile homes.

87. Hunting trailer, one, temporary. Such use will be permitted as an accessory use only when all of the following conditions are satisfied:

(A) The trailer is installed continually but not longer than from September 1 to the following ~~February 15~~ May 31.

(B) The trailer is a minimum of 150 feet from all property lines and not in the *buffer* or *stream protection corridor*.

(C) Such a trailer will be located around existing *buildings* and out of sight.

(D) The trailer cannot be used for permanent living accommodations.

88. Indoor movie theaters, playhouses, and dinner theaters. Such uses are subject to *site plan* review.

89. Livestock auction houses on properties that exceed 20 acres in size with site plan review.

90. Machinery and equipment sales, service, and rental.

91. Manufacture, processing, fabrication, and assembly of products. These uses include, but are not limited to, scientific and precision instruments, photographic equipment, communications equipment, computation equipment, drugs, medicines, pharmaceuticals, household appliances, toys, sporting and athletic goods, glass products ~~made of purchased glass~~, electric lighting and wiring equipment, service industry machines, lithographic and printing processes, industrial controls, radio and TV receiving sets, watches and clocks, bags and containers, sanitary paper products, optical goods, electrical machinery, prefabricated and modular housing and components, dairy product feed and grain, baked and confectioners' goods, *farm* machinery, frozen food processing, packing plants, animal and seafood processing, fruit and vegetable processing, canning and storage. In the C District, no manufacture, processing, fabrication, and assembly of products use may be conducted except within the US Route 301 Corridor.

These uses in all locations may also include businesses and industries, including research and *development* companies, of a similar nature to those listed above, subject to review and approval by the ~~Zoning *Administrator*~~Planning Director. In review of a proposed use, the ~~Zoning *Administrator*~~Planning Director will consider the following:

(A) The impact of the proposed business or industry on existing or planned public facilities; and

(B) The impact of the operation of the facility on the surrounding area; and

(C) The health, safety, and general welfare of employees and residents of the neighborhood.

92. The manufacture, processing, and assembling of food products in the C district, to include baked and confectioners' goods, frozen food processing, fruit and vegetable processing, canning and storage, or businesses of a similar nature, excluding animal and seafood processing, will be permitted as a special exception only when all of the following conditions are satisfied:

(A) That in reviewing the *site plan* and determining the suitability of the proposed location, the *Planning Commission* will find all of the following:

i. Existing or planned public facilities are adequate to handle the usage generated by the business. The use does not require improvements to public facilities detrimental to the character of the area.

ii. The proposed use does not create an unacceptable impact on the surrounding area by way of noise, odor, noxious materials, or other nuisances. The *Planning Commission* may require a Certified *Engineer*'s Report describing the proposed operation, all machines, processes, products and byproducts, stating the nature and expected levels of emissions or discharge to land, air, water or liquid, solid, or gaseous effluent and electrical impulses, vibrations and noise under normal business and the specifications or treatment methods and mechanisms to be used to control such emissions or discharge.

iii. The health, safety, and general welfare of employees and residents of the neighborhood will be protected.

(B) All uses will be conducted within a completely enclosed *structure*. Outdoor storage of materials and unfinished products is prohibited.

(C) The business does not exceed 10,000 square feet of gross *floor area*. This limitation does not apply to the properties located in the Route 301 Corridor.

93. Manufacture of concrete and ceramics products, commercial *sawmills*, sewage treatment plants, and lumberyards. Such use will be located at least 400 feet from any residential district boundary. Outdoor storage of materials is prohibited unless otherwise permitted by the *Planning Commission* and subject to conditions as may be determined by the *Planning Commission* during *site plan* review.

94. Manufacture, processing, and distribution of hot mix asphalt (a.k.a. bituminous concrete or asphalt concrete). Such use will include the storage of raw materials *on-site. Such use will not include the refining of asphalt cement* on the *site*. Such use will not be located further than ~~2~~ two miles from Route 301.

95. *Marinas*. Such uses are subject to *site plan* review.

96. Marine supply store including indoor outboard motor sales. Such uses are subject to *site plan* review.

97. *Microbrewery*, as defined by the State of Maryland.

98. Migrant labor camps.

99. Mini storage facilities.

100. *Mobile homes* existing and in use as of January 16, 1996. *Mobile homes* existing and in use as of January 16, 1996, may be continued in use and may be replaced with another *mobile home*, provided the replacement *mobile home* complies with the Kent County Codes and all Health Department *regulations*. It is not the intent of this provision to allow additional, single-site *mobile homes* in the County, but rather to allow the continued use and improvement (including replacement) of *mobile homes* existing as of January 16, 1996. A *mobile home* that remains idle or unused for a continuous period of two years will not be used again except in conformity with these *regulations*. Mobile home parks may be permitted and must meet the requirements below.

101. *Mobile home parks*. Such use will be permitted as special exception only when all of the following conditions are satisfied:

(A) The property is served by public water and sewer.

(B) The overall *density* of the park does not exceed 10 *dwelling unit*s per acre.

(C) Each mobile home space will have a minimum area of 4,000 square feet with a minimum width of 40 feet.

(D) Each mobile home space will provide the following *yard*s:

i. *Front yard* – 20 feet

ii. *Side yards* – 8 feet

iii. *Rear yard* – 10 feet

(E) The minimum area of the *mobile home park* including *roads* and *open space* will be 5 acres.

(F) The maximum area of the *mobile home park* including *roads* and *open space* will not exceed 25 acres.

(G) All utilities within the *mobile home park* will be underground.

(H) A minimum of 4,000 square feet or 100 square feet per unit of common recreation area, whichever is greater, will be provided.

(I) No individual *mobile home* space will have direct access onto a public or *private road* outside the *mobile home park*. Each *mobile home* space will have direct access to an internal road.

(J) Storage of unoccupied and/or damaged *mobile homes* is prohibited.

(K) The *mobile home park* will not be visible year round from adjacent properties and the public road.

(L) A minimum 20-foot vegetative *screen* is provided between the *mobile home park* and adjacent properties and the public road.

(M) The *mobile home park* has direct access onto a public road

(N) A single mobile home on a site is not eligible to be a mobile home park.

102. Modular *building* sales. Such use does not include the storage of modular *buildings.*

103. Multi-*Family* and *Two-Family Dwelling*s in AZD. Such uses will be permitted only when all of the following conditions are satisfied:

(A) The multi-*family* or *two-family dwelling*s existed on the property prior to August 1, 1989;

(B) The sale or lease of at least 50% of the multi-*family* or *two-family dwelling*s is restricted to an amount affordable to individuals or families earning no greater

than 100% of the County median income as determined by the United States Census Bureau;

(C) The *dwelling*s are served by public water and sewerage service;

(D) The minimum *site* area will be five (5) acres; and

(E) If *subdivision* approval is sought: (1) minimum *lot* size, *setback* and *yard* requirements, maximum height of *structure*s, and *off-street parking* requirements will be determined by the *Planning Commission*; (2) *open space* will be provided as required in Article IV; (3) *forest conservation* requirements will be satisfied; and (4) *site* access standards will be met in so far as possible.

104. *Multi-family dwelling*s. Such uses are subject to *site plan* review.

105. Multi-Family and Two-Family Dwellings in AZD. Such uses will be permitted only when all of the following conditions are satisfied:

(A) The multi-family or two-family dwellings existed on the property prior to August 1, 1989;

(B) The sale or lease of at least 50% of the multi-family or two-family dwellings is restricted to an amount affordable to individuals or families earning no greater than 100% of the County median income as determined by the United States Census Bureau;

(C) The dwellings are served by public water and sewerage service;

(D) The minimum site area will be five (5) acres; and

(E) If subdivision approval is sought: (1) minimum lot size, setback and yard requirements, maximum height of structures, and off-street parking requirements will be determined by the Planning Commission; (2) open space will be provided as required in Article IV; (3) forest conservation requirements will be satisfied; and (4) site access standards will be met in so far as possible.

106. Multi-level boat storage. Such use will be permitted as a special exception only when all of the following conditions are satisfied:

(A) The use excludes dinghy storage.

(B) The *building* is enclosed on three sides.

(C) The open end of the *building* does not face the road.

(D) The *building* is 100 feet from all property lines.

(E) The *building* does not exceed 55 feet in height, 100 feet in length, and 6,000 square feet in ~~size~~ ground floor area.

(F) Trailers are not stored on the *premises*.

(G) Appropriate sanitary and pump out facilities are available on *site*.

(H) Boat ramps, lifts, railways, or other facilities for access to the water are available on *site*. In no case will a boat cross a public road to access the water.

107. Neighborhood retail businesses in the Village and Intense Village districts. Neighborhood retail businesses are those businesses which supply household commodities on the *premises* such as groceries, meats, dairy products, baked goods, or other foods, drugs, notions, flowers or hardware. All retail sales will be conducted entirely within a *building*, except where otherwise approved by the *Planning Commission*. Other uses and *structures* which meet the criteria specified above may be approved by the Department. Neighborhood retail businesses will require a *site plan*. All neighborhood retail business *buildings* are limited to a footprint of 10,000 square feet.

108. *Off-street parking* and loading, including the parking of commercial vehicles related to the operation of an *on-site* business.

109. Offices. Such uses are subject to *site plan* review~~. In the EC District, where offices have a single building footprint of 10,000 square feet or greater, such use will be considered a principal use; in the EC District, where offices have a single building footprint of less than 10,000 square feet, such use will be considered an accessory use~~.

110. Outdoor entertainment.

111. Outdoor recreation, miniature golf, but not golf courses.

112. Parking of commercial vehicles on a farm. Such uses will be permitted as accessory uses only when all of the following conditions are satisfied:

(A) The vehicles are related to the operation of the *farm* or three non-*farm* related vehicles.

(B) The vehicles are parked around existing *buildings*. Non-*farm* related vehicles cannot be parked on *farms* without *buildings*.

(C) The vehicles have current licenses and are operable.

113. *Personal* service establishments. For the purposes of this ordinance, such uses will mean those which perform services on the *premises* for *person*s residing in adjacent residential areas such as shoe repair, dry cleaners, tailors, *laundromats*, beauty parlors, barber shops, and the like. All *person*al service uses will be conducted entirely within a *building*. Other uses and *structures* which meet the criteria specified above may be approved by the ~~Zoning *Administrator*~~Department. *Person*al service activities require *site plan* review.

114. *Personal* wireless facilities, collocated on existing towers. Such uses will be collocated on existing towers, water towers, electrical transmission towers, fire towers, silos, grain dryers, or other *structure*s. The height of the existing *structure* will not be above that permitted by this Ordinance.

115. *Personal wireless facility towers*, commercial radio, and television towers. Such uses will be permitted as special exception only when all of the following conditions are satisfied:

(A) The *applicant* demonstrates that the alternatives of consolidating the facility on an existing tower *structure* or incorporating the facility on a *structure* or water tower have been fully exhausted.

(B) The *applicant* demonstrates a public need for the tower.

(C) As part of applications for *personal wireless facility towers* only, the *applicant* demonstrates a comprehensive approach to facilities with a goal of minimizing the number of *sites* required.

(D) The height of the tower, including antennas and appurtenances will not exceed 199 feet unless a *variance* is granted.

(E) All towers and their accessory *buildings* will comply with the *building setback* provisions of the applicable zoning district. In addition, the minimum from the ground base of any tower to any property line, road, or public recreational area will be the height of the tower including any antennas or other appurtenances. This *setback* is considered a "fall zone." The Board of Appeals may reduce the fall zone by 50% of the required distance if it finds that a substantially better design will result from such a reduction. In making such a finding, the Board will consider both the visual and safety impacts of the proposed use.

(F) Monopoles or lattice towers will be the preferred tower *structure* in the County.

(G) The appearance of the tower *structure* will be minimized by the reasonable use of commercially available technology to reduce visual impact, with specific reference to size, color, and silhouette properties.

(H) Equipment shelters will be designed consistent with traditional Eastern Shore *architect*ural styles and materials with a pitched roof of at least 10/12. The shelters will be camouflaged behind an effective year-round *buffer* of existing dense vegetation that exceeds the height of the proposed *buildings*. The *Planning Commission* may ~~waive~~set aside the requirements for shelter design when it finds that the existing vegetation will provide adequate year-round *screen*ing of the *buildings*.

(I) The tower will be *site*d within or adjacent to mature dense *tree* growth and under*story* vegetation that provides an effective year-round visual *buffer* and should only be considered elsewhere on the property when technical or aesthetic reasons indicate there are no other preferable locations. Where necessary, the Board will require the installation of a vegetated *buffer* of sufficient height and depth to create an effective year-round visual *buffer*.

(J) Towers will be lit only if required by the FAA. Lighting of equipment shelters and other facilities on *site* will be shielded from other properties.

(K) Sign*s* will be limited to identify the property owner, emergency contact, and to warn of danger.

(L) As part of applications for *personal wireless facility towers* only, ~~A~~a tower will not be within a 5-mile radius of any existing towers used for *personal wireless facilities* unless the *applicant* demonstrates a public need due to capacity or other service limitations.

~~The special exception will be valid for a period of five years from the date that the decision of the Board of Appeals is signed.~~

(M) The tower will be used continuously ~~for *personal wireless communications*~~. In the event the tower ceases to be used for ~~*personal wireless communications*~~ for a period of six months, the approval will terminate. The property owner will insure the tower removal within ninety days after the termination.

~~After the *personal wireless facility* is operational, the *applicant* will submit, within 90 days of beginning operations, and at annual intervals from the date of approval of the special exception, a report listing the carriers using the facilit~~.

(N) The facility will comply with all FCC and ANSI standards.

(O) The *applicant* will demonstrate that a tower will not unreasonably interfere with the view of, or from, *sites* of significant public interest such as public parks, a national or state designated scenic byway, a *structure* listed in the Kent County Historic *Site*'s survey, an historic district, or the Chesapeake Bay and its tributaries.

(P) All applications for approval of a ~~*personal wireless facility*~~ *tower* will include:

i. A description of the facility and proposed licensed carriers. A licensed carrier will be the *applicant*, the co-*applicant*, or have a binding agreement with the tower company.

ii. Coverage maps showing the area to be served by the proposed facility and the coverage available under existing facilities, approved facilities, and other appropriate *structure*s.

iii. A master plan of the *applicant*s proposed communications network for the entire county.

iv. Siting elevations, existing photography, and a photo simulation from all directions.

v. Coverage, interference, and capacity analysis. The Director of Emergency Management ~~will~~ may review the interference analysis.

vi. A copy of all reports required by or provided to the Federal Communications Commission including, but not limited, to the Environmental Assessment, NEPA Review, and SHPO Review.

vii. Computer modeling used in selecting the *site*.

viii. A narrative that explains how the *site* will not unreasonably interfere with the view of, or from, *site*s of significant public interest such as public

parks, a national or State designated scenic byway, a *structure* listed in the Kent County Historic *Site*'s survey, an historic district, or the Chesapeake Bay and its tributaries.

116. Printing and publishing. Such use will be permitted as a special exception only when ~~all of the following conditions are satisfied:~~ the operation is in compliance with the *regulations* of the State of Maryland.

117. *Private club*s. When located in the RCD, such uses will be limited to 15% ~~*impervious surface*~~*lot co~~e~~verage*.

118. *Private destination/residence club*s in the Marine zoning district only. Such uses are subject to the following conditions:

(A) The aggregate Marine zoned property will consist of four (4) or more acres.

(B) The facilities for such overnight accommodations will pay the appropriate County taxes,including taxes payable under Chapter 152 of the Code of Public Local Laws of Kent County.

(C) The facilities for overnight accommodations will use a reservation system.

(D) Permitted *accessory use*s may include clubhouse, *restaurant*s, cafés or other dining facilities; bars, pubs or taverns; recreational facilities, such as tennis courts, *swimming pool*s, and spas and other *accessory use*s that are customarily associated with a lodging facility. The permitted *accessory use*s will not include trap, skeet, clay birds, paint ball, or other similar firearm activities. The *applicant* will describe all proposed *accessory use*s in the application for *site plan*. Recreational facilities will be at least twenty-five (25) feet from the nearest property line.

(E) Where they exist, listed *historic structures* will be incorporated into the overall project.

(F) Significant view corridors, both from the *site* and onto the *site*, will be preserved as far as possible.

(G) The height of all *structure*s will not exceed thirty-eight (38) feet.

(H) Parking *lot*s will be landscaped as required for commercial *development*s per Article V of this Ordinance.

(I) The approval of such a facility for overnight accommodations will not impose restrictions that will preclude the use of the *marina* and property for commercial marine uses permitted in the Marine Zoning District, including boat *building*, storage, and repair; however, the continuation of these uses will not be required. The maintenance and continuation of boat *slip*s will be required.

(J) The County may require connection to a public sewer system, if and when such system is available.

(K) *Campground*s, mobile homes, *recreational vehicle* and *manufactured home* parks will not be considered private destination or residence clubs.

119. *Private garages*, *swimming pools*, game courts, and other customary residential outbuildings and *structures*. Such uses will be permitted as accessory uses only when all of the following conditions are satisfied:

(A) On parcels less than five acres, accessory ~~storage~~ *structures* do not exceed ~~1,200~~2,000 square feet ~~and~~ or ~~a height of 17 feet~~the height of the primary residential structure. Where an accessory ~~storage~~ *structure* is proposed to exceed ~~1,200~~2,000 square feet or ~~a height of 17 feet~~the height of the primary residential structure on a parcel of less than five acres, it may be permitted if granted an administrative special exception.

(B) Accessory sheds may be located in the rear yard of a waterfront property, no closer than five feet to any road, via an administrative special exception.

(C) Swimming pools, swimming pool equipment, and related structures may be located in the front yard of a waterfront property and may be permitted without submittal for an administrative special exception.

120. Private *pier*s, *community piers*, and private shared *pier*s. Such uses will be permitted as accessory uses only when all of the following conditions are satisfied:

(A) The private *pier, community pier, or* private shared *pier* does not ~~to~~ exceed 25% of the width of the *waterway*, the edge of the *channel*, or 150 feet in length, whichever is less.

(B) The private *pier, community pier, or* private shared *pier* is subject to the stipulations of Article VI of this Ordinance.

(C) *Regulations* governing *community piers* may be found in Article VI.

121. Private schools.

122. Production of biofuels. Such use will be permitted as special exception only when all of the following conditions are satisfied:

(A) The facility will be located within ~~2½ miles of~~the US Route 301 Corridor.

(B) The *applicant* demonstrates a clear, identifiable market for the byproducts of the facility.

(C) The operation does not disturb the minimum 100-foot *buffer* or *stream protection corridor.*

(D) The operation does not adversely affect a non-*tidal wetland* directly or hydrologically.

(E) To assure continued compatibility with the surrounding area, the Board may place additional restrictions on the following:

i. *Screen*ing and landscaping from adjacent properties and public *roads.*

ii. Exterior displays, lighting, and signs.

iii. The location of access routes to the *site*, both onsite and *off-site.*

123. Public and private *forests*, wildlife reservations, and similar conservation projects.

124. Public and private parks and playgrounds for the purpose of conserving and enjoying natural resources. For the purposes of this Ordinance, such uses will include both active and passive parks owned and operated by Kent County, the State of Maryland, or federal government, but will not include~~ing~~ any commercial play fields for football, baseball, and any other major sports activities such as motocross or drag racing fields. These latter uses are prohibited throughout Kent County.

125. *Public landings*. Such uses will be permitted as special exception only when all of the following conditions are satisfied:

(A) Adequate sanitary facilities exist.

(B) Service facilities are to the extent possible outside the 100-foot *buffer*.

(C) Permeable surfaces are used to the extent practicable, if no degradation of groundwater would result.

(D) Disturbance to *natural vegetation* is minimized.

(E) Areas for passive recreation, such as nature study, and for education, may be permitted in the *buffer* within the Resource Conservation Areas, if service facilities for these uses are outside the *buffer*.

126. Public uses, *buildings*, and *utilities*. Public *buildings* include but are not limited to schools, offices, parks, playgrounds, and *roads* funded, owned, and operated by local, State, or federal agencies. *Public utilities* are water, sewer, electric, gas, oil, and communication facilities owned and operated by the Kent County Department of Public Works or another public utility. *Public utilities* improvements located on sites and in the public rights-of-way include substations, poles, lines, transformers, underground pipes, meters, treatment facilities, pumping stations, and appurtenances but not overhead transmission towers. ~~Power plants and the like are not permitted.~~ The following items require *site plan* review: schools, offices, playgrounds, treatment facilities, water towers, substations, and transformers; distribution/transmission improvements do not require special exceptions.

127. Public utility *buildings*, *structures*, water treatment plants, and transmission lines in Employment Center and ECCA. Such uses do not include *transportation facilities* and *utility transmission facilities*, except those necessary to serve permitted uses, or where regional or interstate facilities will cross tidal waters (*utility transmission facilities* do not include power plants); and such uses do not include permanent sludge handling, storage, and disposal facilities, other than those associated with wastewater treatment facilities. However, agricultural or horticultural use of sludge under appropriate approvals when applied by an approved method at approved application rates may be permitted in the *Critical Area*, except in the 100-foot *buffer*.

128. *Public utility lines and accessory structures* in Marine districts. Such uses will comply with the following conditions:

(A) The *structure*s are *screen*ed from the road and adjacent properties; and

(B) In so far as possible, *structure*s are located to maintain significant views; and

(C) In so far as possible, *structure*s are not visually intrusive to the neighborhood.

129. Pubs, taverns, and bars, including open air facilities. Such uses will be permitted as special exception only when all of the following conditions are satisfied:

(A) The project is designed to minimize impact on neighboring properties, particularly residential properties either with *open space*, landscaping, or *structure* design.

(B) Measures are taken to limit any adverse effects of the use on *development* of the surrounding area due to noise, odor, traffic, lights, or any other reason.

(C) Loading areas, dumpsters, and other unsightly *site* elements will be *screen*ed from adjacent properties and the public view.

130. Radio and television towers, commercial. See *personal wireless facility towers.*

131. Railroad *right of ways.* Such use includes a strip of land with tracks and auxiliary facilities for track operations; but such use does not include passenger stations, freight terminals, switching and classification *yard*s, repair shops, round houses, interlocking towers, and fueling, sanding, and watering stations. Such use will be permitted in the RCD only when such use existed as of April 12, 1988.

132. Recreational facilities, privately or commercially owned. Such uses do not include major sports arenas for football, baseball, drag racing, motocross, or other major sports activities. These latter uses are prohibited throughout Kent County.

133. Recreational uses, indoor, commercial. Such use includes game courts, *swimming pools*, and other like recreational facilities and is subject to *site plan* review.

134. *Resorts.* Such uses will be permitted as special exception only when all of the following conditions are satisfied:

(A) The parcel(s) on which the *resort* is proposed will be at least 250 acres.

(B) The *resort* will not exceed 750 acres.

(C) The *resort* has at least 40 but not more than 225 guest rooms.

(D) The project includes a regulation par 72, 18-hole golf course. The golf course will meet all the requirements found in this Ordinance.

(E) Permanent theme parks, amusement parks, and/or stadiums are prohibited.

(F) Where applicable, the *applicant* has applied for growth allocation from the County. Special exception approval will not be valid without the granting of growth allocation.

(G) The Board will make specific findings on the availability of public and governmental services.

(H) Where they exist, *historic structures* will be incorporated into the overall project.

(I) Significant view corridors, both from the *site* and onto the *site* will be preserved in so much as possible.

(J) The height of all *structures* will not exceed 38 feet.

(K) The design of the *resort* and *accessory uses* will reflect and complement the rural character of the area.

(L) The number of *dwelling units* will not exceed that which is permitted in the applicable zoning district. *Dwelling units* may be detached or attached.

(M) Continuous residential *lot development* aligned with golf course fairways will be prohibited within the *Critical Area* and discouraged elsewhere.

(N) Parking *lot*s will be landscaped as required for commercial *development*s in Article V of this Ordinance.

(O) Permitted *accessory uses* include *restaurants*, recreational facilities such as tennis courts and *swimming pools*; spas; retail use provided the establishments are in the main *building* with the entrance to the retail use from the inside the *building*; stables, equestrian center, other recreation amenities but not including trap, skeet, clay birds, paint ball or other similar firearm activities, *piers* and; other *accessory uses* that are customarily associated with a *resort*. The *applicant* will describe all proposed *accessory uses* in the application for a special exception. The Board of Appeals may deny or limit the size and extent of *accessory uses*.

(P) The number of *slips* on the accessory *pier* is limited to 25% of the number of guest rooms and is limited to use by those using the *resort* facilities. Accessory *piers* will meet all requirements applicable to *marinas* such as pump outs, restrooms, and showers.

(Q) All *structures* will comply with the minimum 100-foot *buffer* from mean high tide and 500 feet from all side and rear property lines whichever is greater.

(R) In RCD, RC, RR, and CAR at least 60% of the property will be in *open space*. A golf course will be considered *open space*. However, additional *open space* beyond that provided by the golf course is required.

(S) The Board of Appeals may place additional restrictions on the following:

i. Additional *yard* requirements for all *structure*s, including patios, and places of public assembly

ii. Lighting

iii. Landscaping and *screen*ing

iv. Outdoor activities, outdoor music, and their hours of operation

v. Access

(T) Application for a *resort* will include a sketch plan and renderings of all primary and each type of *accessory structure*.

135. *Restaurants* without drive through facilities. Such uses are subject to *site plan* review.

136. Restaurants with drive through facilities in the Route 301 Corridor. Such uses are subject to special exception use approval by the Planning Commission and the Board of Appeals.

137. Retail businesses with less than 60,000 square feet of gross floor area. Such uses will be permitted only when all of the following conditions are satisfied:

(A) All retail sales and/or storage will be conducted entirely within a *building* except where otherwise approved by the *Planning Commission* on a *site plan*.

(B) The *building* size does not exceed 60,000 square feet ~~in size~~of gross floor area~~. The restriction on *building* size does not apply to the Commercial *Critical Area* District in the Route 301 corridor~~.

(C) In the M District, such uses will be accessory to a principal use and may include the sale of groceries, beverages, food, clothing, marine supplies, and similar products.

138. Retail businesses with more than 60,000 square feet of gross floor area. Such uses will be permitted as special exception only when all of the following conditions are satisfied:

(A) The proposed *development* will not adversely affect existing commercial centers and businesses as demonstrated by an economic impact study.

(B) The traffic impact will not lower the level of service more than one level of service or in any case below Level of Service C as demonstrated by a traffic impact study.

(C) The proposed *development* will not adversely affect the environment as demonstrated by an environmental impact study.

(D) All retail sales and/or storage will be conducted entirely within a *building* except where otherwise approved by the *Planning Commission*

(E) The *Planning Commission* has reviewed the preliminary *site plan*.

(F) The Board of Appeals may place additional restrictions on the following:

i. Additional *yard* requirements for all *structures*.

ii. Lighting

iii. Landscaping and *screen*ing

iv. Access

(G) The application will include a preliminary plan and renderings of all primary and *accessory structures*.

139. Retail businesses located within the Route 301 Corridor are permitted without size limits.

140. Retail nurseries and greenhouses.

141. Retail sales of products produced *on-site* in the Employment Center and ECCA.

142. *Retreats.* Such uses will be permitted as special exception only when all of the following conditions are satisfied:

(A) The project will collectively consist of at least 15 acres.

(B) In AZD, the *retreat* uses *buildings* that existed prior to August 1, 1989. *Buildings* are limited to a 50% expansion of the gross *floor area* of each individual *building* above that which existed as of August 1, 1989.

(C) The *retreat* has at least 10 but not more than 40 guest rooms.

(D) Permanent theme parks, amusement parks, and/or stadiums are prohibited.

(E) Where applicable, the *applicant* has applied for growth allocation. Special exception approval will not be valid without the granting of growth allocation.

(F) The Board will make specific findings on the availability of public and governmental services.

(G) Where they exist, *historic structures* will be incorporated into the overall project.

(H) Significant view corridors, both from the *site* and onto the *site* will be preserved in so much as possible.

(I) The height of all *structures* will not exceed 38 feet.

(J) The design of the *retreat* and *accessory uses* will reflect and complement the rural character of the area.

(K) One residential unit for use by an employee of the *retreat* may be provided.

(L) Permitted *accessory uses* include kitchen and dining facilities for guests only, recreational facilities such as tennis courts and *swimming pools*; spas; other recreation amenities but not including trap, skeet, clay birds, paint ball or other similar firearm activities, *piers*; and other *accessory uses* that are customarily associated with a *retreat*. The *applicant* will describe all proposed *accessory uses* in the application for a special exception. The Board of Appeals may deny or limit the size and extent of *accessory uses*.

(M) The number of *slips* on an accessory *pier* may not exceed 5.

(N) The *retreat* will be limited to 10 *buildings*. In AZD, the *retreat* is limited to existing *buildings*.

(O) All *structures* will comply with the minimum 100-foot *buffer*. Primary *buildings* will be 100 feet from all property lines or comply with the minimum 100-foot

buffer, whichever is greater. *Accessory structures* may be 5 feet from the rear or side property line.

(P) At least 60% of the property will be in *open space*.

(Q) Parking *lot*s will be landscaped as required for commercial *development*s in Article V of this Ordinance.

(R) The Board of Appeals may place additional restrictions on the following:

i. Additional *yard* requirements for all *structures*, including patios and places of public assembly

ii. Lighting

iii. Landscaping and *screen*ing

iv. Outdoor activities and outdoor music and their hours of operation

v. Access

(S) The application for a *retreat* will include a sketch plan and renderings of all primary and each type of *accessory building* and *structure*.

143. Rifle and pistol ranges. Such uses will include trap and skeet shooting, sporting clays, or similar activities such as paint ball, and may include accessory snack bars and retail sales of shooting supplies and equipment, commercial or *private club.* Such uses will be permitted as special exception only when all of the following conditions are satisfied:

(A) The surrounding area is predominately undeveloped.

(B) Such uses will be for the period of time as determined by the Board. However, outdoor night shooting is prohibited at rifle and pistol ranges.

(C) Proposed *accessory uses*, such as stores, snack bars, and *recreational vehicle* parking are included in the application and specifically approved by the Board.

144. *Roadside stand*s. Such uses will be permitted as accessory uses only when all of the following conditions are satisfied:

(A) Such *roadside stands* offer for sale only locally grown fresh agricultural products in season.

(B) Such *roadside stands* are operated by the owner, lessee, or *tenant* of the *premises* upon which such stand is located.

(C) Adequate *off-street parking* will be provided.

(D) Such stands will be completely removed at the end of the local fresh produce season.

145. Rooming, boarding, and *lodging house*s.

146. *Rural inns.* Such uses will be permitted as special exceptions only when all of the following conditions are satisfied:

(A) The project will collectively consist of at least 20 acres.

(B) In AZD, the *Rural Inn* uses *building*s that existed prior to August 1, 1989. *Building*s are limited to a 50% expansion of the gross *floor area* of each individual *building* above that which existed as of August 1, 1989.

(C) The *Rural Inn* has at least 10 but not more than 25 guest rooms. Overnight lodging will not exceed 45 conse*cut*ive days.

(D) Permanent theme parks, amusement parks, and/or stadiums are prohibited.

(E) The Board will make specific findings on the availability of public and governmental services.

(F) Where they exist, *historic structures* will be incorporated into the overall project.

(G) Significant view corridors, both from the *site* and onto the *site* will be preserved in so much as possible.

(H) The height of all *structure*s will not exceed 38 feet.

(I) The design of the *Rural Inn* and *accessory use*s will reflect and complement the rural character of the area.

(J) Two residential units for use by employees of the *Rural Inn* may be provided.

(K) Permitted *accessory use*s include kitchen and dining facilities. Dining facilities may be provided to patrons in addition to guests registered for overnight lodging provided seating will not exceed 40 seats over and above those seats needed to accommodate the maximum number of lodging guests based on two (2) individuals per room; recreational facilities such as tennis courts and *swimming pool*s; other recreational amenities but not including trap, skeet, clay birds, paint ball or other similar firearm activities; and other *accessory use*s that are customarily associated with a *Rural Inn*. The *applicant* will describe all proposed *accessory use*s in the application for a special exception. The Board of Appeals may deny or limit the size and extent of accessary uses.

(L) The *Rural Inn* may not exceed 15 *building*s. In AZD, the *Rural Inn* is limited to existing *building*s.

(M) At least 60% of the property will be in *open space*.

(N) Parking *lot*s will be landscaped as required for commercial *development*s in Article V of this Ordinance.

(O) All *building* associated with the principal uses of the *Rural Inn*, as well as the permitted *accessory use*s listed in paragraph (k) of this subsection, will be a minimum of 100 feet from all property lines.

(P) The Board of Appeals may place additional restrictions on the following:

i. Additional *yard* requirements for all *structure*s, including patios and places of public assembly

ii. Lighting

iii. Landscape and *screen*ing

iv. Outdoor activities and outdoor music and their hours of operation

v. Access

vi. Location and hours of operation of kitchen and dining facilities open to the public

(Q) The application for a *Rural Inn* will include a sketch plan and renderings of all primary and each type of accessory *building* and *structure*.

147. Sand and gravel pits, *excavation,* or extraction. Such use does not include the removal of sod, and *excavation* for foundations, *swimming pools*, *soil* and water conservation practices, and those removals approved in connection with *farm* use, *street* construction, *subdivision* or planned residential *development*. Such use will be permitted as special exception only when all of the following conditions are satisfied:

~~The special exception will be for a period not to exceed five years~~

(A) Material is not brought from *off-site* for processing, mixing, or similar uses

(B) The *excavation* or extraction operation will be controlled to offer reasonable protection to surrounding properties and the neighborhood, particularly as regards to use of residential *streets* for access to the *site*.

(C) There are no known threatened or *endangered species*, areas of specific value, or rare assemblages of species or other vital habitat at the *site*.

(D) In RCD and CAR, *highly erodible soils* are not disturbed at the *site*.

(E) The operation will not disturb for future use prime agricultural lands or *forest* and *developed woodlands* of more than one acre.

(F) The operation will not de*grade* water quality.

(G) The operation does not disturb the minimum 100-foot *buffer* or *stream protection corridor*.

(H) The operation is under an approved operating and restoration plan from the State of Maryland.

(I) The operation does not adversely affect a *non-tidal wetland* directly or hydrologically.

(J) The location of the *excavation* or extraction with respect to property lines, the depth of *excavation*, and relation to the water table or *flood* criteria and the *slope* of the sides of the *excavation* will be controlled to prevent a continuing, unsightly, hazardous, or wasteful condition of the land.

148. *Sanitary landfill* or rubblefill. Such use will be permitted as a special exception only when ~~the following condition is satisfied:~~ the use is owned or managed by Kent County in AZD and provides a 100-foot-deep vegetative *screen* along all property lines.

149. Satellite dish, private, with an antenna exceeding 3 feet in diameter. Such use will be permitted as an accessory use only when all of the following conditions are satisfied:

(A) No antenna will exceed an overall diameter of 12 feet or an overall height of 15 feet above *existing grade*.

(B) The antenna will be permanently ground-mounted. An antenna will not be installed on portable or moveable *structures*.

(C) The antenna will be totally *screen*ed along the non-receptive axis, and low-level ornamental landscaping will be installed along the reception window axis of the base of the antenna. *Screen*ing may consist of fencing or a variety of plant types. *Screen*ing may be ~~waived~~set aside when the antenna is located 100 feet from all property lines, or the antenna is ~~of a nature that is~~ not visible or intrusive to the neighborhood.

(D) In, RC, CAR, and CR: The final installation should be blended carefully with the surrounding landscape~~ and not appear as an obvious attempt at camouflage~~.

150. Satellite dish, private, with an antenna of 3 feet or less in diameter. Such use will be permitted as an accessory use only when all of the following conditions are satisfied:

(A) Satellite dish use will not be installed on portable or movable *structures.*

(B) In the RCD, the satellite dish is located only in the *rear yard*.

151. *Sawmills*, temporary, for cutting timber grown on the *premises.*

152. School bus parking *lot.* Such use will be permitted as special exception only when all of the following conditions are satisfied:

(A) No part of the school bus parking facility will be in the 100-year *floodplain*.

(B) Areas for school bus parking, fueling, or repair are a minimum of 100 feet from any residence.

(C) Areas for school bus parking are 100 feet from *wetlands*.

(D) Areas for school bus repair are enclosed in a *building*. Outdoor repair or storage of materials or products is prohibited.

(E) All buses will have current licenses and be operable.

(F) The Board determines that all access *roads* are capable of handling the traffic generated and that a safe route for school buses traveling to and from the facility is provided.

(G) Areas for parking and cartways are paved.

(H) The *site* is *screen*ed from adjacent properties and public *roads*.

(I) Adequate restroom facilities will be provided.

153. School buses, limited to five on farms in AZD. Such uses will be permitted as accessory uses only when ~~all of the following conditions are satisfied: T~~the buses are parked around existing *buildings*~~;~~ and the buses have current licenses and are operable.

154. School buses, limited to two, parked. Such uses will be permitted as accessory uses only when all of the following conditions are satisfied:

(A) The school buses are parked only in the *rear* or *side yard* of the *dwelling* or *dwellings* on the lot.

(B) The school buses are owned or operated by the occupants of the *dwelling* or *dwellings* on the lot.

(C) The school buses have current licenses and are operable.

(D) In the AZD, RCD, RC, CAR, CR, V, and IV Districts, the number of school buses parked per lot is limited to two.

(E) In the C District, the number of school buses parked per lot is limited to three.

155. Seafood processing. Such use includes wholesale and retail sales of seafood products. Such use will be permitted as special exception only when all of the following conditions are satisfied:

(A) Open or uncovered storage of shells, bones, and refuse does not occur on *site*.

(B) No curing or smoking occurs on *site*.

(C) All *structures* for processing and all disposal areas for materials and byproducts of processing are a minimum of 300 feet from all property lines and 600 feet from residential district boundaries.

(D) Seafood processing facilities and disposal areas are not in the *100-year floodplain*.

(E) The operation is managed according to a management plan approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department.

(F) Parking, processing, and disposal areas are *screen*ed from adjacent properties and public *roads*.

(G) Access *roads* are capable of handling the type of traffic generated by the operation.

156. Self-storage. Self-storage uses will be permitted only when all of the following conditions are satisfied:

(A) In the V District, no self-storage use may have more than 30 self-storage units in 1 *building,* and no self-storage unit may exceed 100 square feet of floor space; and

(B) In the V District, any property used for self-storage will front on 2 public *roads*; and

(C) The front façade of the center and any other façade visible from adjoining public *roads* will reflect the scale, materials and design features common to residential or *historic structures* in the County; and

(D) Self-storage uses are subject to *site plan* review.

157. Septic tank maintenance and excavation.

~~*Sewage sludge land application.* Such use will be permitted as special exception only when all of the following conditions are satisfied:~~

~~(A) Prior approval by the Maryland Department of the Environment pursuant to the Annotated Code of Maryland and the COMAR *regulations*, as amended, will be obtained. Any conditions imposed by the Maryland Department of the Environment will be made a part of any approval by the Board of Appeals.~~

~~(B) No land application will be permitted within the environmental quality corridor designated on the Land Suitability Maps of Kent County, Maryland. (These maps are on file in the Kent County Department of Planning and Zoning.)~~

~~(C) An approved conservation plan for such sludge application, using the universal *soil* loss equation for computation of *soil* loss, will be on file with the Natural Resources Conservation Service of Kent County and implemented.~~

~~(D) The *applicant* will prepare an environmental impact statement and submit it with the application. This statement will include, but is not limited to:~~

~~i. A *site plan* as required in Article IV of this Ordinance.~~

~~ii. Description of the project, including application rates, *soil* conservation measures, sludge source, means of transportation to the *site*(s), biological and chemical composition of the sludge as determined by the State Department of Agronomy and a comparison to the existing maximum concentrations and limits of its contents according to the Maryland Department of the Environment permissible limits, applicable methods, and the name of the contractor who will apply the sludge.~~

~~iii. An analysis of the project's short- and long-term positive and negative environmental impacts relating to but not limited to ground water quality, surface water runoff, *sediment* transport, *soil* chemistry, heavy metals, pathogens, toxic organics, odor, and wildlife.~~

~~iv. A monitoring program to ensure uniform methods of application and the nature of sludge material as approved by the Board. The program will also provide data on *soil* pH, ground water, and surface water conditions using the American Water Works Association method or other approved standard or scientific method.~~

~~v. Description of all permits required by federal, State, and local agencies and their status.~~

~~(E) A system of test wells and surface water testing stations is installed to provide data on surface water and ground water conditions. A surface and ground water monitoring program is to be initiated prior to land application to provide base line data. There will be a minimum of one ground water monitoring well and one surface water quality testing station per drainage sub-basin. The Board may require additional wells or stations. The adequacy of all monitoring facilities is to be determined by the Board who may request the assistance of the County's technical planning staff. The *applicant* will provide suggested locations and number of monitoring facilities which the *applicant* feels are adequate and in the best interest of pursuing the monitoring function outlined in this section.~~

~~(F) Land application will be carried out using only those types of equipment which will result in a uniform application of sludge. Any such equipment will have calibration capability.~~

~~(G) A sludge storage facility may be approved when the capacity of the storage facility does not exceed one half (½) of the annual total volume approved by the Maryland Department of the Environment. The facility may only be used for the storage of *sewage sludge* to be applied on the fields delineated within the application. The storage facility will be a minimum of 1,000 feet from the nearest residence and 200 feet from the property lines.~~

~~(H) The Zoning *Administrator* may take *on-site* samples of sludge from transport trucks or the land. The Zoning *Administrator* is to be notified at least 3 days prior to the initiation of the land application of sludge.~~

~~(I) A manifest is to accompany each truck load of *sewage sludge* and will include the following information:~~

~~i. Origin of sludge~~

~~ii. Amount of sludge~~

~~iii. Most recent official analysis of sludge~~

~~(J) The manifest will be delivered to the Zoning *Administrator* within 7 days of delivery of the sludge to the *site*.~~

~~The special exception will be reviewed on a yearly basis.~~

158. Short-term vacation rentals (STVR). Kent County hotel rental taxes will be paid for each unit, and the required quarterly report will be filed by any establishment that provides sleeping accommodations for compensation for a period not exceeding 4four months.

159. *Single family dwellings*

(A) Factory-constructed or prefabricated homes including manufactured, modular, and mobile homes, when provided with permanent foundations; permanent connections to utilities; required fire sprinklers; and reviewed, inspected, and approved as buildings utilizing all life-safety codes, and which meet all required zoning and environmental regulations in this Ordinance, will be treated in the same manner as a site-built building.

(B) When special exception approval is required, such single-family dwellings may be reviewed via an administrative special exception process.

160. *Single family dwelling*, one per existing property, in Employment Center and ECCA, subject to the *yard* requirements found in the Agricultural Zoning District ~~in~~, provided however, that bona fide *intrafamily transfers* may be permitted ~~in the industrial district~~ (thus exceeding the one *single family dwelling* per existing property requirement) under the following conditions:

(A) The owner of the parcel or the proposed parcel will attest, in writing, to the bona fide *family* relationship and that the intent of the *subdivision*/use is not for ultimate transfer to a third party.

(B) Any deed for a *lot* that is created by a bona fide *intrafamily transfer* will contain the covenant stating that the *lot* is created subject to the provisions of this section and that the provisions of this section will control as long as the property continues to be zoned for industrial uses.

(C) A *lot* created by a bona fide *intrafamily transfer* may not be conveyed subsequently to any *person* other than a member of the owner's immediate *family* except under the following situations, as determined by the Kent County *Planning Commission*:

i. The *lot* was created as a part of bona fide *intrafamily transfer* and not with the intent of subdividing the original parcel of land for purposes of ultimate transfer to a third party; and

ii. The owner of the transferred property dies; or

iii. A change of circumstances has occurred since the original transfer was made that is consistent with the intent of this ordinance.

(D) This subsection will not prevent the conveyance of such a *lot* to a third party as security for a mortgage or deed of trust, or subsequent conveyances resulting from a foreclosure.

(E) The maximum *lot* size will be two acres.

(F) Any deed or *subdivision* plat for a *lot* created by a bona fide intra*family* transfer will contain a statement that the adjacent property is zoned for industrial uses.

(G) The parcel is created for the construction of a primary residence only.

(H) This provision applies to those individuals owning industrial zoned land prior to July 7, 1994. Subsequent owners of industrial zoned land will be limited to one *single family dwelling*.

161. Solar energy systems, small. Such uses will be permitted as accessory uses only when all of the following conditions are satisfied:

(A) *Tree* removal will be minimized, and any removal will be mitigated in accordance with the *Critical Area* Program requirements, or, if no *Critical Area* Program is in place in that location, *tree* removal will be mitigated at a ratio of one *tree* planted for each *tree* removed or as required in Article VI, whichever is greater.

(B) All solar collection devices will register with the Office of Emergency Services and will submit a map noting the location of the solar collection devices and the panel disconnect.

(C) The total height of solar collection systems will comply with the height requirements of the zoning district in which they are located.

162. Solar energy systems, utility scale in the Employment Center zoning district. Such uses will be permitted by right, but only when all of the following conditions are satisfied:

(A) A solar collection device or combination of devices are designed and located to avoid glare or reflection onto adjacent properties and adjacent *roadway*s and will not interfere with traffic or create a safety hazard.

(B) *Screen*ing, capable of providing year-round *screen*ing, is provided ~~along any side that does not provide solar collection~~per all the requirements in Article V.

(C) Roof-mounted solar collection devices will not extend more than ~~10~~ 15 feet from the top of the roof. The total height of the *building*, including the solar collection devices, will comply with the height *regulations*.

(D) Solar collection devices not mounted on roofs will not exceed 45 feet in height.

(E) All solar collection devices will register with the Kent County Office of Emergency Services and will submit a map noting the location of the solar collection devices and the panel disconnect.

(F) All solar energy systems will meet the Countywide standards in Article V.

Solar energy systems, utility scale, in the AZD and RCD will be permitted as special exception only when all of the following conditions are satisfied:

(A) The use takes place on a *farm*, as defined by this Ordinance.

(B) A solar collection device or combination of devices are designed and located to avoid glare or reflection onto adjacent properties and adjacent *roadway*s and will not interfere with traffic or create a safety hazard.

(C) *Screen*ing, capable of providing year-round *screen*ing, is provided ~~along all sides that do not collect energy~~per all the requirements of Article V.

(D) Roof-mounted solar collection devices will not extend more than ~~10~~15 feet from the top of the roof. The total height of the *building*, including the solar collection devices, will comply with the height *regulations* established for each zoning district.

(E) Solar collection devices not mounted on roofs will not exceed 38 feet in height.

(F) The solar collection system will be incidental to the use of the *farm*.

(G) Installation of the solar collection system will not adversely impact adjacent properties.

(H) All *structure*s associated with the solar collection system will be neither visually intrusive nor inappropriate to their setting.

(I) All solar collection devices will register with the Office of Emergency Services and will submit a map noting the location of the solar collection devices and the panel disconnect.

(J) Other than wire size, there will be no *alteration* of utility infra*structure* to accommodate the system.

(K) The area of ~~use~~ solar panel arrays may not exceed 5 acres ~~*onsite*~~. The area of the solar panel arrays shall be measured as the area within the solar panel arrays' security fence. Adjacent properties will not aggregate solar collection panels to achieve an area exceeding 5 acres.

(L) In AZD, only the five-acre maximum area of solar panel arrays, as measured in Subsection K. above, ~~developed by a *utility scale solar energy system*~~ is considered *development* and counted toward the maximum percentage of the property in *lot*s.

(M) *Tree* removal will be minimized, and any removal will be mitigated in accordance with the *Critical Area* Program and the Forest Conservation Act.

(N) The *applicant* will demonstrate that a *utility scale solar energy system* will not unreasonably interfere with the view of, or from, *site*s of significant public interest such as public parks, a national or state designated scenic byway, a *structure* listed in the Kent County Historic *Site* Survey, an historic district, or the Chesapeake Bay and its tributaries.

(O) All solar energy systems will meet the Countywide standards in Article V.

Solar energy systems, utility scale, in C, and CCA, will be permitted as special exception only when all of the following conditions are satisfied:

(A) A solar collection device or combination of devices are designed and located to avoid glare or reflection onto adjacent properties and adjacent *roadway*s and will not interfere with traffic or create a safety hazard.

(B) *Screen*ing, capable of providing year-round *screen*ing, is provided ~~along all sides that do not collect energy~~per all the requirements in Article V.

(C) Roof mounted solar collection devices will not extend more than ~~10~~15 feet from the top of the roof. The total height of the *building*, including the solar collection devices, will comply with the height *regulations* established for each zoning district.

(D) Solar collection devices not mounted on roofs will not exceed 45 feet in height

(E) All solar collection devices will register with the Office of Emergency Services and will submit a map noting the location of the solar collection devices and the panel disconnect.

(F) The *applicant* will demonstrate that a *utility scale solar energy system* will not unreasonably interfere with the view of, or from, *site*s of significant public interest such as public parks, a national or state designated scenic byway, a *structure* listed in the Kent County Historic *Site* Survey, an historic district, or the Chesapeake Bay and its tributaries.

(G) All solar energy systems will meet the Countywide standards in Article V.

163. Storage and office trailers, temporary during construction.

164. Storage of boats, campers, boat trailers, and camper trailers. Such use will be permitted as an accessory use only when all of the following conditions are satisfied:

(A) The storage is located in the *rear yard,* except that:

i. In the RCD and CAR Districts, the storage may be located on the waterfront side of the principal use; and

ii. Storage of boats in the buffer is permitted only if water-dependent to the subject site; and

iii. In the RC and RR Districts, the storage may be located in the *side yard.*

(B) The vehicle or trailer is titled under the name of the property owner or occupant.

(C) The vehicle or trailer is operable and has current licenses~~, if required~~.

165. Stores or shops for the conduct of retail sales in the Marine zoning district. Such use may include the sale of groceries, beverages, food, clothing, marine supplies, and similar shops and stores.

166. *Structures* for the buying, processing, and sale of animal products in AZD, commercial. Such use will be permitted as special exception only when all of the following conditions are satisfied:

(A) *Structure*s, *retention*, and disposal areas will be 600 feet from the nearest property line.

(B) The front of the *site* will be appropriately landscaped.

(C) All activities will be completely enclosed.

(D) The operation is managed according to a waste management plan approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department.

167. *Structures* for the buying, processing, and sale of non-animal *farm* products related to *agriculture of* no more than 10,000 square feet in floor area. Such use excludes any animal products but includes seed and fertilizer sales. The total square footage of the *buildings* occupied for such use will not exceed 10,000 square feet; the 10,000 square foot restriction applies only to those *structures* associated with the approved business and not to *structures* normally associated with permitted agricultural operations. *Structures* for the buying, processing, and sale of *farm* products are subject to *site plan* review by the *Planning Commission* or where applicable the Planning Director.

168. *Structures* for the buying, processing, or sale of non-animal *farm* products related to *agriculture*, over 10,000 square feet in floor area. Such uses may include the sale of fertilizer and seed but may not include animal products and may not exceed 50,000 square feet in floor area.

169. Temporary *MET Tower* of any height. Such use will be permitted as an accessory use only when all of the following conditions are satisfied:

(A) The tower is erected for no more than 12 months.

(B) Any free-standing *structure* is located a minimum of three times its total height from a property line.

(C) Towers are not readily climbable from the ground up to 12 feet.

170. Tie-out pilings of private *pier*s, *community piers*, and private shared *pier*s. Such uses will be installed at a distance not to exceed 25% of the width of the *waterway*, the edge of the *channel*, or 180 feet from the mean high-water mark, whichever is less, for the exclusive mooring use by tall ships as safe harbors from hurricanes and other severe weather-related threats. Such uses will be permitted as special exception only when all of the following conditions are satisfied:

(A) Private *pier*s, *community piers*, and private shared *pier*s in RCD and CAR are subject to the stipulations and *regulations* of Article VI of this Ordinance.

(B) No portion of a *pier* consisting of any combination of non-floating fixed platforms, and/or floating *structure*s, with decking extending out over the water to provide pedestrian access, may exceed 25% of the width of the *waterway*, the edge of the *channel*, or 150 feet in length, whichever is less.

(C) Any tie-out pilings installed more than 150 feet from the mean high-water mark will be for the exclusive mooring use by tall ships and for no other use.

(D) The term “tall ships” means any large traditionally rigged sailing vessels, including schooners, which are federally documented with home ports located in Kent County, Maryland.

(E) The term "hurricanes and other severe weather-related threats" means weather events which are the subjects of a Tropical Storm Watch, Tropical Storm Warning, Hurricane Watch, or Hurricane Warning issued by the National Oceanic and Atmospheric Administration.

171. Townhouses. Such uses are subject to *site plan* review.

172. Transmission towers. Such uses include cellular towers. See *Personal Wireless* categories.

173. *Truck stops.* Such uses will be permitted as special exception only when all of the following conditions are satisfied:

(A) No part of the truck parking facility will be in the *100-year floodplain*.

(B) Areas for truck parking, fueling, or repair are a minimum of 300 feet from any residential district.

(C) Areas for truck parking are 100 feet from *wetlands*.

(D) Areas for truck repair are enclosed in a *building*.

(E) The Board determines that all access *roads* are capable of handling the traffic generated and that a safe route for trucks traveling to and from the facility is provided.

(F) Areas for parking and cartways are paved.

(G) The *site* is *screen*ed from adjacent properties. The *front yard* and all areas adjacent to public *roads* will be extensively landscaped.

(H) Adequate restroom facilities, driver rooms, and telephones will be provided.

174. *Truck terminals. Such uses are subject to the following conditions:*

(A) *Truck terminals* are limited to 20 trucks, except that the limitation on the number of trucks does not apply to Employment Center districts in the Route 301 corridor; and

(B) The parking and loading area of a *truck terminal* will be fenced, *screen*ed, and located at least 400 feet from any residential district boundary and 100 feet from all property lines.

Truck terminals will be permitted as a special exception only when all of the following conditions are satisfied:

(A) No part of the truck parking facility will be in the *100-year floodplain*.

(B) Areas for truck parking, fueling, or repair are a minimum of 100 feet from any residential district.

(C) Areas for truck parking are at least 100 feet from *wetlands*.

(D) Areas for truck repair are enclosed in a *building*.

(E) The Board determines that all access *roads* are capable of handling the traffic generated and that a safe route for trucks traveling to and from the facility is provided.

(F) Areas for parking and cartways are paved.

(G) The *site* is *screen*ed from adjacent properties and public *roads*.

(H) Adequate restroom facilities will be provided.

175. *Two-family dwelling*s.

176. Uses and *structures* which are customarily accessory and clearly incidental and subordinate to the permitted uses in the Employment Center and ECCA districts.

177. Veterinary *hospital*s or *clinic*s and animal shelters, as defined by the County Code of Public Laws. Such uses will ensure that all open kennels will be at least 200 feet from all property lines, unless otherwise approved by the *Planning Commission* via a *site plan* review.

178. Veterinary *hospital*s and offices without open kennels.

179. Vocational and trade schools, including training facilities.

180. Waste management *structures* in AZD and RCD where not otherwise stipulated in this Ordinance. Such uses will be permitted as accessory uses only when all of the following conditions are satisfied:

(A) Waste management *structures* will be a minimum of 600 feet from all property lines.

(B) No waste management *structure* will be in the *100-year floodplain*.

(C) The operation is managed according to waste and nutrient management plans, approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department.

181. Wedding venues on farms with a special exception approved by the Board of Appeals.

182. *Wind energy systems, small, where the height of the wind energy system exceeds 80 feet and/or is located on a parcel less than 20 acres*. Such uses will be permitted as a special exception only when all of the following conditions are satisfied:

(A) Within the AZD, RCD, RC, CAR and CR, the height of the wind energy systems exceeds 80 feet, or the wind energy systems are located on parcels less than 20 acres.

(B) If an alternative energy source can produce equal energy, then that should be used rather than a tall tower which impacts the landscape.

(C) If co-location with a *personal wireless facility* is proposed, then a need for a *personal wireless facility tower* will be documented and all appropriate studies submitted. In addition, the proposed tower will comply with all standards for both wind turbines and *person*al wireless facilities.

(D) The *applicant* will provide a report documenting that the wind energy system does not significantly impact migratory bird pathways.

(E) The wind energy system will not be located within the air path of a private or public airstrip.

(F) The height of the *structure* to the tip of the blade at its highest point does not exceed 120 feet.

(G) A small energy system will not have more than one wind turbine per parcel.

(H) Monopoles or lattice towers will be the preferred tower *structure* in the County.

(I) Guy wires are strictly prohibited.

(J) *Small wind energy system*s may not be located within the *buffer* or within a *stream protection corridor*.

(K) *Small wind energy system*s will not be artificially lit unless such lighting is required by the Federal Aviation Administration.

(L) *Small wind energy system*s will be galvanized steel, brushed aluminum finish, or a non-garish color or finish that conforms to the environment and *architect*ure of the community, unless Federal Aviation Administration *regulations* require otherwise.

(M) All signs, including flags, streamers, and decorative items, both temporary and permanent, are prohibited on a *small wind energy system* except the manufacturer or installer's identification or appropriate warning signs or placards.

(N) Any free-standing *structure* is located a minimum of 1.5 times its total height from a property line.

(O) Either towers are not readily climbable from the ground up to 12 feet or are fenced.

(P) All access doors to towers and electrical equipment will be lockable.

(Q) Appropriate warning signage is placed on the tower and electrical equipment.

(R) The blade tip at its lowest point has a ground clearance of at least 25 feet.

(S) Any *small wind energy system* that is not operable for a period of 12 conse*cut*ive months or more will be removed at the landowner's expense.

(T) *Small wind energy system*s will be *site*d in a manner that does not result in significant *shadow flicker*.

(U) *Small wind energy system*s, including wind turbine and tower, will comply with all applicable construction and electrical codes.

(V) Audible sound due to wind turbine operations will not exceed 55 dB(A) except during short-term events such as utility outages and/or severe windstorms. The sound level will be measured at ground level at the property line.

(W) Any *small wind energy system* found to be unsafe will be repaired by the property owner to meet these *regulations* and any applicable federal, State, and local safety standards or be physically removed within 90 days.

(X) The *applicant* will demonstrate that a *small wind energy system* will not unreasonably interfere with the view of, or from, *site*s of significant public interest such as public parks, a national or state designated scenic byway, a *structure* listed in the Kent County Historic *Site*s Survey, an historic district, or the Chesapeake Bay and its tributaries.

(Y) The following submittals are required for approval:

i. *Site plan*, at a standard scale, to adequately show: (1) Property lines and dimensions of subject property; (2) property lines and owner information for all abutting properties; (3) Locations of all existing *buildings*, *structures,* and underground and overhead utilities on the subject property; (4) locations of all existing *buildings* on abutting properties; (5) location of the proposed *small wind energy system* with distances to show required *setback*s; (6) *certification* by a licensed professional *engineer* or property owner that the information shown on the *site plan* is accurate, and (7) a *shadow flicker* study documenting that the project will not result in significant *shadow flicker*.

ii. The *small wind energy system* manufacturer's specification sheet, including photograph, sound analysis and mounting recommendations.

iii. *Engineer*ed drawings showing the *small wind energy system structure*, including the tower, turbine, base and footings, and an *engineer*ing analysis showing compliance with the International *Building* Code certified by a licensed professional *engineer*. This analysis may be supplied by the manufacturer.

iv. Siting elevations, existing photography, and a photo simulation from all directions.

v. Any additional information as may be required by the Board of Appeals as appropriate to demonstrate compliance with the *regulations*.

vi. A narrative that explains how the *site* will not unreasonably interfere with the view or, or from, *site*s of significant public interest such as public parks, a national or state designated scenic byway, a *structure* listed in the Kent County Historic *Site*s Survey, an historic district, or the Chesapeake Bay and its tributaries.

183. *Wind energy systems, small*, accessory. Such uses will be permitted as accessory uses only when all of the following conditions are satisfied:

(A) The height of the *structure* to the tip of the blade at its highest point does not exceed 80 feet.

(B) Any system is located a minimum of three times its total height from a property line.

(C) Towers are not readily climbable from the ground up to 12 feet.

(D) All access doors to towers and electrical equipment will be lockable.

(E) Appropriate warning signage is placed on the tower and electrical equipment.

(F) The blade tip at its lowest point had a ground clearance of at least 25 feet.

(G) Wind turbines and towers maintain a galvanized steel, brushed aluminum finish, or a non-garish color.

(H) Any small wind energy system that is not operational for a period of 12 consecutive months or more will be removed at the landowner's expense.

(I) In the C, CCA, M, EC, and ECCA Districts, such use is limited to one tower.

ARTICLE IV. PROCESSES

SECTION 1 GENERAL PROVISIONS

1.1 STATEMENT OF INTENT

These provisions are intended to provide general standards for all review and approval processes in this Land Use Ordinance, in order to streamline and standardize the process and public notice. A Section is provided for each process type; elements in common are addressed in this Section.

The Goals and Objectives below are specifically included as part of the review of subdivisions and site plans. The remaining processes have other standards delineated in their individual sections. Although not directly linked to all other formal reviews, these Goals and Objectives provide an overview of the spirit and intent of the Land Use Ordinance approach to *development* in general.

1.2 GOALS

1. These procedures are to protect the health, safety, convenience, and general welfare of the inhabitants of the County. Subdivision and *site plan* review regulates the *development* of *sites* and *structures* in a manner which considers the following concerns and, where necessary, requires modification of *development* proposals to eliminate or minimize potential problems and nuisances. The principal areas of concern are:

   (A) The balancing of landowners' rights to use their land, with the corresponding rights of abutting and neighboring landowners to live without undue disturbances (noise, smoke, fumes, dust, odor, glare, *stormwater* runoff, etc.);

   (B) The convenience and safety of vehicular and pedestrian movements within the *site*, and in relation to adjacent areas or *roads*;

   (C) The adequacy of disposal methods and protection from pollution of surface or groundwater; and;

   (D) The protection of historic, natural, and environmental features on the *site* under review and in adjacent areas.

1.3 OBJECTIVES

1. At each stage of development review the *Planning Commission*, Planning Director, or the Planning Director's designee will review the *applicant*'s submitted *development* proposal and supporting documents, taking into consideration the reasonable fulfillment of the following objectives:

   (A) Conformance with the *Comprehensive Plan* ~~and, where applicable, the Village Master Plan~~.

   (B) Conformance with the provisions of all applicable rules and *regulations* of county, State, and federal agencies.

   (C) Convenience and safety of both vehicular and pedestrian movement within the *site* and in relation to adjoining ways and properties.

(D) Provisions for the off-*street* loading and unloading of vehicles incidental to the normal operation of the establishment, adequate lighting, and internal traffic control.

(E) Reasonable demands placed on public services and infra*structure*.

(F) Adequacy of methods for sewage and refuse disposal, and the protection from pollution of both surface waters and groundwater. This includes minimizing *soil erosion* both during and after construction.

(G) Protection of abutting properties and County amenities from any undue disturbance caused by excessive or unreasonable noise, smoke, fumes, dust, odors, glare, *stormwater* runoff, etc.

(H) Minimizing the area over which existing vegetation is to be removed. Where *tree* removal is required, special attention will be given to planting of replacement *tree*s.

(I) The *applicant*'s efforts to integrate the proposed *development* into the existing landscape through design features such as vegetative *buffer*s, *roads*ide plantings, and the *retention* of *open space* and agricultural land.

(J) The *building setback*s, area, and location of parking, *architect*ural compatibility, signage, and landscaping of the *development*, and how these features harmonize with the surrounding townscape and the natural landscape.

1.4 CRITICAL AREA COMMISSION REVIEW AND COMMENT REQUIRED

1. As required by the State of Maryland, Kent County will send copies of applications for all *developments*, subdivisions, and *site plans,* wholly or partially within the Critical Area, as specified in COMAR 27.03.01.04 to the Critical Area Commission for review and comment. This includes all projects located in the RCD, CAR, CCA, M, and ECCA zoning districts.

2. Until Kent County has received notice of receipt from the Critical Area Commission or the appropriate waiting period per the State of Maryland has expired, the County may not process an application that has been sent to the Critical Area Commission for notification.

3. Per the State of Maryland, any action by Kent County in violation of these State-required procedures shall be void.

1.5 TECHNICAL ADVISORY COMMITTEE (TAC)

1. Applications for processes will be filed with the Department on an official application form, together with the fee prescribed by County Commissioners, a narrative including a Citizen Participation Plan (please refer to the Department for a CPP brochure) and all supporting documents as required in the sections below for each specific process.

2. A pre-submission conference with the Department is recommended but not required.

3. The Department will schedule the project for the next, monthly meeting of the *Technical Advisory Committee* and circulate the completed application and all supporting documents to the various agency members of the *Technical Advisory Committee*.

4. The *Technical Advisory Committee* will review the proposal and submit formal comments to the *applicant*. The Department will provide a summary of the comments submitted.

5. *Plot Plans* regulated by Section 3 are not reviewed by the *Technical Advisory Committee*.

6. Waivers regulated by Section 6 are not reviewed by the *Technical Advisory Committee*.

1.6 PUBLIC NOTICE

This public notice section relates to approval processes described within this Article including subdivisions, site plans, special exceptions, variances, waivers, and permits. The zoning text amendment process for the Land Use Ordinance is in Article I and refers to this section. Waivers in Section 6 do not require public notice beyond that already given for subdivisions and site plans. Building permits in Section 7 do not require public notice. Minor processes require follow-up notice, while major processes, special exceptions, and variances require advance notice. The Land Use Ordinance does not regulate the comprehensive rezoning process.

For clarification, the County refers to meetings that are required to be noticed in the newspaper as public hearings, as opposed to public meetings for which a newspaper notice is not required.

1. MAILED NOTICE

   (A) For MINOR processes only (subdivision and site plan), the Department will send a notice by regular mail of the proposed project, after TAC review, to adjacent property owners using the address of record from the Maryland Department of Assessments and Taxation. Adjacent property owners have ten days from the date on the notice to comment on the project. No other notice is required.

   (B) For MAJOR subdivisions, MAJOR site plans, special exceptions, and variances, at least twenty (20) days before the initial meeting of the *Planning Commission* on MAJOR projects or the public hearing by Board of Appeals on variances and special exceptions, the Department will send written notice by regular mail, to adjacent property owners, which briefly describes the proposal and uses the address of record with the Maryland Department of Assessments and Taxation.

   (C) For any three-part development review processes or any combination sub-set thereof, notice is only provided at the initial step, except for delays per below.

2. POSTING THE SUBJECT PROPERTY

   (A) For MAJOR subdivisions, MAJOR site plans, special exceptions, and variances, the Department will post the subject property in a conspicuous manner with a sign including the date, time, and location of the applicable meeting within a reasonable timeframe of the mailing. Properties will only be posted one time.

(B) For any three-part development review processes or any combination sub-set thereof, notice is only provided at the initial step, except for delays per below.

(C) After issuance, building permits require a placard to be posted by the applicant.

3. NEWSPAPER ADVERTISMENTS FOR PUBLIC HEARINGS

(A) All public hearings for special exceptions and *variances* by the Board of Appeals will be advertised in the newspaper of record prior to the day of the hearing.

(B) All public hearings for administrative-type special exceptions and *variances* will be advertised in the newspaper of record prior to the day of the hearing.

(C) Before granting final approval of a subdivision on land designated as Tier III on the County Septic Tier Map, the *Planning Commission* will hold a public hearing advertised in the newspaper of record prior to the day of the hearing.

(D) Review of proposed zoning text amendments by the *Planning Commission* may be advertised in the newspaper of record prior to the day of the public hearing, at the discretion of the Department, depending on the substance of the matter. Housekeeping and non-substantive matters need not incur advertising costs.

4. DIGITAL NOTICE

The Department will post online all agendas, minutes, and packets in a timely fashion.

5. LONG DELAYS BETWEEN MEETINGS

In any case, where a proposal has not appeared before the *Planning Commission* or the Board of Appeals for six months, the Department will send another notice by regular mail regarding the proposed project to the adjacent property owners as specified above. No other re-notification is required including property posting or newspaper advertisements.

1.7 SUBDIVISION AND SITE PLAN PROCESSES

1. For MINOR processes only, the Planning Director, or Planning Director's designee, has the authority to approve, approve with conditions, or disapprove projects. At the Director's discretion, a minor project may be submitted to the *Planning Commission* for approval. The Planning Director, or Planning Director's designee, will consider and prepare findings of fact concerning the reasonable fulfillment of the goals and objectives listed in §1.2 and 1.3. In the absence of a Planning Director, the *Planning Commission* will approve, approve with conditions, or disapprove minor projects. Minor projects comprise only one step.

2. For all other subdivisions and site plan reviews, a MAJOR process is required. *Applicant*s submit projects for review in three stages including *stormwater management* as follows.

(A) CONCEPT

i. After determining that the application is substantially complete, the Department will place the project on the appropriate meeting of the *Planning Commission* for concept review. The concept review process

will review at a conceptual level, the feasibility, design, conceptual *stormwater management*, and environmental characteristics of the proposal based on the standards set forth in this Land Use Ordinance, the *Comprehensive Plan*, ~~and, where applicable, the Village Master Plan,~~ with the understanding that additional technical *engineer*ing, design material, survey work, and preparation of other documents will be submitted for review at later steps in the review process.

ii. The *Planning Commission* will comment and provide guidance as to the feasibility, design, and environmental characteristics of the proposal based on the standards set forth in this Land Use Ordinance, the *Comprehensive Plan*~~, where applicable, the Village Master Plan,~~ and taking into consideration the reasonable fulfillment of the goals and objectives listed in §1.2 and 1.3 above.

(B) PRELIMINARY

i. After determining the preliminary application is substantially complete, the Department will place the project on the appropriate meeting of the *Planning Commission* for preliminary review. The preliminary review process will review the project for compliance with the Land Use Ordinance, *Comprehensive Plan*, ~~and where applicable the Village Master Plan,~~ and its feasibility, environmental, and design characteristics based a specific proposal that complies the requirements for a preliminary review. At this stage, the *applicant* will demonstrate adequate provisions for water supply and sewage disposal, proposed methods for fire protection, preliminary *stormwater management*, and *Forest Conservation Plans*.

ii. The *Planning Commission* may approve, approve with conditions, or disapprove the preliminary project taking into consideration the reasonable fulfillment of the goals and objectives listed in §1.2 and 1.3 above. Conditional approval of the preliminary project will include a complete list and clear explanation of all conditions. Denial of the preliminary project will include a listing of reasons for denial. If the *Planning Commission* determines that more information is required for a decision to be made on the proposal, the *Planning Commission* may table its consideration of the plan.

(C) FINAL

i. After determining that the final project and supporting documents including all required estimates of sureties are substantially complete, the Department will place the project on the appropriate meeting of the *Planning Commission* for final review. The final review process will review the final project and supporting documents for compliance with all applicable *regulations* and will include approved final plans, deed

restrictions, *conservation easements*, irrevocable letters of credit or other sureties as acceptable to the County Commissioners of Kent County, and any other reports or studies as necessary. The *Planning Commission* attorney will review legal documents.

ii. The *Planning Commission* will prepare findings of fact concerning the reasonable fulfillment of the goals and objectives listed in §1.2 and 1.3.

(D) COMBINATIONS

Where deemed appropriate by the Planning Director, the final project may be combined with a preliminary project. In unusual cases where there is a minor impact on the community, with approval of the Planning Director, the concept, preliminary, and final projects may be combined. Public Notice is required for the initial step and combinations identified.

(E) PLOT PLAN EXCEPTION

Single family dwellings, residential *accessory uses* and *accessory structures* associated with a *single family dwelling*, agricultural *buildings* on farms in AZD, and alterations and remodeling of these types of existing *structures*, and other projects are eligible for *Plot Plan* review. Such projects have minor impacts and require less information for review. *Plot plans* are reviewed and approved by the Planning Director or the Planning Director's designee without Public Notice. This process is handled as a building permit review and not a formal site plan.

1.8 DECISIONS BY PLANNING COMMISSION

1. The *applicant* will submit to the Department, at least two mylars and three paper copies of the approved final subdivision drawings, or three paper copies of approved final site plan drawings for signatures and copies of any deed restrictions, covenants, or easements. If deemed necessary, the Planning Director may require additional paper copies of any documents.
2. One paper copy of the approved drawings will remain on file in the Department. Other paper copies of the signed documents will be distributed to the Kent County Health Department and other applicable agencies.
3. *Applicant*s are responsible for recording approved subdivisions in the Land Records with the Clerk of the Circuit Court and submitting proof to the Department following recordation. Lot line adjustments are subdivision documents; site plans are not recorded.

1.9 SPECIAL EXCEPTIONS AND VARIANCES

1. After receiving a substantially complete application for a special exception, administrative special exception, *variance*, or administrative *variance*, the Department will schedule the application for the next *Technical Advisory Committee*, and after a recommendation by the TAC that the project may proceed, an administrative hearing, or a review by the

Planning Commission, and/or hearing before the Board of Appeals will be scheduled, as may be appropriate. Such applications are advertised as public hearings for the Board of Appeals or as an administrative public hearing. Items for advisory review by the Planning Commission are not noticed nor are they advertised.

2. For administrative processes, a signed decision will be provided to the applicant by the end of 30 days following the date of the meeting. Building permits on file or submitted after the hearing may be reviewed and processed; however, permits cannot be issued, at a minimum, until thirty (30) days after the date of the public hearing when the decision is made, per the Appeals process below. In some cases, if a decision is not made at the public hearing, then the date for appeal purposes is the date of the signature on the decision.

1.10 DECISIONS BY BOARD OF APPEALS

1. Each case will be decided, and a decision and order issued no later than 30 days after the hearing is concluded. The decision and order granting or denying the *variance* will be in writing and will be signed by each member of the Board of Appeals.
2. ~~With due regard of the *person*'s experience, technical competence, and specialized knowledge, the w~~ritten findings may be based on evidence introduced and testimony presented by the *applicant*, any government agency, or any other *person* deemed appropriate by the Board. The decision and order will contain a summary of the hearing testimony, findings of fact, conclusions of law, and the final order.
3. The Department will email a copy of the decision to the *applicant*.
4. The decision and order will be made a part of the public record of the proceedings on file in the Department.

1.11 WAIVERS

The *Planning Commission*, or where applicable County staff, are authorized to approve waivers as a form of alternative compliance for specific aspects of a project, as set forth in the section on waivers below. Waivers are not variances nor are they special exceptions. Waivers are set forth in their own section; they are not advertised, nor are they noticed. Waivers are a stand-alone process. Waivers are subject to appeal per below.

1.12 LAPSE OF APPROVALS

The date of approval related to lapses is the date of the administrative action taken. This includes meeting dates of the Technical Advisory Committee, *Planning Commission*, or Board of Appeals, when these are the last formal step in an approval, or where a formal decision is signed, the date of the signed decision. In determining the date related to lapses, the latest date possible is used.

1. SUBDIVISIONS: SIX MONTHS

Signed plats will be recorded by applicants within six months of approval, or they expire after six months, unless otherwise extended. All sureties will be received, and proof of all required recordation submitted to the Department, prior to signing by the County.

2. SITE PLANS: TWO YEARS

After site plan projects have been approved, said approval will lapse after the expiration of ~~one~~two years, if no substantial action has taken place in accordance with the approved project for which said approval was granted. Completion of footings are considered to constitute such an action in State of Maryland. Final site plan drawings will be submitted for signature within the two-year timeframe. All sureties will be received, and proof of all required recordation submitted to the Department, prior to signing by the County. If a project is not constructed and final inspection and/or certificate of occupancy obtained after two years, the site plan expires. In some circumstance, major code changes could require modifications to a site plan to be undertaken when life/safety issues are involved.

3. VARIANCES: ONE YEAR

After a *variance* has been granted, said approval will lapse after the expiration of one year if no substantial action has taken place in accordance with the approved plan for which such *variance* was granted, or if the decision does not specify a period longer than one year for good cause shown. Adopted decisions may grant longer periods, as appropriate.

4. SPECIAL EXCEPTIONS: TWO YEARS

Approval of a special exception granted under this Article shall be valid for two years after the date of approval and thereafter shall become null and void unless construction or use is substantially underway during said one year period, or unless the Board of Appeals, or where applicable the Planning Director, approves an extension before the expiration of said one year period. When provided with sufficient evidence, the Board, or where applicable the Planning Director, may grant a special exception for a longer period.

SPECIAL EXCEPTION: RECONSIDERATION, ONE YEAR LIMIT

Whenever an application for a special exception has been denied by the Board, such application, or one substantially similar, shall not be reconsidered sooner than one year after the previous denial.

5. APPROVALS PRIOR TO LAND USE ORDINANCE ADOPTION: SIX MONTHS

Drawings approved prior to adoption of this Land Use Ordinance, which would no longer comply with newly adopted provisions due to changes in said provisions, will be signed or recorded six months after the date of adoption, or expire, unless otherwise extended.

6. WAIVERS

Waivers are granted as part of the approval in another process. Waiver approvals lapse when project approval lapses. For example, a waiver by the *Planning Commission* granted as part of a concept site plan, preliminary site plan, or final site plan would lapse in

tandem with the lapse of said approved site plan; a stormwater waiver would lapse when the building permit by which it was administratively approved lapses.

7. BUILDING PERMITS

A building permit will be valid for six months from the date issued. Each request for an inspection extends the building permit for six additional months. A six-month extension may be granted at any time by the Planning Director, or the Planning Director's designee. An extension may be granted after expiration. More than one extension may be granted.

1.13 EXTENSIONS FOR SUBDIVISIONS AND SITE PLAN APPROVALS

1. Approved projects under appeal will be automatically extended for twelve months without a request from the *applicant*. Projects may receive more than one extension.

2. When the *applicant* can show that the project is in the process of obtaining permits from County, State, or federal agencies and that these permits have been pursued diligently, the *Planning Commission* will grant a 12-month extension. A project may receive more than one extension. Extensions may be approved following expiration as may be needed at the discretion of the Planning Commission depending on the circumstances involved.

1.14 AMENDMENTS

1. MINOR: A project approved under this Ordinance or under any prior Ordinance, including any conditions or guarantees attached to its approval, may be amended in accordance with this section. If the Planning Director determines that the proposed amendment does not represent a significant change from the use or character of a project as originally approved or in previously approved amendments, the Planning Director may approve the amendment after the amendment is reviewed by the *Technical Advisory Committee*.

2. MAJOR: If the Planning Director determines that the amendment represents a significant change from the use or character of the original project and any previously approved amendments, or that the amendment requires more detailed review, the amendment may be regarded as an original application and follow the procedures for the review of a new project with appropriate alterations to the requirements herein as may be needed.

3. PARTIAL: If the Planning Director determines that an amendment represents a partial change from the use or character of the original project and merits review of a portion of the project, then the revised portion or phase may be submitted and reviewed as either a major or minor amendment with appropriate alterations to the requirements herein.

4. VARIANCES: The procedure for the amendment of an approved *variance* or a request for a change of conditions attached to an approval will be the same as for a new application.

5. SPECIAL EXCEPTIONS: The procedure for amendment follows the PARTIAL process above.

1.15 APPEALS

1. Within thirty (30) days of any *Planning Commission* decision, any person aggrieved by a decision of the *Planning Commission* may file a notice of appeal with the Circuit Court.
2. With thirty (30) days of any decision of the Board of Appeals, any person aggrieved by a decision of the Board of Appeals may file a notice of appeal with the Circuit Court.
3. With thirty (30) days of any decision or determination by the Planning Director, Planning Director's designee, a member of the Department, or the *Technical Advisory Committee*, any person may appeal the decision to the Kent County Board of Appeals.
4. Appeals are handled as a public meeting and noticed pursuant to the requirements above.
5. Provisions related to signage matters are handled separately under Article V, Section 3.

1.16 EMERGENCY PROVISIONS

Subject to any declaration by the County, State, or federal government of an emergency, or by the order of any Court of competent jurisdiction, or by written decision by County staff with good cause shown, any of these general provisions, deadlines, timelines, extensions, and any other requirements may be suspended or altered to provide for contingencies, as may be needed.

SECTION 2 SUBDIVISIONS

2.1 STATEMENT OF INTENT

Subdivision review has been established for the purpose of guiding and accomplishing the coordination and harmonious *development* of the unincorporated area of Kent County, in order to promote the health, safety, and welfare of the residents of the County. *Subdivision* review is required to ensure that new *development* complies with the *Comprehensive Plan*, Land Use Ordinance, ~~any relevant adopted Village Master Plan,~~ and other various agency requirements.

1. Any owner who subdivides land into *lot*s, blocks, *street*s, *alley*s, public ways, or public grounds will prepare a plat of *subdivision* to be made in accordance with the *regulations* set forth herein and the laws of the State of Maryland and will record a copy of the plat with the Kent County Clerk of Court.
2. A plat of *subdivision* will not be recorded by the Clerk of Court until the plat is approved by the Kent County *Planning Commission* or, where applicable the Planning Director.
3. No parcel of land in a *subdivision* created after December 23, 1969, will be transferred, sold, or offered for sale, nor will a *building* permit be issued for any *structure* thereon, until a plat of *subdivision* is recorded with the Kent County Clerk of Court.

2.2 CRITICAL AREA COMMISSION REVIEW AND COMMENT REQUIRED

1. As required by the State of Maryland, Kent County will send copies of applications for all *developments*, subdivisions, and *site plans,* wholly or partially within the Critical Area, as specified in COMAR 27.03.01.04 to the Critical Area Commission for review and comment. This includes all projects located in the RCD, CAR, CCA, M, and ECCA zoning districts.
2. Until Kent County has received notice of receipt from the Critical Area Commission or the appropriate waiting period per the State of Maryland has expired, the County may not process an application that has been sent to the Critical Area Commission for notification.
3. Per the State of Maryland, any action by Kent County in violation of these State-required procedures shall be void.

2.3 YIELD CALCULATIONS FOR ORIGINAL TRACTS

All subdivision submittals will include yield calculations based on one of two calculations below:

1. **LOT COUNT DETERMINATION.** All *lot*s, parcels, tracts, *sites*, and other divisions of land recorded after December 23, 1969, from an original *lot*, *tract*, or parcel of land described in the Land Records of Kent County, will be counted in determining the number of *lot*s in a *subdivision*. An original/remainder *lot* is also counted in determining the number of *lot*s.
2. **NON-CRITICAL AREA DENSITY.** Outside the Chesapeake Bay *Critical Area*, all *lot*s, parcels, *site*s, and other divisions of land recorded after August 1, 1989, from an original *lot*, *tract*, or parcel of land described in the Land Records of Kent County, will be counted in determining the permitted *density* of a parcel of land.

3. **CRITICAL AREA DENSITY**. Within the Chesapeake Bay *Critical Area*, all *lot*s, parcels, *site*s, and other divisions of land recorded after December 1, 1985, will be counted in determining the permitted *density* of a parcel of land.

4. **ORIGINAL PARCEL**. The original parcel is counted when determining *density* both within and outside the Chesapeake Bay *Critical Area*.

2.4 TYPES OF SUBDIVISIONS

1. LOT LINE ADJUSTMENTS (LLA)

Lot line adjustments between adjoining property owners and within single properties, which do not create additional *building lot*s are reviewed and may be approved by the Planning Director, or Planning Director's designee, and are subject to the following ~~rules~~:

(A) Transfer of these *lot*s is not counted in determining the number of *lot*s in a *subdivision*.

(B) Drawing requirements are at the discretion of the Planning Director but may not exceed those required for a minor *subdivision*.

(C) Procedures will be the same as that for a minor *subdivision* and minor project.

(D) Lot Line Adjustments to property in the Agricultural Zoning District, which has not been the subject of a subdivision action that created new lots, which was approved after August 19, 2003, will not be subject to the restrictions of the 10% Rule as set forth under Article II, Section 2, § 2.3, "Maximum percentage of property in l*ots*."

2. MINOR SUBDIVISIONS

Minor *subdivision*s contain seven or fewer *lot*s, *sites*, parcels, tracts, or other divisions of land from the original lot, per §2.2, 1. **LOT COUNT DETERMINATION** (above). The Planning Director, or Planning Director's designee, may approve minor *subdivision*s following Technical Advisory Committee review. At the Director's discretion, a minor *subdivision* may be submitted to the *Planning Commission* for approval. In the absence of a Planning Director, the *Planning Commission* will approve, approve with conditions, or disapprove minor *subdivision*s.

Note: *Private roads* are only allowed in minor subdivisions. A *private road* may serve no more than seven (7) parcels unless granted a waiver. *Private roads* will comply with the Kent County Road Design and Construction Standards. Please see Subdivision Design Requirements section below.

3. MAJOR SUBDIVISIONS

Major *subdivision*s contain eight or more *lot*s, parcels, *sites*, tracts, or other divisions of land. The *Technical Advisory Committee* reviews and the *Planning Commission* approves major *subdivision*s at three stages - Concept, Preliminary, and Final.

4. SPECIAL INSTRUCTIONS FOR RESUBDIVISIONS

When recording resubdivisions or combining *lot*s in recorded *subdivision*s, letters rather than numbers should be used to indicate *lot*s whose boundary and area have been affected. The numerical sequence will remain intact to avoid confusion in the future.

2.5 SPECIAL CIRCUMSTANCES - INTRAFAMILY TRANSFERS IN THE CRITICAL AREA

1. A bona fide *intrafamily transfer* will be permitted only from parcels of land in the Resource Conservation District that:
   (A) Were of record on March 1, 1986;
   (B) Are seven (7) acres or more and less than sixty (60) acres in size.
2. Land will be subdivided as indicated:
   (A) A parcel that is seven (7) acres or more and less that twelve (12) acres in size may be subdivided into two *lot*s;
   (B) A parcel that is twelve (12) acres of more and less than sixty (60) acres in size may be subdivided into three *lot*s. The *lot*s may be created at different times.
3. As a condition of approval, the following will be required:
   (A) The owner of the subdivided parcel attests to the bona fide *family* relationship and that the intent is not for ultimate transfer to a third party.
   (B) Any deed for a *lot* that is created by a bona fide *intrafamily transfer* will contain a covenant stating that the *lot* is created subject to the provisions of this section.
   (C) A *lot* created by a bona fide *intrafamily transfer* will not be conveyed subsequently to any *person* other than a member of the owner's immediate *family* except under procedures established herein.
   (D) This subsection does not prevent the conveyance of the *lot* to a third party as security for a mortgage or a deed of trust, or subsequent conveyance resulting from a foreclosure.
4. Subsequent conveyance of *lot*s to *persons* other than immediate *family* members:
   (A) The *lot* was created as a part of a bona fide *intrafamily transfer* and not with the intent of subdividing the original parcel of land for purposes of ultimate transfer to a third party; and
   (B) The owner of the transferred property dies; or
   (C) A change in circumstances has occurred since the original transfer was made that is not inconsistent with the *Critical Area* Law and that warrants an exception, or other circumstances that are consistent with the *Critical Area* Law and the *Critical Area* Law Criteria to maintain land areas necessary to support

the protective uses of *agriculture*, *forestry*, *open space*, and natural habitats in Resource Conservation Areas warrant an exception as determined and approved by the *Planning Commission*.

2.6 SUBMITTAL REQUIREMENTS

Minor and Major subdivisions have similar requirements. Please see chart below for submittals.

TYPE:	1. Narrative	2. Preview	3. Summary	4. Detailed	5. Concluding
MINOR/LLA	X	X	X		
MAJOR					
• Concept	X	X			
• Preliminary	X	X	X	X	
• Final	X	X	X	X	X

The following documents are required to be submitted along with an application for subdivision.

1. NARRATIVE ITEMS LIST

   All applications will contain a narrative. The *applicant* will provide a narrative that addresses the following. The Planning Director may not require some elements of the narrative that are not applicable to the proposed *subdivision*.

   (A) Name and address of the landowner, the *developer* and/or representative, if different from the owner.

   (B) *Street* address, tax map, parcel number, and *subdivision* if any.

   (C) Zoning of the *site*.

   (D) Current and proposed use of the property.

   (E) An explanation of the viewshed, *open space*, and conservation analysis undertaken during the design of the *site plan*

   (F) How the proposed *development* complies with the *Comprehensive Plan~~, the Village Master Plan,~~* and the design and environmental standards of this Land Use Ordinance.

   (G) Proposed type of water and sewer service.

   (H) The proposed *development* schedule and phases of *development* for all proposed construction.

   (I) A statement of provisions for ultimate ownership and maintenance of all parts of the *development* including *streets*, *structures*, and *open space*.

(J) *Critical Area* and/or non-*Critical Area* *density* calculations based on the original parcel and *subdivision* history of the original parcel dating back to December 23, 1969.

(K) Proposed ~~*impervious surface*~~*lot* coverage for the *subdivision* and where applicable, ~~*impervious surface*~~*lot* coverage allotted to each *lot*.

(L) Citizen Participation Plan (please refer to the Department for a CPP brochure) Citizen Participation meetings are held once, prior to initial project submittal.

(M) Analysis of the cost of providing local government services to the proposed *subdivision*.

2. PREVIEW ITEMS LIST

(A) Scale – 1 inch = 100 feet or greater detail. The Planning Director may authorize the use of a different or not require a scale drawing, if, in the Director's opinion, the information shown on the plat can be presented with equal clarity by the use of a different scale or drawing.

(B) North arrow

(C) Vicinity Map, with *site* location clearly marked.

(D) Surveyor's signature and seal.

(E) Title Block that includes:

i. *Subdivision* name

ii. Names of owners of record and where applicable, names of *developer*, *architect*, surveyor, planner, and/or *engineer*

iii. Location by *Street* Address, Election District, County and State

iv. Date of plan and all revisions

(F) Names of adjoining property owners with Liber and Folio or name, recording reference, and *lot* numbers of adjoining recorded *subdivision*.

(G) Property boundaries and boundary survey.

(H) Where applicable, the *Critical Area* boundary and minimum 100-foot *buffer*; *Stream Protection Corridor*; Habitat Protection Area; *Forest Stand Delineation* and *Forest Conservation Plan*; *100-year floodplain* boundary, *flood* elevation and the *Airport* Safety Zone.

(I) Existing features, whether natural or manmade, that may influence the design of the project including but not limited to the following:

i. *Natural features* to be preserved in accordance with these *regulations*

ii. *Slopes* in excess of 15% separate from those in excess of 25%

iii. *Watercourses*, including both *perennial* and *intermittent streams*

iv. *Forest*, *tree* groves, and significant *tree*s

v. Outstanding natural topographic features

vi. Tidal, State, and private, and *non-tidal wetlands*

vii. Scenic, cultural and/or historic areas

viii. Existing *buildings*, parking, and other *impervious surfaces*

(J) Proposed layout of *street*s, *lot*s (including estimate dimensions and *lot area*), *stormwater management* areas, *forest conservation* areas, and *open space*.

(K) A tabulation of the following:

i. Total acreage

ii. Acreage in *100-year floodplain*

iii. Acreage in *Critical Area*

iv. Acreage in recreation and *open space*

v. Acreage in *forest*

vi. Acreage in *lot*s and *streets*

(L) Location of any municipal or corporate limits, election district lines, or *Critical Area* boundaries close to or crossing the *tract*.

3. SUMMARY ITEMS LIST

(A) Signature Blocks for Director of Planning, Kent County *Health Officer*, and where applicable, the Director of Water and Wastewater Services.

(B) *Easements*, covenants, *right of ways*, Public Drainage Association ditches, and *stormwater management structures* and devices and the purpose for which these *easements*, covenants, and rights-of way were established.

(C) Boundary of *subdivision* shown in heavy outline.

(D) Distances of courses to hundredths of a foot.

(E) Bearings accurate to ~~10~~one second~~s~~.

(F) Location, width, and names of existing or proposed *roads* within or abutting the *subdivision*.

(G) Identification of *private roads*.

(H) Curve data in tabular form, if applicable.

(I) Area of each *lot* in acres and thousandths.

(J) No distance marked “more or less” except mean high water.

(K) Location and description of all monuments and markers as required.

(L) Location of water and sewer, or septic reserve area and well, where applicable.

(M) Where applicable, statement: "*Private roads* are not the responsibility of Kent County."

(N) Width of *waterway*, depth measurements, *channel*, adjacent *piers,* or landings, and 25% of the *waterway*, where applicable.

(O) *Topography*, if required by the Planning Director.

4. DETAILED ITEMS LIST

(A) ~~Field t~~*Topography*. The Planning Director, or Planning Director's designee, may not require submittal of field *topography*. When the Planning Director does not require such submittal, then a written explanation will accompany the plat.

(B) Soil classifications mapped, if required for stormwater management review.

(C) Sewer, water mains, culverts, fire hydrants, power transmission towers and the approximate location, pipe size, and direction of flow of each underground utility that exists in or is contiguous to the property.

(D) The location, width, and name of each existing or proposed *street* or *alley* within or abutting the *subdivision*.

(E) Layout of all existing and proposed *lot*s including:

i. *Lot* numbers

ii. Scaled areas

iii. Scaled dimensions

(F) Location, dimensions, and areas of property reserved for public or community use, where applicable

(G) A tabulation of the following:

i. Total number of *lot*s

ii. Acreage of each *lot*

iii. Acreage in *100-year floodplain*

iv. Acreage in *Critical Area*

v. Acreage in recreation and *open space*

vi. Acreage in *forest*

vii. Acreage of existing and proposed *forest*

viii. Total area of *roadways* and other lands to be dedicated.

ix. Total acreage of *subdivision*

(H) Conceptual and schematic plans for:

i. Water and sewer services

ii. The storm drainage system, including the overall *drainage area*.

iii. *Grading* and *sediment* control measures

iv. Landscaping

v. *Forest Conservation Plan*

(I) Proof that the required utilities, i.e., electric and telephone, are available to the proposed *development*.

(J) The method and type of sewer and water service.

(K) Where applicable, the width of *waterway*, depth measurements, *channel*, adjacent *piers,* or landings, and 25% of the *waterway*.

(L) Delineation of *development* staging, if any.

Note: Preliminary Plats **DO NOT** need to include Signature Blocks for the Director of Planning, Kent County *Health Officer*, and the Director of Water and Wastewater Services.

5. CONCLUDING ITEMS LIST

(A) Signature Blocks for the Chairman of the *Planning Commission*, Director of Planning, *Health Officer*, and where applicable, Director of Water and Wastewater Services.

(B) Owner's *certification* and dedication.

(C) Location and description of all monuments and markers as required by the Annotated Code of Maryland.

(D) Final landscape, *forest conservation*, *stormwater management*, *sediment* control and other applicable improvement plans.

(E) Deed restrictions and Public Works Agreements.

(F) Signed Forest Conservation deeds, covenants, and easement for recordation.

(G) Signed Stormwater Management easements and maintenance requirements.

(H) All sureties required by Public Works, Health Department, and the Department.

2.7 SUBDIVISION DESIGN REQUIREMENTS

ZONING REGULATIONS

1. *Subdivisions* will comply with requirements in Article V. *Zoning Regulations* that include General Provisions, Parking and Loading, Signage Provisions, and Standards for Utility-Scale Solar Energy Systems. Additional requirements are included in the sections below.

ENVIRONMENTAL REGULATIONS

2. *Subdivisions* will comply with requirements in Article VI. *Environmental Regulations* that include General Provisions, Forest Interior Birds, Habitat Protection Areas, Shoreline and Cliff Areas, Water Dependent Uses, Critical Areas, Forest Conservation, Erosion and Sediment Control, Stormwater Management, and Floodplain Management. Additional requirements are included in the sections below.

LAYOUT

3. All reasonable efforts should be made to protect adjacent residential areas from nuisances that could occur in commercial, industrial, and marine subdivisions by providing adequate depth in parcels adjacent to residential zoning.
4. Proposed street layout, blocks, and parcels will be suitable in area and dimension for the type of development anticipated.
5. The total area of lots will be sufficient to provide adequate space for off-street parking, loading, landscaping, and other facilities.
6. Whenever possible, subdivisions will be designed to minimize adverse impacts on nearby agricultural operations.
7. The lot arrangement, design, and orientation of subdivisions will be such that lots will provide satisfactory building sites, properly related to topography, the character of surrounding development, and avoid facing the rear of properties ~~with planned development facing~~to the existing roadways as much as possible.
8. Topography, tree cover, and natural drainage ways will be treated as fixed determinants of road and lot configuration rather than malleable elements that can be changed to follow a preferred development scheme.

OPEN SPACE

9. When required by the relevant zoning district(s), proposed open space inside subdivisions will provide for connections to existing, planned, or platted open space on adjacent tracts, unless proposed connections of open space are found by the Planning Commission to be unnecessary for the coordination of development between the subdivision and such adjacent tract.
10. Whenever possible, in residential subdivisions where open space is required, the majority of lots designed for houses will abut on undivided open space.

11. Open space, playgrounds, or other recreational areas will be set aside at a rate of 1/10 acre per dwelling unit. Playground equipment is to be indicated on the plans. If the land is not of significant quality and size for the purpose of providing or developing parks and recreational facilities, the Planning Commission, or where applicable the Planning Director, may permit a developer to pay a fee equal to the assessed value of the area of the land required for open space and the value of the appropriate equipment ~~of $250.00 for each lot or each dwelling unit~~ in lieu of providing land and equipment for recreational purposes. Recreational land required within a subdivision will be located so as to be reasonably accessible from all lots in the subdivision in accordance with the following:

    (A) *Steep slopes*, streams, lakes, *watercourses*, and *floodplains* may constitute up to 40% of the recreational land.

    (B) At least 60% of the recreational land will be suitable for dry ground recreational use.

12. Only in CR, Major subdivisions will include 40% of the adjusted tract acreage in open space unless all of the parcels are 10 acres or more in size. The adjusted tract acreage will be determined by subtracting the acreage in slopes over 25%, tidal and non-tidal wetlands, required buffers, and stormwater management areas. The Planning Commission may set aside this requirement when the total amount of open space, including steep slopes, wetlands, buffers, and stormwater management areas exceeds 60% of the site. When all of the parcels in the subdivision exceed 10 acres in size, the developer will pay a fee of $250.00 for each lot in lieu of providing land for recreational purposes.

ROADWAYS

13. New public roads will be provided with a minimum of 50 feet total right-of-way; planned roads designated as requiring additional right-of-way will be provided by the proposal.

14. Where a subdivision adjoins or embraces any part of a major thoroughfare as designated on the Kent County Major Thoroughfare Map, the layout of such subdivision will provide for the platting and dedication of such part of the major thoroughfare in the location and at the width indicated on the major thoroughfare plan, except that the subdivider will not be required to dedicate that part of such major thoroughfare in excess of eighty (80) feet in width of the subdivider's own property.

15. Where deemed desirable to the layout of the subdivision and adjoining area, the Planning Commission may require the platting and dedication of one or more collector streets or parts thereof, to serve the subdivision.

16. The Department will review and approve street names proposed by applicants. A street name may not be approved if it duplicates or is too similar to the name of another roadway in the County or in one of the five incorporated Towns.

17. Every lot will abut and have access to a public road or approved private road.

18. Lots adjoining major thoroughfares and railroad lines should be designed with extra depth and provision for an appropriate means of buffer or deeper building setbacks.

19. Where land in a subdivision adjoins a railroad line, the street layout will make allowance for future grade separated railroad crossings at appropriate locations by providing extra street right of way widths for such crossings and by restricting intersecting streets at locations where they would cause interference with necessary approaches to such crossings.

20. Proposed streets in a subdivision will provide for the continuation of existing, planned, or platted streets on adjacent tracts, unless such continuation will be prevented by topography or other physical feature or unless such extension is found by the Planning Commission to be unnecessary for the coordination of development between the subdivision and such adjacent tract.

21. Where the Planning Commission deems it desirable or necessary to provide access to adjacent tracts not presently subdivided, proposed streets in the subdivision will be extended to the boundary lines with such tracts.

22. Private roads are permitted only in minor subdivisions and are subject to the following conditions:

    (A) Each road will serve no more than seven parcels. In the event that an eighth parcel is created, the eighth parcel and all further divisions of land will front on a public road.

    (B) The *subdivision* will provide a 50-foot *right-of-way* for each *private road*.

    (C) The construction of all lanes and *private roads* will adhere to the requirements established by the Kent County Department of Public Works and *sediment* control and *stormwater management regulations*.

    (D) The plat will identify all *private roads* and will state: "The road is private and not the responsibility of Kent County."

    (E) The deed and contract of sale of all *lot*s in the *subdivision* will state: "The road is private and not the responsibility of Kent County."

SHORELINE AND CLIFF AREAS

23. Subdivisions will meet the provisions set forth in Article VI, Section 4, related to conditions for new subdivisions and existing lots of three acres or greater.

SUBDIVISIONS IN VILLAGE AND INTENSE VILLLAGE – ADDITIONAL REQUIREMENTS

24. New developments should be an extension of the overall village development pattern rather than stand in contrast to it.

25. New designs should consist of small, understandable neighborhood segments rather than a single, large suburban theme.

26. New developments should reflect the unordered, historical growth of the village and avoid the cookie-cutter sameness of many new residential subdivisions.

27. Any opportunities for a strong, central focus should be studied and developed. These central places are usually a key to establishing community identity.

28. The types of open space provided should be a reflection of how passive and active open spaces are now used in the village, whether they are adequate, and how they may be complemented.

29. Strong provisions should be made for walking as opposed to vehicular connections both within and outside of the new community.

30. Street widths and alignments should be carefully scaled to neighborhood size and be patterned after the character of existing residential streets.

31. The streetscape of new developments should be designed in detail to avoid repetitious setbacks, driveways, elevations, and landscaping; and,

32. When deemed necessary by the Planning Commission, or where applicable the Planning Director, unobstructed easements of at least 10 feet will be provided to facilitate walkways to commercial facilities, community areas, schools, parks, playgrounds, or other public areas.

33. New developments should carefully study and reflect the physical diversity of the existing village in regard to the mixture of housing types; a mixture of housing styles; and a mixture of lot sizes and shapes.

AIRPORTS – *NOTE*: NO AIRPORT SAFETY ZONE IS ADOPTED IN KENT COUNTY, MARYLAND.

This section applies to properties that fall within the Kent County *Airport* Safety Zone as designated on the Kent County *Airport* Safety Zone Map. The Kent County *Airport* Safety Zone Map is incorporated into and made a part of this Ordinance. It is the purpose of this section to promote the public safety of the residents and visitors of Kent County by prohibiting to the extent possible, the creation or establishment of obstructions that are a hazard to air navigation.

1. No new ponds will be constructed within 5,000 feet of the runway.

2. No new solid waste disposal sites will be permitted within 5,000 feet of any publicly licensed airport. New solid waste disposal sites will not be permitted within the limits of the airport safety zone if the FAA determines the site to be a hazard.

3. Developments which produce lights, illumination, or other visual hazards or which produce electronic interference with airport/airplane navigation signals are subject to the standards specified in the FAA procedure manual 7400-2C.

4. Except as otherwise provided in this Ordinance, no structure will be erected, altered, or maintained and no tree or other vegetation will be allowed to grow in excess of the height limitations as designated on the Kent County Airport Safety Zone Map.

SECTION 3 SITE PLANS

3.1 STATEMENT OF INTENT

Site Development Plans are required to ensure *development* complies with the *Comprehensive Plan*, the Land Use Ordinance~~, Village Master Plans~~ and various agency requirements, thereby promoting the health, safety, and general welfare of Kent County's residents.

3.2 PARCEL OF RECORD - ONE MAIN STRUCTURE

Every new structure or any structure that is relocated will be on a parcel of record; in no case will there be more than one main structure on a single parcel in a primarily residential district, except for accessory dwelling units, or unless otherwise provided by this Land Use Ordinance.

3.3 CRITICAL AREA COMMISSION REVIEW AND COMMENT REQUIRED

1. As required by the State of Maryland, Kent County will send copies of applications for all *developments*, subdivisions, and *site plans*, wholly or partially within the Critical Area, as specified in COMAR 27.03.01.04 to the Critical Area Commission for review and comment. This includes all projects located in the RCD, CAR, CCA, M, and ECCA zoning districts.
2. Until Kent County has received notice of receipt from the Critical Area Commission or the appropriate waiting period per the State of Maryland has expired, the County may not process an application that has been sent to the Critical Area Commission for notification.
3. Per the State of Maryland, any action by Kent County in violation of these State-required procedures shall be void.

3.4 TYPES OF SITE PLANS

1. PLOT PLAN – FOR PROJECTS EXEMPT FROM *TECHNICAL ADVISORY COMMITTEE* REVIEW

   One single family dwelling, residential *accessory uses* and *accessory structures* associated with a *single-family dwelling*, agricultural *buildings* on farms in AZD, and alterations and remodeling of such existing *structures* may be eligible for the *Plot Plan* review process.

   These projects have relatively minor impacts and thus require less information. *Plot plans* are reviewed and approved by the Planning Director or the Planning Director's designee.

   The following minor, non-residential projects may also be eligible for *Plot Plan* review:

   (A) Changes to internal parking lot layouts involving only changes to painted lines.

   (B) Changes to landscaped areas that do not reduce credit amounts for plantings and if changes do not affect specific conditions placed by *Planning Commission*.

   (C) Freestanding signs – new, altered, and relocated, when only signs are involved.

   (D) Other minor projects where no other agency review will be needed or required.

In most cases, *Plot Plans* are not reviewed by the *Technical Advisory Committee* (TAC), and sealed drawings are not required; however, at the Planning Director's discretion, TAC review and sealed drawings may be required, depending on project scope and complexity.

Pursuant to State Law, projects eligible for *Plot Plan* review may not be exempted from *stormwater management* review, if Limits of Disturbance (LOD) exceed 5,000 square feet.

2. MINOR SITE PLAN – FOR PROJECTS EXEMPT FROM *STORMWATER MANAGEMENT*

The following uses and *developments* ~~require~~are eligible for *Minor Site Plan* review. These projects have less impact on the community, require less information, and ~~have~~ may be allowed a ~~short~~modified review and approval process, which is exempt from *stormwater management*. The *Technical Advisory Committee* reviews these projects. The Planning Director, or Planning Director's designee, may approve *minor site plans*. At the Director's discretion, a *minor site plan* may be submitted to the *Planning Commission* for approval. In the absence of a Planning Director, the *Planning Commission* will approve, approve with conditions, or disapprove *minor site plans*. *Minor site plan* eligibility includes:

(A) Adaptive Reuse Projects with additions to *buildings* and/or changes to site layouts with a Limit of Disturbance (LOD) of less than 5,000 square feet.

(B) Change~~s~~ of use that do~~es~~ not include *building* additions ~~that increase the size of each existing *building* by more than 10%~~or changes to site layout.

(C) Change~~s~~ in vehicular access points in an existing non-residential or multi-*family development* with a Limit of Disturbance (LOD) of less than 5,000 square feet.

(D) A new Duplex~~es~~ on a single lot with a Limit of Disturbance (LOD) of less than 5,000 square feet.

(E) A non-residential addition~~s~~ that increase~~s~~ the size of the existing *building* with a Limit of Disturbance (LOD) of less than 5,000 square feet~~by a maximum of 10%~~.

(F) A new non-residential *building~~s~~* with a ~~gross *floor area*~~Limit of Disturbance (LOD) of less than 5,000 square feet.

(G) Special exceptions with additions to *buildings* and/or changes to site layouts with Limits of Disturbance (LOD) of less than 5,000 square feet.

3. MAJOR SITE PLAN – FOR REVIEW BY ALL AGENCIES AND *STORMWATER MANAGEMENT*

Commercial and industrial *development*, *multi-family dwellings*, special exceptions, public facilities, and quasi-public facilities require *major site plan* review including *concept plan*, preliminary site plan, and final site plan. The *Technical Advisory Committee* reviews these projects. The *Planning Commission* reviews and approves *major site plans*.

3.5 SUBMITTAL REQUIREMENTS

MINOR AND MAJOR SITE PLANS

Minor and Major site plans have similar requirements. Please see chart below for submittals.

TYPE:	1. Narrative	2. Preview	3. Summary	4. Detailed	5. Concluding
MINOR	X	X	X		
MAJOR					
• Concept	X	X			
• Preliminary	X	X	X	X	
• Final	X	X	X	X	X
PLOT PLAN – see Section 6 below					

The following documents are required to be submitted along with an application for site plans.

1. NARRATIVE LIST ITEMS

All applications for site plans will contain a narrative. The *applicant* will provide a narrative that addresses the following. The Planning Director may not require elements of the narrative that are not applicable to the proposed project.

(A) Name and address of the landowner, the *developer* and/or representative, if different from the owner.

(B) *Street* address, tax map, parcel number, and *subdivision* if any.

(C) Zoning of *site*.

(D) Current and proposed use of the property.

(E) An explanation of the viewshed, *open space*, and conservation analysis undertaken during the design of the *site plan*

(F) How the proposed *development* complies with the *Comprehensive Plan*~~, the Village Master Plan,~~ and the design and environmental standards of this Ordinance.

(G) Proposed type of water and sewer service.

(H) Number of employees.

(I) The proposed *development* schedule and phases of *development* for all proposed construction.

(J) A statement of provisions for ultimate ownership and maintenance of all parts of the *development* including *streets*, *structures,* and *open space*.

(K) *Critical Area density* calculations based on the original parcel.

(L) For water dependent uses and facilities in the *Critical Area*, the narrative will include documentation that shows the following:

i. That all State and federal regulations, which are specifically listed in the narrative, will be adhered to and describing how compliance is achieved.

ii. That the activities will not significantly alter existing water circulation patterns or salinity regimes.

iii. That the water body upon which these activities are proposed has adequate flushing characteristics in the area of *development*.

iv. That disturbance to *wetlands*, submerged aquatic plant beds, or other areas of important aquatic habitats will be minimized.

v. That *adverse impact* to water quality that may occur as a result of these activities, such as non-point source runoff, sewage discharge from land activities or vessels, or from boat cleaning and maintenance operations, is minimized.

vi. That shellfish beds will not be disturbed or be made subject to discharge that will render them unsuitable for harvesting.

vii. That dredging will be conducted in a manner, and using a method, which creates the least disturbance to water quality and aquatic and terrestrial habitats in the area immediately surrounding the dredging operation or within the *Critical Area*.

viii. That dredge spoil will not be placed within the minimum 100-foot *buffer* or elsewhere in that portion of the *Critical Area* which has been designated as a Habitat Protection Area except as necessary for the following:

1. Backfill for permitted shore *erosion* protection measures;
2. Use in approved vegetated shore *erosion* projects;
3. Placement on previously approved *channel* maintenance spoils disposal area
4. Beach nourishment

ix. That interference with the natural transport of sand will be minimized.

x. That in the context of existing uses, the proposed use will result in only minimal individual and cumulative impact on water quality and fish, wildlife, and *plant habitat* in the *Critical Area*.

xi. That the activity meets all required environmental standards.

(M) For any site plan that includes proposed manufacturing or industrial uses:

i. The type of raw materials, waste products, and other by-products associated with the process.

ii. The identity of all chemicals and solids to be discharged into the sewage system.

iii. The type and amount of traffic expected to be generated by the operation.

iv. The proposed hours of operation.

v. The proposed *architect*ural design (graphic or narrative) of all *structures*.

(N) Citizen Participation Plan (please refer to the Department for a CPP brochure) Citizen Participation meetings are held once, prior to initial project submittal. Citizen Participation Plans are not required for *Plot Plans*.

2. PREVIEW LIST ITEMS

(A) Scale – 1 inch = 100 feet or greater detail. The Planning Director may authorize the use of a different scale or not require a scale drawing, if, in the Director's opinion, the information shown on the plat can be presented with equal clarity by the use of a different scale or drawing.

(B) North arrow

(C) Vicinity map, with *site* location clearly marked.

(D) Title Block that includes:

i. Names of owners of record and where applicable, names of *developer*, *architect*, surveyor, planner, and/or *engineer*

ii. Location by *Street* Address, Election District, County and State

iii. Date of plan and all revisions

(E) Names of adjoining property owners with Liber and Folio or name, recording reference, and *lot* numbers of adjoining recorded *subdivision*.

(F) Property boundaries.

(G) Where applicable, the *Critical Area* boundary and minimum 100-foot *buffer*; *Stream Protection Corridor*; Habitat Protection Area; *Forest Stand Delineation*; *100-year floodplain* boundary and *flood* elevation.

(H) Existing features, whether natural or manmade, that may influence the design of the project including but not limited to the following:

i. *Natural features* to be preserved in accordance with these *regulations*

ii. *Slopes* in excess of 15% separate from those in excess of 25%

iii. *Watercourses*, including both *perennial* and *intermittent streams*

iv. *Forest*, *tree* groves, and significant *tree*s

v. Outstanding natural topographic features

vi. Tidal, State, and private, and *non-tidal wetlands*

vii. Scenic, cultural and/or historic areas

viii. Existing *buildings*, parking, and other *impervious surfaces*

(I) Proposed use, *street* layout, parking and loading areas, *building setback* lines, *building* location, if known, and recreation and *open space* areas.

(J) Conceptual *stormwater management*.

(K) *Optional*: Photographs of similar projects and/or previous work for reference.

3. SUMMARY LIST ITEMS

(A) Signature Blocks for Director of Planning, Kent County *Health Officer*, and where applicable, the Director of Water and Wastewater Services.

(B) *Easements*, covenants, *right of ways*, Public Drainage Association ditches, and *stormwater management structures* and devices and the purpose for which these *easements*, covenants and rights-of way were established

(C) Existing and proposed ~~*impervious surface*~~*lot* coverage, existing *forest* and proposed *clearing* and *soil*s.

(D) The layout of all the proposal with the following:

i. Location, height and dimensions of *building*s and *lot*s

ii. The proposed use

iii. Proposed *setback*s

iv. Proposed driveways, parking, and loading areas including the number of spaces

v. Areas reserved for public use, recreation, *open space*, utilities, other *easement*s

vi. *Stormwater management* for Limits of Disturbance (LOD) that exceed 5,000 square feet~~areas~~

vii. Signs and lighting

(E) A tabulation of the following:

i. Total acreage

ii. Acreage in *100-year floodplain*

iii. Acreage in the *Critical Area*

iv. Acreage in recreation and *open space*

v. Acreage of *impervious surfaces*

vi. The total number of *dwelling units* or *building* types

vii. Total area of *buildings*

viii. The number and type of multi-*family* units for each *structure* and the total number of units with the subtotal of each type

ix. The total number of parking and *loading spaces*, the number of parking and *loading spaces* in each *off-street parking* area, and total of number of handicap parking spaces

x. Where applicable, maximum number of employees

(F) Location of any municipal or corporate limits, election district line, or *Critical Area* boundary close to or crossing the *tract*.

(G) Proof that the required utilities, i.e., electric and telephone are available to the proposed *development*

(H) The method and type of sewer and water service.

(I) The current zoning classifications.

(J) Width of *waterway*, depth measurements, *channel*, adjacent *pier*s, or landings, and 25% of the *waterway*

(K) Front, side, and rear elevations of all exterior walls, where applicable.

(L) Traffic Study may be required by the *Planning Commission* or Planning Director.

Note: *Minor Site Plans* will include *stormwater management* for Limits of Disturbance (LOD) that exceed 5,000 square feet. These plans are divided into three phases for other site plans.

4. DETAILED LIST ITEMS

(A) ~~Field t~~*Topography* via field survey work or LiDAR (Light Detection and Ranging) and a boundary survey. The Planning Director, or the Planning Director's designee, may not require submittal of field *topography*.

(B) *Soil* classifications mapped

(C) Sewer, water mains, culverts, fire hydrants, power transmission towers and the approximate location, pipe size, and direction of flow of each underground utility that exists in or is contiguous to the property.

(D) Where applicable, approved septic and septic reserve areas and well locations

(E) The location, width, and name of each existing improved or unimproved *street* or *alley* within 200 feet of the proposal.

(F) Conceptual and schematic plans for:

i. Water and sewer services

ii. The storm drainage system, including the overall *drainage area*.

iii. *Grading* and *sediment* control measures

iv. Landscaping

(G) Preliminary *stormwater management*.

(H) Delineation of *development* staging, if any.

Note: Preliminary Site Plans **DO NOT** need to include Signature Blocks for the Director of Planning, Kent County *Health Officer*, and the Director of Water and Wastewater Services.

5. CONCLUDING LIST ITEMS

(A) Signature Blocks for the *Planning Commission*, Director of Planning, *Health Officer*, and where applicable, Director of Water and Wastewater Services.

(B) Location and description of all monuments as may be required.

(C) No distances marked "approximate" except mean high water.

(D) The exact dimensional layout of the project including *buildings*, parking, *loading spaces*, driveways, use, all *easements*, etc.

(E) Registered surveyor's, *architect*'s, and/or *engineer's* signature and seal.

(F) All landscaping, lighting, and signage.

(G) Renderings and elevations, if applicable.

(H) Deed restrictions and Public Works Agreements.~~, bonds, irrevocable letter of credit, or other surety accepted by the County Commissioners of Kent County~~.

(I) Signed Forest Conservation deeds, covenants, and easement for recordation.

(J) Signed Stormwater Management easements and maintenance requirements.

(K) All sureties required by Public Works, Health Department, and the Department.

6. PLOT PLANS – LIMITED SUBMITTAL ITEMS

This information will be presented in a clear and legible manner but does not have to be to scale. The Planning Director or the Director's Designee may determine if any information is not needed.

(A) Plat showing existing and proposed *topography*, location and dimensions of the *lot*, *lot* and block number, and name of *subdivision*, if any.

(B) Road name(s), width of *right of way*, centerline, road widths, and *grade*s.

(C) *Front*, *side*, and *rear yard* widths, and *easements*.

(D) *Sediment* control measures and limit of work.

(E) Discharge and storm drainage measures including rights and *easements*.

(F) *Stormwater management* plans and calculations for any Limit of Disturbance (LOD) that exceeds 5,000 square feet.

(G) Legal restrictions (such as *easements*, existing covenants, zoning boundaries, etc.)

(H) *Critical Area* boundary and acreage in the *Critical Area.*

(I) Location of existing and proposed *structures*, *new construction*, driveways, other access, septic systems, and wells including the distance to all property lines.

(J) Where applicable, areas of *afforestation* and/or *forest retention*.

(K) Where applicable, the width of the *waterway*, location of the *channel*, ~~extended property lines~~ riparian right lines, *tidal wetlands*, State, and private, and *non-tidal wetlands*.

(L) Where applicable, existing and proposed *impervious surface* coverage, existing *forest* and proposed *clearing*, the minimum 100-foot *buffer*, *topography,* and *soil*s.

3.6 GENERAL DESIGN STANDARDS – ALL ZONING DISTRICTS

The general design standards are re-organized into five categories: design guidelines for projects in all districts with additional guidelines for residential districts (AZD, RCD, RC, CAR, and CR), small-scale commercial and mixed-use districts (C, CCA, V, and IV), and large-scale commercial and industrial districts (M, EC, and ECCA-IDA). These required design standards are **CUMULATIVE**.

All projects proposed for *Plot Plan* or *Site Plan* review will comply with the following standards.

SITE ACCESS

Site access will be subject to the following regulations to help ensure vehicle and pedestrian safety and alleviate congestion:

1. **Safe Access.** The *applicant* will demonstrate that access to the project is adequate and the *roads* which will be impacted have the capacity to handle the traffic generated by the proposed project and will not endanger the safety of the general public.
2. **Planned Access**. Where a proposed road is designated on an approved County or State map, *site plans* for *development* adjacent to the designated *roadway* will include provisions for future access to the *roadway*.
3. **Consolidated Access.** All *site plans* will provide access for projects to a public or approved *private road*, and access will be consolidated whenever possible.

4. **Elevated Access.** Whenever possible, *roads* will be constructed above the elevation of the 100-year *floodplain*.

5. **Multimodal Access**. Pedestrian and bicycle links to adjacent *developments*, recreational facilities, and other public or semi-public uses will be provided whenever possible.

6. **ADA Access.** The design and construction of walkways and bicycle paths will be evaluated on the basis of safety, accessibility, and suitability, for use by motor-impaired individuals, and surface suitability in terms of anticipated use and maintenance requirements, per the 2010 ADA Standards for Accessible Design, as may be amended from time to time.

7. **Primary Access.** Where property abuts a primary, secondary, or collector road, access will be by way of the secondary or collector road. Exceptions to this rule will be instances where the *Planning Commission*, or where applicable the Planning Director, determines that direct access onto the *primary road* would promote traffic safety.

8. **Shared Access.** Where one or more contiguous parcels abutting a *primary road* are under single ownership and any one of the parcels abuts a *secondary road* or collector road, access to all of the parcels of the parcels under single ownership will be by way of the secondary or collector road. Exceptions to this rule will be instances when the *Planning Commission*, or where applicable the Planning Director, determines that direct access onto the *primary road* would promote traffic safety.

9. **Limited Access.** Only one direct access approach onto a *primary road* from an individual parcel of record as of August 1, 1989, will be permitted unless the *Planning Commission*, or where applicable the Planning Director, finds one of the following:

   (A) The *Planning Commission* may, with approval of the State Highway Administration or Kent County Public Works Department, approve additional access if the additional access is deemed to be significantly beneficial to the safety and operation of the highway; or, if allowing only one access approach would be a safety hazard or increase traffic congestion;

   (B) The *Planning Commission* may approve access when the parcel is bisected by *steep slopes*, bodies of water, or other topographic features in a manner as to render some portion of the property inaccessible without additional road access.

LIGHTING

10. **Dark sky**. Lighting will be dark-sky compliant, emitting no light above the horizontal plane.

11. **Color-corrected**. Lighting will use bulbs with a CRI (Color Rendering Index) of 90 or above.

12. **Glare-free.** Lighting will be designed to avoid glare onto adjacent properties, *roadways*, and any *waterway*. Lighting will not interfere with traffic or create a safety hazard.

13. **Safety-oriented.** Lighting will be sufficient to provide for the safety and security of businesses, employees, and customers.

14. **Height Limit.** Lighting will be designed at the human scale and will not exceed 18 feet in height, unless mounted on a *building*. The *Planning Commission*, or where applicable the Planning Director, may set aside the height limitation.

ZONING REGULATIONS

15. *Site plans* will comply with requirements in Article V. *Zoning Regulations* that include General Provisions, Parking and Loading, Signage Provisions, and Standards for Utility-Scale Solar Energy Systems. Additional requirements are included in the sections below.

ENVIRONMENTAL REGULATIONS

16. *Site plans* will comply with requirements in Article VI. *Environmental Regulations* that include General Provisions, Forest Interior Birds, Habitat Protection Areas, Shoreline and Cliff Areas, Water Dependent Uses, Critical Areas, Forest Conservation, Erosion and Sediment Control, Stormwater Management, and Floodplain Management. Additional requirements are included in the sections below.

3.7 GENERAL DESIGN STANDARDS – RESIDENTIAL (AZD, RCD, RC, CAR, AND CR)

In addition to the All-Zoning Districts Design Standards set forth above, all projects proposed for *Plot Plan* or *Site Plan* in this review category review will also comply with the following additional standards.

1. **Purpose**. The purpose of these standards is to give a sense of the physical aspects of the County's environment to those contemplating new development in the community. Pertinent to this physical appearance is the design of the *site*, *buildings* and *structures*, plantings, *signs*, *street* hardware, and miscellaneous other objects observed by the public.

   These standards are not intended to restrict imagination, innovation, or variety, but rather assist in focusing on design principles which can produce creative solutions that will develop a satisfactory visual appearance within the County, preserve taxable values, and promote the public health, safety, and welfare.

2. **For AZD and RCD Zoning Districts only.** *Agriculture* is the preferred use, and agricultural operations are protected by the Kent County Right-to-*Farm* Law.

3. **Good Stewardship.** The reuse of existing *buildings* is encouraged.

4. **Conservation-based Design Principles.** The landscape will be preserved in its natural state, in so far as possible, by minimizing *tree* and *soil* removal.

   (A) Any grade changes will be in keeping with the general appearance of neighboring *development* areas.

   (B) *Buildings* are encouraged to be located so as to maintain maximum natural *topography* and cover.

   (C) *Topography*, *tree* cover, and natural drainage ways will be treated as fixed determinants rather than malleable elements that can be changed to follow a preferred *development* scheme.

(D) Whenever possible, *development* will be outside the *floodplain*.

(E) Internal *streets*, roadways, and lanes will be designed and located in a manner so as to maintain and preserve natural *topography*, cover, significant landmarks, and trees; to minimize *cut* and *fill*; and to preserve and enhance views and vistas on and off the subject parcel.

(F) Proposed *development* will be related harmoniously to the terrain and to the use, scale, and architecture of existing *buildings* in the vicinity that have functional or visual relationships to the proposed *buildings*.

5. **Preservation.** Whenever possible, adverse effects on historic, traditional, or significant uses and *structures* will be minimized, whether these exist on the *site* or on adjacent properties.

6. **Open Space**. All *open space* (landscaped and usable) will be designed to add to the visual amenities of the area by maximizing its visibility to *persons* passing the *site* or overlooking it from nearby properties. *Open space* and naturally vegetative areas will be located, insofar as possible, so as to connect and expand existing greenways on adjacent *sites*.

7. **Signs**. The color, size, height, lighting, and landscaping of appurtenant *signs* and *structures* will be evaluated for compatibility with the local architectural motif and the maintenance of views and vistas of natural landscapes, recognized historic landmarks, parks, and landscaping.

8. **Rural Design.** Whenever possible, proposed developments should incorporate design elements such as single loaded *streets*, reverse curves, terminal vistas of *open space*, and foreground meadows.

9. **Public Utilities**. Where public water and sewer services are available, then connection to public water and sewer systems may be required by the *Planning Commission*.

10. **Supplemental**. The *Planning Commission* or the Planning Director may require additional standards and requirements to those stated in this Article as are necessary for the protection of the environment and the health and safety of the residents of the County.

LANDSCAPING – *STREET TREE*S

11. **Required.** *Street tree*s will be included in each *subdivision*. *Street tree*s may be clustered, evenly spaced, or when *building* envelopes are within 20 feet of the public road *right of way*, as *front yard* landscape *tree*s. The number of *tree*s will be calculated as follows:

(A) Small *tree*s (*tree*s less than 25 feet in height at maturity) – 1 per 25 linear feet of *lot* or *open space* along public or *private roads*

(B) Medium or large *tree*s (25 feet or taller at maturity) – 1 per 40 linear feet of *lot* or *open space* along public or *private roads*.

12. **Standards.** At the time of planting, deciduous *tree*s will have at least a 2-3-inch *caliper* at 6 inches above *grade*; coniferous *tree*s will be at least 5 to 6 feet in height.

13. **Exemption.** Where existing trees serve as *street trees*, the *Planning Commission*, or where applicable the Planning Director, may ~~waive the requirement for~~accept them as *street trees*.

3.8 GENERAL DESIGN STANDARDS – SMALL-SCALE COMMERCIAL AND MIXED-USE DESIGN STANDARDS (C, CCA, V AND IV)

In addition to the All-Zoning Districts Design Standards and Residential Design Standards set forth above, all projects proposed for *Plot Plan* or *Site Plan* in this review category review will also comply with the following additional standards.

SITE DESIGN

1. **Purpose**. The purpose of imposing *regulations* governing *building* arrangement and *site* design is to help protect significant environmental and historic features, promote a sense of neighborhood and community identity and reduce the visual impact of high-density *development* on the surrounding area.

2. **Street Relationship.** Where existing *building*s express a traditionally modest (pre-zoning) front *setback*, creating a characteristically close relationship with the *street* (as in village and town centers and along their approach *roads*), it is highly desirable to continue this pattern in order to retain the area's character. Therefore, the *setback* of *new construction* should harmonize with the average *setbacks* of existing *buildings.*

3. **Setback Variety.** Outside the areas of generally uniform *building setbacks* (where existing *structures* are at various distances from the *roadway*), front *setbacks* may vary to a greater degree, and principal *buildings* will generally be within 40 feet and no closer than 20 feet to the front line unless there are substantial counterbalancing considerations (such as irregular *topography*, *wetlands*, or the preservation of natural rural features, including pastures, crop land, meadows, or timber stands).

4. **Site Preservation.** Where significant *tree*s, groves, *waterways*, historic, archeological, or prehistoric *sites* or unique habitats are within the property boundaries of a proposed project, the *Planning Commission*, or where applicable the Planning Director, may require that every possible means will be provided to preserve these features. In addition to identifying existing *natural features* per this Ordinance, an inventory of existing *on-site* historic and archeological features may be required.

5. **Building Variety**. Projects should reflect the unordered, historical growth of the village and avoid the cookie-*cut*ter sameness of many new residential *subdivision*s.

6. **Pedestrian Emphasis**. Strong provisions should be made for walking as opposed to vehicular connections both within and outside of the new community.

7. **Streetscape Variety.** The *street*scape of projects should be designed in detail to avoid repetitious *setback*s, driveways, elevations, and landscaping.

8. **Design Diversity.** Projects should carefully study and reflect the physical diversity of the existing village in regard to the mixture of housing types; a mixture of housing styles; and a mixture of *lot* sizes and shapes.

9. **Supplemental**. The *Planning Commission* or the Planning Director may require additional standards and requirements to those stated in this Article as are necessary for the protection of the environment and the health and safety of the citizens of the County.

BUILDING DESIGN

10. **Sense of Place.** *Buildings* should be designed to enhance the community's sense of place by varying building massing and roof treatments, and by using building components and architectural design that emphasize the human scale. Commercial establishments are encouraged to limit the visual impression of height by the use of roof treatments~~,~~ and varying the plane of exterior walls. Projects should be an extension of the overall village *development* pattern rather than stand in contrast to it.

11. **Context Sensitive.** *New construction* throughout the village should be compatible with the surrounding properties, in terms of formal characteristics such as height, massing, roof shapes and window proportions. When *new construction* is surrounded by existing historic *buildings*, *building* height and exterior materials will be harmonious with those of adjacent properties.

~~**Village Master Plan.** New development is encouraged to follow the guidelines found in the pertinent village master plan. *Building* elevations will be required for new commercial and multi *family developments*. The *Planning Commission*, or where applicable the Planning Director, may set aside this requirement.~~

12. **Human Scale.** New *buildings* should not create large, *bulk*y, masses but should be scaled down into groupings of smaller attached *structures* and modules that reflect proportions similar to historic *buildings*. Methods used to create intervals that reflect and respect *historic structures* include but are not limited to the following:

(A) Façade modulation – stepping back or extending forward a portion of a façade.

(B) Repeating window patterns at established intervals.

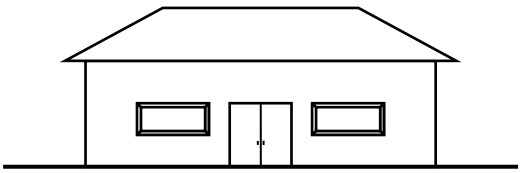
(C) Providing a balcony or bay window at established intervals.

(D) Changing the roofline by alternating dormers, stepped roofs, gables, or other roofelements.

(E) Use of landscaping and *architect*ural detailing at the ground level.



Structure 1, Utilizes *building* massing



Structure 2, Does not utilize *building* massing

The above *structure*s are the same height and width and are drawn to the same scale.

13. **Materials.** *Building* designs will be encouraged to utilize traditional materials (brick or wood) and contemporary interpretations of earlier styles.

14. **Identity-building.** The design of new *buildings*, *building* additions, *alterations*, and façade renovations should reflect the positive aspects of the existing design features of the County. *Buildings* should complement and improve the overall environment of the area

15. **Orientation and Scale.** The proposed *building* orientation will respect the orientation and scale of surrounding *buildings* and where deemed necessary by the *Planning Commission* serve as an orderly transition to a different scale.

16. **Rooftop Screening.** All rooftop equipment will be *screen*ed from public view by *screen*ing material of the same nature as the *building*'s basic *building* materials.

17. **Multi-Family projects:**

    (A) To avoid monotonous linear *development*, multi-*family development* will be in small clusters designed as neighborhood units. A cluster will not include more than 30 units.

    (B) In multi-*family development*, the number of units in a row is to be limited to a maximum of eight.

    (C) *Offsets* at party walls and/or front and rear facades or similar devices are required to visually reduce *building* mass and create individualized spaces (*courtyards*, seating areas, etc.) for all multi-*family* projects. Drawings of the *building* elevations will be required. The *Planning Commission*, or where applicable Planning Director, may set aside this requirement.

COMMERCIAL DESIGN

18. **Local Design.** Corporate or trademark architecture will not be permitted.

19. **Massing.** Varied building massing is encouraged to enhance the community's sense of place.

20. **Street Relationship.** Commercial *building* projects and *buildings* in *shopping centers* are encouraged to be arranged in varied clustered masses related closely to the road.

21. **Projections and Porches.** Arches, porches, arcades, overhangs, roofs, and varying façade *setback*s are encouraged on *buildings* and *shopping centers*.

22. **Scale.** The scale within a *shopping center* will be consistent throughout the center. Where anchoror major tenants require larger *building* areas, the larger scale of these units will be broken down into comparable to the predominant unit in the *development*. The placement of anchor stores will consider the overall balance of the center.

23. **Fenestration.** Commercial establishments, offices, and financial institutions emphasize personal service as their primary products. These *structures* should reflect personal service by their architectural design which is at a human scale at entries and interior

spaces. Building components such as windows, wooden doors, and decorative trim should emphasize the human scale in coordination with each other and the building scale.

24. **Articulation.** Each unit of *development*, and the total *development*, will create an environment of desirability and stability. Commercial establishments are encouraged to limit the visual impression of height by the use of roof treatments and varying the plane of exterior walls.

25. **Display Areas.** Whenever possible, display areas should be incorporated into the overall design of the *site*. Display areas will not be in the *front yard setback*.

26. **Auxiliary Facilities and Functions.** Loading docks, trash collection, and similar facilities and functions will be incorporated into the overall design of the *building* and landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public *streets*.

LANDSCAPE - GENERAL

27. **Total Requirement.** A minimum area of 15% of each new or redeveloped *site*, excluding *single family dwellings*, will be landscaped. Landscaping within the parking areas and *screen*ing may be counted toward this requirement. The *front yard* will be landscaped and maintained in a neat and attractive condition.

28. **Maintenance.** *Sites* will be permanently maintained in good condition with at least the same quality and quantity of landscaping as originally proposed.

29. **Professionals.** The *landscape plan* will be prepared by a registered professional *forest*er, landscape *architect*, or other professional with equivalent experience and qualifications.

30. **Exemptions.** The *Planning Commission*, or where applicable the Planning Director, may reduce or set aside the landscape requirement when it is demonstrated that the spirit and intent of the requirement are accomplished through other means, or the nature of the change does not require additional landscaping.

LANDSCAPE – PERIMETER AND *SCREEN*ING

31. **Purpose.** *Yards*, fences, walls, or vegetative *screen*ing will be provided where needed to protect residential districts or public *streets* from undesirable views, lighting, noise, or other *off-site* influences. In particular, outdoor storage, extensive *off-street parking* areas, and service areas for loading and unloading vehicles, and for storage and collection of refuse and garbage will be effectively *screen*ed.

32. ***Screen*ing** is required to protect adjoining properties and *roadways* from noise, glare, and uses which are visually incompatible with neighboring land uses. *Screen*ing is required:

    (A) On *sites* which involve loading or unloading (including the storage of vehicles and boats), trash, or disposal areas and where accessory *buildings* and *structures* are adjacent to residential properties.

(B) Where exterior storage areas are visible from *roadways*, sidewalks, or nearby residential properties.

(C) When noise not typically occurring in residential areas is expected to project ontonearby properties.

(D) To *screen* parking areas, but not approved display areas, from motorists, pedestrians, and adjoining residential properties.

(E) Where the commercial or industrial *site* abuts a residential district or a primary or *secondary road*.

(F) Where the *Planning Commission* determines that additional *screen*ing is necessary to protect properties in the area.

33. **Integration.** Landscaped *screen*s will be designed to complement other landscaping occurring naturally on the *site*, planted previously, or approved as a part of a *site plan*. Whenever possible, existing vegetation and landform will be used to create *screen*s.

34. **Duration.** The *screen* will be capable of providing year-round *screen*ing.

35. **Noise.** When noise is likely to be a factor, the *screen* will be of sufficient construction to be an effective noise *buffer*.

36. **Components.** *Screen*ing will consist of *tree*s and plants, and may include masonry, or wooden fencing used with or without *berms*. *Screen*ing will consist of a functional and well-designed combination of the following:

(A) Vegetative ground cover

(B) Coniferous and deciduous shrubs, specimens of which will reach and maintain a minimum height of five (5) feet of full vegetative growth and which measure a minimum of three (3) feet in height at the time of planting and are expected to attain a minimum height of five (5) feet within three (3) years.

(C) Coniferous and deciduous *tree*s, species and sizes of which will be chosen to best accomplish an adequate *screen* (i.e., evergreens used for visual *screen*ing, deciduous *tree*s for seasonal *screen*ing).

37. **Substitutions.** Natural *slopes* and existing vegetation may be substituted for some or all of the requirements above, provided that these features serve to *screen* the area from adjoining properties and *roadways*. The *Planning Commission*, or where applicable the Planning Director, will determine the acceptability of using existing *slopes* and vegetation for this purpose. The *Planning Commission*, or where applicable the Planning Director, may set aside *screen*ing where it is physically impossible to accomplish.

38. **Maintenance.** *Screen*ing and fencing will be maintained in good condition and (with) in at least the same quality and quantity as initially approved.

3.9 GENERAL DESIGN STANDARDS – MAJOR-SCALE COMMERCIAL AND INDUSTRIAL DESIGN STANDARDS (M, EC, AND ECCA-IDA)

MARINE DESIGN STANDARDS

1. **General Standards**. Projects in the Marine district will comply with the Design Standards for All Zoning Districts and enumerated items 3-7 from the Residential Design Standards.

2. **Overall Landscape Requirement**. A minimum area of 10% of each new *development* will be landscaped. *Buffer*s and *screen*ing count in the calculation of the landscaped area. This may be set aside by the *Planning Commission* or where applicable the Planning Director. All projects will meet the landscape requirements in the Design Standards above for Perimeters and Screening as well as the requirements set forth in Article V for Parking and Loading. All projects will comply with the General Landscape Requirements in the section above.

3. **Specific Design**. *Private Destination / Residence Clubs* will comply with the Mixed-Use Design Standards for Site Design and Building Design as well as Landscape requirements.

EMPLOYMENT CENTER AND ECCA-IDA DESIGN STANDARDS

In addition to the All-Zoning Districts Design Standards, Residential Design Standards, Small-Scale Commercial and Mixed-Use Design Standards set forth above, all projects proposed for *Site Plan* in this review category review will also comply with the following additional standards.

4. **Overall Landscape Requirement**. There is no minimum area of landscaping beyond the landscape requirements set forth in the Design Standards above for Perimeters and Screening, as well as the requirements set forth in Article V for Parking and Loading. All projects will comply with all landscape requirements in all Design Standards above.

5. **Curb Cut Limitations**. Projects in any Employment Center zoning district will not create or be a continuation of highway strip *development* with multiple access points or curb *cut*s within 3,000 feet of each other on a State or County Road, in so far as possible. The *Planning Commission* may waive this requirement, per the standards provided under the Waivers section below.

6. **Enclosed Structures**. In so far as possible, all uses will be conducted within a completely enclosed *structure* or be completely *screen*ed. Outdoor storage of materials and unfinished products is prohibited unless otherwise approved by the *Planning Commission* and subject to such conditions as may be determined by the *Planning Commission*. Finished or semi-finished products manufactured on the *premises* may be stored in the open if *screen*ed from the *street* and adjacent uses.

7. **Traffic Flow**. Principal vehicular access points will be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. Storage, turn lanes, or traffic dividers may be required by the *Planning Commission* where existing or anticipated heavy flows indicate need.

8. **Public Utilities**. Where public water and sewer are available, then connections to public water and sewer systems are mandatory.

PERFORMANCE STANDARDS FOR INDUSTRIAL AND MANUFACTURING USES

9. **General**. Designs for newly proposed uses will meet the following performance standards ~~Any industrial use established after August 1, 1989, shall be operated so as to meet the performance standards established hereinafter. Any use already established on August 1, 1989, shall be permitted to continue provided that no *alteration*, expansion, enlargement, or modification shall be permitted which effectively increases the degree of nonconformity that existed prior to any *alteration*, expansion, enlargement, or modification. An application to alter, expand, enlarge, or modify an existing use which does not meet the performance standards shall include a statement identifying measures proposed to bring the use into conformity with the performance standards~~.

10. **Points of measurement** to determine compliance with performance standards will be the property *lot line* or zoning line nearest the source that is the subject of measurement.

11. **Noise**. All sources of noise (except those not under direct control of occupant of use, such as vehicles), will not create sound or impact noise levels in excess of the values specified below when measured at the points indicated. In addition, between 7:00 P.M. and 7:00 A.M., the permissible sound levels at a residential district boundary adjoining Employment Center Districts, will be reduced by five decibels in each octave band and in the overall band for impact noises.

    (A) Noise will be measured by means of a sound level meter and octave band analyzer, calibrated in decibels (re 0.0002 microbar), and will be measured at the nearest *lot line* from which the noise level radiates. Impact noises will be measured by means of an impact noise analyzer. Impact noises are those whose pea*k value*s fluctuate more than six decibels from the steady values indicated on the sound level meter set at fast response.

    (B) Decibel – A measurement of the intensity (volume) of a sound.

    (C) Octave band – A prescribed interval of sound frequencies which classifies sound according to its pitch.

    (D) Preferred frequency octave bands – A stigmatized series of octave bands prescribed by the American Standards Association in Sel. 6-1970 Preferred Frequencies for Acoustical Measurements.

    (E) Sound level meter – An electronic instrument which includes a microphone, an amplifier, and an output meter which measures noise and sound pressure levels in a specified manner. It may be used with the octave band analyzer that permits measuring the sound pressure level in discrete octave bands.

MAXIMUM PERMITTED SOUND LEVELS (Decibels)		
Octave band, cycles/second	**At residential boundaries**	**At other *lot lines***
31.5	64	72
63	64	74
125	60	70
250	54	65
500	48	59
1,000	42	55
2,000	38	51
4,000	34	47
8,000	30	44
Overall	80	90

(F) **Vibration**. The product of displacement in inches times the frequency in cycles per second of earthborn vibrations from any activity will not exceed the values specified below when measured at the points indicated. Earthborn vibrations will be measured by means of a three-component recording system, capable of measuring vibration in three mutually perpendicular directions. The displacement will be the maximum instantaneous vector sum of the amplitude in the three directions.

MAXIMUM PERMITTED VIBRATIONS (INCHES PER SECOND) AREA OF MEASUREMENT		
Type of Vibrations	**At Residential Boundaries**	**At other *Lot lines***
Continuous	0.003	0.015
Impulsive – 100/min or less	0.006	0.030
Less than 8 pulses per 24 hours	0.015	0.075

12. **Glare**. No direct or sky reflected glare, whether from *flood* lights or from high temperature processes such as combustion, welding or otherwise, is to be visible beyond the *lot line*, except for sign*s*, parking *lot* lighting and other lighting permitted by this Ordinance or required by any other applicable regulation, ordinance, or law.

13. **Air pollution**. The rules and *regulations* of the State of Maryland will apply.

14. **Water pollution**. The rules and *regulations* of the State of Maryland will apply.

15. **Radioactivity**. There will be no radioactive emission which would be dangerous to the health and safety of *person*s on or beyond the *premises* where such radioactive material is used. Determination of existence of such danger and the handling of radioactive materials, the discharge of such materials into the atmosphere and streams or other water, and the disposal of radioactive wastes will be by reference to and in accordance with applicable current *regulations* of the governments of the United States and Maryland.

16. **Electrical interference**. There will be no electrical disturbance emanating from any *lot* that would adversely affect the operation of any equipment on any other *lot* or *premises*.

17. **Smoke and particulate matter limitations**

(A) General limitations. In addition to the performance standard specified hereinafter, the emission of smoke or particulate matter in such manner or quantity as to be detrimental to or endanger the public health, safety, comfort, or welfare is hereby declared to be a public nuisance and will henceforth be unlawful.

(B) Particulate matter emission caused by the wind from open storage areas, *yards*, *roads*, etc., within *lot lines* will be kept to a minimum by appropriate landscaping, paving, wetting, or other means.

(C) For the purposes of determining the *density* or equivalent opacity of smoke, the Ringelmann Chart as adopted and published by the United States Bureau of Mines in Circular No. 8333 (7718) will be employed.

(D) Permitted smoke emission. Within 1,000 feet of a residence or commercial zoning district boundary line, the emission of visible smoke from any vent, stack, chimney, or combustion process, darker than Ringelmann No.2 for a period or periods aggregating more than 4 minutes in any 60-minute period will not be permitted.

18. **Toxic matter limitations**. In any Employment Center District, toxic materials which are released will not exceed 10% of the maximum permissible airborne concentration allowed an industrial worker when measured at any point beyond the *lot line*, either at ground level or habitable elevation, whichever is more restrictive. When maximum permissible airborne concentrations of toxic materials allowed an industrial worker are not contained in the most recent list of Threshold Limit Values published by the American Conference of Governmental Industrial Hygienists, the *applicant* will satisfy the County *Health Officer* that proposed levels will be safe to the general population.

19. **Odorous matter limitations**. The release of odorous matter from any Employment Center District across residential or commercial district boundary lines will be so controlled that at ground level or at habitable elevations the concentration will not exceed the odor threshold lines. Further, the release of odorous matter across *lot lines* will not become a nuisance or source of discomfort to neighboring uses. As a guide in determining qualities of offensive odors, Table III (*Odor Thresholds*), Chapter 5, *Air Pollution Abatement Manual*, by Manufacturing Chemists Association, Inc., as amended, may be used.

20. **Certified *engineer's* report - first submittal**. The *applicant* for a *grading* permit, *sediment control permit*, or *building* permit for uses in an Employment Center District, or *applicant*s for *variances* to the district will be required to submit proof that the uses proposed will not cause *violation*s of Federal, State or County laws or *regulations*. For industrial uses which will produce emissions of pollutants to the waters or air of the County, this proof will include measurements of the ambient water and air quality as well as documentation

in the form of figures that the additional planned and proposed industrial use will not cause the *violation* of either ambient or source standards outlined by the laws and *regulations* of the Federal, State, or County governments.

21. **Certified *engineer's* report - additional submittals required.** Each future occupant of an industrial character will submit to the County as a part of final *site development plan* approval, a certified *engineer*'s report describing: the proposed operation, all machines, processes, products and by-products, stating the nature and expected levels of emission or discharge to land, air, water or liquid, solid, or gaseous effluent and electrical impulses, vibrations and noise under normal operations and the specifications or treatment methods and mechanisms to be used to control such emission or discharge.

22. **Expansion, modification, or enlargement**. Existing industrial uses will be permitted to continue and to expand, enlarge or modify provided that the industry continues to comply with the performance standards. Existing industrial uses that do not conform to the performance standards will be permitted to expand, modify, or enlarge provided the expansion, modification, or enlargement does not increase the degree of nonconformance and that the *applicant* submits a statement that identifies measures to bring the industry into compliance. When the *Planning Commission* finds that an existing industry is not making a good faith effort to comply with the performance standards, the *Planning Commission* may deny an application for expansion, modification, or enlargement and may initiate an enforcement action.

SECTION 4 SPECIAL EXCEPTIONS

4.1 STATEMENT OF INTENT

Special Exception uses are allowed and presumed to be compatible with other permitted uses in a zoning district; however, a review process is required to evaluate whether the particular use proposed at a particular location would have any adverse effects above and beyond those inherently associated with such a use irrespective of its location within the zoning district and to ensure that *development* complies with the *Comprehensive Plan*, the Land Use Ordinance and various agency requirements, thereby promoting the health, safety, and general welfare of Kent County's residents.

4.2 CRITICAL AREA COMMISSION REVIEW AND COMMENT REQUIRED

1. As required by the State of Maryland, Kent County will send copies of applications for all *developments*, subdivisions, and *site plans,* wholly or partially within the Critical Area, as specified in COMAR 27.03.01.04 to the Critical Area Commission for review and comment. This includes all projects located in the RCD, CAR, CCA, M, and ECCA zoning districts.
2. Until Kent County has received notice of receipt from the Critical Area Commission or the appropriate waiting period per the State of Maryland has expired, the County may not process an application that has been sent to the Critical Area Commission for notification.
3. Per the State of Maryland, any action by Kent County in violation of these State-required procedures shall be void.

4.3 TYPES OF SPECIAL EXCEPTIONS.

1. Administrative Special Exceptions.

   The Planning Director or the Planning Director's designee will have the right, but not the obligation, to hear and decide the following special exceptions when indicated as special exceptions in individual zoning districts:

   (A) Accessory residential structures with ground floor area of more than 2,000 sf

   (B) Accessory sheds on properties less than 20 acres in size

   ~~Accessory storage structures~~

   (C) Accessory structures in the front yard requirement of waterfront parcels

   (D) Accessory structures in a front yard of through or corner lots

   (E) Adaptive reuse of existing structures in AZD, located on parcels under 20 acres

   ~~Animal husbandry – raising of livestock and fowl~~

   (F) Assisted living facilities with five to eight beds

   (G) Cottage industries, tradesmen, and artisan shops

(H) Day care group

(I) Single family dwellings

2. Special Exceptions evaluated by the Boards of Appeal after *Planning Commission* review.

(A) Adaptive reuse of historic structures for uses not otherwise listed

(B) Agritourism on farms, as defined in Article VII

(C) *Aquaculture*

(D) *Airport*, landing field, heliport, or helistop, public or private

(E) Animal husbandry – all categories requiring special exception approval

(F) Attached retail businesses

(G) *Automobile repair*

(H) *Automobile service station*s

(I) Boat *building*, repairs, and sales

(J) Car wash

(K) Cemetery, including crematorium and mausoleum

(L) *Conference center*

(M) Convalescent, nursing, or *group home*s for the aged with five or more beds

~~Cottage industries, tradesmen, and artisan shops~~

(N) *Country inn*

(O) *Country stores*

(P) Dredge spoil *site*

(Q) *Excavation, landscaping, and other con*tract*or's yard*

(R) Farm Employee Housing

(S) Golf courses, public or private

(T) *Hospital*s, rehabilitation facilities, or other similar institutions for human care

(U) Houses of worship

(V) The manufacture, processing, and assembling of food products to include baked and confectioners' goods, frozen food processing, fruit and vegetable processing, canning and storage, or businesses of a similar nature, excluding animal and seafood processing. ++

(W) Livestock auction houses, located on farms

(X) Migrant labor camps

(Y) *Mobile home parks*

(Z) Multi-level boat storage

(AA) Outdoor entertainment

(BB) Outdoor recreation, miniature golf, but not golf courses

(CC) *Personal wireless facility tower*

(DD) Poultry houses on parcels where the owner cannot handle the waste generated

(EE) Printing and publishing

(FF) Private schools

(GG) Production of biofuels

(HH) *Public uses, buildings, utilities and structures*

(II) Pubs, taverns, and bars

(JJ) Radio and television tower, commercial

(KK) Recreational facilities

(LL) *Resorts*

(MM) *Restaurants* with drive through facilities in the Route 301 Corrdior

(NN) Retail businesses

(OO) *Retreats*

(PP) *Rural Inns*

(QQ) Sand and gravel pits

(RR) *Sanitary landfill* or rubble fill

(SS) School bus parking *lot* ++

(TT) Seafood processing

(UU) *Sewage sludge land application*

(VV) *Shopping center*s

(WW) *Solar energy systems, utility*

(XX) *Solar energy systems, utility scale* on *farm*s

(YY) *Structures* for the buying, processing, and sale of animal products

(ZZ) Tie-out pilings of private *pier*s, *community piers*, and private shared *pier*s, installed at a distance not to exceed 25% of the width of the *waterway*, the edge of the *channel*, or 180 feet from the mean high-water mark, whichever is less, for the exclusive mooring use by tall ships as safe-harbors from hurricanes and other severe weather-related threats. +

(AAA) Truck parking *lot*

(BBB) *Truck stops*

(CCC) *Truck terminals*

(DDD) Weddings on farms

(EEE) Wind energy systems, small

(FFF) Wind energy systems, small, with a height that exceeds 80 feet or on a *lot* less than 20 acres

3. Special Exceptions evaluated by the Board of Appeals only.

(A) *Dog kennels*, commercial

(B) Dormitories for employees

(C) Exposition center or fairgrounds

(D) *Farm* employee housing

~~Animal husbandry, limited - More than four horses and mules on land less than 20 acres in size~~

(E) *Private clubs*

(F) *Public landings*

~~Raising of small animals~~

(G) Rifle and pistol ranges

(H) *Structures* for the buying, processing, and sale of *farm* products in *structures* that exceed 10,000 square feet but are less than 50,000 square feet

4.4 CRITERIA FOR GRANTING SPECIAL EXCEPTIONS

A special exception may not be authorized, unless the Board of Appeals, or where applicable the Planning Director, finds that the establishment, maintenance, or operation of the special exception meets the standards set forth in this Section. The burden of proof is on the applicant to bring forth the evidence and the burden of persuasion on all question of fact which are determined by the Board or where applicable the Planning Director.

Unless otherwise specified in this Section or as a condition of approval, the height, *yard*, *lot area*, design, environmental, parking, and *sign* requirements will be the same as other uses in the district in which the special exception is located.

The Board, or where applicable the Planning Director, will make findings on the following where appropriate:

1. The nature of the proposed site, including its size and shape and the proposed size, shape, and arrangement of structures;

2. Traffic Patterns;
3. Nature of surrounding area;
4. Proximity of dwellings, houses of worship, schools, public structures, and other places of public gathering;
5. The impact of the development or project on community facilities and services;
6. Preservation of cultural and historic landmarks, significant natural features and trees;
7. Probable effect of noise, vibration, smoke and particulate matter, toxic matter, odor, fire or explosion hazards, or glare upon surrounding properties;
8. The purpose and intent of this Ordinance as set forth in Article II;
9. Design, environmental, and other standards of this Ordinance as set forth in Article V;
10. The most appropriate use of land and structure;
11. Conservation of property values;
12. The proposed development's impact on water quality;
13. Impact on fish, wildlife and plant habitat;
14. Consistency with the Comprehensive Plan and Land Use Ordinance~~, and where applicable the Village Master Plan~~;
15. Consistency with the Critical Area Program; and
16. Compatibility with existing and planned land use as described in the Comprehensive Plan~~,~~ and the Land Use Ordinance~~, and where applicable the Village Master Plan~~.

4.5 CONDITIONS AND GUARANTEES FOR SPECIAL EXCEPTIONS

1. Prior to the granting of any special exception, the Board, or where applicable the Planning Director, may impose such conditions and restrictions upon the establishment, location, construction, maintenance, and operation thereof as deemed necessary to reduce or minimize any effect of such use upon other property in the neighborhood, and to secure compliance with the standards and requirements specified in this Ordinance.
2. Special Exception uses will be evaluated using the specific conditions in Article III Uses.
3. General conditions or restrictions may also include but are not limited to the following:
   (A) Hours of operation
   (B) Permitted expansion
   (C) On-premises sales
   (D) Exterior display, lighting, storage, signs, and other indicators or appearance of a business that may detract from the general character of the area
   (E) Location of parking

(F) Increased *setback*s and *screen*ing

(G) Landscaping

(H) The size and type of equipment

(I) The number of clients allowed on *premises* at one time or class size

(J) Accessory vehicles

(K) *Accessory uses*

(L) Letters of credit, bonds, or other surety, except relating to *Cottage industries, tradesmen, and artisan shops*, which may be set aside by the Planning Director

4. The Board of Appeals may hire expertise as may be needed to provide advice and assist in its decision-making. In its recommendation, the *Planning Commission* may recommend that additional expertise is warranted.

5. The Board, or where applicable the Planning Director, may require such evidence and guarantees as it deems necessary as proof that the conditions imposed in connection with a special exception will be implemented. Failure to comply with such conditions or restrictions imposed will constitute a *violation* of this Land Use Ordinance and the Department may revoke permits issued under the special exception.

SECTION 5 VARIANCES

5.1 STATEMENT OF INTENT

The granting of *variances* will comply, as nearly as possible, in every respect to the spirit, intent, and purpose of this Land Use Ordinance; variances are granted to (a) relieve *unwarranted hardship*s or other injustices arising out of the strict application of the provisions of this Land Use Ordinance and (b) for reasons of demonstrable practical difficulties, as distinguished from variations sought for purposes or reasons of convenience, profit, or caprice.

5.2 CRITICAL AREA COMMISSION REVIEW AND COMMENT REQUIRED

1. As required by the State of Maryland, Kent County will send copies of applications for all *developments*, subdivisions, and *site plans,* wholly or partially within the Critical Area, as specified in COMAR 27.03.01.04 to the Critical Area Commission for review and comment. This includes all projects located in the RCD, CAR, CCA, M, and ECCA zoning districts.
2. Until Kent County has received notice of receipt from the Critical Area Commission or the appropriate waiting period per the State of Maryland has expired, the County may not process an application that has been sent to the Critical Area Commission for notification.
3. Per the State of Maryland, any action by Kent County in violation of these State-required procedures shall be void.

5.3 TYPES OF VARIANCES

1. Administrative Zoning *Variances*

   The Planning Director, or Planning Director's designee, may authorize, upon application, *variances* from the *yard* (*front*, *side*, or *rear*), but not *buffer* in an amount that does not exceed 50% of the required *yard* for the applicable zoning district. Height, parking, sign, and loading requirements may be varied up to 50% of limits. At the Director's discretion, any *variance* of this nature may be submitted to the Board of Appeals for approval.

2. Administrative *Critical Area Variances*

   The Planning Director, or Planning Director's designee, may authorize, upon application, *variances* from the *buffer* requirements on parcels that existed on or before December 1, 1985, in order to repair, replace, or install septic systems for the applicable zoning district. At the Director's discretion, any *variance* of this nature may be submitted to the Board of Appeals for approval.

3. Zoning and *Critical Area Variance*s

   The Kent County Board of Appeals may authorize, upon application, *variances* from the *yard* (*front*, *side*, or *rear*), height, *bulk*, parking, sign, loading, *shoreline cliff*, 15% *slope*, *pier length*, *impervious surface*, *stream protection corridor*, *forest conservation retention* provisions, ~~and~~ *buffer* requirements, and any non-use-related provision of this Ordinance.

4. *Floodplain Variances*

The Kent County Board of Appeals may authorize, upon application, *variances* from the *floodplain* provisions of this Land Use Ordinance. Such granting of a *variance* will comply, as nearly as possible, in every respect to the spirit, intent, and purpose of the *floodplain regulations* and sound *floodplain* management.

5. *Stormwater Management Variance*s

The Kent County Board of Appeals may grant a written *variance* from the *stormwater* requirements found in this Land Use Ordinance. A written request for *variance* will be provided to the County and will state the specific *variances* sought and reasons for their granting. The County will evaluate the cumulative effects of other *development*s that are relinquished from the requirements of *stormwater management*.

5.4 CRITERIA FOR ZONING VARIANCES

1. In order to grant a *variance*, the following will be found:

(A) That the *variance* will not cause a substantial detriment to adjacent or neighboring property.

(B) That the *variance* will not change the character of the neighborhood or district.

(C) That the *variance* is consistent with the *Comprehensive Plan* and the general intent of this Land Use Ordinance.

(D) That the practical difficulty or other injustice was caused by the following:

i. Some unusual characteristics of size or shape of the property;

ii. Extraordinary topographical or other condition of the property;

iii. The use or *development* of property immediately adjacent to the property, except that this criterion will not apply in the *Critical Area*.

(E) That the practical difficulty or other injustice was not caused by the *applicant*s' own actions.

(F) In considering an application for a *variance*, the reasonable use of the entire parcel or *lot* for which the *variance* is requested will be considered.

(G) The cause of a *variance* request may be considered, and if a *variance* request is the result of actions by the *applicant*, including whether commencement of *development* activity occurred before an application for a *variance* was filed.

5.5 CRITERIA FOR *CRITICAL AREA VARIANCES*

1. In order to grant a *variance*, the following will be found:

(A) The granting of a *variance* will be in harmony with the general spirit and intent of the *Critical Area* Law and the *regulations* adopted by Kent County;

(B) That the granting of a *variance* will not adversely affect water quality or adversely impact fish, wildlife, or *plant habitat*.;

(C) That the application for a *variance* will be made in writing with a copy provided to the *Critical Area* Commission;

(D) That the strict application of the Land Use Ordinance would produce an *unwarranted hardship*;

(E) Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;

(F) The authorization of such *variance* will not be a substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the *variance*;

(G) That a literal interpretation of this Land Use Ordinance deprives the *applicant* of rights commonly enjoyed by other properties in similar areas within the *Critical Area* of Kent County;

(H) That the granting of a *variance* will not confer upon an *applicant* any special privilege that would be denied by this Ordinance to other lands or *structure*s;

(I) Due to special features of a *site*, or special conditions or circumstances peculiar to the *applicant*'s land or *structure*, a literal enforcement of this Land Use Ordinance would result in *unwarranted hardship* to the *applicant*;

(J) The Board of Appeals finds that the *applicant* has satisfied each one of the *variance* provisions;

(K) Without the *variance*, the *applicant* would be deprived of a use of land or a *structure* permitted to others in accordance with the provisions of the *critical area* program.

(L) In considering an application for a Critical Area *variance*, it is presumed that the specific *development* activity in the *Critical Area* that is subject to the application and for which a *variance* is required does not conform with the general purpose and intent of this Ordinance and the *Critical Area* Law.

(M) The cause of a *variance* request may be considered, and if a *variance* request is the result of actions by the *applicant*, including whether commencement of *development* activity occurred before an application for a *variance* was filed.

5.6 CONDITIONS FOR ZONING AND CRITICAL AREA VARIANCES

1. In granting a *variance*, the Board may choose or not choose to limit the approval by such conditions as the case may require, including but not limited to, the imposition of the following specifications:

(A) No outside signs or advertising *structure*s except professional or directional signs.

(B) Limitation of signs as to size, type, color, location, or illumination.

(C) Amount, direction, and location of outdoor lighting.

(D) Amount and location of off-street parking and loading spaces.

(E) Cleaning or painting.

(F) Gable roof or other type.

(G) Construction and materials.

(H) Connected or disconnected to other *building*s.

(I) Exits or entrances, doors, and windows.

(J) Paving, shrubbery, landscaping, ornamental or *screen*ing fences, walls, or hedges.

(K) Time of day or night for operating.

(L) No structural changes.

(M) Control or elimination of smoke, dust, gas, noise, or vibration caused by operations.

(N) Requirements for termination of a use based on lapse of time or such other conditions as the Board may specify.

5.7 CRITERIA FOR FLOODPLAIN VARIANCES

1. In order to grant a *variance*, the Board will find:

(A) There is a good and sufficient cause for granting the *variance*.

(B) That the failure to grant a *variance* would result in exceptional hardship (not economic) to the *applicant*.

(C) That the granting of the *variance* would not result in increased *flood* heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud, or victimization of the public.

(D) That any *variance* including the placement of *fill* which encroaches on the *floodway* will not result in any increase in the 100-year *flood* levels.

(E) That the *variance* is the minimum necessary, considering the *flood* hazard, to afford relief.

(F) That the Board has received comments from the Maryland Department of the Environment.

(G) That no new *buildings* will be constructed in the *floodway*.

(H) That in the Coastal High Hazard Area, no *fill* for structural support is proposed.

(I) For a functionally dependent use that there is sufficient proof that the *structure* cannot perform its intended function unless it is in close proximity to the water and may require wet *floodproofing* which allows the *structure* to *flood* without significant damage.

(J) Reconstruction, rehabilitation, or restoration of *historic structures*, provided the *variance* is the minimum necessary and the *structure* will retain its listing on the Historic Register, Inventory, or Survey.

5.8 CONDITIONS FOR FLOODPLAIN VARIANCES

1. In granting a *variance*, the Board may choose or not choose to limit the approval by such conditions as the case may require, including but not limited to, the imposition of the following specifications:

(A) That a record of the *variance* and any conditions are recorded with the Kent County Clerk of Court.

(B) That a letter will be sent to the *applicant* which explains the increased risk of life and property as a result of the *variance* and that the cost of Federal *Flood* Insurance will be commensurate with the increased risk, with rates up to $25 per $100 of insurance coverage.

(C) The Board will maintain a record of all *variance* procedures which will be available for review by FEMA

(D) The Planning Director, or the Planning Director's designee, will notify, in writing, any *applicant* to whom a *variance* is granted to construct or substantially improve a *building* or *structure* with its lowest *flood* below the elevation required by these *regulations* that the *variance* is to the *floodplain* management requirements of these *regulations* only and that the cost of Federal *Flood* Insurance will be commensurate with the increased risk, with rates up to $25 per $100 of insurance coverage.

5.9 CRITERIA FOR STORMWATER VARIANCES

1. In order to grant a variance, the County will find the following:

(A) Exceptional circumstances exist applicable to the *site* such that strict adherence to the provisions of this ordinance will result in unnecessary hardship and not fulfill the intent of the Land Use Ordinance.

(B) Implementation of *ESD* to the *MEP* has been investigated thoroughly.

SECTION 6 WAIVERS

6.1 STATEMENT OF INTENT

1. Waivers are intended to provide an in-review approval process for specific provisions that are considered to be alternative compliance as opposed to variation requiring a variance. Waivers are not advertised as public hearings but can be included as part of a noticed public meeting, if applicable, and noted on the public agenda for review. Waivers may be granted by the *Planning Commission* during subdivision or site plan reviews, or where applicable by the County staff for stormwater management during the building permit review process. The building permit review process is neither advertised nor noticed.

   Note: This process has been re-structured. Some waivers had previously been structured like variances that could be granted by the *Planning Commission*. The Board of Appeals is the appropriate body to grant variances. Since waivers relate to standards for the design of projects, waivers are re-structured as a design-based, alternative compliance process.

   Note: *Forest conservation retention* alterations now require a variance to be granted by Board of Appeals. *Forest conservation retention* provisions are not a design-related issue.

6.2 TYPES OF WAIVERS AND CRITERIA– *PLANNING COMMMISSION* WAIVERS

1. DATA PROCESSING CENTERS - ALTERNATE DESIGN

   Upon the affirmative recommendation of the Planning Director, *applicant*s may present for approval to the *Planning Commission* an alternate design solution to the general design standards in Section 3 above. *Applicant*s will include a separate written narrative that explains how the proposed alternative design solution differs from requirements and the reasons for the changes proposed. The *Planning Commission* may require additional standards and requirements for the protection of the environment and the health and safety of the residents of the County.

2. CURB CUTS IN THE EMPLOYMENT CENTER DISTRICT

   The *Planning Commission* may authorize *waiver*s in EC and ECCA-IDA for multiple access points or curb cuts within 3,000 feet of each other on a State or County Road, within the boundaries of a single project and also among different highway strip *developments*.

3. SUBDIVISION/*PRIVATE ROADS*/ROAD FRONT *LOT*S/ DESIGNATED DESIGN STANDARDS

   The *Planning Commission* may authorize *waiver*s of the design aspects of *subdivisions*, *private roads*, road front *lots*, *protected lands lot line setback*, and certain designated design standard provisions of this Land Use Ordinance in order to provide for alternative compliance for design standards.

4. PARKING LOT DESIGN

   The *Planning Commission* may approve alternate designs for shared parking, parking lot designs, and parking lot landscaping provisions found in Article V, Section 2.

5. CRITERIA FOR WAIVERS

The *Planning Commission* may approve a waiver requested under one of the categories above for alternative compliance, when the Planning Commission finds the following:

(A) That the *waiver* is consistent with the *Comprehensive Plan*, ~~Village Master Plan,~~ and where applicable the adopted *Major Thoroughfare* Map for the County or similar instrument, and the general intent of this Ordinance.

(B) That the *waiver* will not cause any known substantial detriment to adjacent or neighboring properties.

(C) That the *waiver* will not create a safety hazard or increase traffic congestion.

(D) The *waiver* is not sought for reasons of convenience, profit, or caprice.

In granting *waiver*s, the *Planning Commission* may require such conditions as will, in its judgement, substantially secure the objectives of the provisions so waived.

6.3 TYPES OF WAIVERS AND CRITERIA - *STORMWATER MANAGEMENT* WAIVERS

(A) The County may grant a *waiver* of the *stormwater management* requirements for individual *development*s based on a case-by-case review. A written *waiver* request will be submitted by the *applicant* containing descriptions, drawings and any other information that is necessary to evaluate the proposed *development* and demonstrate that *ESD* has been implemented to the *MEP*. A separate written request will be required in accordance with the provisions of this section if there are subsequent additions, extensions or modifications to a *development* receiving a *waiver*.

(B) Except as provided in this Section *waivers* of *stormwater* quantitative control may be granted only to those projects that can conclusively demonstrate that:

i. The project is within an area where a *watershed* management plan has been developed consistent with this Land Use Ordinance.

ii. If the project is not in an area where a *watershed* management plan has been developed consistent with this Land Use Ordinance, *waivers* may be granted to proposed *development* projects provided the *applicant* has demonstrated that *ESD* has been implemented to the *MEP*: (1) That have *direct discharges* to tidally influenced receiving waters; and (2) When the County determines that circumstances exist that prevent the reasonable implementation of quantity control practices.

(C) Except as provided in this Section, if *watershed* management plans consistent with this Ordinance have not been developed, *stormwater management* quantitative control *waivers* may be granted to the following projects provided the *applicant* has demonstrated that *ESD* has been implemented to the *MEP*:

i. Projects that have *direct discharge* to tidally influenced receiving waters:

ii. Infill *development* located in a *Priority Funding Area* where the economic feasibility of the project is tied to the planned *density*, and where implementation of the 2009 regulatory requirements would result in a loss of the planned *development density* provided that: (1) Public water and sewer and *stormwater* conveyance exist; (2) The quantitative *waiver* is only applied to the project for the impervious cover that previously existed on the *site*; (3) *ESD* to the *MEP* is used to meet the full water quality treatment requirements for the entire *development*; and (4) *ESD* to the *MEP* is used to provide full quantity control for all new *impervious surfaces*: or

(D) When the *approving agency* determines that circumstances exist that prevent the reasonable implementation of quantity control practices.

(E) *Waivers* of *stormwater management* qualitative control may be granted only to those projects that can conclusively demonstrate that:

i. The project is an in-fill *development* where *ESD* has been implemented to the *MEP* and other *BMPs* are not feasible.

ii. The project is a *redevelopment* that satisfies the requirements of this Land Use Ordinance; or

iii. *Site*s where the County determines that circumstances exist that prevent the reasonable implementation of *ESD* to the *MEP*.

(F) *Stormwater management* quantitative and qualitative control *waivers* may be granted for phased *development* projects if a system designed to meet the 2000 regulatory requirements and the Kent County *Stormwater Management* Ordinance for multiple phases has been constructed by May 4, 2010. If the 2009 regulatory requirements cannot be met for future phases constructed after May 4, 2010, all reasonable efforts to incorporate *ESD* in future phases will be demonstrated.

(G) *Waivers* will only be granted when it has been demonstrated that *ESD* has been implemented to the *MEP* and will:

i. Be on a case-by-case basis;

ii. Consider the cumulative effects of the Kent County *waiver* policy.

iii. Reasonably assure the *development* will not adversely impact stream quality.

(H) Kent County may develop quantitative *waiver* and *redevelopment* provisions for *stormwater management* that differ from the requirements of this Land Use Ordinance as a part of an overall *watershed* management plan. *Watershed* management plans developed for this purpose will, at a minimum:

i. Include detailed hydrologic and hydraulic analyses to determine hydrographic timing;

ii. Evaluate both quantity and quality management and opportunities for *ESD* implementation;

iii. Include cumulative impact assessment of current and proposed *watershed development*;

iv. Identify existing *flood*ing and receiving stream *channel* conditions;

v. Be conducted at a reasonable scale determined by the County;

vi. Specify where *on-site* or *off-site* quantitative and qualitative *stormwater management* practices are to be implemented;

vii. Be consistent with the General Performance Standards for *Stormwater Management* in Maryland found in the *De*sign *Manual*; and

viii. Be approved by the Maryland Department of the Environment

SECTION 7 PERMITS, FEES, AND ENFORCEMENT

7.1 STATEMENT OF INTENT

The purpose of this section is to set forth the procedures for permits, fees, code enforcement, and interpretations of this Land Use Ordinance. The powers and duties of the Department are specified herein insofar as the administration of this Land Use Ordinance is concerned.

7.2 GENERAL

1. The Department is hereby vested with the duty and authority to grant approvals and issue building permits. All approvals and permits will conform with the provisions of this Land Use Ordinance, and no approval of a permit will be granted for any structure, use, subdivision, grading, or other development or purpose that would constitute a violation of this Land Use Ordinance. Any approval or permit granted or issued in conflict with this Land Use Ordinance will be null and void.
2. Whenever in the course of administration and enforcement of this Land Use Ordinance, it is necessary to make any administrative decision, unless other standards are provided in the Land Use Ordinance, the decision will be consistent with the spirit and intent of this Land Use Ordinance.

7.3 CRITICAL AREA COMMISSION REVIEW AND COMMENT REQUIRED

1. As required by the State of Maryland, Kent County will send copies of applications for all *developments*, subdivisions, and *site plans*, wholly or partially within the Critical Area, as specified in COMAR 27.03.01.04 to the Critical Area Commission for review and comment. This includes all projects located in the RCD, CAR, CCA, M, and ECCA zoning districts.
2. Until Kent County has received notice of receipt from the Critical Area Commission or the appropriate waiting period per the State of Maryland has expired, the County may not process an application that has been sent to the Critical Area Commission for notification.
3. Per the State of Maryland, any action by Kent County in violation of these State-required procedures shall be void.

7.4 PERMITS

1. No building or structure will be erected, constructed, altered, moved, converted, extended, enlarged, or demolished until a building or demolition permit is obtained from the Department. ~~The permit will be valid for six months from the date issued. A six-month extension may be granted by the Administrator. All buildings and structures will comply with the requirements of this Ordinance~~.
2. Change or alternation of the use of any *building*, *structure*, or land will not be permitted until a permit is obtained from the Department.

3. All applications for *building* and use permits will include a diagram showing the actual shape and size of the parcel, the location and size of the building or structure, and such information as may be required by the Department to assure compliance with and to provide enforcement of this Land Use Ordinance.

4. No *person* will do any *grading*, *clearing*, *stripping*, excavating, filling of land; *forest* harvesting; create borrow pits, spoil areas, quarries, material processing facilities, or other facilities, without first obtaining a permit from the Department except as otherwise listed as an *exemption* in this Land Use Ordinance.

5. A *grading* or *building* permit may *not* be issued for any parcel or *lot* unless a *stormwater management plan* has been approved or waived by the County, meeting the requirements of this ordinance, the *De*sign *Manual*, and the policies adopted by Kent County for *redevelopment*. Where appropriate, a *building* permit may not be issued without:

   (A) Recorded *easements* for the *stormwater management* facility and *easements* to provide adequate access for inspection and maintenance from a public *right of way*.

   (B) A recorded *stormwater management maintenance agreement*.

   (C) A performance bond, an irrevocable letter of credit or other surety.

   (D) Permission from adjacent property owners, as may be required.

6. The Planning Director may place any condition on a permit that is deemed necessary to assure compliance with and to provide enforcement of this Land Use Ordinance.

7. After approval of the permit, no changes of any kind will be made to the plans, permit, specification, or other document without written approval from the applicable County official with authority to review and approve applications for building permits.

7.5 FEES

1. The Kent County Board of County Commissioners may establish a schedule of fees and a collection procedure related to the submittal of applications and other matters pertaining to this Ordinance. Upon application, the County Commissioners may waive any fees.

2. No permits will be issued nor final actions taken related to *subdivision*s, *site plan*s, special exceptions, *variance*s, waivers, appeals, or other matters pertaining to this Ordinance, ~~until~~ unless the applicable fee, if any, has been paid in full. Staff may begin internal review at its discretion, prior to fees being paid, if a determination of payment is under review.

3. Building permit fees may be set aside by the Planning Director or the Planning Director's designee upon review and with the cause noted in writing in the file for the following:

   (A) Building permit extensions if regulations have not changed since last review.

   (B) Building permits for governmental agencies including local, State, and federal.

   (C) Building permits for nonprofits and charities for *bona fide* charitable activities.

(D) Building permits for grant projects where the County is a sponsor/participant.

(E) Circumstances related to errors and omissions not on the part of the applicant.

7.6 ENFORCEMENT

1. It will be the duty of the Planning Director to enforce the provisions of this Ordinance and to refuse to issue any permit or approve any *minor site plan, minor subdivision*, special exception, *variance*, erosion and *sediment* control permit, *stormwater management* plan, or *forest conservation plan* that would violate the provisions of this Ordinance. It will be the duty of all officers and employees to assist the enforcing officer by reporting to the enforcing officer any seeming *violation* of this Ordinance.

2. The Planning Director or the Planning Director's designee is authorized and directed to institute any appropriate action to correct *violation*s of this Ordinance.

3. It will be unlawful to erect, construct, reconstruct, alter, repair, convert, *demolish* or maintain any *building* or *structure*; use any property, *building*, or *sign* in *violation* of any regulation in, or any provision of this Ordinance, or any amendment or supplement lawfully adopted by the County Commissioners; to fail to comply with any requirement or condition imposed by the Board of Appeals or *Planning Commission*; or violate the provisions of the *floodplain*, *subdivision*, *sediment* control, *stormwater management*, or *forest conservation* provisions of this Ordinance. Any *person*, *firm*, corporation, or other legal entity violating a provision of this Ordinance, or amendments thereto, will be deemed guilty of a *violation* and upon conviction will be fined according to the preset fine adopted by the County Commissioners of Kent County~~, or may be imprisoned for a period of not more than thirty days, or may be subject to both fine and imprisonment in the discretion of the Court~~. Each and every day during which such *violation* occurs or continues may be deemed a separate offense.

4. The Planning Director is authorized to treat any *violation* as a civil *violation*, in which event the Planning Director, or the Planning Director's designee, will deliver a citation to the *person* believed to have committed a civil *violation*. A copy of the citation will be retained by the Department and bear *certification* attesting to the truth of the matters set forth. The citation will contain:

   (A) The name and address of the *person* charged;

   (B) The nature of the *violation*;

   (C) The place where and the time when the *violation* occurred;

   (D) The amount of the fine assessed;

   (E) The manner, location, and time in which the fine may be paid; and

   (F) The *person*'s right to elect to stand trial for the *violation*.

5. The preset fine will not be less than $100.00 nor more than $500.00 for zoning *violation*s. The preset fine will not exceed $5,000.00 for *violation* of the *floodplain* and *subdivision*

provisions of this Ordinance, and $1,000.00 plus $0.30 a square foot for *forest conservation*. Non-compliance fees for *violation* of the *forest conservation* provisions of this Ordinance will be depo*sit*ed in the *forest conservation* fund and may be used by the County for purposes related to implementing the *forest conservation* objectives of this Ordinance. Every day the *violation* continues may be considered a separate offense.

6. Within the *Critical Area*, in addition to any other penalty applicable under state law, a *person* whoviolates a provision pertaining to the *Critical Area* is subject to a fine not to exceed $10,000.00. In determining the amount of the penalty to be assessed, the following may be considered:

   (A) The gravity of the *violation*;

   (B) Any willfulness of negligence involved in the *violation*;

   (C) The environmental impact of the *violation*.

7. Fines will not exceed $5,000 for each *stormwater management violation* and nor exceed $50,000 for numerous on*site violation*s. Each day that a *violation* continues will be considered a separateoffense.

8. Penalties for *violation*s of *erosion and sediment control*.

   (A) Any *person* who violates any provision of the *erosion and sediment control* provisions of this Ordinance is guilty of a misdemeanor, and upon conviction in a Court of competent *jurisdiction* is subject to a fine not to exceed $10,000 ~~or imprisonment not exceeding one year or both~~ for each *violation* with costs imposed in the discretion of the Court. Each day upon which the *violation* occurs constitutes a separate offense.

   (B) Any agency whose approval is required under this Ordinance, or any interested *person* may seek an injunction against any *person* who violates or threatens to violate any provision of this Ordinance.

   (C) In addition to any other sanction under this Ordinance, a *person* who fails to install or to maintain *erosion and sediment control*s in accordance with an approved plan will be liable to Kent County or the State in a civil action, for damages in an amount equal to double the cost of installing or maintaining the controls.

   (D) Any governing authority that recovers damages in accordance with this subsection will deposit them in a special fund, to be used solely for (1) correcting to the extent possible the failure to implement or maintain *erosion andsediment control*s, and (2) administration of the *sediment* control program.

9. The *person* who receives a citation may elect to stand trial for the offense by filing with the Department a notice of intent to stand trial. The notice to stand trial willbe given at least 5 days before the date of payment as set forth in the citation. Upon receipt of the notice of intent to stand trial, the ~~Department~~ County Attorney will forward to the District Court of Kent County a copy of the citation and notice of intent to stand trial. On receipt

of the same, the District Court will schedule the case for trial and notify the defendants of the trial date. All fines, penalties, or forfeitures collected by the District Court for *violation*s of this Ordinance will be remitted to Kent County.

10. If a *person* who receives a citation for *violations* fails to pay the fine by the date of the payment set forth on the citation and fails to file notice of intention to stand trial, formal notice of the *violation* will be sent to the owner's last known address. If the citation is not satisfied within 15 days from the date of notice, the *person* is liable for an additional fine not to exceed twice the original fine. If after 35 days the citation is not satisfied, the Department may request adjudication of the case through the District Court. The District Court will schedule the case for trial and summon the defendant to appear.

11. Adjudication of a *violation* under paragraphs 4 through 7 of this section is not a criminal conviction nor does it impose any civil disabilities ordinarily imposed by a criminal conviction.

12. In any proceeding before the District Court, the *violation* will be prose*cut*ed in the same manner and to the same extent as set forth for municipal infractions under Md. Code Ann. Local Government §§6-108 through §§6-115~~Article 23A, Section 3(b)(8) - (15) of the Annotated Code of Maryland~~. The County Commissioners may authorize either the County Attorney, the Attorney for the *Planning Commission*, or any other designated attorney to prose*cut*e any *violation*.

13. If a *person* is found by the District Court to have committed a civil zoning *violation*, the *person* will be liable for the cost of the proceedings in the District Court. All zoning certificates and *building* permits will be revocable subject to the continued compliance with all requirements and conditions of this and other applicable laws and *regulations*.

14. The imposition of a fine or penalty for any *violation* of this Ordinance will not excuse the *violation* or permit it to continue, and all such *violation*s will be corrected within a reasonable time.

15. The Planning Director, or the Planning Director's designee, may issue a stop work order against a *person* who violates a provision of this Ordinance, or any approval granted under this Ordinance.

16. The Planning Director, or the Planning Director's designee, may revoke an approved *Forest ConservationPlan* if the Planning Director finds that:

    (A) A provision of the plan has been violated;

    (B) Approval of the plan was obtained through fraud, misrepresentation, a false or misleadingstatement, or omission of a relevant or material fact; or

    (C) A change in the *development* or in the condition of the *site* necessitates preparation of a new or amended plan.

17. Enforcement procedures for *violation*s of the *sediment* control provisions of this Ordinance will be as follows:

(A) When the *inspection agency* or an inspector determines that a *violation* of the approved *erosion and sediment control plan* has occurred, the inspector will notify the *on-site person*nel or the *permittee* in writing of the *violation*, describe the required corrective action and the time period in which to have the *violation* corrected.

(B) If the *violation* persists after the date specified for corrective action in the notice of *violation*, the *inspection agency* will stop work on the *site*. The *inspection agency* will determine the extent to which work is stopped, which may include all work on the *site*, except that work necessary to correct the *violation*s.

(C) If reasonable efforts to correct the *violation* are not undertaken by the *permittee*, the *inspection agency* will refer the *violation* for legal action.

(D) The Department may deny the issuance of any permits to an *applicant* when it determines that the *applicant* is not in compliance with the provisions ofa *building* or *grading* permit or approved *erosion and sediment control plan*.

(E) Any step in the enforcement process may be taken at any time, depending upon the severity of the *violation*.

(F) If a *person* is working without a permit, the *inspection agency* will stop work on the *site* except activity necessary to provide *erosion and sediment control*.

(G) The Department may suspend or revoke any *grading* or *building* permits after providing written notification to the *permittee* based on any of the following reasons:

i. Any *violation*(s) of the terms or conditions of the approved *erosion and sediment control plan* or permit.

ii. Non-compliance with *violation* notices or stop work orders issued.

iii. Changes in *site* characteristics upon which plan approval and permit issuance wasbased.

iv. Any *violation*(s) of this Ordinance or any rules and *regulations* adopted under it.

(H) The Department will receive complaints and initiate enforcement procedures when *violation*s are confirmed. Any complaint received will be acted upon, routinely within three (3) working days or as soon as is reasonably possible and the complainant will be notified of any action or proposed action routinely within seven (7) working days of receipt of the complaint.

18. Enforcement procedures for *violation*s of the *stormwater management* provisions of this Ordinance consists of any one or a combination of the following actions:

(A) When the *inspection agency* or an inspector determines that a *violation* of the approved *stormwater management plan* has occurred, the inspector will notify

the *on-site person*nel or the *permittee* in writing of the *violation*, describe the required corrective action and the time period in which to have the *violation* corrected.

(B) A stop work order will be issued for the *site* by the County if the *violation* persists.

(C) Bonds or securities will be withheld or the case may be referred for legal action.

(D) A civil action ~~or criminal prosecution~~ may be brought against any *person* in *violation* of the *stormwater* provisions of this Ordinance or the *De*sign *Manual*.

(E) Any step in the enforcement process may be taken at any time according to the severity of the *violation*.

(F) Any *person* convicted of violating the provisions of this Ordinance will be guilty of a misdemeanor, and upon conviction thereof, will be subject to a fine of not more than $5000 ~~or imprisonment not exceeding 1 year or both~~ for each *violation* with costs imposed not to exceed $50,000. Each day the *violation* continues will be a separate offense.

(G) Kent County may institute injunctive, mandamus, or other appropriate action or proceedings of law to correct *violation*s.

i. The Department may deny the issuance of any permits to an *applicant* when it determines that the *applicant* is not in compliance with the provisions of a *building* or *grading* permit or approved *erosion and sediment control plan*.

ii. Any step in the enforcement process may be taken at any time, depending upon the severity of the *violation*.

iii. If a *person* is working without a permit, the *inspection agency* will stop work on the *site* except activity necessary to provide *erosion and sediment control*.

iv. The County may suspend or revoke any *grading* or *building* permits after providing written notification to the *permittee* based on any of the following reasons: (1) Any *violation*(s) of the terms or conditions of the approved *erosion and sediment control plan* or permit; (2) Non-compliance with *violation* notices or stop work orders issued; (3) Changes in *site* characteristics upon which plan approval and permit issuance was based; or, (4) Any *violation*(s) of this Ordinance or any rules and *regulations* adopted under it.

v. The County will receive complaints and initiate enforcement procedures when *violation*s are con*firm*ed. Any complaint received will be acted upon routinely within three (3) working days or as soon as is reasonably possible and the complainant will be notified of any action or proposed

action routinely within seven (7) working days of receipt of the complaint.

19. In addition to the aforementioned provisions, the County may also seek an injunctionto bring about the discontinuance of illegal uses, and/or the removal of illegal *buildings*, *structures*, additions, *alterations*, or structural changes, and/or the discontinuance of any illegal work or activity being done or may take any other action authorized by this Ordinance.

20. The Planning Director or the Planning Director's designee is hereby authorized to enter upon any open land in Kent County for the purpose of enforcing and implementing this Ordinance.

SECTION 8 HISTORIC PRESERVATION DOCUMENTATION

1. A *demolition* permit may not be issued for any parcel or *lot* unless a *historic structure* review has been completed in accordance with the following process:

   (A) TIER 1.

   The Planning Director, or Planning Director's designee, will determine if the *structure* meets the definition of a *historic structure*, based on the public information readily available in the public record and any applicant statements.

   (B) TIER 2.

   i. If the *structure* is found to be more than seventy-five (75) years old or otherwise thought to be of historic significance, then the permit will require the following documentation:

      1. The *applicant* will provide a basic floor plan that includes interior and exterior dimensions of the *structure(s)*; and

      2. The Department will conduct a *site* inspection for the purpose of photographing the *historic structure(s)*, which may include the exterior and interior of the *structure(s)*.

   The Chair of the Historic Preservation Commission, or the Chair's designee, may accompany staff on the *site* inspection.

   ii. Subject to the review of documentation, the Planning Director, or the Planning Director's designee, ~~and~~ in consultation with the Chair of the Historic Preservation Commission, or the Chair's designee, will determine if Tier 3 review and documentation is required. The decision will be made by the Planning Director, or the Planning Director's designee, with the advice of the Chair, or the Chair's designee, within 30 days of the receipt of the required floor plan by the Department. ~~It will require only one "yes" vote, for the application to proceed to Tier 3 review~~.

   Note: This is intended to provide clarity for any appeal that may be filed. The appeal would be from a decision of the Planning Director instead of an appeal from a joint decision by a member of staff and a County board. Alternately, if preferred, a decision could be rendered by the HPC Board.

   (C) TIER 3.

   i. Pursuant to a determination of historic significance, Tier 3 review and documentation will be completed by staff within 45 days of the Tier 2 determination, which may result in completion of a Maryland Inventory of Historic Places form developed by the Maryland Historical Trust.

   ii. Tier 3 review and documentation will consist of the following:

1. Photographs of exterior details, including but not limited to features suchas chimneys, wall coverings, windows, and doors;
2. Photographs of any outbuildings;
3. Access to the interior will be granted in order to obtain detailed photographs of the interior spaces to capture any unique elements in the rooms that may help date the *structure*, including but not limited to woodwork, window surrounds, fireplaces, stairways, mantels, doors, and newel posts, and
4. Overall measurements of the *structure*.

*Applicant*s will make any hazards known, and ~~only~~ staff and/or Historic Preservation Commission board members will enter *structures* only with the subject property owner's written or verbal permission ~~at staff's risk, based on staff's best judgment~~.

iii. The Historic Preservation Commission will review the documentation.

(D) Failure to complete Tier 3 documentation within 45 days of the Tier 2 determination will not delay the issuing of a permit unless another agency with review authority has failed to approve the permit or an extension is granted by the property owner. Failure of the *applicant* to grant interior access within the review time will not result in the issuing of a permit.

(E) **Emergency provisions**. These requirements may be set aside or modified by the Planning Director, or the Planning Director's designee, when a *structure* is deemed to be an imminent threat to health, safety, and welfare of the adjoining properties and *person*s.

ARTICLE V. ZONING REGULATIONS

SECTION 1 GENERAL PROVISIONS

1.1 STATEMENT OF INTENT

The purpose of this section is to set forth zoning *regulations* to supplement the dimensional, use, and other zoning-type *regulations* appearing elsewhere in this Ordinance.

1.2 ACCESSORY STRUCTURES; PRIOR CONSTRUCTION

1. No *accessory structure* will be constructed more than six months prior to the construction of the main *structure*. No *accessory structure* will be used for more than six months unless the main *structure* is also being used or is under construction. Extensions may be granted by the Planning Director or Planning Director's designee for cause shown.
2. The Planning Director, or Planning Director's designee, may grant a one (1) year extension to allow accessory *structures*, which were legal, conforming *structure*s and where the existence of the *structure* will not result in a nuisance to the neighborhood, to remain following the *demolition* of the main *structure.*

1.3 REDUCTION OF HEIGHT, BULK, AREA

No parcel area or lot dimension, if specifically required, will be reduced below the requirement of this Ordinance unless otherwise provided for by this Ordinance. The minimum *yard*s, required parking, and mandatory *loading space*s required by this Ordinance will not be encroached upon unless otherwise provided by this Ordinance. Setbacks may be varied as set forth in the districts.

1.4 MODIFICATION OF HEIGHT REGULATIONS

1. Except within an area defined as an *Airport* Approach Zone by the Federal Aviation Agency or in the Kent County *Airport* Safety Area, the height limitations of this Ordinance will not apply to:

Belfries	Ornamental towers and spires
Church spires	Public monuments
Conveyors	Silos and corn dryers
Elevator *bulk*heads	Stage towers or scenery lofts
Fire towers	Tanks
Flag poles	Water towers and stand pipes
Personal wireless facility, commercial radio, and television towers less than 200 feet in height	Wind energy systems, small, with a height not to exceed 80 feet unless a special exception is granted

2. Except within an area defined as an *Airport* Approach Zone by the Federal Aviation Agency or the Kent County *Airport* Safety Area, public, semi-public or service *buildings*, *hospitals*, and institutions or schools, when permitted in a district, may be erected to a height not exceeding 60 feet and *houses of worship* may be erected to a height not exceeding 75 feet when the required *side* and *rear yards* are each increased by at least one foot for

each one foot of additional *building* height above the height *regulations* for the district in which the *building* is located.

1.5 YARDS AND OPEN SPACE GENERALLY

1. Whenever a *lot* abuts upon a public *alley*, one-half of the *alley* width may be considered as a portion of the required *yard*.
2. Every part of a required *yard* will be open to the sky, except as authorized by this Article, and except ordinary projections of sills, belt courses, window air conditioning units, chimneys, cornices, and ornamental features which may project to a distance not to exceed 24 inches into a required *yard* but not into a required *buffer*
3. More than one main *building* may be located upon a *lot* or *tract* in the following instances:
   (A) Institutional *buildings*
   (B) Public or semi-public *buildings*
   (C) *Multi-family dwellings*
   (D) Commercial or industrial *buildings*
   (E) Homes for the aged.
   (F) Permitted agricultural and marine uses
4. The provisions of this exception will not be construed to allow the location or erection of any *building* or portion of a *building* outside of the *buildable area* of the *lot*.

1.6 FRONT YARDS

1. Where an official line has been established for the future widening or opening of a *street* or *major thoroughfare* upon which a *lot* abuts, then the depth of a *front* or *side yard* will be measured from such official line. Unless otherwise provided, the *right of way* of any arterial *street*, so designated on the *Major Thoroughfare* Map will be assumed to extend 40 feet on each side of the center line of the existing *right of way* for the purpose of measuring *front yards* required by this Ordinance.
2. On *through lots*, the required *front yard* will be provided on each *street*.
3. There will be a *front yard* of at least 15 feet on the side *street* of a *corner lot* in any district; provided, however, that the *buildable width* of a *lot* existing as of August 1, 1989, of this Ordinance will not be reduced to less than 28 feet.

1.7 REAR YARDS

Open or lattice-enclosed fire escapes, outside stairways, ~~and~~ balconies opening upon fire towers, and the ordinary projections of chimneys and flues may project into the required *rear yard* for a distance of not more than five (5) feet, but only where the same are so placed as not to obstruct light and ventilation.

1.8 ACCESSORY BUILDINGS AND STRUCTURES

Except as herein provided, no accessory *building* will project beyond a required *yard* line along any *street*. ~~Accessory *buildings* in the *rear yard* may be located 3 feet from the side line and 5 feet from the rear line.~~ *Farm* accessory *building*s will be a minimum of twenty-five feet from the side and rear property lines.

1.9 OPEN SPACE

The boundaries of open space areas will be treated as property lines in determining required rear and side yard setbacks. At least 50% of the required open space will be contained as a single visually identifiable area exclusive of connecting corridors or pathways and in no case be less than 50 feet in width nor 5,000 square feet in area. In the *Critical Area*, land and water areas are retained in an essentially undeveloped state.

SECTION 2 OFF-STREET PARKING AND LOADING

2.1 STATEMENT OF INTENT

The purpose of this section is to set forth ~~the minimum~~flexible standards for parking and loading and to ensure adequate parking for permitted uses.

2.2 PARKING REQUIRED

1. No *building*, *structure*, or *premises* will be erected, unless *off-street parking*, consistent with the provisions of this section, is provided. ~~Each required parking space will be at least 20 feet in length and nine feet in width and contain at least 180 square feet.~~ The number of parking spaces provided onsite for a project will be determined according to the ~~minimum~~ flexible standards set forth in this section.

2. Accessible parking spaces are required to be provided on the shortest accessible route to the accessible entrance. Spaces will be provided to meet the current federal requirements as set forth in *2010 ADA Standards for Accessible Design*, as amended from time to time.

2.3 SHARED PARKING

1. The *Planning Commission* will use the use-based parking standards below as guidelines and may allow up to fifty percent (50%) fewer total number of required spaces where one or more of the following situations apply:

   (A) Two or more uses share parking in such a way that the hours or days of peak use are different, and less total spaces will provide for all uses adequately.

   (B) Clients of uses are such that a reduced number of spaces is appropriate, such as a neighborhood grocery, a business frequented by pedestrians, etc.

   (C) The use is water dependent or water related to an extent that most of the activity would be from the water, such as a fish processing facility without a retail outlet. Parking for employees and visitors would still be required.

   (D) Employees are residents of the *structure*, such as in a *home occupation*.

   (E) Display areas approved by the *Planning Commission* will not be included in the tabulation of parking spaces.

2. The *applicant* and the *Planning Commission* may agree to a reduced number of parking spaces below the use-based ratios below with the agreement and condition that if more spaces are required in the future because of miscalculation, unanticipated growth, or other error, those spaces and associated maneuvering area will be provided by the *applicant*. The *Planning Commission* may require that additional *open space* be kept for this purpose. An agreement will be drafted to this effect. The *Planning Commission* may also limit the maximum number of parking spaces above the number required through *site plan* review to encourage innovative design and safe and efficient vehicular and pedestrian circulation.

2.4 USE-BASED RATIOS

USE TYPE	**PARKING SPACES**
Assembly Halls	1 per 3 seats
Automobile Sales	1 per every 300 sq. ft gross *floor area* and 1 per each employee and 1 per service bay.
Banks	1 per 250 sq. ft. of gross *floor area*
Commercial Riding Academies, Stables	1 per 2 horse stalls
Community Centers, Civic Clubs, Museums	1 per 150 sq. ft. of gross *floor area*
Convalescent Home	1 per 5 patient beds.
*Country inn*s, Tourist Homes, Courts, Motels, *Hotel*s	1 per guest unit, plus 1 per employee
Data Processing Centers	1 per employee at maximum occupancy
Funeral Home, Mortuary	1 per 150 sq. ft. of gross *floor area*
Golf Course	5 per green and 50% of the requirement for *accessory use*s, if *on-site*
Hospital	1 per 2 patient beds
Houses of worship	1 per 5 seating spaces
Industrial uses, warehousing	1 per 2 employees in principal shift
Kennel	1 per 400 sq. ft of gross *floor area* but not less than 4
Laundromat	1 per 2 washer/dryer units
Lodging, Rooming, or *Boarding house*s, Bed & breakfast	1 per guest unit, plus 1 per employee
*Marina*s, multi-level boat storage *building*, *public landing*s	1 per *slip*, plus 1 per every 2 full time employees
Office *Building*s	1 per 400 sq. ft. of gross *floor area*
*Private club*s	1 per 5 members
Professional offices, *clinic*s	2 per professional *person*
Residential, Multi-*family*, *Townhouse*s	1 per unit, plus 1 space for each bedroom in the *dwelling*
Residential, Single-Family and Duplex	1.50 per *dwelling unit*
*Restaurant*s or establishments for on *premises* consumption of food, or beverages	1 per 150 sq. ft. of *floor area*, minimum of 3 spaces
Retail or wholesale stores	1 per 250 sq. ft. of gross *floor area*

2.5 DIMENSIONAL STANDARDS

Parking space dimensions	
-Parallel parking	Width: 8 ft. min. Length: 22 ft. min.
-Other than parallel parking	Width: 9 ft. min. Length: 20 ft. min.
Parking aisle dimensions	
-One-way parallel parking	Width: 10 ft. min.
-Two-way parallel parking	Width: 16 ft. min.
-One-way other than parallel parking	Width: 15 ft. min.
-Two-way other than parallel parking	Width: 20 ft. min.

2.6 OFF-STREET LOADING

Any *building* or part thereof having a gross *floor area* of 5,000 square feet or more and which is to be occupied by manufacturing, storage, warehousing, wholesale or retail store, *hotel*, *restaurant*, industrial, funeral home, or other uses requiring the receipt or dispatch of materials by vehicles, will provide a minimum of one off-*street loading space* plus one additional space for each 20,000 square feet of gross *floor area* or major fraction thereof in excess of the first 20,000 square feet. Each *loading space* will be a minimum of 12 feet in width, 45 feet in length and with a clear height of not less than 14 feet.

2.7 BICYCLE PARKING

No new commercial, industrial, marine or multi-*family* residential use will be erected, unless bicycle parking at a rate of one bicycle parking space per 20 required auto parking spaces is provided. Bicycle parking spaces will be visible and convenient to cyclists. Bicycle parking requirements may be met by providing lockers or racks inside a *building*, adjacent to the *building*, in an accessory parking *lot*, or underneath an awning or marquee. A bicycle parking space will be a minimum of six feet long by one foot wide and if enclosed a minimum of four feet high.

2.8 PARKING LOT DESIGN

1. **Pedestrian orientation**. Parking lot design will reflect the fact that once people step out their cars, they become pedestrians. Parking lots will be designed not only to facilitate efficient vehicle circulation but to also permit smooth pedestrian circulation.
2. **Bicycle accommodation**. Provision for safe and efficient bicycle circulation and parking should be included in the overall design of the parking lot.
3. **Traffic flow**. Sites will be designed to prevent awkward or dangerous vehicular flow.

4. **Location**. Parking *lot*s will be located as much as possible to the rear of *building*s. Parking *lot*s may not be located in between the front property line and the primary *building* except (a) for public recreational facilities in which the parking *lot* is a minimum of 200 feet from the front property line and existing public *roads*, and (b) in the Marine district.

5. **Cross-access**. Whenever possible, parking *lot* design will provide for connections to adjacent parcels where uses are compatible.

6. **Building entrances**. Marked walkways, separated from vehicular traffic, will be provided at the entrances of establishments.

7. **Pedestrian Accommodations**.

   (A) Sites will be designed to discourage pedestrians and vehicles from sharing the same pathways.

   (B) Sidewalks at least eight feet wide will be provided along all sides of the parking *lot* that abuts a public *street*.

   (C) Internal pedestrian walkways are distinguished from paved surfaces through the use of special pavers, bricks, scored concrete, or other materials that will clearly identify the pedestrian walkways.

   (D) Sidewalks will be provided along the full length of any *building* abutting public parking areas.

8. **Large Lots**. Parking areas with 80 automotive spaces or more will provide:

   (A) Walkways running parallel to the parking rows every four rows and walkways running perpendicular to the parking rows every 20 spaces.

   (B) Continuous internal pedestrian walkway from the perimeter sidewalk to the principal customer entrance. The walkway will be at least eight feet in width and will feature landscaping and other pedestrian amenities.

   (C) Weather protection features such as awnings extending a minimum of 30 feet from all customer entrances.

2.9 PARKING LOT LANDSCAPING

1. **Required**. At least 10% of parking areas where more than ten parking spaces are provided will be landscaped. Perimeter *screen*ing does not count toward parking area landscaping.

2. **Large Lots**. To avoid large expanses of paving in parking areas with 80 automobile parking spaces or more, the following provisions will apply:

   (A) A row will not contain more than twelve 12 spaces without a landscaped *island* of at least the size of one parking space.

   (B) The ends of parking rows will contain an *island* a minimum of six feet wide adequately landscaped with shade *tree*s, ground cover, and shrubs.

(C) Double rows of parking will be separated by a minimum six-foot planting strip adequately landscaped with shade *tree*s and shrubs.

3. **Screening**. Parking areas will be *screen*ed from the view of motorists, pedestrians, and adjoining residential properties with a vegetative *screen* or landscaped *berm*. The height of the *berm*will be approximately 3 feet. The width of the *berm* will be at least twice the height. The vegetative screen will have the potential of reaching a height of at least 3 feet within five years. The width of the landscaped area will be 4 feet or wider. Perimeter *screen*ing willnot restrict sight distance needed for vehicular or pedestrian safety.

4. **Context**. Natural *slopes* and existing vegetation may be substituted for some or all of the requirements above, provided that these features serve to *screen* the parking area from motorist, pedestrians, and adjoining property owners. Perimeter *screen*ing may be waived per Article IV, Section 6, where it is physically impossible to accomplish.

2.10 DELIVERY TRUCKS AND TRASH COLLECTION VEHICLES

1. Loading and un*loading space*s for delivery trucks will not block major pedestrian ways, the passage of other vehicles on the service drive or major pedestrian ways, or create blind spots when trucks are loading and unloading.

2. Trash boxes, containers for recycling and food composting, and dumpsters will be accessible to collection trucks when all vehicle parking spaces are filled.

2.11 WAIVERS

1. Alternate designs for shared parking, parking lot design, and parking lot landscaping may be approved via the waiver process set forth in Article IV, Section 6.

SECTION 3 SIGNS

3.1 STATEMENT OF INTENT

1. COMMUNITY CHARACTER

The purpose of this section is to establish minimum *regulations* for the design and display of signs. The *regulations* and standards provide sufficient identification of property while preserving the overall attractiveness of the County. The intent of the County enacting this section is to: (A) encourage the effective use of signs; (B) maintain and enhance the aesthetic environment of the County while avoiding visual clutter; (C) promote the use of signs to identify *building*s and geographic areas; (D) improve pedestrian and vehicle traffic safety; and (E) promote the compatibility of signs with the surrounding land uses.

2. CONTENT-NEUTRAL REVIEW

For the purposes of regulating signs in Kent County, the message of any sign will not be considered in any review. All reviews are content-neutral. Throughout this section of the Land Use Ordinance, there are sign types and sign descriptions that are intended to clarify the potential utility of signs for applicants. As long as proposed signs on a property comply with the requirements related to the number of signs, sign area, height, illumination, time restrictions, location, relative placement, and obscenity, such signs may be permitted. Issues related to color, design, and materials are subject to review and may be regulated. Prohibited signs are not permitted. Political signs are regulated by the State of Maryland. No signs may be erected on any property, unless the property owner of record consents.

3.2 DEFINED TERMS WITHOUT GRAPHICS

The following defined terms are used in this section:

1. ***Sign***: Any letters, figures, design, symbol, trademark, logo, or illuminating device intended to attract attention to any place, subject, *person*, *firm*, corporation, public performance, article, machine, or merchandise, whatsoever, and visible out of doors for advertising purposes. This does not include an official court or public notice, nor the flag, emblem or insignia of a government, school, or religious group, when displayed for official purposes.

2. **Common *Development***: A parcel or combination of parcels that are dependent upon one another for access, parking, and/or utilities and that share a common *development* plan.

3. **Electronic Message Center (EMC)**: An electrically activated changeable copy *sign* having variable graphic capabilities and programmed by computer. EMCs provide the public with information such as federally required information for gas stations and public information regarding public events held on site by quasi-public/institutional uses and fire companies.

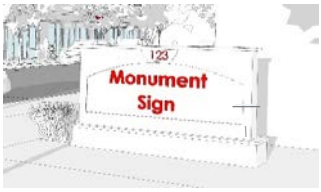
4. **Manually Changeable Copy**: Previously regulated as a separate sign subcategory, any sign may contain manually changeable copy. Sign area is regulated under the overall sign type.

5. **Portable** or **Temporary** *Sign*: Any *sign* that is not permanently attached to the ground or a *structure* including banners, sandwich board signs, yard signs, and signs on vehicles.

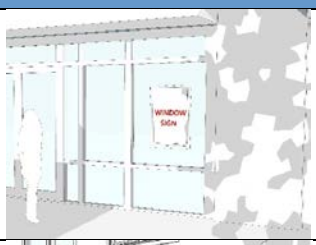
3.3 DEFINED TERMS WITH GRAPHICS

The example graphics below are illustrative only. They represent possibilities for the appearance of *sign* types that are allowed on private property within the County. Images are non-regulatory.

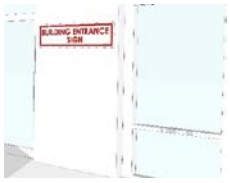
1. **GROUND-MOUNTED SIGNS** and **MONUMENT-TYPE SIGNS**

Sign Type	Definition	Example Graphic
Agricultural: Ground-Mounted Sign	A two-sided *sign* attached to poles, posts, or similar supports, which advertises products raised on the premises, agricultural industries, and agritourism. These signs are often placed near public roads or at the entrances to farm lanes and may be landscaped.	
Agricultural: Monument-Type Sign	A two-sided *sign* mounted on a permanent base, which is not attached or dependent on another *structure*, pole, post, or similar support. Such *sign*s are often landscaped and may be coordinated with the architectural treatments of nearby *structures*.	
Subdivision: Monument-Type Sign	A one-sided monument *sign* that contains only one distinct sign area on the *sign* face for the purpose of identifying the entrance of a *subdivision* along a public road. They are often generously landscaped.	

2. ***BUILDING*-MOUNTED SIGNS**

Sign Type	Definition	Example Graphic
Window Sign	A permanent *sign* that is painted on or mounted to a window, or that is hung directly inside a window. Neon window signs are included in this category. Temporary paper signs in windows and temporary banner signs are not included in this category.	
Wall Sign	A flat, permanent *sign* that is attached and parallel to an exterior wall, and projects no more than 12 inches from the wall. It may be painted onto a wall surface or erected and confined within the limits of the wall surface of a *building* or *structure*. The sign is located against the wall, and it displays only one *sign* surface.	
Projecting Sign	A *sign* that projects no more than 36 inches from and is supported by a wall of a *building* or *structure*. This includes a marquee *sign*. The sign is located against a wall, and it displays more than one *sign* surface. All surfaces are calculated for signage area, except when parallel faces are within 24 inches of each other.	

3. **DETACHED SIGNS** and **INCIDENTAL SIGNS**

Sign Type	Definition	Example Graphic
Freestanding Sign	A *sign* that is not attached to a *building* but rather a supporting *structure* attached to the ground. These *sign*s may be ground-mounted or pole-mounted. They are often made of high-quality materials and well landscaped. *Sign*s located on the All-American Road are encouraged to include relevant branding.	
Directional Sign	A *sign* that directs the public towards a *site* entrance and is visible from a public right-of-way, or any *sign* that provides traffic regulation on private property. These *sign*s are private and for information only, and they cannot be enforced by local law enforcement.	
Address Sign - and - Building Sign	A *sign* that is located on a wall immediately adjacent to the entrance of a *building* or in a yard area. These *sign*s are often used to identify a property address or to provide other information about an activity or use that occurs on the property for the general public.	

3.4 ILLUMINATION

1. No sign may be illuminated except when using external lighting, where the source of light is external to, and independent of, the sign structure, and illumination radiates toward the message area and away from the viewer. This includes goose neck, linear sign lights, and ground mounted spotlights. Interior illumination of signs is not permitted in any case.
2. The light from any illuminated *sign* will be so shaded, shielded, or directed that the light intensity or brightness will not be objectionable to surrounding areas.
3. No *sign* will have blinking, flashing, or fluttering lights, or any other illuminating device which has a changing light intensity, brightness, or color.
4. Beacon lights are not permitted.
5. No colored lights will be used at any location or in any manner so as to be confused with or construed as traffic control devices.
6. Neither the direct, nor the reflected light from primary light sources will create a traffic hazard to operators of motor vehicles on public thoroughfares.
7. No exposed reflective type bulbs, no strobe light, nor incandescent lamp which exceeds 15 watts will be used on the exterior surface of any *sign* so as to expose the face of the bulb, light, or lamp to any public *street* or adjacent property.
8. All new lighting for signs will be dark-sky compliant and use LED fixtures with automatic, light-sensitive shut-off technology that will turn off all sign lighting during daylight hours.

3.5 ELECTRONIC MESSAGE CENTER (EMC)

1. Electronic message centers is permitted as a component of permitted signage for gasoline stations, quasi-public/institutional uses, and fire companies. One *sign* of equal or less *sign* area and height, which is not an EMC, is permitted in lieu of the EMC, but not both *signs*.

2. No *sign* containing an electronic message center will be located within 125 feet of any signalized intersection as measured from the point where the existing right-of-way lines of the intersecting *street*s meet. In a case where a rounded or *cut* property corner exists, this measurement will be taken from the point of the intersection of the existing rights-of-way lines, as extended. The distance will be measured along the right-of-way line from the point of intersection. *(See graphic illustration.)*



3. Any electronic message center that is located within 300 feet of any residential use will be required to automatically turn off between the hours of 11:00 p.m. and 6:00 a.m. daily.

4. An electronic message sequence will be accomplished by means of fading or dissolving but will not scroll, travel, or flash. A transition sequence will be completed in no less than ~~8 seconds~~ eleven (11) seconds.

5. No portion of any *sign* may change its message or background in a manner or by a method of display characterized by motion, other than fading or dissolving, or pictorial imagery or depicts action or a special effect to imitate movement, or the presentation of pictorials or graphics displayed in a progression of frames that give the illusion of motion or the illusion of moving objects, moving patterns or bands of light or expanding or contracting shapes.

6. Electronic message centers will be designed to freeze the display in one static position, display a full black *screen*, or turn off completely in the event of any malfunction.

7. Portable electronic message signs are prohibited. No electronic message center will be permitted to be included as part of any *sign* that will be erected for a limited timeframe.

8. Digital road signs, electronic traffic signs, and other variable message signs that provide real-time information to drivers, erected by governmental bodies and agencies including the State, County, and other local governments are not electronic message centers.

~~Manual changeable copy signs are permitted only when integrated into signage for a quasi-public/institutional use or as permitted for a gasoline station. Area available for changeable copy, including electronic message centers and manual changeable copy, will be limited to 15% of the total *sign* area. This limit is not applicable to volunteer fire companies.~~

3.6. PERMITTED SIGNS Rural = AZD, RCD, and on any *bona fide* farm Residential = RC, CAR, and CR Business = C, CCA, EC, ECCA, M Village = V, IV Options are chosen by applicant; they are not based on sizes Special = Special exception uses when approved by the Board of Appeals and existing businesses in districts where they are no longer operating as permitted uses	Number of Signs	Max Area (sq ft)	Max Height (ft)	Illumination	Rural	Residential	Business	Village	Special
A. GROUND-MOUNTED and MONUMENT-TYPE SIGNS									
Agricultural: advertising products raised on the premises and ag industries only (prior 16 sq ft)	1	32	8	Yes	X				
Subdivision, rural: located at subdivision primary vehicle entrance only	1	4	8	Yes	X				
Subdivision, residential: located at subdivision primary vehicle entrance only	1	10	8	Yes		X	X	X	
Electronic Message Center (EMC) at gas stations, quasi-public/institutions, and fire companies	1	32	8	Yes	X		X	X	
B. BUILDING-MOUNTED SIGNS									
Window signs including neon signs but not temporary paper signs or banner signs	1	2	N/A	Yes			X	X	X
Small wall sign: PER ESTABLISHMENT: 5% of the area of the front façade and a max of …	1	25	N/A	Yes				X	X
OR **Projecting sign, small**: PER ESTABLISHMENT, if no flat sign is erected (choose one)	1	5	N/A	Yes					
BUILDINGS WITH A GROSS FLOOR AREA LESS THAN 20,000 SQUARE FEET **Medium wall sign**: PER ESTABLISHMENT: 5% of the area of the front façade and a max of …	1	25	N/A	Yes			X		
OR **Projecting sign, medium**: PER ESTABLISHMENT, if no flat sign is erected (choose one)	1	10	N/A	Yes					
BUILDNGS WITH A GROSS FLOOR AREA EQUAL TO OR GREATER THAN 20,000 SQUARE FEET **Large wall sign**: PER ESTABLISHMENT: 1.5 sq ft per linear foot of front façade with a max of … (Signage colors to be approved by *Planning Commission*; not eligible for bonus; see footnote †)	1	100	N/A	Yes			X		
OR **Projecting sign, large**: PER ESTABLISHMENT, if no flat sign is erected (choose one)	1	10	N/A	Yes					
C. DETACHED SIGNS and INCIDENTAL SIGNS									
Free-standing Pole sign ***OR*** Ground-mounted sign									
Business sign: for a stand-alone business or common development (e.g., *shopping center*)	1	25	25	Yes			X	X	X
Directory sign: identifying three or more establishments within a common development	1	65	8	Yes			X		
Waterfront sign: if directed at the water, for a stand-alone business or common development	1	20	20	Yes			X		
Incidental signs									
Address sign (formerly nameplate sign)	1	2	N/A	No	X	X	X	X	X
Building sign (formerly home occupation sign)	1	2	N/A	No	X	X	X	X	X
Directional signs (number not limited)	N/A	4	4	Yes	X	X	X	X	X
Flags of any Nation, State, County, or Municipality	3	28	N/A	Yes	X	X	X	X	X
Flag additional (formerly noted as non-commercial)	1	15	N/A	Yes			X	X	X
Portable or **Temporary signs** (including banners, sandwich boards, and yard signs)	1	6	8	No			X	X	X
Warning signs – danger, no trespassing, no hunting, and other warnings (number not limited)	N/A	2	6	No	X	X	X	X	X
TOTAL OVERALL SIGN AREA ALLOWANCE FOR ANY SINGLE BUILDING † **1.5 square feet per linear foot of building frontage and no more than:**	**100 sq feet**						X	X	X

†Buildings with a gross floor area equal to or greater than 20,000 square feet are exempt from the single-building maximum sign area limitation above.

3.7 CRITERIA FOR BONUS SIGN AREA

To encourage design excellence, the maximum *sign* areas in the Rural, Residential, Business, and Village categories may be increased by the percentages outlined below. A separate bonus is granted for compliance with each of these criteria and the area is cumulative, but the percentage is based on the original *sign* area. In no case will the overall *sign* area exceed ~~32~~ 64 square feet.

1. Detached signs, both pole-mounted and monument-type, may be increased as follows:
   - (A) Twenty (20) percent when the *sign* is constructed of solid wood and uses colors approved by the *Planning Commission*.
   - (B) Ten (10) percent when a directory *sign* utilizes uniform coloring and lettering for all establishments listed in the directory with an exception for one major facility.
   - (C) Twenty (20) percent when the *sign* is installed in a landscaped planter having an area twice the area of the resultant *sign* and the entire area is approved by the *Planning Commission*.
   - (D) Fifteen (15) percent when the *sign* is not designed or used with illumination, ~~or the *sign* uses indirect lighting~~ only indirect lighting is permitted.
   - (E) Twenty (20) percent when the *sign* uses a pedestal or monument base and does not exceed 5 feet in height.
2. Wall signs may be increased as follows, if they project less than 12 inches from the wall:
   - (A) Ten (10) percent when all the lettering and background is uniform in style and color for signs in a *shopping center* or for any three consecutive separate establishments.
   - (B) Fifteen (15) percent if the *sign* is not designed or used with any illumination, ~~or the *sign* uses indirect lighting~~ only indirect lighting is permitted.
   - (C) Five (5) percent if the *sign* design compliments and utilizes the architectural details of the facade, particularly with respect to *historic structures*.
3. Temporary signs may be increased by the *Planning Commission* for project construction.

3.8 SIGN PERMIT REQUIRED GENERALLY

Except for the signs listed below, which may be erected without obtaining a permit, every *person* desiring to erect a *sign* will first obtain a *sign* permit along with all other permits required by law.

3.9 REGULATED SIGNS NOT REQUIRING A SIGN PERMIT

GROUND-MOUNTED and MONUMENT-TYPE SIGNS

1. In keeping with the content-neutral approach, new or replacement *sign* copy, including repainting and new cabinet faces will not require a *sign* permit, as long as the calculated *sign* area remains unchanged. Changes to electrical equipment will require an inspection.

BUILDING-MOUNTED SIGNS – THIS SUB-SECTION GRANTS ADDITIONAL SIGNS AND SIGN AREA

1. Temporary paper *signs* in windows that occupy less than 30 percent of each window area.
2. Painted logos, decals, or other informational symbols, such as credit card logos, directly inside of, or on the surface of, a window and/or door on the ground floor of a *building*, if the area of such informational *signs* is less than five (5) percent of the area of the window.
3. In keeping with the content-neutral approach, new or replacement *sign* copy, including repainting and new cabinet faces will not require a sign permit, as long as the calculated *sign* area remains unchanged. Changes to electrical equipment will require an inspection.

DETACHED and INCIDENTAL SIGNS

1. Address signs, building signs, flags, warning signs, and non-illuminated directional signs.
2. Portable or Temporary signs displayed for 60 days or less within any given calendar year.
3. In keeping with the content-neutral approach, new or replacement *sign* copy, including repainting and new cabinet faces do not require a *sign* permit, as long as the calculated *sign* area remains unchanged. Changes to electrical equipment will require an inspection.

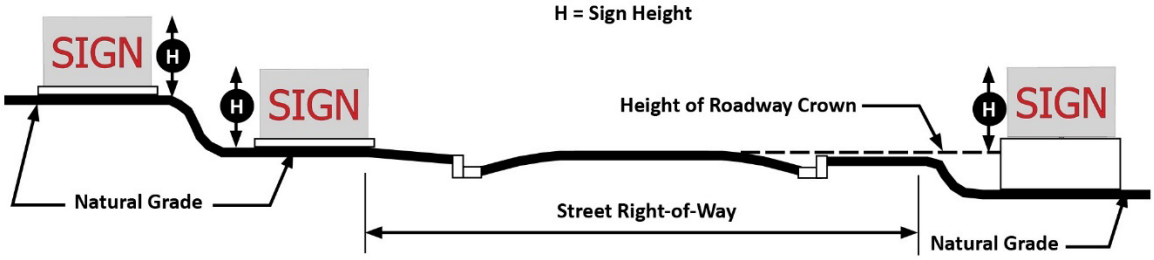
3.10 SIGNS EXEMPT FROM ANY REVIEW AND NOT SUBJECT TO THIS SECTION

The signs listed below may be erected without any review and are not subject to this sign section.

1. Federal, State, and County program-related interpretative signs for farmland preservation and archeological, cultural, and historic programs such as byways and All American Roads.
2. Public signs representing a public interest, erected by, or on the order of a public official.
3. Temporary public notices for public meetings and public hearings, erected by the County.
4. Traffic and information signs erected in the public rights-of-way by a governmental body.

3.11 HOW TO MEASURE SIGN DIMENSIONS

1. *Sign* Height Measurement

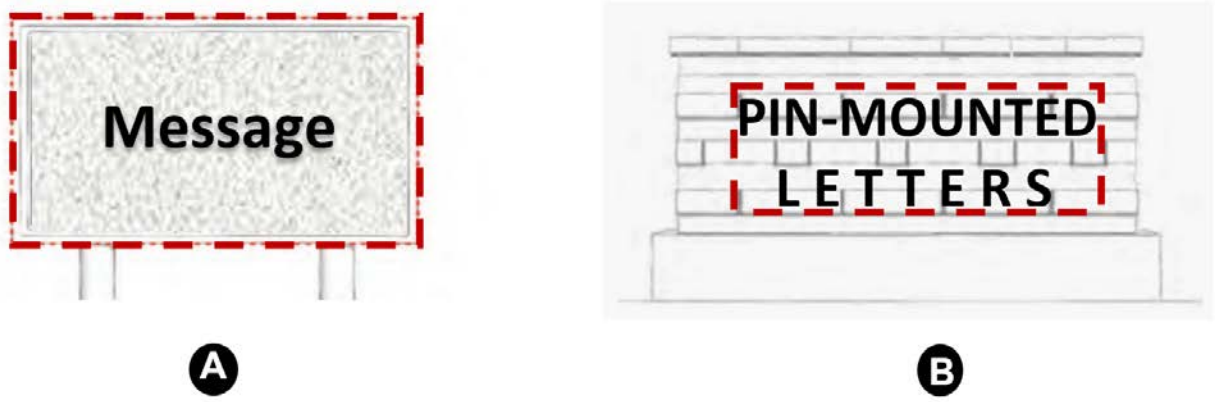


The height of a *sign* will be measured from the higher of (1) the natural *grade* immediately adjacent to or directly beneath the *sign* base, which will not be raised so as to create additional *sign* height, or (2) the height of the *roadway* crown of the adjacent *street* which the *sign* faces, to the highest point of the *sign structure*, including the bracket, supports, and any *sign* face surrounds. The above diagram illustrates *sign* height measurement.

2. *Sign* Area Measurement

(A) For signs mounted on a freestanding background or projecting from a *building*, the entire area of the framework or background of the *sign* is calculated as the *sign* area, including any material or color forming the *sign* face or background used to differentiate the *sign* from the *sign structure* against which it is placed. *Sign* area does not include any supporting framework or bracing unless such framework or bracing is part of the message or *sign* face. (Diagram "A" below).

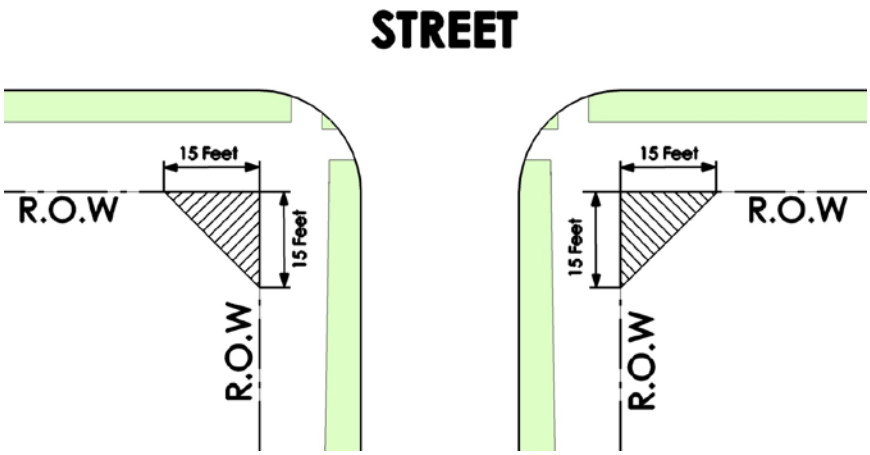
(B) For signs consisting of freestanding letters or features attached to a wall or monument, the *sign* area is calculated as the total area of an imaginary rectangle that contains all letters or features of the *sign*. (Diagram "B" below).



(C) **Other computations**. Only one side of a double-faced *sign* is included in the computation of *sign* area, when the two *sign* faces are placed back-to-back, so both are no more than 24 inches apart at their furthest distance. The area of a cylindrical sign is computed by multiplying one-half of the circumference by the height of the *sign*. Regular geometric shapes may be calculated using formulas.

3.12 SIGN LOCATION AND SAFETY

1. All ground-mounted *signs* will be setback no less than five feet from the right-of-way line.
2. All supports and wiring for building-mounted signs will be concealed from public view.
3. *Signs* will not be situated so they interfere with the movement or visibility for pedestrians, cyclists, or motorists, or so they obstruct views of traffic signals or other traffic devices.
4. *Signs* and their supporting *structure*s will not interfere with public utility equipment or communication lines/equipment that are either above or below the *grade*.
5. At a minimum, *signs* will not be located in the vision clearance triangle adjacent to the intersection of any *streets*. The triangle is fifteen (15) feet from the point of intersection of two *street*s along the right-of-way of each of the two intersecting *street*s, or a distance of five (5) feet from a point of intersection of a *street* and a driveway. Wall *signs* and any other *signs* that are placed flat against a *building* wall are not subject to this requirement.



3.13 PROHIBITED SIGNS GENERALLY

Except as otherwise provided, the following *signs* are prohibited:

1. *Signs* including all billboards, outdoor advertising *structure*s, poster panels, and *signs* of any type, which advertise products or services that are not available on the *premises*.
2. *Signs* that visually simulate an official traffic control device, warning *sign*, or regulatory *sign*, or which hide from view any traffic control device, signal, or public service *sign*.
3. *Signs* that interfere with road or highway visibility or obstruct or otherwise interfere with the safe and orderly movement of traffic or which otherwise pose a hazard to traffic.
4. *Signs* in the form of pennants, balloons, streamers, ribbons, spinners, strings of lights, air- or gas-filled figures, or other devices that are moved by wind, machine, or human activity.
5. *Signs* on public rights-of-way other than publicly owned or maintained signs and signs pertaining to railroad crossings.
6. *Signs* containing obscene statements, words, symbols, or graphic depictions that may be construed to offend public morals or decency.
7. *Signs* that emit or utilize, in any manner, any kind of sound that is produced by the *sign*.
8. *Signs* attached to a fire escape or that obstruct any fire escape, any means of egress, or ventilation, or will prevent free passage from one part of a roof to any other part.
9. *Signs*, other than approved Electronic Message Centers, that change color(s), flash, blink, oscillate, or intimate movement through lighting effect(s) or the use of video display of any kind, and in any way visible from the right-of-way or any other adjacent properties.
10. *Signs* painted or affixed on the roof of a *building* or supported by posts, poles, uprights, or braces extending from or attached to the roof of a *building* or projected above the roof of a *building* or above the parapet. Signs that extend above any eave line are prohibited.
11. *Signs* attached to a fence, wall, gazebo, antenna, other *sign*, *tree* or other vegetation, or to any public *structure* such as a utility pole or lamppost~~, without permission of the owner~~.

3.14 SIGN MAINTENANCE

All *signs* will be maintained in safe structural condition, in compliance with all applicable *building*, life safety, and electrical codes, and in conformance with this section at all times. Maintenance includes replacement of defective bulbs, parts, materials, painting, repainting, cleaning, and any other act required for maintenance of *signs*. If a *sign* is not adequately maintained or kept in good repair, the County may require its removal, utilizing the provisions in the section below.

3.15 REMOVAL OF UNSAFE, UNLAWFUL, OR ABANDONED SIGNS

1. Upon written notice by the County, the property owner of record where a *sign* is located will remove the *sign*, if it is unsafe, was unlawfully erected in *violation* of this section after August 1, 1989, or the permitted use related to the *sign* has been abandoned or vacated.
2. After 30 days from the date of the notice, the County may remove or cause to be removed at the expense of the property owner, any *sign* that is not in compliance with this section.
3. If any *sign* poses an immediate threat to public safety, it may be removed immediately.

3.16 LEGAL, NONCONFORMING SIGNS

1. A *sign* will be considered a legal, nonconforming *sign* if it:
   (A) Does not conform to one or more of the *sign* regulations in this section; and,
   (B) Existed on the effective date of this Land Use Ordinance; and either conformed to the *regulations* of, or was considered to be a legal, nonconforming *sign* by the Ordinance in effect on the day before the effective date of this Ordinance.
2. A prohibited *sign* existing on August 1, 1989, is considered a legal, nonconforming *sign*.
3. A legal, nonconforming *sign* may be retained in place, if the following conditions are met:
   (A) The legal, nonconforming *sign* is not expanded, structurally altered, relocated, completely replaced, or removed except to bring the legal, nonconforming *sign* into some greater compliance with the *sign* regulations of this section; and
   (B) The legal, nonconforming *sign* is maintained in good condition and repair.
4. A legal, nonconforming *sign* damaged or destroyed by Act of God or other circumstances beyond the control of the owner of the *sign* may be repaired, relocated, or replaced.
5. A question of the legal, nonconforming status of a *sign* is decided by the Board of Appeals in a public meeting with public notice given, per the requirements for notice in Article IV.

3.17 RELOCATION OF LEGAL, NONCONFORMING SIGNS

A nonconforming *sign* may be relocated for road or sidewalk construction, purchases of right-of-way, or other utility or transportation projects initiated by the County or any other public agency.

SECTION 4 STANDARDS FOR UTILITY-SCALE SOLAR ENERGY SYSTEMS

4.1 SETBACKS TO ACCOMMODATE REQUIRED LANDSCAPE BUFFER

1. 200 feet from any *lot* line.
2. 200 feet from any road/and or right-of way
3. 200 feet from any road/right-of-way within ½ mile of a town or village boundary that is the gateway into a town or village
4. 200 feet from any residential use or zoning district
5. Setbacks may be reduced to 100 feet for non-residential development with written consent from the property owners whose property is adjacent to the area in which the setback reduction is sought. The Planning Commission shall be the review agency to determine the application of this provision.
6. Setbacks shall be measured from the outermost edge of the nearest solar panel structure within the solar array including substations.

4.2 INSTALLATION AND MAINTENANCE STANDARDS

Solar arrays shall be constructed and maintained according to the following:

1. If solvents are required for cleaning of the solar modules, they must be biodegradable. Any unused solvents must be removed from the subject parcel.
2. All broken or waste solar modules shall be removed from the site subject parcel within 30 days of being taken out of service, including any leaching panels, and the subject parcel shall be maintained in good order.
3. All wiring not on the solar arrays shall be underground except when necessary to connect to the public utility.
4. Transmission wires to connect the project to the utility infrastructure shall not cross a roadway overhead.
5. Any required utility right of way shall be secured through an easement, lease, service agreement or other legally binding document.
6. The solar array shall be enclosed by a fence or other appropriate barrier at the interior edge of the required landscape buffer or immediately adjacent to the solar array. The fence or barrier shall:
   (A) Secure the facility at all times to prevent unauthorized persons or vehicles from gaining access.
   (B) All access gates will provide a sign that identifies the responsible parties or owners with current contact information.

7. Noise generated by the facility shall be limited by the project design to 45 dBAs measured at the property line, to be indicated on the site plan by the engineer, except when a back-up generator is needed for maintenance. Construction on the site is exempt from this standard.

8. Solar arrays, including the electrical and mechanical components, shall conform to relevant and applicable local, State, and national codes.

9. To protect adjacent properties, and not interfere with roadways or create a safety hazard, evidence shall be provided that the solar panels are designed to avoid glare and/or reflection with anti-reflective coating or non-glare technology and, if necessary, have been evaluated with a solar glare hazard and analysis tool.

10. Non-array uses such as power storage are not permitted.

4.3 LANDSCAPE BUFFER FOR UTILITY-SCALE SOLAR ENERGY SYSTEMS

1. Any utility scale solar facility shall comply with the requirements of the Forest Conservation Act. Reforestation planting may be incorporated as landscaping. 404.6

2. The gross usable area for panels will exclude wetland areas that are regulated by the Maryland Department of the Environment or the U.S. Department of the Interior. Impacts associated with access or interior roads and utility crossings shall provide the necessary authorization for any disturbances.

3. Existing topsoil shall not be removed from the site.

4. A vegetated buffer that is a minimum of 60 feet wide around the perimeter of the site area fronting on road or rights of way that are considered gateways to towns or villages and a minimum of 50 feet for all other applications. This buffer may be located within the setback and shall extend around the entire project with the exception of any boundaries contiguous to preserved, forested lands that are recorded on a plat.

5. Healthy existing vegetation within the designated buffer area may be used to satisfy the specific buffer standards.

6. Non-native plant material shall not total more than 10% of all plantings.

7. Where a phased construction plan is proposed, the landscape plan shall identify the phasing of the plantings applicable to each construction phase.

8. Not more than 25% of any single plant species should be included in the buffer to promote the growth of a natural landscape and avoid monotony and uniformity of the buffer. The vegetation shall be thickly planted and of such species that it will provide an opaque visual barrier that obscures the utility scale solar array from sight once the vegetation reaches maturity or within five years, whichever comes first. A mix of evergreen and deciduous trees, shrubs and beneficial habitat shall be included:

   (A) A minimum of two staggered rows of evergreen trees that at installation shall be at least 6 feet in height, each planted no more than 10 feet apart. Evergreen

tree species shall be a varied mixture of compatible types and achieve a height of eight feet in a minimum of 2 years.

(B) In addition to the evergreen trees, native deciduous or shade trees with a minimum size at installation of 2-inch caliper shall be interspersed to enhance the evergreen screening along with understory trees with a minimum size of installation of 1-inch caliper or 6 feet in overall height or greater if required by the Planning Commission to address gateway areas.

(C) Shrubs with a minimum size at installation of 24 inches in height or 30 inches in spread.

(D) The buffer shall include a flowering ground cover for pollinators, warm season grasses and other beneficial habitat. The ground cover seed mixture shall include a minimum of 10 plant species with a minimum of 2 flowering seasons. Lawns outside the required buffer are discouraged; plantings for pollinators are encouraged in all planted areas.

(E) The height of proposed planting may require alternatives based upon the site elevation and visibility from adjacent properties and roads and/or rights of ways. If necessary, an elevation or perspective illustration exhibit shall be provided with viewpoints from relevant locations around the site for the Planning Commission to consider.

4.4 LANDSCAPE BERM REQUIRED; CONDITIONS FOR EXEMPTION LISTED

A landscape berm shall be provided at a minimum of three (3) feet high to assist in screening. The design of the berm shall be such that the natural drainage patterns of the site will not be altered. The berm requirement may be waived in part or total subject to the following conditions:

1. A minimum of two staggered rows of evergreen trees that at installation are at least 8 feet in height and planted no more than 10 feet apart
2. Interspersed shade trees have a minimum size at installation of 2.5-inch caliper
3. Understory story trees with a minimum size at installation of 1.5-inch caliper or 6 feet in overall height
4. Shrubs with a minimum size at installation of 30 inches in height.
5. The landscaping plan is deemed to screen elevations of the site adequately within 2 years.

4.5 IRRIGATION REQUIRED

Irrigation shall be provided to assist in maintaining plant materials in a healthy condition for all newly created landscape buffer areas. Plants shall be watered in a manner adequate to ensure establishment and survival. The landscape plan shall include a watering schedule appropriate for the proposed plantings, which may include service by on-site irrigation or water truck, until the

plant material is sufficiently established to survive on natural soil moisture. An irrigation system is subject to the following:

1. The irrigation system shall be designed to prevent runoff, low head drainage, overspray, or other similar conditions where irrigation water flows onto nontargeted areas such as adjacent properties, roadways, or structures.
2. All automatic irrigation systems shall be designed to minimize water usage and shall be manually shut off during water emergencies or water rationing periods.
3. An alternative form of irrigation for a particular site may be approved through the applicable review process upon determining that underground irrigation is not necessary or available for the type of plant material being proposed.

4.6 MAINTENANCE AGREEMENT REQUIRED

A maintenance agreement for the landscape plan shall be provided with a surety or other financial assurance to cover replacement of the plantings and irrigation systems. All plantings shall be maintained in a live, healthy condition for the duration of the solar array life and shall be replaced by the solar array operator as necessary with appropriately sized plant material as necessary to maintain all required buffering standards.

4.7 LANDSCAPE SURETY REQUIRED

The surety may be provided on a phased basis per the landscape phasing plan and shall be held by the County for a period of three years following planting, after which the County, upon satisfactory inspection of the landscape buffer may release 50% of the surety, and the remaining 50% may be released after an additional two years. The County then reserves the right to inspect and require replacement for the duration of the solar array.

4.8 PROJECT ENTRANCE REQUIREMENTS

Entrances to the project should be designed to ensure that neighboring properties, public rights-of ways and roads are not exposed to an unscreened view through the entranceway. The use of a wire mesh or chain-link gate or fence with vinyl interwoven strips is not acceptable.

4.9 COMPLIANCE WITH FEDERAL AND STATE REQUIREMENTS

The project shall comply with all applicable federal and State regulations, including by not limited to obtaining a Certificate of Public Convenience and Necessity from the Public Service Commission if required, and in the removal and disposal of the utility scale solar array and all of its components.

4.10 COMLIANCE WITH ALL OTHER PUBLIC LAWS OF KENT COUNTY

The project shall comply with all other applicable regulations, as contained in the Public Laws of Kent County.

4.11 PROJECT BONDING REQUIREMENTS

The Project shall comply with the bond-related requirements below:

1. A bond, surety letter, or other financial instrument for removal of all solar-related structures and non-vegetative improvements on the site and for the restoration of the site to its pre-project condition shall be submitted, to be based on bona fide written estimates prepared by third-party consultants;
2. The cost estimate shall address provisions for the safe removal and proper disposal of all components of the project, including any components containing hazardous or toxic materials including leachates;
3. An estimate for review by County shall be submitted;
4. Bond shall be maintained for the life of the project;
5. Bonding may be in coordination with other required bonding by the State of Maryland, PSC, PULJ, PPRP, etc.;
6. In the event that no other bonding is required, then a bond in favor of the County shall be required;
7. Said bonding shall include an escalator provision based on changes to the cost of restoration, which shall be evaluated and updated every five years;
8. Said bond shall be for 110% of the above estimate(s) and/or updated estimate(s) from five-year reviews;
9. Said bond shall be redeemable by the County upon a finding that the project has been abandoned, with or without notice from project operators, if project has, in fact, been abandoned by its operators; and
10. The Project will be considered to be abandoned, if there is no electric generation provided to the grid for a period of twelve (12) consecutive months.

ARTICLE VI. ENVIRONMENTAL REGULATIONS

SECTION 1 GENERAL PROVISIONS

1.1 STATEMENT OF INTENT

The purpose of these standards is to provide for the proper stewardship of the County's natural resources. Specifically, it is the overall goal of the County to maintain the quality of the County's *ecosystem* in the face of continuing activity, growth, and change. In general, the regulations in Article VI are requirements set forth by the State of Maryland in the Maryland Code (State law) and regulations adopted by various State agencies in the Code of Maryland Regulations (COMAR). In some cases, there are formal processes by which exceptions may be granted, but in most cases these regulations are requirements, and the County is charged by the State with enforcing them.

1.2 MARYLAND CRITICTAL AREA AND NON-CRITICAL AREA REGULATIONS

The 12 zoning districts in this Land Use Ordinance comprise two categories. The first category is the zoning districts for land located in the State of Maryland's Critical Area for the Chesapeake and Atlantic Coastal Bays. These are the RCD, CAR, CCA, M, and ECCA. State of Maryland Critical Area regulations apply in these zoning districts. The remaining districts are outside the Critical Area. Critical Area regulations do not apply; Forest Conservation regulations apply. Blue highlighted Sections apply only to Critical Area zoning districts. Green highlighted Sections apply only to non-Critical Area zoning districts. Sections with no highlighting apply to all zoning districts.

Article VI Environmental Regulations Applicability	AZD	RCD	RC	CAR	CR	V	IV	C	CCA	M	EC	ECCA
Section 1. General Provisions	X	X	X	X	X	X	X	X	X	X	X	X
Section 2. Critical Area Program		X		X					X	X		X
Section 3. Forest Conservation Act	X		X		X	X	X	X			X	
Section 4. Erosion & Sediment Control	X	X	X	X	X	X	X	X	X	X	X	X
Section 5. Stormwater Management	X	X	X	X	X	X	X	X	X	X	X	X
Section 6. Floodplain Management*	X	X	X	X	X	X	X	X	X	X	X	X

* For properties located in a floodplain

1.3 GENERAL ENVIRONMENTAL STANDARDS

These regulations apply to all properties in all zoning districts and for all processes in Article IV. Applicants are required to identify the subject matter listed below and address all relevant issues.

1. **Agriculture.** Whenever possible, agricultural operations will follow agricultural *best management practices,* and property owners are encouraged to develop and implement soil conservation and water quality plans, nutrient and pest management plans.

2. ***Anadromous fish***.

   (A) Concrete riprap or other artificial surfaces will not be installed on the bottom of natural streams unless it can be demonstrated that water quality and fishery habitat will be improved.

   (B) Physical *alteration* of a stream, including but not limited to channelization, that interferes with the movement of fish will be prohibited.

   (C) The construction or placement of dams or other structures that would interfere with or prevent the movement of spawning fish or larval forms in streams will be prohibited.

   (D) Where practical, the removal of existing barriers is encouraged. Construction, repair or maintenance activities associated with bridges or other stream crossings or with utilities and roads which require disturbance to the buffer or stream protection corridor, or which occur in stream will be prohibited between March 1 and May 15.

3. ***Forest Interior Dwelling Birds***. New *development* will minimize impact on forest interior dwelling birds. Whenever possible, riparian forest will be expanded.

4. **Natural heritage areas** and locations considered for Areas of Critical State Concern will be preserved whenever possible. These areas are identified in Section 3.

5. ***Non-tidal wetlands***. *Non-tidal wetlands* will be protected according to the *regulations* of the State of Maryland, Army Corps of *Engineer*s, United States Fish and Wildlife Service, Environmental Protection Agency, and all other applicable State and Federal *Regulations*.

6. **Poorly drained and flood-prone property.** When possible, land subject to poor drainage or periodic flooding will not be developed for any use that might involve danger to health, life, or property or aggravate floods. If developed, the property owner will agree to make any improvements necessary to render the property safe for *development*.

7. **Threatened and *endangered species*** and *species in need of conservation* will be checked and noted by the *applicant* before any approvals are granted by the Planning Director or *Planning Commission*. The Federal or State guidelines (whichever is stricter) for habitat protection will be followed during *development*. Plans will also include provisions for continuance of the habitat protection after *development*. This can include *conservation easements*, cooperative agreements, special provisions in *forest management plans*, and donation or sale to a third party.

8. **Tributary Streams**. New *development* or *redevelopment* will provide a **100-foot** naturally vegetated *stream protection corridor* along all *tributary streams* to protect such streams and the natural course and *riparian habitat* of these streams, habitat protection areas, or any other significant habitat identified by the Department. New *development activities*, including *structure*s, parking areas, septic systems, and similar *impervious surface*s will not be permitted in the *stream protection corridor*. *Roads* that cross the *stream protection corridor* will be minimized.

The *Planning Commission* may modify the *stream protection corridor* when the following can be demonstrated that: (a) a reduced corridor achieves significant water quality and habitat improvements equal to the required corridor; (b) more than 50% of the corridor on the site is impervious or more than 75% of the corridor on the site is disturbed with stone, septic systems, decks, or other obvious human impacts; and, (c) the site will include all contiguous parcels under single ownership.

9. **Vegetation.** *Development* will minimize the removal of vegetation, protect remaining vegetation, replace removed vegetation onsite, and plant permeable areas, if practicable. *Native plants* are preferred and, in some cases, required by State law.

10. ***Wildlife corridor*s** will be created whenever feasible. Fragmentation of natural habitat areas is prohibited in any residential zoning district, and fragmentation of natural habitat areas will be minimized in all other zoning districts. *Hedgerow*s are desirable as *buffer*s.

SECTION 2 CRITICAL AREA PROGRAM

2.1 PURPOSE AND GOALS

1. The General Assembly enacted the Critical Area Act for the following purposes.

   (A) To establish a resource protection program for the Chesapeake Bay and Atlantic Coastal Bays and their tributaries by fostering more sensitive development activity for certain shoreline areas so as to minimize impacts to water quality and natural habitats; and

   (B) To implement a resource protection program on a cooperative basis between the State and affected local governments, with local governments establishing and implementing their programs in a consistent and uniform manner subject to State Criteria and oversight.

2. The goals of the Kent County Critical Area Program are to accomplish the following:

   (A) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or run off from surrounding lands;

   (B) Conserve fish, wildlife, and plant habitat; and

   (C) Establish land use policies for development in the Critical Area which accommodate growth as well as address the environmental impacts that the number, movement, and activities of people may have on the area.

2.2 IMPLEMENTATION

1. Notwithstanding any provision in this ordinance, or the lack of a provision in this ordinance, all of the requirements of Natural Resources Article 8-1801 through 8- 1817 and COMAR Title 27 shall apply to, and be applied by, Kent County as minimum standards.

2. In the case of conflicting provisions, the stronger provision applies.

2.3 CRITICAL AREA DESIGNATIONS

1. The extent of the Critical Area shall include:

   (A) All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide, and all state and private wetlands designated under Title 16 of the Environment Article of the Annotated Code of Maryland; and

   (B) All land and water areas within 1,000 feet beyond the landward boundaries of state or private wetlands and the heads of tides designated under Title 16 of the Environment Article of the Annotated Code of Maryland.

2. Within the designated Critical Area, all land is assigned one of the following land classifications, based on land uses and development in existence on December 1, 1985.

   (A) Resource Conservation Area (RCA).

i. Resource Conservation Areas are those areas characterized by *nature-dominated* environments (that is, *wetlands*, *forest* and abandoned fields) and resource-utilization activities (that is, *agriculture*, *forest*ry, fisheries' activities or *aquaculture*). As of December 1, 1985, these areas had at least one of the following features:

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

ii. Zoning districts within the Resource Conservation Area of the *Critical Area*

1. Resource Conservation (RCD)

(B) Limited Development Area (LDA).

i. Limited *Development* Areas are those areas which are currently developed in low or moderate intensity uses. They also contain areas of plant and animal habitats, and the quality of runoff from these areas has not been substantially altered or impaired. As of December 1, 1985, these areas had at least one of the following features:

1. Housing *density* ranging from one *dwelling unit* per 5 acres up to four *dwelling unit*s per acre;
2. Areas not dominated by *agriculture*, wetland, *forest*, *barren land*, surface water or *open space*;
3. Areas meeting the conditions of an intense *development* area but not concentrated in an area of at least 20 acres; or
4. Areas having public sewer or public water or both.

ii. Zoning districts within the Limited Development Area:

1. *Critical Area* Residential (CAR)
2. Commercial *Critical Area* (CCA)
3. Employment Center *Critical Area* (ECCA)

(C) Intensely Developed Area (IDA).

i. Intense *Development* Areas are those areas where residential, commercial, institutional and/or industrial *developed land* uses predominate and where relatively little natural habitat occurs. As of December 1, 1985, these areas had at least one of the following features:

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

3. Public sewer and water collection and distribution systems were currently serving the area and housing density was greater than three dwelling units per acre; and
4. These areas are concentrated in an area of at least 20 acres.

ii. Zoning districts within the Intense *Development* Area of the *Critical Area:*

1. Marine (M)

iii. Uses or parcels that have received growth allocation:

1. *Conference center*s, *resort*s, *retreat*s, *campground*s, and other uses that have received growth allocation.
2. Commercial *Critical Area* parcels that have received growth allocation.

2.4 DEVELOPMENT STANDARDS

1. Lot Coverage in an LDA or RCA

Except as otherwise stated below, lot coverage shall not exceed 15% of a lot or parcel, or that portion of a lot or parcel that is designated LDA or RCA.

(A) Additional lot coverage in the LDA or RCA is permitted if official documentation (plats, deed records) demonstrates that the lot existed on December 1, 1985. Lot coverage for such lots shall be limited as shown below.

Lot Size (square feet)	**Maximum Lot Coverage**
0 to 8,000	25% of parcel plus 500 square feet
8,001 to 21,780	31.25% of parcel
21,781 to 36,300	5,445 square feet
36,301 to 43,560	No increase over 15%

(B) If an individual lot one acre or less in size is part of a subdivision approved after December 1, 1985, the total lot coverage for the entire subdivision may not exceed 15%, and the lot coverage of an individual lot may not exceed 25%.

(C) Lots impacted by 2008 revisions to impervious surface limits. A lot or parcel not in compliance with the lot coverage requirements, but legally developed as of July 1, 2008, in accordance with the impervious surface requirements in effect at the time of construction, is legally nonconforming for purposes of lot coverage requirements.

(D) Properties granted growth allocation in accordance with the Kent County Growth Allocation Policy may be exempt from the 15% lot coverage requirement.

2. Steep Slopes

(A) Development on slopes 15 percent or greater, as measured before development, shall be prohibited unless the project is the only effective way to maintain or improve the stability of the slope.

(B) Development on slopes 15 percent or greater that are over six feet vertically as measured before development shall require a variance from the Board of Appeals.

3. Clearing in an LDA or RCA

(A) Forest clearing for lots created before December 1, 1985.

i. **Lots one-half acre or less.** Forest clearing on lots that are one-half acre or less in size and that were in existence on or before December 1, 1985, shall be limited to the minimum necessary to accommodate a house or other structure, initial septic system, driveway, and reasonable amount of yard or required parking, but the clearing may not exceed 6,534 square feet. Clearing above 6,534 square feet requires a variance.

ii. **Lots greater than one-half acre.** Forest clearing on lots that are greater than one-half acre in size that were in existence on or before December 1, 1985, shall be limited to the minimum necessary to accommodate a house or other structure, initial septic system, driveway, and reasonable amount of yard or required parking and may not exceed 20% of the forest, except that the Office of Planning and Zoning may approve clearing up to 30% for the installation of a required septic system. Clearing above 30% requires a variance.

(B) Developed woodland clearing for lots created before December 1, 1985.

i. **Lots one-half acre or less.** Developed woodland clearing on lots that are one-half acre or less in size and that were in existence on or before December 1, 1985, shall be limited to the minimum necessary to accommodate a house or other structure, initial septic system, driveway, and reasonable amount of yard or required parking.

ii. **Lots greater than one-half acre up to one acre.** Developed woodland clearing on lots that are greater than one-half acre and up to one acre in size that were in existence on or before December 1, 1985, shall be limited to the minimum necessary to accommodate a house or other structure, initial septic system, driveway, and reasonable amount of yard or required parking, and may not exceed 30% without a modification by the Planning and Zoning Officer.

iii. **Lots greater than one acre.** Developed woodland clearing on lots that are greater than one acre in size that were in existence on or before December 1, 1985, shall be limited to the minimum necessary to accommodate a house or other structure, initial septic system, driveway,

and reasonable amount of yard or required parking, and may not exceed 30% without a variance.

(C) **Clearing for subdivisions created after December 1, 1985.** Clearing of subdivisions created after December 1, 1985, may not exceed 30% of the forest or developed woodland without a variance.

4. Clearing mitigation and afforestation.

(A) A**pplicability.** This section applies to afforestation and mitigation for clearing of forest or developed woodland for development on all lots located in the LDA and RCA.

(B) **Forest mitigation for lots created before December 1, 1985.** Forest clearing on lots in the critical area that were in existence before December 1, 1985 is subject to forest mitigation as follows.

i. **Lots one-half acre or less.** Forest mitigation on lots that are one-half acre or less in size shall equal the area to be cleared.

ii. **Lots greater than one-half acre.** Forest mitigation on lots that are greater than one-half acre in size for clearing less than 20% shall equal the area to be cleared. Mitigation for clearing between 20% and 30% shall be calculated at a rate of 1.5 times the area to be cleared.

(C) **Developed woodland mitigation for lots created before December 1, 1985.** Developed woodland clearing on lots in the critical area that were in existence before December 1, 1985 is subject to developed woodland mitigation as follows.

i. **Lots one-half acre or less.** Developed woodland mitigation on lots one-half acre or less in size shall equal the area to be cleared.

ii. **Lots greater than one-half acre and up to one acre.** Developed woodland mitigation on lots that are greater than one-half acre and up to one acre in size shall equal the area to be cleared.

iii. **Lots greater than one acre.** Developed woodland mitigation greater than one acre in size with less than 30% clearing shall equal the area to be cleared.

(D) **Mitigation for subdivisions created after December 1, 1985.** Mitigation for subdivisions created after December 1, 1985 for clearing less than 20% shall equal the area to be cleared. Mitigation for clearing between 20% and 30% shall be calculated at a rate of 1.5 times the area to be cleared.

(E) **Mitigation for variances to clearing limitations.** Mitigation for variances to the required clearing limitations shall be calculated at a rate of three times the additional area to be cleared granted by the variance decision.

(F) If an applicant is authorized to clear any percentage of forest or developed woodland, the remaining percentage shall be maintained through recorded, restrictive covenants or similar instruments approved by the County.

(G) Replacement of trees shall be of a species similar to that which was removed or a species appropriate to the replating site.

(H) If the acreage of the *site* limits the application of *reforestation* requirements, *forest* may be created on other lands in the *Critical Area* including County lands or a fee in an amount determined by the Maryland Department of Natural Resources to be the equivalent to the value of the required *forest* may be paid to the County Commissioners of Kent County. These funds shall be placed in a dedicated fund used to ensure the restoration or establishment of an equivalent *forest* area in the *Critical Area* or riparian areas.

(I) **Afforestation on a site with less than 20% forest or developed woodland.** For a site with less than 20% forest or developed woodland, afforestation shall occur to the extent required in the following table and be maintained through protective easements.

New subdivision or new development on a vacant lot	Afforestation equal to 20% of the site
Substantial alteration, new lot with an existing dwelling unit or the conversion of a land use on a parcel or lot to another land use	Afforestation based on total lot coverage, not to exceed 20% of the site
Addition or accessory structure	Afforestation based on net increase in lot coverage, not to exceed 20% of the site

(J) **Reforestation and afforestation planting.** Reforestation and afforestation planting shall be established first within the 100-foot buffer, if feasible, and shall include a combination of native species of trees, shrubs, and ground cover approved by the Office of Planning and Zoning, or, for land within the buffer, in accordance with COMAR, Title 27.

(K) **Clearing in violation of the law.** Forests, woodlands, woody vegetation, or individual non- hazardous trees cleared without a grading permit or other required approval, or in excess of allowed clearing limits, shall be replanted at three times the area of the cleared forest, woodlands or woody vegetation, and for individual trees cleared, three times the number of individual trees cleared, or a fee in an amount determined by the Maryland Department of Natural Resources to be the equivalent to the value of the required *forest* may be paid to the County Commissioners of Kent County. These funds shall be placed in a dedicated fund used to ensure the restoration or establishment of an equivalent *forest* area in the *Critical Area* or riparian areas.

(L) In addition, all proposed development shall meet the following standards applicable to forest or developed woodland clearing:

i. Sediment, erosion and grading permits shall be issued before forest or developed woodland is cleared. Forest cleared prior to obtaining permits or that exceeds the maximum area allowed shall be replanted at three times the acreage of the cleared forest.

ii. Subject to the approval of the County, owners or developers shall provide surety suitable to ensure that any plantings that die within twenty-four (24) months of installation shall be replaced.

2.5 TIMBER HARVEST

1. Forest management plans shall be required for all timber harvest occurring within any one-year interval and which affect one or more acres in forest and developed woodlands in the Critical Area. The plans shall be prepared by a registered professional forester and be reviewed and approved by the Maryland Forest, Park and Wildlife Service through the District Forestry Boards and the project forester. Plans shall be filed with the Department of Planning and Zoning.

2. Plans shall include measures to protect surface and ground water quality and identify whether the activities will disturb or affect Habitat Protection Areas as set forth in the Land Use Ordinance or identified on the Habitat Protection Areas Map.

3. The plans shall include protective measures for Habitat Protection Areas and shall provide for the continuity of habitat. The plans shall address mitigation through forest management techniques which include scheduling size, timing, and intensity of harvest cuts, afforestation, and reforestation.

4. The cutting and clearing of trees within the minimum 100-foot buffer are permitted provided that:

   i. Existing riparian forests of 300 x 300 feet or more and forest areas used by forest interior dwelling birds and other wildlife species shall be managed according to the guidelines developed by the Maryland Department of Natural Resources.

   ii. When timber harvesting is being considered, a site survey for forest interior dwelling birds shall be done. Cutting and building shall be restricted to safe times (not during nesting).

   iii. During timber harvest, corridors of existing forest or woodland vegetation shall be maintained to provide effective connections between wildlife habitat areas.

   iv. Commercial harvesting by selection or by clear-cutting of Loblolly Pine and Tulip Poplar may be permitted to within 50 feet of the landward edge of the mean high water line of tidal water and perennial tributary streams or the edge of the tidal wetlands provided that the cutting does not occur in the Habitat Protection Areas and that cutting is conducted pursuant to the requirements of the

sediment control and non-tidal wetlands requirements of this Ordinance and in conformance with a buffer management plan prepared by a registered forester and approved by the Department of Natural Resources. The plan shall be required for all commercial harvests within the minimum 100-foot buffer regardless of the size of the area to be cut and shall contain the following minimum requirements:

v. That disturbance to the stream banks and shorelines shall be avoided.

vi. That the area disturbed or cut shall be replanted, or allowed to regenerate in a manner that assures the availability of cover and breeding sites for wildlife, and reestablishes the wildlife corridor function of the buffer; and

vii. That the cutting does not involve the creation of logging roads and skid trails within the minimum 100-foot buffer.

5. Commercial harvesting of trees by any method may be permitted to the edge of intermittent streams if the cutting and removal is done in accordance with a Buffer Management Plan approved by the Department of Natural Resources Forester.

2.6 AGRICULTURE

1. Agriculture

No new agricultural land shall be created by:

(A) Draining, filling, or diking any palustrine wetlands that have a seasonally flooded or wetter water regime unless the impact is mitigated.

(B) Clearing of forest or woodland on soils with a slope greater than 15% or on soils with a K Value greater than 0.35 and slope greater than 5%.

(C) Clearing of existing natural vegetation within the buffer.

(D) Clearing of forest if the clearing will affect water quality or habitat protection areas as designated in this Ordinance.

2.7 THE BUFFER

1. Purpose. The Buffer is a habitat protection area that shall be established and managed to achieve or enhance the following functions:

i. Remove or reduce the sediments, nutrients, and potentially harmful or toxic substances in runoff entering the Chesapeake Bay and its tributary streams;

ii. Minimize the adverse effects of human activities on wetlands, shorelines, stream banks, tidal waters, and aquatic resources;

iii. Maintain an area of transitional habitat between aquatic and upland ecological communities;

iv. Maintain the natural environment of streams;

v. Protect riparian wildlife habitat; and

vi. Maintain natural vegetation.

2. Applicability and Delineation

An applicant for a development activity or a change in land use shall apply all the required standards as described below. The Buffer shall be delineated in the field and shall be shown on all applications as follows:

(A) A Buffer of at least 100 feet is delineated, and expanded as described in 2.6.3, based on existing field conditions landward from:

i. The mean high-water line of a tidal water;

ii. The edge of each bank of a tributary stream; and

iii. The upland boundary of a tidal wetland.

(B) Applications for subdivision or site plan approval located on land located within the RCA shall include a minimum Buffer of at least 200 feet from tidal waters or tidal wetlands, and 100 feet from a tributary stream, excluding for subdivisions only, one parent parcel, where the buffer may be 100 feet wide.

i. The 200-foot Buffer may be reduced if strict application of the 200-foot Buffer would preclude the creation of a new lot either by subdivision at a density of one dwelling unit per 20 acres, or through an intrafamily transfer subdivision.

ii. The reduced Buffer shall be the minimum necessary to accommodate a dwelling and a sewage reserve area, as determined by the Planning Director, but no less than 100 feet.

(C) The Buffer shall be expanded beyond 100 feet as described in 2.6.1 above, and beyond 200 feet as described in 2.6.2 above, to include and extend beyond contiguous sensitive areas, such as soils with slopes 15% or greater, hydric soils, or highly erodible soils.

i. The Buffer shall be expanded for slopes of 15% or greater (steep slopes) in accordance with the following. Also see "Buffer Expansion" as defined in Article VII.

1. If a steep slope is contained completely within the Buffer, Buffer expansion is required only to provide a Buffer of at least 25 feet from the top of the slope.

2. If a steep slope is partially within or contiguous to the Buffer, the Buffer shall be expanded four feet for every 1% of slope beyond the required Buffer, or 25 feet from the top of the slope, whichever is greater in extent, except as provided in Subsection B.5.c below.

3. The Planning Commission may approve a Buffer expansion limited to 25 feet from the top of the slope, even if greater expansion would be

required based on the Subsection B.5.b above, if the Planning Commission determines that the slope has one or more of the following characteristics:

a. Steep slopes less than 10 feet in width, such as agricultural ditches;
b. Steep slopes that are isolated and less than 10,000 square feet in area, irrespective of property lines;
c. Steep slopes with width of less than 25 feet where the slope crosses the 100-foot Buffer boundary; or
d. Similar characteristics exist that result in a narrow and/or isolated area of steep slopes.

ii. The following criteria shall be used to measure the expanded Buffer for highly erodible soils or hydric soils contiguous to the Buffer:

1. For a nontidal wetland of special state concern, expand the Buffer to include the upland boundary of the wetland and its regulated 100-foot Buffer;
2. For other nontidal wetlands, expand the Buffer to include the upland boundary of the nontidal wetland;
3. For highly erodible soils or hydric soils with a slope of 5% or greater, expand the Buffer to the lesser of the landward edge or 300 feet, including the Buffer width required under Subsection B.2 above.

iii. If the Buffer is contiguous to hydric or highly erodible soils on a slope less than 15%, and the Buffer is on a lot created before January 1, 2010, development activity may be approved in the expanded Buffer if:

1. The development activity is in the expanded portion of the Buffer, but not in the Buffer required under Subsection B.2 above;
2. The Buffer occupies at least 75% of the lot or parcel; and
3. Mitigation occurs at a 2:1 ratio, based on the lot coverage of the proposed development activity that is in the expanded Buffer.

(D) In Modified Buffer Areas, under certain conditions, Buffer setbacks may vary in accordance with provisions set forth in this Ordinance.

3. Maintaining the Buffer

(A) The Buffer shall be maintained in natural vegetation and managed to achieve or enhance the functions stated in Subsection 1 above.

(B) New development activities, including structures, fences with footers, roads, parking areas and other impervious surfaces, mining and related facilities, or septic systems, are not permitted in the Buffer, except for those necessarily associated with water-dependent facilities or individual private piers.

(C) Lot coverage in the Buffer may not exceed the minimum amount necessary for water-dependent facilities, regardless of the Critical Area classification or the size of the parcel or lot, except:

i. In Modified Buffer Areas;
ii. If a variance is granted in accordance with this Ordinance; or
iii. In accordance with this Ordinance.

(D) Cutting, clearing, and removal of existing vegetation, including understory trees, shrubs and ground cover within the Buffer is prohibited except as authorized by a Buffer Management Plan.

(E) Existing areas of public access to the shoreline, such as footpaths, scenic drives, and other public recreational facilities, shall be maintained, with new facilities encouraged in the IDA.

(F) Vegetation may be removed for one pathway to the shore or piers, subject to the approval of a Buffer Management Plan.

i. The pathways shall be:

1. Direct and no longer than necessary;
2. No wider than six feet; and
3. Constructed to maintain as much canopy as possible.

ii. Pathway surfaces shall be:

1. Grass or similar low vegetation, stabilized only with pervious wood chips or,
2. Materials such as boards, asphalt, or gravel, provided that mitigation is provided, in accordance with a buffer management plan, that covers two times the area of the hard surfaced pathway.

iii. In areas of steep slopes, wooden stairways may be constructed as approved by the Planning Director.

7. Normal and customary maintenance of lawns located in the Buffer may continue until approval of a development activity requiring a buffer management plan.

4. Buffer establishment.

(A) The requirements of this regulation are applicable to:

i. A development or redevelopment activity that occurs on a lot or parcel that includes a Buffer to tidal waters, a tidal wetland, or a tributary stream if that development or redevelopment activity is located outside the Buffer; and

ii. The approval of a subdivision that includes a Buffer to tidal waters, a tidal wetland, or a tributary stream.

(B) If an applicant for a subdivision of a lot uses or leases the lot for an agricultural purpose, the applicant:

i. Shall submit a Buffer Management Plan under Section G of this Part which must be approved prior to recordation of the subdivision plat.

ii. If authorized by the local jurisdiction, may delay implementation of the buffer management plan until the use of the lot is converted to a nonagricultural purpose.

(C) The requirements of this regulation are not applicable to an in-kind replacement of a structure.

(D) An applicant shall establish the Buffer in vegetation in accordance with the table below and Section E of this Part; and to provide a Buffer Management Plan under Section G of this Part for the following types of applications:

i. A subdivision;

ii. Conversion from one land use to another land use on a lot or a parcel; or

iii. Development on a lot or a parcel created before January 1, 2010.

(E) When the Buffer is not fully forested or is not fully established in existing, naturally occurring woody or wetland vegetation, an applicant shall establish the buffer to the extent required in the following table:

BUFFER ESTABLISHMENT REQUIREMENTS	
Development Category	**Extent of buffer establishment required**
New development on a vacant lot created prior to April 12, 1988	Establish the buffer based on total lot coverage outside the buffer
New development on vacant lot created after April 12, 1988	Fully establish the buffer
New subdivision or new lot	Fully establish the buffer
New lot with an existing dwelling unit	Establish the buffer based on total lot coverage outside the buffer
Conversion of a land use on a parcel or lot to another land use	Fully establish the buffer
Addition or accessory structure	Establish the buffer based on net increase in lot coverage outside the buffer
Substantial alteration (total footprint is increased by 50% or more)	Establish the buffer based on total lot coverage outside the buffer

(F) Any lot coverage removed from the Buffer may be deducted from the total cumulative amount of establishment required if:

i. The lot coverage existed before the date of local program adoption or was allowed by local procedures; and

ii. The total area is stabilized.

5. Mitigation for impacts to the Buffer.

An applicant for a development activity that includes disturbance to the Buffer shall mitigate for impacts to the Buffer and shall provide a Buffer Management Plan in accordance with the standards set forth in this Part.

(A) All authorized development activities shall be mitigated based on the ratios noted in the table below, in addition to the area of canopy coverage removed for an individual tree, developed woodland or forest:

BUFFER MITIGATION RATIOS	
Activity	**Mitigation Ratio**
Septic on a lot created before local program approval if located in existing grass or if clearing is not required	Not applicable
Septic system in a forest or developed woodland on a lot created before local program approval if clearing is required	1:1
Shore erosion control	1:1
Riparian water access	2:1
Development of a water-dependent facility or activity under COMAR 27.01.03	2:1
Variance	3:1
Violation	4:1

(B) For the removal of a dead tree, the affected area shall be stabilized with native groundcover or other native vegetation as necessary.

(C) The removal of a diseased, dying, invasive, or hazardous tree shall be mitigated with one tree of at least ¾-inch caliper for each tree removed or the affected area shall be stabilized in native woody vegetation if a tree cannot be replanted due to space constraints.

(D) Any lot coverage removed from the Buffer may be deducted from the total cumulative amount of mitigation required if:

i. The lot coverage existed before the date of local program adoption or was allowed by local procedures; and

ii. The total area is stabilized.

(E) Planting for mitigation shall be planted onsite within the Buffer. If mitigation planting cannot be located within the Buffer, then plantings may be allowed in the following order of priority:

i. On-site and adjacent to the Buffer; and

ii. On-site elsewhere in the Critical Area.

(F) The installation or cultivation of new lawn or turf in the Buffer is prohibited.

(G) As applicable to a site, an applicant shall restore any area in the Buffer that is temporarily disturbed by a development activity to pre-disturbance conditions.

6. Buffer planting standards.

An applicant that is required to plant the Buffer to meet establishment or mitigation requirements shall apply the following planting credits and standards:

(A) If planting to meet a mitigation requirement, the following combination of plantings may be used:

i. If required to plant less than 1 acre, the entire requirement must be met using landscape stock as noted in the Planting Credits table below.

ii. If required to plant 1 acre or more, at least 50% of the planting requirement may be met in landscape stock per the table below and the remainder may be met in flexible stock per the Planting Credits table.

(B) If planting to meet an establishment requirement, the following combination of plantings may be used:

i. If required to plant less than ¼ acre, the entire requirement must be met using landscape stock per the Planting Credits table.

ii. If required to plant at least ¼ acre and up to 1 acre, at least 25% of the requirement must be met using landscape stock per the Planting Credits table and the remainder may be met in flexible stock per the Planting Credits table.

iii. If required to plant more than 1 acre, at least 10% of the requirement must be met using landscape stock per the table below and the remainder may be met in flexible stock per the Planting Credits table.

(C) Per COMAR 27.01.09.01-2, a variance to the planting and mitigation standards of this Ordinance is not permitted.

7. Planting credits.

(A) If required to plant using landscape stock the following planting sizes and credit shall be used and shall be 100 percent guaranteed for at least 2 years after planting is completed:

LANDSCAPE STOCK CREDIT			
Vegetation Type	**Minimum Size Eligible for Credit**	**Maximum Credit Allowed (Square Feet)**	**Maximum Percentage of Landscape Stock Credit**
Canopy Tree	2-inch caliper	200	Not Applicable
Canopy Tree	¾-inch caliper	100	Not applicable
Understory Tree	¾-inch caliper	75	Not applicable
Large Shrub	3 feet high	50	30%
Small Shrub	18 inches high	25	20%
Herbaceous perennial	1 quart or based on the area covered by plugs or seed mix	2	10%
Planting Cluster A (For less than ½ acre of planting)	1 canopy tree; and 3 large shrubs or 6 small shrubs of size listed above	300	Not applicable
Planting Cluster B (For less than ½ acre of planting)	2 understory trees; and large shrubs or 6 small shrubs of size listed above	350	Not applicable

(B) The County may authorize an applicant to increase the percentage of large shrubs, small shrubs, or herbaceous perennials if:

i. The Buffer has existing canopy coverage of at least 50 percent; or

ii. There are verified site constraints that preclude canopy plantings, including severely eroding slopes, saltwater intrusion, predominately sandy soils, or unconsolidated fill.

(C) The following flexible planting stock may be used if authorized under other sections of this Part:

FLEXIBLE PLANTING STOCK			
Stock Size of Trees Only	**Required # of Stems/Acre**	**Survivability Requirement**	**Minimum Financial Assurance Period After Planting**
Bare-root seedlings or whip	700	50 percent	5 years
½-inch to 1-inch container grown trees	450	75 percent	2 years
More than 1-inch container grown trees	350	90 percent	2 years

8. Required Submittal of Buffer Management Plans.

   An applicant that is required to plant the Buffer to meet establishment or mitigation requirements shall submit a Buffer Management Plan in accordance with COMAR 27.01.09.01-3. The provisions of this Part do not apply to maintaining an existing grass lawn or an existing garden in the Buffer.

   (A) Any permit for a development activity that requires Buffer establishment or Buffer mitigation will not be issued until a Buffer Management Plan is approved by **the County.**

   (B) An applicant may not obtain final approval of a subdivision application until the Buffer Management Plan has been reviewed and approved by **the County.**

   (C) **The County** may not approve a Buffer Management Plan unless:

      i. The plan clearly indicates that all planting standards under Section E of this Part will be met; and

      ii. Appropriate measures are in place for the long-term protection and maintenance of all Buffer areas.

   (D) For a Buffer Management Plan that is the result of an authorized disturbance to the Buffer, a permit authorizing final use and occupancy will not be issued until the applicant:

      i. Completes the implementation of a Buffer Management Plan; or

      ii. Provides financial assurance to cover the costs for:

         1. Materials and installation; and

         2. If the mitigation or establishment requirement is at least 5,000 square feet, long-term survivability requirements as set forth in COMAR 27.01.09.01-2.

   (E) Concurrent with recordation of a subdivision plat, an applicant shall record a protective easement for the Buffer.

   (F) If an applicant fails to implement a Buffer Management Plan, that failure shall constitute a violation of this Ordinance. A permit for any development activity will not be issued for a property that has the violation.

   (G) An applicant of a subdivision or of a site plan for a multifamily, commercial, industrial, or institutional use shall post permanent signs prior to final recordation in accordance with COMAR 27.01.09.01-2.

   (H) Buffer management plans that includes natural regeneration shall follow the provisions of COMAR 27.01.09.01-4.

9. Fee-in-lieu of Buffer mitigation.

A fee in-lieu for mitigation will be collected if the planting requirements of Section D of this Part cannot be fully met onsite, in accordance with the following standards:

(A) Fee-in-lieu monies shall be collected and held in a special fund, which may not revert to the County's general fund;

(B) Fee-in-lieu shall be assessed at $1.50 per square foot of required Buffer mitigation;

(C) A portion of fee-in-lieu money can be used for management and administrative costs; however, this cannot exceed 20% of the fees collected; and

(D) Fee-in-lieu monies shall be used for the following projects:

i. To establish the Buffer on sites where planting is not a condition of development or redevelopment;

ii. For water quality and habitat enhancement projects as approved by the Critical Area Commission or by agreement between [**County**] and the Critical Area Commission.

2.8 MODIFIED BUFFER AREA PROVISIONS

1. Applicability

(A) Modified Buffer Areas (MBAs) are areas of the 100-foot Buffer that have been mapped by Kent County and approved by the Critical Area Commission.

(B) The purpose of MBAs is to accommodate limited use of the Buffer under the provisions of this Section, while protecting water quality and wildlife habitat to the greatest extent possible.

2. Mapping Standards

The following standards shall apply for the mapping of new Modified Buffer Areas:

(A) Only lots of record as of December 1, 1985, are eligible for mapping as Modified Buffer Areas (MBAs).

(B) The parcel or lot being considered for MBA status shall contain a Buffer that was significantly impacted by development at the time of program adoption and that prevent the Buffer from fulfilling its functions.

(C) Developed parcels or lots shall contain a Buffer intrusion by the principal structures (excluding utilities or septic systems).

(D) Undeveloped or vacant parcels or lots (i.e., infill) may be designated as a MBA if development within the Buffer cannot be avoided based on the size of the parcel or lot, area of the parcel or lot within the Buffer, or the surrounding pattern of development.

(E) If only part of a parcel or lot meets the criteria for designation as a Modified Buffer Area, then only portions of the parcel or lot shall be designated as a Modified Buffer Area. The portion of the parcel designated as a Modified Buffer Area will be subject to the Modified Buffer Area requirements. Portions of the property that are not designated as a Modified Buffer Area shall comply fully with the 100-foot Buffer restrictions.

(F) Any proposal by the County for designation of an area as a MBA shall include, at a minimum, a written evaluation and supporting reasons which demonstrate the degree to which the proposed MBA does not perform each of the following Buffer functions:

i. Provide for the removal or reduction of sediments, nutrients, and potentially harmful or toxic substances in runoff entering the Bay and its tributaries;

ii. Minimize the adverse effects of human activities on wetlands, shorelines, stream banks, and aquatic resources;

iii. Maintain an area of transitional habitat between aquatic and upland communities;

iv. Maintain the natural environment of streams; and

v. Protect riparian wildlife habitat.

3. Development standards in Modified Buffer Areas (MBA)

The following development standards apply to all applications for development activity in an MBA:

(A) New development or redevelopment activities, including structures, roads, parking areas and other lot coverage or septic systems are not permitted in the Buffer unless the applicant can demonstrate that there is no feasible alternative and the **Planning Director** finds that efforts have been made to minimize Buffer impacts.

(B) Development and redevelopment activities shall be located as far as possible from mean high tide, the landward edge of tidal wetlands, or the edge of tributary streams.

(C) Variances to other local setback requirements have been considered before additional intrusion into the Buffer.

(D) Convenience or expense are not factors to consider when evaluating the extent of allowable impacts to the Buffer.

(E) Development may be located in the Buffer and shall meet the setback lines as described below. Structures on adjacent properties shall not be used to determine the setback line.

(F) Development and redevelopment may not impact any Habitat Protection Area (HPA) other than the Buffer, including nontidal wetlands, other State or federal permits notwithstanding.

(G) Modified Buffer Area designation shall not be used to facilitate the filling of tidal wetlands that are contiguous to the Buffer or to create additional buildable land for new development or redevelopment.

(H) No natural vegetation may be removed in the Buffer except that required by the proposed construction.

(I) Mitigation shall be provided as follows:

i. Natural forest vegetation of an area twice the extent of the footprint of the development activity within the 100-foot Buffer shall be planted on site in the Buffer or at another location, preferably on-site, approved by the Planning Director.

ii. Applicants who cannot fully comply with the planting requirement in (i) above, may use offsets to meet the mitigation requirement. Offsets include the removal of an equivalent area of existing impervious surfaces in the Buffer, the construction of Best Management Practices for stormwater, wetland creation or restoration, or other measures that improve water quality or habitat.

iii. Applicants who cannot comply with either the planting or offset requirements in (a) or (b) above shall pay a fee-in-lieu at a rate of $1.50 per square foot.

iv. Any fees-in-lieu collected under these provisions shall be placed in an account that will assure their use only for projects within the Critical Area to enhance wildlife habitat, improve water quality, or otherwise promote the goals of the County's Critical Area Program.

v. Any required mitigation or offset areas shall be protected from future development through an easement, development agreement, plat notes or other instrument and recorded among the land records of the County.

4. In the case of commercial, industrial, institutional, recreational, and multi-family residential development or redevelopment, the following additional standards apply:

(A) New development shall not be located closer to the water (or edge of tidal wetlands) than the local setback for the zoning district or 50 feet, whichever is greater. The 50-foot setback shall be maintained for all subsequent development or redevelopment of the property.

(B) Redevelopment shall not be located closer to the water (or edge of tidal wetlands) than the local setback for the zoning district or 25 feet, whichever is greater.

i. Existing structures located within the setback may remain or a new structure may be constructed on the footprint of an existing structure or lot coverage.

ii. Opportunities to establish a 25-foot setback should be maximized.

(C) In addition to any required mitigation, a forested or landscaped buffer yard, 25 feet wide, shall be established on the project site between the development and the distance to the water. This buffer yard shall be densely planted with trees and shrubs in accordance with the Required Buffer Yard Planting table.

(D) In the case of redevelopment, the County may approve appropriate modifications to the width of the planted buffer yard on a case-by-case basis where existing structures or those rebuilt on an existing footprint limit the area available for planting.

REQUIRED BUFFER YARD PLANTING		
Area	**Quantity and Stocking**	**Suggested Species**
For every 100 linear feet of buffer yard	5 Trees and 10 Understory Trees/Large Shrubs, and 30 Small Shrubs and 40 Herbaceous Plants, Grasses, etc.	White or Red Oak, Pin Oak, Willow Oak, Red Maple, American Holly, Eastern Red Cedar Dogwood, Mountain Laurel, Bayberry, Shadbush, Winterberry Pepperbush, Chokeberry, Strawberry Bush, Sweetspire Wild Columbine, Butterflyweed, Common Milkweed, Asters

5. In the case of single-family residential development or redevelopment, the following additional standards apply:

(A) New development and redevelopment shall not be located closer to the water (or the edge of tidal wetlands) than principal structures on adjacent properties or the local setback for the zoning district, whichever is greater. Except as described below, new development or redevelopment shall be located no less than 50 feet from the water (or the edge of tidal wetlands).

(B) Existing principal or accessory structures in the Buffer may be replaced in-kind in the same footprint. If a replacement structure is expanded, the development shall comply with the setback requirement.

(C) New accessory structures may be permitted in the Buffer in accordance with the following setback requirements:

i. New accessory structures may be located closer to the water or edge of tidal wetlands than the principal dwelling only if it has been determined by the Planning Commission or their designee that there are no other locations for the accessory structures.

ii. The area of the accessory structures within the Buffer shall be minimized and the cumulative total area of all new and existing accessory structures on the property shall not exceed 500 square feet within 50 feet of the water and 1,000 square feet total.

iii. In no case shall new accessory structures be located less than 25 feet from the water (or edge of tidal wetlands).

2.9 FOREST INTERIOR BIRDS

1. No outdoor construction activities are permitted during safe dates in areas with *forest interior dwelling bird* species identified by the State of Maryland. Areas are identified online by Maryland's Environmental Resources and Land Information Network (MERLIN). Safe dates are set forth in the chart and policy below.

2. A site survey for forest interior dwelling birds will be conducted prior to any development or agricultural expansion (1) on deciduous forest of at least 50 acres or, (2) 300-feet by 300-feet of riparian deciduous forest. The Planning Director may set aside a site survey for forest interior dwelling birds provided the forest is managed for all forest interior dwelling bird species.

3. Existing riparian forest of 300-feet by 300-feet or more, and forest areas used by forest interior dwelling birds and other wildlife species will be managed according to the guidelines developed by the Maryland Department of Natural Resources and the Critical Area Commission. Whenever possible, riparian forest will be expanded.

4. The safe dates or nesting times for breeding species of *forest interior dwelling birds* are listed below, when no outdoor construction is allowed.

Note: As a matter of policy, the Department has adopted a range from April 1 through August 31 for properties where specific species have not been identified. A study, acceptable to the State of Maryland, may be undertaken by the applicant's consultant to narrow the safe dates range.

Common Name	***Safe Dates* / Nesting times**		
Creeper, brown	May 15	to	August 31
Hawk, broad-winged	June 5	to	August 31
Flycatcher, acadian	May 25	to	August 5
Hawk, red-shouldered	May 1	to	August 31
Ovenbird	May 20	to	August 5
Owl, barred	January 15	to	August 31
Parula, northern	June 1	to	August 31
Redstart, American	June 10	to	July 20
Tanager, scarlet	May 25	to	August 10
Veery	June 10	to	August 31
Vireo, red-eyed	June 1	to	July 31
Vireo, yellow-throated	May 25	to	August 15
Warbler, black-and-white	May 15	to	July 25
Warbler, black-throated green	June 10	to	August 5
Warbler, cerulean	May 25	to	August 5
Warbler, hooded	May 25	to	July 25

Warbler, Kentucky	May 25	to	July 15
Warbler, prothonotary	May 10	to	July 20
Warbler, Swainson's	April 20	to	August 31
Warbler, worm-eating	May 20	to	July 20
Waterthrush, Louisiana	May 1	to	July 10
Whip-poor-will	May 10	to	July 15
Woodpecker, hairy	April1	to	August 31
Woodpecker, pileated	April 1	to	August 31
Wood Thrush	May 25	to	August 20

2.10 HABITAT PROTECTION AREAS

1. All Habitat Protection Areas, *buffer*s, and protective zones will be protected by property owners during *development* and at all other times. All property owners and applicants for new *development* are required to identify species and areas as specified below and to protect them. Plans will address protection strategies.

2. The Habitat Protection Areas in Kent County include:

   (A) Colonial water bird nesting sites, and historic waterfowl staging and concentrations areas in tidal water, tributary streams or tidal and non-tidal wetlands;

   (B) Riparian *forest*, *forest*ed areas of 50 acres or more, and *forest* corridors connecting them;

   (C) Anadromous fish spawning areas, threatened and endangered species, and Species in Need of Conservation with their habitat;

   (D) *Non-tidal wetlands* and the minimum 100-foot *buffer*;

   (E) Other areas which, because of their unique *wildlife habitat* types and plant communities, are of local significance. These are managed to protect the unique habitat or community.

      i. Lloyd Creek Habitat for proposed State threatened species;

      ii. Andover Branch

      iii. Sandy Bottom - St. Paul's Lake

      iv. Churn Creek (Still Pond Creek Headwaters)

      v. Big Marsh

      vi. Swantown Creek

      vii. Jacobs Creek

      viii. Upper Sassafras

ix. Sassafras Lake

x. Mill Creek (wooded swamp, 1118-555 on the Maryland Coordinated Grid System)

xi. Still Pond Creek (inland open fresh water, 1050-540 on the MCGS)

xii. East Langford Mill Pond (Shrub swamp, 1050-495 on the MCGS)

xiii. Langford Creek East Fork Head (inland shallow fresh marsh, 1055-499 on the MCGS)

xiv. N/W Fork Morgan Creek (inland shallow fresh marsh, 1077-536 on the MCGS)

xv. Tavern Creek

(F) Any other *Natural heritage areas*, as may be designated by the State of Maryland, and locations considered for Areas of Critical State Concern.

3. All roads, bridges and utilities that must cross a Habitat Protection Area will be located, designed, constructed, and maintained so as to provide maximum erosion protection and minimize negative impacts to wildlife, aquatic life and their habitats and maintain hydrologic processes and water quality. Roads, bridges, or utilities will not be located in any Habitat Protection Area unless no feasible alternative exists.

4. Natural heritage areas and locations considered for Areas of Critical State Concern will be preserved whenever possible in accordance with the recommendations of the Department of Natural Resources.

5. During and after *development* in forested areas, corridors of existing forest, or woodland vegetation will be maintained to provide effective connections between wildlife habitat areas.

2.11 THREATENED AND ENDANGERED SPECIES AND SPECIES IN NEED OF CONSERVATION

1. Any *development* shall include a statement on the type and location of any threatened or endangered species or species in need of conservation on the property, and any recommendation for maintaining and protecting that habitat from the Department of Natural Resources.

2. Threatened or endangered species and species in need of conservation shall be checked and noted by the developer before any approvals can be granted by the Planning Director or the *Planning Commission*.

3. The Federal or State guidelines (whichever is stricter) for habitat protection shall be followed during development. Plans shall include provisions for the continuance of the habitat protection after development. This can include conservation easements, cooperative agreements, special provisions in forest management and soil conservation plans, and donation to a third party.

2.12 SHORELINE AND CLIFF AREAS

1. SPECIAL PURPOSE: The *shoreline cliff setback* is designed to allow *development* in a manner that will protect the property and the lives of residents and protect the scenic integrity of the shoreline.

2. NEW SUBDIVISIONS AND EXISTING LOTS OF THREE ACRES OR GREATER

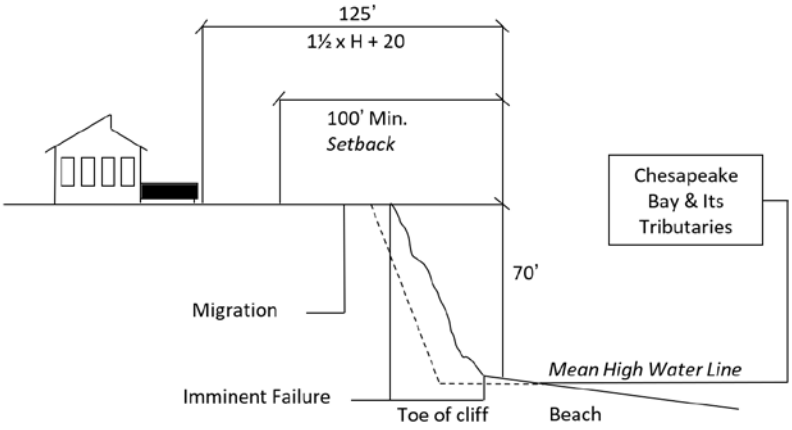
   (A) All *structure*s will be a sufficient distance from the cliff to ensure protection of *structure*s and to allow for natural *erosion* and/or cliff failure with enough *setback* to be able to employ the use of conventional *erosion* control measures.

   (B) The minimum *setback* for a *shoreline cliff* is as follows:

      i. For each foot of rise above the mean high-water line (MHW), a one and one-half foot setback from the toe of the cliff measured landward plus 20 feet to the house site is required.

      ii. The elevation measured will be the highest point on the lot fronting the water or measured in a direct line from the house placement to the cliff and water for large lots (one acre or more) with extensive water frontage.

   (C) When these conditions conflict with other water*front yard* requirements of this Ordinance, the stricter will apply.



2.13 SHORE EROSION PROTECTION WORKS

The purpose of this Section is to encourage the protection of rapidly eroding portions of the shoreline in the County by public and private landowners. When such measures can effectively and practically reduce or prevent shoreline *erosion*, the use of nonstructural shore protection measures will be encouraged to conserve and protect plant, fish and *wildlife habitat*. The following criteria will be followed when selecting shore *erosion* protection practices:

1. Nonstructural practices will be used whenever possible.

2. Structural measures will be used only in areas where nonstructural practices are impractical or ineffective.

3. Where structural measures are required, the measure that best provides for the conservation of fish and *plant habitat* and which is practical and effective will be used.

4. If significant *alteration* of the characteristics of a shoreline occurs, the measure that best fits the change may be used for *site*s in that area.

2.14 WATER DEPENDENT FACILITIES

The following *regulations* will apply to *boathouse*s, boat docks, *pier*s, *marinas,* and wharves. Review by the Department of new water dependent facilities and changes to any existing facilities is required, using the standards at the end of this Section under REQUIRED REVIEW.

1. GENERAL REQUIREMENTS

   (A) Projections of docks, wharves, and *piers* into *waterways* beyond the *waterway line*, *lot lines*, or established *bulk*head lines will be limited by applicable County ordinances, State laws, and applicable *regulations* of the United States Army Corps of *Engineer*s.

   (B) Groins, levees, *bulk*heads, pilings, breakwaters, and other similar *structures* will be erected and maintained in accordance with applicable location and construction standards of the County, State, and the United States Army Corps of *Engineer*s.

   (C) New water-dependent facilities will be located so as to prevent disturbance to sites of significance to wildlife such as historic aquatic staging and concentration areas for waterfowl, shellfish beds, finfish nursery areas, and submerged aquatic vegetation beds.

2. PRIVATE BOATHOUSES

   (A) *Boathouses* that extend *channel* ward of mean high tide (*boathouses* over water) are prohibited. *Boathouses* will not be permitted in areas where such would obstruct the view of those using the *waterway* so as to endanger navigation.

   (B) A boathouse may not be used as a dwelling, guest house, or servants' quarters.

   (C) No *boathouse* may be closer to the side property line than the required *side yard* width of the zoning district in which it is located.

   (D) No private *boathouse* will occur within 100 feet of any private *pier* or other *boathouse* on the same side of a body of water, except in the case where this would deny a property owner the right to a *boathouse*.

   (E) It will not be permitted for the owner or owners of a *boathouse* to receive compensation for use of their private *boathouse*.

3. PRIVATE DOCKS, PIERS, and WHARVES

   (A) It will not be permitted for the owner or owners of a private *pier* to receive compensation for use of their private *pier*.

(B) No private *pier* will occur within 100 feet of any other private *pier* or *boathouse* on the same side of a body of water, except in the case where this would deny a property owner the right to a single *pier*.

(C) A *pier* may not be closer to the side property line than the required *side yard* width of the district in which it is located. A *pier* will not be closer to the side line or its extension over water than the required *side yard* width of the zoning district in which it is located.

(D) *Dwelling*s and other non-water dependent facilities are prohibited on *pier*s.

(E) It will be permissible for adjacent property owners to construct a single shared *pier*. The right of ownership and access to such *pier* will be set forth in a property document that runs to the benefit of the owners of the *pier*, their heirs and assigns and will be exe*cut*ed by the owners and recorded with the Kent County Clerk of Court and a copy filed with the Department prior to such construction.

(F) If a shared *pier* or a *community pier* is allowed, then no other *piers* will be permitted on the property of such owners. In the event such *piers* are removed or destroyed beyond use and not rebuilt or re-established within one year, then the agreement for such *piers* will become void. However, the one-year requirement can be extended if ~~hardship~~ extenuating circumstances can be demonstrated to the County by the property owner.

(G) A *community pier*, for the use of three or more property owners, will be permissible provided the *site plan* demonstrates that such *pier* does not adversely affect neighboring property owners or the public interest. The *site plan* will show all properties in the neighborhood, including the owners of the *community pier* and their access to such *pier*. The ownership and access will further be set forth in a proper document that runs to the benefit of owners of the *pier*, their heirs and assigns, and will be exe*cut*ed by all owners and recorded with the Kent County Clerk of Court and a copy filed with the Department. Sanitary facilities approved by the Kent County Health Department will be provided except where other acceptable facilities are available.

(H) The following will apply to *community piers*, shared *slips*, and other related non-commercial boat docking and storage facilities:

i. New or expanded *community piers*, shared *slip*s, *marina*s and other non-commercial boat-docking and storage facilities may be permitted in the minimum 100-foot *buffer* subject to the requirements of this Section; and

ii. Provided that:

1. These facilities may not offer food, fuel, or other goods and services for sale and will provide adequate and clean sanitary facilities;

2. The facilities are community-owned and established and operated for the benefit of the residents of a platted and recorded riparian *subdivision*;

3. The facilities are associated with a residential *development* approved by Kent County for the *Critical Area* and consistent with all criteria and County *regulations* for the *Critical Area*;

4. Disturbance to the *buffer* is the minimum necessary to provide a single point of access to the facilities;

5. If *community piers*, *slips*, or moorings are provided as part of the new *development*, private *piers* in the *development* are not allowed; and

6. Sanitary Facilities and pump-outs will be provided *on-site*, except where other acceptable facilities are available.

iii. Provided that adverse effects on water quality, fish, plant, and *wildlife habitat* are minimized; and

iv. The number of *slips*, *piers*, or mooring buoys permitted at the facility will be the lesser of the options below:

1. One *slip* for each 50 feet of shoreline in a *subdivision* in the Intensely Developed Areas (IDA) or Limited Development Areas (LDA).

2. One *slip* for 300 feet of shoreline in a *subdivision* in Resource Conservation Areas (RCA).

3. A *density* of *slip*s, shared *slip*s, or *pier*s, to platted *lot*s or *dwelling*s in a *subdivision* in the *Critical Area* according to the following schedule:

Platted *Lots* or *Dwellings* in the *Critical Area*	*Slips*
5 to 15	One for each *lot*
16-40	15 or 75% whichever is greater
Over 40	30 or 50% whichever is less

4. PUBLIC BEACHES

(A) Public beaches or other *public water-oriented recreation* areas including, but not limited to publicly owned boat launching and docking facilities and fishing *piers* may be permitted in the *buffer* provided:

i. Adequate sanitary facilities exist;

ii. Service facilities are to the extent possible, located outside the *buffer*;

iii. Permeable surfaces are used to the extent practicable, if no degradation of groundwater would result.

iv. Disturbance to *natural vegetation* is minimized; and

v. Areas for passive recreation, such as nature study, ~~and~~ hunting and trapping, may be permitted in the *buffer* within Resource Conservation Areas (RCA), if service facilities for these uses are located outside of the *buffer*.

(B) Water-dependent research facilities or activities operated by State, federal, or local agencies, or water-dependent educational institutions, may be permitted in the *buffer*.

(C) Commercial water-dependent fisheries facilities including, but not limited to, *structures* for crab shedding, fish off-loading docks, shellfish culture operations, and shore-based facilities necessary for *aquaculture* operations and *fisheries activities*, may be permitted in the *buffer*.

5. COMMERCIAL MARINAS

In this Land Use Ordinance, marinas are facilities operated as businesses and regulated as such.

(A) New and existing *marinas* will meet the sanitary requirements of the Maryland Department of the Environment.

(B) New marinas will establish a means of minimizing the discharge of bottom wash waters into tidal waters.

(C) All new development and redevelopment will reduce pollutant loadings coming off the site by at least 10%. Pollutant loads will be calculated in the manner developed by the Metropolitan Washington Council of Governments using phosphorous as the keystone pollutant. All sites will comply with the stormwater management qualitative control measures found in Section 9 of this Article VI.

(D) New and expanding marinas will provide pump-outs for boat holding tanks. Adequate signs will be posted to make boaters aware of the service available.

(E) New marinas and expanding marinas will provide facilities for recycling or proper disposal of oil, anti-freeze, paint thinner, and other toxic or hazardous substances associated with the type of facility being developed.

(F) Activities will not significantly alter existing water circulation patterns or salinity regimes.

(G) The water body upon which these activities are proposed will have adequate flushing characteristics in the area.

(H) Disturbances to wetlands, submerged aquatic plant beds, or other areas of important aquatic habitats will be minimized and mitigated.

(I) Shellfish beds will not be disturbed or be made subject to discharge that will render them unsuitable for harvesting.

(J) Dredging will be conducted in a manner, and using a method which causes the least disturbance to water quality and aquatic and terrestrial habitats in the

area immediately surrounding the dredging operation or within the Critical Area, generally.

(K) Dredged spoil will not be placed within the buffer or elsewhere in that portion of the Critical Area which has been designated as a Habitat Protection Area except as is necessary for:

i. Backfill for permitted shore erosion protection measures;

ii. Use in approved vegetated shore erosion projects;

iii. Placement on previously approved channel maintenance spoil disposal areas; and

iv. Beach nourishment.

(L) Interference with the natural transport of sand will be minimized.

6. REQUIRED REVIEW

(A) The Department will review all applications for *water-dependent facilities* in order to determine that:

i. The activities will not significantly alter existing water circulation patterns or salinity regimes;

ii. The water body upon which these activities are proposed will have adequate flushing characteristics in the area;

iii. Disturbances to *wetlands*, submerged aquatic plant beds, or other areas of important aquatic habitats will be minimized and mitigated;

iv. *Adverse impacts* to water quality that may occur as a result of these activities, such as non-point source runoff, sewerage discharge from land activities or vessels, or from boat cleaning and maintenance operations will be minimized;

v. Shellfish beds will not be disturbed or be made subject to discharge that will render them unsuitable for harvesting;

vi. Dredging will be conducted in a manner, and using a method, which causes the least disturbance to water quality and aquatic and terrestrial habitats in the area immediately surrounding the dredging operation or within the *Critical Area* generally;

vii. Dredged spoil will not be placed within the *buffer* or elsewhere in that portion of the *Critical Area* which has been designated as a Habitat Protection Area unless the Board of Appeals grants a special exception and only as is necessary for:

1. Backfill for permitted shore *erosion* protection measures;

2. Use in approved vegetated shore *erosion* projects;

3. Placement on previously approved *channel* maintenance spoil disposal areas; and

4. Beach nourishment.

viii. Interference with the natural transport of sand will be minimized;

ix. Information necessary for evaluating dredge spoil applications if not available locally, will be obtained from appropriate State and federal agencies.

(B) The Department may also require signed and sealed drawings from a professional land surveyor or an engineer certifying that the requirements above have been satisfied. The Department may also engage third-party professionals to review the drawings to ensure compliance with the regulations in this Section, the Land Use Ordinance in general, and any applicable federal, State, or other laws, rules, and regulations. The costs for any third-party professionals will be paid by the applicant or property owner of record.

2.15 LOT CONSOLIDATION AND RECONFIGURATION

1. Applicability.

The provisions of this part apply to a consolidation or a reconfiguration of any nonconforming legal grandfathered parcel or lot. These provisions do not apply to the reconfiguration or consolidation of parcels or lots which are conforming or meet all Critical Area requirements. Nonconforming parcels or lots include:

(A) Those for which a Critical Area variance is sought or has been issued; and

(B) Those located in the Resource Conservation Area and are less than 20 acres in size.

2. Procedure.

(A) An applicant seeking a parcel or lot consolidation, or reconfiguration shall provide the required information in Section 3 below to the County.

(B) The County may not approve a proposed parcel or lot consolidation or reconfiguration without making written findings in accordance with Section 4 below and COMAR 27.01.02.08.F.

(C) The County shall issue a final written decision or order granting or denying an application for a consolidation or reconfiguration.

(D) After a final written decision or order is issued, the County shall send a copy of the decision or order and a copy of any approved development plan to the Commission within 10 business days.

(E) The County may not issue a building permit until the appeal time has expired.

3. Application.

An application for the consolidation or reconfiguration of any nonconforming legal parcel of land or recorded legally buildable lot shall contain at least the following information:

(A) The date of recordation of each legal parcel of land or legally buildable lot to be consolidated or reconfigured;

(B) A plan drawn to scale that shows all existing and proposed lot or parcel boundaries;

(C) Information sufficient for the County to make the findings set forth in Section 4 below, and

(D) A table that lists the number of all legal parcels of land or recorded, legally buildable lots and the number of proposed lots or parcels or dwelling units to be derived.

4. Standards.

The Planning Director, or designee, shall review a proposed lot consolidation or reconfiguration and will make written findings that each one of the following standards has been met:

(A) The proposed consolidation or reconfiguration will result in no greater number of lots, parcels, or dwelling units in the Critical Area than the existing configuration would allow;

(B) In the Limited Development Area or Resource Conservation Area, the proposed lot consolidation or reconfiguration:

i. Will result in no greater lot coverage than the existing configuration would allow; and

ii. Will result in no greater impact to a steep slope than the existing configuration would allow, if that steep slope is located outside the buffer or expanded buffer.

(C) The proposed consolidation or reconfiguration does not:

i. Create an additional riparian lot or parcel, waterfront lot, or any other lot or parcel deeded with water access; or

ii. Intensify or increase impacts associated with riparian access;

(D) The proposed consolidation or reconfiguration does not create:

i. A lot or parcel or portion of a lot or parcel that will serve development activities outside the Critical Area; or

ii. A Resource Conservation Area lot or parcel that serves development activities in the Intensely Developed Area or Limited Development Area;

(E) The proposed consolidation or reconfiguration identifies each Habitat Protection Area and if impacts to a Habitat Protection Area are proposed, the proposal demonstrates that:

i. No greater impact to a Habitat Protection Area would result than the impact that would have resulted from the existing lot configuration;

ii. Adverse impacts to a Habitat Protection Area are minimized; and

iii. Protective measures and restoration measures are included that provide for the least possible impact;

(F) The proposed consolidation or reconfiguration provides:

i. Stormwater management for all proposed development activities; and

ii. Benefits to fish, wildlife, and plant habitat that are clearly identified.

(G) The proposed consolidation or reconfiguration fully complies with the afforestation and reforestation requirements in COMAR 27.01.05 and 27.01.09, unless clearing is necessary to avoid a habitat protection area.

2.16 RENEWABLE ENERGY GENERATING SYSTEMS

1. Applicability.

(A) The requirements of this Part are applicable to major, minor, and small renewable energy generating systems located in the Critical Area.

(B) In accordance with COMAR 27.01.14.02, these provisions may not be construed to limit the authority of the Public Service Commission under Public Utilities Article §7-207, Annotated Code of Maryland.

2. Application requirements.

(A) An applicant for a major solar energy generating system in a Resource Conservation Area, shall provide [County] a site plan that addresses the requirements of COMAR 27.02.07 and includes the following:

i. Calculations of any required reservation of resource conservation area density development rights; and

ii. The identification and location of property restrictions including the boundary and area of a conservation easement, restrictive covenant, or other protective instrument.

(B) The [County] may require a site plan for a minor solar energy generating system.

3. General provisions.

(A) On or after April 1, 2021, the [County] may authorize:

i. A major or minor solar energy generating system within the Critical Area in accordance with Part 25.C;

ii. A major solar energy generating system in the resource conservation area without growth allocation in accordance with Part 25.D; and

iii. A small residential accessory solar energy generating system in the Buffer or in a Modified Buffer Area if:

1. There is not an alternative location outside the Buffer;

2. The lot is 1/4 acre or less in size and created before local program approval; and

3. Mitigation is required at a 1:1 ratio.

(B) A major and minor solar energy generating system may be authorized in a modified buffer area provided the project is located over existing legally developed lot coverage.

(C) In addition to meeting the requirements of this Part, [County] may not authorize a growth allocation to accommodate a major or a minor solar energy generating system in the limited development area or the resource conservation area.

(D) Except for a regulated activity that is authorized by the Maryland Department of the Environment in accordance with COMAR 26.23.02, [County] may not authorize a major or minor solar energy generating system:

i. In a habitat protection area designated under COMAR 27.01.09; or

ii. On a steep slope or a highly erodible soil.

(E) In accordance with COMAR 27.01.14, a variance, modification, waiver, or other approval that alters the requirements of this Part may not be granted.

4. Criteria for a solar energy generating system.

Except for a small residential accessory solar energy generating system, the provisions of this section are applicable to a major and minor solar energy generating system in an intensely developed area, a limited development area, and a resource conservation area:

(A) The area of a solar panel shall not count as lot coverage and:

i. For a minor solar energy generating system, the solar panel shall be:

1. Located over existing, legally developed lot coverage as described in Natural Resources Article, §8-1808.3, Annotated Code of Maryland; or

2. Elevated above the ground and the area under the solar panel is maintained as an area of existing grass, established grass, or other natural vegetation, or as an agricultural use; and

ii. For a major solar energy generating system, the solar panel shall be:

1. Located over existing, legally developed lot coverage; or
2. Elevated above the ground and the area under the solar panel is maintained in accordance with the planting plan requirements of Part 25.E as:
   a. Pollinator habitat;
   b. Native vegetation other than pollinator habitat; or
   c. An agricultural use.

(B) The Buffer shall be measured and delineated in accordance with COMAR 27.01.09.01.E(3)-(7) and Part 9.A of this Ordinance and:

i. Unless there is no feasible alternative, access through the Buffer to the project area is prohibited;

ii. When there is no feasible alternative to access through the buffer, ne point of access through the buffer to the project area, may be authorized. Where a project includes noncontiguous parcels, the number of access points through the buffer shall be minimized;

iii. Mitigation for disturbance to the Buffer is required at a 2.5:1 ratio; and

iv. A buffer management plan shall be provided in accordance with COMAR 27.01.09.01-3.

(C) Except when a project area is in an IDA, clearing of forest and developed woodlands shall be minimized and not exceed the following:

i. In a LDA, clearing of forest and developed woodlands is limited to 20 percent of the entirety of the forest and developed woodlands on the parcel or parcels on which the project area is located; and

ii. In a RCA, clearing of forest is limited to 10 acres or 20 percent of the entirety of the forest and developed woodlands on the parcel or parcels on which the project area is located, whichever is less.

(D) In an IDA, LDA, and RCA, mitigation for cleared forest and developed woodlands shall be provided on at least an equal area basis.

(E) For a major solar energy generating system, on-site or off-site planting in shall be in accordance with the following:

i. 15 percent of the total project area in a limited development area; and

ii. 20 percent of the total project area in a resource conservation area.

(F) A planting plan shall be provided in accordance with Section E below.

(G) Stormwater management shall be provided in accordance with Environment Article, §§4-201—4-215, Annotated Code of Maryland, and COMAR 26.17.02.

(H) A decommissioning plan shall be required if one is not otherwise required as a result of obtaining a Certificate of Public Convenience and Necessity from the Public Service Commission.

5. Criteria for a major solar energy generating system in the resource conservation area.

These provisions apply to a major solar energy generating system in the RCA in addition to the requirements under Part 25.C above:

(A) Except for access allowed in accordance with Part C(3) and in accordance with the provisions in COMAR 27.01.06, forest clearing shall be restricted within 300 feet beyond the landward boundary of tidal waters or tidal wetlands, or the edge of each bank of a tributary stream.

(B) In addition to any applicable local land recordation requirements, a Reservation of Resource Conservation Area Density Rights Agreement shall be recorded in the County land records that reserves RCA density rights associated with the project as follows:

i. The number of density rights reserved is equal to:

1. The permitted RCA density associated with the project area of each parcel as calculated under Natural Resources Article, §8- 1808.1(e), Annotated Code of Maryland, and COMAR 27.01.02.05C(4); and

2. The number of density rights that are attributable to the project area, with a minimum of one density right reserved.

(C) The Reservation of Resource Conservation Area Density Rights Agreement shall remain in effect until:

i. The decommissioning plan, as required in Section C, has been implemented and completed; and

ii. The termination of the Reservation of Resource Conservation Area Density Rights Agreement is reflected in the land records.

(D) The remaining land unencumbered by the solar energy generating system or lands not otherwise restricted by the Reservation of Resource Conservation Area Density Rights Agreement may be developed in accordance with Natural Resources Article, §8-1808.1, Annotated Code of Maryland, and COMAR 27.01.02.05C(4).

(E) A lot, a parcel, or a portion of a lot or parcel is not eligible for a major solar energy generating system if the density rights associated with that lot, parcel, or portion of a lot or parcel have been:

i. Utilized for an intrafamily transfer;

ii. Transferred through a transfer of development rights program;

iii. Preserved or conserved through an easement; or

iv. Otherwise reserved in association with an area of land to be utilized for the solar energy generating system.

6. Planting plan requirements.

(A) [County] shall require a planting plan for:

i. The area to be vegetated under the solar panels; or

ii. Replanting required in Section C (4) and (5).

(B) The County may consider the constraints and opportunities presented by a project area and authorize planting or other mitigation to address the requirements of Sections C(4) and (5) from any of the following options:

i. Planting on-site in one of the following planting areas:

1. The area within 300 feet beyond the landward boundary of tidal waters or tidal wetlands, or the edge of each bank of a tributary stream;

2. Contiguous to or within a designated forest interior dwelling bird habitat; or

3. A wildlife corridor; or

ii. Based on a signed agreement with the Critical Area Commission:

1. Planting off-site in accordance with the options specified in 1(a) above;

2. Create a wetland migration area, nonstructural shoreline erosion control project, or other nature-based practice that naturally adjusts to changing environmental conditions through the lifespan of the practice and is designed to address future sea level rise, precipitation-induced flooding, or other climate change impacts;

3. Create, restore, or enhance a nontidal wetland that results in habitat and water quality benefits provided it is authorized by the Maryland Department of the Environment; or

4. Other alternative mitigation options that include provisions for Commission review; or

iii. Collect a fee in lieu in accordance with Section F below.

(C) Any general landscape screening requirements for an energy generating system shall not be included as part of the mitigation planting required in Section C.

(D) Long-term maintenance of the plantings through financial assurance measures shall be provided.

(E) All planting shall be in accordance with this ordinance's reforestation and planting plan requirements, including protecting all planted areas through conservation easements, restrictive covenants, or other protective instruments.

7. Fee-in-lieu.

The County may elect to collect a fee-in-lieu based on the following standards:

(A) The fee shall be set at a $1.50 42per square foot of mitigation as required in Part E;

(B) The fee shall cover the cost associated with administration, acquisition, planting, monitoring, and maintenance for the required mitigation or required planting requirements of Section C (4) and (5).

(C) The fee shall be held in separate account independent of other Critical Area funds, which may not revert to a the general fund;

(D) The fee shall not be used to meet other landscaping requirements; and

(E) [County] shall use the fees to accomplish:

i. Off-site plantings in accordance with the options provided in Section E (2) (a); or

ii. Other water quality and habitat enhancement projects provided in Section E (2) (b), and as described in a local Critical Area program approved by the Commission or in an agreement between the local jurisdiction and the Commission.

2.17 GRANDFATHERING IN THE CRITICAL AREA

1. Except as otherwise provided, the types of land described in the following subsection may be developed in accordance with the *density* requirements in effect prior to the adoption of the Kent County *Critical Area* Program.

2. A single *lot* or parcel of land that was legally of record on the date of the program approval will be permitted to be developed with a *single-family dwelling*, if a *dwelling* is not already placed there, notwithstanding that such *development* may be inconsistent with the *density* provisions of the approved programs:

(A) Any land on which *development* activity has progressed to the point of the pouring of foundation/ footings or the installation of structural members;

(B) Any legal parcel of land, not being part of a recorded or approved *subdivision*, that was recorded as of December 1, 1985, and land that was subdivided into recorded, legally buildable *lot*s, where the *subdivision* received the County's final approval prior to December 1, 1985.

(C) Land that was subdivided into recorded, legally buildable *lot*s, where the *subdivision* received the County's final approval after December 1, 1985,

provided that either *development* of such land conforms to the *Critical Area* criteria in this Ordinance and the other necessary *regulations*, or the area of the land is counted by the County against the growth increment permitted under COMAR 27.01.02.06.

(D) Nothing in this section will be interpreted as altering any requirements for *development activities* as set forth in Articles II and V of this Ordinance for habitat protection areas and water-dependent facilities.

(E) Kent County encourages the consolidation or reconfiguration of these *lot*s to BRING THESE LANDS INTO CONFORMANCE WITH THE *CRITICAL AREA* PROGRAM.

2.18 GROWTH ALLOCATION

1. Applications for Growth Allocation will be consistent with the County's Growth Allocation policy and the provisions found in COMAR.

2.19 LOCAL DEVELOPMENT PROJECTS

1. Applications for Local Development Projects will be consistent with the provisions found in COMAR.

2.20 CRITICAL AREA COMMISSION REVIEW AND COMMENT REQUIRED

1. As required by the State of Maryland, Kent County will send copies of applications for all *developments*, subdivisions, and *site plans*, wholly or partially within the Critical Area, as specified in COMAR 27.03.01.04 to the Critical Area Commission for review and comment. This includes all projects located in the RCD, CAR, CCA, M, and ECCA-LDA zoning districts.
2. Until Kent County has received notice of receipt from the Critical Area Commission or the appropriate waiting period per the State of Maryland has expired, the County may not process an application that has been sent to the Critical Area Commission for notification.
3. Per the State of Maryland, any action by Kent County in violation of these State-required procedures shall be void.

SECTION 3 FOREST CONSERVATION ACT

3.1 STATEMENT OF INTENT

The purpose of this Section is to conserve the *forest*s of Kent County. *Forest*s and individual *tree*s greatly contribute to the quality of life in Kent County, the health of the natural *ecosystem*, and the health and welfare of the citizens of Kent County. The County's economic health depends heavily on its natural resources of which *forest*s are a major component. It is not the intent of the law to place unreasonable restrictions on *development*. Rather it aims to maximize the benefits of *forest* in a cooperative effort with *development*, thereby limiting the loss of *forest*ed land in Kent County and improving the environment of both developed and undeveloped areas. In this Section, the County adopted standards that are more stringent than the State of Maryland.

3.2 APPLICABILITY

This Section applies in AZD, RC, CR, V, IV, C, and EC, to minor and *major site plan*s, *subdivision*s, *public utilities* not otherwise exempt, and all *grading* permits for any disturbed area over 40,000 square feet excluding land in the Critical Area (§§8-1801–1817, Annotated Code of Maryland).

3.3 EXEMEPTIONS

This Section also does not apply to the following:

1. Highway construction activities under Natural Resources Article, Section 5-103, Annotated Code of Maryland.
2. *Commercial logging and timber harvesting operations*, including harvesting conducted subject to the *Forest Conservation* and Management Program under Tax Property Article, Section 8-211, Annotated Code of Maryland, that are completed after July 1, 1991 on property which:
   (A) Has not been the subject of application for a *grading* permit for *development* within five years after the logging or harvesting operation; and
   (B) Is the subject of a *Declaration of Intent* as provided for in Section 8.3 of this Ordinance.
3. Agricultural activities, not resulting in a change in land use category, including agricultural support *buildings* and other related activities constructed using *best management practices* provided that no more than 40,000 square feet of *forest* is cleared within a one-year period. A *person clearing* 40,000 square feet or greater of *forest* within a one-year period may not receive an *exemption* unless the *person* files a *Declaration of Intent* which includes:
   (A) A statement that the landowner or the landowner's agent will practice *agriculture* on that portion of the property for five years from the date of the declaration; and
   (B) A sketch of the property which shows the area to be cleared.

4. The *cut*ting or *clearing* of a public utility *right of way* licensed under Public Utility Companies, §§7-207 and 7-208 or 7-205, Annotated Code of Maryland, or land for electric generating stations licensed under Public Utility Companies, §§7-207 and 7-208 or 7-205 Annotated Code of Maryland, provided:

   (A) Certificates of public conveniences and necessity have been issued in accordance with Natural Resources Article §5-1603(f), Annotated Code of Maryland; and

   (B) *Cut*ting or *clearing* of the *forest* is conducted to minimize the loss of *forest*.

5. Routine maintenance or emergency repairs of the public utility *right of way* licensed under Public Utility Companies, §§7-207 and 7-208 or 7-205, Annotated Code of Maryland.

6. Routine maintenance or emergency repairs of public utility *right of way* not subject to Section 8.2 (4) of this Ordinance, provided:

   (A) The *right of way* existed prior to January 5, 1993; or

   (B) The *right of way's* initial construction was approved after January 5, 1993.

7. Non-coal surfacing mining regulated under Environment Article, Title 15, Subtitle 8, Annotated Code of Maryland.

8. An activity required for the purpose of constructing a *dwelling* intended for the use of the owner or a child of the owner, if the activity:

   (A) Does not result in the *cut*ting, *clearing*, or *grading* of more than 20,000 square feet of *forest*; and

   (B) Is the subject of a *Declaration of Intent* filed in the Department which states that a transfer in ownership may result in the loss of the *exemption*.

9. A real estate transfer to provide a security, leasehold, or other legal or equitable interest, including a transfer of title, of a portion of a *lot* or parcel if:

   (A) The transfer does not involve a change in land use, or new *development* or *redevelopment* with associated land disturbing activities.

   (B) Both the grantor and grantee file a *Declaration of Intent*.

10. An activity on a property that has more than 50% of its acreage within the Chesapeake Bay *Critical Area*.

11. A residential construction activity conducted on an existing single *lot* of any size of record at the time of application, or a *linear project* not otherwise exempted under this section, if the activity:

   (A) Does not result in the cumulative *cut*ting, *clearing*, or *grading* of more than 20,000 square feet of *forest*; and

(B) Does not result in the *cut*ting, *clearing*, or *grading* of a *forest* that is subject to the requirements of a previous *forest conservation plan* approved under this ordinance; and

(C) Is the subject of a *Declaration of Intent* filed in the Department which states that a transfer in ownership may result in the loss of the *exemption*.

12. An activity on a previously developed area covered by *impervious surface* and located in a *Priority Funding Area*.

13. Maintenance or *retrofitting* of a *stormwater management structure* that may include *clearing* of vegetation or removal and trimming of *tree*s, if the maintenance or *retrofitting* is within the original limits of disturbance for construction of the existing *structure*, or within any maintenance *easement* for access to the *structure*.

14. A *stream restoration project* for which the *applicant* for a *grading* or *sediment control permit* has exe*cut*ed a binding maintenance agreement of at least five years with the affected property owner or owners.

3.4 FOREST CONSERVATION STANDARDS

1. In AZD, RC, CR, and C:

(A) A parcel with less than 20% of its *net tract area* in *forest cover* will be af*forest*ed to 20% of its *net tract area*.

(B) *Forest* on parcels with less than 20% of its *net tract area* in *forest* may be *cut* or cleared provided: the *afforestation* required to achieve the 20% *afforestation* level is determined prior to any *clearing* of *forest*; and the *afforestation* area consists of two (2) times the total surface area cleared and the area needed to achieve the 20% *afforestation* level before *clearing* occurred. For example, the *afforestation* area for a project with a *net tract area* of one hundred acres with ten (10) acres of existing *forest* of which five (5) acres are to be cleared is twenty (20) acres ten (10) acres to achieve the required *afforestation* level and ten (10) acres to replace the *forest* cleared.

(C) A parcel with more than 50% of its *net tract area* in *forest* may be *cut* or cleared provided *reforestation* occurs at a rate of one-quarter (1/4) acre planted for each acre removed above 50% of the *net tract area* or at a rate of two (2) acres planted for every acre removed below 50% of the *net tract area*. *Forest* retained over 50% of the *net tract area* is credited toward the required *reforestation*. For example, a project with a *net tract area* of one hundred (100) acres and an existing *forest* of sixty (60) acres that proposes to clear twenty (20) acres, the *reforestation* area is 22.5 acres.

2. In V, IV, and EC

(A) A parcel with less than 15% of its *net tract area* in *forest cover* will be af*forest*ed to 15% of its *net tract area*.

(B) *Forest* on parcels with less than 15% of its *net tract area* in *forest* may be *cut* or cleared provided: the *afforestation* required to achieve the 15% *afforestation* level is determined prior to any *clearing* of *forest*; and the *afforestation* area consists of two (2) times the total surface area cleared and the area needed to achieve the 15% *afforestation* level before *clearing* occurred. For example, the *afforestation* area for a project with a *net tract area* of one hundred acres with ten (10) acres of existing *forest* of which five (5) acres are to be cleared is fifteen (15) acres five (5) acres to achieve the required *afforestation* level and ten (10) acres to replace the *forest* cleared.

(C) A parcel with more than 15% of its *net tract area* in *forest* may be *cut* or cleared provided *reforestation* occurs at a rate of one-quarter (1/4) acre planted for each acre removed above 15% of the *net tract area* or at a rate of two (2) acres planted for every acre removed below 15% of the *net tract area*. *Forest* retained over 15% of the *net tract area* is credited toward the required *reforestation*. For example, a project with a *net tract area* of one hundred (100) acres and an existing *forest* of thirty (30) acres of which twenty (20) acres will be cleared, requires a *reforestation* area of 13.75 acres.

3. In all non-Critical Area zoning districts – AZD, RC, CR, V, IV, C, and EC:

(A) The following *tree*s, shrubs, plants, and specific areas are considered a priority for *retention* and protection and will be left in an undisturbed condition unless the *applicant* demonstrates, to the satisfaction of the Department, that reasonable efforts have been made to protect them and the plan cannot be reasonably altered.

i. *Tree*s, shrubs, and plants in sensitive areas including the non-tidal 100-year *floodplain*, intermittent and *perennial stream protection corridor*s, *steep slopes*, *non-tidal wetlands*, and critical habitats; and

ii. Contiguous *forest* that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the *site*.

(B) The following *tree*s, shrubs, plants, and specific areas are considered a priority for *retention* and protection and will be left in an undisturbed condition unless the *applicant* demonstrates, to the satisfaction of the *Planning Commission*, that the *applicant* qualifies for a *waiver* in accordance with Article IV.

i. *Tree*s, shrubs, and plants that are determined to be rare, threatened, or endangered under:

1. The Federal *Endangered Species* Act of 1973 in 16 U.S.C. §§1531—1544 and in 50 CFR 17;

2. The Maryland Nongame and *Endangered Species* Conservation Act, Natural Resources Article, §§10-2A-01—10-2A-09, Annotated Code of Maryland; and

3. COMAR 08.03.08

ii. *Tree*s that are associated with an *historic structure* or *site*, or *tree*s that have been designated by the state or county as a national, state, or county *champion tree*; and

iii. Any *tree* having a diameter, measured at 4.5 feet above the ground, of:

1. Thirty inches or more; or

2. Seventy-five (75%) or more of the diameter, measured at 4.5 feet above the ground, of the current State *Champion tree* of that species as designated by the Department of Natural Resources.

(C) The required *reforestation* or *afforestation* may be accomplished *on-site*, *off-site*, by contributing to a *forest* bank in the same *watershed* or by contributing to the Kent County *Reforestation* Fund. The preferred method of *afforestation* or *reforestation* is *on-site* or *forest* banking.

(D) Whenever possible and appropriate, *afforestation* and *reforestation* will include native species.

3.5 ADDITIONAL STANDARDS FOR NON-TIDAL WETLANDS

A *regulated activity* is subject to the following requirements in AZD, RC, CR, V, IV, C, and EC:

1. For the purposes of delineation, permitting, and mitigation, areas determined to be *non-tidal wetlands* under COMAR 08.05.04 will be regulated under COMAR 08.05.04 or this ordinance, whichever is more stringent.

2. For the purposes of calculating *reforestation* mitigation under this Ordinance, a *forest*ed *non-tidal wetland* permitted to be *cut* or cleared and required to be mitigated under COMAR 08.05.04 will be shown on the *Forest Conservation Plan* and subtracted on an acre for acre basis from the total amount of *forest* to be *cut* or cleared as part of a *regulated activity*.

3. *Non-tidal wetlands* will be considered priority areas for *retention* and replacement.

4. *Forest*ed *non-tidal wetland* identification and delineation should be included at the earliest stage of planning to assist the *applicant* in avoidance and reduction of impacts to the *non-tidal wetlands* and to avoid delay in the approval process.

3.6 TYPES OF SUBMITTALS

1. *Declaration of Intent*

(A) A *person* seeking an *exemption* under this sub-section 7.3 will file a *Declaration of Intent* with the Department.

(B) A *Declaration of Intent* is effective for five years.

(C) The existence of a *Declaration of Intent* does not preclude:

i. An exempted activity on a property subject to a *Declaration of Intent* if the activity: (1) Does not conflict with the purpose of any existing *Declaration of Intent*, and (2) Complies with the applicable requirements for an exempted activity.

ii. A *regulated activity* on the area covered by the *Declaration of Intent*. However, if the activity occurs within five years of the effective date of the *Declaration of Intent*: (1) There will be an immediate loss of *exemption*, or (2) There may be a non-compliance action take by the Department, as appropriate, under this Ordinance, or

iii. A *regulated activity* on that area of the property not covered under the *Declaration of Intent* if the requirements of this Ordinance are satisfied.

2. TWO TYPES of *Forest Stand Delineations*

(A) Simplified *Forest Stand Delineation*

i. A simplified *Forest Stand Delineation* (SFSD) may be submitted when *forest cover* is not disturbed during a construction activity and the area is under a long-term protective agreement.

ii. A simplified *Forest Stand Delineation* will be submitted at the time of concept *site plan* and concept *subdivision* review. A SFSD will be used to determine the most suitable and practical areas for conservation.

iii. The delineation will be prepared by a registered surveyor, licensed *forest*er, licensed landscape *architect*, or other qualified professional who meets the requirements of COMAR 08.19.06.01B. A simplified *Forest Stand Delineation* will meet the requirements found in this Section. The Planning Director may permit the *Forest Stand Delineation* to be combined with the *site* or *subdivision* plan.

(B) *Forest Stand Delineation*

i. A *Forest Stand Delineation* (FSD) will be submitted at preliminary *site plan* or *subdivision* review, and before application for a *grading* or *sediment control permit* unless sub-section (A) above applies. A FSD will be submitted with the application for *minor site plan* or minor *subdivision* approval unless sub-section (A) above applies.

ii. The delineation will be prepared by a licensed *forest*er, licensed landscape *architect* or other qualified professional who meets the requirements of COMAR 08.19.06.01B and will meet the requirements for a Forest Stand Delineation found in this Section.

iii. The delineation will be used to determine the most suitable and practical areas for *forest conservation*.

iv. An approved *Forest Stand Delineation* may remain in effect for a period not longer than 5 years.

3. TWO STAGES of *Forest Conservation Plan*s

(A) At the time of application for preliminary *subdivision* and *site plan* review, the *applicant* will submit a preliminary *Forest Conservation Plan*. The review of the *Forest Conservation Plan* will be concurrent with the review of the preliminary *subdivision* or *site plan*.

(B) A final conservation plan will be submitted with:

i. Minor and final *subdivision* plan

ii. *Minor* and final *site plan*

iii. Application for a *grading* and *sediment control permit*

(C) Both preliminary and final *Forest Conservation Plans* will be prepared by a licensed *forest*er, licensed landscape *architect* or other qualified professional who meets the requirements of COMAR 08.19.06.01B. If *forest* is not going to be disturbed, a registered surveyor may prepare preliminary and final *Forest Conservation Plans*. Preliminary and final *Forest Conservation Plans* will meet the requirements of this Section.

(D) The preliminary *Forest Conservation Plan* may be modified during the review process.

(E) Where deemed appropriate by the Planning Director, the preliminary and final conservation plans may be incorporated into other plans and plats required by this Ordinance.

(F) If existing *forest* on the *site* subject to a *Forest Conservation Plan* cannot be retained, the *applicant* will demonstrate to the satisfaction of the Department:

i. How techniques for *forest retention* have been exhausted;

ii. Why the priority *forest*s and priority areas specified in the design standards of the zoning districts cannot be left in an undisturbed condition: (1) If priority *forests* and priority areas cannot be left undisturbed, how the sequence for *afforestation* or *reforestation* will be followed in compliance with Natural Resources Article, §5-1607, Annotated Code of Maryland; (2) Where on the *site* in priority areas, *afforestation* or *reforestation* will occur in compliance with Natural Resources Article, §5-1607, Annotated Code of Maryland; and (3) How the disturbance to the priority *forests* and priority areas specified in the design standards of the zoning districts qualifies for a *waiver*.

(G) If the *applicant* proposes to make a payment into the local *forest conservation* fund instead of *afforestation* or *reforestation*, the *applicant* will demonstrate to the satisfaction of the Department that the requirements for *afforestation* or *reforestation on-site* or *off-site* cannot be reasonably accomplished

3.7 SUBMITTAL REQUIREMENTS

1. SIMPLIFIED FOREST STAND DELINEATION

A simplified *Forest Stand Delineation* will include:

(A) Topographic map delineating *intermittent* and *perennial streams* and *steep slopes* over twenty-five percent (25%).

(B) *Soils* map delineating *soils* with structural limitations, such as, *hydric soils*, or *soils* with a *soil K Value* greater than 0.35 on *slopes* of fifteen percent (15%), or more.

(C) Location of 100-year *non-tidal floodplains*.

(D) Property boundaries

(E) Map showing existing *forest cover* verified by field inspection.

(F) Other information that the Department determines is necessary to implement *forest conservation*.

2. FOREST STAND DELINEATION

A *Forest Stand Delineation* will include the following:

(A) Stand summary sheets that include a summary of the data collected at individual sampling *sites* including the following:

i. Dominant species and *forest* association

ii. *Site* class of dominant *tree*

iii. Total number of *tree* species

iv. Number of *tree*s per acre

v. Common under*story* species

vi. Forest structure rating

(B) A Forest Stand Delineation Map

i. North arrow

ii. Property boundaries

iii. Perennial and intermittent streams and their required stream protection corridors

iv. Topography

v. *Soils*, highlighting hydric and *soils* with a *K Value* over 0.35 on *slopes* of fifteen percent (15%) or more.

vi. Current *forest* and un*forest*ed areas, including species, location, size of *tree*s and showing dominant and co-dominant *forest* types

vii. *Forest* stand locations

viii. *Tree* lines extending *off-site*

ix. Steep slopes

x. Field sampling points

xi. Prime agricultural *soils*

xii. Critical habitats

xiii. Adjacent land uses

xiv. Cultural features

xv. Historic *sites*

xvi. Non-tidal 100-year floodplain

xvii. Non-tidal wetlands

xviii. Vicinity Map at a scale of 1:2000 which indicates major *roads*, land uses, and *forest cover* within one square mile of the *site*.

(C) A written summary of *forest* stand conditions

i. Stand Condition: (1) Stand *structure* (dominant species and under*story* species); (2) *Forest structure*; (3) *Retention* potential; (4) Comments on evidence of past management

ii. Environmental Features: (1) *Non-tidal floodplains*; (2) *Hydric soils*; (3) *Non-tidal wetlands*; (4) *Stream protection corridors*; (5) Critical habitats; (6) *Steep slopes* and *soils* with a *K Value* which exceeds 0.35 on *slopes* of fifteen percent (15%) or more; (7) Cultural features; (8) Historic *sites*; (9) Adjacent land uses; (10) Specimen *tree*s and *champion tree*s

(D) Other information may be required if the Department determines it is necessary to implement this Ordinance.

3. PRELIMINARY FOREST CONSERVATION PLAN

A preliminary *Forest Conservation Plan* will include the following:

(A) The approved Forest Stand Delineation

(B) A table listing:

i. Net tract area

ii. Area of forest conservation required

iii. Area of *forest conservation*, both on- and *off-site* provided by the *developer*

iv. Afforestation and reforestation plan

1. Plat, drawn at the same scale as the preliminary plan which indicates:

2. Areas designated for *forest retention*
3. Areas designated for *reforestation*
4. Areas designated for *afforestation*
5. Limits of disturbance
6. Stockpile areas

v. Construction schedule, showing the sequence of *forest conservation*

vi. Two-year maintenance agreement

vii. A narrative on how the requirements for *forest conservation* have been addressed

viii. Forest Conservation Worksheet

(C) Other information the Department determines is necessary to implement *forest conservation*.

4. FINAL FOREST CONSERVATION PLAN.

A final *Forest* Conservation *Plan* will include the following:

(A) The approved Forest Stand Delineation

(B) A Forest Conservation Worksheet. A worksheet and instructions for its completion may be found in the Forest Conservation Technical Manual.

(C) A Forest Conservation Map which clearly indicates the following:

i. *Forest retention* areas (with priority rating)

ii. Reforestation areas

iii. Afforestation areas

iv. Protective devices, including specifications

v. Limits of disturbance

vi. Stockpile areas

(D) Construction Schedule, including the sequence of *reforestation* areas, *afforestation* areas, maintenance and protective measures to be employed at the *site*.

(E) *Forest* Protection Plan that addresses:

i. Pre-construction activities including stress reduction and temporary and permanent protective devices.

ii. Future protection measures

(F) *Reforestation* and *Afforestation* Plans, which include:

i. Narrative evaluation of sequential analysis of *reforestation* and *afforestation* methods.

ii. Planting plan which includes: (1) Summary of *site* assessment and preparation; (2) Target species for *reforestation*; (3) Plant materials table including plant material source, species, number of plants, size of plants. Methods found in the *Forest Conservation Technical Manual* will be used to determine species *selection* and *site* stocking.

(G) Incorporate a binding 5-year maintenance agreement as specified in COMAR 08.19.05.01 which includes:

i. Watering, and

ii. A reinforcement planting provision if survival rates fall below required standards, as provided in the Forest Conservation Technical Manual, and

iii. Name and contact information for company or individual responsible for tree care.

~~A 2-year *maintenance agreement* which includes:~~

~~iv. Watering plans~~

~~v. Fertilizing plans~~

~~vi. Control of competing vegetation~~

~~vii. Protection from disease, pest, and mechanical injury~~

~~viii. Replanting provisions when survival goal falls below acceptable levels~~

~~ix. Name of company or individual responsible for *tree* care~~

(H) Long term binding protective agreement, that:

i. Provides protection for areas of *forest conservation*, including areas of *afforestation*, *reforestation*, and *retention*, and

ii. Limits uses in areas of *forest conservation* to those uses designated and consistent with *forest conservation* including recreational activities and *forest management* practices used to preserve *forest*.

iii. A narrative on how the general provisions of *forest conservation* found in this Ordinance have been addressed.

(I) Table listing:

i. Net tract area

ii. Area of forest conservation required

iii. Area of *forest conservation* provided both on and *off-site*

(J) Other information that the Department determines is necessary to implement *forest conservation*.

3.8 FOREST CONSERVATION FUND

1. A *forest conservation* fund is established that meets the requirements of Natural Resources Article, §5-1610(h-1), Annotated Code of Maryland.

2. When the Department determines that the requirements for *reforestation* or *afforestation on-site* or *off-site* cannot be reasonably accomplished and credits generated by a *forest mitigation bank* in the same County or *watershed* are not available, the *applicant* will contribute money into the *forest conservation* fund.

   (A) For a project inside a *Priority Funding Area*, at a rate of ~~30.5 cents~~ 40.0 cents per square foot of the area of required planting with the amount adjusted by the Department of Natural Resources based on the previous year's inflation rate; and

   (B) For a project outside a *Priority Funding Area*, at a rate of ~~36.6 cents~~ 50.0 cents per square foot of the area of required planting with the amount adjusted to be 20% higher than the rate set under item 2 (A) of this sub-section.

3. The money will be paid prior to final approval.

4. Money depos*it*ed in the local *forest conservation* fund:

   (A) May be spent on the costs directly related to *reforestation* and *afforestation*, including *site* identification, acquisition, preparation, and maintenance of existing *forest*s and achieving urban *canopy* goals.

   (B) Will be depos*it*ed in a separate *forest conservation* fund; and

   (C) May not revert to the general fund

5. The County will accomplish the *reforestation* or *afforestation* for the equivalent number of acres, or *forest* land acquisition for which the money is depos*it*ed within two years or three *growing seasons*, whichever is the greater time period after receipt of the money.

6. *Reforestation*, *afforestation*, *forest easement* purchase, or *forest* land acquisition paid for by this fund will occur in Kent County or its municipalities and in the same *watershed* in which the project is located.

7. If the *reforestation*, *afforestation*, *forest easement* purchase, or *forest* land acquisition cannot be reasonably accomplished in the same *watershed* in which the project is located, the *reforestation*, *afforestation*, *forest easement* purchase, or *forest* land acquisition will occur within the same county or *watershed* in the state in which the project is located.

3.9 FOREST PROTECTIVE DEVICES

1. Before *cut*ting, *clearing*, *grading*, or construction begins on a *site*, the *applicant* will demonstrate to the Department that protective devices have been established.

2. Protective device standards are found in the *Forest Conservation Technical Manual*.

3.10 BONDS

1. A *person* required to conduct *afforestation* or *reforestation* will furnish financial security in the form of a bond, an irrevocable letter of credit, or other security approved by the County Commissioners of Kent County. The surety will:

   (A) Assure that the *afforestation*, *reforestation*, and the associated *maintenance agreement* are conducted and maintained in accordance with the approved *Forest Conservation Plan*.

   (B) Be in an amount that is 125% of the estimated cost of *reforestation* or *afforestation* as determined by the Department.

   (C) Be in a form and content approved by the Department.

2. After ~~one~~ two *growing seasons*, an *applicant* may request reduction of the amount of the bond or other financial security by submitting a written request to the Department with a justification for reducing the bond or other financial surety amount, including estimated or actual costs to ensure *afforestation* or *reforestation* requirements are met.

   (A) The Department will determine whether a lesser amount is sufficient to cover the cost of *afforestation* or *reforestation*, taking into account such factors as the number of acres, proposed method of *afforestation* or *reforestation*, cost of planting materials, and maintenance costs.

   (B) If after ~~two~~ four *growing seasons* the plantings associated with the *afforestation* or *reforestation* meet or exceed the standards of the Kent County *Forest Conservation Technical Manual*, the amount of the bond, letter of credit, surety bond, or other security will be returned or released.

3.11 STATE FUNDS

1. A local agency or *persons* using state funds making application to conduct a *regulated activity* will submit the *subdivision*, construction, *grading*, or *sediment* control plan to the Department who will notify the Department of Natural Resources within fifteen (15) days of receipt of the plan or project.

2. Within fifteen (15) days of receipt of notice from the Department, the Department of Natural Resources will:

   (A) Determine whether the project has impact on significant *forest* resources; and

   (B) Notify the Department whether the project is subject to the State Program.

3. If the Department of Natural Resources determines that the project is subject to the State program:

   (A) The time limit for approval of the *Forest Stand Delineation* and preliminary and final *Forest Conservation Plan* will begin when the Department of Natural Resources receives the necessary documents from the Department;

(B) The Department may not approve a *subdivision* or *site plan* or issue the *grading* or *sediment control permit* until the Maryland Department of Natural Resources notifies the county that the standards and requirements of the State program have been satisfied.

4. If the Department of Natural Resources determines the project need not be reviewed under the state program, the time limit for approval of the *Forest Stand Delineation* and *Forest Conservation Plan* under the Kent County Plan begins when the Department receives notice from the Department of Natural Resources.

3.12 FOREST MITIGATION BANKS

1. Payment by credits from a *forest mitigation bank*

(A) When the Department determines that the requirements for *reforestation* or *afforestation on-site* or *off-site* cannot be reasonably accomplished, the *applicant* may contribute credits from a *forest mitigation bank*. A credit is required for each tenth of an acre of an area of required planting.

(B) The credits will be debited from an approved *forest mitigation bank* prior to final approval.

2. Establishing *forest mitigation bank*s

(A) A *person* may create a *forest mitigation bank* from which *applicant*s may purchase credits to meet the *afforestation* and *reforestation* requirements of this ordinance.

(B) The *forest mitigation bank* will:

i. *Afforest* or re*forest* an area of land in accordance with a *Forest Mitigation Bank Agreement*;

ii. Be protected by an *easement*, deed restrictions, or covenants which require the land in the bank to remain *forest*ed in perpetuity and are enforceable by the Department and the Department of Natural Resources;

iii. Limit the use of the land in the bank to those activities which are not inconsistent with *forest conservation* such as recreational activities, *forest management* under a *forest conservation* and management program under Tax Property Article, §8-211, Annotated Code of Maryland, or activities specified in a *forest management* plan prepared by a licensed *forest*er and approved by the Department;

iv. Use native plant materials for *afforestation* or *reforestation* unless inappropriate; and

v. Cause *tree*s to be planted which: (1) Establish or enhance *forest*ed *buffer*s adjacent to *intermittent* and *perennial streams* and coastal bays to widths of at least 50 feet; (2) Establish or increase existing *forest*ed corridors,

which, where practical, should be a minimum of 300 feet in width to facilitate wildlife movement, to connect existing *forests* within or adjacent to the *site*; (3) Establish or enhance *forest buffer*s adjacent to *critical habitat*s where appropriate; (4) Establish or enhance *forest*ed areas in 100-year *floodplain*s; (5) Stabilize *slope*s of 25 percent or greater; (6) Stabilize *slope*s of 15 percent or greater with a *soil k value* greater than 0.35 including the *slope*s of ravines or other natural depressions; (7) Establish *buffer*s adjacent to areas of differing land use where appropriate, or adjacent to highways or utility rights-of-way; or (8) Establish *forest* areas adjacent to existing *forest*s to increase the overall area of contiguous *forest cover*, when appropriate.

(C) A *person* proposing to create a *forest mitigation bank* will submit to the Department:

i. A completed application on a form approved by the Department which has been signed by an authorized individual;

ii. *Forest mitigation bank plan* which contains a: (1) Vicinity map of the proposed mitigation bank *site*; (2) Simplified *forest stand delineation* that meets the requirements for such delineations in this Section; (3) Detailed *afforestation* or *reforestation* plan, which will include a timetable and description of the *site* and *soil* preparation needed, species, size, and spacing to be utilized, prepared by a licensed Maryland *forest*er, a licensed landscape *architect*, or a qualified professional who meets the requirements stated in COMAR 08.19.06.01a; and (4) Proposed 2-year maintenance agreement that includes: (4a) Watering plans; (4b) Fertilizing plans; (4c) Control of competing vegetation; (4d) Protection from disease pest, and mechanical injury; (4e) Replanting provisions when survival fall below acceptable levels; (4f) Name of company or individual responsible for *tree* care

iii. Copy of the deed to the property;

iv. Survey or other legally sufficient description of the bank *site* for inclusion in the deeds of *easement*, deed restrictions, or covenants;

v. Title report or other assurance that: (1) The property is not encumbered by any covenants or other types of restrictions which would impair the property's use as a *forest mitigation bank*; and (2) There is legally sufficient access to the *forest mitigation bank site* which can be used by the Department and its assignees to inspect the *forest mitigation bank*; and

vi. Description of the system to be used by the *person* owning and operating the *forest mitigation bank* to identify and keep track of which portions of the bank have been debited to meet an *applicant*'s off*site afforestation* or *reforestation* requirements.

(D) The owner of an approved *forest mitigation bank* will enter into an agreement with the Department which contains:

i. The approved *reforestation* or *afforestation* plan;

ii. The approved system for marking and tracking which portions of the bank have been debited; and

iii. An acknowledgment that the bank may not debit any portion of the af*forest*ed or re*forest*ed land until two (2) years of successful growth has been achieved unless the banker has posted a bond or alternate form of security.

SECTION 4 EROSION & SEDIMENT CONTROL

4.1 STATEMENT OF INTENT

1. The purpose of this Ordinance is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the *adverse impacts* associated with land disturbances. The goal is to minimize *soil erosion* and prevent *off-site sediment*ation by using *soil erosion and sediment control* practices designed in accordance with the Code of Maryland *Regulations* (COMAR) 26.17.01, the 2011 Maryland *Standards and Specifications* and the *Stormwater Management* Act of 2007. Implementing this Ordinance will help reduce the negative impacts of land *development* on water resources, maintain the chemical, physical, and biological integrity of streams, and minimize damage to public and private property.

2. The provisions of this Ordinance pursuant to Title 4, Environment Article, Subtitle 1, Annotated Code of Maryland ~~are adopted under the authority of the Code of Public Local Laws of Kent County and~~ will apply to all land *grading* occurring within Kent County. The application of this Ordinance and the provisions expressed herein will be the minimum *erosion and sediment control* requirements and will not be deemed a limitation or repeal of any other powers granted by State Statute.

3. No *person* will disturb land without implementing *soil erosion and sediment control*s in accordance with the requirements of this Ordinance and the *Standards and Specifications* except as provided within this Section.

4.2 APPLICABILITY

1. A permit will be obtained for any *grading*, *clearing*, *stripping*, excavating, filling of land, or *forest* harvesting. A permit will also be obtained for the creation of borrow pits, spoil areas, quarries, material processing facilities, or any other facilities.

2. A permit will not be required for the following, subject to compliance with the requirements of the Department of the Environment, relating to *sediment* control plans approved by the Kent *Soil* and Water Conservation District:

   (A) Outside the Chesapeake Bay *Critical Area*, *agricultural land management* operating according to *best management practices* in Maryland.

   (B) In the Chesapeake Bay *Critical Area*, *agricultural land management* operating according to an approved *soil* and water conservation plan approved by the Kent *Soil* and Water Conservation District. Landowners who have signed up as conservation district cooperators but do not have a conservation plan developed for them by the District will be exempt from the requirements of this Section, if *best management practices* are used.

   (C) *Clearing* or *grading* of land, provided that:

      i. The aggregate of area(s) affected or bared at any one time does not exceed five thousand (5,000) square feet; and

ii. The *grading* does not involve a quantity of materials in excess of one hundred (100) cubic *yard*s.

(D) State and federal projects that are reviewed and enforced by the Maryland Department of the Environment.

4.3 PROCEDURES

A *person* making an application for a *Sediment Control Permit* will submit to the Department the following:

1. Application
2. One original and five copies of the *erosion and sediment control plan*, including specifications and timing schedules.
3. Fee
4. A bond, if required under this Section.

4.4 GENERAL REQUIREMENTS

1. Permits issued under this Section do not relieve the owner of responsibility for securing required permits for work to be done which is regulated by any other applicable code, act, or County ordinance. This Section will not preclude the inclusion in other permits of more stringent *regulations* or requirements concerning *sediment* control.
2. Standard *sediment* control plans and provisions may be approved for *single family dwellings* and other minor projects. A plan will be approved prior to the issuance of a *grading* or *building* permit.
3. The Kent ~~County~~ *Soil* and Water Conservation District may prepare *sediment* control plans for agricultural projects such as barns, chicken houses, dairy operations or other agricultural *buildings*.
4. A copy of the current approved plan will be kept at the construction *site*.
5. Prior to the issuance of a *grading* permit, copies of the plan will be referred by the Department to the Kent *Soil* and Water Conservation District for approval. Where applicable, the Maryland Department of the Environment may also review any plans that may require a water resources permit. Where deemed necessary, the Maryland Department of the Environment may also serve Kent County and the Kent *Soil* and Water Conservation District as a technical authority in *erosion and sediment control*. The *Soil* and Water Conservation District will notify the Department of its recommendations and/or approval.
6. Major modifications of the approved *grading* plans will be submitted to the Department and reprocessed in the same manner as the original plan. Field modifications of a minor nature may be authorized by the Department provided that written authorization is given

to the *applicant* performing work pursuant to this Section, with copies forwarded in a timely manner to the Kent *Soil* and Water Conservation District.

7. The permit and inspection fee will be paid to the Department and will be determined by the Department after consultation with the Kent *Soil* and Water Conservation District. The fee for a permit authorizing additional work will be the difference between the fee paid for the original permit and the fee required for the entire *sediment* control project.

8. If the land area for which the *grading* is proposed lies within the *floodway* of any stream or *watercourse*, the Department will deny a *sediment control permit*, unless such *grading* is authorized or permitted by the Maryland Department of the Environment in accordance with its rules and *regulations*.

9. In granting any permit pursuant to this Section, the Department may impose conditions that may be reasonably necessary to prevent the creation of a nuisance or unreasonable hazard to *persons* or to public or private property. Such conditions include but are not limited to:

   (A) Improvement of any existing *grading* to meet the standards required under this Section for new *grading* and for *sediment* control.

   (B) Designation of *easements* for drainage facilities and for the maintenance of *slopes*, *erosion* control facilities, and storm water management *structures* or devices.

   (C) Adequate control of dust by watering or other control methods acceptable to the Department and in conformance with applicable air pollution ordinances.

10. The Department will have the right to deny issuance of a *grading* permit when the proposed *grading* would cause hazards adverse to the public safety and welfare.

11. For steep banks along the shorelines that are actively eroding and ten feet in height or more, the Department may elect not to issue a permit for the construction of a *dwelling* or any other substantial *building*.

12. *Sediment control permits* expire after ~~one~~ three years unless construction of the project has begun.

13. Approved erosion and sediment control plans ~~expire after two years~~remain valid for three (3) years from the date of approval, except surface mines (e.g., sand and gravel pits) and landfill plans, which remain valid for five (5) years from the date of approval.

14. Following initial disturbance or re-disturbance, permanent or temporary *stabilization* on areas not under active *grading* will be completed within:

   (A) Three calendar days as to the surface of all perimeter dikes, swales, ditches, perimeter *slopes*, and all *slopes* greater than three horizontal to one vertical (3:1).

   (B) Seven days as to other disturbed or *grade*d areas on the project *site*.

15. The *permittee* will fully perform and complete all of the work required to be done pursuant to the *grading* within the time limit specified in the *grading* permit. If an *applicant* is unable to complete the work in the specified time, the *applicant* will submit a written request for an extension to the Department that explains the need for the requested extension.

16. All permits issued for sand, gravel, or clay pits and rock quarries or any other mining or material processing operations involving *excavation* and/or stockpiling of *soil*, rock, or other materials will lapse one year after termination of active, productive (i.e. actually removing material whether at a profit or not and whether stockpiled or sold) and continuous operations as determined by the Department. Said permits will be reviewed by the Department for compliance in accordance with the approved *grading* plan.

17. Neither the issuance of a permit under the provisions of this Section nor the compliance with the provisions hereto or with any condition imposed by the Department will relieve any *person* from any responsibility for damage to *persons* and/or property.

18. During *grading* control operations the *permittee* will be responsible for the prevention of damage to any *public utilities* or services within the limits of *grading* and along any routes of travel of equipment. No *person* will *grade* on land so close to property lines as to endanger any adjoining public *street*, sidewalk, *alley*, or any other public or private property without supporting and protecting such property from settling, cracking, or other damage. *Grading* can occur on adjacent property if *grading* rights are secured from the property owner. Storm drains will terminate in an *acceptable outfall*. Kent County, Maryland will not be responsible for any drainage damage to downstream properties for failure of any work to be done pursuant to this Section.

19. No *soil*, miscellaneous debris, or other spilled or dumped material is to be depos*it*ed in *floodplain*s, *watercourses*, public *streets*, highways, sidewalks, or other public thoroughfares during transit or operation.

20. The owner of any property on which *grading* or other work has been done under the provisions of this Section will maintain and/or promptly repair or restore all *grade*d surfaces, *erosion* control measures, vegetative covers and/or other protective measures if disturbed or destroyed during the course of operations. Repair and restoration will be in conformance with the approved plans until permanent measures are accepted by the Department.

4.5 STEEP SLOPE REQUIREMENTS

1. *Development* may occur within steep *slope* areas provided that a minimum of 30% of the *lot* or parcel upon which the principal *structure* is to be situated is less than 10% *grade* and is contiguous to a road meeting Kent County design standards. The extent of *cut*ting and filling that will be permitted on any *lot* will be based on the *soil* conditions at the *site* and as determined by the Department upon recommendation of the Kent *Soil* and Water Conservation District. Construction on piling and/or supports will be permitted.

2. All *roads* and *streets* will be placed as close to the contour as possible, to minimize *cut*ting and filling.

3. The construction of all *structures* will be preceded by the installation of storm drainage system(s) and *stabilization* measures.

4. In the case of a single *lot development* within such areas where no central storm drainage system exists, runoff from driveways, roofs, and other improved surfaces will be diverted and carried to an acceptable outlet by one or a combination of the following methods: filtration beds, subsurface dry wells, storm drainage systems and/or underground conduit systems or other adequate or protected outlets.

4.6 VEGETATIVE REQUIREMENTS

Vegetative *erosion and sediment control* measures will include, but not be limited to, the following:

1. Following initial *soil* disturbance or re-disturbance, permanent or temporary *stabilization* on areas not under active *grading* will be completed within:

   (A) Three calendar days as to the surface of all perimeter dykes, swales, ditches, perimeter *slopes*, and all *slopes* greater than three to one (3:1).

   (B) Seven days as to all other disturbed or *grade*d areas on the project *site*.

2. All projects must comply with the provisions set forth in the *2011 Maryland Standards and Specifications for Erosion and Sediment Control*, and as may be amended.

   https://mde.maryland.gov/programs/water/stormwatermanagementprogram/pages/esc_standards.aspx

   ~~Temporary Vegetative *Stabilization*. Areas where *grading* or *cut*ting and filling operations are carried out in several stages that expose *soil* to *erosion* for six months will be temporarily stabilized by seeding. The necessary steps to be followed to attain adequate *erosion* control coverage with temporary seeding will be as follows:~~

   ~~(A) Necessary *erosion* control practices~~

   ~~(B) Seedbed preparation~~

   ~~(C) Lime and fertilizer as required~~

   ~~(D) Seeding~~

   ~~(E) Mulching and mulch anchoring as required~~

   ~~Temporary Mulch *Stabilization*. The necessary steps to attain effective *erosion* control with mulch for short periods of time (less than six months) will be as follows:~~

   ~~(F) Necessary *erosion* control practices~~

   ~~(G) Mulching placed on a friable *soil*~~

   ~~(H) Mulch anchoring as required~~

Mulching Final *Grade*. The necessary steps to protect *soil* from *erosion* after final *grading* where permanent seeding is delayed until the next season will be as follows:

(I) Installation of *erosion* control practices as previously provided or required.

(J) Application of required lime or fertilizer.

(K) Preparation of final seedbed.

(L) Mulching as required.

(M) Mulch anchoring as required.

(N) Secondary seeding will be established during the first season following mulching.

Permanent Vegetative *Stabilization*. Adapted grasses, legumes, and other plants are available for stabilizing exposed areas. The final choice of species should be determined by considering such factors as adaptability to climate, *soils* and terrain and degree of maintenance. Steps necessary to establish permanent vegetative *stabilization* are as follows:

(O) Install required *erosion* control practices.

(P) Apply required lime and fertilizer

(Q) Prepare adequate seedbed.

(R) Seed or sod.

(S) Apply mulch and anchor for seed and sod.

STRUCTURAL REQUIREMENTS

Structural *erosion and sediment control* measures will include, but not be limited to, those described and depicted in the "*Standards and Specifications* for *Soil Erosion and Sediment Control*" booklet as approved, adopted, and as may be amended by the Maryland Department of the Environment.

3. Fills and Classifications. The *grading* plans and specifications will specify and delineate the use and extent of fills in accordance with the following classifications:

(A) Type I *Fill*. *Load bearing fills* proposed for support of *buildings*, walls, and other *structures*, the function thereof which would not be especially impaired by moderate settlement.

(B) Type II *Fill*. *Load bearing fills* proposed for support of *roadways*, pavements, utility lines and *structures* that would not be especially impaired by moderate settlement.

(C) Type III *Fill*. Common fills proposed for landscaping or for other non-load bearing usage.

4. Materials. All *load bearing fills* will meet the following requirements:

(A) No inclusions of organic or other deleterious materials which may be subject to decay will be permitted. All fills will also be free of inclusions of ice or snow.

(B) No rock or similar irreducible material with a maximum dimension greater than eight inches will be buried or placed in any *load bearing fill* within two feet of *finished grade* or within two feet of foundation base elevation. When such material is placed in fills, it will be done under the direction and supervision of an *engineer*.

5. Preparation of Ground. The natural ground surface will be prepared to receive *fill* by removing all organic surface materials, non-complying *fill* and unsuitable *soils* in accordance with the following provisions, except as otherwise approved by the Department:

(A) Prior to placing Type I and Type II fills, the ground surface, if within five feet of *finished grade* or foundation base, elevations will be compacted so as to achieve a *density* of not less than 90% of maximum *density* as defined in this Section within the top six inches.

(B) No Type I and Type II *fill* will be placed on frozen ground.

6. *Compaction*. All fills will be compacted in accordance with the following provisions:

(A) All Type I and Type II fills will be compacted to a minimum of 95% and 90%, respectively, and maximum *density* as determined in the laboratory of *ASTM* Test Method D1557-66T, also known as the proctor test. Type III *fill* will be compacted sufficiently so as to be stable and to prevent an *erosion* hazard.

(B) In place (field) *density* will be determined by*ASTM* Test of American Society of Highway Officials Equivalent Test Method D1556-64 or by an equivalent test approved by the Department.

(C) Fills will be placed in approximately horizontal layers, each layer having a loose thickness of not more than eight inches.

7. Structural Rock. Fills constructed predominately of large rock (such as sandstone and iron concretions) will be permitted only if the specifications for such *fill* are prepared by and construction done under the direction and supervision of an *engineer*.

8. Maximum *Slope* for Fills.

(A) No *fill* will be made which creates an exposed surface steeper in *slope* than two horizontal to one vertical (2 to 1), unless special approval is granted by the Kent County *Soil* and Water Conservation District.

(B) The Department may require that the *fill* be constructed with an exposed surface with a *grade* flatter than 2 to 1 or may require such other measures it deems necessary for stability, vegetative establishment and maintenance, and safety.

(C) Fills toeing out on natural *slopes* at a *grade* steeper than three horizontal to one vertical (3 to 1) will not be made unless approved by the Department.

9. Maximum *Slope* for *Cuts*.

(A) *Cuts* will not be made with a *slope* steeper than 2 to 1.

(B) The Department will require at any time that the *excavation* be made with a *cut* face with a *grade* flatter than 2 to 1 or may require other such measures for stability, vegetative establishments, and safety.

10. *Cut* and Fill *Slopes – Bench terraces*.

(A) *Cut* and *fill slopes* in excess of 30 feet but not more than 40 feet in vertical height will be terraced at approximate mid-height. Terraces in *slopes* with a vertical height greater than 40 feet will be made at equal vertical intervals not more than 20 feet apart. Depending upon *soil* conditions, terraces may be required of closer intervals by the Department as it deems necessary for stability, vegetative establishment and maintenance, and safety. *Bench terraces* will be a minimum of 6 feet wide with an absolute minimum invert gradient between 2 and 3%, with a six to one, or flatter, lateral *slope* towards the toe of the upper bank, and will convey water with minimum six inch free-board to an acceptable outlet.

(B) *Cuts* and fills will be set back from property lines and *buildings* will be set back from *cut* or *fill slopes* in accordance with the diagrams entitled "*Slope Setback* From Property Line" and a certified copy of which will permanently be kept on file with the Department.

(C) *Fill* placed above the top of an existing or proposed surface with a *slope* steeper than three horizontal to one vertical will be set back from the top of the *slope* a minimum distance of six feet.

(D) The *setbacks* established by this Section are the minimum and, depending on *soil* conditions, may be increased by the Department if deemed necessary for safety or stability or to prevent damage from water, *soil*, or debris.

(E) Notwithstanding anything to the contrary, the Department may reduce the required *setback* where the necessity for the *setback* may be eliminated or reduced by the construction of retaining walls or if the owner has a letter of authorization to extend *slopes* onto the adjacent property.

11. Existing natural and man-made features, such as *streets*, *watercourses*, falls, beaches, vistas, historic or *architect*urally significant *buildings*, and similar irreplaceable assets, should be preserved through harmonious and careful *development*, insofar as possible.

12. Drainage. The following provisions apply to the conveyance and disposal of surface water runoff:

(A) Disposal – all drainage facilities will be designed to convey surface water in such a manner as to prevent *erosion*, overflow or ponding. Said water will be

~~conveyed to an acceptable outlet in accordance with such applicable design, criteria standards and procedures as required by the Department. The ponding of water will not be permitted above the *cut* and *fill slopes* or on drainage terraces. Adequate drainage facilities will be provided to prevent such ponding.~~

~~(B) *Erosion* Prevention – The *permittee* and the owner will make adequate provisions to prevent any surface and/or groundwater from materially damaging the face of any *cut* or *fill*. All *slopes* will be protected from surface runoff from above by *berms*, swales, or brow ditches.~~

~~(C) *Grading* Around *Buildings* – All areas will be *graded* to provide for positive drainage away from the *building* toward the approved disposal area.~~

~~(D) *Retention* and *Infiltration* – Subject to the requirements and recommendations of the Kent County *Soil* and Water Conservation District and the Department of the Environment, measures such as *infiltration* beds, dry walls, and *retention* ponds may be used to allow storm water runoff to percolate into the *soil*.~~

4.7 REVIEW AND APPROVAL OF EROSION AND SEDIMENT CONTROL PLANS

1. A *person* may not *grade* land without an *erosion and sediment control plan* approved by the ~~approving *agency*~~*Kent Soil and Water Conservation District*.

2. The *Kent Soil and Water Conservation District*~~approving agency~~ will review *erosion and sediment control plans* to determine compliance with this Ordinance and the *2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control* prior to approval. In approving the plan, the *approving agency* may impose such conditions that may be deemed necessary to ensure compliance with the provisions of this Ordinance, COMAR 26.17.01, the *2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control*, and the preservation of public health and safety.

3. At a minimum, a *concept plan* will include the mapping of natural resources and sensitive areas including *highly erodible soils* and *slopes* greater than 15% as well as information required under *Stormwater Management*. These areas are to remain undisturbed, or an explanation will be included with either the concept or *site development plan* describing enhanced protection strategies for these areas during construction.

4. A *site development plan* submittal will include all *concept plan* information and indicate how proposed *erosion and sediment control* practices will be integrated with proposed *stormwater management* practices. The latter is to be done through a narrative and an overlay plan showing both *Environmental Site Design (ESD)* and *erosion and sediment control* practices. An initial sequence of construction and proposed project phasing to achieve the *grading unit* restriction should be submitted at this time.

5. An *applicant* will submit a *final erosion and sediment control plan* to the *approving agency* for review and approval. The plan will include all of the information required by the

concept and *site development plan*s as well as any information in Section 8.8 not already submitted.

6. A *final erosion and sediment control plan* will not be considered approved without the inclusion of the signature and date of signature of the *approving agency* on the plan.

7. Approved plans remain valid for three (3) years from the date of approval unless extended or renewed by the *approving agency*, except surface mines (e.g., sand and gravel pits) and landfill plans, which remain valid for five (5) years from the date of approval.

~~GRANDFATHERING OF APPROVED PLANS~~

~~Any plans that receive final approval after January 9, 2013, will be in compliance with the requirements of this Section and the *Standards and Specifications*.~~

~~A plan that receives final approval by January 9, 2013, may be reapproved under its existing conditions if *grading* activities have begun on the *site* by January 9, 2015, with the exception of *stabilization* requirements.~~

~~*Stabilization* practices on all *sites* will be in compliance with the requirements of this Section and the *Standards and Specifications* by January 9, 2013, regardless of when an approved *erosion and sediment control plan* was approved.~~

4.8 CONTENTS OF EROSION AND SEDIMENT CONTROL PLANS

1. An *applicant* is responsible for submitting *erosion and sediment control plan*s that meet the requirements of the *approving agency*, this Section, *Stormwater Management*, and the *Standards and Specification*s. The plans will include sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed *grading* on water resources, and the effectiveness and acceptability of measures proposed to minimize *soil erosion* and *off-site sediment*ation.

2. At a minimum, *applicant*s will submit the following information:

   (A) A letter of transmittal and/or application;

   (B) Name, address, and telephone number of:

      i. The owner of the property where the *grading* is proposed;

      ii. The *developer*; and

      iii. The *applicant*;

   (C) A vicinity map indicating north arrow, scale, *site* location, and other information necessary to easily locate the property;

   (D) *Drainage area* map(s) at a 1" = 200' minimum scale showing existing, interim, and proposed *topography*, proposed improvements, standard symbols for proposed *sediment* control features, and pertinent drainage information including provisions to protect downstream areas from *erosion* for a minimum of 200 feet downstream or to the next conveyance system;

(E) The location of natural resources, *wetlands*, *floodplain*s, *highly erodible soils*, *slope*s 15% and steeper, and any other sensitive areas;

(F) A general description of the predominant *soil* types on the *site*, as described by the appropriate *soil* survey information available through the local *soil* conservation district or the USDA Natural Resources *Soil* Conservation Service;

(G) Proposed *stormwater management* practices;

(H) *Erosion and sediment control plan*s including:

i. The existing *topography* and improvements as well as proposed *topography* and improvements at a scale between 1" = 10' and 1" = 50' with 2-foot contours or another approved contour interval. For projects with more than minor *grading*, interim contours may also be required;

ii. Scale, project and sheet title, and north arrow on each plan sheet;

iii. The limit of disturbance (LOD) including: (1) Limit of *grading* (*grading unit*s, if applicable); and (2) Initial, interim, and final phases;

iv. The proposed *grading* and earth disturbance including: (1) Total disturbed area; (2) Volume of *cut* and fill quantities; and (3) Volume of borrow and spoil quantities;

v. Storm drainage features, including: (1) Existing and proposed bridges, storm drains, culverts, outfalls, etc.; (2) Velocities and peak flow rates at outfalls for the two-year and ten-year frequency storm events; and (3) *Site* conditions around points of all surface water discharge from the *site*;

vi. *Erosion and sediment control* practices to minimize *on-site erosion* and prevent *off-site sediment*ation including: (1) The salvage and reuse of top*soil*; (2) Phased construction and implementation of *grading unit*(s) to minimize disturbances, both in extent and duration; (3) Location and type of all proposed *sediment* control practices; (4) Design details and data for all *erosion and sediment control* practices; and (5) Specifications for temporary and permanent *stabilization* measures including, at a minimum: (5a) The "Standard *Stabilization* Note" on the plan stating: (5a-1) "Following initial *soil* disturbance or re-disturbance, permanent or temporary *stabilization* will be completed within: (5a-2) Three calendar days as to the surface of all perimeter dikes, swales, ditches, perimeter *slope*s, and all *slope*s steeper than 3 horizontal to 1 vertical (3:1); and (5a-3) Seven calendar days as to all other disturbed or *grade*d areas on the project *site* not under active *grading*." (5b) Details for areas requiring accelerated *stabilization*; and (5c) Maintenance requirements as defined in the *Standards and Specification*s;

vii. A *sequence* of construction describing the relationship between the implementation and maintenance of controls, including permanent and temporary *stabilization*, and the various stages or phases of earth

disturbance and construction. Any changes or revisions to the sequence of construction will be approved by the *approving agency* prior to proceeding with construction. The sequence of construction, at a minimum, will include the following: (1) Request for a pre-construction meeting with the appropriate enforcement authority; (2) *Clearing* and grubbing as necessary for the installation of perimeter controls; (3) Construction and *stabilization* of perimeter controls; (4) Remaining *clearing* and grubbing within installed perimeter controls; (5) Road *grading*; (6) *Grading* for the remainder of the *site*; (7) Utility installation and connections to existing *structure*s; (8) Construction of *building*s, *roads*, and other construction; (9) Final *grading*, landscaping, and *stabilization*; (10) Installation of *stormwater management* measures; (11) Approval of the appropriate enforcement authority prior to removal of *sediment* controls; and (12) Removal of controls and *stabilization* of areas that are disturbed by removal of *sediment* controls.

viii. A statement requiring the owner/*developer* or representative to contact the *inspection agency* or its agent at the following stages of the project or in accordance with the approved *erosion and sediment control plan*, *grading* permit, or *building* permit: (1) Prior to the start of earth disturbance; (2) Upon completion of the installation of perimeter *erosion and sediment control*s, but before proceeding with any other earth disturbance or *grading*; (3) Prior to the start of another phase of construction or opening of another *grading unit*; and (4) Prior to the removal of *sediment* control practices;

ix. *Certification* by the owner/*developer* that any *clearing*, *grading*, construction, or *development* will be done pursuant to the approved *erosion and sediment control plan*. The *certification* will also require that the *responsible personnel* involved in the construction project have a Certificate of Training at an MDE approved training program for the control of *erosion* and *sediment* prior to beginning the project. The Certificate of Training for *Responsible Personnel* may be waived by the *approving agency* on any project involving four or fewer residential *lot*s. Additionally, the owner/*developer* will allow right of entry for periodic *on-site* evaluation by the *approving agency*, Department, the *inspection agency*, and/or MDE; and

x. *Certification* by a professional *engineer*, *land surveyor*, landscape *architect*, *architect*, or *forest*er (for *forest* harvest operations only) registered in the State that the plans have been designed in accordance with *erosion and sediment control* laws, *regulations*, and standards, if required by the *approving agency* or the Maryland Water Management Administration.

(I) Any additional information or data deemed appropriate by the *approving agency*.

3. All plans will conform to the following terms and conditions:

(A) The *development* will be fitted to the *topography* and *soils* so as to create the least *erosion* potential.

(B) *Natural vegetation* will be retained and protected wherever possible.

(C) Only the smallest practical area will be exposed for the shortest practical period of time.

(D) *Erosion* control practices (such as interceptor ditches, *berms*, terraces, contour ripping, *soil erosion* checks and *sediment* basins) will be installed to minimize *soil* and water losses.

(E) Temporary vegetation and/or mulching will be used to protect *critical area*s exposed during the time of *development*.

(F) During and after *development*, provisions will be made to effectively accommodate the increased runoff caused by changeable *soil* and surface conditions and not cause siltation, destruction, or deterioration of the receiving stream.

(G) Permanent vegetation and *structures* will be installed in the *development* as soon as the season permits.

4.9 SECURITIES

1. A *grading* permit will not be issued for *grading* involving the movement of more than 1,000 cubic *yard*s of *soils* unless the *permittee* will post with the Department a performance bond, letter of credit or other surety. The bond, irrevocable letter of credit or other surety will be in a form approved by the County Attorney and in an amount not less than the total estimated cost of the *erosion* control and *stabilization* of the *site*. Said estimated cost will be that which is approved by the Department or in consultation with the Kent *Soil* and Water Conservation District after reviewing the cost estimates proposed by the *applicant*'s acceptable *engineer*, *land surveyor*, or *architect* and submitted with the *grading* permit application.

2. The bond, irrevocable letter of credit or other surety will include the following provisions:

(A) The *applicant* will comply with all of the provisions of this Ordinance and all other applicable laws and ordinances.

(B) The *applicant* will comply with all of the terms and conditions of the *grading* permit.

(C) Any extension of completion time under this Section will not release the *applicant* or surety on the bond, irrevocable letter of credit, or other surety.

(D) Upon default, the *applicant* and surety will continue to be *firm*ly bound under a continuing obligation for payment of one of the following at the election of the surety:

i. All costs and expenses necessary to complete the work in accordance with the approved plans and specifications (or any approved modification thereof).

ii. All necessary costs and expenses or liabilities which may be incurred to stabilize in accordance with a *stabilization* plan for *erosion* control presented by the surety and approved by Kent County.

iii. Payment of the full amount of the bond to Kent County to perform the work necessary. If the cost for restoration of the *site* to meet the minimum requirements of this Section (with particular emphases on stability, safety, drainage, and *erosion* control) exceeds the amount of the bond, the *permittee* will continue to be *firm*ly bound under a continuing obligation for payment of all excess cost and expenses incurred by the county.

3. The bond, irrevocable letter of credit or other surety will remain in full force and effect until the completion of the work to the specifications required. If all work of the permit is not completed within the time specified therein, or as otherwise provided for in this Section or violates any other term or condition, payment in full to Kent County may be ordered. The funds so received will be used by the County to defray the cost of restoration of the *site*. Upon approval of a certificate of completion, the bond, irrevocable letter of credit or other surety will be released.

4.10 HAZARDOUS CONDITIONS

1. If the Department determines that an *excavation*, *embankment*, or a *fill* endangers or adversely affects the safety or stability of any public or private property, as determined from the guidelines of this Ordinance, the Planning Director, or the Planning Director's designee, will promptly notify in writing the owner (or other *persons* in control) of the property upon which the condition exists.

2. If the correction is not commenced in accordance with the provisions of the Ordinance within the period of time specified in the notice, the owners (or other *persons* in control) will be subject to the penalties set forth in this Land Use Ordinance.

4.11 INSPECTIONS

1. All work will be inspected by the Department according to the following schedule.

(A) *Clearing* and grubbing for those areas necessary for installation of perimeter controls.

(B) Completion of perimeter controls.

(C) Remaining *clearing* and grubbing.

(D) Road *grading*

(E) *Grading* for remainder of the *site*.

(F) Utility and storm drain installation.

(G) Final *grading*, landscaping, or *stabilization*.

(H) Removal of controls and maintenance.

(I) At other times determined by the Department.

(J) Every two weeks, for compliance with approved *sediment* control plans.

2. It will be a condition of every *grading* or *building* permit that the *inspection agency* has the right to enter the property periodically to inspect for compliance with the approved *erosion and sediment control plan* and this Ordinance.

3. Inspection Procedure. Work approved will not proceed until the Department inspects the *site* and approves the work previously completed or notifies the *permittee* otherwise. Upon notification from the *permittee*, the Department will inspect the *site* and notify the *permittee* of its approval or rejection within forty-eight (48) hours (exclusive of Saturdays, Sundays, and Holidays). If the inspector does not make an inspection within the specified time period, work may proceed without presumption of approval at the risk of the *permittee*. The Department will have the right to waive inspections except final inspection as necessary.

4. Inspection Reports.

(A) Written reports: Structural *erosion and sediment control* measures will include, but not be limited to, those described and depicted in the booklet entitled "*Standards and Specification*s for *Soil Erosion* Control" as approved by the Maryland Department of the Environment. This booklet, as currently amended, is readily available at offices of the Department, 400 High *Street*, Chestertown, Maryland; *Kent* ~~County~~ *Soil* and Water Conservation District, Chestertown, Maryland; Natural Resources Conservation Service, Chestertown, Maryland; and the Maryland Department of the Environment.

(B) Written inspection reports will be completed by the inspector for all inspections. The reports will include, at minimum: (1) Date and location of *site* inspection; (2) Degree of plan implementation; (3) Deficiencies of plan or practice; (4) Enforcement action taken, if any; (5) A time frame for corrective measures

5. When required by the Department, inspections and testing will be performed under the direction of an *engineer*, *land surveyor* or *architect* who will certify all inspection reports and tests results. Such reports will include *certification* by an *engineer* for the adequacy of:

(A) Cleared areas and benched or keyed surfaces prepared to receive fills.

(B) Removal of unsuitable materials.

(C) Construction of *erosion* control or drainage devices, buttress fills, under-drains, retaining walls, and other *grading* appurtenances.

(D) The degree of *compaction* where tests are performed.

6. All certified inspection reports and certified test results will be periodically submitted to the Department, during the performance of the work.

7. Final Reports. The Department will maintain permanent files on their respective inspections. Upon completion of permitted work, the Department will require the following for these files and will also require copies for the *Kent* ~~County~~ *Soil* and Water Conservation District.

(A) An as-built original plan by a *land surveyor* or *engineer* and showing all improvements and final *grade*s with red line *alteration*s allowed.

(B) *Certification* by the owner that all *grading*, drainage, *erosion* control measures, and facilities and vegetative measures have been completed in conformance with the approved plans and specifications.

(C) A report summarizing the inspection reports, field and laboratory tests and locations of tests.

8. Final Inspection Request. The *permittee* or the *permittee*'s agent will notify the Department when the *grading* operation is ready for final inspection. Final approval will be given in a timely manner when all work (including installation of all drainage *structure*s and *erosion* protective devices) has been completed as well as the required vegetative *stabilization* and the required reports have been submitted.

9. The Department may also require signed and sealed drawings from a professional land surveyor or engineer, certifying that the requirements above have been satisfied. The Department may also engage third-party professionals to review the drawings to ensure compliance with the regulations in this Section, the Land Use Ordinance in general, and any applicable federal, State, or other laws, rules, and regulations. The costs for any third-party professionals will be paid by the applicant or property owner of record.

SECTION 5 STORMWATER MANAGEMENT

5.1 STATEMENT OF INTENT

The purpose of this ordinance is to protect, maintain and enhance the public health, safety and general welfare by establishing minimum requirements and procedures to control the *adverse impact*s associated with increased *stormwater* runoff. The goal is to manage *stormwater* by using *environmental site de*sign *(ESD)* to the *maximum extent practicable (MEP)* to maintain after *development* as nearly as possible, the p*redevelopment* runoff characteristics, and to reduce stream *channel erosion*, pollution, siltation, and *sediment*ation, and local *flood*ing, and use appropriate structural *best management practices* (*BMP*) only when necessary. This will restore, enhance, and maintain the chemical, physical, and biological integrity of streams, minimize damage to public and private property and reduce the impacts of land *development*.

5.2 AUTHORITY; EXPLANATION OF PROVISIONS

The provisions of this ordinance pursuant to the Environment Article, Title 4, Subtitle 2, Annotated Code of Maryland, 2009-replacement volume, are adopted under the Code of Public Local Laws of Kent County and will apply to all *development* or *redevelopment* occurring within the unincorporated area of Kent County. The application of this ordinance and the provisions expressed herein will be the minimum *stormwater management* requirements and will not be deemed a limitation or repeal of any other powers granted by state statute. The County will be responsible for the coordination and enforcement of the provisions of this Ordinance. Any *development* that has not received final approval for *erosion and sediment control* and *stormwater management plan*s by May 4, 2010, will comply with the 2010 revised Ordinance, unless the *development* or *redevelopment* is granted an administrative *waiver* under this Section.

5.3 INCORPORATION BY REFERENCE

1. The 2000 Maryland *Stormwater De*sign *Manual*, Volumes I & II (Maryland Department of the Environment, April 2000 and as may be amended), will be incorporated by reference and will serve as the official guide for *stormwater management* principles, methods, and practices.
2. The USDA Natural Resources Conservation Service Maryland Conservation Practice Standard Pond Code 378 (January 2000 and as may be amended) will be incorporated by reference.

5.4 GRANDFATHERING

1. DEFINITIONS APPLICABLE TO THE GRANDFATHERING. For the purpose of determining the grandfathering of *development stormwater management plan*s as set forth in this Section certain words are hereby defined.

   (A) Administrative *Waiver*: A decision by Kent County pursuant to this Ordinance to allow the construction of a *development* to be governed by the *stormwater*

management ordinance in effect as of May 4, 2009. An administrative *waiver* is distinct from a *waiver* granted pursuant to Article IV Processes.

(B) Approval: A documented action by Kent County following a review to determine and acknowledge the sufficiency of submitted material to met the requirements of a specified stage in a local *development* review process. Approval does not mean acknowledgment by Kent County that material has been received for review.

(C) Final Project Approval: Approval of the *final stormwater management plan* and *erosion and sediment control plan* required to construct a project's *stormwater management* facilities. Final approval also includes securing the bonding or financing for final *development* plans if required as a prerequi*site* for approval.

(D) Preliminary Project Approval: Approval of the preliminary *development* plan that includes at a minimum:

i. The number of planned *dwelling unit*s or *lot*s

ii. The proposed project *density*

iii. The proposed size and location of all land uses for the project

iv. A plan that identifies: (1) The proposed drainage patterns; (2) The location of all points of discharge from the *site*; and (3) The type, location, and size of all *stormwater management* measures based on *site*-specific *stormwater management* requirement computations.

v. Any other information required by Kent County including but not limited to: (1) The proposed alignment, location and construction type and standard for all *roads*, access ways, and areas of vehicular traffic; (2) A demonstration that the methods by which the *development* will be supplied with water and wastewater services are adequate; and (3) The size, type, and general location of all proposed wastewater and water system infra*structure*.

2. ADMINISTRATIVE *WAIVERS*. Kent County may grant an administrative *waiver* to a *development* that received a preliminary project approval prior to May 4, 2010. Administrative *waiver*s expire according to this Section and may be extended. Kent County may impose such conditions upon the approval of an administrative *waiver* deemed necessary to secure compliance with the spirit and intent of this Ordinance.

3. EXPIRATION OF ADMINISTRATIVE *WAIVERS*. Except as provided for in this Section, an administrative *waiver* will expire on May 4, 2013, if the *development* does not receive final project approval prior to May 4, 2013, or May 4, 2017, if the *development* receives final approval prior to May 4, 2013. All construction authorized pursuant to an administrative *waiver* will be completed by May 4, 2017, unless otherwise extended. Administrative *waiver*s which receive an extension will expire according to the requirements of this Section.

4. EXTENSION OF ADMINISTRATIVE *WAIVERS*

   (A) In order to grant an extension to an administrative *waiver*, Kent County will find the following: (1) the project received preliminary project approval prior to May 4, 2010; and (2) the project was subject to a *Development* Rights and Responsibilities Agreement, a Tax Increment Financing Approval, or an annexation agreement.

   (B) Administrative *waivers* which receive an extension will expire with the expiration of the *Developer*s Rights and Responsibilities Agreement, the Tax Increment Financing approval or the Annexation agreement.

5.5 SCOPE

No *person* will develop any land for residential, commercial, industrial, or institutional uses or redevelop land without having provided for appropriate *stormwater management* measures that control or manage runoff from such *development*s, except as provided in this section. *Stormwater management* measures will be designed consistent with the *De*sign *Manual* and constructed according to an approved plan for new *development* or polices stated in Section 9.7 below for *redevelopment*.

5.6 EXEMPTIONS

The following *development activities* are exempt from the provisions of this Section and the requirements of providing *stormwater management*:

1. Normally accepted *agricultural land management* activities and *BMPs*, (i.e. *waterway*s, ponds, etc.)
2. Additions or modifications to existing single *family* detached residential *structures* provided that these additions or modifications do not disturb over 5,000 square feet of land.
3. *Development*s that do not disturb over 5,000 square feet of land.
4. Land *development activities* that the Maryland Department of the Environment determines will be regulated under specific state laws, which provide for managing *stormwater* runoff.

5.7 REDEVELOPMENT

This Section applies to any construction, *alteration*, or improvement performed on *site*s where existing land use is commercial, industrial, institutional, or multi-*family* residential and existing *site* impervious area exceeds forty (40) percent.

1. *Stormwater management plan*s are required by Kent County for all *redevelopment*, unless otherwise specified by *watershed* management plans developed according to this Ordinance. *Stormwater management* measures will be consistent with the *De*sign *Manual*.

2. All *redevelopment* designs will:

   (A) Reduce *impervious surface* area within the limit of disturbance (LOD) by at least 50% according to the *De*sign *Manual*;

   (B) Implement *ESD* to *MEP* to provide water quality treatment for at least 50% of the existing *impervious surface* area within the limit of disturbance; or

   (C) Use a combination of 9.7 2a and 2b of this Ordinance for at least 50% of the existing *site* impervious area.

3. Alternative *stormwater management* measures may be used to meet the requirements of this Section, if the *applicant* satisfactorily demonstrates to the County that impervious area reduction has been maximized and *ESD* has been implemented to the *MEP*. Alternative *stormwater management* measures include, but are not limited to:

   (A) An *on-site* structural *BMP*;

   (B) An *off-site BMP* to provide water quality treatment for an area equal to or greater than 50% of the existing impervious area; or

   (C) A combination of impervious area reduction, environmental *site* design implementation, and an *on-site* or *off-site* structural Best Management Practice for an area equal to or greater than 50% of the existing *site impervious surface* area within the limit of disturbance.

4. Kent County may develop separate policies for providing water quality treatment for *redevelopment* projects if the requirements of this sub-section cannot be met. Any separate *redevelopment* policy will be reviewed and approved by the Maryland Department of the Environment and may include but not be limited to:

   (A) A combination of *ESD* and an *on-site* or off*site* structural *BMP*;

   (B) *Retrofitting* including existing *BMP* up*grade*s, filtering practices and off*site ESD* implementation;

   (C) Stream restoration in the same 12-digit *watershed* as the proposed *development* and an area restored equivalent to the area required for treatment.

   (D) Pollution trading with another entity.

   (E) Payment of a fee in lieu; or

   (F) A partial *waiver* of the treatment requirements if *ESD* is not practicable.

5. The determination of alternatives available may be made by Kent County at the appropriate stage in the *development* review process. Kent County will consider the prioritization of alternatives in this Section, after it has been determined that it is not practicable to meet the 2009 regulatory requirements using *ESD*. In deciding the alternatives that may be required, Kent County may consider factors including but not limited to the following:

(A) Whether the project is in an area targeted for *development* incentives such as a *Priority Funding Area*;

(B) Whether the project is necessary to accommodate growth consistent with the *Comprehensive Plan*; or

(C) Whether bonding or other financing mechanisms have been secured based on an approved *development* plan.

6. *Stormwater management* will be addressed according to the new *development* requirements in the *De*sign *Manual* for any net increase in impervious areas.

5.8 STORMWATER MINIMUM CONTROL STANDARDS

Stormwater management will be accomplished for all new *development* according to the minimum requirements established in this Section and the *De*sign *Manual* as follows:

1. All *planning techniques*, nonstructural practices, and design methods specified in the *De*sign *Manual* will be used to implement *ESD* to the *MEP*. The use of *environmental site de*sign *planning techniques* and treatment practices will be exhausted before any structural *BMP* is implemented. *Stormwater management plan*s for *development* projects subject to this Ordinance will be designed using *ESD* sizing criteria, *recharge volume*, *water quality volume*, and *channel protection storage volume* criteria according to the *De*sign *Manual*. The *MEP* standard is met when *channel* stability is maintained, p*redevelopment* groundwater recharge is replicated, nonpoint source pollution is minimized, and structural *stormwater management* practices are used only if determined to be absolutely necessary.

2. Control of the 10-year frequency storm event is required according to the *De*sign *Manual* if the County determines that additional *stormwater management* is necessary because historical *flood*ing problems exist and downstream *floodplain development* and conveyance system design cannot be controlled.

3. Kent County may require more than the minimum control requirements specified in this Ordinance if hydrologic or topographic conditions warrant or if *flood*ing, stream *channel erosion*, or water quality problems exist downstream from a proposed project.

4. Alternate minimum control requirements may be adopted subject to approval by the Maryland Department of the Environment. The Maryland Department of the Environment will require a demonstration that alternative requirements will implement *ESD* to the *MEP* and control *flood* damages, accelerated stream *erosion*, water quality and *sediment*ation. Comprehensive *watershed* studies may also be required.

5. *Stormwater management* and *development* plans where applicable, will be consistent with adopted and approved *watershed* management plans or *flood* management plans as approved by the Maryland Department of the Environment in accordance with the *Flood* Hazard Management Act of 1976.

5.9 STORMWATER MANAGEMENT MEASURES

The ESD *planning techniques* and practices and structural *stormwater management* measures established in this Ordinance and the *De*sign *Manual* will be used, either alone or in combination in a *stormwater management plan*. The *applicant* will demonstrate that ESD has been implemented to the MEP before the use of a structural Best Management Plan is considered in developing the *stormwater management plan*.

1. *ENVIRONMENTAL SITE DE*SIGN TECHNIQUES AND PRACTICES

   (A) The following *planning techniques* will be applied according to the *De*sign *Manual* to satisfy the applicable minimum control requirements established in SECTION 5.8:

   i. Preserving and protecting natural resources

   ii. Conserving natural drainage patterns

   iii. Minimizing impervious areas

   iv. Reducing runoff volume

   v. Using *ESD* practices to maintain 100% of the annual p*redevelopment* groundwater *recharge volume*.

   (B) The following *ESD* practices will be designed according to the *De*sign *Manual* to satisfy the applicable minimum control requirements established in SECTION 5.8.

   i. Disconnection of rooftop runoff

   ii. Disconnection of non-rooftop runoff

   iii. Sheet flow to conservation areas

   iv. Rainwater harvesting, including rain barrels, rainwater tanks, and cisterns.

   v. Submerged gravel *wetlands*

   vi. Landscape *infiltration*

   vii. *Infiltration berm*s

   viii. Dry wells

   ix. Micro-bio*retention*

   x. Rain gardens

   xi. Swales

   xii. Enhanced Filters

   xiii. Any practice approved by the Maryland Department of Environment

(C) The use of *ESD planning techniques* and treatment practices specified in this Section will not conflict with existing State law or local ordinances, *regulations*, or policies. The County will modify ordinances and codes to eliminate any impediments to implementing *ESD* to the *MEP* according to the *De*sign *Manual*.

2. STRUCTURAL *STORMWATER MANAGEMENT* MEASURES

(A) The following structural *stormwater management* practices will be designed according to the *De*sign *Manual* to satisfy the applicable minimum control requirements established SECTION 5.8:

i. *Stormwater management* ponds

ii. *Stormwater management wetlands*

iii. *Stormwater management infiltration*

iv. *Stormwater management* filtering systems

v. *Stormwater management* open *channel* systems

(B) When selecting structural *stormwater management* practices, the *applicant* will consider the performance criteria specified in the *De*sign *Manual* with regard to general feasibility, conveyance, p*retreat*ment, treatment and geometry, environment and landscaping, and maintenance.

(C) Structural *stormwater management* practices will be selected to accommodate the unique hydrologic or geologic regions of the State.

3. ALTERNATIVE PRACTICES AND MEASURES. Alternative ESD *planning techniques* and treatment practices and structural *stormwater* measures may be used for new *development* runoff control if the practices and measures meet the performance criteria in the *De*sign *Manual* and all subsequent revisions and are approved by the Maryland Department of Environment. Practices used for *redevelopment* projects will be approved by the County.

4. RECORDATION OF PRACTICES AND MEASURES. ESD techniques and treatment practices and structural *stormwater management* measures used to satisfy the minimum requirements in SECTION 5.8 will be recorded in the land records of Kent County and remain unaltered by subsequent property owners. Prior approval from the County will be obtained before any *stormwater management* practice is altered.

5. MODIFICATION. For purposes of modifying the minimum control requirements or design criteria, the *applicant* will submit an analysis to the County of the impacts of *stormwater* flows downstream in the *watershed*. The analysis will include hydrologic and hydraulic calculations necessary to determine the impact of hydrographic timing modifications of the proposed *development* upon a dam, highway, *structure*, or natural point of restricted stream flow. The point of investigation will be established with the concurrence of the County downstream of the first downstream tributary whose *drainage area* equals or exceeds the contributing area to the project or *stormwater management* facility.

5.10 SPECIFIC DESIGN CRITERIA

The basic design criteria, methodologies, and construction specifications, subject to the approval of Kent County and the Maryland Department of Environment will be those of the *De*sign *Manual*.

5.11 STORMWATER MANAGEMENT PLANS - REVIEW AND APPROVAL

1. For any proposed *development* a phased *stormwater management plan* will be submitted to the County for review and approval. Unless otherwise determined by the County, plans will be submitted for the concept, *site* design, and final *stormwater management* construction. When deemed appropriate by the County due to minor cumulative impacts of the *development* and when the *applicant* has demonstrated that *ESD* standards have been met to the *MEP*, the *site* design and final *stormwater management* construction may be combined. *Site plan*s, *subdivision*s, and *building* permits with a total proposed *lot* coverage of 15% and total land disturbance less than 20,000 square feet may combine all review phases when the *applicant* has demonstrated that *ESD* standards have been met to the *MEP* using the Standard Plan. *Site*s Plans and *building* permits that meet the criteria outlined on the Standard *Stormwater* Plan may utilize the Standard *Stormwater Management Plan*.

2. Conceptual *stormwater management plan*s should be submitted with conceptual *site* or *subdivision* plans and will include sufficient information for an initial assessment of the proposed project and proposed *stormwater*. The concept review process will review at a conceptual level, the feasibility, design and environmental characteristics of the proposal with a goal to ensure that significant natural areas are protected and to determine if *stormwater management* can be provided according the *Stormwater Management* Measures identified in SECTION 5.9.

3. Following conceptual approval and where applicable in conjunction with the preliminary *site* or *subdivision* plan, the *applicant* will submit a *site development plan*. The *site development plan* will include detailed designs for *stormwater management* and *erosion and sediment control*. The *site development plan* process will review the plan to ensure that all options for implementing *ESD* have been exhausted and comments received during conceptual review have been incorporated into the *site development plan*.

4. Following *site development plan* approval and where applicable in conjunction with the final *site* or *subdivision* plan and the *sediment* and *erosion* control plan, the *applicant* will submit a *final stormwater management plan*. The *final stormwater management plan* will include *stormwater* construction drawings accompanied by a report that includes sufficient information to evaluate the effectiveness of the proposed runoff control design. The final *stormwater* plan process will review the plan and supporting documents for compliance with all applicable *regulations* and to ensure that when structural practices are used, all reasonable options for implementing *ESD* have been exhausted.

5. The County will perform a comprehensive review of the *stormwater management plan*s for each phase of the *site* design. Coordinated comments will be provided for each plan phase that reflects input from all appropriate agencies including but not limited to the

Kent *Soil* and Water Conservation District, the Department of Planning, Housing, and Zoning, and the Department of Public Works. All comments will be addressed and reflected in the next phase of project design.

6. The *stormwater management plan* will not be considered approved without the inclusion of the signature and date of the signature of the Kent County designee for approval of *stormwater management plan*s.

5.12 CONTENTS OF STORMWATER MANAGEMENT PLANS

1. *CONCEPT PLAN*. A concept *stormwater management plan* will include:
   - (A) Scale of 1 inch = 100 feet or greater detail
   - (B) Vicinity map with *site* location clearly marked
   - (C) North arrow
   - (D) Existing *natural features*, water and other sensitive resources
   - (E) *Topography*
   - (F) Natural drainage patterns
   - (G) Anticipated location of all proposed impervious areas, *building*s, *roadway*s, parking, sidewalks, utilities, and other *site* improvements
   - (H) Location of the proposed limit of disturbance, erodible *soil*s, *steep slopes*, and areas to be protected during construction
   - (I) Preliminary estimates of *stormwater management* requirements, the *selection* and location of *ESD* practices to be used, and the location of all points of discharge from the *site*
   - (J) A narrative that supports the concept design and describes how *ESD* will be implemented to the *MEP*
   - (K) Any other information required by the County
2. *SITE DEVELOPMENT PLAN*. A *site development plan* will include:
   - (A) Scale of 1 inch = 100 feet or greater detail
   - (B) Vicinity map with *site* location clearly marked
   - (C) North arrow
   - (D) All the information provided in the concept *stormwater management plan*
   - (E) Final layout
   - (F) Exact impervious area locations and acreages
   - (G) Proposed *topography*
   - (H) Delineated *drainage areas* at all points of discharge from the *site*

(I) *Stormwater* volume computations for *ESD* and quantity control

(J) Preliminary *erosion and sediment control plan* that contains the construction sequence, any phasing necessary to limit earth disturbances and impacts to natural resources and an overlay showing the types and locations of *ESD* and *erosion and sediment control* practices to be used

(K) A narrative that supports the *site development* design, describes how *ESD* will be used to meet the minimum control requirements, and justifies any proposed structural *stormwater management* measures

(L) Any other information required by the County

3. FINAL *STORMWATER* PLAN. A final *stormwater* plan will be of sufficient detail to permit all *stormwater management* approvals and permits to be issued and will include:

(A) *Final erosion and sediment control plan*s submitted according to COMAR 26.17.01.05

(B) Include construction drawings

(C) A report that includes sufficient information to evaluate the effectiveness of the proposed runoff and control design. The report will include but is not limited to the following:

i. Geotechnical investigations including *soil* maps, borings, *site* specific recommendations, and any additional information necessary for the final *stormwater management* design

ii. *Drainage area* maps depicting p*redevelopment* and post *development* runoff flow path segmentation and land use

iii. Hydrologic computations of the applicable *ESD* and unified sizing criteria according to the *De*sign *Manual* for all points of discharge from the *site*

iv. Hydraulic and structural computations for all *ESD* practices and structural *stormwater management* measures to be used

v. Narrative that supports the final *stormwater management* design

vi. Any other information required by the County

(D) Construction drawings that include but are not limited to the following:

i. Vicinity Map

ii. North arrow

iii. Existing and proposed *topography*

iv. Proposed *drainage areas* including areas necessary to determine downstream analysis for proposed *stormwater management* facilities

v. Proposed improvements including the location of *building*s and other *structures*, *impervious surfaces*, storm drainage facilities, and all *grading*

vi. Location of existing and proposed *structures* and utilities

vii. Existing and proposed *easements* and rights-of-ways

viii. Delineation of 100-year *floodplain*s and on*site tidal* and *non-tidal wetlands*, where applicable

ix. Structural and construction details including representative cross-sections for all components of the proposed drainage system or systems and *stormwater management* facilities

x. All necessary construction specifications

xi. h) Sequence of construction

xii. Data for total *site* area, disturbed area, new impervious areas, and total impervious areas

xiii. Table showing the *ESD* and unified sizing criteria volumes required in the *De*sign *Manual*

xiv. Table of materials to be used for *stormwater management* facility planting

xv. All *soil* boring logs and locations

xvi. Inspection and maintenance schedule

xvii. Owner's *certification* that all *stormwater management* construction will be done according to the approved *stormwater management plan*.

xviii. As-built *certification* signature block to be exe*cut*ed after project completion

xix. Any other information required by the County

(E) When the *stormwater management plan* involves direction of some or all runoff off the *site*, it is the responsibility of the *applicant* to obtain from the adjacent property owners any *easements* or other necessary property interests concerning flowage of water. Approval of a *stormwater management plan* does not create or affect any right to direct runoff onto adjacent property without the property owner's permission.

5.13 PREPARATION OF STORMWATER MANAGEMENT PLANS

1. *Stormwater management plan*s will be prepared by a professional *engineer*, professional *land surveyor*, or landscape *architect* licensed in the State of Maryland.

2. If a *stormwater BMP* requires either a dam safety permit from the Maryland Department of the Environment or small pond approval by the Kent *Soil* and Water Conservation District, the *stormwater management plan* will be prepared by a professional *engineer* licensed in Maryland.

5.14 PERMITS

A *grading* or *building* permit may not be issued for any parcel or *lot* unless final *erosion and sediment control* and *stormwater management plan* has been approved County as meeting all the requirements of this Ordinance and the *De*sign *Manual*. Where appropriate, a *building* permit may not be issued without:

1. Recorded *easements* for the *stormwater management* facility and *easements* to provide adequate access for inspection and maintenance from a public *right of way*.
2. A recorded *stormwater management maintenance agreement* as described in SECTION 5.22.
3. A performance bond, an irrevocable letter of credit or other surety; as described in this Ordinance.
4. Permission from adjacent property owners, as may be required.

5.15 PERMIT AND REVIEW FEES

1. The County Commissioners will establish a schedule of fees and collection procedure for *stormwater management* review and permits. Permits fees will be based on the relative complexity of the project and may cover the cost of plan review, administration and management of the permit process, and inspection of all projects subject to this Ordinance.
2. No permits will be issued, nor action taken on amendments or other matters pertaining to this Ordinance, until the fee has been paid in full.

5.16 SUSPENSION AND REVOCATION

Any *grading* or *building* permit issued by Kent County may be suspended or revoked after written notice is given to the *permittee* for any of the following reasons:

1. Any *violation*(s) of the conditions of the *stormwater management plan* approval.
2. Changes in *site* runoff characteristics upon which an approval or *waiver* was granted.
3. Construction is not in accordance with the approved plans.
4. Non-compliance with correction notice(s) or stop-work order(s) issued for the construction of the *stormwater management* practice.
5. An immediate danger exists in a downstream area in the opinion of the County.

5.17 CONDITIONS FOR APPROVAL

In granting the plan approval, the County may impose such conditions thereto as may be deemed necessary to ensure compliance with the provisions of this Ordinance and the preservation of the public health and safety.

5.18 PERFORMANCE BONDS

The *developer* is required to obtain a surety, irrevocable letter of credit, or other means of security acceptable to Kent County and payable to the County Commissioners of Kent County, prior to the issuance of any *building* and/or *grading* permit for construction of a *development* requiring *stormwater management*. The amount of the security will not be less than 125% of the total estimated construction cost of all *stormwater management* facilities and practices. The security so required in this Section will include provisions relative to forfeiture for failure to complete work specified in the approved *stormwater management plan*, compliance with all the provisions of this Section and other applicable laws and *regulations*, and any time limitations. The security will not be fully released without a final inspection of the completed work by Kent County, submission of "as-built" plans, and *certification* of completion by the County, that all *stormwater management* facilities and practices as being in compliance with the approved plan and the provisions of this Section. A provision may be made for partial release of the amount of the bond pro-rata upon completion and acceptance of the various stages of *development* as specifically delineated, described, and scheduled on the required plans and specifications. The provision for partial release of the surety will be specified by Kent County in writing prior to *stormwater management plan* approval. The *developer* will notify the County upon completion of each stage that is ready for inspection.

5.19 INSPECTIONS

1. INSPECTION SCHEDULE AND REPORTS

   (A) The owner/*developer* will notify the County at least 48 hours before beginning any work in conjunction with *site development*, the *stormwater management plan* and completion of construction.

   (B) Regular inspections will be made and documented for each *ESD* planning technique and practice at the stages of construction specified in the *De*sign *Manual* by Kent County, its authorized representative, or a certified *engineer* license in the State of Maryland. At a minimum, all *ESD* and other nonstructural practices will be inspected upon completion of final *grading*, the establishment of permanent *stabilization*, and before issuance of use and occupancy approval.

   (C) Written reports will be prepared for every inspection and will include:

      i. The date and location of the inspection

      ii. Whether construction was in compliance with the approved *stormwater management plan*

      iii. Any variations from the approved construction specifications

      iv. Any *violation*s that exist

(D) The owner/*developer* and *on-site person*nel will be notified in writing when *violation*s are observed. Written notification will describe the nature of the *violation* and the required corrective action.

(E) Work will not proceed until the work previously complete is approved by the appropriate inspector and the inspector furnishes the *developer* with the results of the inspection reports. The inspector should provide copies of the inspection report to the *developer* as soon as possible after completion of each required inspection.

2. INSPECTION REQUIREMENTS DURING CONSTRUCTION

At a minimum, regular inspections will be made and documented at the following specific stages of construction:

(A) Ponds:

i. Upon completion of *excavation* to sub-foundation and when required, installation of structural supports or reinforcement for *structures* including but not limited to: (1) Core trenches for structural embankments; (2) Inlet and outlet *structures*, anti-seep collars or diaphragms, and watertight connectors; (3) Trenches for enclosed storm drainage facilities

ii. During placement of structural fill, concrete, and installation of piping and catch basins

iii. During backfill of foundations and trenches

iv. During embankment construction

v. Upon completion of final *grading*, establishment ~~o~~ f permanent *stabilization*

(B) *Wetlands* - At all stages specified for pond construction, during and after *wetlands* reservoir planting, and during the second *growing season* to verify a vegetation survival rate of at least 50%.

(C) *Infiltration* trenches:

i. During *excavation* to sub*grade*

ii. During placement and backfill of under drain systems and observation wells

iii. During placement of geotextiles and all filter media

iv. During construction of appurtenant conveyance systems such as *diversion structures*, pre-filters and filters, inlets, outlets, and flow distribution *structures*

v. Upon completion of final *grading* and establishment of permanent *stabilization*

(D) *Infiltration* basins - At all stages specified for pond construction, during placement of and backfill of under drainage system.

(E) Filtering Systems:

i. During *excavation* to sub*grade*

ii. During placement and backfill of under drain systems

iii. During placement of geotextiles and all filter media

iv. During construction of appurtenant conveyance systems such as *diversion structures*, pre-filters, and filters, inlets, outlets, and flow distribution *structures*

v. Upon completion of final *grading* and establishment of permanent *stabilization*

(F) Open *Channel* Systems:

i. During *excavation* to sub*grade*

ii. During placement and backfill of under drain systems for dry swales

iii. During installation of diaphragms, check dams, or weirs

iv. Upon completion of final *grading* and establishment of permanent *stabilization*

(G) *Environmental Site De*sign Practices – At the stage of construction specified in the *De*sign *Manual* for each *ESD* planning technique and practice and at a minimum upon completion of final *grading*, the establishment of permanent *stabilization* and before issuance of use and occupancy approval.

5.20 AS-BUILT PLANS

Once construction is complete, "as-built" plan *certification* will be submitted by a professional *engineer* or professional *land surveyor* licensed in the State of Maryland to ensure that ESD techniques, treatment practices, and structural *stormwater management* practices and conveyance systems comply with the specifications contained in the approved plan. The "as-built" plan will compare the approved plan with what was constructed. As-built plans shall certify that all constructed elements conform to the dimensions, intent, and function of the approved plan, denoting any deviations in constructed elements and/or existing conditions of the property. At a minimum, "as-built" *certification* will include a set of drawings comparing the approved plan with what was constructed. Other information will be submitted as required by the County.

The Department may also engage third-party professionals to review said drawings to ensure compliance with the regulations in this Section, the Land Use Ordinance in general, and any applicable federal, State, or other laws, rules, and regulations. The costs for any third-party professionals will be paid by the applicant or property owner of record of the subject property.

5.21 NOTICE TO THE MARYLAND DEPARTMENT OF THE ENVIRONMENT

Within 45 days of construction, the County will submit a notice of construction completion to the Maryland Department of the Environment on a form supplied by the Maryland Department of the Environment for each structural *stormwater management* practice. The type, number, total *drainage area*, and total impervious area treated by all ESD techniques and practices will be reported to the Maryland Department of the Environment. A notice of construction completion will be sent to the Kent *Soil* and Water Conservation District when *BMPs* requiring District approval are constructed.

5.22 MAINTENANCE

1. Maintenance Inspection

   (A) The County will ensure that preventive maintenance is performed by inspecting all *ESD* treatment systems and structural *stormwater management* measures. Inspections will occur during the first year of operation and then at least once every three years thereafter. A *maintenance agreement* between the property owner and Kent County will be exe*cut*ed for privately owned *ESD* treatment practices and structural *stormwater management* measures as described in this Section.

   (B) Inspection reports will be maintained by the County for all *ESD* treatment systems and structural *stormwater management* measures. Inspection reports will include the following:

      i. Date of inspections and names of inspectors

      ii. An assessment of the quality of the *stormwater management system* related to *ESD* treatment practice efficiency and the control of runoff to the *MEP*

      iii. The condition of: (1) vegetation or filter media; (2) fences or other safety devices; (3) spillways, valves, or other control *structures*; (4) *slope*s, embankments, and safety benches; (5) reservoir or treatment areas; (6) inlet and outlet *channel*s or *structures*; (7) underground drainage; (8) *sediment* and debris accumulation in storage or forebay areas; (9) any nonstructural practice to the extent possible; (10) any other item that could affect the proper function of the *stormwater management system*

      iv. Description of needed maintenance

   (C) After notification is provided to the owner of the inspection results, the owner will have 30 days, or other time frame to which the County, and the owner mutually agree to correct the deficiencies. The County will then conduct an inspection to ensure completion of the repairs.

   (D) Failure to complete the repairs or repairs found to be improperly completed will be considered *violation*s and subject to the provisions of this Ordinance.

(E) If, after an inspection by the County, the condition of a *stormwater management* facility presents an immediate danger to the public health or safety, because of an unsafe condition or improper construction, or poor maintenance, the County, will take such action as may be necessary to protect the public and make the facility safe. Any cost incurred by the County will be assessed against the owner(s).

2. Maintenance Agreement

(A) Prior to the issuance of any *building* permit for which *stormwater management* is required, the County will require the *applicant* or owner to exe*cut*e an inspection and *maintenance agreement* binding on all subsequent owners of land served by the private *stormwater management* facility. Such agreement will provide for access to the facility at reasonable times for regular inspection by the County, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any provisions established.

(B) The agreement will be recorded by the *applicant* and/or owner with the Kent County Clerk of Court. A copy of the recorded agreement will be returned to the Department.

(C) The agreement will also provide that if, after notice by the County, to correct a *violation* requiring maintenance work, satisfactory corrections are not made by the owner(s) within a reasonable period of time (thirty (30) days maximum), the County, may perform all necessary work to place the facility in proper working condition. The owner(s) of the facility will be assessed the cost of the work and any penalties, and there will be a lien on the property, which may be placed on the tax bill and collected as ordinary taxes by Kent County.

3. Maintenance Responsibility

(A) The owner of the property on which work has been done pursuant to this Ordinance for private *stormwater management* facilities, or any other *person* or agent in control of such property, will maintain in good condition and promptly repair and restore all *ESD* practices, state *grade* surfaces, walls, drains, dams and *structures*, vegetation, *erosion and sediment control* measures, and other protective devices in perpetuity. Such repairs or restoration and maintenance will be in accordance with previously approved or newly submitted plans.

(B) A maintenance schedule will be developed for the life of any *stormwater management* facility or system of *ESD* practices and will state the maintenance to be completed, the time period for completion and who will perform the maintenance. This maintenance schedule will be on the *stormwater management plan*.

~~5.23 APPEALS~~

~~Any person aggrieved by the action of any official charged with the enforcement of this Ordinance as the result of the disapproval of a properly filed application for a permit, issuance of a written notice of violation or an alleged failure to properly enforce the Ordinance in regard to a specific application will have the right to appeal the action to the Kent County Board of Appeals. The appeal will be filed, in writing, within thirty (30) days of the date of official transmittal of the final decision or determination to the applicant and will state clearly the grounds on which the appeal is based.~~

SECTION 6 FLOODPLAIN MANAGEMENT

6.1 STATEMENT OF INTENT

The purpose of the *floodplain* management Section is to provide a unified, comprehensive approach to *floodplain* management which addresses the natural *floodplain* functions and encourages the use of appropriate construction practices that prevent or minimize *flood* damage. In combination with the *floodplain* design standards found in Article II of this Ordinance, these *regulations* address the requirements of the Federal and State programs concerned with *floodplain* management; namely: the National *Flood* Insurance Program (44 CFR 59-79), the Maryland *Waterway* Construction Permit Program for *Non-tidal Floodplains*, the Maryland Tidal and *Non-tidal Wetlands* Permit Programs, the U.S. Army Corps of *Engineers*' Section 10 and 404 Permit Programs, and the Maryland Coastal Zone Management Program.

6.2 ESTABLISHMENT OF FLOODPLAIN DISTRICT

1. Identification of *flood* zones. The regulatory *floodplain* will be those areas of Kent County, Maryland, which are subject to the *1-percent annual chance (100-year) flood* as delineated on the most recent revision of the community's *Flood Insurance Rate Maps* (*FIRMs*) and *Flood Insurance Study (FIS)* for Kent County, Maryland and incorporated areas dated June 9, 2014 prepared by the Federal Emergency Management Agency (FEMA). Areas along non-tidal streams that do not have FEMA delineations as described above are subject to regulation by this Ordinance and the State.

2. The *Flood Insurance Rate Maps* (*FIRMs*) and *Flood Insurance Studies (FIS)*, and all notations, dimensions, references, and symbols thereon, will be considered a part of this Ordinance and will be filed as a part of this Ordinance with the Department. Copies of the *FIRMs* and *FIS* will be available for inspection in the Department.

3. The *floodplain* will be comprised of the following *subdivision*s:

   (A) *Non-tidal floodplains*: These consist of the *floodway* and *floodway fringe*. *Non-tidal floodplains* may have detailed *engineer*ing study data, profiles, and water surface elevations or may have approximate delineations only. For *development* in *Special Flood Hazard Areas* of non-tidal waters of the State with *Base Flood Elevations (BFE)* but no designated *floodway*s, the cumulative effect of all past and projected *development* will not increase the BFE by more than 1 foot.

   (B) Tidal *floodplains*: Those areas subject to coastal or tidal *flood*ing by the *1-percent annual chance (100-year) flood*. These areas are *flood*ed due to high tides, hurricanes, tropical storms and steady on-shore winds.

   (C) *Coastal high hazard areas*: Those areas subject to coastal or tidal *flood*ing with the addition of high velocity water and wind action. These areas are designated as V-Zones on the *Flood Insurance Rate Maps*.

(D) Shallow *Flood* Zones (Zone AO): Those areas of shallow *flood*ing, with *flood* depths of 1 to 3 feet (usually areas of ponding or sheet flow on sloping terrain), with or without BFEs of designated *flood* depths.

4. *Floodplain* Zone Determination.

(A) The Planning Director or Planning Director's designee will determine the *floodplain* zone in which the *development* activity is proposed using the *FIRMs* and *FIS* if applicable. Without prior approval from FEMA, the community will use no other data to enforce *floodplain* management *regulations*. Where map boundaries and elevations disagree, elevations prevail, with approval from FEMA through the issuance of a Letter of Map Change or Amendment.

(B) The Planning Director of the Planning Director's designee will submit to FEMA, or require *applicant*s to submit to FEMA, data and information necessary to maintain *FIRM*s, including hydrologic and hydraulic *engineer*ing analyses prepared by or for Kent County, within six months after such data and information becomes available if the analyses indicate changes in *Base Flood Elevations* or boundaries.

5. Approximate *Floodplain* Determination. For *development* proposed in the approximate *floodplain* (no water surface elevations or *floodway* data provided), the *applicant* will use the best available information to determine the elevation of the *1-percent annual chance (100-year) flood* and the extent of the *floodway*, and will delineate these on the *site plan* submitted for approval. For new *subdivision*s, the *applicant* will have the *1-percent annual chance (100-year) flood* elevations certified by a registered professional *engineer* based on hydrologic and hydraulic analyses which include a *floodway* analysis.

6. Unmapped Streams. In cases in which *development* is proposed in the vicinity of unmapped streams which have no delineated *1-percent annual chance (100-year) floodplain*, a 100-foot *flood* protection *setback* from the banks of the stream will be used. State permits may be required and *applicant*s are advised to seek a determination from the State.

6.3 DEVELOPMENT REGULATIONS

1. **General**. In order to prevent excessive *flood* damage, to determine whether proposed activities will be reasonably safe from *flood*ing, to implement construction methods and practices which minimize *flood* damage, and to allow for the protection of the natural and beneficial *floodplain* functions, all *development*, *new construction*, and *substantial improvements* to existing *structures* in all *floodplain* zones will comply with the requirements of this Section and those found in Article II. In the event that a *structure* is in more than one (1) zone, the more stringent provision will apply to the entire *structure*.

2. ***Watercourses***. In all *floodplain* zones, any *development* which proposes to alter a *watercourse* will obtain a *variance*. All conditions for encroachment in the *floodway* will

be met and *adverse impacts* to aquatic resources will be minimized. Adjacent communities and property owners, the U.S. Army Corps of *Engineer*s, FEMA, and MDE will be notified by the *applicant* prior to any modification of a *watercourse*. Any activity falling within the 100-year non-tidal *floodplain* may require a *waterway* construction permit from the Maryland Department of the Environment.

3. ***Non-tidal*** **and Tidal** ***Floodplains*** (Zones A, AE, and A1-30)

(A) General *development* will not occur in the *floodplain* where alternative locations exist. Before a permit is issued, the *applicant* will demonstrate that new *structures* cannot be located out of the *floodplain* and that encroachments onto the *floodplain* are minimized

(B) Elevation Requirements, Residential *Structures*.

i. *Basements* are prohibited. Enclosures below the *Flood Protection Elevation* (~~two feet~~three feet above the elevation of the *1-percent annual chance (100-year) flood*) will be constructed with water equalizing vents to meet the specification found in SECTION 6.4.

ii. The elevation of the *lowest floor* of all new or substantially improved *structures*, including *manufactured homes*, will be elevated to or above the *Flood Protection Elevation* (~~two feet~~three feet above the elevation of the *1-percent annual chance (100-year) flood*). In *non-tidal floodplains*, horizontal expansions which increase the footprint and that are less than substantial will also have the *lowest floor* elevated to or above the *Flood Protection Elevation*. A registered surveyor or professional *engineer* will certify elevation of the *lowest floor* on the *Elevation Certificate* after the *lowest floor* is in place. An elevation certificate should be submitted at the time of finished construction prior to any certificate of occupancy being issued.

iii. Improvements in tidal *floodplains* which are less than substantial will be constructed to minimize damage during *flood*ing or will be elevated to the greatest extent possible.

(C) Elevation Requirements, Non-residential *Structures*.

i. All new or substantially improved non-residential *structures* will either be elevated as required for residential *structures* or will be *flood*proofed. *Basements* are prohibited. Enclosures below the *Flood Protection Elevation* (~~two feet~~three feet above the elevation of the *1-percent annual chance (100-year) flood*) will be constructed with water equalizing vents to meet the specification found in SECTION 6.4.

ii. Horizontal expansions in the *non-tidal floodplain* which increase the footprint and that are less than substantial will also have the *lowest floor*

elevated to or above the *Flood Protection Elevation* (~~two feet~~three feet above the elevation of the *1-percent annual chance / 100-year flood*).

iii. In *non-tidal floodplains*, *basements* and *floodproofing* are prohibited.

iv. *Floodproofing* designs will insure that areas below the *Flood Protection Elevation* (~~two feet~~three feet above the elevation of the *1-percent annual chance (100-year) flood*) are watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

v. When the *floodproofing* option is chosen, a *Floodproofing Certificate* will be completed by a registered professional *engineer* or *architect*. If a *Floodproofing Certificate* is not provided, then an *Elevation Certificate* will be completed by a registered *surveyor* or professional *engineer*.

(D) Fill

i. An *applicant* will demonstrate that the *fill* will not affect the *flood* storage capacity or increase *flood*ing onto neighboring properties.

ii. In the event that *structures* on adjacent properties are known or determined to be subject to *flood*ing under current conditions, the Planning Director or the Planning Director's designee may require submission of hydrologic and hydraulic analysis of the effects of the proposed *fill*. All *fill* will meet the standards set forth in this Ordinance.

(E) *Subdivision*s

i. *Non-tidal floodplains*. To avoid *flood* damage and to protect the natural and beneficial *floodplain* functions, new *flood*-prone *building sites* will not be permitted in *non-tidal floodplains*. Each new *lot* will have a suitable *building site* outside the *floodplain*. Whenever possible, *development* should be located outside the *floodplain*. An access road, constructed above the elevation of the *1-percent annual chance (100-year) floodplain* will be provided.

ii. The *applicant* will submit a plan which demonstrates that all *building sites* located outside of the 100- year *floodplain*, and that the *floodplain* areas are protected in their natural state.

iii. Tidal *floodplain*s. New *subdivision*s in tidal *floodplain*s will be designed to develop land outside the *floodplain* whenever possible. An access road constructed above the elevation of the *1-percent annual chance (100-year) flood* will be provided whenever possible.

iv. *Subdivision* proposals and *development* proposals will minimize *flood* damage and have adequate drainage paths provided to reduce exposure

to *flood* hazards and to guide *flood*waters around and away from proposed *structure*s.

4. ***Floodway***

(A) *Floodways* will be preserved to carry the discharge of the *1-percent annual chance (100-year) flood*. *Floodways* present increased risks to human life and property because of their relatively faster and deeper flowing waters. In a regulatory *floodway*, any encroachment is prohibited which would cause any increase in the *base flood* level unless hydrologic and hydraulic analyses prove that the proposed encroachment would not increase *flood* levels during the *base flood* discharge.

(B) *Fill* will not be permitted.

(C) New *structures* will not be permitted.

(D) New *development* will not be permitted where alternatives exist elsewhere or if any increase in the water surface elevations of the *1-percent annual chance (100-year) flood* will occur.

(E) *Development* in the *floodway* which may result in any increase in water surface elevations or change to the *floodway* will be submitted to FEMA for a conditional letter of map revision. Hydrologic and hydraulic analysis on existing *floodway* models and performed in accordance with standard *engineer*ing practices and certified by a registered professional *engineer* will be submitted. Failure to receive this conditional letter of map revision will be grounds for denial of a permit.

(F) Alternative analysis requirement. An alternative analysis will be submitted to the Department before a permit will be issued. The alternative analysis will demonstrate that:

i. No reasonable alternative exists outside the *floodway*.

ii. Encroachment in the *floodway* is the minimum necessary.

iii. The *development* will withstand the *1-percent annual chance (100-year) flood* without significant damage.

iv. The *development* will not increase downstream or upstream *flood*ing or *erosion*.

(G) Existing *structures*. Existing *structures* in the *floodway* will be substantially improved only by *variance* and if they can be brought into conformance with this Ordinance without increasing the footprint. Minor additions (less than substantial) will be elevated to the *Flood Protection Elevation* (~~two feet~~three feet above the *flood* elevation) on pilings or columns. In the event of *substantial damage* or replacement, the *applicant* will submit an alternative analysis to determine if the *structure* can be relocated to a less hazardous *site*. Where replacement *structures* cannot be relocated, they will be limited to the

footprint of the previous *structure* and will comply with the elevation requirements of this Ordinance. Permits for incremental improvements and additions will be tracked by the Department, and if cumulative improvements constitute *substantial improvement*, no further permits may be issued unless the *structure* conforms to the provisions of this Ordinance.

(H) Maintenance of natural *channel*. The natural *watercourse* will be maintained for protection of aquatic resources. A *variance* is required for *alteration* of *watercourses*. Any *variance* issued will assure that the conditions for encroachment in the *floodway* are met, *adverse impacts* to aquatic resources are minimized, and the public good outweighs the *adverse impacts*. The provisions of SECTION 6.3.2 pertaining to altering a *watercourse* will be met.

(I) Obstructions. *Structures* or *fill* which may impede, retard, or change the direction of the flow of *flood*waters, or any materials that may be carried downstream to cause damage will not be placed in the *floodway*. Fences, except two wire fences, will not be placed in the *floodway*.

(J) Construction of *roads*, bridges, culverts, dams and in-stream ponds. Construction of *roads*, bridges, culverts, dams and in-stream ponds in non-tidal waters of the State will not be approved unless they comply with this Section and the *applicant* has received a permit from MDE.

5. ***Coastal high hazard areas*** (V-Zones and *Coastal A Zone*s)

(A) New *development* will not be permitted in the Coastal High Hazard Area where the action of wind and waves, in addition to tidal *flood*ing, is a factor unless the *applicant* demonstrates that:

i. No reasonable alternative exists outside the Coastal High Hazard Area;

ii. The encroachment into the Coastal High Hazard Area is the minimum necessary;

iii. The *development* will withstand the 100-year wind and water loads without damage;

iv. The *development* will not create an additional hazard to existing *structures*; and

v. Any natural dune system will not be disturbed.

(B) New and substantially improved *structures*.

i. All new or substantially improved *structures* will be elevated on adequately anchored pilings or columns to resist f*lot*ation, collapse, and lateral movement due to the effects of the one-hundred-year water loads and wind loads acting simultaneously on all *building* components. Water loading values will be those associated with the *base flood*, and wind loading values will be those required by local *building* standards. The bottom of the lowest horizontal structural member supporting the *lowest*

floor will be elevated to ~~two feet~~three feet above the *Base Flood Elevation*. A registered professional *engineer* or *architect* will certify that *building* designs, elevations and anchoring have been designed to withstand the water and wind loads. The use of slabs or other at *grade* foundation systems will be prohibited.

ii. The space below the *Flood Protection Elevation* (~~two feet~~three feet above the elevation of the *1-percent annual chance (100-year) flood*) will be free of obstruction or may be enclosed with open wood lattice, insert *screen*ing or *breakaway walls*.

iii. *Breakaway walls* will be designed to collapse under a wind and water load less than would occur during the *1-percent annual chance (100-year) flood*, and have a design safe loading resistance of not less than ten pounds and no more than twenty pounds (20) per square foot. Glass walls will not be considered *breakaway walls*. Enclosed areas below the *Flood Protection Elevation* will be used solely for the parking of vehicles, limited storage, and *building* access. If such areas are enclosed, a *Declaration of Land Restrictions* will be signed. Electrical, mechanical, and plumbing system components will not be mounted on or penetrate through walls that are designed to break away under *flood* loads.

(C) *Manufactured homes* and *recreational vehicles*. *Manufactured homes* will not be permitted in the Coastal High Hazard Area. *Recreational vehicles* will meet the requirements of SECTION 6.55

(D) *Fill* and *excavation*. *Fill* will not be used for the structural support of *buildings*. *Excavation* under existing *structures* or *excavation* within any enclosed space will be prohibited. Minor *grading*, and the placement of minor quantities of fill, will be permitted for landscaping and for drainage purposes under and around *building*s and for support of parking slabs, pool decks, patios, and walkways.

(E) Location of *structures*. *New construction* within the reach of mean high tide is prohibited. *Alteration* of the dune system is prohibited.

(F) Existing *structures*. Existing *structures* will not be substantially improved or expanded vertically or horizontally unless the entire foundation system is certified by a professional *engineer* or *architect* as capable of supporting the existing *building* and the proposed improvement during the *1-percent annual chance (100-year) flood* as specified in SECTION 6.3.56.55. Permits for incremental improvements will be tracked, and when cumulative improvements constitute *substantial improvement*, the entire *building* will comply with SECTION 6.3.56.55.

(G) Decks and patios. In addition to the requirements of the *building* code or the residential code, decks and patios will be located, designed, and constructed in compliance with the following:

i. A deck that is structurally attached to a *building* or *structure* will have the bottom of the lowest horizontal structural member at or above the *Flood Protection Elevation* and any supporting members that extend below the design *flood* elevation will comply with the foundation requirements that apply to the *building* or *structure*, which will be designed to accommodate any increased loads resulting from the attached deck.

ii. A deck or patio that is located below the *Flood Protection Elevation* (three feet above the elevation of the *1-percent annual chance (100-year) flood*).will be structurally independent from *structure*s and their foundation systems and will be designed and constructed either to remain intact and in place during *base flood* conditions or to break apart into small pieces that will not cause structural damage to adjacent elevated *structure*s.

iii. A deck or patio that has a vertical thickness of more than 12 inches or that is constructed with more than the minimum amount of fill that is necessary for *site* drainage will not be approved unless an analysis demonstrates no harmful *diversion* of *flood*waters or wave run-up and wave reflection that would increase damage to adjacent elevated *structure*s.

iv. A deck or patio that has a vertical thickness of 12 inches or less and that is at natural *grade* or on fill material that is similar to and compatible with local *soil*s and is the minimum amount necessary for *site* drainage may be approved without requiring analysis of the impact on *diversion* of *flood*waters or wave run-up and wave reflection.

6. **Areas of shallow *flood*ing** (Zone AO). In areas of shallow *flood*ing (Zone AO), have the *lowest floor* (including *basement*) elevated at least as high above the *highest adjacent grade* as the depth number specified in feet on the *FIRM* plus ~~two (2)~~ three (3) feet, or at least four (4) feet if a depth number is not specified; and:

(A) Have enclosures below the *lowest floor*, if any, that comply with the requirements of Section 10.4; or

(B) If proposed to be elevated on fill, meet the limitations on fill in Section 10.3.3.d

7. ***Critical and Essential Facilities***. *Critical and essential facilities* will:

(A) Not be located in *coastal high hazard areas* (V Zones), *Coastal A Zone*s or *floodway*s.

(B) If located in *flood* hazard areas other than *coastal high hazard areas*, *Coastal A Zone*s and *floodway*s, be elevated to the higher of the elevation required by these *regulations* plus one (1) foot, the elevation required by the *building* code, or the elevation of the 0.2 percent chance (500-year) *flood*.

6.4 DESIGN STANDARDS

1. **Placement of *Buildings* and Materials** – In general, *buildings* and *accessory structures* should be located entirely out of the *floodplain*, out of the *flood* protection *setback*, or on land that is least susceptible to *flood*ing. All *structures* permitted in the *floodplain* will be oriented so as to offer the least resistance to the flow of *flood*waters. Materials which are buoyant, flammable, explosive, hazardous to health, or which at times of *flood*ing may be injurious to human, animal, or plant life, will not be stored below the *Flood Protection Elevation* (~~two feet~~three feet above the elevation of the *1-percent annual chance (100-year) flood*).

2. **Enclosures below *Lowest Floor*** – *Buildings* which have been elevated and have fully enclosed areas below the *Flood Protection Elevation* (~~two feet~~three feet above the elevation of the *1-percent annual chance (100-year) flood*), as well as garages and *accessory structures* which are not elevated will be constructed with water equalizing vents which meet or exceed the following standards:

   (A) A minimum of two (2) openings on different walls having a total net area of not less than one square (1) inch for every square foot of enclosed area subject to *flood*ing or an *engineer*ed opening certified by a licensed professional;

   (B) The bottom of all openings will be no higher than one foot above *grade*; and

   (C) Openings may be equipped with *screen*s, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of *flood*waters to equalize hydrostatic forces on the walls.

   (D) Fully enclosed areas below the *Flood Protection Elevation* (~~two feet~~three feet above the elevation of the *1-percent annual chance (100-year) flood*) will be used solely for parking of vehicles, access to the *building*, or limited storage. If such areas are enclosed, a *Declaration of Land Restriction* will be signed by the *applicant*.

   (E) In *coastal high hazard areas*, enclosures below the *Flood Protection Elevation* (~~two feet~~three feet above the elevation of the *1-percent annual chance (100-year) flood*) will comply with the provisions of SECTION 6.3 and 6.35.

3. ***Manufactured Homes* and *Manufactured Home* Parks** – New *manufactured homes* and *manufactured home* parks will be prohibited in the Coastal High Hazard Area and in the *floodway*. In other *floodplain* zones, all new, replacement, or substantially improved *manufactured homes*, whether in a *manufactured home* park or not, will comply with SECTION 6.3.

   (A) Methods of anchoring will include the use of over the top and frame ties to ground anchors. Pilings or columns will be used to maintain the storage capacity of the *floodplain*. Concrete block support pilings will be reinforced by placing reinforcing bars inside and extending them into the footing, filling the hollows with cement, and using mortar to cement the blocks together. FEMA

Publication 85, "Protecting *Manufactured Home*s from *Flood*s and Other Hazards," should be consulted for specific recommendations.

(B) *Manufactured homes* repaired or replaced due to substantial *flood*ing or other causes will be considered new *structures* and will fully comply with SECTION 6.3.

(C) Owners of *manufactured home* parks or *subdivision*s that are partially or fully within the *floodplain* will file an evacuation plan with the Director of Emergency Management. New *manufactured home* parks will provide an access road elevated to the *Flood Protection Elevation* (~~two feet~~three feet above the elevation of the *1-percent annual chance (100-year) flood*).

4. **Anchoring** – All *structures* will be *firm*ly anchored in accordance with acceptable *engineer*ing practices to prevent f*lot*ation, collapse, and lateral movement during *flood*ing. All air ducts, large pipes and storage tanks located below the *Flood Protection Elevation* (~~two feet~~three feet above the elevation of the *1-percent annual chance (100-year) flood*) will be *firm*ly anchored to resist f*lot*ation.

5. **Utilities**

(A) Electric. Distribution panel boxes will be installed at least two (2) feet above the *Flood Protection Elevation*. All outlets and electrical installations, such as heat pumps, air conditioners, water heaters, furnaces, generators, and distribution systems will be installed at or above the *Flood Protection Elevation* (~~two feet~~three feet above the elevation of the *1-percent annual chance (100-year) flood*).

i. Plumbing. Toilets, sinks, showers, water heaters, pressure tanks, furnaces, and other permanent plumbing installations will be installed at or above the *Flood Protection Elevation* (~~two feet~~three feet above the elevation of the *1-percent annual chance (100-year) flood*).

ii. Gas and liquid storage. Meters and appliances will be installed at or above the *Flood Protection Elevation* (~~two feet~~three feet above the elevation of the *1-percent annual chance (100-year) flood*): (1) Underground tanks in *flood* hazard areas will be anchored to prevent f*lot*ation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the *base flood*. (2) Above-ground tanks in *flood* hazard areas will be anchored to a supporting *structure* and elevated to or above the *Base Flood Elevation*, or will be anchored or otherwise designed and constructed to prevent f*lot*ation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the *base flood*. (3) In *flood* hazard areas, tank inlets, fill openings, outlets and vents will be: (3a) At or above the *Base Flood Elevation* or fitted with covers designed to prevent the inflow of *flood*water or outflow of the contents of the tanks during conditions of the *base flood*; and (3b) Anchored to prevent

lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the *base flood*.

(B) Water supply and sanitary facilities. Water supply distribution and sanitary disposal collection systems will be designed to minimize or eliminate the *infiltration* and to avoid impairment or contamination of *flood*waters into the systems or discharges from the systems into *flood*waters and will be located and constructed so as to minimize or eliminate *flood* damage. *On-site* sewage disposal systems will meet these same standards.

(C) Other service facilities. In addition to utilities noted in this Section, all other service facilities will be designed and/or located to prevent water entry or accumulation.

6.5 ACCESSORY STRUCTURES

1. Where feasible, *accessory structures* and garages will be located out of the *floodplain* or elevated to or above the *Flood Protection Elevation* (~~two feet~~three feet above the elevation of the *1-percent annual chance (100-year) flood*). When these measures are not feasible the following will apply:

   (A) The floor of the *structure* will be at or above *grade*;

   (B) The *structures* will be located, oriented, and constructed so as to minimize *flood* damage;

   (C) The *structure* will be *firm*ly anchored to prevent f*lot*ation; and

   (D) The structure will be constructed with *flood* damage-resistant materials below the *Base Flood Elevation*.

2. *Accessory structures* or detached garages, that do not exceed six hundred (600) square feet in size, and used solely for the parking of vehicles and limited storage may be constructed below the *Flood Protection Elevation* (~~two feet~~three feet above the elevation of the *1-percent annual chance (100-year) flood)* under the conditions of SECTION 6.8. No machinery, electric devices, or appliances will be located below the *Flood Protection Elevation* (~~two feet~~three feet above the elevation of the *1-percent annual chance (100-year) flood*). All interior walls, ceilings and floors located below the *Flood Protection Elevation* (~~two feet~~three feet above the elevation of the *1-percent annual chance (100-year) flood*) will remain unfinished. A *Declaration of Land Restriction* will be signed by the property owner and recorded with the Kent County Clerk of Court. A copy of the recorded document will be attached to the *building* permit.

3. An *accessory structure* or garage larger than six hundred (600) square feet in size will be elevated to the proper *Flood Protection Elevation* (~~two feet~~three feet above the elevation of the *1-percent annual chance (100-year) floodplain*).

4. Attached Garages

(A) Attached garages, used solely for the parking of vehicles, storage or *building* access and no more than six hundred (600) square feet in size, are exempt from the elevation requirement but will be elevated to the greatest extent possible. Attached garages will meet the venting requirements found in this Section. All interior walls, ceilings, and floors below the *Flood Protection Elevation* (~~two feet~~three feet above the elevation of the *1-percent annual chance (100-year) flood*) will be unfinished.

(B) No machinery, electrical devices, or appliances will be located below the *Flood Protection Elevation* (~~two feet~~three feet above the elevation of the *1-percent annual chance (100-year) flood*). A *Declaration of Land Restriction* will be signed by the property owner and recorded with the Kent County Clerk of Court. A copy of the recorded document will be attached to the *building* permit.

5. *Recreational* Vehicles

(A) *Recreational vehicles* located within the *floodplain* may be exempt from the elevation and anchoring requirements provided they are:

i. Located on the *site* less than one-hundred eighty (180) consecutive days per year;

ii. Fully licensed and ready for highway use; and

iii. Properly permitted.

(B) A *recreational vehicle* is ready for highway use if it is on its wheels and jacking system, is attached to the *site* only by quick disconnect type utilities and securing devices, and has no permanently attached additions. If it cannot meet all of these criteria, the *recreational vehicle* will be considered a *manufactured home* and is subject to the elevation and construction standards of this Ordinance.

6. Fill

(A) *Fill* will not be placed in the *floodway*. *Fill* will not be used for structural support in the Coastal High Hazard Area.

(B) *Fill* will consist of *soil* and rock materials only. Dredge material will be used as *fill* only upon *certification* of suitability by a registered professional geo-technical *engineer*. Landfills, rubble fills, dumps, and sanitary fills will not be permitted in the *floodplain*.

(C) *Fill* used to support *structures* will be compacted to 95% of the maximum *density* obtainable by the Standard Proctor Test (*ASTM* Standard D-698), and its suitability to support *structures* certified by a registered professional *engineer*. *Fill slopes* will be no greater than two horizontal to one vertical. Flatter *slopes* may be required where velocities may result in *erosion*.

(D) The use of *fill* will not increase *flood*ing onto or interfere with drainage from neighboring properties.

(E) In the event that *structures* on adjacent properties are known or determined to be subject to *flood*ing under current conditions, the Planning Director or the Planning Director's designee may require submission of hydrologic and hydraulic analysis of the affects of the proposed *fill*. All *fill* will meet the standards set forth in this Ordinance.

6.6 PERMITS

1. No *development* will occur without first obtaining a permit form the Department. This permit will not be valid until all applicable federal or state permits are obtained.
2. Application for a permit will contain, at a minimum, the following information.
   (A) Name, address, and phone number of the *applicant*
   (B) Name, address, and phone number of the property owner, if different from that of the *applicant*
   (C) Name, address, and phone number of the contractor
   (D) Legal description of the *site*
   (E) Proposed use of the *site*
   (F) Type, dimensions, and estimated cost of the improvement
   (G) *Site* characteristics and improvements
   (H) *Site plan* drawn to scale which shows:
      i. Dimensions of the *site*
      ii. Size and location of existing and proposed *structures* or *alterations*
      iii. *Setback*s
      iv. Elevation contours in mean sea level (*NAVD*)
      v. Delineation of the *1-percent annual chance (100-year) flood* boundary.
      vi. Proposed elevation of the *lowest floor* and method of elevation, if applicable.
   (I) A signed agreement stating that the *applicant* will supply an *Elevation Certificate*.
   (J) For additions or improvements, market value or assessed value of *structures* before improvement.
   (K) *Declaration of Land Restriction* where applicable.
3. General permits will be granted only after determining that the proposed *development* will be in compliance with this Ordinance.

4. After approval of a permit, no changes of any kind will be made to the application, permit, plans, specifications, or other documents submitted with the application without the written approval of the applicable county official. A copy of the permit will be displayed at the construction *site*.

5. During construction, the *building* inspector will inspect the *site* to determine that work is in compliance with the permit. Any work not in compliance with the permit will be corrected before any additional work is undertaken.

6. A record of all *floodplain* permits will be maintained and be available upon request by the Federal Emergency Management Agency or its authorized agent during periodic assessments of the County's participation in the National *Flood* Insurance Program. All documents needed to support permit action, such as *Elevation Certificates*, map amendments or revisions, or *variance* actions will be available for review during these assessments.

6.7 DAM SAFETY

The condition design criteria, hazard class and danger reach of the dam will be considered when reviewing *development* downstream of existing or proposed dams. *Development* within the dam break *flood* wave will be denied unless the dam meets the standards for a high hazard dam.

6.8 CONDITIONAL PERMITS

A conditional permit may be issued for garages and *accessory structures* less than six hundred (600) square feet in size, provided:

1. The *structure* is incidental to the primary *structure*.

2. It is used solely for limited storage and parking of vehicles.

3. The floor of the *structure* is constructed at or above *grade*.

4. The *structure* is located, oriented, and constructed so as to minimize *flood* damage.

5. The *structure* is *firm*ly anchored to prevent f*lot*ation.

6. The *structure* meets the requirements of this Section.

7. A *Declaration of Land Restriction* is recorded with the Kent County Clerk of Court. A copy of the recorded document will be attached to the *building* permit.

6.9 ENFORCEMENT

1. It will be the duty of the Planning Director of the Planning Director's designee to perform the function of the *Floodplain Administrator* and to enforce the provisions of this Ordinance and to refuse to issue any permit or approve any *development* that would violate the provisions of this Ordinance. It will be the duty of all officers and employees of Kent County to assist in the enforcement of this Ordinance by reporting seeming *violations*.

2. The Planning Director of the Planning Director's designee is authorized and directed to institute any appropriate action to correct *violations* of this Ordinance.

3. Any *violation* of Section 10 will be subject to the fines and penalties established in this Ordinance.

4. The Federal Insurance *Administrator* and the State of Maryland will be notified immediately in writing of any *structure* or property in *violation* of this Section.

5. The Department may require signed and sealed drawings from a professional licensed surveyor or an engineer, certifying that the requirements above have been satisfied. The Department may also engage third-party professionals to review the drawings to ensure compliance with the regulations in this Section, the Land Use Ordinance in general, and any applicable federal, State, or other laws, rules, and regulations. The costs for any third-party professionals will be paid by the applicant or property owner of record.

6.10 LIABILITY

1. The degree of *flood* protection provided by this chapter is considered reasonable for regulatory purposes and is based on *engineer*ing experience and scientific methods of study. *Flood*s of greater magnitude may occur or *flood* heights may be increased by man-made or natural causes. This Section does not imply that *flood*ing will not occur outside of delineated *floodplain* zones, nor that the permitted *development* and land uses within the *floodplain* will be free of *flood*ing and associated *flood* damage. This Section does not create liability on the part of the County, any officer, or employee thereof for any damage which may result from reliance on this Section.

2. The degree of the *flood* protection required by these *regulations* is considered reasonable for regulatory purposes and is based on scientific and *engineer*ing considerations. Larger *flood*s can and will occur, and *flood* heights may be increased by man-made or natural causes. These *regulations* do not imply that land outside of the *Special Flood Hazard Area*s or uses that are permitted within such areas will be free from *flood*ing or *flood* damage.

ARTICLE VII. DEFINITIONS

SECTION 1 GENERAL RULES OF CONSTRUCTION

The following general rules of construction will apply to the *regulations* of this Ordinance.

1. The singular number includes the plural and the plural the singular, unless the context clearly indicates the contrary.
2. Words used in the present tense include the past and future tense, and the future the present.
3. The word "~~shall~~will" is always mandatory. The word "may" is permissive.
4. The word "*building*" or "*structure*" includes any part thereof, and the word "*structure*" includes the word "*building*."
5. Words and terms not defined herein will be interpreted in accordance with their normal dictionary meaning and customary usage.
6. The word "Commission" refers to the Kent County *Planning Commission*, a seven-member board appointed the County Commissioners.
7. The word "Board" refers to the Board of Appeals, a three-member board appointed by the County Commissioners.

SECTION 2 DEFINITIONS

For the purpose of this ordinance, certain terms and words are hereby defined.

Acceptable Outfall: The tidewater or that point as determined by the Kent County *Soil* and Water Conservation District where *stormwater* can be released to a *channel* without causing scouring, *erosion*, or resulting *sediment*ation to the receiving *channel* or its *floodplain*. (Where necessary, the outlet will include structural and vegetative measures to assure non-erosive velocities.)

Accessory Structure: A detached *structure* on the same parcel as the principal *structure* or use and which is customarily incidental and subordinate to the principal *structure* or use~~ in area, extent and purpose~~, ~~i.e.~~ for example, a shed~~,~~ or detached garage.

Accessory Use: One which: (a) is subordinate to and serves a principal *structure* or principal use; (b) ~~is subordinate in area, extent, and purpose to the principal *structure* or use served; (c)~~ is on the same *lot* as the principal *structure* or use served except as otherwise expressly authorized by provisions of this Ordinance; and ~~(d)~~(c) is customarily incidental to the principal use or *structure*.

~~*Administrator*: The Zoning *Administrator* of Kent County.~~

Adverse Impact: For purposes of *stormwater management*, any deleterious effect on waters or *wetlands* including their quality, quantity, surface area, species, species composition, aesthetics or usefulness for human or natural causes which is or may potentially be harmful or injurious to health, welfare, safety, or property, to biological productivity,

diversity, or stability or which unreasonably interferes with the enjoyment of life or property, including outdoor recreation.

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

Agricultural Easement: A non-possessory interest in land which restricts the conversion of use of the land, preventing nonagricultural uses.

Agricultural Land Management: Those methods and procedures used in the cultivation of land in order to further crops or livestock production and conservation of related *soil* and water resources. Logging and timber removal operations will not be considered a part of this definition.

Agriculture: Farming activities including plowing, tillage, cropping, installation of *best management practices*, seeding, cultivating, and harvesting for production of food and fiber products (except *commercial logging and timber harvesting operations*), ~~the grazing and raising of livestock and fowl, *aquaculture*,~~ sod production, orchards, nurseries, land in government set aside programs, and other products cultivated as part of a recognized commercial enterprise, but not including *animal husbandry*.

Agritourism: Activities conducted on a farm and offered to the public or to invited groups for the purpose of education, recreation, or active involvement in the farm operation. These activities will be related to agriculture or natural resources and incidental to the primary operation on the site. The term will include hayrides; corn mazes; seasonal petting farms; pumpkin patches; "pick your own" or "cut your own" produce; classes related to agricultural products or skills; harvest festivals; field trips; farm tours; farm museums; picnic and party facilities offered in conjunction with any agritourism activity; food services, including farm to table meals; fishing; hunting; wildlife study; guest farms; and activities or events related to agriculture or natural resources, agricultural products, or agricultural skills.

Animal husbandry: Farming activities permitted as separate uses in specific zoning districts.

Airport: A permanent installation or facility from which aircraft may take off or land, discharge or receive cargo or passengers, be repaired, take on fuel, or be stored, including hangers, terminals, or accessory activities.

Alley: A narrow public thoroughfare not exceeding 16 feet in width, which provides only a secondary means of access to abutting properties and is not intended for general traffic circulation.

Alteration: Any construction or renovation to an existing *structure* other than repair or addition.

Anadromous Fish: Fish that travel upstream from their primary habitat in the ocean to fresh waters in order to spawn.

Anadromous Fish Spawning Areas: Those streams that are tributary to the Chesapeake Bay where spawning of anadromous species of fish (e.g., rockfish, yellow perch, white perch,

and river herring) occurs or has occurred. The streams are designated by the Maryland Department of Natural Resources.

Apartment: A part of a *building* containing cooking and housekeeping facilities, consisting of a room or suite of rooms intended, designed, and used as a residence for an individual or single *family*.

Apartment House: Same as *Dwelling, Multi-Family Dwelling*.

Applicant: For *erosion and sediment control* and *stormwater management* proposes: Any *person*, *firm*, or government agency who exe*cut*es the necessary forms to procure official approval of a project or a permit to carry out construction of a project.

Approved Forest Management Plan: For the purposes of *forest conservation* outside of the Chesapeake Bay *Critical Area*, an *approved forest management plan* is a document, approved by the Department of Natural Resources *Forest*er assigned to Kent County, that operates as a protective agreement for *forest conservation* as described in Natural Resources Article, Section 5-1607(e)- (f), Annotated Code of Maryland.

Approving Agency: For *erosion and sediment control* and *stormwater management* purposes: The entity responsible for the review and approval of *erosion and sediment control plan*s and *stormwater management plan*s.

Aquaculture: (1) 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; (2) Activities include the hatching, cultivating, planting, feeding, raising, and harvesting of aquatic plants and animals and the maintenance and construction of the necessary equipment, *building*s, and growing areas; (3) 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 subtidal areas. For the purpose of this definition, related activities such as wholesale and retail sales, processing, and product storage are not considered aquacultural practices.

Aquifer: A porous water bearing geologic formation generally restricted to materials yielding an appreciable supply of water.

Architect: A professional with training in *architect*ure and licensed by the State of Maryland.

Area, Gross: The total area of the *site* subject to no exclusions.

~~*ASTM*~~: ~~The American Society for Testing and Materials.~~

Automobile Repair: Any *building*, *structure*, or area used for major *automobile repair*, body work, or servicing including the accessory sale of fuels, oils, or parts.

Automobile Service Station: Any *building*, *structure*, or use of land for the retail sale of automobile fuels, oils, and accessories and where repair service, if any, is incidental.

Barren land: Unmanaged land having sparse vegetation.

Base Flood: The 1-percent annual chance (100-year) *flood* event as indicated in the *Flood Insurance Study*, as amended; the elevation of which is used for regulatory purposes in this Ordinance.

Base Flood Elevation: The water surface elevation of the *base flood* in relation to the datum specified on the community's *Flood Insurance Rate Map*. In areas of shallow *flood*ing, the *Base Flood Elevation* is the highest adjacent natural *grade* elevation plus the depth number specified in feet on the *Flood Insurance Rate Map*, or at least four (4) feet if the depth number is not specified.

Basement: An enclosed area which is below *grade* on four sides.

~~*Bed and Breakfast*: A *building* where, for compensation and only by prearrangement for definite periods, lodging and meals are provided. Such uses are limited to three guest rooms excluding resident management quarters.~~

Bench terrace: A relatively flat area (i.e., less than 2% *grade*) constructed on sloping land to planned dimensions and *grade*s. *Bench terrace*s are applied along the contour with the length and width controlled by the natural terrain and the required *erosion* limitations.

Berm: A mound of *soil*, either natural or manmade, used to obstruct views, noise, direct runoff, or control *soil* loss.

Best Management Practices (*BMP*): Conservation practices or systems of practices and management measures that control *soil* loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and *sediment*. Agricultural *BMPs* include, but are not limited to, strip cropping, terracing, contour *stripping*, grass *waterway*s, animal waste *structure*s, ponds, minimal tillage, grass and naturally vegetated filter strips and proper nutrient application measures. For *stormwater management* purposes: A structural device or non-structural practice designed to temporarily store or treat *stormwater* runoff in order to mitigate *flood*ing, reduce pollution, and provide other amenities.

Boarding House: Same as *rooming house*

Boathouse: A *building* constructed for the purposes of storing a boat and boat gear.

Breakaway Wall: A wall that is not part of the structural support of a *building* and is intended to collapse under specific lateral loading forces without causing damage to the supporting foundation system of the *building*.

Buffer: Within the Chesapeake Bay *Critical Area*, an existing, naturally vegetated area or an area established in vegetation and managed to protect aquatic environments, *wetlands*, shoreline, and terrestrial environments from man-made disturbances. The purpose of the *buffer* is to: (1) Provide for the removal or reduction of *sediment*s, nutrients, and potentially harmful or toxic substances in runoff entering the Bay and its tributaries; (2) Minimize the adverse effects of human activities on *wetlands*, shorelines, stream banks, tidal waters and aquatic resources; (3) Maintain an area of *transitional habitat* between aquatic and upland communities; (4) Maintain the natural environment or streams; and (5) Protect riparian *wildlife habitat*. (6) The *buffer* will be expanded for *slopes* of 15% or

more, *hydric soils*, or *highly erodible soils* whose *development* or disturbance may impact streams, *wetlands*, or aquatic environments. The *buffer* will be a minimum of 100 feet and will be expanded 4 feet for every 1% of *slope* if the *slope* is over 15% (measured at the 100-foot mark) or to the top of the *slope*, whichever is greater in extent. For example, the *buffer* on a property with an 18% *slope* is 172 feet [100 + (4 x 18)]. The *buffer* is measured horizontally from mean high tide, the edge of *tidal wetlands* or *tributary streams*.

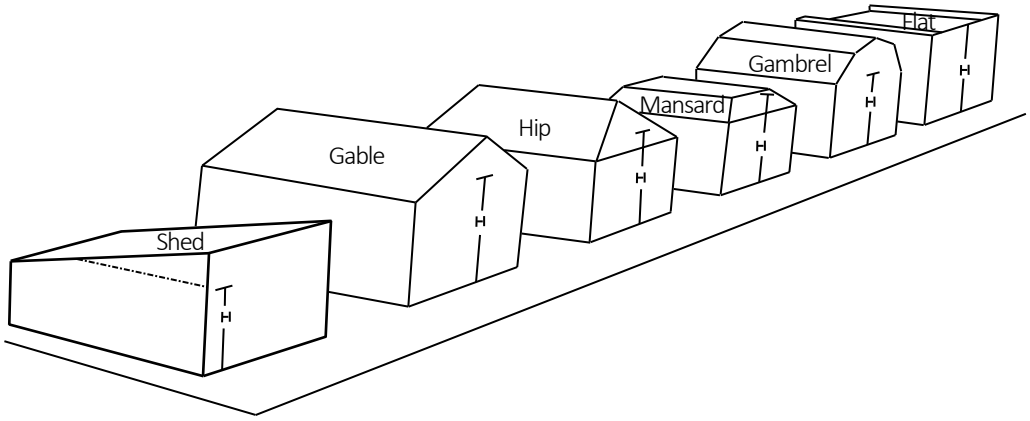
Buildable Area: The area of that part of the *lot* not included within the *yards*, *open space*, or environmental areas herein required.

Buildable Width: The width of the *lot* not included within the *yards*, *open space*, or environmental areas herein required.

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

Building, Totally Enclosed: Any *building* having no outside openings other than ordinary doors, windows, and ventilators.

Building, Height of: The vertical distance from the average elevation of finished ground surface around the *building* to the highest point of the coping of a flat roof, or to the deck line of the highest point of coping or parapet of a mansard roof, or to the mean height level between the eaves and ridge for gable, hip, shed, and gambrel roofs. When the highest wall of a *building* with a shed roof is within 30 feet of a *street*, the height of such *building will* be measured to the highest point of coping or parapet.



Building Line: A line within a *lot*, so designated on a plat of *subdivision*, between which line and the *street line* of any abutting *street*, no *building* or *structure* may be erected.

Bulk: A term used in this Ordinance to describe the size and shape of a *building* or *structure* and its relationship to other *buildings*, to the *lot area* for a *building*, and to *open space*s and *yards*.

Caliper: The diameter of a *tree* measured at six inches above *grade*.

Camp, Boarding: As for *day camp*, except that uses and *structures* for the lodging of guests will be permitted in locations appropriate for extensive outdoor recreation.

Camp, Day: A *lot*, *tract*, or parcel of land operated as a resource utilization enterprise in which seasonal facilities, boating, fishing, swimming, outdoor sports, and activities incidental and relating to the foregoing but not including miniature golf, golf courses, golf driving ranges, mechanical amusement devices, or permanent *structures* for the housing of guests.

Campground: Any area or *tract* of land owned by a single entity to which accommodations for temporary and not year-round occupancy are located or may be placed including cabins, tents, *recreational vehicle*s, and campers, and which is used for recreational purposes and retains an open air or natural character.

Canopy: A detachable, roof-like cover supported from the ground, or deck, or walls, of a *building* for the protection from the sun.

Certificate of Occupancy or Use: A permit to legally occupy or use a *building* for the intended purpose.

Certification: A signed, written statement that specific conditions, inspections, or tests (when required) have been performed and that such comply with the applicable requirements of this Ordinance.

Champion of the State: In terms of *forest conservation*, a *tree* that appears in the State *Forest Conservation* Manual list of State *Champion tree*s.

Champion Tree: The largest *tree* of its species within the United States, the State, County, or a municipality.

Channel: That part of the *waterway* where the largest class vessel that could use such *waterway* is required to navigate because of shallowness of water on both sides of such part, or as delineated on an approved plan or navigational chart.

Channel Protection Storage Volume: The volume used to design structural management practices to control stream *channel erosion*. Methods for calculating the *channel protection storage volume* are specified in the 2000 Maryland *Stormwater De*sign *Manual*, Volumes I and II, and as amended.

Clear-cutting: The removal of the entire stand of *tree*s in one *cut*ting with *tree* reproduction obtained by natural seeding from adjacent stands or from *tree*s that were *cut*, from advance regeneration or stump spouts, or from planting of seeds or *seedlings* by man.

Clearing: The removal of *tree*s and/or brush from the land but which will not include the ordinary mowing of grass.

Cliff Height: The distance measured from mean high tide to the top of the bank.

Clinic -A *building* or a portion thereof designed for and used by two or more physicians, surgeons, dentists, psychiatrists, physiotherapists, or practitioners in related specialties,

or a combination of *person*s in these professions, but not including lodging of patients overnight.

Club, Private: *Buildings* and facilities owned or operated by a corporation, association, *person*, or *persons* for social, educational, or recreational purposes, but not primarily to render service which is normally carried on as a business.

Cluster Development: Within the *Critical Area*, a residential *development* in which *dwelling unit*s are concentrated in a selected area or selected areas of the *development tract* so as to provide a natural habitat or other *open space* uses on the remainder.

Coastal high hazard areas: Those areas subject to coastal or tidal *flood*ing with the addition of high velocity water and wind action. These areas are designated as a V-Zone on the *Flood Insurance Rate Map*.

Coastal A Zone: An area within a *special flood hazard area*, landward of a coastal high hazard area (V Zone) or landward of a shoreline without a mapped coastal high hazard area, in which the principal source(s) of *flooding* are astronomical tides and storm surges, and in which, during *base flood* conditions, the potential exists for breaking waves with heights greater than or equal to 1.5 feet. The inland limit of the *Coastal A Zone* may be delineated on *FIRM*s as the *Limit of Moderate Wave Action (LiWMA)*.

Collector Street: A *street* which is intended to collect traffic from *minor streets* within a neighborhood or a portion thereof and to distribute such traffic to *major thoroughfares*, in addition to providing access to properties abutting thereon.

Colonial Water Birds: Herons, egrets, terns, and glossy ibis. For the purpose of nesting these birds congregate (i.e., colonize) in relatively few areas, at which time, the regional populations of these species are highly susceptible to local disturbances.

Commercial Logging and Timber Harvesting Operations: The *cut*ting and removing of *tree* stems from a *site* for commercial purposes; leaving the root mass intact, includes all commercial operations done by companies and private individuals for economic gain.

Community Piers: Boat docking facilities associated with *subdivision*s and similar residential areas, and with condominiums, *apartments*, and other *multi-family dwelling units*. Private *pier*s are excluded from this definition.

Compaction: Desiccation (drying up) of a *soil* or rock *fill* by mechanical or other procedures.

~~*Comprehensive Plan*: A compilation of policy statements, goals, standards, maps, and pertinent data relative to the past, present, and future trends of the local *jurisdiction* including, but not limited to, its population, housing, economics, social patterns, land use, water resources and their use, *trans*port*ation facilities*, and public facilities, prepared by or for the *Planning Commission*, agency, or office.~~

Concept Plan: For *stormwater management* purposes: The first of three plan approvals that includes information necessary to allow an initial evaluation of a proposed project.

Conference Center: A year-round facility with staff, equipment, and support services dedicated to providing an environment that will support and facilitate meetings. A minimum of

100 square feet of meeting space is provided per guest room. Dedicated meeting rooms are separate from living and leisure areas.

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

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

Cottage Industry: *Family* type businesses which employ less than ten people and ~~who~~ manufacture and/or provide services with low-impact to the surrounding area and residents (e.g. low traffic volume, no heavy, noisy or environmentally disruptive machinery to perform tasks, little or no outdoor storage). Often home-based industries utilize telecommunications networks. *Cottage industries* include, but are not limited to plumbers, electricians, carpenters, and other tradesmen.

Country Inn: An existing *building* where, for compensation and only by prearrangement for definite periods, lodging and meals are provided. Such uses are limited to fifteen rooming units excluding resident manager quarters.

Country Stores: A retail store or shop which sells general merchandise and food serving the local area.

Courtyard: An *open space* that may or may not have direct *street* access and around which is arranged a single *building* or group of related *buildings*.

Cover Crop: The establishment of a vegetative cover to protect *soils* from *erosion* and to restrict pollutants from entering the *waterways*. *Cover crop*s can be dense, planted crops of grasses or legumes, or crop residues such as corn, wheat, or soybean stubble which maximize *infiltration* and prevent runoff from reaching erosive velocities.

Critical Area: All lands and waters defined in Md. Code Ann., Natural Resources, §8-1807. These include: (1) All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide and all state and private *wetlands* designated under Title 16 of the Environmental Article, Annotated Code of Maryland. (2) All lands and water areas within 1,000 feet beyond the landward boundaries of state or private *wetlands* and the heads of tides designated under Title 16 of the Environmental Article, Annotated Code of Maryland. (3) Modification to these areas through inclusions or exclusions proposed by local *jurisdiction*s and approved by the Commission as specified in Md. Code Ann., Natural Resources § 8-1807.

Critical and Essential Facilities: *Building*s and other *structures* that are intended to remain operational in the event of extreme environmental loading from *flood*, wind, snow or earthquakes. [Note: See Maryland *Building* Performance Standards, Section 1602 and Table 1604.5.] *Critical and essential facilities* typically include *hospital*s, fire stations, police stations, storage of critical records, facilities that handle or store hazardous materials, and similar facilities.

Critical Habitat Area: A critical habitat for an *endangered species* and its surrounding protection area. A *critical habitat area* will (1) Be likely to contribute to the long-term survival of

the species; (2) Be likely to be occupied by the species for the foreseeable future; and (3) Constitute habitat of the species that is considered critical under Md. Code Ann., Natural Resources, §4-2a-04 and 10-2a-06.

Critical Habitat for Endangered Species: a habitat occupied by an *endangered species* as determined or listed under Md. Code Ann., Natural Resources, §4-2a-04 and 10-2a-04.

Crosswalk: A public way intended for pedestrian use and excluding motor vehicles, which *cut*s across a block in order to furnish improved access to adjacent *streets* or properties.

Cut: See "*excavation*"

Day Care Group: A licensed home or agency that regularly provides supervision for nine or more non-related children.

Day Care Home: The provision of supplemental parental care and supervision for eight or fewer non-related children.

Declaration of Intent: (1) A signed and notarized statement by a landowner or the landowner's agent certifying that the activity on the landowner's property: (1a) Is for certain activities exempted under this Ordinance or Md. Code Ann., Natural Resources, §5-103 and §§5-16-1 through 5-1612; (1b) Does not circumvent the requirements of this Ordinance or Md. Code Ann., Natural Resources, §5-103 and §§5-16-1 through 5-1612; and (1c) Does not conflict with the purposes of any other *Declaration of Intent*. (2) The document required under this Ordinance.

Declaration of Land Restriction (Non-conversion Agreement): A form signed by the owner to agree not to convert or modify in any manner that is inconsistent with the terms of the permit and these *regulations* certain enclosures below the *lowest floor* of elevated *building*s and certain *accessory structures*. The form requires the owner to record it on the property deed to inform future owners of the restrictions.

Department. The Kent County Department of Planning, Housing, and Zoning, unless otherwise specified.

Demolition/demolish: means the act of pulling down, destroying, removing, or razing a *building* or *structure* or commencing the work of total or substantial destruction with the intent of completing the same. For the purposes of *Historic structure* review, the term "*demolition*" will not include routine maintenance, interior renovations, removal, or construction of porches, decks, windows, or other types of renovations for which approval is generally not required.

Density: The permitted number of *dwelling units* per acre of land to be developed.

*De*sign *Manual*: The 2000 Maryland *Stormwater De*sign *Manual*, Volumes I and II, and as amended, that serves as the official guide for *stormwater management* principles, methods, and practices.

Detention Structure: A permanent *structure* for the temporary storage of runoff that is designed so as not to create a permanent pool of water.

Developed Land: For *stormwater management* purposes: To change the runoff characteristics of a parcel of land in conjunction with residential, commercial, industrial, or institutional construction or *alteration*.

Developed Woodland: Those areas of 1 acre or more in size which predominately contain *tree*s and *natural vegetation,* and which also includes residential, commercial, or industrial *structures* and uses.

Developer: A *person*, partnership, or corporation ~~building~~ constructing more than one *dwelling unit* or ~~building~~ constructing one *dwelling unit* for occupancy by persons other than the owner, or any type of commercial of industrial *development* or subdividing of land.

Development: Any construction, reconstruction, modification, extension, or expansion of *buildings* or *structures*; placement of *manufactured homes*; mining; dredging; placement of *fill*; *grading*; paving; dumping; storage of equipment or materials; land *excavation*; land *clearing*; land improvement; *subdivision* of land; or any combination thereof.

Development Activities: The construction or substantial *alteration* of residential, commercial, industrial, institutional, or *trans*port*ation facilities* or *structures*.

Development Project Completion: For the purposes of *afforestation*, *reforestation*, or payment into a *forest conservation* fund; (1) The release of the *development* bond, if any; (2) Acceptance of the project's *street*s, utilities and public services by the county; or (3) Designation by the County that a: (3a) *Development* project has been completed, or (3b) Particular stage of a staged *development* has been completed.

Direct Discharge: The concentrated release of *stormwater* to tidal waters or vegetated *tidal wetlands* from new *development* or *redevelopment* projects in the Chesapeake Bay *Critical Area*.

Diversion: A *channel* or ditch and a ridge constructed across a *slope* so as to intercept and divert surface runoff.

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

Dog Kennel, Commercial: The keeping of any dog or dogs, regardless of number, for breeding, sale, boarding, or treatment purposes, except in an animal *hospital*~~, dog parlor,~~ or pet shop as permitted by these *regulations*. The keeping of five or more dogs, six months or older, for any purpose.

Drainage Area: That area contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridge line.

Drainageway: See "*watercourse and/or drainageway*"

Dwelling: A *building* or portion thereof, designed and used primarily for residential occupancy, but not including trailers, mobile homes, *hotel*s, motels, motor lodges, boarding and *lodging houses*, tourist courts, or tourist homes.

Dwelling Unit: A room or group of rooms occupied or intended to be occupied as separate living quarters by a single *family*. Within the *Critical Area*: A single unit providing complete, independent living facilities for at least one *person*, including permanent provisions for sanitation, cooking, eating, sleeping, and other activities routinely associated with daily life. *Dwelling unit* includes living quarters for domestic staff or other employees or *tenants*, an in-law or accessory *apartment*, a *guest house*, or a caretaker residence.

Dwelling, Multi-Family: A *building* designed for and occupied exclusively by three or more families living independently of each other.

Dwelling, Single Family: A *building* designed for and occupied exclusively by one *family*.

Dwelling, Two-Family: A *building* designed for and occupied exclusively by two families living independently of each other.

Easement: A grant or reservation by a property owner of the right to use an identifiable piece of land or right for a specified purpose or purposes. For *stormwater management* purposes: A grant or reservation by a property owner of the right to use an identifiable piece of land or right for a specified purpose or purposes, and which will be included in the conveyance of land affected by such *easement*.

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

Elevation Certificate: ~~A form supplied by the Federal Emergency Management Agency (FEMA) to certify elevations of *structures* above mean high sea level as established by the North American Vertical Datum of 1988 (*NAVD*). Elevation Certificate:~~ A FEMA form on which surveyed elevations and other data pertinent to a property and a building are identified and which shall be completed by a licensed professional land surveyor or a licensed professional engineer, as specified by the Floodplain Administrator. When used to document the height above grade of buildings in special flood hazard areas for which base flood elevation data are not available, the Elevation Certificate shall be completed in accordance with the instructions issued by FEMA. Note: FEMA Form 086-0-33 and instructions are available online.

https://www.fema.gov/media-library/assets/documents/160

Embankment or Fill: A deposit of *soil*, rock, or other materials placed by man.

Endangered Species: Any species of fish, wildlife, or plants which have been designated as such by regulation by the Secretary of the Department of Natural Resources. Designation occurs when the continued existence of these species as viable components of the State's resources is determined to be in jeopardy. This includes any species determined to be an "*endangered species*" pursuant to the Federal *Endangered Species* Act.

Engineer: A *person* with professional, technical, or practical training, ability, and experience in *engineer*ing and licensed in the State of Maryland to practice *engineer*ing.

*Environmental Site De*sign *(ESD)*: Using small-scale *stormwater management* practices, nonstructural techniques, and *site plan*ning to mimic natural hydrologic runoff

characteristics and minimize the impact of land *development* on water resources. Methods for designing ESD practices are specified in the *De*sign *Manual.*

Erosion: The process by which the ground surface is worn away by the action of wind or water.

Erosion and Sediment Control: A system of structural and vegetative measures that minimizes *soil erosion* and *off-site sediment*ation.

Erosion and Sediment Control Plan: An *erosion and sediment control* strategy or plan designed to minimize *erosion* and prevent *off-site sediment*ation.

*Excavation, landscaping, or other Con*tract*or's Yard*: Any land and/or *buildings* used primarily for the storage of equipment, vehicles, machinery, new or used *building* materials, paint, pipe, or electrical components used by the owners or occupants of the *premises* in the conduct of any *building* trades, *building* craft, or *excavation* / construction trade. This definition was revised to include a wide range of contractors including landscapers.

Excavation or Cut: Any act by which the ground surface is *cut* into, dug, quarried, uncovered, removed, displaced, or relocated and will include the conditions resulting therefrom.

Excess Stormwater Runoff: In the *Critical Area*, all increases in *stormwater* resulting from: (1) An increase in the imperviousness of the *site*, including all additions to *building*s, *roads*, and parking *lot*s; (2) Changes in permeability caused by *compaction* during construction or modifications in contours, including the filling or drainage of small depression areas; (3) *Alteration* of *drainageways* or re*grading* of *slope*s; (4) Destruction of *forest*; or (5) Installation of collection systems to intercept *street* flows or to replace swales or other *drainageways*.

Exemption: For *stormwater management* purposes: Those land *development activities* that are not subject to the *stormwater management* requirements contained in this Ordinance. For *erosion and sediment control* purposes: Those land *development activities* that are not subject to the *erosion and sediment control* requirements contained in this Ordinance.

Existing Grade: The vertical location of the existing ground surface prior to excavating or filling.

Extended Detention: A *stormwater* design feature that provides gradual release of a volume of water in order to increase settling of pollutants and protect downstream *channel*s from frequent storm events. Methods for designing *extended detention BMPs* are specified in the *De*sign *Manual*.

Extreme Flood Volume: The storage volume required to control those infrequent but large storm events in which overbank flows reach or exceed the boundaries of the *100-year floodplain*.

Family: An individual or individuals living together by joint agreement and occupying a single housekeeping unit with a single primary culinary facility on a non-profit, cost-sharing basis. Domestic servants employed and living on the *premises will* be considered as part of the *family*.

Farm: A parcel of land not less than 20 acres in size used for *agriculture* including *animal husbandry*, and as defined in this Ordinance.

~~*Farm-Based Business*: A *family* run business accessory and secondary to the primary agricultural use of the property. A *farm-based business* does not interfere with the *on-site* or adjacent *farm* operations and does not generate large volumes of traffic.~~

Feedlot: Any *tract* of land or *structure*, pen, or corral where cattle, horses, sheep, goats, and/or swine are maintained in close quarters for the purposes of fattening such livestock for final shipment to market. This includes any enterprise used for the production, growing, or holding of agricultural animals regardless of species or number that does not control through ownership sufficient land to allow environmentally safe treatment and disposal of the waste produced by those animals~~. Environmentally safe~~ will ~~be a combination of treatment and disposal that applies less than "x" pounds of nitrogen and phosphorous per acre as determined by Land Application of Manure, Midwest Planning Service~~.

Final Erosion and Sediment Control Plan: The last of three plan approvals that includes the information necessary to allow all approvals and permits relating to *erosion and sediment control* to be issued by the *Approving Agency*.

Final Stormwater Management Plan: The last of three plan approvals that includes the information necessary to allow all approvals and permits relating to *stormwater management* to be issued by the *approving agency*.

Finished Grade: The final *grade* or elevation of the ground surface conforming to the proposed design.

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, offloading docks, shellfish culture operations, and shore-based facilities necessary for *aquaculture* operations.

Flood: General and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waters, or rapid unusual accumulation of runoff from any source.

Flood Insurance Rate Map (FIRM): Map which depicts the minimum *Special Flood Hazard Area* to be regulated by this Ordinance.

Flood Insurance Study (FIS): The official report in which the Federal Emergency Management Agency has provided *flood* profiles, *floodway* information, and the water surface elevations.

Flood Protection Elevation (FPE): The elevation of the *base flood* plus ~~two~~ three feet *freeboard*.

Floodplain: (1) A relatively flat or low area adjoining a river, stream, *watercourse*, or *drainageway* which is subject to partial or complete inundation; (2) An area subject to the unusual and rapid accumulation or runoff of surface waters from source; or (3) Land

typically adjacent to a body of water with ground surface elevations that are inundated by the *base flood*.

Floodproofing: Any combination of structural and non-structural changes which reduce or eliminate *flood* damage to improved property.

Floodproofing Certificate: Form supplied by FEMA to certify that a *building* has been designed and constructed to be structurally dry *flood*proofed to the *Flood Protection Elevation*.

Floodway: The *channel* and adjacent land area required to discharge the waters of the 100-year *flood* of a *watercourse* without increasing the water surface elevations more than a specified height.

Floodway Fringe: That portion of the *floodplain* outside of the *floodway*.

Floor Area, Commercial: For Commercial, business, and industrial *buildings* or *buildings* containing mixed uses; the sum of the gross horizontal area of the several floors of a *building* measured from the exterior faces of the exterior walls separating two *buildings* but not including: (1a) Attic space providing headroom of less than seven feet; (1b) *Basement* space not used for retailing; (1c) Uncovered steps or fire escapes; (1d) Accessory water towers or cooling towers; and (1e) Accessory off-*street loading spaces*.

Floor Area, Residential: For Residential *buildings*: the sum of the gross horizontal areas of the several floors of a *dwelling*, exclusive of garages, *basement*, and open porches, measured from the exterior faces of the exterior walls.

Flow Attenuation: Prolonging the flow time of runoff to reduce the peak discharge.

Forest: A biological community dominated by *tree*s and other woody plants covering a land area of 10,000 square feet or greater, includes (1) areas that have at least 100 live *tree*s per acre with at least 50 percent of those *tree*s having a 2-inch or greater diameter at 4.5 feet above the ground and larger; and (2) areas that have been *cut* but not cleared.

Forest Conservancy District Board: The *forest*ry board created for each State *Forest* Conservancy District under Md. Code Ann., Natural Resources, §§5-601 through 5-610.

Forest Conservation: The *retention* of existing *forest* or the creation of new *forest*.

Forest Conservation and Management Agreement: An agreement as stated in the Md. Code Ann., Tax: Property, § 8-211.

Forest Conservation Plan: A plan approved pursuant to the requirements of this Ordinance and the *Forest Conservation Technical Manual*.

Forest Conservation Technical Manual: The technical manual incorporated by reference, used to establish standards of performance required in preparing *Forest Stand Delineations* and *Forest Conservation Plans*.
https://mdstatedocs.slrc.info/digital/collection/mdgov/id/11130/

Forest Cover: The area of a *site* meeting the definition of *forest*.

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

Forest Management: The protection, manipulation, and utilization of the *forest* to provide multiple benefits, such as timber harvest, water transpiration, *wildlife habitat*, etc.

Forest Management Plan: A plan establishing best conservation and management practices for a landowner in assessment of the resource values of *forest*ed property.

Forest Mitigation Bank: an area of land which has been intentionally af*forest*ed or re*forest*ed for the express purpose of providing credits for *reforestation* requirements.

Forest Mitigation Bank Agreement: an agreement entered into by an individual owning a *forest mitigation bank* and the county which commits the banker to certain procedures and requirements when creating and operating the *forest mitigation bank*.

Forest Mitigation Bank Plan: a plan submitted for approval of a *forest mitigation bank* to the county by an individual proposing to establish a *forest mitigation bank*.

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.

Forest Stand Delineation: The methodology for evaluating the existing vegetation on a *site* proposed for *development*, as provided in the *Forest Conservation Technical Manual*.

Fowl: birds which are hunted or kept for food, including Galliformes (such as turkeys, chickens, partridges, and quail) and waterfowl of the order Anseriformes (such as ducks, geese, and swans). See also *Livestock* and *Poultry*.

Freeboard: An increment of elevation added to the *Base Flood Elevation* to provide a factor of safety for uncertainties in calculations, wave actions, subsidence, or other unpredictable effects.

Frontage, Lot: The distance for which the front boundary line of the *lot* and the *street line* are coincident.

Frontage, Street: All of the property on one side of a *street* between two intersecting *streets* (crossing or terminating), measured along the line of the *street*, or if the *street* is dead-ended, then all of the property abutting on one side between an intersecting *street* and the dead-end of the *street*.

Garage, Private: A garage used for storage purposes only.

Grade: *Grade* elevations will be determined by averaging the elevations of the finished ground at all corners and/or principal points in the perimeter wall of the *building*.

Grading/*grade*: Any act by which *soil* is disturbed, including but not limited to, *clearing*, *stripping*, stockpiling, excavating, grubbing, scarified, filling, removing root mat or top*soil*, or any combination thereof.

Grading Unit: The maximum contiguous area allowed to be *grade*d at a given time. For the purposes of *erosion and sediment control*, a *grading unit* is the maximum contiguous area allowed to be *grade*d at a given time and can be established on a *site*-specific basis.

Grain Dryer, Commercial: A facility for drying grain, in which the grain that is dried is primarily supplied by sources other than the owner and/or operator of the facility.

Group Home: A place, home, or institution which is licensed to provide boarding, shelter, and *person*al services to not more than eight *person*s, regardless of age, who have a need for supervision or assisted community living based on emotional, mental, physical, familial, or social differences. (Examples of such *person*s include but will not be limited to the mentally or physically handicapped, alcoholics, elderly, drug-dependent, and juveniles under the *jurisdiction* of the courts, the Department of Social Services, or the Juvenile Services Administration). *Group home*s do not include public or private schools organized and operated under Maryland laws, *person*s related by blood or marriage within the third degree to the custodial *person*, or to houses of worship, other religious or other public institutions for caring for such *person*s within the *building* while parents or other custodial *person*s are attending services, activities, or meetings.

Growing Season: The period of consec*ut*ive frost-free days as stated in the current *soil* survey for Kent County published by the National Cooperative *Soil* Survey Program, 16 U.S.C. Section 590 (a): (f).

Guest House: Living quarters within a detached accessory *building* located on the same *premises* as the main *dwelling*. Such quarters not rented or otherwise used as a separate *dwelling* and having no separate utility or kitchen.

Health Officer: The *Health Officer* of Kent County.

Highly Erodible Soils: Those *soil*s with a *slope* greater than 15%; or those *soil*s with a *K Value* greater than 0.35 and with *slope*s greater than 5%.

Highest Adjacent Grade: The highest natural elevation of the ground surface, prior to construction, next to the proposed foundation of a *structure*.

Historic Structures: Any *structure*, including but not limited to residential, agricultural, civic and commercial *building*s, which is equal to or greater than seventy-five years of age, or otherwise deemed to be of historical significance by meeting one or more of the following aspects of Kent County, Maryland or United States His*tory*: (1) Association with historic events or activities; (2) Association with *person*s who are important to the community or to specific *development*s of his*tory*; (3) Embodiment of distinctive characteristics of a type, period, method of construction, or the work of a master; or (4) Potential to provide important information about his*tory* or prehis*tory*. (5) For *floodplain* purposes: Any *structure* that is: (5a) Individually listed in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (5b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a

registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or (5c) Individually listed on the Maryland Register of Historic Places.

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

Home Occupation: An occupation or business activity which results in a product or service and is conducted in whole or in part in a *dwelling unit* or *accessory structure* and is clearly secondary and subordinate to the residential use of the property.

Hospital: A *building* or group of *building*s having room facilities for overnight patients, used for providing services for the inpatient medical or surgical care of sick or injured *person*s, and which may include related facilities, central service facilities, and staff offices; provided however, that such related facilities will be incidental and subordinate to the main use and will be an integral part of the *hospital* operation.

Hotel: A *building* in which lodging or boarding are provided for more than 15 *person*s, primarily transient, or with more than ten guest rooms, offered to the public for compensation. 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 contrast to a boarding, rooming, or *lodging house* or an *apartment house* which are herein separately defined. A *hotel* may include *restaurant*s, taverns, clubrooms, public banquet halls, ballrooms, and meeting rooms.

House of Worship: A *building* wherein *person*s regularly assemble for religious worship, and those accessory activities as are customarily associated therein, which *building* and activities are maintained and controlled by a religious body organized to sustain public worship but not to render a service which is customarily carried on as a business.

Hedgerow: A row or rows of bushes, shrubs, or *tree*s forming a hedge.

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 these *soils*.

Hydrophytic Vegetation: Those plants cited in "Vascular Plant Species Occurring in Maryland *Wetlands*" (Dawson, F. et al., 1985) which are described as growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content (plants typically found in wet areas).

Impervious Surface: A surface that has been compacted or covered with a layer of material so that it is highly resistant to *infiltration* by water. For *stormwater management* purposes: Any surface that does not allow *stormwater* to infiltrate into the ground.

Infiltration: The passage or movement of water into the *soil* surface.

Inspection Agency: The Maryland Water Management Administration or, if enforcement authority has been delegated, Kent County.

Intermittent Stream: A stream in which surface water is absent during a part of the year as shown on the most recent 7.5-minute topographic quadrangle published by the United States Geologic Survey as con*firm*ed by field verification.

Intrafamily Transfers: A transfer to a member of the owner's immediate *family* of a portion of the owner's property for the purpose of establishing a residence for that *family* member.

Island: In *street* or parking design, a raised area, usually curbed, placed to guide traffic and separate lanes or used for landscaping, signage, or lighting.

Junk: Dilapidated automobiles, trucks, tractors, and other such vehicles and parts thereof, dilapidated wagons, trailers, and other kinds of vehicles and parts thereof, scrap *building* material, scrap contractor's equipment, tanks, caskets, appliances, cans, barrels, boxes, drums, piping, bottles, glass, old iron, machinery, rags, paper, excelsior, hair, mattresses, beds or bedding, or any other kind of scrap or waste material which is stored, kept, handled, or displayed.

Jurisdiction: Territory of a county or municipal corporation within which its powers may be exercised.

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

Land Surveyor: A *person* who is licensed as a *land surveyor* in the State of Maryland.

Land-based aquaculture: In the *Critical Area*, the raising of fish or shellfish in any natural or man- made, enclosed, or impounded, water body.

Landforms: Features of the earth's surface created by natural causes.

Landscape Plan: A plan showing the dimensions and details for *reforesting* an area at least 35 feet wide and covering 2,500 square feet or greater in size or landscaping, using native or indigenous plants when appropriate, and where applicable, and is made a part of an approved *Forest Conservation Plan*.

Laundromat: A business that provides washing, drying, and/or ironing machines or dry-cleaning machines for hire to be used by customers on the *premises*.

Linear Project: a project which is elongated with nearly parallel sides and is used to transport a utility product or public service not otherwise contained in an application for *subdivision*, such as electricity, gas, water, sewer, communications, trains, and vehicles. It may traverse fee simple properties through defined boundaries or established *easement* rights

Limit of Moderate Wave Action (LiMWA): Inland limit of the area affected by waves greater than 1.5 feet during the *base flood*. *Base flood* conditions between the VE Zone and the LiMWA will be similar to, but less severe than those in the VE Zone.

Load-Bearing Fill: Any facility, earthwork, or *fill* placed in a controlled manner to support structural foundations or vehicular traffic, the instability of which would constitute a public hazard or nuisance.

Livestock: domesticated animals that are kept for purposes including meat, leather, wool, or labor, which may include but not be limited to cattle, swine, sheep, horses, mules, or goats. Large ruminants include cattle; small ruminants include sheep and goats; equines include horses and mules. See also *Fowl* and *Poultry*.

Loading Space: An off-*street* space or berth within or adjacent to the main *building* for the standing, loading, or unloading of vehicles.

Lodging house: Same as *rooming house*.

Lot: A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or plat and which is recognized as a separate legal entity for the purposes of transferring title.

Lot Area: The total horizontal area within the *lot lines* of the *lot*.

Lot Line: The boundary line of a *lot*.

Lot, Corner: A *lot* abutting upon two or more *streets* at their intersection.

Lot, Depth: The average horizontal distance between the front and rear *lot lines*.

Lot, Interior: A *lot* other than a *corner lot*.

Lot, Through (Double Frontage): A *lot* having a *frontage* of two approximately parallel *streets* or places.

Lot Width: The horizontal distance between the side *lot lines* measured at the front *building setback* line.

Lowest Floor: In the application of the *floodplain regulations*, the *lowest floor* of the lowest enclosed area, including a *basement*. An unfinished enclosure constructed of *flood* resistant materials used solely for parking of vehicles, storage, or *building* access in an area other than a *basement*, and which is not the *lowest floor*, as long as it is supplied with water equalizing vents.

MET Tower:: A temporary tower erected for the purpose of performing a wind study to determine the optimal location for a wind energy system.

Maintenance Agreement or Guarantee: 1) Any security which may be required and accepted by Kent County to ensure that necessary improvements will function as required for a specified period of time. 2) The short-term management agreement associated with *afforestation*, *reforestation*, or landscaping. 3) The long-term management agreement for *private roads* and *stormwater management* facilities.

Major Thoroughfare: A *street* or highway so designated on the Kent County *Major Thoroughfare* Map.

Manufactured Home: A transportable *structure* that is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. A mobile home is separately defined below.

Marina: A location for docking or mooring boats and providing services for compensation to boats and the occupants thereof. *Marina* does not include a community *pier* or other noncommercial boat docking and storage facility.

Maximum Extent Practicable (MEP): Designing *stormwater management systems* so that all reasonable opportunities for using *ESD planning techniques* and treatment practices are exhausted and only where absolutely necessary, a structural *BMP* is implemented.

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

Microbrewery: A facility in which beer is brewed for distribution and consumption, and which possesses the appropriate license from the State of Maryland~~.~~, including ~~T~~tasting rooms on the *premises* for the consumption of *on-site* produced beer ~~are permitted on the *premises*~~.

Minor Street: A *street* other than a *major thoroughfare* or *collector street* and intended primarily for providing access to abutting properties.

Mobile Home: A *structure*, transportable in one or more sections, which when erected on *site* is 320 square feet or more, and is built on a permanent chassis and is designed to be used as a *dwelling* with or without a permanent foundation when connected to the required utilities and includes plumbing, heating, air conditioning, and electrical systems contained in it. This term will apply to any *structure* which meets all the requirements of this definition except the size requirement and with respect to which the manufacturer voluntarily files a *certification* required by the Secretary of HUD and complies with the standards established under the federal act.

Mobile Home Development: Any *lot*, parcel, or *tract*, together with required *open space*, used, designed, maintained, or held out to accommodate *mobile homes*, whether by rental or ownership and all *buildings* and *structures* intended as *accessory uses*. A *mobile home development* does not include automobile or *mobile home* sales *lot*s on which unoccupied *mobile homes* are parked for inspection and sale. A *mobile home development* provides for the permanent or long-term location of *mobile homes* to be occupied as residences.

Mobile Home Park: A *mobile home development* which is divided into individual *sites* and solely operated exclusively as a rental project.

Mobile Home Subdivision: A *mobile home development* which is subdivided into individual *lot*s.

Modified Buffer: An area of 100 feet measured horizontally from mean high tide, the edge of *tidal wetlands*, or *tributary streams* and located within a *Modified Buffer Area*. This *modified buffer* will include a 25-foot area of existing naturally vegetated area, or an area established in vegetation and managed to protect aquatic environments, *wetlands*, shoreline, and terrestrial environments from man-made disturbances. *Sites* with a *non-functioning buffer will* be required to have a *modified buffer*.

Modified Buffer Area: Those areas as mapped by the Kent County Department of Planning and Zoning and approved by the *Critical Area* Commission.

Motel, Tourist Home, or Motor Lodge: A *building* in which lodging, or boarding and lodging, are provided and offered to the public for compensation. As such, it is open to the public in contradistinction to a boarding or *lodging house*, or a *multi-family dwelling*; same as a *hotel* except that the *buildings* are usually designed to serve tourists traveling by automobile, ingress and egress to rooms need not be through a lobby or office and parking is usually adjacent to the rooms.

Native Plants: Species native to the State of Maryland, including improved cultivars of those species.

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*s, aquatic life, and wildlife.

Natural Ground Surfaces: The ground surface in its original state before *grading*, *stripping*, *excavation*, or filling.

Natural Heritage Area: Any community of plants or animals which are considered to be among the best Statewide examples of their kind and are designated by regulation by the Department of Natural Resources.

Natural Parks: Areas of natural habitat that provide opportunities for those recreational activities that are compatible with the maintenance of natural conditions.

Natural Regeneration: The natural establishment of *tree*s and other vegetation with at least 400 woody, free-to-grow *seedlings* per acre, which are capable of reaching a height of at least twenty feet at maturity.

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

Nature-dominated: A condition where *landforms* or biological communities, or both, have developed by natural processes in the absence of human intervention.

Net Tract Area: For *forest conservation* : (1) Except in agricultural (AZD) and resource (RCD) areas, the total area of a *site*, including both *forest*ed and non-*forest*ed areas, to nearest 1/10 acre, reduced by the area where *forest clearing* is restricted by another local ordinance or program. (2) In agricultural (AZD) and resource (RCD) areas, the part of the total *tract* for which land use will be changed or will no longer be used for primarily agricultural activities, reduced by the area where *forest clearing* is restricted by another local ordinance or program. (3) For a *linear project*, the area of a right-of-way width, new access *roads*, and storage, or the limits of disturbance as shown on an application for *sediment* and *erosion* control approval or in a capital improvements program project description.

New Construction: In terms of *floodplain* management, *structure*s, including additions and improvements, and the placement of *manufactured home*s, for which the *start of construction* (herein defined) commenced on or after April 25, 1975, the initial effective

date of the Kent County *Flood Insurance Rate Map*, including any subsequent improvements, *alteration*s, modifications, and additions to such *structure*s.

NAVD: In terms of *floodplain*: the North American Vertical Datum of 1988 elevation reference points set by the National Geodetic Survey based on mean sea level.

Nonconformities: (1) Nonconforming *Lot*s: A validly recorded *lot* which at the time it was recorded fully complied with all applicable laws and ordinances but which does not fully comply with the *lot* requirements of this Ordinance concerning minimum *density*, area, or dimension. (2) Nonconforming *Structure*s: A *structure* or *building*, not including signs, which lawfully existed on the effective date of this Ordinance but which does not comply with one or more of the *development* standards for the district in which it is located. (3) A use or activity that was lawful prior to the effective date of this Ordinance but fails to comply with the present requirements of the Ordinance.

Non-Functioning Buffer: A *buffer* will be considered non-functioning if: (1) More than 50% of the *buffer on-site* is impervious, or (2) More than 75% of the *buffer* on the *site* is disturbed either with stone, decks, septic systems, or other obvious human impacts. The *site* will include all contiguous parcels under single ownership. (3) The *site* is located within a *Modified Buffer Area*. (4) Contiguous *buffer*s of *natural vegetation* of 100 feet of shoreline are considered functioning *buffer*s.

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

Non-Renewable Resources: Resources that are not naturally regenerated or renewed.

Non-tidal Floodplains: These *floodplain*s consist of the *floodway* and *floodway fringe*. *Non-tidal floodplains* may have detailed *engineer*ing study data, profiles, and water surface elevations, or may have approximate delineations only.

Non-tidal wetlands: (1) Within the *Critical Area*, those lands, excluding *tidal wetlands* regulated under Md. Code Ann., Natural Resources, Title 9, where the water table is usually at or near the surface, or lands where the *soil* or substrate is covered by shallow water at some time during the *growing season*, and which are usually characterized by one or both of the following: (1a) At least periodically, the lands support predominately *hydrophytic vegetation*; and (1b) The substrate is predominately undrained *hydric soils*. (2) Excluded from these *regulations* are *farm* ponds and other man-made bodies of water whose purpose is to impound water for *agriculture*, water supply, recreation, or *waterfowl* habitat purposes. (3) Outside the *Critical Area*, as defined by the State of Maryland, Army Corps of *Engineer*s, Environmental Protection Agency, Natural Resources Conservation Service, U.S. Fish and Wildlife Service, and any other applicable State or Federal Agency.

Nursing Home: Same as *Convalescent Home*.

Office of Sediment Control: The Kent County Department of Planning and Zoning for inspection purposes and the Kent Soil and Water Conservation District for plans review purposes.

Offsets: *Structure*s or actions that compensate for undesirable impacts.

Off-site: Outside of the limits of the area encompassed by the *development* or *tract*.

Off-site Stormwater Management: The design and construction of a facility necessary to control *stormwater* from more than one *development*.

On-site: Within the limits of the area encompassed by a *development* or *tract*, including an area classified as a 100-year *floodplain*.

On-site Stormwater Management: The design and construction of systems necessary to control *stormwater* within an immediate *development*.

One Percent Annual Chance (100-Year) Floodplain: An area along or adjacent to a stream or body of water that is capable of storing or conveying *flood*waters during the 100-year frequency *flood* as shown on the *Flood Insurance Rate Map* and *Flood Insurance Study*.

One Percent Annual Chance (100-Year) Flood: The *base flood*, having one chance in hundred (one percent chance) of being equaled or exceeded in any year.

Open Space: Those areas suitable for common recreational use or which provide visual relief to developed areas, exclusive of *flood* control *channel right of way*s, areas devoted to parking, vehicular traffic, or private land, and any other area which does not significantly lend itself to the overall benefit of either the particular *development* or surrounding environment. ~~The boundaries of *open space* areas will be treated as property lines in determining required rear and *side yard setbacks*. At least 50% of the required *open space* will be contained as a single visually identifiable area exclusive of connecting corridors or pathways and in no case be less than 50 feet in width nor 5,000 square feet in area. In the *Critical Area*, land and water areas retained in an essentially undeveloped state.~~ [These are regulatory provisions and were relocated to Article V, Section 1.9]

Overbank Flood Protection Volume: The volume controlled by structural practices to prevent an increase in the frequency of out-of-bank *flood*ing generated by *development*. Methods for calculating the *overbank flood protection volume* are specified in the *De*sign *Manual*.

Overburden: In the *Critical Area*, the strata or material in its natural state, before its removal by *surface mining*, overlying a mineral deposit, or in between mineral deposits.

Palustrine: All *non-tidal wetlands* dominated by *tree*s, shrubs, persistent emergent plants, or emergent mosses or lichens and all such *wetlands* that occur in tidal areas where the salinity due to ocean derived salts is below one-half part per 1,000 parts of water.

Parking, off-street: An all-weather surface area not in a *street* or *alley* and having an area of not less than 200 square feet, exclusive of driveways, permanently reserved for the temporary storage of one vehicle and connected with a *street* or *alley* by a paved driveway which affords ingress and egress for an automobile without requiring another automobile to be moved.

Perennial Stream: A stream containing surface water throughout an average rainfall year, as shown on the most recent 7.5-minute topographic quadrangle published by the United States Geologic Survey, as con*firm*ed by field verification.

Permanent Construction: Any *structure* occupying a *site* for more than 180 days per year.

Permittee: Any *persons* to whom a permit is issued pursuant to this Ordinance.

Person: Includes, in addition to any other meaning it may have under this chapter, an individual, a corporation, a partnership, the federal government, a county, a municipal corporation, or any other political *subdivision* of the State, an agency, or any other similar entity whatsoever.

Personal Wireless Facility: Facility for the provision of *person*al wireless services, as defined by the Telecommunications Act but not including public and commercial radio and television facilities.

Personal Wireless Facility Tower: A tower, including guyed towers, lattice towers, and monopoles, for the purpose of supporting *personal wireless facilities*.

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

Pier: A *structure* built over the water and supported by pillars, piles, or floats, and used as a landing place, including tie-out pilings.

Pier Length: The straight-line distance between the mean high water mark and the outermost piling.

Planning Commission: The Kent County *Planning Commission*.

Planning Techniques: For *stormwater management* purposes: A combination of strategies employed early in the project design to reduce the impact from *development* and to incorporate *natural features* into a *stormwater management plan*.

Plant Habitat: A community of plants commonly identifiable by the composition of its vegetation and its physiographic characteristics.

Plot Plan: A *site plan* for review of *single-family dwelling*s, *accessory use*s, and *structures*, ~~to~~ which may include new *single-family dwelling*s, additions and *alteration*s to *single family dwelling*s, and agricultural *structure*s. These projects have minor impact, require less information, and may be reviewed and approved by the Planning Director or the Planning Director's designee. Other minor, non-residential projects may be eligible for review by this type of site plan.

Port: A facility or area established or designated by the State or local *jurisdiction*s for purposes of water-borne commerce.

Poultry: domesticated fowl to include but not be limited to chickens, ducks, geese, turkeys, and pigeons or doves. See also *Fowl* and *Livestock*.

Premises: A *lot*, together with all the *buildings* and *structures* thereon.

Primary Road: *Primary roads* are identified on the Kent County ~~*Major Thoroughfare* Map~~*Road Classification System* map in the Kent County Comprehensive Plan (See the adopted Kent County Comprehensive Plan: https://www.kentcounty.com/planning/compplan).

Priority Funding Area: An area designated as a *Priority Funding Area* under State Finance and Md. Code Ann., Procurement, §5-7B-02.

Private Destination/Residence Club: Tourist accommodations in one or more *building*s owned, co-owned, or operated by a corporation, association, *person*, or *person*s, and serving as the temporary abode of *person*s having a residence elsewhere and offering both pre- and post-arrival concierge service. The use and occupancy of the units circulates among individuals on a periodically recurring basis and is inherently transient.

Private Harvesting: The *cut*ting and removal of *tree*s for *person*al use.

Private Road: A way for vehicular traffic maintained by private property owners using it~~. *Private roads* are only allowed in minor *subdivisions* and may serve no more than seven *lots*, or parcels. Abutting properties which are prohibited from using the *private road* (by a note on the plat) do not count toward the number of parcels using the road~~.

Professional Offices: Offices for doctors, dentists, attorneys, engineers, land surveyors, counselors, and similar uses as determined by the ~~*Administrator*~~*Department*.

Project Approvals: The approval of *development*, other than *development* by a State or local government agency, in the Chesapeake Bay *Critical Area* by the appropriate local approval authority. The term includes approval of *subdivision* plats and *site plan*s; inclusion of areas within floating zones; issuance of *variance*s, special exceptions, and conditional use permits; and issuance of zoning permits. The term does not include *building* permits.

Protected Lands: A Maryland Agricultural Land Preservation Foundation (MALPF) ~~D~~district or any other *agricultural* or *conservation easement*, both public and private.

Public Landing: Areas adjacent to the waters of Kent County and owned by the Kent County Commissioners for use by the public for water related activities, subject to rules and *regulations* as may be promulgated by the Kent County Commissioners.

Public Utilities: Uses or *structures* for the public ~~purpose~~provision, transmission, and distribution of electricity (but not power generation); fuel transmission and distribution (but not manufacture or storage) of gas; potable water treatment and distribution; sewerage collection and treatment; telephone and internet service facilities (not including stations or terminals). This does not include *public utility lines and accessory structures*.

Public Utility Lines and Accessory structures: Underground gas mains and pipes and underground and overhead electrical and communications wires, cables, pipes, conduits, and their supporting poles, towers, repeaters, boosters, anodes, regulating and measuring devices, and the minor *buildings* or *structures* in which they may be housed, but not including major *buildings*, *yard*s, stations, or substations for

transforming, boosting, switching, or pumping purposes, where such facilities are constructed on the ground.

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

Recharge Volume: That portion of the *water quality volume* used to maintain ground water recharge rates at *development sites*. Methods for calculating the *recharge volume* are specified in the *De*sign *Manual*.

Reclamation: The reasonable rehabilitation of disturbed land for useful purposes, and the protection of natural resources of adjacent areas, including water bodies.

Recreational Vehicle: A vehicular, portable device, not more than 45 feet in length, built on a chassis designed to be self-propelled or permanently towable by a light duty truck, and used as a temporary *dwelling* for travel or recreational purposes.

Redevelopment: For *stormwater management* purposes: Any construction, *alteration*, or improvement on *sites* where existing land use is commercial, industrial, institutional, or multi-*family* residential and existing *site* impervious area exceeds forty (40) percent. For *Critical Area* purposes: The process of developing land, which is or has been developed.

Reforestation: The establishment of a *forest* through artificial reproduction or *natural regeneration* and including for *forest conservation* purposes: (1) The creation of a biological community dominated by *tree*s and other woody plants containing at least one hundred live *tree*s per acre with at least 50 percent of those *tree*s having the potential of obtaining a two-inch or greater diameter measured at 4.5 feet above the ground within seven years. (2) Establishment of a *forest* according to the *Forest Conservation Technical Manual*. (3) Landscaping of areas under an approved *landscape plan* establishing a *forest* at least 35 feet wide and covering an area of 2,500 square feet or more. (4) For a *linear project* involving overhead transmission lines, it may consist of a biological community dominated by *tree*s and woody shrubs with no minimum height or diameter criteria.

Regulated Activity: For application of *forest conservation* outside of the *Critical Area*, any of the following activities when that activity occurs on a unit of land which is 40,000 square feet or greater: (1) *Subdivision*; (2) *Grading*; (3) An activity that requires a *sediment control permit*; or (4) Project plan of a State or local agency.

Regulated Grading: Any *grading* performed with the approval of, and in accordance with, criteria established by this Ordinance.

Regulations: The whole body of *regulations*, text, charts, diagrams, notations, and references contained in or referred to in this Ordinance.

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

~~*Rental Unit*: A *dwelling unit* intended for rental to transients on a day to day or week to week basis, but not intended for use or used as a permanent *dwelling* and not including culinary facilities.~~ [relocated within Rooming House definition, it's only occurrence]

Resort: A self-contained facility that serves as a primary attraction for visitors which provides recreational and/ or therapeutic facilities. A *resort* may also include meeting facilities.

Resource Banking: The restoration, creation, enhancement, and in certain defined circumstances, preservation of a natural resource such as *wetlands* or *forest* for the express purpose of compensating for the loss of the natural resource.

Responsible Personnel: Any foreman, superintendent, or project *engineer* who is in charge of on-*site clearing* and *grading* operations or the implementation and maintenance of an *erosion and sediment control plan*.

Restaurant ~~*(without drive-through service)*~~: An establishment that serves food and beverages primarily to customers seated at tables or counters in a *building* or designated outdoor seating areas and may include drive through service, when such service are listed as being permitted in a zoning district. This includes cafes, tearooms, and snack bars.

Retail businesses, including *shopping centers*, are businesses which supply, on the premises, household goods, new automotive parts, agricultural supplies and commodities, sporting goods, and the like including department, outlet, and discount stores.

Retention: In *forest conservation*, the deliberate holding and protection of existing *tree*s, shrubs, or plants on the *site* according to established standards as provided in the Kent County *Forest Conservation Technical Manual*.

Retention Structure: A permanent *structure* that provides for the storage of runoff by means of a permanent pool of water.

Retreat: A small meeting facility in a private, natural area, free from distractions thus allowing meeting participants to focus on the goals and objectives of the meeting.

Retrofitting: The implementation of *ESD* practices, the construction of structural *BMPs*, or the modification of an existing structural *BMP* in a previously developed area to improve water quality over current conditions.

Right-of-way: A strip of land occupied or intended to be occupied by a *street*, *crosswalk*, railroad, road, electrical transmission line, gas pipeline, water main, sanitary or storm sewer main, shade *tree*s, or for another special purpose.

Riparian Habitat: A habitat that is strongly influenced by water and which occurs adjacent to streams, shorelines, and *wetlands*.

Roads: Collector, Primary, and Secondary: As shown on the County's ~~Map~~*Road Classification System* map in the Kent County Comprehensive Plan or Town's *Major Thoroughfare* Map (See Comprehensive Plan https://www.kentcounty.com/planning/compplan).

Roadside Stand: A *structure* designed or used for the display or sale of local agricultural products.

Roadway: That portion of a *street* or highway available for and intended for use by motor vehicle traffic.

Rooming House: A *building* where, for compensation and by prearrangement for definite periods, lodging, meals, or lodging and meals are provided for three or more *person*s but containing no more than five guest rooms or *rental units that* intended for rental to transients on a day to day or week to week basis, but are not intended for use or used as a permanent *dwelling*, and where individual units do not include kitchen facilities.

Rural Inn: A facility with 10 to 25 guest rooms that are not for use as permanent residences, with on-site management for the purpose of providing overnight lodging to the general public for transient stays of 45 consecutive days or less for compensation and only by prearrangement, and at which limited dining facilities may also be offered for guests and the general public.~~, in accordance with the following: (1) Are for transient stays of 45 consecutive days or less for compensation with or without meals; and (2) Are not to be used for permanent residence; and (3) Have common facilities for reservations, dining, and cleaning services, and (4) Have *on-site* management; and (5) Seating for dining facilities available to patrons other than registered guests for overnight lodging will not exceed 40 seats over and above those seats needed to accommodate the maximum number of lodging guests based on two (2) individuals per room.~~

Sanitary Landfill: A land disposal *site* employing an *engineer*ing method of disposing of solid waste on land in a manner that minimizes environmental hazards by spreading the solid waste to the smallest practical volume and applying and compacting cover at the end of each operating day or more often if required.

Sawmill: A facility where logs or partially processed cants (logs slabbed on one or more sides) are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products (but not paper or paper products) not including the processing of timber for use on the same *lot* by the owner or resident of that *lot*.

Screen: A *structure* or planting consisting of fencing, *berms*, and/or deciduous or coniferous *tree*s or shrubs providing a continuous view obstruction within a *site* or property.

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

Secondary Road: *Secondary roads* are identified on the Kent County *Road Classification System* map in the Kent County Comprehensive Plan (see the adopted Kent County Comprehensive Plan: https://www.kentcounty.com/planning/compplan). ~~*Major Thoroughfare* Map~~ or *roads* so designated by an incorporated ~~t~~Town.

Sediment: *Soils* or other surficial materials transported or depos*ited* by the action of wind, water, or artificial means.

Sediment Control Officer: Kent County Planning Director or the Director's designee or the District Manager of the Kent Soil and Water Conservation District (KSWCD).

Sediment Control Permit: The authorization of an activity regulated under a *sediment* control plan as provided in the Md. Code Ann., Environment, Title 4.

Seedlings: An unbranched woody plant, less than 24 inches in height and having a diameter of less than ½ inch measured at two inches above the root collar.

Selection: In the *Critical Area*, the removal of single, scattered, mature *tree*s or other *tree*s from uneven-aged stands by frequent and periodic *cut*ting operations.

Selective Clearing: The careful and planned removal of *tree*s, shrubs, and plants using specific standards and protection measures under an approved *Forest Conservation Plan*.

Servants' Quarters: Living quarters within a portion of the main *building* or in an accessory *building* on the same *lot* with the main *building* used for servants employed on the *premises*, such quarters having no kitchen facilities or separate utility meters, and not rented or otherwise used as a separated *dwelling*.

Setback: The distance between the *street right of way* and the line of a *building* or any projection thereof.

Sewage Sludge: The accumulated semi-liquid or dried solid residue that is depos*ite*d from sewage or septage in a wastewater treatment plant, as defined in the COMAR *regulations*.

Sewage Sludge Land Application: The deposition of *sewage sludge* on the surface or the injection or incorporation of such material into the root zone or *soil* profile.

Shadow Flicker: The moving shadow created by the sun shining on rotating blades of the wind turbine.

Shopping Center: An integrated *development* of four or more commercial, retail, or service establishments, either connected or freestanding sharing common parking facilities and common access.

Shoreline Cliff: A steep face of 10 feet or higher with a *slope* in excess of 60 degrees either vegetated or non-vegetated which borders the Chesapeake Bay, the Chester River, the Sassafras River, or any open water tributary within Kent County.

Sign: See Article V for all sign-related definitions.

Sign*ificantly Eroding Areas*: Areas that erode 2 feet or more per year.

Site: Any *tract*, *lot*, or parcel of land or combination of tracts, *lot*s, or parcels of land which are under one ownership, or are contiguous and in diverse ownership where *development* is to be performed as a part of a unit, *subdivision*, or project.

Site Development Plan: For *erosion and sediment control* and *stormwater management* purposes: The second of three plan approvals that include the information necessary to allow a detailed evaluation of a proposed project.

Site Plan: A drawing illustrating a proposed *development* and prepared in accordance with the specifications of Article IV.

Site Plan, Major: A *site plan* which is reviewed and decided upon by the Kent County *Planning Commission*. This includes all *site plans* required by this Ordinance that do not meet the criteria for *plot plans* or *minor site plans*.

Site Plan, Minor: A *site plan* which is reviewed and decided upon by the Planning Director, or the Planning Director's designee, after review by the Technical Advisory Committee~~. At the Director's discretion, a *minor site plan* may be submitted to the *Planning Commission* for approval. In the absence of a Planning Director, the *Planning Commission will* approve, approve with conditions, or disapprove *minor site plans*. *Minor site plans* may be submitted for the following: duplexes; non-residential uses and additions that result in a maximum increase of 10% of the size of the existing *structure*; change in parking or vehicular access; construction of a non-residential *building* with a gross *floor area* of 5,000 square feet or less~~.

Slip: That area of the *waterway* contained within the tie-out pilings, a bulkhead, or a *pier*, whether covered or not.

Slope: The inclined exposed surface of fill, *excavation*, or natural terrain.

Soil: All earth material of whatever origin that overlies bedrock, and including, but not limited to, the decomposed zone of bedrock which can be readily excavated by mechanical equipment.

Soil Conservation and Water Quality Plans: In the *Critical Area*, land use plans for *farm*s, which show *farm*ers how to make the best possible use of their *soil* and water resources while protecting and conserving those resources for the future. It is a document containing a map and related plans that indicate: (1) How the landowner plans to treat a *farm* unit; (2) Which *best management practices* the landowner plans to install to treat undesirable conditions; and (3) The schedule for applying those *best management practices*.

Solar Energy System, utility scale: Any device or combination of devices or elements which rely upon direct sunlight as an energy source, including but not limited to any substance or device which collects sunlight for generating energy primarily for use *off-site*. Energy generated may be used to serve on *site* power needs.

Solar Energy System, small: Any device or combination or devices or elements which rely upon direct sunlight as an energy source, including but not limited to any substance or device which collects sunlight for generating energy for use on *site*. The energy output may also be delivered to a power grid to offset the cost of energy on *site*, as well as aggregate metering as defined by the State of Maryland.

Special Flood Hazard Area (*SFHA*): The land in the *floodplain* subject to a one percent or greater chance of *flood*ing in any given year. *Special Flood Hazard Area*s are designated by the Federal Emergency Management Agency in *Flood Insurance Studies* and on *Flood Insurance Rate Maps* as Zones A, AE, AH, AO, A1-30, and A99, and Zones VE and V1-30. The term includes areas shown on other *flood* maps that are identified in Article VI.

Species in Need of Conservation: Those fish, plants, and wildlife whose continued existence as part of the State's resources are in question and which may be designated by regulation by the Secretary of Natural Resources as in need of conservation pursuant to the requirements of Md. Code Ann., Natural Resources, §10-2A-06, among others.

Stabilization: The protection of exposed *soil*s from *erosion* by the application of seed and mulch, seed and matting, sod, other vegetative measures, and/or structural means.

Stable, Private: An accessory *building*, not related to the ordinary operation of a *farm*, for the housing of not more than four horses or mules owned by a *person* or *person*s living on the *premises* and which horses or mules are not for hire or sale.

Stable~~, Public~~ Commercial: Any stable for the housing of horses or mules, operated for remuneration, hire, sale, or stabling, or any stable not related to the ordinary operation of a *farm*, with the capacity for more than four horses or mules, whether or not such stable is operated for remuneration, hire, sale, or stabling.

Standards and Specification: The "2011 Maryland *Standards and Specification* from *Soil Erosion and Sediment Control*" or any subsequent revisions.

Start of Construction: For *floodplain* management, the date of issue of the *building* permit for any *development*, including *new construction* and *substantial improvements*, provided that the actual start of the construction or improvement was within 180 days of permit issuance. The actual *start of construction* is the placement of slab or footings, piles, columns, or actual placement of a *manufactured home*. For *substantial improvement*, the *start of construction* is the first *alteration* of any structural part of the *building*.

Steep Slopes: *Slopes* of 15% or greater incline.

Stormwater: Water that originates from a precipitation event.

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

Stormwater Management Plan: A set of drawings or other documents submitted by a *person* as a prerequi*site* to obtain *stormwater management* approval, which contains all of the information and specifications pertaining to *stormwater management*.

Stormwater Management System: Natural areas, *ESD* practices, *stormwater management* measures, and any other *structure* through which *stormwater* flows, infiltrates, or discharges from a *site*.

Stream Protection Corridor: A 100-foot naturally vegetated area or an area established in vegetation and managed to protect aquatic environments, *wetlands*, shoreline, and terrestrial environments from man-made disturbances. The *stream protection corridor* will be 100 feet and will be measured horizontally from the top of each normal bank of a *perennial* or *intermittent stream*.

Stream Restoration Project: an activity that: (1) Is designed to stabilize stream banks or enhance stream function or habitat located within an existing stream, *waterway*, or *floodplain*; (2) Avoids and minimizes impacts to *forest*s and provides for replanting *on-site* an equivalent number of *tree*s to the number removed by the project; (3) May be performed under a separate storm sewer system permit, a *watershed* implementation plan growth offset, or another plan administered by the State or County to achieve or maintain water quality standards; and (4) Is not performed to satisfy *stormwater management*, *wetlands* mitigation, or any other regulatory requirement associated with proposed *development* activity.

Street: A public or private thoroughfare which affords the principal means of access to abutting property.

Street Line: A dividing line separating a *lot*, *tract*, or parcel of land and a contiguous *street*.

Story: That portion of a *building*, other than a *basement*, including between the surface of any floor and the surface of the floor next above it; or if no floor next above it exists, then the space between such floors and the ceiling next above it.

Stripping: Any activity which removes the vegetative surface cover, including *tree* removal, *clearing*, grubbing, and storage or removal of topsoil.

Structural Alteration: Any change in the supporting members of a *building*, footings, bearing walls or petitions, columns, beams, girders, or any substantial change in the roof or exterior walls, excepting such repair as may be required for the safety of the *building*.

Structural Rock Fills: Fills constructed predominately of rock materials for the purpose of supporting *structures*.

Structure: Anything constructed or erected, the use of which requires a more or less permanent location on the ground or attached to something having a permanent location on the ground, including but not limited to *mobile homes*, ~~signs,~~ *swimming pools*, fences with footers or a foundation, gas and liquid storage tanks, backstops for tennis courts, sheds, barns, and pergolas, excluding slabs, driveways, and walkways outside the Critical Area.

Subdivider: Any *person*, individual, *firm*, partnership, association, corporation, estate, trust, or any other group or combination, acting as a unit, dividing or proposing to divide land so as to constitute a *subdivision* as defined below and including any agent of the *subdivider*.

Subdivision: The division of a *lot*, *tract*, or parcel of land into two or more *lot*s, parcels, *sites*, or other divisions of land. It includes re*subdivision* and when appropriate to the context, will refer to the process of subdividing or the land subdivided. *Subdivision*s will be classified into one of the following: (1) Major *Subdivision:* Any *subdivision* containing eight or more *lot*s, parcels, *sites*, or other divisions of land. (2) Minor *Subdivision:* Any *subdivision* containing seven or fewer *lot*s, parcels, *sites*, or other divisions of land. (3) Adjustment of *Lot lines:* Adjustment of *lot lines* between adjoining property owners ~~which do not create additional *building lots* are subject to the following rules. (3a) Transfers of these *lots* are not counted in determining the number of *lots* in a~~

~~*subdivision*. (3b) Plat requirements are at the discretion of the Planning Director but may not exceed those for a minor *subdivision*. (3c) Procedures will be the same as that for minor *subdivisions*. (4) All *lots*, parcels, *sites*, and other divisions of land recorded after Dec. 23, 1969, from an original *lot*, *tract*, or parcel of land described in the Land Records of Kent County, will be counted in determining the number of *lots* in the *subdivision*. The original *lot* is also counted in determining the number of *lots*~~.

Substantial Damage: Damage of any origin sustained by a *structure* whereby the cost of restoring the *structure* to its before damage condition would equal or exceed 50% of the market value of the *structure* before the damage occurred.

Substantial Improvement: Any repair, reconstruction, or improvement of a *structure*, the cost of which equals or exceeds 50% of the market value of the *structure* (~~less~~without any land value included) either before the improvement or repair is started; or if the *structure* has incurred *substantial damage* and been restored, before the damage occurred. *Substantial improvement* occurs when the first *alteration* of any wall, ceiling, floor, or other structural part of the *building* commences. The minimum repairs needed to correct previously identified *violation*s of local health, safety, or sanitary codes, and *alterations* to *historic structures* which do not preclude their continued designation as *historic structures* are not considered *substantial improvements*. In *floodway* and *coastal high hazard areas*, permits will be tracked by property locations to determine if the cumulative value of improvements constitute *substantial improvement* of a *structure*.

Surface Mining: (1a) The breaking of the surface *soil* in order to extract or remove minerals. (1b) Any activity or process constituting all or part of a process for the extraction or removal of minerals from their original location; (1c) The extraction of sand, gravel, rock, stone, earth, or *fill* from borrow pits for highway construction purposes or other public facilities. (2) For the purpose of this Ordinance, *surface mining* includes: (2a) Operations engaged in processing minerals at the *site* of *excavation*; (2b) Removal of *overburden* and mining of limited amounts of any mineral when done for the purpose of prospecting and to the extent necessary to determine the location, quantity, or quality of any natural deposit; and (2c) Mining operations, if the affected land exceeds one acre or more in area.

Swimming Pool: Any portable pool or permanent *structure* containing a body of water ~~18~~ 42 inches or more in depth and 250 square feet or more of water surface area, intended for recreational purposes, including a wading pool but not including an ornamental reflecting pool or fishpond or any other type of pool, located and designed so as not to create a hazard or be used for swimming or wading.

Technical Advisory Committee (TAC): A committee organized to review and comment on *subdivision* and other *development* proposals. TAC consists of the following ~~*persons* or~~ types of agencies and their designated representatives: Planning ~~Director~~and Zoning, Public Works, ~~Director of~~ Environmental Health ~~Programs~~, State Highway Administration ~~Maintenance *Engineer*, County *Engineer*~~, State ~~Project~~ *Forest*er, ~~Director of Water and~~

~~Wastewater Services, *Stormwater Management* Technician~~, and representatives of other agencies and utilities concerned with *development* or *subdivision* review.

Tenant: An occupant of land or *premises* who occupies, uses, and enjoys real property for a fixed time, usually through a lease arrangement with the property owners.

Tenant House: A *farm dwelling*, other than the main *farm*house, for occupancy by a *person* or *family* associated with the agricultural endeavors on the *farm* or by a member of the property owner's immediate *family*.

Thinning: A *forest practice* used to accelerate the growth of quality *tree*s in the shortest interval of time.

Tidal Wetland: Defined as State and private *wetlands* by the State of Maryland in Md. Code Ann., Natural Resources, Title 9.

Timber Harvesting: a *tree-cut*ting operation affecting 1 or more acres of *forest* or *developed woodland* within a 1-year interval that disturbs 5,000 square feet or more of *forest* floor. It does not include grubbing and *clearing* of root mass.

Topography: The existing configuration of the earth's surface including the relative relief, elevation, and position of land features.

Townhouse: A *single family dwelling* forming one of a group or series of three or more attached *single-family dwellings* separated from one another by party walls without doors, windows, or other provisions for human visibility ~~through such walls from *basement* to roof, and having floors which may extend from one of the *dwelling units* to another~~.

Tract: Property or unit of land subject to an application for a *grading* or *sediment control permit*, *subdivision* approval, project plan approval, or areas subject to this Ordinance.

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

Transportation Facilities: Anything that is built, installed, or established to provide a means of transport from one place to another.

Tree: A large, branched woody plant having one or several self-supporting stems or trunks that reach a height of at least twenty feet at maturity.

Tributary Streams: Those *perennial* and *intermittent steams* that are so noted on the most recent U.S. Geological Survey 7.5-minute topographic quadrangle maps ~~(scale 1:24,000)~~, or on more detailed maps or studies used at the discretion of Kent County.

Truck Stop: An independent facility catering predominantly to tractor trailers and other large highway vehicles in which highway services such as fuel, food, repair, and similar items are provided.

Truck Terminal: A facility where truck transport goods are transferred, or stored pending transfer, and which may include truck dispatching, parking, and servicing. The terminal cannot be used for permanent or long-term storage of goods.

Unwarranted Hardship: Within the *Critical Area*, without a *variance*, an *applicant* would be denied reasonable and significant use of the entire parcel or *lot* for which the *variance* is requested.

Utility Transmission Facilities: Fixed *structures* that convey or distribute resources, waste, or both, including, but not limited to electrical lines, water conduits, and sewer lines.

Variance: The grant of relief from a term or terms of this Ordinance. For *stormwater management* purposes: The modification of the minimum *stormwater management* requirements for specific circumstances such that strict adherence to the requirements would result in unnecessary hardship and not fulfill the intent of this Ordinance.

Violation: For *floodplain* purposes: Any construction or *development* in a *Special Flood Hazard Area* that is being performed without an issued permit. The failure of a *building*, *structure*, or other *development* for which a permit is issued to be fully compliant with these *regulations* and the conditions of the issued permit. A *building*, *structure*, or other *development* without the required design *certification*s, the *Elevation Certificate*, or other evidence of compliance required is presumed to be a *violation* until such time as the required documentation is provided.

Waiver: For *Stormwater Management* Purposes: The relinquishment from *stormwater management* requirements by Kent County for a specific *development* on a case-by-case review basis: (1) "Qualitative *stormwater management waiver*" includes *water quality volume* and *recharge volume* design parameters. (2) "Quantitative *stormwater management waiver*" includes *channel protection storage volume*, *overbank flood protection volume*, and *extreme flood volume* design parameter.

Wash Plant: A facility where sand and gravel are washed during processing.

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

Water Quality Volume: The volume of water needed to capture and treat the runoff from 90% of the average annual runoff volume at a *development site*. Methods for calculating the *water quality volume* are specified in the *De*sign *Manual*.

Water Use Industry: An industry that requires location near the shoreline because it utilizes surface waters for cooling or other internal purposes.

Watercourse and/or Drainageway: Any natural or artificial *watercourse* (including, but not limited to streams, rivers, creeks, ditches, *channel*s, canals, conduits, culverts, drains, *waterways*, gullies, ravines, or washes) in which waters flow in a definite direction or course, either continuously or intermittently; and including any area adjacent thereto which is subject to inundation by reason of overflow or *flood*waters.

Water-Dependent Facilities: Those *structures* or works associated with industrial, maritime, recreational, educational, or *fisheries activities* that require location at or near the shoreline within the *buffer*. An activity is water dependent if it cannot exist outside the *buffer* and is dependent on the water by reason on the intrinsic nature of its operation. These activities include, but are not limited to, ports, the intake and outfall *structures* of

power plants, water use industries, *marina*s and other boat docking *structures*, public beaches and other *public water-oriented recreation* areas, and *fisheries activities*.

Waterfowl: Birds which frequent and often swim in water, nest, and raise their young near water, and derive at least part of their food from aquatic plants and animals.

Watershed: The total *drainage area* contributing runoff to a single point. For *forest conservation* purposes all land lying within an area described as a sub-basin in water quality *regulations* adopted by the Department of the Environment under COMAR 26.08.02.08.

Waterway: Any body of water, including any creek, canal, river, lake, or bay.

Waterway Line: A line marking the normal division between land and a *waterway* as established by the *Department*.

Waterway, Width Measurement: The measurement is made at the shoreline location of the *pier* and the narrowest width of the *waterway* from that point including consideration of data and information available from State of Maryland and Army Corps of Engineers.

Wetlands: See "*tidal wetlands*" and "*non-tidal wetlands*".

Whip: An unbranched woody plant greater than twenty-four inches in height and having a diameter of less than one inch measured at two inches above the root collar.

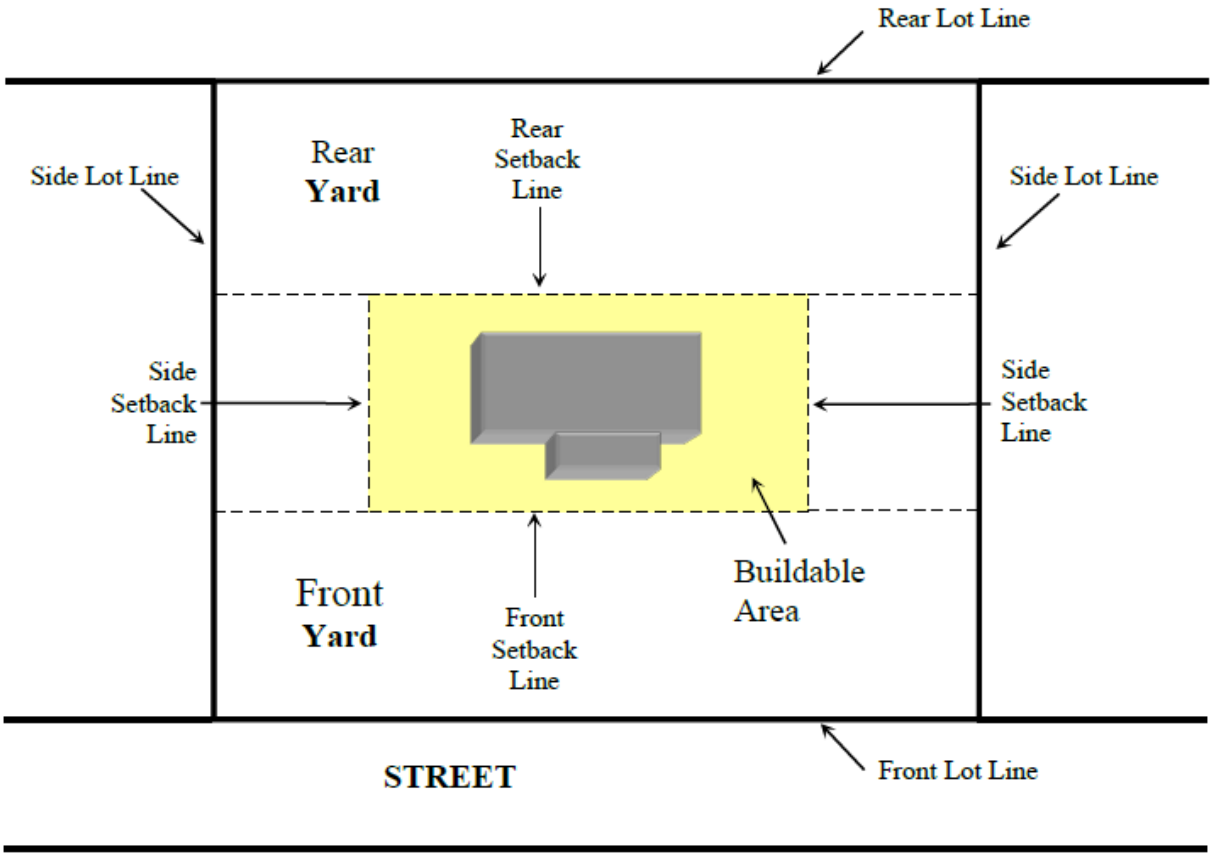
Wildlife Corridor: A strip of land having vegetation that provides habitat and a safe passageway for wildlife.

Wildlife Habitat: Those plant communities and *physiographic features* that provide food, water, cover, nesting, foraging, and feeding conditions necessary to maintain populations of animals.

Wind Energy System, small: A wind turbine mounted on a free-standing wind tower or *building* for the purpose of generating energy for use on *site* and not for sale and includes windmills that are used for pumping water or other purposes. However, the energy output may be delivered to a power grid to offset the cost of energy on *site*.

Yacht Club: A *yacht club* for the purposes of this Ordinance is considered to be a *marina*.

Yard: An *open space* other than a court, on a *lot*, and unoccupied and unobstructed from the ground upward, except as otherwise provided in this Ordinance.



Yard, Front: A *yard* extending across the front of a *lot* between the side *lot lines* and being the minimum horizontal distance between the *street line* and the required *front yard* line. (See diagram above.)

On *corner lots*, the *front yard* will be considered as one of the following: (a) the yard parallel to the *street* upon which the *lot* has its least dimension, or (b) the yard that abuts the primary access to the primary residential building, or (c) the yard parallel to the address street, as determined by the *Department*, except for waterfront *lot*s.

For waterfront properties, the front yard is that part of the *yard* extending across a *lot* between the side *lot lines* and being the minimum horizontal distance from the water and the main *building*. The front yard is determined by the location of the main building. In the absence of a building on , the front yard is considered to be the 100-foot buffer.

Yard, Rear: A *yard* extending across the rear of the *lot* between the side *lot lines* and measured between the rear *lot line* and the ~~rear of the main *buildings* or any projections thereof~~ required rear yard setback.

Yard, Side: A *yard* ~~between the main *building* and the side line of the *lot* and~~ extending from the *front yard* to the *rear yard* and being the minimum horizontal distance between the side lot line and the required side yard setback~~of the main *buildings* or any projections thereof~~.

Proposed DRAFT Land Use Ordinance Document
8/1/2023
County Commissioners Meeting

Item Summary:
Clean Copy

ATTACHMENTS:

Description

Proposed LUO for Review - Clean Copy 2023-08-01



LAND USE ORIDNANCE

DRAFT FOR COMMENT

AUGUST 1, 2023

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TABLE OF CONTENTS

Article I. Enactment 1

Section 1. General Provisions 2
Title 2
Purpose and Intent 2
Applicability 3
Compliance with Regulations 3
Validity of Ordinance 3
Repeal of Conflicting Ordinances 3
Conflict within Ordinance 4
Conflict with Other Regulations 4
Section 2. Zoning Map 4
Map Incorporation into Zoning Code 4
Revision of the District Map 4
Periodic Review 4
Section 3. Zoning Map Amendment Process 5
Section 4. Zoning Text Amendment Process 5
Section 5. Boards and Commissions 6
Section 6. Nonconformities 8

Article II. Districts 13

Section 1. General Provisions 14
Establishment of Zoning Districts 14
Critical Area Zoning Districts Generally 14
Establishment of Critical Area Line 15
Interpretation of District Boundaries 15
Section 2. Agricultural (AZD) 16
Section 3. Resource Conservation District (RCD) 24
Section 4. Rural Character (RC) 30
Section 5. Critical Area Residential (CAR) 36
Section 6. Community Residential (CR) 41
Section 7. Village (V) 47
Section 8. Intense Village (IV) 54
Section 9. Commercial (C) 61
Section 10. Commercial Critical Area (CCA) 66
Section 11. Marine (M) 70
Section 12. Employment Center (EC) 75
Section 13. Employment Center Critical Area (ECCA) 80

Article III. Uses 84

Section 1. General Provisions (including Uses Not Listed) 85
Section 2. Permitted Uses and Conditions 85

TABLE OF CONTENTS

Article IV. Processes 136

Section 1. General Provisions 137
Section 2. Subdivisions (including Subdivision Standards) 147
Section 3. Site Plans (including General Design Standards) 159
Section 4. Special Exception Process 180
Section 4. Variances 186
Section 5. Waivers 191
Section 6. Permits, Fees, and Code Enforcement 195
Section 7. Historic Preservation Documentation 203

Article V. Zoning Regulations 205

Section 1. General Provisions 206
Section 2. Parking and Loading 210
Section 3. Signs 214
Section 4. Standards for Utility-Scale Solar Energy Systems 223

Article VI. Environmental Regulations 229

Section 1. General Provisions 230
Section 2. Critical Area Program 233
Section 3. Forest Conservation 272
Section 4. Erosion and Sediment Control 288
Section 5. Stormwater Management 300
Section 6. Floodplain Management 317

Article VII. Definitions 332

Section 1. General Provisions 333
Section 2. Definitions 333



ARTICLE I. ENACTMENT

SECTION 1 GENERAL PROVISIONS

1.1 TITLE

This Ordinance shall be known as the Land Use Ordinance for Kent County, Maryland. It provides a unified, comprehensive approach to *regulations* that affect land use including Zoning, *Subdivision*, *Forest Conservation*, *Floodplain* Management, *Sediment* and *Erosion* Control, *Stormwater Management*, and the Chesapeake Bay *Critical Area*.

1.2 PURPOSE AND INTENT

The purpose of this Ordinance is to implement the Kent County *Comprehensive Plan* and to promote the health, safety, general welfare, and prosperity of the present and future inhabitants of Kent County, by:

(A) Giving effect to policies and proposals of the Kent County *Comprehensive Plan*.

(B) Reducing financial burdens imposed on the community by preventing unwise land use that requires costly infra*structure*, harms existing communities, or is in areas of natural hazards such as *floodplain*s, *shoreline cliff*s, *steep slopes*, and areas subject to *erosion*.

(C) Minimizing damage to public and private property.

(D) Providing for the preservation and enhancement of the attractiveness of Kent County through good design and arrangement, and the provision of adequate *public utilities*, *open space*, services, and facilities.

(E) Enhancing the County's employment base.

(F) Protecting and preserving Kent County's agricultural industry and the prime agricultural *soil*s essential to the conduct of this industry.

(G) Providing efficiency in the process of *development*.

(H) Protecting Kent County's significant *historic structures* and areas from destruction or encroachment.

(I) Protecting the biological and environmental quality of Kent County, including *forest*, water quality, habitat, and *wetlands*.

(J) Reducing the effects of land use on land *erosion* or stream *channel erosion*.

(K) Dividing the territory of Kent County, Maryland into zoning districts; governing the use of the land and the intensity of such use, including *bulk* and height.

(L) Implementing the *Floodplain* Management provisions to provide public awareness for *flood*ing prevention, to protect individuals from unknowingly buying land and *structure*s subject to *flood* hazard, and to encourage appropriate construction practices in order to prevent or minimize future *flood* damage.

(M) Implementing the *Stormwater Management* provisions to reduce local *flood*ing, to control *adverse impact*s associated with increased *stormwater*, and to improve or substantially maintain after *development* the predevelopment runoff characteristics of the *site*.

1.3 APPLICABILITY

(A) The provisions of this Ordinance shall apply to the unincorporated territory of Kent County, Maryland.

(B) Except as otherwise provided by this Ordinance, all land use that occurs within the unincorporated territory of Kent County, Maryland shall comply with the applicable terms and requirements of this Ordinance.

(C) No *lot* shall be created which does not conform to the applicable requirements of this Ordinance, unless a variance is granted by the Board of Appeals.

1.4 COMPLIANCE WITH REGULATIONS

Hereafter, the following shall not take place unless in conformity with the *regulations* set forth in this Ordinance:

(A) Change of a use of any land and *structure*s, except that existing *structures* may be used for any permitted use, special exception, or *accessory use* allowed in the zoning district where they are located.

(B) Construction, reconstruction, modification, extension, expansion, or relocation of *building*s or *structure*s.

(C) Placement of fill, grading, and land *excavation*.

(D) Land and forest *clearing*.

(E) Dumping or storage of materials.

(F) *Subdivisions* including lot line adjustments.

1.5 VALIDITY OF ORDINANCE

If any section, paragraph, subsection, clause, phrase, or provision of this Ordnance shall be judged invalid or held unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any part of the provisions thereof, other than the part so decided to be invalid or unconstitutional.

1.6 REPEAL OF CONFLICTING ORDINANCES

The Kent County Land Use Ordinance adopted December 3, 2002, and all amendments are hereby replaced by this Ordinance and any amendments from time to time.

1.7 CONFLICT WITHIN ORDINANCE

In the event of any conflict between the limitations, requirements, or standards contained in different provisions of this Ordinance, the more restrictive provision shall apply, unless context would imply otherwise. In the case of any ambiguities or discrepancies within or between these provisions, such matters shall be explained and interpreted, if possible, in a manner which gives effect to each part and which avoids or minimizes conflicts among such parts, as may be possible.

1.8 CONFLICT WITH OTHER REGULATIONS

In the event that this regulation conflicts with other federal, State, or local *regulations*, the more restrictive regulation shall prevail, except for the Critical Area. In cases involving the Critical Area, the standards in State law or the provisions in State agency rules and regulations shall govern.

SECTION 2 ZONING MAP

2.1 MAP INCORPORATION INTO ZONING CODE

The boundaries of zoning districts as shown on the official zoning maps of Kent County are hereby made a part of this chapter. The official zoning maps, together with amendments thereto, shall be kept by the Planning Department in both digital and printed form. In the event of a conflict between the digital and printed versions, the digital version shall control. Copies of the Official Zoning Map shall be available for inspection in the Department of Planning and Zoning.

2.2 REVISION OF THE DISTRICT MAP

No later than March 31 of the year following adoption of this Ordinance, copies of the map shall be available to the public.

2.3 PERIODIC REVIEW

Following adoption of a new or revised Kent County Comprehensive Plan, the *Planning Commission* and County Commissioners shall review the land use *regulations* and zoning district map for consistency with the *Comprehensive Plan*, deficiencies or difficulties in administration, or any other reason the County Commissioners may determine. This Ordinance does not provide regulations for the Comprehensive Rezoning process. The Comprehensive Rezoning process may be set forth independently of this Ordinance by policy, practice, or if desired by adopted Resolution.

SECTION 3 ZONING MAP AMENDMENT PROCESS

3.1 ZONING MAP

1. The application for an amendment to the Zoning Map of this Land Use Ordinance shall, at a minimum, specify the map and parcels sought to be amended, the current and proposed zoning classification, and recite the reasons for the proposed amendment.
2. Applications for zoning map amendments may only be submitted by the property owner or owners of the subject property for which a zoning map amendment is being requested, or by the County Commissioners of Kent County. The Planning Commission may make a recommendation to the County Commissioners to request the initiation of an application.
3. When reviewing a zoning map amendment, the *Planning Commission* will address the suitability of the property in question for the uses permitted under the proposed zoning.
4. Before approving any proposed map amendment, the County Commissioners shall hold a public hearing. Notice of any public hearing shall be given prior to the date of the hearing. The time, date, place, and nature of the hearing shall be published in a newspaper having general circulation in Kent County. The property shall also be conspicuously posted with the date, time, place, and nature of the hearing. The notices shall refer to places where the zoning map amendment may be examined, and online publication is sufficient.
5. Per Md. Code Ann., Land Use, § 4-204, an application for a zoning map amendment, other than an amendment proposed during a Comprehensive Rezoning process, must meet the requirements of the *change or mistake* rule. Applicants are advised to seek legal counsel.
6. An application may not be filed for a reclassification of all or part of any land for which a reclassification has been denied by the legislative body on the merits in the 12 months before the date of the application, per Md. Code Ann., Land Use, § 4-204.
7. Applications for map amendments will follow the process outlined immediately below.

SECTION 4 ZONING TEXT AMENDMENT PROCESS

4.1 ZONING TEXT

1. The County Commissioners may amend, supplement, or change the regulations of this Ordinance. Any zoning text amendment may be initiated by resolution of the County Commissioners, motion of the *Planning Commission*, submittal by County staff, or petition of any person using forms specified by the Department.
2. The application for a zoning text amendment to this Ordnance will state the article, section, and paragraph sought to be amended. The application shall contain the text of the proposed amendment and shall recite the reasons for such proposed change.
3. Before taking any action on any proposed zoning text amendment, revision, supplement, or change, the County Commissioners will submit the proposal to the *Planning*

Commission for review and recommendation. The *Planning Commission* may hold a public hearing on any proposed amendment, revision, supplement, or change before submitting its recommendation to the County Commissioners. The *Planning Commission* may request any pertinent data and information as it deems necessary.

4. In its recommendation, the *Planning Commission* shall address:

   (A) The public need for the proposed amendment; and

   (B) The extent to which the proposed amendment complies with or deviates from the Comprehensive Plan and the *Critical Area* Law.

5. The *Planning Commission* will not recommend the adoption of the amendment unless it finds that the adoption of the amendment is in the public interest, in that, it furthers the health, safety, and general welfare of the community, as well as the interests of an individual land owner.

6. Failure of the *Planning Commission* to report to the County Commissioners within 60 days following its first meeting after the proposal was referred will be deemed approval.

7. Before approving any proposed change or amendment, the County Commissioners shall hold a public hearing thereon. Notice of any public hearing shall be given prior to the date of the hearing. The time, date, place, and nature of the hearing shall be published in a newspaper having general circulation in Kent County. The notices shall refer to places where the plans, ordinances, or amendment may be examined, and online publication is sufficient.

8. The County Commissioners shall render its decision within a reasonable timeframe. An application may be deferred for additional research.

9. Petitions for amendments, revisions, supplements, or changes denied by the County Commissioners on their merits, or substantially similar petitions, shall not be allowed to be filed by an applicant for 12 months after the denial. The Board of County Commissioners itself may propose a similar petition of its own at any time.

10. Any persons aggrieved by any decision of the County Commissioners may within 30 days after such decision appeal to the Circuit Court of Kent County.

11. Amendments dealing with *Critical Area* Districts or *Critical Area* related items shall not be effective, until effective under Md. Code Ann., Natural Resources § 8-1809, as the same may be amended from time to time.

SECTION 5 BOARDS AND COMMISSIONS

It is the intent of this section to identify the duties of the Board of Appeals and *Planning Commission*. Each Board or Commission shall adopt rules of its business, such rules to be made available to the public upon request.

5.1 BOARD OF APPEALS

The Board of Appeals shall have the following powers:

1. Administrative Appeals - To hear and decide appeals of any decision or determination made by the Department or any County staff member in the enforcement and administration of this Ordinance, unless clearly specified otherwise in this Ordinance.
2. Special Exceptions - To hear and decide applications for special exceptions as set forth herein.
3. *Variances* - To authorize, upon application, *variances* related to y*ard* setbacks, height, *bulk*, parking, signs, loading, *shoreline cliff*, 15% *slope*, *pier length*, *impervious surface*, *stream protection corridor*, *forest conservation retention* provisions, *floodplain* requirements, *buffer* requirements, and any non-use-related provision of this Ordinance.
4. Other Powers - The Board may have additional powers as may be designated by the County Commissioners of Kent County.
5. Conditions - In the granting of *variances*, appeals, and special exceptions, the Board may limit the approval by such conditions as the case may require.
6. Right of Entry - The Board of Appeals is hereby authorized to enter upon open land in Kent County for the purpose of reviewing applications pending before the Board. Such entry is only to be in the form of a publicly noticed and ADA-accessible public meeting on the site.

5.2 PLANNING COMMISSION

The *Planning Commission* shall have the following powers:

1. *Comprehensive Plan* – To develop and approve a plan which shall be recommended to the legislative body for adoption. The plan is the principal document outlining County direction, policy, and action regarding land use. While other plans and ordinances provide more detailed information and policy, all plans and laws shall be consistent with and conform to the *Comprehensive Plan* in the manner as prescribed by Maryland State law, as set forth in Md. Code Ann., Land Use, §1-303.
2. Recommendations to County Commissioners – To make recommendations to the County Commissioners on Land Use Ordinance text amendments, zoning map amendments, and courses of actions necessary to implement the *Comprehensive Plan*.
3. Recommendations to the Board of Appeals – To make recommendations to the Board of Appeals on *variances* and certain special exceptions as set forth in this Ordinance. The Commission shall address the extent to which the *variance* or special exception complies with or deviates from the *Comprehensive Plan*. The Commission may recommend conditions and limitations on the approval of *variance*s and special exceptions.
4. *Subdivision*s – To review and approve *subdivision*s of land as set forth in this Ordinance and Md. Code Ann., Land Use, §5-105.
5. *Site plans* – To review and approve *site plans* as set forth in this Ordinance.

6. Other Powers – The *Planning Commission* may have additional powers as may be designated by the County Commissioners of Kent County.

7. Conditions – In the granting of *subdivision*s and *site plans*, the *Commission* may limit the approval by such conditions as the case may require.

8. Right of Entry – The *Planning Commission* is hereby authorized to enter upon open land in Kent County for the purpose of reviewing applications pending before the Commission. Such entry is only to be in the form of a publicly noticed and ADA-accessible public meeting on the site.

SECTION 6 NONCONFORMITIES

NONCONFORMING USES

6.1 LEGAL NONCONFORMING USES, DEFINED

1. Any use of a *lot* shall be considered a legal nonconforming use, if it:
   (A) Does not conform to one or more use *regulations* of this Ordinance;
   (B) Existed on the effective date of this Ordinance;
   (C) Has not been abandoned; and
   (D) Either conformed to the *regulations* of or was considered to be a legal nonconforming use by the Land Use Ordinance in effect the day before the effective date of this Land Use Ordinance.

2. The existence of a legal nonconforming use shall be presumed valid, based on documents that indicate evidence of the use prior to the adoption of this Ordinance, submitted by the property owner, lessee, or other relevant party, unless specifically determined by the Department to be insufficient to validate the presence of the use.

3. The intermittent or illegal use of a *lot* shall not be sufficient to establish the existence of a legal nonconforming use.

4. The existence of a use on a part of a *lot* shall not be construed to establish a legal nonconforming use on any other part of such *lot*.

6.2 CONTINUANCE OF LEGAL NONCONFORMING USES

A legal nonconforming use shall be permitted to continue, subject to *regulations* of this Section.

6.3 ABANDONMENT OF LEGAL NONCONFORMING USES

For the purposes of this Ordinance, the discontinuance of a use for a period exceeding two years shall constitute abandonment of such use. Whether a nonconforming use has discontinued is a question of fact and shall be decided by the Board of Appeals for a determination of whether and

for what duration a nonconforming use has discontinued. A public hearing will be required, and the process for notice will be utilized as set forth in Article IV.

6.4 ENLARGEMENT OF LEGAL NONCONFORMING USES

Except in the case of private school or *houses of worship* that existed prior to April 12, 1988, no legal nonconforming use may be enlarged, increased, or extended so as to occupy any portion of a *lot* or *structure* where the legal nonconforming use did not exist on the effective date of this Ordinance or so as to occupy any portion of a *lot* or *structure* where the use was abandoned.

6.5 LEGAL NONCONFORMING USES IN THE CRITICAL AREA

Any legal nonconforming use within the *Critical Area* which existed on April 12, 1988, may continue without intensification or expansion unless such use has been abandoned for more than one year, or otherwise in accordance with Section 27.01.02.07 of the Code of Maryland *Regulations*.

6.6 ORDINARY REPAIR AND MAINTENANCE

The normal maintenance and repair, or the replacement, installation, or relocation of nonbearing partitions, fixtures, wiring, or plumbing may be performed on any *structure* that is devoted in whole or in part to a legal nonconforming use. Life safety code updates and requirements for any improvements related to ADA accessibility, or any other required update, change, improvement, or additional equipment that is required by any governmental agency or quasi-public agency will not be considered to affect the status of the use including any required expansions under such.

NONCONFORMING STRUCTURES

6.7 LEGAL NONCONFORMING STRUCTURES, DEFINED

1. Any *structure* shall be considered a legal nonconforming *structure* if it:
   - (A) Does not conform to one or more non-use *regulation* of this Ordinance;
   - (B) Existed on the effective date of this Ordinance;
   - (C) Is not a *sign*; and
   - (D) Either conformed to the *regulations* of or was considered to be a legal nonconforming *structure* by the Land Use Ordinance in effect the day before the effective date of this Land Use Ordinance.
2. Whether a *structure* is nonconforming shall be a question of fact and shall be decided by the Department as an administrative decision; a public hearing is not required. If the case is complex, the Planning Director may refer the matter to the Board of Appeals. If the Board of Appeals is to decide the matter, then a public hearing will be required, and the process for notice will be utilized as set forth in Article IV.

6.8 CONTINUANCE OF LEGAL NONCONFORMING STRUCTURES

A legal nonconforming *structure* may continue to exist, subject to the *regulations* of this Section.

6.9 ORDINARY REPAIR AND MAINTENANCE OF LEGAL NONCONFORMING STRUCTURES

The normal maintenance and repair of a legal nonconforming *structure* may be performed, provided that any portion of the *structure* undergoing such maintenance or repair either (1) conforms to all non-use *regulations* of this Ordinance, or (2) does not increase its degree of structural nonconformity.

6.10 REPAIR OR RECONSTRUCTION OF LEGAL NONCONFORMING STRUCTURES AFTER CALAMITY

1. There shall be no repair or reconstruction of a damaged legal nonconforming *structure* unless all of the following conditions are met:
   (A) The damage, destruction, or removal of the *structure* was not voluntarily caused by the property owner or property owner's agent;
   (B) A permit is obtained prior to repair or reconstruction of the damaged or destroyed *structure;*
   (C) Repair or reconstruction begins within two years after the calamity; and
   (D) The repair or reconstruction does not result in an increase in the degree of nonconformity.
2. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring of a *structure* to a safe condition by order of a public official.

6.11 ALTERATIONS OR ENLARGEMENTS TO LEGAL NONCONFORMING STRUCTURES

No legal nonconforming *structure* may be altered or enlarged unless one or more of the following conditions are met:

1. The portion of the *structure* that is proposed to be altered or enlarged will, after the *alteration* or enlargement, comply with all standards and *regulations* of this Ordinance and will not increase the percent of *impervious surface* on the *lot* above that required in the Ordinance. If no regulatory minimum is established, this provision will not apply;
2. The legal nonconforming *structure* has been used as a private school without abandonment since April 12, 1988;
3. The legal nonconforming *structure* has been used as a *house of worship* without abandonment since April 12, 1988.
4. The legal nonconforming *structure* is a *dwelling* that existed as of April 12, 1988, and is located in the *modified buffer* and conforms to the standards set forth in this section.

6.12 EXPANSION OF EXISTING DWELLINGS IN THE MODIFIED BUFFER

*Dwelling*s existing as of April 12, 1988, in the *modified buffer* may be enlarged, provided that:

1. All opportunities for expansion outside the minimum 100-foot *buffer* are exhausted; and
2. An area of *natural vegetation* equal to three times the footprint of the expansion shall be planted in the 100-foot *buffer*. If there is not enough area in the *buffer* to accommodate the required planting, the required planting shall occur on the same property.

6.13 RELOCATION OF NONCONFORMING STRUCTURES

No legal nonconforming *structure* shall be relocated in whole or in part to another *lot* or to another location on the same *lot* unless, after relocation, every portion of the *structure* conforms to all applicable *site development regulations*.

NONCONFORMING LOTS

6.14 NONCONFORMING LOTS, DEFINED

1. A *lot* which was legally created and properly recorded but which does not satisfy the minimum *lot area* and/or the minimum *lot width* applicable to the zoning district in which it is located shall be considered a nonconforming *lot*.
2. Whether a *lot* is nonconforming shall be a question of fact and shall be decided by the Department as an administrative decision; a public hearing is not required. If the case is complex, the Planning Director may refer the matter to the Board of Appeals. If the Board of Appeals is to decide the matter, then a public hearing will be required, and the process for notice will be utilized as set forth in Article IV.

6.15 CONTINUANCE OF NONCONFORMING LOTS

1. Nonconforming *lots* may continue to exist, subject to the *regulations* of this Section.
2. Nonconforming *lot*s may be occupied by any use permitted by the *regulations* for the district in which it is located.
3. Nonconforming *lot*s may be developed with *structures* that comply with all *site development regulations* set forth by this Ordinance.
4. A variance will not be required for any permitted use, allowable special exception, or permitted accessory use to be located on such a *lot*.

6.16 SUBDIVISION OF NONCONFORMING LOTS

A nonconforming *lot* may not be subdivided unless each resulting *lot* conforms to the minimum *lot area* and the minimum *lot width regulations* applicable to the zoning district in which it is located, unless a variance is granted by the Board of Appeals per this Ordinance.

NONCONFORMING SIGNS

6.17 NONCONFORMING SIGNS

Regulations concerning nonconforming sign*s* may be found in Article V of this Ordinance.

ARTICLE II. DISTRICTS

SECTION 1 GENERAL PROVISIONS

1. ESTABLISHMENT OF ZONING DISTRICTS

In order to regulate and restrict the location and use of land and *structure*s for trade, industry, residence, and for other purposes; to regulate and restrict the location, height, and size of *structure*s hereafter erected or structurally altered; to regulate the size of *yard*s, and other *open space*; and to regulate the *density* of population, these zoning districts are hereby established:

DISTRICT NAME	**NOMINAL DENSITY**	**CRITICAL AREA**
Agricultural (AZD)	1:30 units per acre	
Resource Conservation District (RCD)	1:20 units per acre	Critical Area
Rural Character (RC)	1:20 units per acre	
Critical Area Residential (CAR)	1:1 unit per acre	Critical Area
Community Residential (CR)	1:1 unit per acre	
Village (V)	8 units per acre	
Intense Village (IV)	12 units per acre	
Commercial (C)		
Commercial *Critical Area* (CCA)		Critical Area
Marine (M)	2 units per acre	Critical Area
Employment Center (EC)	1:20 units per acre* *intra-family transfer	
Employment Center Critical Area (ECCA)	1:20 units per acre* *intra-family transfer	Critical Area

Note: Districts without any land area have been removed from the zoning districts list. The Rural Residential and the Community Residential districts were combined into Community Residential. The Commercial and the Crossroads Commercial districts were combined into Commercial. The Employment Center and Industrial districts were combined into the Employment Center district, and Industrial Critical Area – LDA was re-titled as Employment Center Critical Area.

2. CRITICAL AREA ZONING DISTRICTS GENERALLY

The 12 zoning districts in this Land Use Ordinance comprise two categories. The first category is the zoning districts for land located in the State of Maryland's Critical Area for the Chesapeake and Atlantic Coastal Bays. These are the RCD, CAR, CCA, M, and ECCA. State of Maryland Critical Area laws and regulations apply in these districts. The remaining districts are outside the Critical Area. Critical Area law and regulations do not apply; other laws and regulations such as Forest Conservation regulations apply. The Environmental Regulations are set forth in Article VI.

3. ESTABLISHMENT OF CRITICAL AREA LINE

The *Critical Area* Line shall be shown on the map designated as the "*Critical Area* Line Map of Kent County, Maryland" adopted by the County Commissioners. Such map delineates the *Critical Area* and shall be used to determine if such land is located within the *Critical Area*. For any land referenced to be within the *Critical Area* according to the "*Critical Area* Line Map of Kent County" one must follow the *Critical Area* requirements and *regulations* as follows:

(A) If referenced on the "Zoning Map" as a *Critical Area* zoning district, then the established zoning district must be adhered by.

(B) If according to the "*Critical Area* Line Map" the land is within the *Critical Area* then the requirements and *regulations* of the most similar *Critical Area* zoning district and the established *Critical Area* designation must be followed. This includes Title 27 of the Code of Maryland *Regulations* (COMAR).

(C) This Section shall remain in effect while Kent County undertakes its Comprehensive Rezoning and Update process, which will result in a new Comprehensive Land Use Ordinance" and "Zoning Map." The "*Critical Area* Line Map" will be incorporated into the "Zoning Map" and will no longer be a stand-alone map. Upon the adoption of the Comprehensive Land Use Ordinance and "Zoning Map," this Section shall be abrogated and of no further force and effect. This Section may then be designated as "RESERVED."

4. INTERPRETATION OF ZONING DISTRICT BOUNDARIES

Where uncertainties exist with respect to the district boundary, the following applies:

(A) Where a boundary is given a position within a *street*, *alley*, or *easement*, the boundary shall be deemed to be the center of the *right of way* of the *street*, *alley*, or *easement*.

(B) If the actual location of a *street*, *alley*, or *easement* varies from the location shown on the map, the actual location shall control.

(C) Where a boundary is shown as being located a specific distance from a *street* or other physical feature, this distance shall control.

(D) Where the district boundary approximately coincided with *lot line*s, the *lot line* shall be construed to be the district boundary unless otherwise indicated.

(E) Where district boundaries do not coincide with *lot line*s and *street*s, and where no dimensions are shown, the location of the boundary shall be determined by use of the scale shown on the map.

(F) Where a property is split by a zoning boundary including special districts, the rules of the zone shall apply to that portion of the land located in each district.

SECTION 2 AGRICULTURAL ZONING DISTRICT (AZD)

2.1 STATEMENT OF INTENT

The purpose of the Agricultural Zoning District is to encourage the use of agricultural land for farming and other agricultural businesses and to limit the use of these lands for non-agricultural purposes. *Agriculture,* including animal husbandry on properties at least 20 acres or larger in size, is the preferred and primary use in the Agricultural Zoning District. In general, the District will consist of large contiguous areas predominantly devoted to *agriculture* or *forest*ry and principally composed of Class I, II, and III *soils*. The District will contain some sensitive areas not well suited to *agriculture* to provide large contiguous areas. The sum of these areas consists of enough land to help maintain a derived-demand market for the necessary agricultural support services in the County. In addition, the District is to provide for *farm*, *home occupations*, and *cottage industries* that are compatible with *agriculture* as a means to further diversify the County's economy.

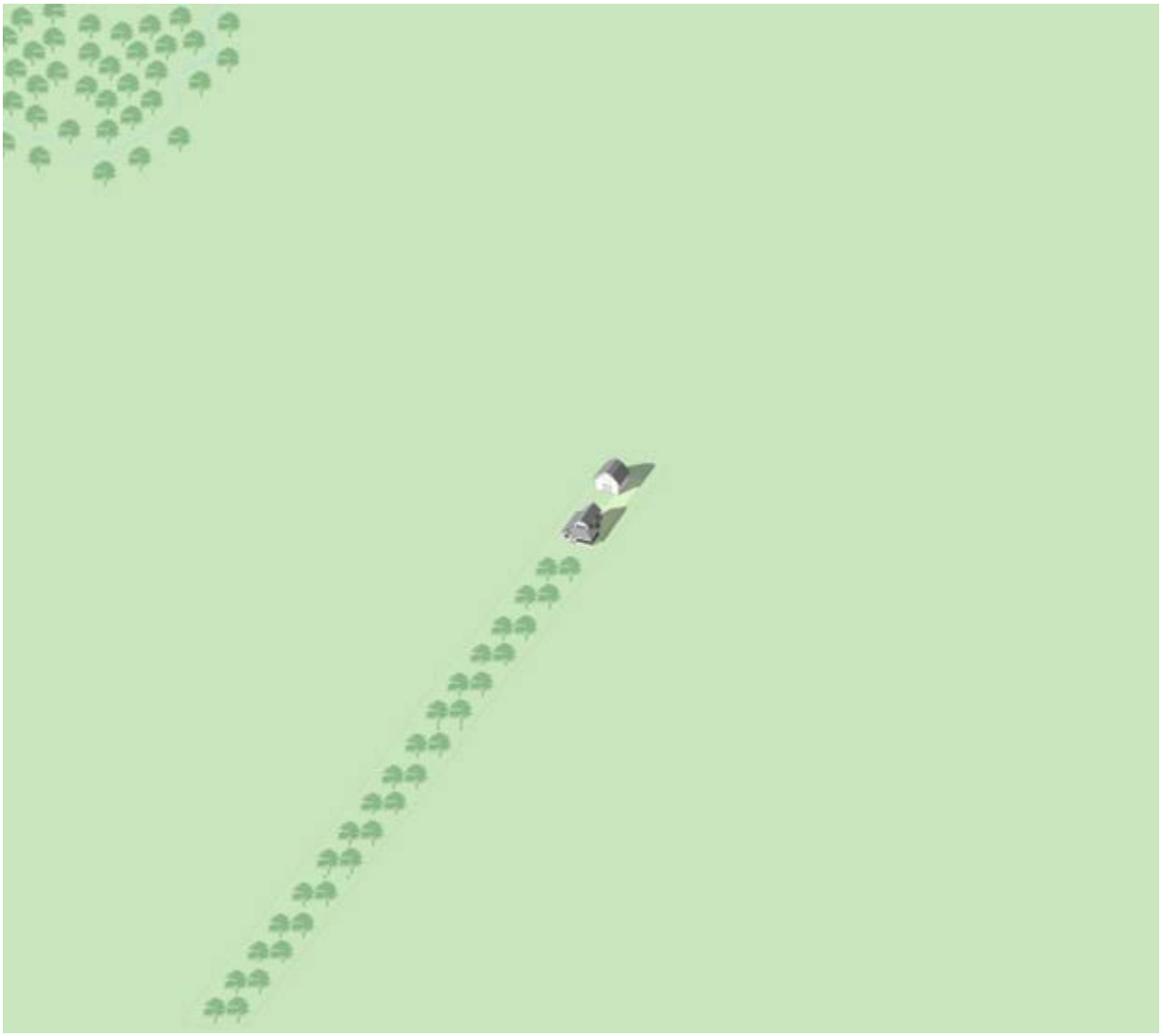


Figure 1: Diagram illustrating the desired, general character of the Agricultural Zoning District.

2.2 PERMITTED USES AND STRUCTURES

A *building* or land shall be used only for the following. Detailed limitations and standards for these uses may be found in Article III. Administrative special exceptions are indicated by letter "A." "B" indicates exceptions that require only Board of Appeals review. All other exceptions require Planning Commission and Board of Appeals reviews per Article IV.

Uses in Agricultural Zoning District (AZD) Article III lists requirements for permitted uses and conditions related to special exceptions	Permitted by right	Permitted by right on *farms* only	Special Exception	*Accessory Use* on *farms* only	*Accessory Use* on all properties
Accessory *dwelling unit*					X
Accessory *farm building*s, including barns, cribs, stables, sheds, tool rooms, shops, bins, tanks, and silos				X	
Accessory *farm dwelling*s				X	
Accessory *off-street parking* and loading of non-commercial vehicles that have current licenses and are operable					X
Accessory *off-street parking* of one commercial vehicle					X
Accessory open or enclosed storage of *farm* materials, products, equipment, fertilizer or chemicals, or vehicles, located at least 200 feet from all property lines				X	
Accessory *roadside stand* for the sale of *farm* products				X	
Accessory residential storage *structure*s with a ground *floor area* of more than 2,000 square feet or a height that exceeds the height of the primary residential structure on parcels less than 5 acres			A		
Accessory structures in a *front yard* of *through* or *corner lot*s			A		
Adaptive reuse of existing structures in AZD, located on parcels under 20 acres			A		
Adaptive reuse of *historic structures* for uses not otherwise listed			X		
Accessory sheds on properties less than 20 acres in area			A		
Airports, landing fields, helistops, or heliports			X		
Agriculture	X				
Agritourism on farms, defined in Article VII		X			
Animal husbandry, *aquaculture*		X			
Animal husbandry, farms, including horses		X			
Animal, husbandry, feedlot or confinement dairy			X		
Animal husbandry, horses on non-farms			X		
Animal husbandry, limited livestock and fowl			X		

Uses in Agricultural Zoning District (AZD) Article III lists requirements for permitted uses and conditions related to special exceptions	Permitted by right	Permitted by right on *farms* only	Special Exception	*Accessory Use* on *farms* only	*Accessory Use* on all properties
Animal husbandry, poultry houses on farms only			X		
Animal husbandry, special – backyard chickens					X
Animal husbandry, special – small sheep or goats					X
Animal husbandry, *stable - private*	X				
Animal husbandry, *stable - commercial*	X				
Appurtenant signs					X
Assisted living facilities with five to eight beds			A		
Assisted living facilities with no more than four beds					X
Camp, day or boarding, private or commercial, but not recreational vehicle or migrant labor camps, for the purpose of conserving and enjoying the natural resources.	X				
Cemetery, including crematorium and mausoleum			X		
Circus or carnival, midways and amusement parks, maze fields and other temporary recreational uses, for a specified period	X				
Cottage industries, tradesmen and artisan shops			A		
Country inns			X		
Country stores			X		
Day care groups			A		
Day care homes					X
Detached *single family dwellings*	X				
*Dog kennel*s, commercial					X
Erosion and *flood* control *structures*	X				
Exposition center or fairgrounds			B		
Farm brewery, as defined by the State of Maryland	X				
Farm employee housing			X		
Golf courses, public or private			X		
Greenhouses, wholesale or retail	X				
Guest house, one, but not including *mobile homes*				X	
*Home occupation*s in main or accessory *building*s					X
Hunting blinds, pits, or preserves	X				
Hunting trailer, one, temporary				X	
Livestock auction houses, located on farms in AZD			X		
Migrant labor camps			X		
Mobile homes existing and in use as of January 16, 1996	X				
Multi-Family and Two-Family Dwellings, in AZD	X				

Uses in Agricultural Zoning District (AZD) Article III lists requirements for permitted uses and conditions related to special exceptions	Permitted by right	Permitted by right on *farms* only	Special Exception	*Accessory Use* on *farms* only	*Accessory Use* on all properties
Parking of commercial vehicles on a farm				X	
Personal wireless facility towers			X		
Personal wireless facilities, collocated on existing towers	X				
Poultry houses	X				
Poultry houses on parcels where the owner cannot handle the waste generated by the poultry houses			X		
Private garages, *swimming pools*, game courts, and other customary residential out*building*s and *structures*					X
Private schools			X		
Public and private *forests*, wildlife reservations and similar conservation projects	X				
Public and private parks and playgrounds for the purpose of conserving and enjoying natural resources.	X				
*Public landing*s			B		
Public uses, *building*s, and utilities			X		
Railroad *right of ways*	X				
Retreats			X		
Rifle and pistol ranges			B		
*Roadside stand*s					X
Rural inns			X		
Sand and gravel pits, including *excavation* or extraction			X		
Sanitary landfill or rubblefill, public			X		
Satellite dish, private, with an antenna of 3 feet or less in diameter					X
Satellite dish, private, with an antenna exceeding 3 feet in diameter					X
Sawmills and mulching operations, temporary, for cutting timber and landscaping materials grown on the *premises*	X				
School buses, parked, limited to five				X	
School buses, parked, limited to two					X
Short-term vacation rentals (STVR)					X
Solar energy systems, small					X
Solar energy systems, utility scale			X		
Storage of boats, campers, boat trailers, and camper trailers					X

Uses in Agricultural Zoning District (AZD) Article III lists requirements for permitted uses and conditions related to special exceptions	Permitted by right	Permitted by right on *farms* only	Special Exception	*Accessory Use* on *farms* only	*Accessory Use* on all properties
Structures for the buying, processing, and/or sale of animal products, commercial, located at least 600 feet from all property lines			X		
Structures for the buying, processing, and/or sale of non-animal farm products related to *agriculture* no more than 10,000 square feet in floor area	X				
Structures for the buying, processing, and/or sale of non-animal *farm* products related to *agriculture*, over 10,000 square feet in floor area but less than 50,000 square feet in area			B		
Temporary *MET Tower* of any height					X
Veterinary *hospitals* or *clinics* and animal shelters	X				
Waste management *structures*, where not otherwise stipulated in this Ordinance				X	
Wedding venues on farms with Board of Appeals approval			X		
Wind energy systems, small			X		
Wind energy systems, small, accessory				X	

2.3 DENSITY, AREA, HEIGHT, WIDTH AND YARD REQUIREMENTS

	STANDARD *DEVELOPMENT*	
STANDARDS FOR THE *SUBDIVISION* OF *LOT*S		
Gross *density* (*dwelling units*/acre)	0.033 (1/30)[1,7]	
Minimum *lot* size		
- *On-site* individual septic system	¾ acre	
- Community sewage system	½ acres	
Maximum *lot* size	N/A	
Minimum *lot width*	75 feet	
Maximum *lot width*	N/A	
Maximum percentage of property in *lot*s	10%[3]	
Maximum *lot*s fronting on existing public road	2[4]	
STANDARDS FOR *BUILDING* AND *STRUCTURE* HEIGHT, WIDTH, AND PLACEMENT		
Minimum *yard*		
- Front (*primary road*)	100 feet	
- Front (all other *roads*)	75 feet	
- Side	15 feet	
- Rear	30 feet	
- Waterfront	100 feet	
- *Accessory structures* on *farm*s in the side and *rear yard*	25 feet	
- Accessory residential *structure*s in *rear yard*		
Side	10 feet	
Rear	10 feet	
Maximum *front yard*	N/A	
Maximum *structure* height[5]		
- Primary Residential or Agricultural *structure*	38 feet	
- Accessory Residential Structure (a special exception may be granted to exceed max)	Height of existing primary residential structure	
- Fence height[6]		
- Security	8 feet	
- Agricultural	5 feet	
- Ornamental		
Side and Rear	8 feet	
Front	4 feet	
Lot line setback from External Access Road	N/A	
Lot line setback from *Protected Lands*	N/A	
Maximum Enclave size	N/A	
Minimum Enclave size	N/A	
Maximum number of Enclaves	N/A	

FOOTNOTES

1 Accessory dwelling units do not count toward the density calculation in AZD.

2 Parcels 100 acres or larger do not count toward the maximum developed percentage of the property.

3 Parcels created before December 3, 2002, do not count toward the two permitted road front parcels. The Planning Commission may waive this requirement, if the proposal meets the waiver requirements in this Ordinance.

4 Height of structures may be further restricted by the Kent County *Airport* Safety Requirements as defined in this Ordinance. Except in an area defined as the Kent County Airport Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

5 Fences do not need to meet the yard requirements.

6 Agricultural Easement Program – Nothing in this regulation shall limit the ability of a participant in the Agricultural Easement Program to convey real property impressed with an easement to his or her child provided the easement was recorded with the Kent County Clerk of Circuit Court prior to October 1, 2003.

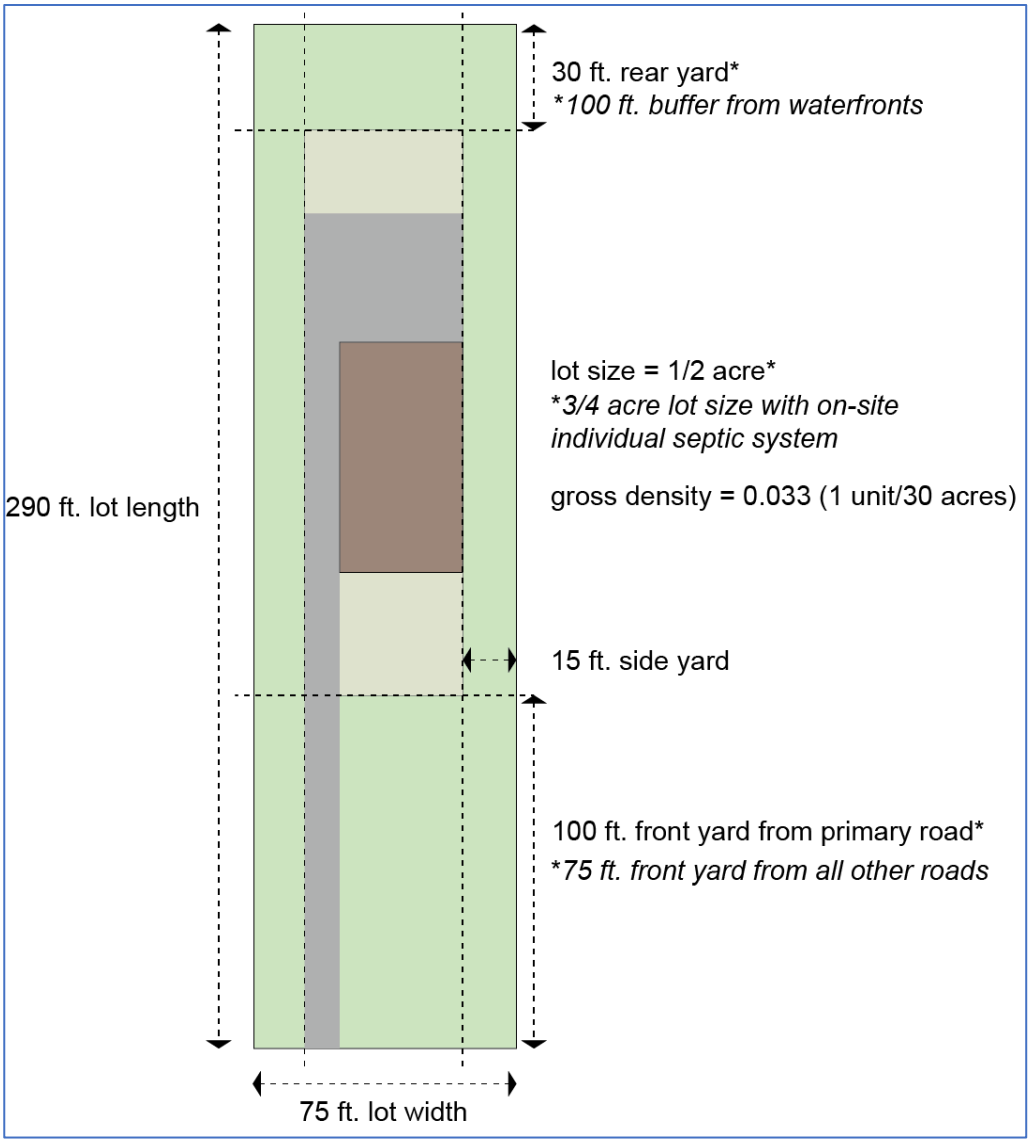


Figure 2: Regulatory diagram of a lot in the Agricultural Zoning District.

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SECTION 3 RESOURCE CONSERVATION DISTRICT (RCD)

3.1 STATEMENT OF INTENT

1. This district is intended to:

   (A) Conserve, protect, and enhance the overall ecological values of the *Critical Area*, its biological productivity, and its diversity;

   (B) Provide adequate breeding, feeding, and wintering habitats for those wildlife populations that require the Chesapeake Bay, its tributaries, or coastal habitats to sustain populations of those species;

   (C) Conserve the existing *developed woodland*s and *forest*s for the water quality benefits that they provide; and

   (D) Conserve the land and water resource base necessary to maintain and support such uses as *agriculture*, *forest*ry, fisheries' activities, and *aquaculture*.

2. It includes areas characterized by *nature-dominated* environments (that is, *wetlands*, *forest*s, abandoned fields) and resource-utilization activities (that is, *agriculture*, *forest*ry, fisheries' activities, or *aquaculture*).

3. RCD is the Critical Area complementary district to the Agricultural Zoning District (AZD). Regulations are intended to mirror the AZD and provide for a Critical Area version of AZD.



Figure 3: Diagram illustrating the desired character of the Resource Conservation District.

3.2 PERMITTED USES AND *STRUCTURES*

A *building* or land shall be used only for the following. Detailed limitations and standards for these uses may be found in Article III. Administrative special exceptions are indicated by letter "A." "B" indicates exceptions that require only Board of Appeals review. All other exceptions require Planning Commission and Board of Appeals reviews per Article IV.

Uses in the Resource Conservation District (RCD) Article III lists requirements for permitted uses and conditions related to special exceptions	Permitted by right	Permitted by right on *farms* only	Special Exception	*Accessory Use* on *farms* only	*Accessory Use* on all properties
Accessory *dwelling unit*					X
Accessory *farm building*s, including barns, cribs, stables, sheds, tool rooms, shops, bins, tanks, and silos				X	
Accessory *farm dwelling*s				X	
Accessory *off-street parking* and loading of non-commercial vehicles that have current licenses and are operable					X
Accessory *off-street parking* of one commercial vehicle					X
Accessory open or enclosed storage of *farm* materials, products, equipment, fertilizer or chemicals, or vehicles, located at least 200 feet from all property lines				X	
Accessory *roadside stand* for the sale of *farm* products				X	
Accessory residential storage *structure*s with a ground *floor area* of more than 2,000 square feet or a height that exceeds the height of the primary residential structure on parcels less than 5 acres			A		
Accessory structures in the *front yard* requirement of waterfront parcels			A		
Accessory structures in *front yard* of a *through* or *corner lot*			A		
Adaptive reuse of *historic structures* for uses not otherwise listed			X		
Agriculture	X				
Agritourism on farms, defined in Article VII			X		
Animal husbandry, *aquaculture*		X			
Animal husbandry, farms, including horses		X			
Animal husbandry, horses on non-farms			X		
Animal husbandry, special – backyard chickens					X
Animal husbandry, special – small sheep or goats					X
Animal husbandry, *stable - private*	X				
Animal husbandry, *stable - commercial*	X				
Appurtenant signs					X

Uses in the Resource Conservation District (RCD) Article III lists requirements for permitted uses and conditions related to special exceptions	Permitted by right	Permitted by right on *farms* only	Special Exception	*Accessory Use* on *farms* only	*Accessory Use* on all properties
Camp, day or boarding, private or commercial, but not recreational vehicle or migrant labor camps, for the purpose of conserving and enjoying the natural resources	X				
*Campground*s existing and in use as of August 1, 1989	X				
Conference center			X		
Existing *Conference center*s, *resort*s, *retreat*s, *hotel*s, and motels existing and in use as of August 1, 1989	X				
Convalescent, group, or homes for the aged if located in *dwellings* existing as of December 1, 1985	X				
Country Inn			X		
Day care groups			A		
Day care homes					X
Detached *single family dwelling*s	X				
Existing permitted *marina*s	X				
Exposition center or fairgrounds			B		
Farm employee housing			X		
Golf courses, public or private			X		
*Home occupation*s in main or accessory *building*s					X
Hunting blinds, pits, or preservers	X				
Hunting trailer, one, temporary				X	
Mobile homes existing and in use as of January 16, 1996	X				
Personal wireless facility towers			X		
Personal wireless facilities, collocated on existing towers	X				
Poultry houses	X				
*Private club*s			B		
Private garages, *swimming pools*, game courts, and other customary residential out*building*s and *structures*					X
Private *pier*s, *community piers*, and private shared *pier*s					X
Public and private *forests*, wildlife reservations and similar conservation projects	X				
Public and private parks and playgrounds for the purpose of conserving and enjoying the natural resources.	X				
*Public landing*s			B		
Public uses, *building*s, and utilities			X		
Railroad *right of way*s	X				
Resorts			X		

Uses in the Resource Conservation District (RCD) Article III lists requirements for permitted uses and conditions related to special exceptions	Permitted by right	Permitted by right on *farms* only	Special Exception	*Accessory Use* on *farms* only	*Accessory Use* on all properties
Retreats			X		
*Roadside stand*s					X
Sand and gravel pits, including *excavation* or extraction			X		
Satellite dish, private, with an antenna exceeding 3 feet in diameter					X
Satellite dish, private, with an antenna of 3 feet or less in diameter					X
School buses, parked, limited to two					X
Short-term vacation rentals (STVR)					X
Solar energy systems, small					X
Solar energy systems, utility scale		X			
Storage of boats, campers, boat trailers, and camper trailers					X
Temporary *MET Tower* of any height					X
Tie-out pilings of private *pier*s, *community piers*, and private shared *piers*			X		
Waste management *structures*, where not otherwise stipulated in this Ordinance				X	
Wind energy systems, small			X		
Wind energy systems, small, accessory				X	

3.3 DENSITY, AREA, HEIGHT, WIDTH AND YARD REQUIREMENTS

STANDARDS FOR THE *SUBDIVISION* OF *LOT*S	
Gross *density* (*dwelling units*/ac)	1 *dwelling unit* per 20 acres[1]
Minimum *lot* size	
- *On-site* individual septic system	¾ acre
- Community sewage system	½ acre
Minimum *lot width*	75 feet
STANDARDS FOR *BUILDING* AND *STRUCTURE* HEIGHT, WIDTH, AND PLACEMENT	
Minimum *yard*	
- Front	50 feet
- Side	15 feet
- Rear	30 feet
- *Shoreline cliff*	1.5 x *cliff height* + 20 feet
- Waterfront	Minimum 100-foot *buffer*
- *Accessory structures* on *farm*s in the side and *rear yard*	25 feet
- Accessory residential *structure*s in *rear yard*	
Side	10 feet
Rear	10 feet
Maximum *structure* height[2]	
- Primary Residential or Agricultural *structure*	38 feet
- Accessory Residential Structure (a special exception may be granted to exceed max)	Height of existing primary residential structure
- Fence height[3]	
- Security	8 feet
- Agricultural	5 feet
- Ornamental	
Side and Rear	8 feet
Front	4 feet

1 Parcels of more than one acre improved by more than one dwelling unit, existing as of December 1, 1985, may be subdivided into parcels of land not less than one-half (½) acre each for each dwelling unit situated on the one-half (½) acre, or more, being subdivided. Accessory dwelling units that comply with Article III do not count toward the density calculation.

2 Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; standpipes; and flag poles.

3 Fences do not need to meet the yard requirements.

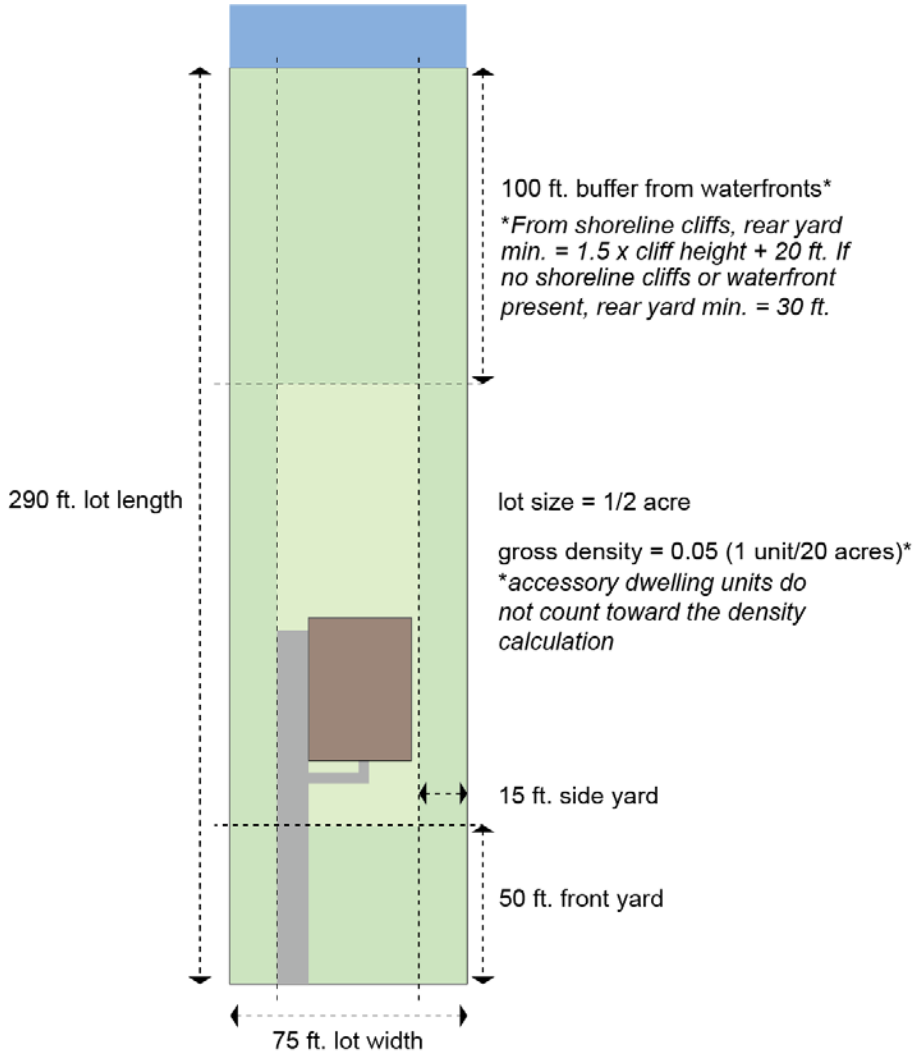


Figure 4: Regulatory diagram of a lot in the Resource Conservation District.

SECTION 4 RURAL CHARACTER DISTRICT (RC)

4.1 STATEMENT OF INTENT

The purpose of this district is to provide for the local market demand for rural *lot*s, including large estate *lot*s on 20 acres or more, in a manner that maintains rural character and in a location that minimizes conflicts with *agriculture*. The District may function as a transition between the incorporated towns, villages, residential *development*s, and the Agricultural Zoning District. To maintain their rural character, *development*s will follow strict design standards for protecting significant rural features, preserving scenic views, and *historic structures* as well as designing with *topography* and sensitively locating new *building*s. Recreational uses such as golf courses, racquet courts, and stables are appropriate in this district. Public water and sewer may not be extended into this district except to correct a public health emergency.

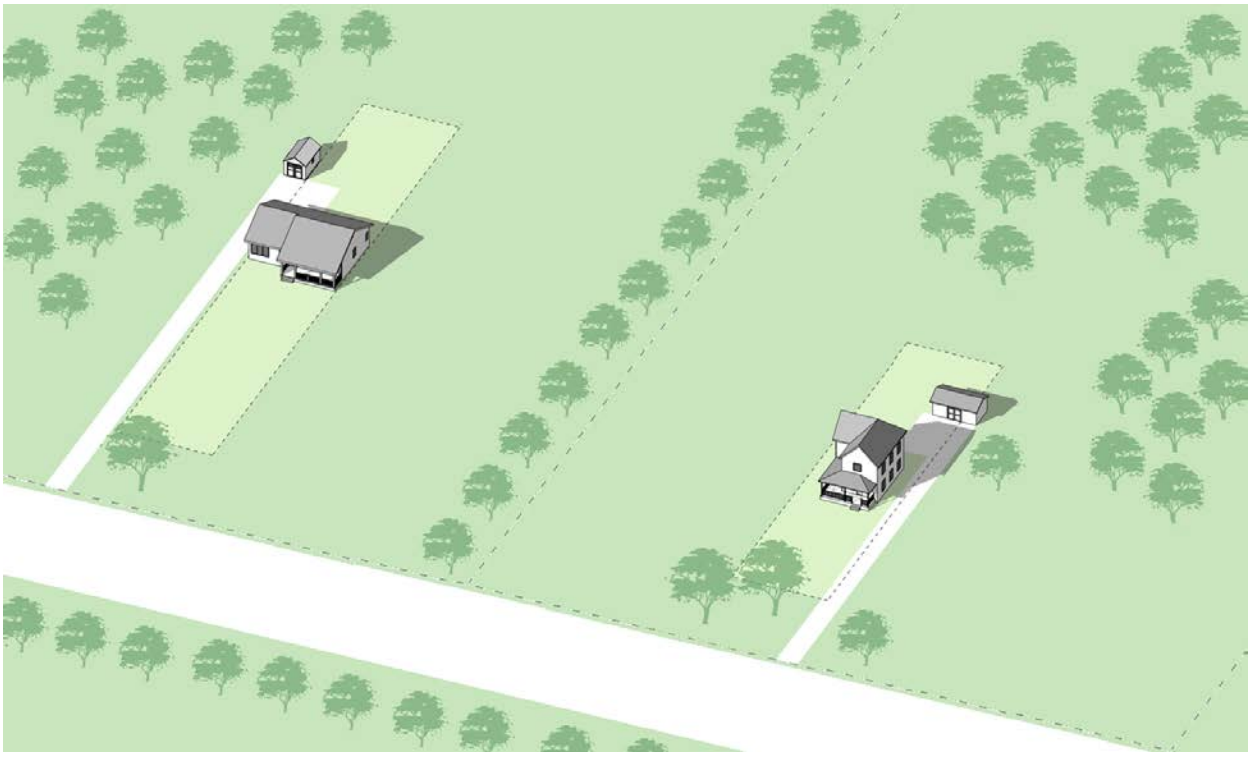


Figure 5: Diagram illustrating the desired character in the Rural Character District.

4.2 PERMITTED USES AND STRUCTURES

A *building* or land shall be used only for the following. Detailed limitations and standards for these uses may be found in Article III. Administrative special exceptions are indicated by letter "A." "B" indicates exceptions that require only Board of Appeals review. All other exceptions require Planning Commission and Board of Appeals reviews per Article IV.

Uses in Rural Character District (RC) Article III lists requirements for permitted uses and conditions related to special exceptions	Permitted by right	Permitted by right on *farms* only	Special Exception	Accessory Use on farms only	Accessory Use on all properties
Accessory *dwelling unit*					X
Accessory *farm building*s, including barns, cribs, stables, sheds, tool rooms, shops, bins, tanks, and silos				X	
Accessory *farm dwelling*s				X	
Accessory *off-street parking* and loading of non-commercial vehicles that have current licenses and are operable					X
Accessory *off-street parking* of one commercial vehicle					X
Accessory open or enclosed storage of *farm* materials, products, equipment, fertilizer or chemicals, or vehicles				X	
Accessory residential storage *structure*s with a ground *floor area* of more than 2,000 square feet or a height that exceeds the height of the primary residential structure on parcels less than 5 acres			A		
Accessory structures in a *front yard* of *through* or *corner lot*			A		
Adaptive reuse of *historic structures* for uses not otherwise listed			X		
Agriculture	X				
Animal husbandry, *aquaculture*		X			
Animal husbandry, farms, including horses		X			
Animal husbandry, horses on non-farms			X		
Animal husbandry, special – backyard chickens					X
Animal husbandry, special – small sheep or goats					X
Animal husbandry – *stable private*	X				
Animal husbandry – *stable commercial*	X				
Airports, landing fields, helistops, or heliports			X		
Appurtenant signs					X
Assisted living facilities with five to eight beds			A		
Assisted living facilities with no more than four beds					X

Uses in Rural Character District (RC) Article III lists requirements for permitted uses and conditions related to special exceptions	Permitted by right	Permitted by right on *farms* only	Special Exception	Accessory Use on farms only	Accessory Use on all properties
Camp, day or boarding, private or commercial, but not recreational vehicle or migrant labor camps, for the purpose of conserving and enjoying the natural resources	X				
Cemetery, including crematorium and mausoleum			X		
Conference center			X		
Cottage industries, tradesmen, and artisan shops			A		
Country inns			X		
Country stores			X		
Day care groups			X		
Day care homes					X
Detached *single family dwellings*	X				
*Dog kennel*s, commercial			X		
Exposition center or fairgrounds			X		
Golf courses, public or private			X		
Greenhouses, wholesale or retail	X				
Guest house, one, but not including *mobile homes*				X	
*Home occupation*s in main or accessory *building*s					X
Hunting blinds, pits, or preservers	X				
Hunting trailer, one, temporary				X	
Mobile homes existing and in use as of January 16, 1996	X				
Parking of commercial vehicles on a farm				X	
Personal wireless facility towers			X		
Personal wireless facilities, collocated on existing towers	X				
Private clubs			X		
Private garages, *swimming pools*, game courts, and other customary residential out*building*s and *structures*					X
Private schools			X		
Public and private *forests*, wildlife reservations and similar conservation projects	X				
Public and private parks and playgrounds for the purpose of conserving and enjoying the natural resources.	X				
Public landings			X		
Public uses, *building*s, and utilities			X		
Raising of small animals, commercial, including birds, bees, fish, rabbits or other creatures, but not including *dog kennels*			X		

Uses in Rural Character District (RC) Article III lists requirements for permitted uses and conditions related to special exceptions	Permitted by right	Permitted by right on *farms* only	Special Exception	Accessory Use on farms only	Accessory Use on all properties
Recreational facilities, privately or commercially owned			X		
Resorts			X		
Retreats			X		
Roadside stands					X
Rural inns			X		
Satellite dish, private, with an antenna exceeding 3 feet in diameter					X
Satellite dish, private, with an antenna of 3 feet or less in diameter					X
School buses, parked, limited to five				X	
School buses, parked, limited to two					X
Short-term vacation rentals (STVR)					X
Solar energy systems, small					X
Storage of boats, campers, boat trailers, and camper trailers					X
Temporary MET Tower of any height					X
Wind energy systems, small			X		
Wind energy systems, small, accessory				X	

4.3 DENSITY, AREA, HEIGHT, WIDTH AND YARD REQUIREMENTS

STANDARDS FOR THE *SUBDIVISION* OF *LOT*S	
Number of *lot*s (*dwelling units*/acre)	1 *dwelling units* per 20 acres[1]
Minimum *lot* size	¾ acre
Minimum *lot width*	75 feet
STANDARDS FOR *BUILDING* AND *STRUCTURE* HEIGHT, WIDTH, AND PLACEMENT	
Minimum *yard*	
- Front	50 feet
- Side	15 feet
- Rear	30 feet
- Waterfront	100 feet
- *Accessory structures* on *farm*s in the side and *rear yard*	25 feet
- Accessory residential *structure*s in *rear yard*	
Side	10 feet
Rear	10 feet
Maximum *structure* height[2]	
- Primary Residential or Agricultural *structure*	38 feet
Accessory Residential Structure (a special exception may be granted to exceed max)	Height of existing primary residential structure
- Fence[3]	
- Security	8 feet
- Agricultural	5 feet
- Ornamental	
Side and Rear	8 feet
Front	4 feet

1 Accessory dwelling units are not counted toward permitted density.

2 Height of structures may be further restricted by the Kent County *Airport* Safety Requirements as defined in SECION 33.4 ZONING DISTRICT SPECIFIC DESIGN STANDARDS of this Ordinance. Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

3 Fences do not need to meet the yard requirements.

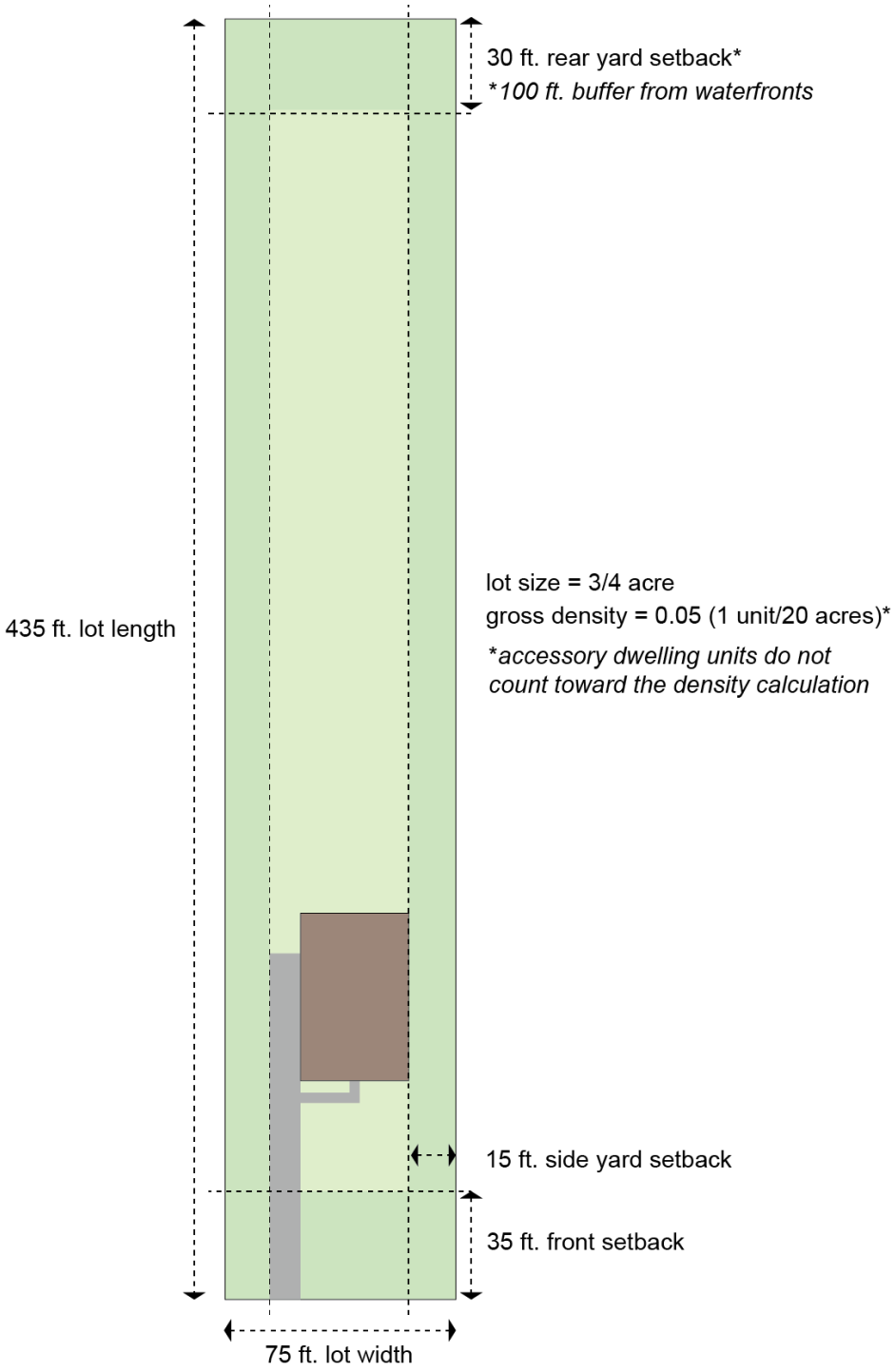


Figure 6: Regulatory diagram of a lot in the Rural Character District.

SECTION 5 CRITICAL AREA RESIDENTIAL (CAR)

5.1 STATEMENT OF INTENT

This district is intended to allow low *density* residential *development* in areas where the impact on the natural environment is minimal. The purpose of this district is to maintain, or if possible to improve, the quality of runoff and groundwater entering the Chesapeake Bay and its tributaries and to maintain existing areas of natural habitats while allowing limited residential *development* that conforms to environmental standards and that reflects the scale and character of existing *development*. These areas must have one of the following characteristics:

(A) Housing *density* ranges from one *dwelling unit* per five acres, up to four *dwelling unit*s per acre.

(B) Areas not dominated by *agriculture*, *wetlands*, *forest*, *barren land*, surface water or space; or

(C) Areas having public sewer or water, or both.

(D) Areas meeting the conditions of an Intense *Development* Area but less than 20 acres insize.

The Critical Area Residential district is complementary to the Community Residential district (CR). Regulations are intended to mirror the CR and to provide for a Critical Area version of the CR.



Figure 7: Diagram illustrating the desired character in the Critical Area Residential District.

5.2 PERMITTED USES AND STRUCTURES

A *building* or land shall be used only for the following. Detailed limitations and standards for these uses may be found in Article III. Administrative special exceptions are indicated by letter "A." "B" indicates exceptions that require only Board of Appeals review. All other exceptions require Planning Commission and Board of Appeals reviews per Article IV.

Uses in Critical Area Residential (CAR) Article III lists requirements for permitted uses and conditions related to special exceptions	Permitted by right	Special Exception	Accessory Uses
Accessory *dwelling unit*			X
Accessory *off-street parking* and loading of non-commercial vehicles that have current licenses and are operable			X
Accessory *off-street parking* of one commercial vehicle			X
Accessory residential storage *structure*s with a ground *floor area* of more than 2,000 square feet or a height that exceeds the height of the primary residential structure on parcels less than 5 acres		A	
Accessory structures in the *front yard* requirement of waterfront parcels		A	
Accessory structures in a *front yard* of a *through* or *corner lot*		A	
Agriculture	X		
Animal husbandry, *aquaculture*		X	
Animal husbandry, farms, including horses		X	
Animal husbandry, horses on non-farms		X	
Animal husbandry, special – backyard chickens			X
Animal husbandry, special – small sheep or goats			X
Animal husbandry, *stable - private*	X		
Animal husbandry, *stable - commercial*	X		
Airports, landing fields, helistops, or heliports		X	
Appurtenant signs			X
Assisted living facilities with five to eight beds		A	
Assisted living facilities with no more than four beds			X
Camp, day or boarding, private or commercial, but not recreational vehicle or migrant labor camps, for the purpose of conserving and enjoying the natural resources	X		
Cemetery, including crematorium and mausoleum		X	
Conference center		X	
Cottage industries, tradesmen, and artisan shops		A	

Uses in Critical Area Residential (CAR) Article III lists requirements for permitted uses and conditions related to special exceptions	Permitted by right	Special Exception	Accessory Uses
Country inns		X	
Day care groups		A	
Day care homes			X
Detached *single family dwellings*	X		
*Dog kennel*s, commercial		B	
Golf courses, public or private		X	
Greenhouses, wholesale or retail	X		
*Home occupation*s in main or accessory *building*s			X
Mobile homes existing and in use as of January 16, 1996	X		
Private clubs		B	
Private garages, *swimming pools*, game courts, and other customary residential out*building*s and *structures*			X
Private *pier*s, *community piers*, and private shared *pier*s			X
Private schools		X	
Public and private *forests*, wildlife reservations and similar conservation projects	X		
Public and private parks and playgrounds for the purpose of conserving and enjoying the natural resources.	X		
Public landings		B	
Public uses, *building*s, and utilities		X	
Recreational facilities, privately or commercially owned		X	
Resorts		X	
Retreats		X	
*Roadside stand*s			X
Sand and gravel pits, including *excavation* or extraction		X	
Satellite dish, private, with an antenna exceeding 3 feet in diameter			X
Satellite dish, private, with an antenna of 3 feet or less in diameter			X
School buses, parked, limited to two			X
Short-term vacation rentals (STVR)			X
Solar energy systems, small			X
Storage of boats, campers, boat trailers, and camper trailers			X
Temporary MET Tower of any height			X
Tie-out pilings of private *pier*s, *community piers*, and private shared *piers*		X	
Wind energy systems, small		X	

5.3 DENSITY, AREA, HEIGHT, WIDTH AND YARD REQUIREMENTS

STANDARDS FOR THE *SUBDIVISION* OF *LOT*S	
Gross *density* (*dwelling units*/acre)	1 *dwelling unit* per acre[1]
Minimum *lot* size	½ acre
Minimum *lot width*	75 feet
STANDARDS FOR *BUILDING* AND *STRUCTURE* HEIGHT, WIDTH, AND PLACEMENT	
Minimum *yard*	
- Front	35 feet
- Side	10 feet
- Rear	30 feet
- Waterfront	Minimum 100-foot *buffer* or *modified buffer*[2]
- *Shoreline cliff*	1.5 x *cliff height* + 20 feet
- *Accessory structures* on *farm*s in the side and *rear yard*	25 feet
- Accessory residential *structure*s in *rear yard*	
Side	5 feet
Rear	5 feet
Maximum *structure* height[3]	
- Primary Residential or Agricultural *structure*	38 feet
Accessory Residential Structure (a special exception may be granted to exceed max)	Height of existing primary residential structure
- Fence[4]	
- Security	8 feet
- Agricultural	5 feet
- Ornamental	
Side and Rear	8 feet
Front	4 feet

1 Accessory dwelling units are not included in density calculations.

2 Modifications for structures existing prior to April 12, 1988, may be permitted as per Article VI.

3 Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; standpipes; and flag poles.

4 Fences do not need to meet yard requirements.

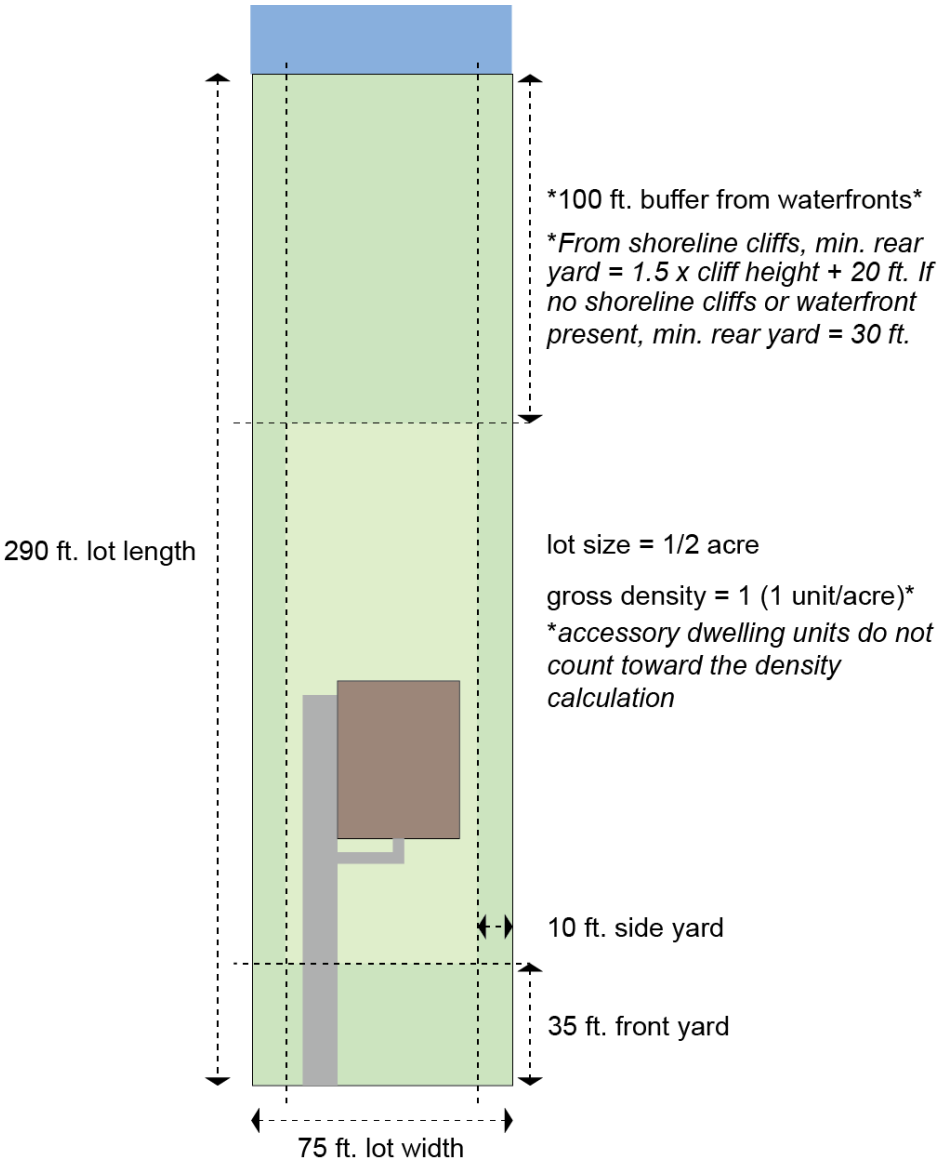


Figure 8: Regulatory diagram of a lot in the Critical Area Residential District.

SECTION 6 COMMUNITY RESIDENTIAL (CR)

6.1 STATEMENT OF INTENT

The purpose of this district is to provide for single *family* residential *development* in areas of existing residential *development*, together with facilities and *accessory use*s normally compatible with residential surroundings, and at the same time to permit agricultural uses and to preserve *open space*s and rural character. This district is located in areas near existing rural development, neighborhood developed areas, villages and incorporated towns. This district combines the former Community Residential (CR) district with the Rural Residential (RR) district, while retaining the higher density of CR at 1 unit per acre, as opposed to the lower density of RR at 1 unit per three acres. The permitted uses of both have been combined with all the uses being preserved.



Figure 9: Diagram illustrating the desired character of the Community Residential District.

6.2 PERMITTED USES AND STRUCTURES

A *building* or land shall be used only for the following. Detailed limitations and standards for these uses are found in Article III. Administrative special exceptions are indicated by letter "A." "B" indicates exceptions that require only Board of Appeals review. All other exceptions require Planning Commission and Board of Appeals reviews per Article IV.

Uses in Community Residential (CR) Article III lists requirements for permitted uses and conditions related to special exceptions. RR indicates uses that are from the original Rural Residential District.	Permitted by right	Special Exception	*Accessory Use* on *farms* only	*Accessory Use* on all properties
Accessory *dwelling unit*				X
Accessory *farm building*s, including barns, cribs, stables, sheds, tool rooms, shops, bins, tanks, and silos			X	
Accessory *farm dwelling*s			X	
Accessory *off-street parking* and loading of non-commercial vehicles that have current licenses and are operable				X
Accessory *off-street parking* of one commercial vehicle				X
Accessory open or enclosed storage of *farm* materials, products, equipment, fertilizer or chemicals, or vehicles			X	
Accessory residential storage *structure*s with a ground *floor area* of more than 2,000 square feet or a height that exceeds the height of the primary residential structure on parcels less than 5 acres		A		
Accessory structures in a *front yard* of a *through* or *corner lot*		A		
Adaptive reuse of *historic structures* for uses not otherwise listed		X		
Agriculture	X			
Animal husbandry, *aquaculture*		X		
Animal husbandry, farms, including horses		X		
Animal husbandry, horses on non-farms		RR		
Animal husbandry, limited livestock and fowl		RR		
Animal husbandry, special – backyard chickens				X
Animal husbandry, special – small sheep or goats				X
Animal husbandry, s*table private*	X			
Animal husbandry, s*table commercial*	X			
Airports, landing fields, helistops, or heliports		X		
Appurtenant signs				X
Assisted living facilities with five to eight beds		A		
Assisted living facilities with no more than four beds				X

Uses in Community Residential (CR) Article III lists requirements for permitted uses and conditions related to special exceptions. RR indicates uses that are from the original Rural Residential District.	Permitted by right	Special Exception	*Accessory Use* on *farms* only	*Accessory Use* on all properties
Camp, day or boarding, private or commercial, but not recreational vehicle or migrant labor camps, for the purpose of conserving and enjoying the natural resources	X			
Cemetery, including crematorium and mausoleum		X		
Conference center		X		
Cottage industries, tradesmen, and artisan shops		A		
Country inns		X		
Country stores		X		
Day care groups		A		
Day care homes				X
Detached *single family dwelling*s	X			
*Dog kennel*s, commercial		B		
Golf courses, public or private		X		
Greenhouses, wholesale or retail	X			
Guest house, one, but not including *mobile homes*			X	
*Home occupation*s in main or accessory *building*s				X
Houses of worship		X		
Hunting trailer, one, temporary			X	
Keeping of backyard chickens				X
Mobile homes existing and in use as of January 16, 1996	X			
Parking of commercial vehicles on a farm			X	
*Private club*s		B		
Private garages, *swimming pools*, game courts, and other customary residential out*building*s and *structures*				X
Private schools		X		
Public and private *forests*, wildlife reservations and similar conservation projects	X			
Public and private parks and playgrounds for the purpose of conserving and enjoying the natural resources.	X			
*Public landing*s		B		
Public utilities and *structure*s		X		
Recreational facilities, privately or commercially owned		X		
Resorts		X		
Retreats		X		
*Roadside stand*s				X

Uses in Community Residential (CR) Article III lists requirements for permitted uses and conditions related to special exceptions. RR indicates uses that are from the original Rural Residential District.	Permitted by right	Special Exception	*Accessory Use* on *farms* only	*Accessory Use* on all properties
Rural inns		X		
Satellite dish, private, with an antenna exceeding 3 feet in diameter				X
Satellite dish, private, with an antenna of 3 feet or less in diameter				X
School buses, parked, limited to five			X	
School buses, parked, limited to two				X
Short-term vacation rentals (STVR)				X
Solar energy systems, small				X
Storage of boats, campers, boat trailers, and camper trailers				X
Temporary *MET Tower* of any height				X
Wind energy systems, small		X		
Wind energy systems, small, accessory			X	

6.3 DENSITY, AREA, HEIGHT, WIDTH AND YARD REQUIREMENTS

STANDARDS FOR THE *SUBDIVISION* OF *LOT*S	
Gross *density* (*dwelling units*/acre)	1 *dwelling units* per acre[1]
Minimum *lot* size	½ acre
Minimum *lot width*	75 feet
STANDARDS FOR *BUILDING* AND *STRUCTURE* HEIGHT, WIDTH, AND PLACEMENT	
Minimum *yard*	
- Front	35 feet
- Side	10 feet
- Rear	30 feet
- Waterfront	100 feet
- *Accessory structures* on *farm*s in the side and *rear yard*	25 feet
- Accessory residential *structure*s in *rear yard*	
Side	5 feet
Rear	5 feet
Maximum *structure* height[2]	
- Primary Residential or Agricultural *structure*	38 feet
Accessory Residential Structure (a special exception may be granted to exceed max)	Height of existing primary residential structure
- Fence[3]	
- Security	8 feet
- Agricultural	5 feet
- Ornamental	
Side and Rear	8 feet
Front	4 feet

1 Accessory dwelling units are not included in density calculations.

2 Height of structures may be further restricted by of the Kent County *Airport* Safety Requirements as defined in this Ordinance. Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

3 Fences do not need to meet yard requirements.

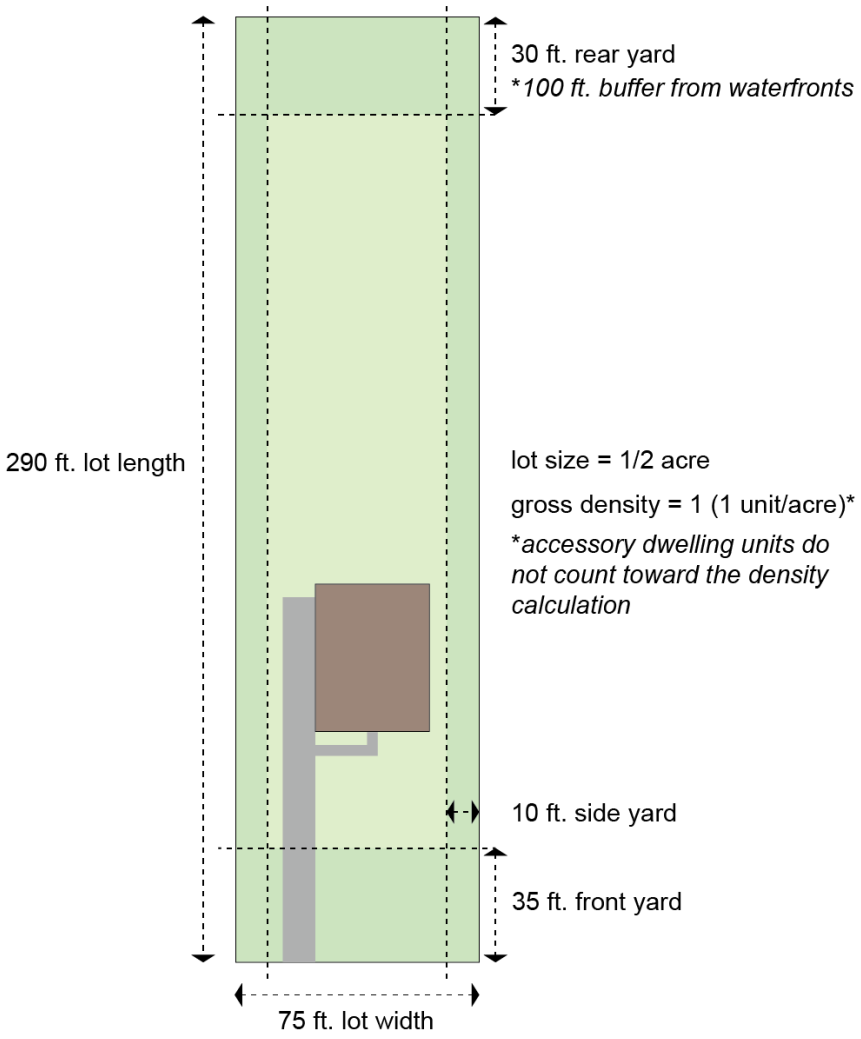


Figure 10: Regulatory diagram of a lot in the Community Residential District.

SECTION 7 VILLAGE DISTRICT (V)

7.1 STATEMENT OF INTENT

1. The purpose of this district is to provide for high quality residential, neighborhood business, and office *development*. In those areas served by public water and sewer, this zone will be characterized by a wide variety of housing types, densities, and uses. In those areas without *public utilities*, this zone will be largely single *family* and some business uses with the possibility of multi-*family* residential.

2. This district is created to:

   (A) Encourage planned neighborhoods of residential *development* in existing towns and communities with access to *major thoroughfare*s.

   (B) Permit a variety of housing types including accessory dwelling units.

   (C) Provide incentives for residential *development* by allowing variations in *lot* size, *density*, *frontage*, and *yard* requirements.

   (D) Encourage compact *development* and promote economic development.

   (E) Promote village-scale mixing of uses and the *development* of non-residential uses that complement and enhance the character, vitality, and attractiveness of the community as a place to live and work including expanding existing businesses.

   (F) Encourage designs that allow for infill and create *development* that is compatible with the character of existing *building*s.



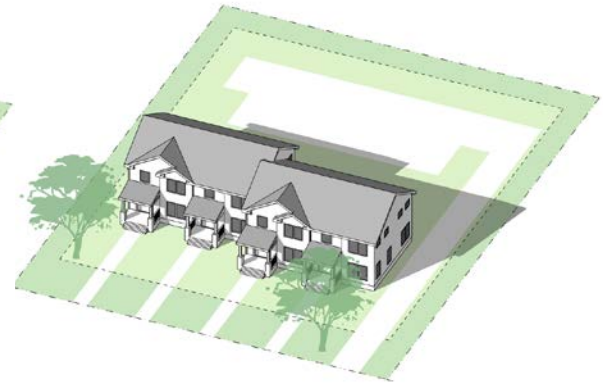


Figure 11: Diagram illustrating the desired character of single-family housing developments in the Village District.

Figure 12: Diagram illustrating the desired character of multi-family housing developments in the Village District.

7.2 PERMITTED USES AND STRUCTURES

A *building* or *structure* shall be used only for the following. Detailed limitations and standards for these uses are found in Article III. Administrative special exceptions are indicated by letter "A." "B" indicates exceptions that require only Board of Appeals review. All other exceptions require Planning Commission and Board of Appeals reviews per Article IV.

Uses in Village District (V) Article III lists requirements for permitted uses and conditions related to special exceptions.	Permitted by right	Special Exception	*Accessory Use* on all properties
Accessory *dwelling unit*			X
Accessory *off-street parking* of one commercial vehicle			X
Accessory structures in the *front yard*s of *through* or *corner lot*s		A	
Accessory vehicle parking			X
Adaptive reuse of *historic structures* for uses not otherwise listed		X	
Agriculture	X		
Animal husbandry, special – backyard chickens			X
Animal husbandry special – small sheep or goats			X
Appurtenant signs			X
Assisted living facilities with no more than four beds			X
*Automobile service station*s, but not including repair		X	
Boat sales, boat and outboard motor repairs and boat storage	X		
Cemetery, including crematorium and mausoleum		X	
Convalescent, nursing, or *group home*s for the aged with five or more beds		X	
Curio shops, craft shops, antique stores, and similar uses	X		
Data processing centers	X		
Day care groups		A	
Day care homes			X
Detached *single family dwelling*s	X		
Existing commercial or industrial uses and *structure*s in the Village District	X		
Financial institutions	X		
Fire and rescue stations	X		
Funeral homes	X		
Home and business services such as grounds care, cleaning, exterminators, landscaping, and other repair and maintenance services	P		
*Home occupation*s in main or accessory *building*s			X
Houses of worship	X		
Indoor movie theaters, playhouses, and dinner theaters	X		

Uses in Village District (V) Article III lists requirements for permitted uses and conditions related to special exceptions.	Permitted by right	Special Exception	*Accessory Use* on all properties
Marine supply store including indoor outboard motor sale	X		
*Mobile home park*s		X	
Mobile homes existing and in use as of January 16, 1996	X		
*Multi-family dwelling*s	X		
Neighborhood retail businesses	X		
Offices	X		
Outdoor recreation, miniature golf, but not golf courses		X	
*Person*al service establishments	X		
Personal wireless facilities, collocated on existing towers	X		
Printing and publishing		X	
*Private club*s		B	
Private garages, *swimming pools*, game courts, and other customary residential out*building*s and *structures*			X
Private schools		X	
Public uses, *building*s, and utilities	X		
Recreational uses indoor, commercial	X		
*Restaurant*s without drive through facilities	X		
Retreats		X	
Rooming, boarding, and *lodging house*s	X		
Rural inns		X	
Satellite dish, private, with an antenna exceeding 3 feet in diameter			X
Satellite dish, private, with an antenna of 3 feet or less in diameter			X
School bus parking *lot*		X	
School buses, parked, limited to two			X
Self-storage	X		
Septic tank maintenance and excavation		X	
Short-term vacation rentals (STVR)			X
Solar energy systems, small			X
Storage of boats, campers, boat trailers, and camper trailers			X
Temporary *MET Tower* of any height			X
Town houses	X		
*Two-family dwelling*s	X		
Uses and *structures* which are customarily accessory and clearly incidental and subordinate to the permitted use			X
Wind energy systems, small		X	

7.3 DENSITY, AREA, HEIGHT, WIDTH, AND YARD REQUIREMENTS FOR ALL NEW CONSTRUCTION AND ADDITIONS EXCEPT FOR TWO-FAMILY, TOWNHOUSE, AND MULTI-FAMILY USES

STANDARDS FOR THE *SUBDIVISION* OF *LOT*S **Note – These standards have been divided into two sub-sections (see next sub-section)**	
Gross *density* (dwelling units/acre)	4
Minimum *lot* size	9,500 square feet
Minimum *lot frontage*	50 feet
STANDARDS FOR *BUILDING* AND *STRUCTURE* HEIGHT, WIDTH, AND PLACEMENT	
Minimum *yard*	
- Front	20 feet
- Side	8 feet
- Rear	10 feet
- Accessory residential *structure*s in *rear yard*	
Side	5 feet
Rear	5 feet
Maximum *structure* height[1]	
- Commercial	38 feet
- Primary Residential	38 feet
- Accessory Residential Structure (a special exception may be granted to exceed max)	Height of existing primary residential structure
- Fence[2]	
- Security	8 feet
- Agricultural	5 feet
- Ornamental	
Side and Rear	8 feet
Front	4 feet

1 Height of structures may be further restricted by of the Kent County *Airport* Safety Requirements as defined in this Ordinance. Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

2 Fences do not need to meet yard requirements.

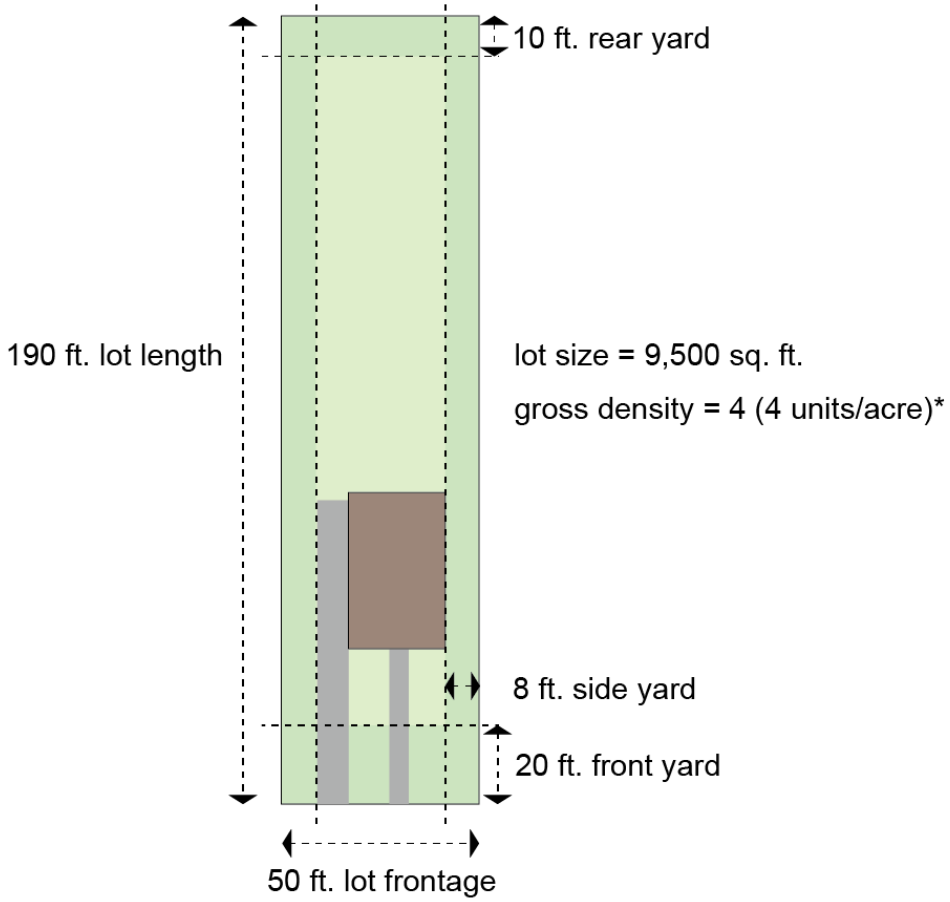


Figure 13: Regulatory diagram of a lot with single-family housing in the Village District.

7.4 DENSITY, AREA, HEIGHT, WIDTH, AND YARD REQUIREMENTS FOR ALL NEW CONSTRUCTION AND FOR ANY ADDITIONS TO TWO-FAMILY, TOWNHOUSE, AND MULTI-FAMILY USES

STANDARDS FOR THE *SUBDIVISION* OF *LOT*S **Note – This is a new sub-section proposed to be added to the Land Use Ordinance, which would increase the permitted density in this zoning district from 4 units per acre to 8 units**	
Gross *density* (*dwelling units*/acre)	8 *dwelling units* per acre
Minimum *lot frontage*	50 feet
STANDARDS FOR *BUILDING* AND *STRUCTURE* HEIGHT, WIDTH, AND PLACEMENT	
Minimum *yard*	
- Front	20 feet
- Side	12 feet; none in between connected units
- Rear	20 feet
- Accessory residential *structure*s in *rear yard*	
Side	5 feet
Rear	5 feet
Maximum Primary *structure* height[1]	
- Two-*Family*	38 feet
- *Townhouse* - Multi-*Family*	38 feet 42 feet
- Accessory Residential Structure (a special exception may be granted to exceed max)	Height of existing primary residential structure
- Fence[2]	
- Security	8 feet
- Agricultural	5 feet
- Ornamental	
Side and Rear	8 feet
Front	4 feet
Parking Location	*Rear yard* only

1 Height of structures may be further restricted by of the Kent County *Airport* Safety Requirements as defined in this Ordinance. Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

2 Fences do not need to meet yard requirements.

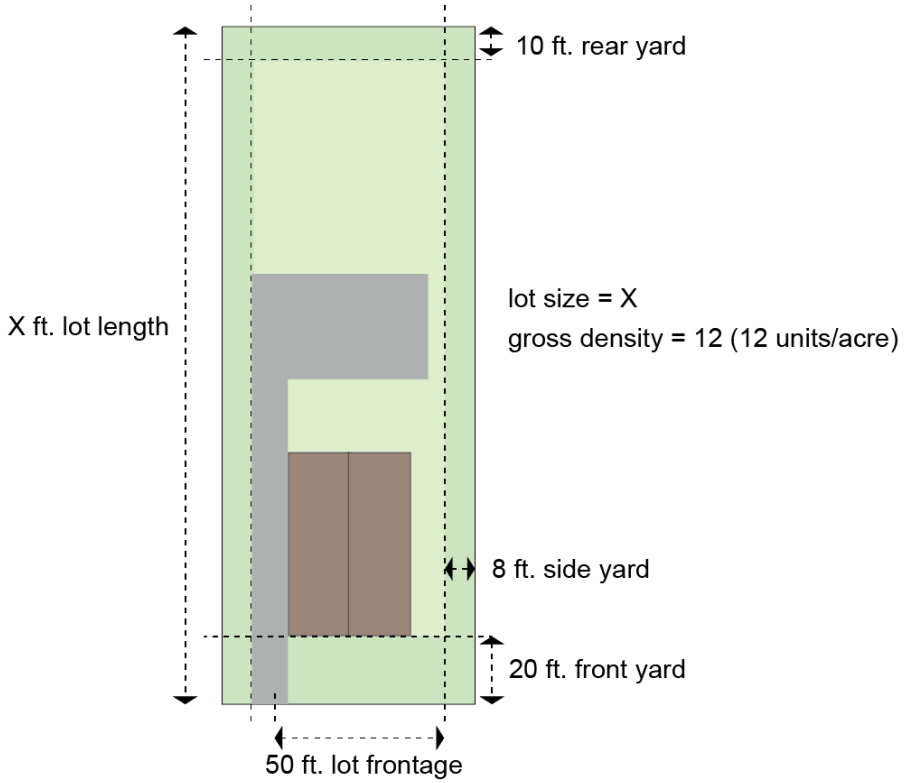


Figure 14: Regulatory diagram of a lot with multi-family housing in the Village District.

SECTION 8 INTENSE VILLAGE DISTRICT (IV)

8.1 STATEMENT OF INTENT

The purpose of this district is to provide for a high-quality and well-designed mix of commercial, office, and residential areas with an emphasis on uses and intensities that make efficient use of public facilities and limit sprawling *development*. It is intended that residences, shops, and offices are in close proximity to each other, as is found in the traditional village pattern, and that the resulting mix of uses form lively, prosperous neighborhoods that serve as an attractive place to live, work, shop, and play. The district may act as a transition between town and the more rural areas of the County. *Building*s in this district shall be oriented to the *street* and provision made for pedestrian access so that the character of the area is interpreted as pedestrian.

This district is intended to be used sparingly and in areas where high-density residential projects as well as more intense concentrations of commercial uses are desired. A new sub-section has been added to allow up to 12 units per acre for *two-family dwellings*, *townhouses*, and *multi-family dwelling* uses. New designations are appropriate in growth areas or near boundaries of municipalities as well as near the boundaries of existing *developments* in unincorporated areas.





Figure 15: Diagram illustrating the desired character of two-family housing development in the Intense Village District.

Figure 16: Diagram illustrating the desired character of multi-family housing developments in the Intense Village District.

8.2 PERMITTED USES AND STRUCTURES

A *building* or land shall be used only for the following. Detailed limitations and standards for these uses are found in Article III. Administrative special exceptions are indicated by letter "A." "B" indicates exceptions that require only Board of Appeals review. All other exceptions require Planning Commission and Board of Appeals reviews per Article IV.

Uses in Intense Village District (IV) Article III lists requirements for permitted uses and conditions related to special exceptions.	Permitted by right	Special Exception	*Accessory Use* on all properties
Accessory dwelling unit			X
Accessory employee housing			X
Accessory *off-street parking* of one commercial vehicle			X
Accessory structures in the *front yard*s of *through* or *corner lot*s		A	
Accessory vehicle parking			X
Adaptive reuse of *historic structures* for uses not otherwise listed		X	
Animal husbandry, special – backyard chickens			X
Appurtenant signs			X
Assisted living facilities with no more than four beds			X
Automobile repair		X	
*Automobile service station*s	X		
Car wash		X	
Cemetery, including crematorium and mausoleum			X
Conference center		X	
Convalescent, nursing, or *group home*s for the aged with five or more beds		X	
Cottage industries, tradesmen and artisan shops		A	
*Country inn*s	X		
Day care groups		A	
Day care homes			X
Detached *single family dwelling*s	X		
Financial institutions	X		
Fire and rescue stations	X		
Funeral homes	X		
Home and business services such as grounds care, cleaning, exterminators, landscaping, and other repair and maintenance services	X		
*Home occupation*s in main or accessory *building*s			X
Hospitals, rehabilitation facilities, and similar institutions for human care		X	

Uses in Intense Village District (IV) Article III lists requirements for permitted uses and conditions related to special exceptions.	Permitted by right	Special Exception	*Accessory Use* on all properties
*Hotel*s and motels	X		
Houses of worship	X		
Indoor movie theaters, playhouses, and dinner theaters	X		
*Multi-family dwelling*s	X		
Neighborhood retail businesses	X		
Offices	X		
Outdoor entertainment		X	
Outdoor recreation, miniature golf, but not golf courses		X	
*Person*al service establishments	X		
Personal wireless facilities, collocated on existing towers	X		
Printing and publishing		X	
*Private club*s		X	
Private garages, *swimming pools*, game courts, and other customary residential out*building*s and *structures*			X
Private schools		X	
Public uses, *building*s, and utilities	X		
Pubs, taverns, and bars, including open air facilities		X	
Recreational uses, indoor, commercial	X		
Resorts		X	
*Restaurant*s without drive through facilities	X		
Rooming, boarding, and *lodging house*s	X		
Satellite dish, private, with an antenna of 3 feet or less in diameter			X
Satellite dish, private, with an antenna exceeding 3 feet in diameter			X
School bus parking *lot*		X	
School buses, parked, limited to two			X
Self storage	X		
Short-term vacation rentals (STVR)			X
Solar energy systems, small			X
Storage of boats, campers, boat trailers, and camper trailers			X
Temporary *MET Tower* of any height			X
Town houses	X		
*Two-family dwelling*s	X		
Uses and *structures* which are customarily accessory and clearly incidental and subordinate to the permitted use			X
Wind energy systems, small		X	

8.3 *DENSITY*, AREA, HEIGHT, WIDTH, AND *YARD* REQUIREMENTS FOR ALL *NEW CONSTRUCTION* AND ANY ADDITIONS EXCEPT FOR TWO-FAMILY, TOWNHOUSE, AND MULTI-FAMILY USES

STANDARDS FOR THE *SUBDIVISION* OF *LOT*S **Note – These standards have been divided into two sub-sections (see next sub-section)**	
Gross *density* (*dwelling units*/acre)	8 *dwelling units* per acre
Minimum *lot* size	5,000 square feet
Minimum *lot frontage*	40 feet – or set during formal site plan review
STANDARDS FOR *BUILDING* AND *STRUCTURE* HEIGHT, WIDTH, AND PLACEMENT	
Minimum *yard*	
- Front	20 feet – or set during formal site plan review
- Side	10 feet – or set during formal site plan review
- Rear	10 feet – or set during formal site plan review
- Accessory residential *structure*s in *rear yard*	
Side	10 feet
Rear	10 feet
Maximum *structure* height[1]	
- Commercial	40 feet
- Primary Residential	40 feet
- Accessory Residential Structure (a special exception may be granted to exceed max)	Height of existing primary residential structure
- Fence[2]	
- Security	8 feet
- Agricultural	5 feet
- Ornamental	
Side and Rear	8 feet
Front	4 feet

1 Height of structures may be further restricted by of the Kent County *Airport* Safety Requirements as defined in this Ordinance. Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

2 Fences do not need to meet yard requirements.

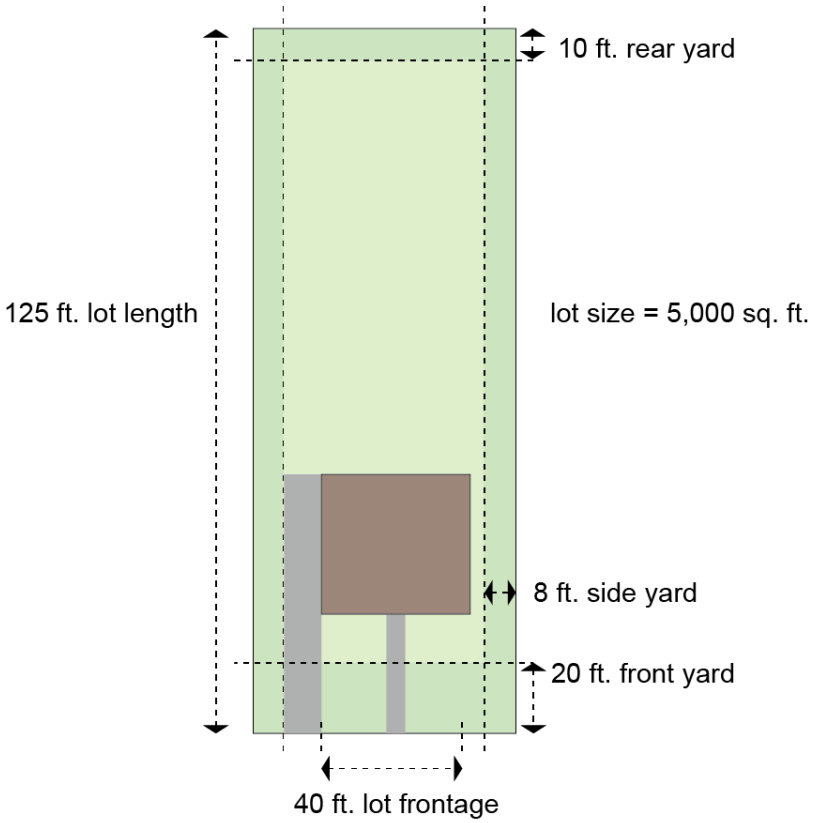


Figure 17: Regulatory diagram of a single-family housing lot in the Intense Village District.

8.4 DENSITY, AREA, HEIGHT, WIDTH, AND YARD REQUIREMENTS FOR ALL NEW CONSTRUCTION AND ADDITIONS TO TWO-FAMILY, TOWNHOUSE, AND MULTI-FAMILY USES

STANDARDS FOR THE SUBDIVISION OF LOTS **Note – This is a new sub-section proposed to be added to the Land Use Ordinance, which would increase the permitted density in this zoning district from 8 units per acre to 12 units**	
Gross *density* (*dwelling units*/acre)	12 *dwelling units* per acre
Minimum *lot* size	Duplex 4,000 square feet Townhouse 2,000 square feet
Minimum *lot frontage*	30 feet – or set during formal site plan review
STANDARDS FOR BUILDING AND STRUCTURE HEIGHT, WIDTH, AND PLACEMENT	
Minimum *yard*	
- Front	20 feet – or set during formal site plan review
- Side	12 feet – or set during formal site plan review
- Rear	20 feet – or set during formal site plan review
- Accessory residential *structure*s in *rear yard*	
Side	10 feet
Rear	10 feet
Maximum *structure* height[1]	
- Two-*Family*	40 feet
- *Townhouse* - Multi-*Family*	40 feet 50 feet
- Accessory Structure (a special exception may be granted to exceed max)	Height of existing primary residential structure
- Fence[2]	
- Security	8 feet
- Agricultural	5 feet
- Ornamental	
Side and Rear	8 feet
Front	4 feet
Parking Location	*Rear yard* only

1 Height of structures may be further restricted by of the Kent County *Airport* Safety Requirements as defined in this Ordinance. Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

2 Fences do not need to meet yard requirements.

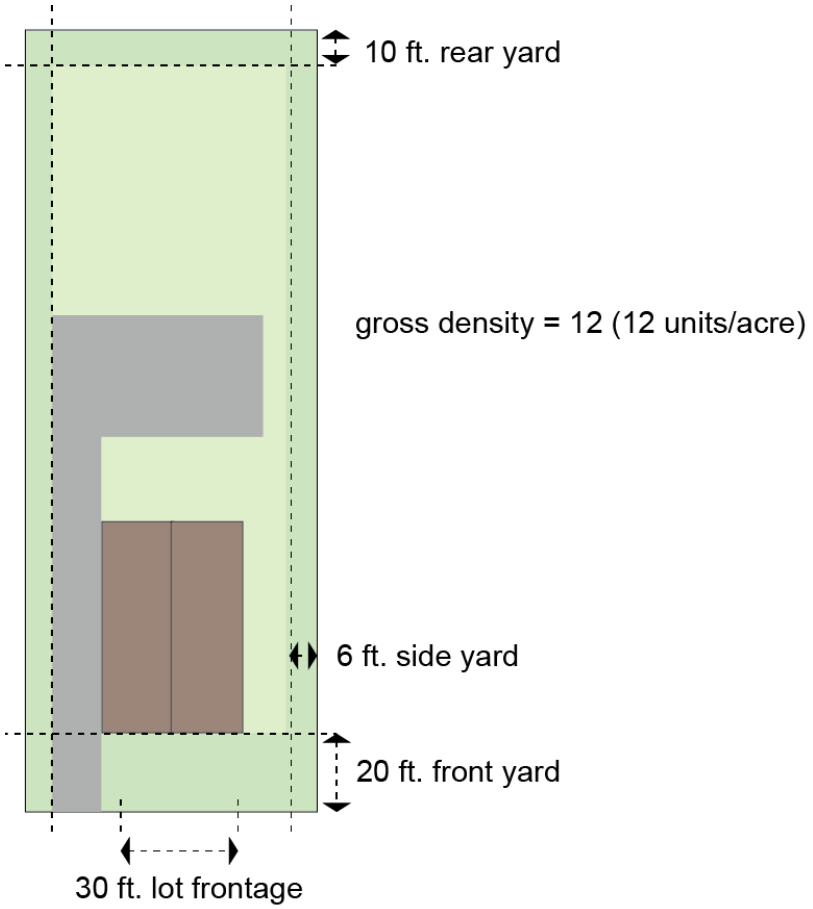


Figure 18: Regulatory diagram of a multi-family housing lot in the Intense Village District.

SECTION 9 COMMERCIAL DISTRICT

9.1 STATEMENT OF INTENT

The purpose of this district is to provide appropriate locations for a broad range of commercial activities such as retail, wholesale, and contracting activities, which are primarily oriented to highway locations and which may include services and destination retail. Consequently, the district is located along major arterial highways or at the intersections of State and/or County highways. It is further intended that this District shall be for the purpose of limiting sprawl by providing *site*s with adequate *frontage* and depth to permit controlled access to public *street*s. Because these uses are subject to public view, which is of concern to the whole community, they should provide an appropriate appearance, controlled traffic movement, ample landscaping, and protect adjacent properties from the traffic and visual impacts associated with the commercial activity. Whenever possible, *frontage* of the district shall not exceed depth.

This district combines the former Commercial district and Crossroads Commercial (CC). The permitted uses have been combined. Uses allowed only within the US 301 Corridor are specified.

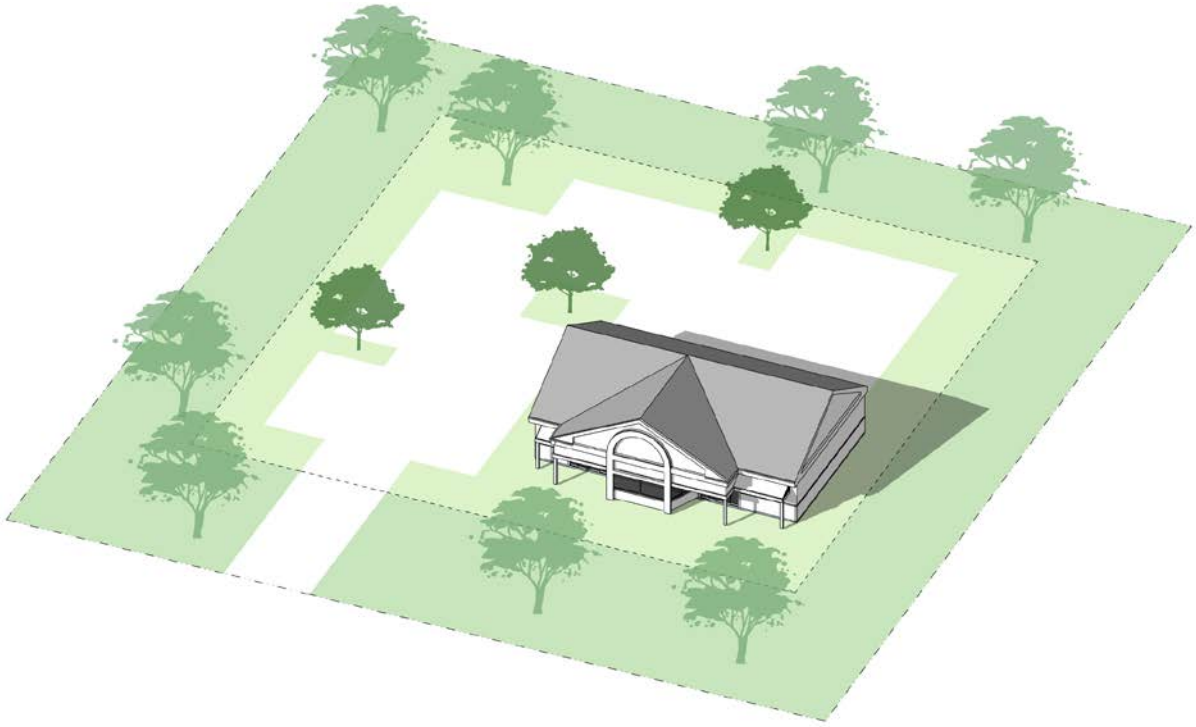


Figure 19: Diagram illustrating the desired character of the Commercial District.

9.2 PERMITTED USES AND STRUCTURES

A *building* or land shall be used only for the following, subject to *site plan* review for proposed new uses by the *Planning Commission* or where applicable the Planning Director. Detailed limitations and standards for these uses may be found in Article III. Administrative special exceptions are indicated by letter "A." "B" indicates exceptions that require only Board of Appeals review. All other exceptions require Planning Commission and Board of Appeals reviews per Article IV.

Uses in Commercial District Article III lists requirements for permitted uses and conditions related to special exceptions. Uses from the Crossroads Commercial District only are marked as CC. Uses from the Commercial District only are marked as C. X indicates uses from both districts before combining.	Permitted by right	Special Exception	*Accessory Use* on all properties
Accessory employee housing			X
Accessory truck parking			X
Accessory uses and *structures* normally associated with permitted uses and not otherwise listed			C
Agriculture	X		
Appurtenant signs			X
Automobile repair	CC		
Automobile sales, service, and rental	X		
*Automobile service station*s	CC		
Boat *building* and boat repair		X	
Building materials sales	C		
Car wash provided the wastewater is recycled	CC		
Circus or carnival, midways and amusement parks, maze fields and other temporary recreational uses, for a specified period	X		
Class D Alcohol Retail Business, as defined by the State of Maryland	CC		
Cottage industries, tradesmen, and artisan shops		A	
Country inns	CC		
Data processing centers	C		
Distribution centers and warehousing	C		
Financial institutions	X		
Fire and rescue stations	CC		
Home and business services such as grounds care, cleaning, exterminators, landscaping, and other repair and maintenance services	CC		
*Hotel*s and motels	X		
Machinery and equipment sales, service, and rental	C		
Manufacture, processing, fabrication, and assembly of products	C		
Manufacture, processing and assembling of food products		X	

Uses in Commercial District Article III lists requirements for permitted uses and conditions related to special exceptions. Uses from the Crossroads Commercial District only are marked as CC. Uses from the Commercial District only are marked as C. X indicates uses from both districts before combining.	Permitted by right	Special Exception	*Accessory Use* on all properties
Microbrewery, as defined by the State of Maryland	X		
Mini storage facilities	C		
Modular *building* sales	CC		
Offices – administrative, business, sales, and professional	X		
Personal wireless facility towers		X	
Personal wireless facilities, collocated on existing towers	X		
Public uses, *building*s, and utilities	X		
Radio and television tower, commercial		X	
Recreational facilities, privately or commercially owned		X	
*Restaurant*s without drive through facilities	X		
Retail businesses with less than 60,000 square feet of gross floor area	C		
Retail businesses with more than 60,000 square feet of gross floor area		X	
Retail businesses located in the Route 301 Corridor	X		
Retail nurseries and greenhouses	CC		
Roadside stands	CC		
School bus parking *lot*		X	
School buses, parked, limited to two			X
Shopping Centers		X	
*Single family dwelling*s		A	
Storage of office supplies or merchandise re to a permitted use			X
Solar energy systems, small			X
Solar energy systems, utility scale		X	
Temporary *MET Tower* of any height			X
Truck parking lot		X	
*Truck stop*s		X	
*Truck terminal*s		X	
Veterinary *hospital*s and offices	CC		
Wind energy systems, small		X	
Wind energy systems, small, accessory			X

9.3 DENSITY, AREA, HEIGHT, WIDTH, AND YARD REQUIREMENTS

STANDARDS FOR THE *SUBDIVISION* OF *LOT*S	
Minimum *lot* size	NA
Minimum *frontage*	
- Public road	100 feet
STANDARDS FOR *BUILDING* AND *STRUCTURE* HEIGHT, WIDTH, AND PLACEMENT	
Minimum *yard*	
- Front	50 feet
- Side & *Rear yard*	50 feet with *buffer*ing from adjoining AZD, RCD, RC, RR, CAR, V, IV
	30 feet from C, CCA, M, EC, ECCA, which may be reduced to 0 if emergency and maintenance vehicle access are acceptably addressed and if the adjoining property is a compatible use
- Waterfront	100 feet
Height[1]	
- Industrial *structures*	45 feet
- Industrial *structures* in 301 Corridor	60 feet
- Commercial *structure*	45 feet
- Residential *structure*	38 feet
- Fence[2]	
- Security	8 feet
- Ornamental	
Front and *side yard*	4 feet
Rear yard	8 feet

1 Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

2 Fences do not need to meet yard requirements.

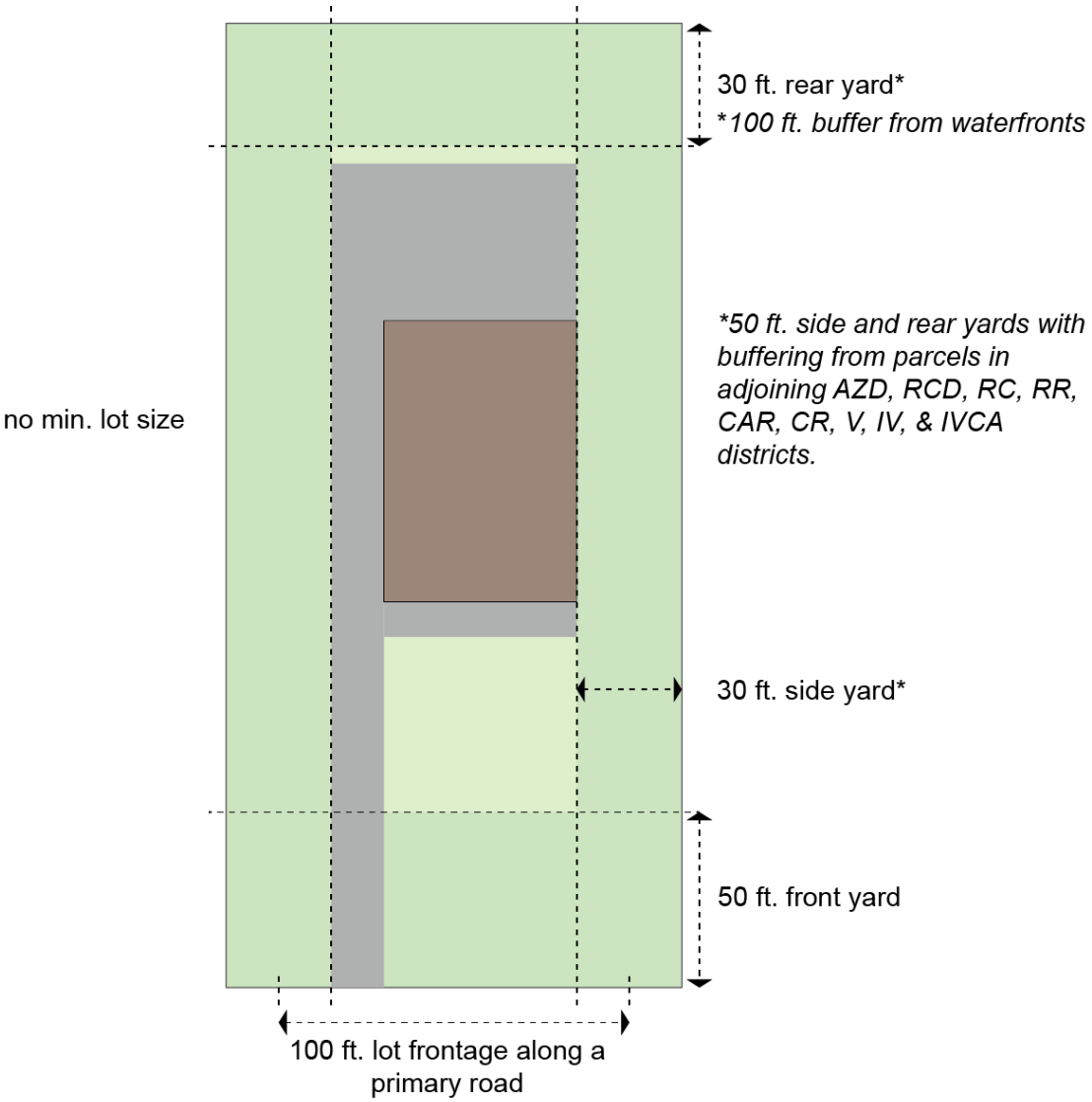


Figure 20: Regulatory diagram of a lot in the Commercial District.

SECTION 10 COMMERCIAL CRITICAL AREA (CCA)

10.1 STATEMENT OF INTENT

The purpose of this district is to accommodate commercial and service activities that are not normally located in central business concentrations. These uses are primarily oriented to highway locations and include services and destination retail. Consequently, the district is located along major arterial highways. It is further intended that this District shall be for the purpose of limiting sprawling *development* by providing *site*s with adequate *frontage* and depth to permit controlled access to public *street*s. Because these uses are subject to public view, which is of concern to the whole community, they should provide an appropriate appearance, controlled traffic movement, ample landscaping, and protect adjacent properties from the traffic and visual impacts associated with the commercial activity. Whenever possible, *frontage* of the district shall not exceed depth.

The Commercial Critical Area (CCA) district is complementary to the Commercial (C) district. Regulations are intended to mirror the C district and provide a Critical Area version of C district.

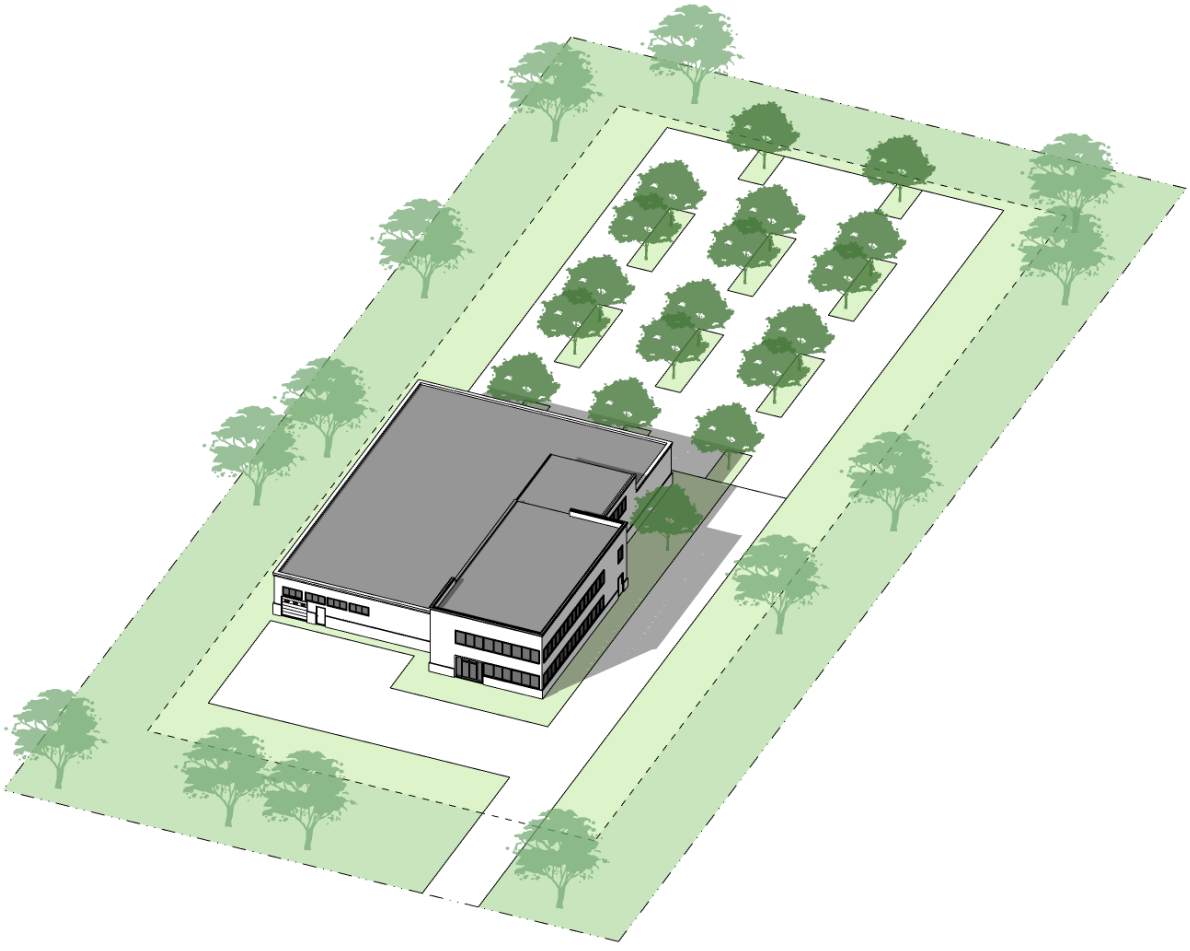


Figure 21: Diagram illustrating the desired character of the Commercial Critical Area District.

10.2 PERMITTED USES AND STRUCTURES

A *building* or land shall be used only for the following, subject to *site plan* review by the *Planning Commission*, or where applicable the Planning Director. Detailed limitations and standards for these uses are found in Article III. Administrative special exceptions are indicated by letter "A." All other exceptions require Planning Commission and Board of Appeals reviews per Article IV.

Uses in Commercial *Critical Area* (CCA) Article III lists requirements for permitted uses and conditions related to special exceptions.	Permitted by right	Special Exception	*Accessory Use* on all properties
Accessory employee housing			X
Accessory truck parking			X
Accessory uses and *structures* normally associated with permitted uses			X
Agriculture	X		
Appurtenant signs			X
Automobile sales, service, and rental	X		
Boat *building* and boat repair		X	
Building materials sales	X		
Circus or carnival, midways and amusement parks, maze fields and other temporary recreational uses, for a specified period	X		
Cottage industries, tradesmen and artisan shops		A	
Financial institutions	X		
*Hotel*s and motels	X		
Machinery and equipment sales, service, and rental	X		
Mini storage facilities	X		
Offices – administrative, business, sales, and professional	X		
Personal wireless facility towers		X	
Personal wireless facilities, collocated on existing towers	X		
Public uses, *building*s, and utilities	X		
Recreational facilities, privately or commercially owned		X	
*Restaurant*s without drive through facilities	X		
Retail businesses located in the Route 301 Corridor	X		
*Single family dwelling*s		A	
Solar energy systems, small			X
Solar energy systems, utility scale		X	
Temporary *MET Tower* of any height			X
*Truck stop*s		X	
Wind energy systems, small		X	
Wind energy systems, small, accessory			X

10.3 DENSITY, AREA, HEIGHT, WIDTH, AND YARD REQUIREMENTS

STANDARDS FOR THE *SUBDIVISION* OF *LOT*S	
Minimum *lot* size	NA
Minimum *frontage*	
- Public road	100 feet
STANDARDS FOR *BUILDING* AND *STRUCTURE* HEIGHT, WIDTH, AND PLACEMENT	
Minimum *yard*	
- Front	50 feet
- Side & *Rear yard*	50 feet with *buffer*ing from adjoining AZD, RCD,RC, CAR, CR, V, IV
	30 feet from C, CCA, M, EC, ECCA, which may be reduced to 0 if emergencyand maintenance vehicle access are acceptably addressed and if the adjoining property is a compatible use
- Waterfront	Minimum 100-foot *buffer* or *modified buffer*[1]
Height[2]	
- Commercial *structure*	45 feet
- Residential *structure*	38 feet
- Fence[3]	
- Security	8 feet
- Ornamental	
Front and Side	4 feet
Rear	8 feet

1 Modifications for structures existing prior to April 12, 1988, may be permitted per regulations set forth in Article VI.

2 Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; standpipes; and flag poles.

3 Fences do not need to meet yard requirements.

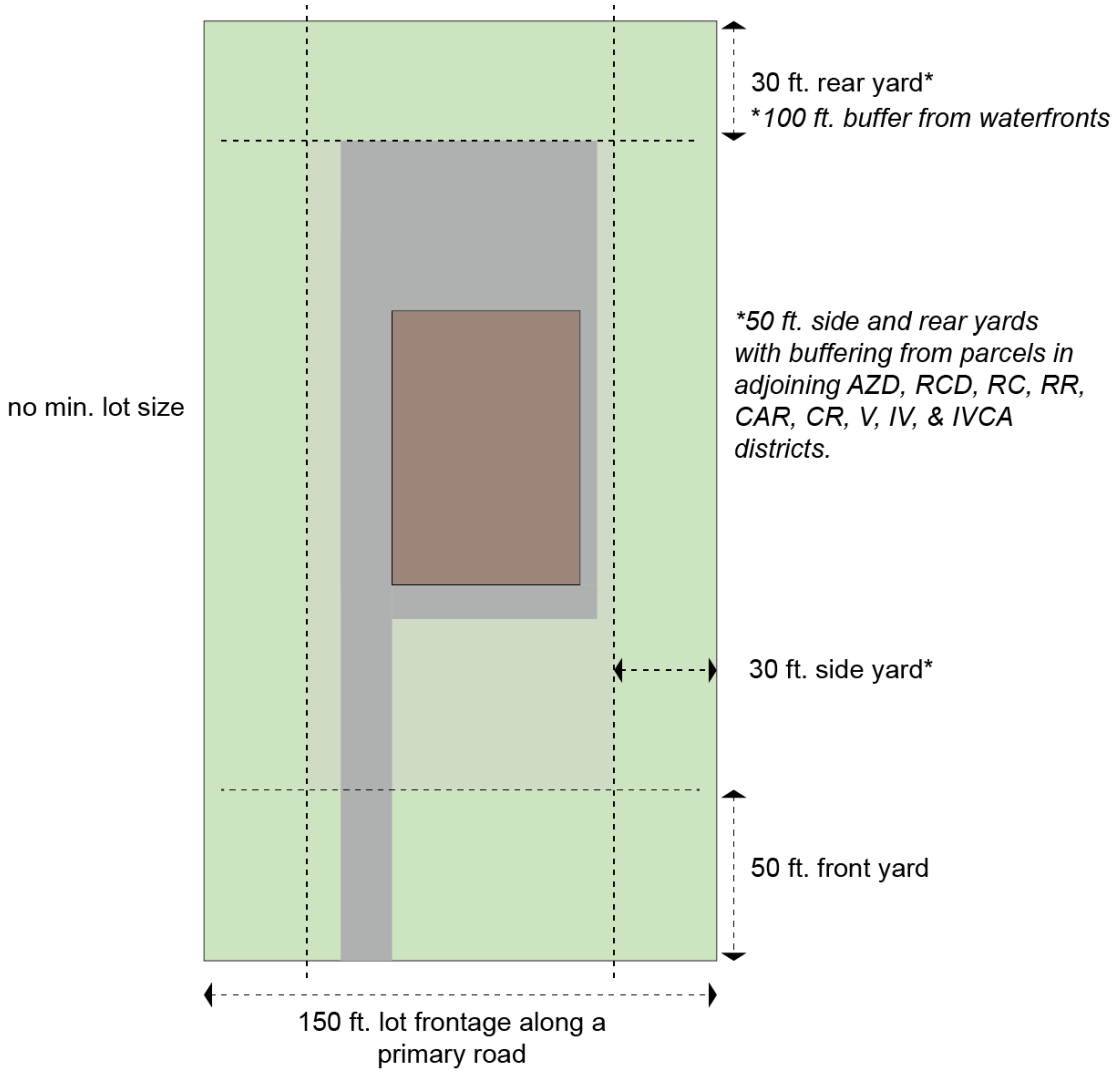


Figure 22: Regulatory diagram of a lot in the Commercial Critical Area District.

SECTION 11 MARINE DISTRICT (M)

11.1 STATEMENT OF INTENT

The purpose of this district is to provide land for full-service *marinas*, including out-of-water boat storage, repair, and other services normally associated with *marinas*. Marine industrial uses, including boat *building*, are permitted in appropriate locations subject to applicable sanitation and pollution laws and ordinances. *Retrofitting* of *stormwater management* is encouraged and standards are provided to improve the quality of runoff that enters the Chesapeake Bay and its tributaries. It is important to note that not all existing marinas would need to be zoned Marine.

The Marine District is intended to: 1) improve the quality of runoff from developed areas that enters the Chesapeake Bay or its *tributary streams*; 2) accommodate additional mixed-use *development* provided that water quality is not impaired; 3) minimize the expansion of intensely developed areas into portions of the *Critical Area* designated as habitat protection areas and resource conservation areas; 4) conserve and enhance fish, wildlife, and *plant habitat*s to the extent possible within intensely developed areas; and, 5) encourage the use of *retrofitting* measures to address existing *stormwater management* problems.

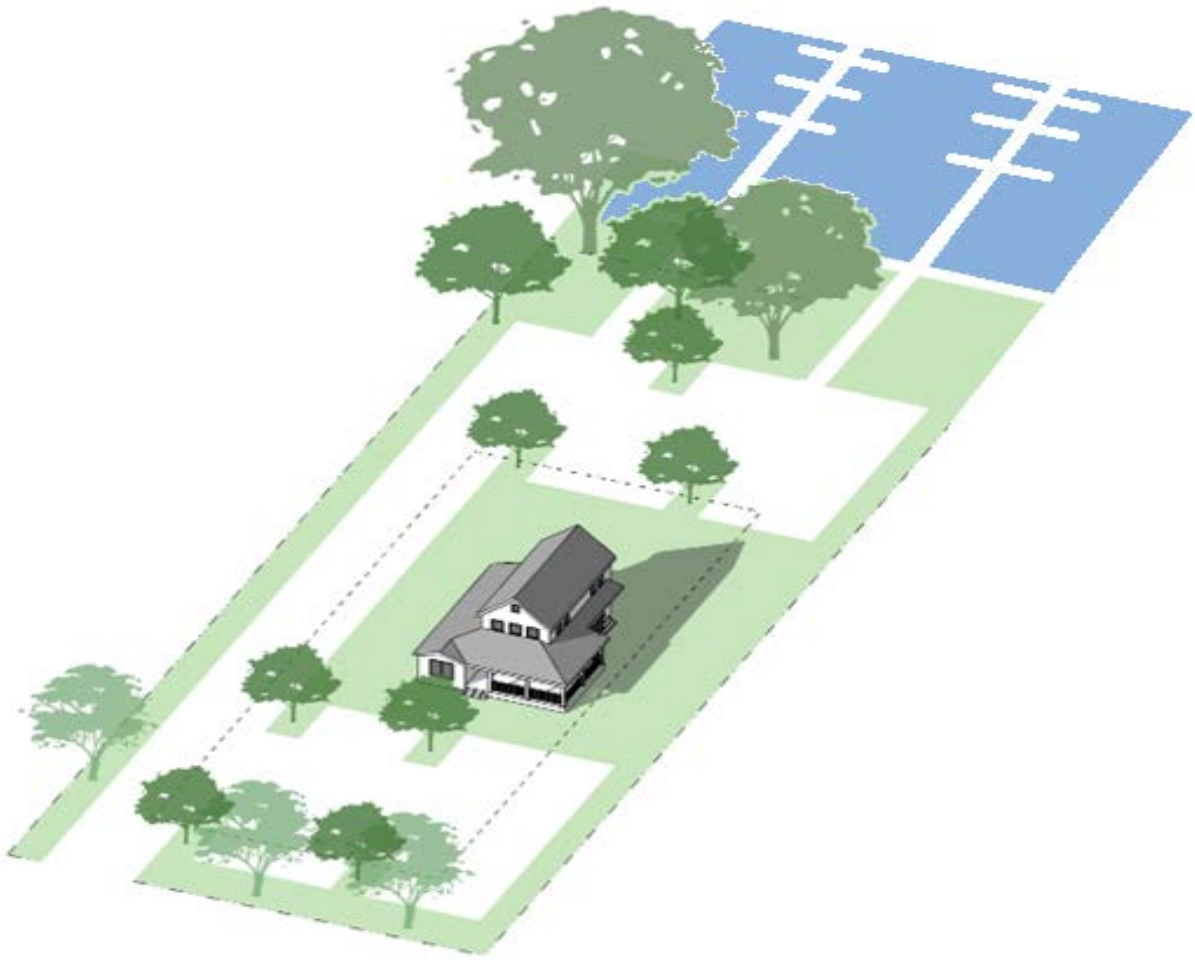


Figure 23: Diagram illustrating the desired character of the Marine District.

11.2 PERMITTED USES AND STRUCTURES

A building or land shall be used only for the following, subject to *site plan* review by the *Planning Commission* or where applicable the Planning Director. Detailed limitations and standards for these uses are found in Article III. Administrative special exceptions are indicated by letter "A." "B" indicates exceptions that require only Board of Appeals review. All other exceptions require Planning Commission and Board of Appeals reviews per Article IV.

Uses in Marine District (M) Article III lists requirements for permitted uses and conditions related to special exceptions.	Permitted by right	Special Exception	*Accessory Use* on all properties
Accessory employee housing			X
Adaptive reuse of *historic structures* for uses not otherwise listed		A	
Airports, landing fields, helistops, or heliports		X	
Appurtenant signs			X
Bath houses, pump out *structures*, and other *accessory structures* normally associated with permitted uses			X
Boat building and boat repair, located at least 100 feet from any residential district	X		
Boat docks, *pier*s and wharves	X		
Boat rental, sales, supplies, instruction, and other services customarily associated with a full-service marina	X		
Boat sales, boat and outboard motor repairs and boat storage	X		
Boat storage, out of water	X		
Country inns		X	
Dormitories for employees		B	
Dredge spoil *sites*		X	
Erosion and flood control structures	X		
Existing *conference center*s, *resort*s, *retreat*s, *hotel*s, and *motels*	X		
Fuel storage and sale for marine purposes only			X
*Marina*s	X		
Multi-level boat storage		X	
Off-street parking and loading, including the parking of commercial vehicles related to the operation of an *on-site* business			X
*Private club*s		B	
*Private destination/residence club*s	X		
*Public landing*s	X		
Public utility lines and accessory structures	X		
Pubs, taverns, and bars, including open air facilities		X	
*Restaurant*s without drive through facilities	X		

Uses in Marine District (M) Article III lists requirements for permitted uses and conditions related to special exceptions.	Permitted by right	Special Exception	*Accessory Use* on all properties
Satellite dish with an antenna exceeding 3 feet in diameter			X
Satellite dish, private, with an antenna of 3 feet or less in diameter			X
Seafood processing		X	
Solar energy systems, small			X
Stores or shops for the conduct of retail sales			X
Temporary *MET Tower* of any height			X
Wind energy systems, small, accessory			X

11.3 DENSITY, HEIGHT, WIDTH, BULK AND FENCE REQUIREMENTS

STANDARDS FOR THE *SUBDIVISION* OF *LOT*S	
Gross *density* (*lot*s/acre)	2
Minimum *lot* size	½ acre
Minimum *frontage*	
- Road	100 feet
- Waterfront	100 feet
STANDARDS FOR *BUILDING* AND *STRUCTURE* HEIGHT, WIDTH, AND PLACEMENT	
Minimum *yard*	
- Front	30 feet
- Side	
- Adjacent to CC, CCA, M	8 feet
- Adjacent to other districts	25 feet
- Rear	
- Adjacent to CC, CCA, M	10 feet
- Adjacent to other districts	25 feet
- Waterfront	Minimum 100-foot *buffer* or *modified buffer*[1]
- *Shoreline cliff*	1.5 x *cliff height* + 20 feet
- Minimum *pier*	
- *Side yard*	30 feet
- Accessory *Building*s	
- Side	10 feet
- Rear	10 feet
Height	
- *Building*s	38 feet
- Covered *pier*[2]	38 feet
- Fence	
- Security	8 feet
- Ornamental	
- Front & Side	4 feet
- Rear	8 feet

1 Modifications for structures existing prior to April 12, 1988, may be permitted as per Article VI.

2 Height of covered piers shall be measured from Mean High Tide.

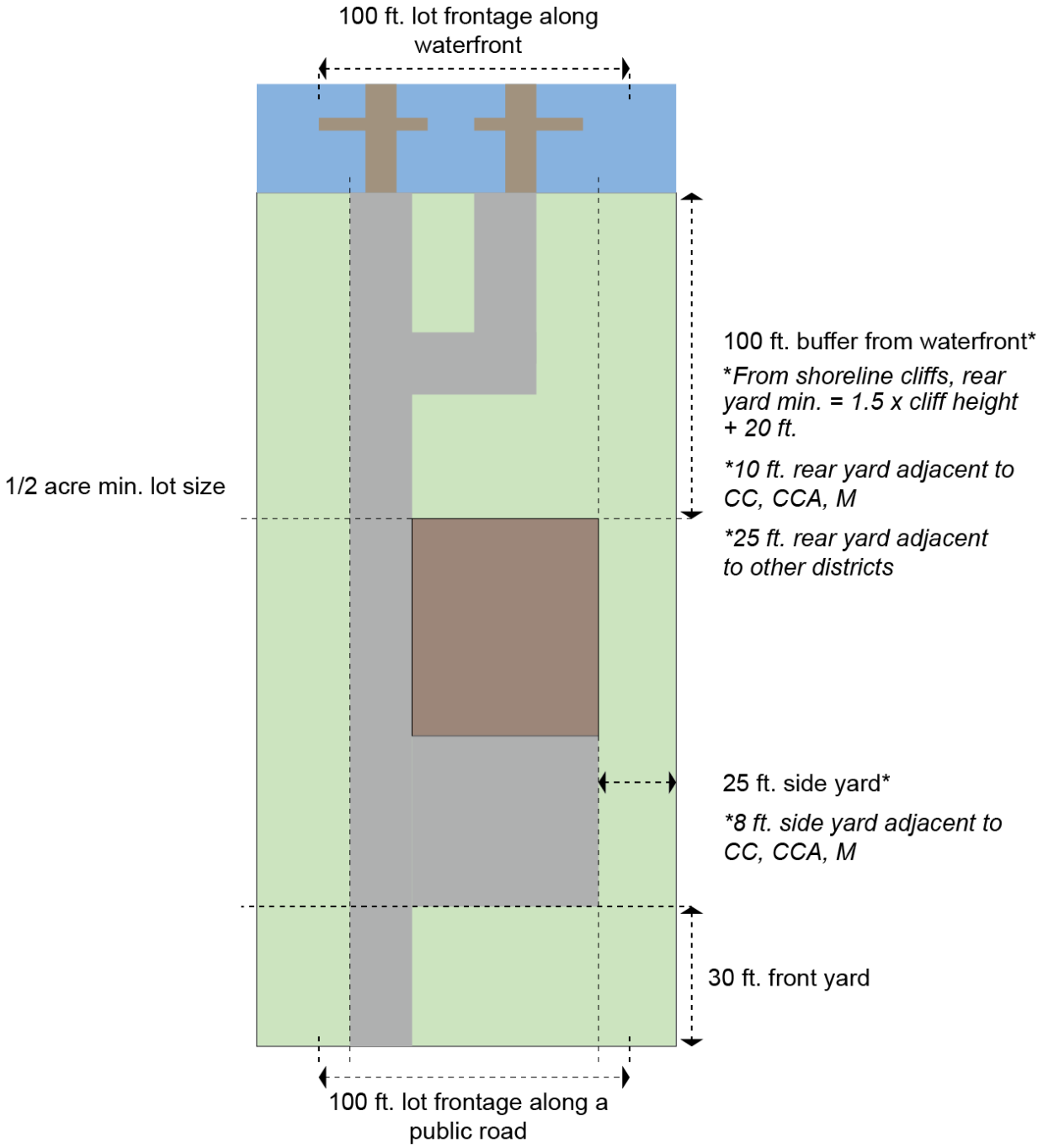


Figure 24: Regulatory diagram of a lot in the Marine District.

SECTION 12 EMPLOYMENT CENTER DISTRICT (EC)

12.1 STATEMENT OF INTENT

Employment Center districts are intended to include a mix of light industrial, office, and other employment uses as well as commercial planned *development*s that are environmentally sound, sustainable, and compatible with adjacent uses. They are further defined as areas devoted to industrial, office, and employment uses which present an attractive appearance, provide for flexibility, and complement surrounding land use character by means of appropriate design of *building*s, service areas, and landscape treatments.

It is intended that Employment Center districts be located in areas having one or more major highways, and/or access to rail, and complementary to surrounding *development*. Light industrial uses may include those uses which manufacture, process, store, package, or distribute goods and materials, and are, in general, dependent on raw materials that are refined elsewhere.

Employment Center districts in the Route 301 Corridor permit buildings with larger footprints and increased buildings heights, in order to provide for the desired economic development in the Route 301 growth area, as envisioned by the Kent County Comprehensive Plan.

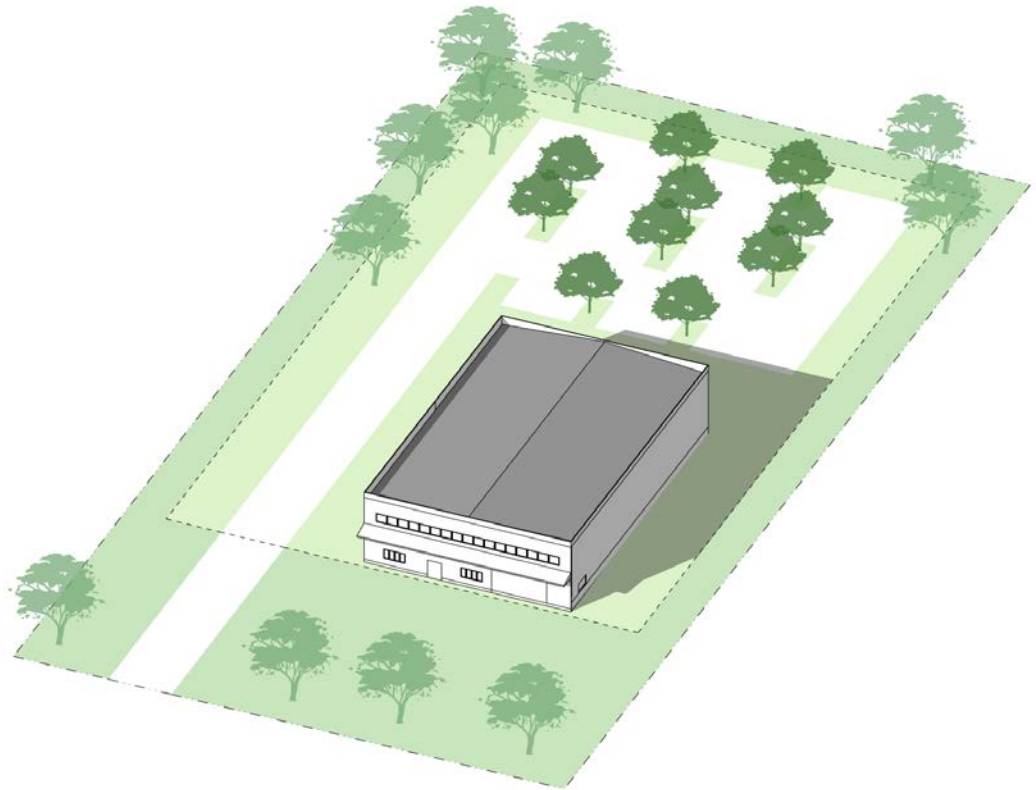


Figure 25: Diagram illustrating the desired character of the Employment Center District.

12.2 PERMITTED USES AND STRUCTURES

For every commercial and industrial *structure* and use erected, reconstructed, altered, or enlarged after the effective date of this Ordinance, a *site plan* shall be filed. No *building* permit shall be issued until said *site plan* is approved by the *Planning Commission* or where applicable the Planning Director. Detailed limitations and standards for uses may be found in Article III. Special exceptions require Planning Commission and Board of Appeals reviews per Article IV.

Uses in Employment Center District (EC) Article III lists requirements for permitted uses and conditions related to special exceptions. "X" indicates uses that are permitted in both Employment Center district and Industrial district. "EC" indicates uses that are permitted only in the original Employment Center district. The "I" indicates uses permitted in the original Industrial district.	Permitted by right	Special Exception	*Accessory Use* on all properties
Accessory employee housing			X
Agriculture	X		
Airports, landing fields, helistops, or heliports	X		
Animal shelters	I		
Blacksmith, welding and machine shops	X		
Boat building and boat repair	X		
Boat storage, out-of-water			X
Data processing centers	X		
Day care groups			X
Distribution centers and warehousing	X		
Excavation, landscaping, or other contractor's yard	X		
Manufacture of concrete and ceramics products, commercial *sawmills*, sewage treatment plants, and lumberyards	EC		
Manufacture, processing, and distribution of hot mix asphalt	I		
Manufacture, processing, fabrication, and assembly of products	X		
Offices	EC		X
Personal wireless facilities, collocated on existing towers	X		
Personal wireless facility towers		X	
Production of biofuels (formerly in the Industrial zoning district only)		X	
Public uses, *building*s, and utilities	X		
Public utility *building*s, *structures*, water treatment plants, and transmission lines	X		
Radio and television tower, commercial		X	
Restaurants without drive through facilities			X
Restaurants with drive through facilities in the Route 301 Corridor		X	
Retail businesses with less than 60,000 square feet of gross floor area	X		
Retail businesses with more than 60,000 square feet of gross floor area		X	

Uses in Employment Center District (EC) Article III lists requirements for permitted uses and conditions related to special exceptions. "X" indicates uses that are permitted in both Employment Center district and Industrial district. "EC" indicates uses that are permitted only in the original Employment Center district. The "I" indicates uses permitted in the original Industrial district.	Permitted by right	Special Exception	*Accessory Use* on all properties
Retail businesses in the Route 301 Corridor	X		
Retail sales of products produced *on-site*			X
Single family dwelling, one per existing property	X		
Solar energy systems, small			X
Solar energy systems, utility scale	X		
Storage and office trailers, temporary during construction	X		
Temporary *MET Tower* of any height			X
Truck terminal	X		
Uses and *structures* which are customarily accessory and clearly incidental and subordinate to the permitted use			X
Vocational and trade schools	X		
Wind energy systems, small		X	
Wind energy systems, small, accessory			X

12.3 DENSITY, HEIGHT, WIDTH, BULK, AND FENCE REQUIREMENTS

STANDARDS FOR THE *SUBDIVISION* OF *LOT*S	
Gross *density* (*dwelling units*/ acre)	1 *dwelling units* per 20 acres[1]
Maximum residential *lot* size	2 acres
Minimum *lot frontage*	75 feet
STANDARDS FOR *BUILDING* AND *STRUCTURE* HEIGHT, WIDTH, AND PLACEMENT	
Minimum *yard*	
- Front	
- Existing *Primary road*	100 feet
- Other *roads*	As approved during subdivision review
- Side and Rear	
- Adjacent to ECCA	15 feet
- Adjacent to C, CCA, M, AZD, RCD	40 feet
- Adjacent to V, CR, CAR	100 feet
- Adjacent to public road	100 feet[2]
Height	
- Industrial *structure*	45 feet
- Industrial *structure* in 301 Corridor	60 feet
- Residential *structure*	35 feet
- Towers, silos, etc.	150 feet[3]
- Fence[4]	
- Security	8 feet
- Ornamental	
Front and Side	4 feet
Rear	8 feet
Maximum *building* footprint	
- Distribution Center	
- Route 301 Corridor	NA
- Other locations	75,000 sq. ft.
- Other industrial *building*s	
- Route 301 Corridor	NA
- Other locations	250,000 sq. ft.

1 Intrafamily transfers only

2 May be reduced or increased during site plan review

3 Except in the *Airport* Safety Zone

4 Fences do not need to meet the yard requirements.

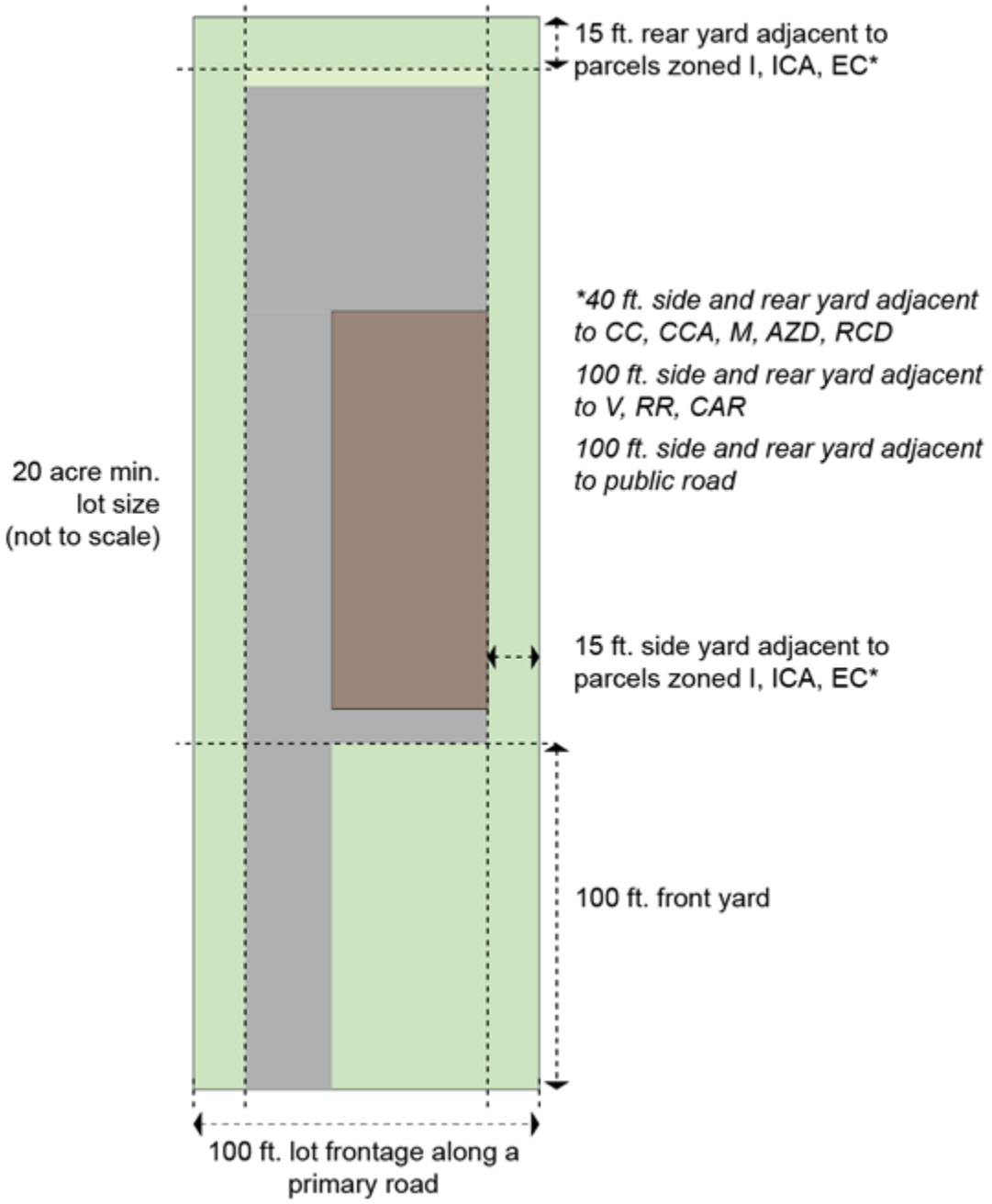


Figure 26. Regulatory graphic of a lot in the Employment Center District.

SECTION 13 EMPLOYMENT CENTER CRITICAL AREA (ECCA)

13.1 STATEMENT OF INTENT

This district is intended to provide for a range of light industrial, office, and other employment uses which are environmentally sound, sustainable, and compatible with adjacent uses. Furthermore, the district is primarily limited to light manufacturing and support businesses. Light industries include those which manufacture, process, store, package or distribute goods and materials and are, in general, dependent on raw materials refined elsewhere. The ECCA District is intended to: 1) improve the quality of runoff from developed areas that enters the Chesapeake Bay or its *tributary streams*; 2) accommodate additional mixed-use *development* provided that water quality is not impaired; 3) minimize the expansion of intensely developed areas into portions of the *Critical Area* designated as habitat protection areas and resource conservation areas; 4) conserve and enhance fish, wildlife, and *plant habitat*s to the extent possible within intensely developed areas; and 5) encourage the use of *retrofitting* measures to address existing *stormwater management* problems.

The ECCA zoning district is intended to be complementary to the Employment Center (EC) zoning district. Regulations are intended to mirror the EC and provide for a Critical Area version of EC.



Figure 27 Diagram illustrating the desired character of the ECCA District.

13.2 PERMITTED PRINCIPAL USES AND STRUCTURES

For every industrial *structure* and use erected, reconstructed, altered, or enlarged after the effective date of this Ordinance, a *site plan* shall be filed. No *building* permit shall be issued until said *site plan* is approved by the *Planning Commission*, or where applicable the Planning Director. Detailed limitations and standards for these uses may be found in Article III. Special exceptions require Planning Commission and Board of Appeals reviews per Article IV.

Uses in Employment Center Critical Area (ECCA) Article III lists requirements for permitted uses and conditions related to special exceptions.	Permitted by right	Special Exception	*Accessory Use* on all properties
Accessory employee housing			X
Agriculture	X		
Airports, landing fields, helistops, or heliports	X		
Blacksmith, welding and machine shops	X		
Boat building and boat repair	X		
Boat storage, out of water			X
Excavation, landscaping and other contractors' yard	X		
Day care groups			X
Distribution centers and warehousing	X		
Manufacture of concrete and ceramics products, commercial *sawmills*, sewage treatment plants, and lumberyards	X		
Manufacture, processing, fabrication, and assembly of products	X		
Offices			X
Personal wireless facilities, collocated on existing towers	X		
Public utility *building*s, *structure*s, water treatment plants, and transmission lines	X		
Restaurants without drive through facilities			X
Retail sales of products produced *on-site*			X
Single family dwelling, one per existing property	X		
Solar energy systems, small			X
Storage and office trailers, temporary during construction	X		
Temporary *MET Tower* of any height			X
Transmission towers	X		
Uses and *structures* which are customarily accessory and clearly incidental and subordinate to the permitted use			X
Vocational and trade schools	X		
Wind energy systems, small		X	
Wind energy systems, small, accessory			X

13.3 DENSITY, HEIGHT, WIDTH, BULK, AND FENCE REQUIREMENTS

STANDARDS FOR THE *SUBDIVISION* OF *LOT*S	
Gross *density* (*dwelling units*/ acre)	1 *dwelling units* per 20 acres[1]
Maximum residential *lot* size	2 acre
Minimum *frontage*	75 feet
- Existing *Primary road*	100 feet[2]
- Other *roads*	[3]
- Adjacent to EC	15 feet
- Adjacent to AZD, RCD, C, CCA, M	40 feet[4]
- Adjacent to CAR, CR, V, IV	100 feet[4]
- Adjacent to public road	100 feet[3]
- Waterfront	Minimum 100 ft. *buffer* or *modified buffer*[5]
- *Shoreline cliff*	1.5 x *cliff height* + 20 ft.
STANDARDS FOR *BUILDING* AND *STRUCTURE* HEIGHT, WIDTH, AND PLACEMENT	
Height	
- Industrial *structure*	45 feet
- Residential *structure*	35 feet
- Towers, silos, etc.	150 feet[6]
- Security	8 feet
Front and Side	4 feet
Rear	8 feet
- Distribution Center	75,000 sq. ft.
- Other industrial *building*s	250,000 sq. ft.

1 Intrafamily transfers only.

2 May be reduced or increased during site plan review.

3 As approved during subdivision review.

4 When a side or rear lot line coincides with a side or rear lot line of a property located in a non-employment center zone, the required yard shall be landscaped and screened and shall be unoccupied by buildings, structures, or parking area.

5 Buffers in designated areas may be modified according to the standards in Article VI.

6 Additional height restrictions may apply to properties in *Airport* Safety Zones.

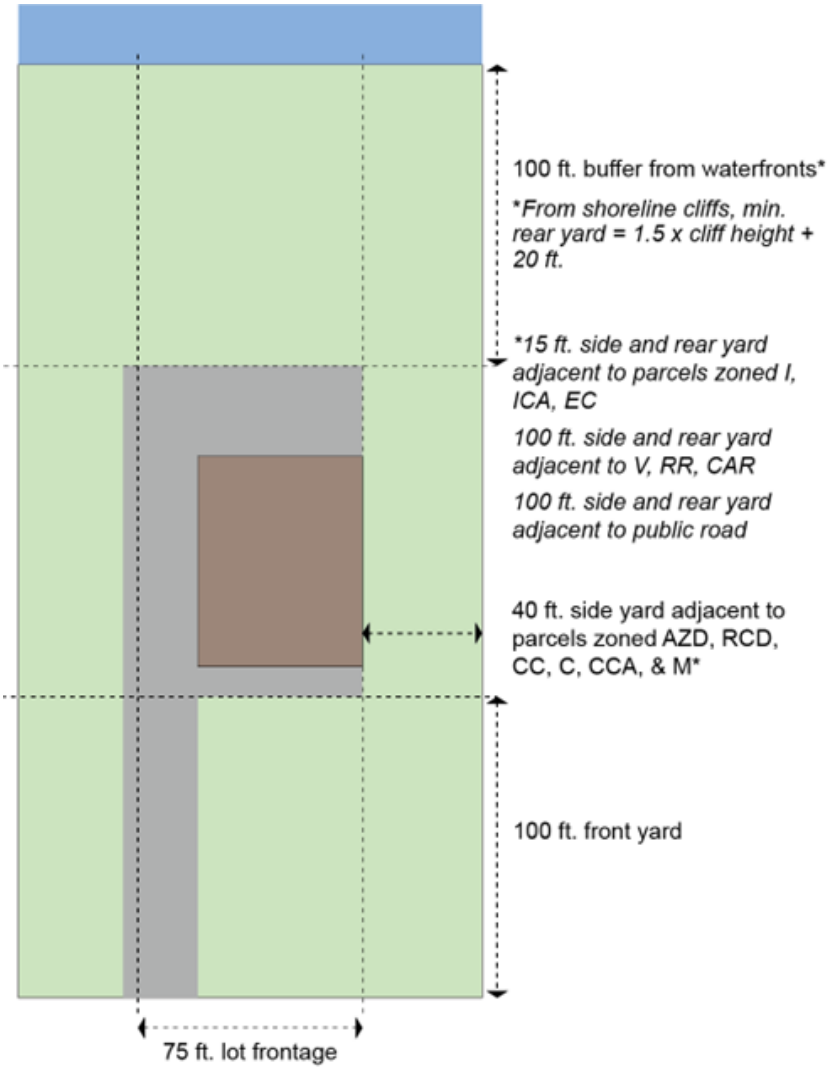


Figure 28: Regulatory diagram of a lot in the ECCA District.

ARTICLE III. USES

SECTION 1 GENERAL PROVISIONS

1. For the purposes of this Land Use Ordinance, permitted uses are listed for the various zoning districts in the applicable matrices included for each zoning district in Article II.
2. Unless the contrary is clear from the context of the lists or other regulations of this Ordinance, uses not specifically listed in a zoning district matrix are prohibited. Uses listed are to be interpreted as inclusively as may be reasonable.
3. When listed uses are indicated in the applicable zoning district matrix as being permitted by right or as accessory uses permitted by right, then the conditions below are required for the use to operate.
4. When listed uses are indicated in the applicable zoning district matrix as being permitted by special exception, then the conditions below are required to be evaluated by the approving authority, which in some cases is the Board of Appeals and in other cases the Planning Director, or the Planning Director's designee. When required, the Planning Commission makes recommendations to the Board of Appeals on special exceptions. The list for each of these categories is found in Article IV under the Special Exceptions section.

SECTION 2 PERMITTED USES AND CONDITIONS

A *building* or land will be used only for the following purposes, when indicated as such on each district's table of permitted uses and structures, and subject to any listed conditions:

1. Accessory *dwelling unit*, one, in principal or *accessory structures. Accessory dwelling units do not count against the density of the zoning district.* Such use will be permitted as accessory uses in AZD, RCD, RC, CAR, CR, and V only when all of the following conditions are satisfied:
   - (A) The property owner resides on the *premises*.
   - (B) The accessory *dwelling unit* is subordinate to the principal *dwelling* in size and appearance.
   - (C) The accessory *dwelling unit* may not be subdivided or conveyed separately from the primary *dwelling unit*. The accessory *dwelling unit* may be rented.
   - (D) The appearance of the *structure* and property remains that of a *single family dwelling.*
   - (E) If the entrance to the accessory *dwelling unit* is separate from that of the primary *dwelling*, the entrance to the accessory *dwelling unit* will be from the side or *rear yard*.
   - (F) One parking space is provided in the *rear yard* for the accessory *dwelling unit*.
   - (G) The *structure* meets all applicable Kent County Codes, including the *building* code, and Health Department *regulations*.

Such use will be permitted as an accessory use in *RCD* only when all of the following additional conditions are satisfied:

(H) The accessory *dwelling unit* is located within the primary *dwelling unit,* or its entire perimeter is within 100 feet of the primary *dwelling unit*.

(I) The accessory *dwelling unit* does not exceed 900 square feet in total enclosed area.

(J) The accessory *dwelling unit* is served by the same sewage disposal system as the primary *dwelling unit*.

(K) If the accessory *dwelling unit* is located within the primary *dwelling unit*, it will not increase the amount of *lot coverage* already attributed to the primary *dwelling unit by more than 900 square feet*.

2. Accessory employee housing. Such use will be permitted as an accessory use in the M, EC, and ECCA only when the accessory employee housing is used for *persons* permanently employed on the *premises.* Such use will be limited to two housing units.

3. Accessory *farm building*s, including barns, cribs, stables, sheds, tool rooms, shops, bins, tanks, and silos, but not animals. No *building*s are permitted in the *buffer or stream protection corridor*.

4. Accessory *farm dwelling*s. Such uses are limited to one dwelling on all *farms*, except that two dwellings will be permitted on *farms* with at least 50 tillable acres. In the RCD, the total number of dwellings will not exceed one *dwelling* per 20 acres. These *dwelling*s will share a common entrance and will be occupied by permanent employees of the *farm* or immediate members of the *family* owning or operating the *farm*. All accessory *farm dwelling*s will be landscaped and *screen*ed from adjacent properties. In the RCD, RC, and CR, accessory *farm dwelling*s may not be *mobile homes*.

5. Accessory open or enclosed storage of *farm* materials, products, equipment, fertilizer or chemicals, or vehicles. Such storage is in connection with the farming operation of the owner. All of the following uses will be located at least 200 feet from all property lines:

(A) Assembly of equipment, in a *totally enclosed building* not exceeding 10,000 square feet in size, and repair of all equipment normally used in *agriculture*.

(B) Storage of grain, flour, and feed blending and packaging, including milling, drying, and storing.

(C) Petroleum storage. Petroleum storage will not exceed 10,000 gallons and is subject to applicable safety codes, ordinances, and statutes.

6. Accessory *off-street parking* and loading of non-commercial vehicles that have current licenses and are operable.

7. Accessory *off-street parking* of one commercial vehicle. Such use will be permitted as an accessory use only when all of the following conditions are satisfied:

(A) In the AZD, RCD, RC, CAR, and CR Districts, the vehicle is parked only in the *rear yard.*

(B) In the V and IV Districts, the vehicle is only parked in the *side* or *rear yard* of *dwellings.*

(C) The vehicle is used by the occupant of the *dwelling*.

(D) The vehicle does not exceed 16,000 pounds manufacturer's gross vehicle weight.

(E) No major repair is conducted *on-site*.

(F) No engines may run when parked *on-site*. Electrical refrigeration units may run.

(G) Honey wagons, sanitation, garbage, or other trucks used to transport odorous, flammable, or hazardous materials are prohibited.

(H) The vehicle has a current license and is operable.

8. Accessory *roadside stand* for the sale of *farm* products.

9. Accessory residential storage *structure*s with a *floor area* of more than 2,000 square feet or a height that exceeds the height of the primary residential structure on parcels less than 5 acres. When special exception approval is required in the district matrix, this may be reviewed via an administrative special exception process.

10. Accessory sheds on properties with only agricultural uses, which are less than 20 acres.

11. *Accessory structures* in the *front yard* of *through* or *corner lots*. When special exception approval is required in the district matrix, this may be reviewed via an administrative special exception process.

12. *Accessory structures* in the *front yard* requirement of waterfront parcels require a special exception, except for swimming pools, swimming pool equipment, and related structures which may be permitted without special exception. When special exception approval is required in the district matrix, this may be reviewed via an administrative special exception process.

13. Accessory truck parking.

14. *Accessory uses* and *structures* normally associated with permitted uses and not otherwise listed.

15. Accessory vehicle parking. Such use will be limited to those vehicles used as a part of principal permitted uses or approved special exceptions provided the vehicles have current licenses and are operable. Parking areas will be approved during *site plan* review.

16. Adaptive reuse of existing structures in AZD, located on parcels under 20 acres.

(A) The *site* will have access to a public road adequate for the traffic generated;

(B) The proposed use will not generate traffic of a type or amount inappropriate for access *roads* and the surrounding area;

(C) The use does not require road improvements detrimental to the character of the area;

(D) The number of *dwelling*s will not exceed the *density* permitted in the district in which the *structure* is located;

(E) The proposed use does not create an unacceptable impact by way of noise, odor, noxious materials or other nuisances; and

(F) Landscaping is in keeping with the character of the *building or location*.

(G) This may be reviewed via an administrative special exception process.

17. Adaptive reuse of *historic structures* for uses not otherwise permitted. Such uses are subject to the following conditions:

(A) *Structures* will be listed in the Kent County Historic *Site* Survey or approved as a historically significant *structure* by the *Planning Commission*;

(B) It is shown that exterior changes to *site structures* will be minimized. Enlargements will be designed in keeping with the character of the *building*;

(C) Landscaping is in keeping with the character of the *building*;

(D) The *site* will have access to a public road adequate for traffic generated;

(E) The proposed use will not generate traffic of a type or amount inappropriate for all access *roads* and the surrounding area;

(F) The use does not require road improvements detrimental to the character of the area;

(G) The number of *dwelling*s will not exceed the *density* permitted in the district in which the *structure* is located;

(H) The proposed use does not create an unacceptable impact by way of noise, odor, noxious materials or other nuisances; and

(I) In RCD, adaptive reuse projects will be limited to non-commercial and non-industrial uses.

18. *Agriculture.* An *agriculture* use may include horticultural, hydroponics, general farming, orchards, groves, or nurseries for the growing or propagation of plants, *tree*s, and shrubs. All farming activities related to animals are regulated as animal husbandry (see categories below), which are permitted individually as separate, specific uses within zoning districts.

19. *Agritourism* as defined in Article VII of this Ordinance. A site plan review will be required.

20. *Airports*, landing fields, helistops, or heliports. Such uses will be permitted as special exceptions only when all of the following conditions are satisfied:

(A) Flight obstructions, such as towers, chimneys, other tall *structures*, or natural obstructions, do not fall within the approach zone to any proposed runway or landing strips of the landing field or *airport; and*

(B) The use complies with the recommendations of the Federal and State Aviation Authorities; and

(C) Runways are designed to minimize the approach and takeoff areas over residential areas; and

(D) Applications for special exceptions for private airstrips, heliports, and helistops will comply with the following:

i. The takeoff and landing flight path will be a minimum of 1,000 feet in any direction from any residence or public *building*; and

ii. The takeoff and landing path of the aircraft will have a minimum of 250 feet vertical clearance over surrounding property unless a navigation *easement* is reached with the affected property owners for a lesser clearance; and

iii. No business such as the sale or leasing of aircraft, maintenance, or flight instructions will be permitted; and

iv. The *applicant* will maintain a flight operation's log that will be open for inspection by representatives of the Department; and

v. Approvals will be for a period not to exceed 5 years.

21. Animal husbandry, *aquaculture*, including accessory processing and sales.

Where permitted by special exception, the following conditions will be satisfied:

(A) Open or uncovered storage of shells, bones, and refuse does not occur on *site*; and

(B) No curing or smoking occurs on *site*; and

(C) All *structures* for processing and all disposal areas for materials and byproducts of processing are a minimum of 600 feet from all property lines; and

(D) Seafood processing facilities and disposal areas are not in the *100-year floodplain; and*

(E) The operation is managed according to a management plan approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department; and

(F) Parking, processing and disposal areas are *screen*ed from adjacent properties and public *roads*; and

(G) Access *roads* are capable of handling the type of traffic generated by the operation.

22. Animal husbandry, farm, including horses – this use includes keeping, dairying, or raising for sale animals, fish, birds, horses, or reptiles on 20 acres or more. Such use is permitted only when all of the following conditions are satisfied:

(A) Such use is only permitted on a farm of 20 acres or more.

(B) Such use will not include poultry houses, *feedlots*, or confinement dairies.

(C) Nutrient management plans are required for all animal husbandry uses; however, the Planning Director may set aside the requirement for a nutrient management plan for 4-H and FFA projects.

23. Animal husbandry, limited livestock and fowl – this use does not include commercial *feedlots*, confinement dairies, or poultry houses. Such uses will be permitted as special exception only when all of the following conditions are satisfied:

(A) All *building*s for the housing of animals are 200 feet from the property line.

(B) Waste management *structure*s are 600 feet from the nearest property line.

(C) No part of the operation will be in the 100-year *floodplain*.

(D) The operation is managed according to a waste and nutrient management plan approved by the Natural Resources Conservation Service, the University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that phosphorus is a problem or is likely to become a problem, the plan will use phosphorus based nutrient management. When in the opinion of the Board of Appeals, *Planning Commission*, or Planning Director additional review is needed by an outside agency, the application and waste and nutrient management plan may be forwarded to the Maryland Department of the Environment or any other appropriate agency.

(E) *Sediment* and *stormwater management plan*s are approved by the appropriate agency and are implemented.

(F) The *applicant* will prepare a management plan that demonstrates that the facility will be operated in a safe and environmentally sound manner and will not create a hazard to the surrounding area and *waterway*s.

(G) To assure continued compatibility with the surrounding area, the Board may place additional restrictions on any number of the following:

i. *Screen*ing and landscaping from adjacent properties and public *roads*

ii. Exterior displays, lighting, and sign*s*

iii. The location of access routes to the *site*, both on and *off-site*

iv. The type of waste disposal, e.g. injection, disk, etc.

v. Monitoring wells and surface water testing where appropriate

vi. Manner and route of moving waste from one *site* to another

vii. Waste and nutrient management plans for properties receiving waste

24. Animal husbandry, *feedlot* or confinement dairy. Such use will be permitted as special exception only when all of the following conditions are satisfied:

    (A) All *buildings*, corals, and waste management *structures* are 600 feet from the nearest property line.

    (B) No part of the operation will be in the *100-year floodplain*.

    (C) The operation is managed according to a waste and nutrient management plan approved by the Natural Resources Conservation Service, the University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that phosphorus is a problem or is likely to become a problem, the plan will use phosphorus based nutrient management. When in the opinion of the Board of Appeals, *Planning Commission*, or Planning Director additional review is needed by an outside agency, the application and waste and nutrient management plan may be forwarded to the Maryland Department of the Environment or any other appropriate agency.

    (D) *Sediment* and *stormwater management plans* are approved by the appropriate agency and are implemented.

    (E) The *applicant* will prepare a management plan that demonstrates that the *feedlot* or confinement dairy will be operated in a safe and environmentally sound manner and will not create a hazard to the surrounding area and *waterways*.

    (F) To assure continued compatibility with the surrounding area, the Board may place additional restrictions on the following:

        i. *Screen*ing and landscaping from adjacent properties and public *roads*

        ii. Exterior displays, lighting, and sign*s*

        iii. The location of access routes to the *site*, both on and *off-site*

        iv. The type of waste disposal, e.g. injection, disk etc.

        v. Monitoring wells and surface water testing where appropriate

        vi. Manner and route of moving waste from one *site* to another

        vii. Waste and nutrient management plans for properties receiving waste

25. Animal husbandry, horses on non-farms – More than four horses and mules on a single property less than 20 acres in size. Such use will be permitted as special exception only, when all of the following conditions are satisfied:

    (A) There will be no more than one horse or mule per acre of available pasture on the *site*.

    (B) No waste management facility or *structure* for the keeping of animals is in the *100-year floodplain*.

(C) The feeding and watering of animals are conducted a minimum of 50 feet from any body of water, including *tributary streams* and *wetlands*.

(D) The operation is managed according to a waste and nutrient management plan approved by the Natural Resources Conservation Service, the University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that phosphorus is a problem or is likely to become a problem, the plan will use phosphorus-based nutrient management. When in the opinion of the Board of Appeals, *Planning Commission*, or the Planning Director, that additional review is needed by an outside agency, the application and accompanying waste and nutrient management plan may be forwarded to the Maryland Department of the Environment or any other appropriate agency.

26. Animal husbandry, poultry houses. Such uses are subject to the following conditions:

(A) Poultry houses may only be located on farms that are 20 acres or more in area.

(B) Poultry houses, waste management facilities, composters, and the area for the disposal of animals will be a minimum of 600 feet from all property lines.

(C) No poultry house, waste management facility or composter will be in the *100-year floodplain*.

(D) The operation is managed according to waste and nutrient management plans, approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that phosphorous is a problem or has the potential to become a problem, the plan will use phosphorus based nutrient management. When in the opinion of the Planning Director additional review is necessary from an outside agency, the Planning Director may forward the plan to the Maryland Department of the Environment or any other appropriate agency.

Land in Kent County owned by the owner/operator of the poultry house will be able to handle the manure and waste generated. The acreage requirements identified in the approved waste and nutrient management plan will be used to determine if an operation meets this requirement.

(E) Manure storage sheds and composter appropriate to the size of the operation will be included and will be constructed prior to receiving the first flock of chickens.

27. will Animal husbandry, special – backyard chickens. Such uses will be permitted as accessory uses only when all of the following conditions are satisfied:

(A) Backyard chickens are defined as females of the species *Gallus gallus domesticus* kept for non-commercial purposes. The keeping of males of the species is not permitted.

(B) The maximum number of chickens, 4 months or older, permitted on any *lot* is determined by *lot* size:

i. No chickens are permitted on a *lot* of less than ¼ acre;

ii. No more than 5 chickens are permitted on a *lot* of ¼ acre to 1 acre;

iii. No more than 8 chickens are permitted on *lot*s of more than 1 acre.

(C) The area for keeping backyard chickens will be enclosed in such a fashion that the chickens are confined and not able to leave the owner's property. Back*yard* chickens will be provided with a covered, predator-proof coop or cage that is well ventilated. Hens will have access to an outdoor enclosure that is adequately fenced to contain the birds on the property.

(D) *Structures* (coops) for the housing of backyard chickens will meet the permitting requirements of this Ordinance. For movable coops, the permit application will show the area in which the coop will be moved. A copy of the Maryland Poultry Registration Form will accompany the *building* permit application.

(E) Coops will be *setback* a minimum of 15 feet from any property line.

(F) Coops may be placed in *rear yard*s only.

(G) Each coop will be kept clean and free of odors and materials that can attract vermin. Feed will be kept in secure containers so as not to attract vermin.

(H) Waste will be composted or removed from the property

(I) The outdoor slaughtering of chickens is not permitted

28. Animal husbandry, special – sheep or goats, kept for noncommercial purposes, will be:

(A) Female or neutered and dehorned males.

(B) The maximum number of sheep or goats permitted on any lot is determined by lot size:

i. No sheep or goats are permitted on a lot of less than two acres.

ii. A maximum of three small ruminants per acre of grazable area within the lot is permitted with a maximum of eight total.

(C) The animals will be provided with a covered shelter with bedding and an outdoor enclosure that is adequately fenced to contain the animals on the property.

(D) Structures for the housing of animals should meet the permitting requirements of the Ordinance.

(E) Shelter should be setback a minimum of 40 feet from any property line, in rear yards only, and kept clean and free from odors and materials that can attract vermin.

(F) The operation is managed according to waste and nutrient management plans, approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that phosphorus is a problem or has the potential to become a problem, the plan will use phosphorus based nutrient management. When in the opinion of the Planning Director additional review is necessary from an outside agency, the Planning Director may forward the plan to the Maryland Department of the Environment or any other appropriate agency.

(G) Feed will be kept in secure containers so as not to attract vermin.

(H) Bedding and waste materials will be composted or removed from the property.

(I) The outdoor slaughtering of sheep or goats is not permitted.

(J) Sheep or goats brought into the State of Maryland will meet the Code of Maryland Regulations, Chapter 15.11.18. Requirements for Sheep and Goats for the Eradication of Scrapie.

29. Animal husbandry, *stable - private*. Such use is subject to the following conditions:

(A) The *lot* will be two acres or more; and

(B) Any *structure* for the keeping of animals will be located a minimum of 100 feet from any property line; and

(C) There will be no more than one horse per acre of land. Only available pasture acreage will be used to compute the number of horses allowed on a parcel; and

(D) The operation is managed according to waste and nutrient management plans, approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that phosphorous is a problem or has the potential to become a problem, the plan will use phosphorus based nutrient management. When in the opinion of the Planning Director additional review is necessary from an outside agency, the Planning Director may forward the plan to the Maryland Department of the Environment or any other appropriate agency.

30. Animal husbandry, *stable - commercial.* Such use is subject to the following conditions:

(A) The *lot* is 20 acres or more; and

(B) Any *structure* for the keeping or feeding of animals and waste management *structure*s will be a minimum of 400 feet from any property line; and

(C) No waste management facility or *structure* for the keeping of animals is in the 100-year *floodplain*; and

(D) The feeding and watering of animals are conducted a minimum of 100 feet from tidal water and *tributary streams*, both tidal and non-tidal, and 50 feet from *non-tidal wetlands*; and

(E) The operation is managed according to waste and nutrient management plans, approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that phosphorous is a problem or has the potential to become a problem, the plan will use phosphorus based nutrient management. When in the opinion of the Planning Director additional review is necessary from an outside agency, the Planning Director may forward the plan to the Maryland Department of the Environment or any other appropriate agency.

31. *Animal shelters.* An *animal shelter* use is permitted only as defined by the County Code of Public Laws.

32. Appurtenant sign*s.* Such uses will be in accordance with Article V.

33. Assisted living facilities with five to eight beds. When special exception approval is required, this may be reviewed via an administrative special exception process. Such use is permitted as a special exception only when all of the following criteria are satisfied:

(A) The property owner resides on the *premises*; and

(B) The assisted living facility is subordinate and accessory to the principal *dwelling* in size and appearance and is in the same *structure* as the principal *dwelling unit*. Expansions will be designed in keeping with or to enhance the character of the other *building*s; and

(C) The rooms for the use are not designed or constructed to be separate *dwelling unit*s and may not be sold as separate *dwelling unit*s; and

(D) The appearance of the *structure* and property remain that of a *single family dwelling* so that the average neighbor is unaware of the assisted living facility's existence; and

(E) The *structure* meets all applicable Kent County Codes, including the *building* code, and Health Department requirements; and

(F) The *applicant* has received approval from the appropriate State of Maryland agencies; and

(G) The facility does not create an unacceptable environmental impact by way of noise, odor, noxious materials, or other nuisances.

34. Assisted living facilities with no more than four beds. Such use is permitted as an accessory use only when all of the following criteria are satisfied:

(A) The property owner resides on the *premises*.

(B) The assisted living facility or *group home* is subordinate and accessory to the principal *dwelling* in size and appearance and is in the same *structure* as the principal *dwelling unit*.

(C) The rooms for the use are not designed or constructed to be separate *dwelling unit*s and may not be sold as separate *dwelling unit*s.

(D) The appearance of the *structure* and property remain that of a *single family dwelling*.

(E) The *structure* meets all applicable Kent County Codes, including the *building code and Health Department requirements*.

35. *Automobile repair.* Such use is permitted as a special exception only when automobiles waiting for repair are stored in a *building* or in the *rear yard* and screened from adjacent properties.

36. *Automobile service station*s, not including auto repair. An *automobile service station* use is subject to *site plan* review. Such use is permitted as a special exception only when major repairs or bodywork are not conducted *onsite*.

37. Automobile sales, service, and rental.

38. Bath houses, pump out *structures*, and other *accessory structures* normally associated with permitted uses.

39. Blacksmith, welding and machine shops. For a blacksmith, welding and machine shop use, outdoor storage of materials is prohibited unless otherwise approved by the *Planning Commission* and subject to such conditions as may be determined by the *Planning Commission*

40. Boat *building* and boat repair. A boat building and boat repair use will be located at least 100 feet from any residential district.

41. Boat docks, piers and wharves. Boat docks, piers and wharves will not exceed 25% of the waterway, or the edge of the channel, whichever is less.

42. Boat rental, sales, supplies, instruction, and other services customarily associated with a full-service *marina.*

43. Boat sales, boat and outboard motor repairs and boat storage. Boat sales, boat and outboard motor repairs and boat storage uses will be permitted only when all of the following conditions are satisfied:

(A) The property will front on two public *roads*;

(B) All repairs are conducted inside a *building*;

(C) The storage area and repair access area will be *screen*ed on all sides with wood fencing a minimum of 6 feet in height;

(D) The repair shop *building* and the storage and repair access area will be set back at least 100 feet from adjacent properties that are zoned for residential use;

(E) The open area for display of boats will be limited to 3,000 square feet in size; and

(F) This use is subject to *site plan* review.

44. Boat storage, out-of-water boat storage. In the M District, this use does not include multi-level boat storage.

45. *Building* materials sales.

46. *Camp, day or boarding*, private or commercial, but not *recreational vehicle* or migrant labor camps, for the purpose of conserving and enjoying natural resources.

47. *Campgrounds. Campgrounds* include only those *campgrounds* existing and in use as of August 1, 1989, in the Resource Conservation District. It is the intent of this section to provide for the continued existence and operation as well as the intensification or expansion of *campgrounds* existing and in use as of August 1, 1989, in the RCD. It is not the intent to permit the creation of new *campgrounds*, but rather to protect those enterprises that existed in the RCD on August 1, 1989. Any expansion or intensification of an existing *campground*, including the addition of *site*s or conversion of existing *site*s to allow for additional *recreational vehicle*s, will require growth allocation.

48. Car wash. A car wash use will require that the waste water is recycled. Such use is permitted as a special exception only when the following conditions are satisfied:

(A) The car wash is designed to allow adequate traffic flow for cars to enter and exit the facility safely; and

(B) Single bay facilities with automated brushes and multiple bay self service facilities will provide a space for the parking of one car per bay to be used as a dry down area. Facilities using a conveyor or chain drag system for moving motor vehicles through the washing area will provide space at the *building* exit for three times the number of vehicles that can be accommodated at one time within the *structure*; and

(C) Vacuum facilities will comply with the *setback*s for a primary *structure* in the applicable zoning district; and

(D) Appropriate permits are obtained from the State of Maryland.

49. Cemetery, including crematorium and mausoleum. Such use will be permitted only when all of the following conditions are satisfied:

(A) Burial p*lot*s will be 10 feet from all property lines. *Buildings* will comply with the *yard* requirements for the applicable zoning district.

(B) Mausoleums will be a minimum of 75 feet from a public road and 50 feet from the side and rear property lines.

(C) Crematoriums will be 200 feet from all property lines.

(D) In the IV District, such uses will be permitted only when accessory to a *house of worship* located on the same parcel.

50. Circus or carnival, midways and amusement parks, maze fields and other temporary recreational uses, for a specified period. The Planning Director may require a *site plan* and place conditions as may be appropriate to assure the compatibility of the temporary recreational use.

51. Class D Alcohol Retail Business, as defined by the State of Maryland.

52. *Conference center.* Such use will be permitted as a special exception only when the following conditions have been satisfied:

    (A) In the IV District, the project will collectively consist of 15 acres but not more than 750 acres. In RCD, RR, RC, and CAR, the project will collectively consist of at least 50 acres but not more than 750 acres.

    (B) The *conference center* will consist of 100 but not more than 225 guest rooms.

    (C) At least 100 square feet of meeting space will be provided per guest room.

    (D) Permanent theme parks, amusement parks, and/or stadiums are prohibited.

    (E) Where applicable, the *applicant* has applied for growth allocation from the County. Special exception approval will not be valid without the granting of growth allocation.

    (F) The Board will make specific findings on the availability of public and governmental services. Proposed improvements will be appropriate to the character of the area.

    (G) Where they exist, *historic structures* will be incorporated into the overall project.

    (H) Significant view corridors, both from the *site* and onto the *site* will be preserved in so much as possible.

    (I) The height of all *structures* will not exceed 38 feet.

    (J) The design of the *conference center* and *accessory uses* will reflect and complement the rural character of the area or neighborhood.

    (K) The number of *dwelling units* will not exceed that which is permitted in the applicable zoning district. *Dwelling units* may be detached or attached.

    (L) Continuous residential *lot development* aligned with golf course fairways will be prohibited within the *Critical Area* and discouraged elsewhere.

    (M) Parking *lot*s will be landscaped as required for commercial *development*s.

    (N) Permitted *accessory uses*, subject to the approval of the Board of Appeals, including *restaurants*; recreational facilities such as tennis courts and *swimming pools*; spas; retail use provided the establishments are in the main *building* with the entrance to the retail use from the inside the *building*; stables but not an equestrian center; other recreation amenities but not including trap, skeet, clay birds, paint ball or other similar firearm activities; *piers*; and other

accessory uses that are customarily associated with a *conference center*. The *applicant* will describe all proposed *accessory uses* in the application for a special exception. The Board of Appeals may deny or limit the size and extent of *accessory uses*.

(O) The number of *slips* on the accessory *pier* will not exceed 20% of the number of guest rooms and the use of the *slips* will be limited to use by those using the conference facilities. Accessory *piers* will meet all requirements applicable to *marinas* such as pump outs, restrooms, and showers.

(P) All *structures* will comply with the minimum 100-foot *buffer* and will be 200 feet from all side and rear property lines, whichever is greater.

(Q) A golf course will meet all the requirements found in this Article III.

(R) In RCD, RC, RR, and CAR, at least 60% of the property will be in *open space*.

(S) The Board of Appeals may place additional restrictions on the following:

i. Additional *yard* requirements for all *structures*, including patios and places of public assembly

ii. Lighting

iii. Landscaping and *screen*ing

iv. Outdoor activities, outdoor music, and their hours of operation

v. Access

(T) Application for a *conference center* will include a sketch plan and renderings of all primary and each type of *accessory structure*.

53. Contractors' *yard* See *Excavation, landscaping, and other contractor's yard.*

54. Convalescent, group, or homes for the aged if located in *dwelling*s existing as of December 1, 1985, in RCD, provided exterior changes are minimized and extension or enlargement of principle and *accessory structures* may not exceed 50% of the gross *floor area* of each individual *building*.

55. Convalescent, nursing, or *group home*s for the aged with five or more beds.

56. *Cottage industries, tradesmen and artisan shops*. Such uses will be permitted as an administrative special exception only when all of the following conditions are satisfied:

(A) Except on *farm*s, the *cottage industry* will be secondary to the use of the property for *dwelling* purposes and will be less than 60% of the living area, 2,000square feet, or in an existing *accessory structure*, whichever is greater. The square footage limitation includes outdoor storage areas but not required parking. Additional area may be granted via review by the Board of Appeals.

(B) On *farm*s, the *cottage industry* will be secondary to the *farm*. The *cottage industry* is limited to 4,000 square feet in size or an existing *building*, whichever is greater. The square footage limitation includes outdoor assembly and

storage areas but not required parking. Additional area may be granted via review by the Board of Appeals.

(C) The use is secondary in scope to the residential or agricultural use of the property.

(D) The *building*s associated with the use are not visually intrusive or inappropriate to their setting. New *building*s and expansions will be designed in keeping with or to enhance the character of the other *building*s.

(E) The *cottage industry* does not create an unacceptable environmental impact by way of noise, odor, noxious materials, or other nuisances.

(F) The *cottage industry* does not generate traffic of a type or amount inappropriate for all access *roads* and the surrounding area. It does not require significant road improvements detrimental to the character of the area.

(G) Sureties required by the Department may be set aside by the Planning Director.

(H) The following uses will not be allowed:

i. Any activity that may reasonably be expected to result in excessive noise, smoke, dust, odors, heat, or glare beyond that which is common to the zoning district. The proposed use will conform to the maximum permissible sound levels in Article III for Employment Center uses;

ii. Use or manufacture of products or operations that are dangerous in terms of risk of fire, explosion, or hazardous emissions; and,

iii. Any other use deemed incompatible with a residential or agricultural area.

57. *Country inn*s. A *country inn* use is subject to *site plan* review. Such uses will be permitted as special exception only when all of the following conditions are satisfied:

(A) Such *structures* have existed prior to August 1, 1989, except on properties with more than 25 acres in the Marine District.

(B) The number of rooming units provided on the *site* is limited to fifteen excluding resident management quarters.

(C) Boarding and dining facilities in AZD, RCD, RC, CR, CAR, IV, C, and M may be permitted only when attendant to rooming units and further provided that such facilities are limited to a maximum seating capacity of forty *person*s. Such dining facilities may be provided to patrons other than boarders. No dining facility will be permitted in RCD.

(D) The *site* has access to a public road. This access will be capable of supporting the passage of emergency vehicles. The Board may require improvements to existing access *roads*.

(E) There will be sufficient acreage for the proposed use and activities.

(F) Extension or enlargement of principal and *accessory structures* including the addition of new structures and new buildings are permitted, and they should maintain features and character that are consistent with the *structures* already located on the campus of the permitted use that existed as of August 1, 1989.

(G) Adequate landscaping will be provided to *screen* all parking areas from adjoining residential properties. Landscaping or *screen*ing proposed will be shown on a *site plan* as required by this Ordinance.

58. *Country stores. Country stores will* be located only along *primary* and *secondary roads.* Such uses will be permitted as special exception only when all of the following conditions are satisfied:

(A) The *structure* existed prior to August 1, 1989.

(B) Property on which the store is located will abut upon and have safe access to a *primary* or *secondary road* as shown on the *Major Thoroughfare* Map.

(C) Extension or enlargement of the principal and *accessory structures* does not exceed 50% of the gross *floor area* of each *building* above that which existed as of August 1, 1989.

59. Curio shops, craft shops, antique stores, and similar uses. Such uses will be consistent with the character of the town area. Such uses will be limited to a gross *floor area* of 1,500 square feet per individual building. *New construction* will require *site plan* review.

60. Data processing centers. Such uses are subject to *site plan* review.

61. Detached *single family dwellings* – see also *Single family dwellings* in this section.

62. *Day care groups*. When special exception approval is required, this may be reviewed via an administrative special exception process. Such uses will be permitted as a special exception only when all of the following conditions are satisfied:

(A) Outdoor activity areas are fenced and *screen*ed.

(B) Two drop-off/pick-up parking spaces are provided.

(C) *Structure*d play areas for active play or play *structures* are not in the *front yard* and are 10 feet from the side or rear property line.

(D) The *structure* retains its residential character, if located in a residential setting.

(E) *Day care groups* in the RCD will be permitted only in *dwelling*s existing prior to December 1, 1985.

63. *Day care homes.* Such uses will be permitted as accessory uses only when all of the following conditions have been satisfied:

(A) Outdoor play areas are fenced and *screen*ed.

(B) *Structure*d areas for active play or play *structures* will not be in the *front yard* and will be a minimum of 10 feet from the side or rear property line.

(C) One drop off / pickup space is provided.

(D) Structural or decorative additions will be designed to be compatible with the residential character of the neighborhood, if located in a residential setting.

64. Distribution centers and warehousing. Distribution and warehousing uses are permitted only when any single *building* footprint does not exceed 75,000 square feet in size. The restriction on *building* footprint does not apply to the Employment Center District in the Route 301 corridor. In reviewing the *site plan*, the *Planning Commission*, or where applicable the Planning Director, will consider the following:

(A) The impact of the proposed business or industry on existing or planned public facilities.

(B) The impact of the operation of the facility on the surrounding area.

(C) The health, safety, and welfare of employees and residents of the neighborhood.

(D) In so far as possible, all uses will be conducted entirely within a completely enclosed *structure* or be completely *screen*ed. Outdoor storage of materials and unfinished products is prohibited unless otherwise approved by the *Planning Commission* and subject to such conditions as may be determined by the *Planning Commission* during the *site plan* review process. Screening for requests that involve only outdoor storage may be approved by minor site plan.

65. *Dog kennels*, commercial. Such uses will be permitted by special exception or as an accessory use only when all of the following conditions are satisfied:

(A) Any open dog pens, runs, cages, or kennels will be at least 200 feet from any side or rear *lot line*.

(B) The operation is managed according to waste and nutrient management plans approved by the Natural Resources Conservation Service, the University of Maryland Cooperative Extension Service, and the Kent County Health Department.

66. Dormitories for employees. Such uses will be permitted by special exception only when all of the following conditions are satisfied:

(A) The *structure* meets the design standards for multi-*family* residential *development* as set forth in applicable regulations in Article V of this Ordinance.

(B) The *structure* is *screen*ed, if possible, from adjacent *roads*, *waterway*s, and properties.

(C) The *applicant* proves that the *structure* is necessary to house employees.

(D) Residents are limited to employees of the *marina*.

(E) Dormitories are not in the minimum 100-foot *buffer*.

67. Dredge spoil *sites.* Such uses will be permitted as special exception only when all of the following conditions are satisfied:

    (A) The *site* does not receive dredge spoils that exceed 100,000 cubic *yard*s per existing parcel as of the date of the adoption of this ordinance unless used in conjunction with an approved surface mine *reclamation*. The disposition of dredge spoils used in conjunction with a surface mine *reclamation* will have all permits required by the State of Maryland and the application will demonstrate that measures are provided to protect the groundwater, stabilize pH, and to generally protect the environment of the area.

    (B) Material is limited to clean dredge spoil which is tested according to the *regulations* of the State of Maryland.

    (C) Prime *farm*land is not used for a dredge spoil *site*.

68. *Excavation, landscaping, or other contractor's yard.* Such use includes outdoor storage of the contractor's equipment and equipment parts; temporary stockpiling of *soils*, sand, gravel, stone, recyclable brick, concrete, blacktop materials, pipes, iron, tires, and tanks.

    Such use will only be permitted when all of the following conditions are satisfied:

    (A) The *con*tract*or's yard* permit area will be larger than two (2) acres and smaller than twenty (20) acres.

    (B) The *con*tract*or's yard* will not be visible year-round from an adjacent parcel of land or public road. The contractor may use natural *topography* and vegetation or may construct *berms* or plant vegetation to satisfy this requirement.

    (C) Storage of tires and equipment will be limited to contractor's own *excavation yard* use.

    (D) Temporary storage of pipe, iron, and tanks, which are not part of the contractor's equipment, will not exceed two years.

69. Existing commercial or industrial uses and *structures* in the Village District. It is the intent of this Section to provide for the continued existence and operation as well as the reasonable expansion of commercial and industrial uses which exist in the Village District, provided that such uses or *structures* do not constitute a nuisance or a source of significant environmental pollution. It is not the intent hereof to allow the creation of new commercial or industrial uses which are not permitted under this Section, but rather to protect those enterprises which existed in the Village District as of August 1, 1989. An expansion will require *site plan* review.

70. Existing permitted *marinas* in the Resource Conservation District – It is the intent of this section to provide for the continued existence and operation as well as the reasonable expansion of *marinas* in the RCD zoned areas of the County, provided that such uses do not constitute a nuisance or a source of significant environmental pollution. It is not the intent to allow the creation of new *marinas*, but rather to protect those enterprises which existed in the RCD on April 12, 1988. An expansion will require *site plan* review by the

Planning Commission or where applicable the Planning Director. After *development* there will be a net improvement in water quality at or leaving the *site*. All *marinas* in the RCD will comply with all *regulations* in SECTION 29 MARINE DISTRICT of this Ordinance.

71. Existing *conference centers*, *resorts*, *retreats*, *hotels*, and *motels,* existing and in use as of August 1, 1989. It is the intent of this section to provide for the continued existence and operation as well as the expansion of *conference centers*, *resorts*, *retreats*, *hotels*, and *motels* existing and in use as of August 1, 1989. It is not the intent to permit the creation of new *conference centers*, *resorts*, *retreats*, *hotels*, or *motels*, but rather to protect those enterprises that existed in the Resource Conservation District on August 1, 1989. An expansion will require *site plan* review by the *Planning Commission* and will require a net improvement in water quality at or leaving the *site* and may require growth allocation.

72. Exposition center or fairgrounds. Such uses will be permitted as special exception only when all of the following conditions are satisfied:

    (A) The fair ground or exposition center does not result in the *development* of a major sports arena for football, baseball, drag racing, motor cross, auto racing, or other major sports activities.

    (B) In the RCD, such uses will be temporary. The Planning Director may require a *site plan* and place conditions as may be appropriate to assure the compatibility of the temporary recreational use.

73. Farm brewery, as defined by the State of Maryland.

74. Financial institutions. Such uses are subject to *site plan* review.

75. Fire and rescue stations. Such uses are subject to *site plan* review.

76. Fuel storage and sales for marine purposes only.

77. Funeral homes. Such uses are subject to *site plan* review.

78. Golf courses, public or private. Such uses will be permitted as special exceptions only when all of the following conditions are satisfied:

    (A) The golf course is at least a regulation par 72, 18-hole golf course.

    (B) The course is managed according to a water conservation plan that addresses water use, including irrigation, and the recapture and reuse of water sources. Irrigation will be the minimum necessary for the operation and maintenance of the course and associated facilities.

    (C) The course is managed according to integrated pest management and nutrient management plans approved by the University of Maryland Extension Service and the Natural Resources Conservation Service.

    (D) The *site* will have access to a public road that can handle the traffic generated by the operation and access of emergency vehicles. The Board of Appeals may require improvements to existing access *roads*. Should improvements be

required, a bond, irrevocable letter of credit, or other surety will be posted running to the County Commissioners.

(E) The course, including the layout and routing of holes, will be designed to preserve and maintain to the extent possible natural *topography*, significant *tree*s and landmarks, vegetation, and cover. *Wildlife corridor*s will be preserved and enhanced whenever possible.

(F) *Buffer*s, no-mow, and no-spray zones will be adjacent to existing or created *wetlands*, water bodies, and habitat areas. Native grasses and vegetation will be used within these zones.

(G) A 100-foot landscaped area from tees, greens, and fairways will be provided along adjacent property lines. Landscaping will be designed to complement other landscaping occurring naturally on the *site*. Whenever possible, existing vegetation will be incorporated into the *landscape plan*.

(H) The golf course and driving range will not include lighting. Lighting of the clubhouse, parking, and other areas will be the minimum necessary for the safety and security of the operation, its employees, and its customers. Lighting fixtures will not exceed 18 feet in height unless mounted on a *building* and will be designed to avoid glare onto adjacent properties and *roadways* and will not interfere with traffic or create a traffic hazard. Lighting will be shielded, color corrected, and dark-sky compliant.

(I) Parking *lot*s will comply with the landscaping and *screen*ing standards per Article V of this Ordinance.

(J) Whenever possible, historic *buildings* should be restored and used as a part of the operation.

(K) To assure continued compatibility with the surrounding area, the Board may place additional restrictions on the following:

i. Proposed method of irrigation

ii. The location of the driving range, holes, cart ways, tees, fairways, roughs, water hazards, maintenance facilities, irrigation, and pumping station

iii. *Accessory uses* such as clubhouses, *restaurants*, bars, day care, pro shops, pools, tennis courts, comfort facilities, maintenance facilities, golf cart storage, driving range, sod *farm* for golf course, practice holes, practice putting green, and parking. In RCD the following *accessory use*s will require growth allocation: clubhouses, *restaurant*s, bars, day care, pro shops, pools, tennis courts, comfort facilities, golf cart storage and parking.

79. Greenhouses, wholesale, or retail. In the RC, CAR, and CR Districts, *structures* will be located at least 200 feet from any property line and will be adequately landscaped.

80. *Guest house,* one, but not including *mobile homes.* Such use will be permitted as an accessory use only when all of the following conditions are satisfied:

(A) The house is used exclusively for non-paying guests; and

(B) No house will be used as a permanent residence nor be rented or sold separately from the principal *dwelling*.

81. Home and business services such as grounds care, cleaning, exterminators, landscaping, and other repair and maintenance services. Such uses are subject to site plan review. Such uses do not include septic tank maintenance and excavation.

82. *Home occupation*s in main or accessory *buildings.*

(A) Intent – The conduct of business in residential units may be permitted under the provisions of this section. It is the intent of this section to:

i. Ensure the compatibility of *home occupation*s with other uses permitted in the residential districts;

ii. Maintain and preserve the character of residential neighborhoods by regulating the operation of *home occupation*s;

iii. Guarantee to all residents freedom from excessive noise, excessive traffic, nuisance, fire hazard, and other possible effects of commercial uses being conducted in residential areas; and,

iv. Promote the efficient use of public services and facilities by assuring these services are provided to the residential population for which they were planned and constructed, rather than to new commercial uses.

(B) Conditions - Such *home occupations* in main or accessory *buildings* will be permitted as accessory uses only when all of the following conditions are satisfied:

i. A *home occupation* will be incidental to the use of a *dwelling unit* for residential purposes and will be conducted only by members of the *family* residing in the *dwelling unit* plus no more than one non-resident assistant or employee.

ii. There will be no outdoor storage of materials or products on the *premises*.

iii. The *home occupation* will not cause any external effect associated with the *home occupation*, such as increased noise, excessive lighting, or offensive odor, which is incompatible with the characteristics of the residential zone. There will be no illegal discharge of any materials, fluids, or gases into the sewer system or any other manner of discharging such items in *violation* of any applicable government code.

iv. No traffic will be generated by such *home occupation* in greater volumes than would normally be expected in a residential neighborhood, and any

need for parking generated by the conduct of such *home occupation* will be met off the *street* and other than in a required *front yard*.

(C) <u>*De Minimus* impact uses</u>. *Home occupation*s with impacts no greater than those of expected and customary activities at any single-family home, for example, crafting, which are then offered for online sales only. In such cases, a use permit may be issued to document the *de minimus* impact use at the site.

83. *Hospital*s, rehabilitation facilities, and similar institutions for human care. Such use does not include animal *hospital*s.

84. *Hotel*s and motels. Such uses are subject to *site plan* review.

85. Houses of worship. *New construction* of such uses will require *site plan* review. *Houses of worship* will be permitted as special exception only when all of the following conditions are satisfied:

(A) Outdoor public announcement systems and drive in facilities are prohibited.

(B) The Board specifically approves *accessory uses*. In no case will an *accessory use* be of a type and scale that is normally found in commercial operations.

(C) Parking areas will be *screene*d and landscaped according to the standards found in Article V.

(D) Any new day care use may be permitted as an accessory use without special exception approval for such uses proposed within existing buildings without additions. Projects that require additions or new buildings are a new special exception, and such projects will be reviewed as a new or amended application.

86. Hunting blinds, pits, or preserves but not including trailers and mobile homes.

87. Hunting trailer, one, temporary. Such use will be permitted as an accessory use only when all of the following conditions are satisfied:

(A) The trailer is installed continually but not longer than from September 1 to the following May 31.

(B) The trailer is a minimum of 150 feet from all property lines and not in the *buffer* or *stream protection corridor*.

(C) Such a trailer will be located around existing *buildings* and out of sight.

(D) The trailer cannot be used for permanent living accommodations.

88. Indoor movie theaters, playhouses, and dinner theaters. Such uses are subject to *site plan* review.

89. Livestock auction houses on properties that exceed 20 acres in size with site plan review.

90. Machinery and equipment sales, service, and rental.

91. Manufacture, processing, fabrication, and assembly of products. These uses include, but are not limited to, scientific and precision instruments, photographic equipment, communications equipment, computation equipment, drugs, medicines, pharmaceuticals, household appliances, toys, sporting and athletic goods, glass products, electric lighting and wiring equipment, service industry machines, lithographic and printing processes, industrial controls, radio and TV receiving sets, watches and clocks, bags and containers, sanitary paper products, optical goods, electrical machinery, prefabricated and modular housing and components, dairy product feed and grain, baked and confectioners' goods, *farm* machinery, frozen food processing, packing plants, animal and seafood processing, fruit and vegetable processing, canning and storage. In the C District, no manufacture, processing, fabrication, and assembly of products use may be conducted except within the US Route 301 Corridor.

    These uses in all locations may also include businesses and industries, including research and *development* companies, of a similar nature to those listed above, subject to review and approval by the Planning Director. In review of a proposed use, the Planning Director will consider the following:

    (A) The impact of the proposed business or industry on existing or planned public facilities; and

    (B) The impact of the operation of the facility on the surrounding area; and

    (C) The health, safety, and general welfare of employees and residents of the neighborhood.

92. The manufacture, processing, and assembling of food products in the C district, to include baked and confectioners' goods, frozen food processing, fruit and vegetable processing, canning and storage, or businesses of a similar nature, excluding animal and seafood processing, will be permitted as a special exception only when all of the following conditions are satisfied:

    (A) That in reviewing the *site plan* and determining the suitability of the proposed location, the *Planning Commission* will find all of the following:

        i. Existing or planned public facilities are adequate to handle the usage generated by the business. The use does not require improvements to public facilities detrimental to the character of the area.

        ii. The proposed use does not create an unacceptable impact on the surrounding area by way of noise, odor, noxious materials, or other nuisances. The *Planning Commission* may require a Certified *Engineer*'s Report describing the proposed operation, all machines, processes, products and byproducts, stating the nature and expected levels of emissions or discharge to land, air, water or liquid, solid, or gaseous effluent and electrical impulses, vibrations and noise under normal business and the specifications or treatment methods and mechanisms to be used to control such emissions or discharge.

iii. The health, safety, and general welfare of employees and residents of the neighborhood will be protected.

(B) All uses will be conducted within a completely enclosed *structure*. Outdoor storage of materials and unfinished products is prohibited.

(C) The business does not exceed 10,000 square feet of gross *floor area*. This limitation does not apply to the properties located in the Route 301 Corridor.

93. Manufacture of concrete and ceramics products, commercial *sawmills*, sewage treatment plants, and lumberyards. Such use will be located at least 400 feet from any residential district boundary. Outdoor storage of materials is prohibited unless otherwise permitted by the *Planning Commission* and subject to conditions as may be determined by the *Planning Commission* during *site plan* review.

94. Manufacture, processing, and distribution of hot mix asphalt (a.k.a. bituminous concrete or asphalt concrete). Such use will include the storage of raw materials *on-site. Such use will not include the refining of asphalt cement* on the *site*. Such use will not be located further than two miles from Route 301.

95. *Marinas*. Such uses are subject to *site plan* review.

96. Marine supply store including indoor outboard motor sales. Such uses are subject to *site plan* review.

97. *Microbrewery*, as defined by the State of Maryland.

98. Migrant labor camps.

99. Mini storage facilities.

100. *Mobile homes* existing and in use as of January 16, 1996. *Mobile homes* existing and in use as of January 16, 1996, may be continued in use and may be replaced with another *mobile home*, provided the replacement *mobile home* complies with the Kent County Codes and all Health Department *regulations*. It is not the intent of this provision to allow additional, single-site *mobile homes* in the County, but rather to allow the continued use and improvement (including replacement) of *mobile homes* existing as of January 16, 1996. A *mobile home* that remains idle or unused for a continuous period of two years will not be used again except in conformity with these *regulations*. Mobile home parks may be permitted and must meet the requirements below.

101. *Mobile home parks*. Such use will be permitted as special exception only when all of the following conditions are satisfied:

(A) The property is served by public water and sewer.

(B) The overall *density* of the park does not exceed 10 *dwelling unit*s per acre.

(C) Each mobile home space will have a minimum area of 4,000 square feet with a minimum width of 40 feet.

(D) Each mobile home space will provide the following *yard*s:

i. *Front yard* – 20 feet

ii. *Side yards* – 8 feet

iii. *Rear yard* – 10 feet

(E) The minimum area of the *mobile home park* including *roads* and *open space* will be 5 acres.

(F) The maximum area of the *mobile home park* including *roads* and *open space* will not exceed 25 acres.

(G) All utilities within the *mobile home park* will be underground.

(H) A minimum of 4,000 square feet or 100 square feet per unit of common recreation area, whichever is greater, will be provided.

(I) No individual *mobile home* space will have direct access onto a public or *private road* outside the *mobile home park*. Each *mobile home* space will have direct access to an internal road.

(J) Storage of unoccupied and/or damaged *mobile homes* is prohibited.

(K) The *mobile home park* will not be visible year round from adjacent properties and the public road.

(L) A minimum 20-foot vegetative *screen* is provided between the *mobile home park* and adjacent properties and the public road.

(M) The *mobile home park* has direct access onto a public road

(N) A single mobile home on a site is not eligible to be a mobile home park.

102. Modular *building* sales. Such use does not include the storage of modular *buildings.*

103. Multi-*Family* and *Two-Family Dwelling*s in AZD. Such uses will be permitted only when all of the following conditions are satisfied:

(A) The multi-*family* or *two-family dwelling*s existed on the property prior to August 1, 1989;

(B) The sale or lease of at least 50% of the multi-*family* or *two-family dwelling*s is restricted to an amount affordable to individuals or families earning no greater than 100% of the County median income as determined by the United States Census Bureau;

(C) The *dwelling*s are served by public water and sewerage service;

(D) The minimum *site* area will be five (5) acres; and

(E) If *subdivision* approval is sought: (1) minimum *lot* size, *setback* and *yard* requirements, maximum height of *structure*s, and *off-street parking* requirements will be determined by the *Planning Commission*; (2) *open space* will be provided as required in Article IV; (3) *forest conservation* requirements will be satisfied; and (4) *site* access standards will be met in so far as possible.

104. *Multi-family dwellings*. Such uses are subject to *site plan* review.

105. Multi-Family and Two-Family Dwellings in AZD. Such uses will be permitted only when all of the following conditions are satisfied:

(A) The multi-family or two-family dwellings existed on the property prior to August 1, 1989;

(B) The sale or lease of at least 50% of the multi-family or two-family dwellings is restricted to an amount affordable to individuals or families earning no greater than 100% of the County median income as determined by the United States Census Bureau;

(C) The dwellings are served by public water and sewerage service;

(D) The minimum site area will be five (5) acres; and

(E) If subdivision approval is sought: (1) minimum lot size, setback and yard requirements, maximum height of structures, and off-street parking requirements will be determined by the Planning Commission; (2) open space will be provided as required in Article IV; (3) forest conservation requirements will be satisfied; and (4) site access standards will be met in so far as possible.

106. Multi-level boat storage. Such use will be permitted as a special exception only when all of the following conditions are satisfied:

(A) The use excludes dinghy storage.

(B) The *building* is enclosed on three sides.

(C) The open end of the *building* does not face the road.

(D) The *building* is 100 feet from all property lines.

(E) The *building* does not exceed 55 feet in height, 100 feet in length, and 6,000 square feet in ground floor area.

(F) Trailers are not stored on the *premises*.

(G) Appropriate sanitary and pump out facilities are available on *site*.

(H) Boat ramps, lifts, railways, or other facilities for access to the water are available on *site*. In no case will a boat cross a public road to access the water.

107. Neighborhood retail businesses in the Village and Intense Village districts. Neighborhood retail businesses are those businesses which supply household commodities on the *premises* such as groceries, meats, dairy products, baked goods, or other foods, drugs, notions, flowers or hardware. All retail sales will be conducted entirely within a *building*, except where otherwise approved by the *Planning Commission*. Other uses and *structures* which meet the criteria specified above may be approved by the Department. Neighborhood retail businesses will require a *site plan*. All neighborhood retail business *buildings* are limited to a footprint of 10,000 square feet.

108. *Off-street parking* and loading, including the parking of commercial vehicles related to the operation of an *on-site* business.

109. Offices. Such uses are subject to *site plan* review.

110. Outdoor entertainment.

111. Outdoor recreation, miniature golf, but not golf courses.

112. Parking of commercial vehicles on a farm. Such uses will be permitted as accessory uses only when all of the following conditions are satisfied:

    (A) The vehicles are related to the operation of the *farm* or three non-*farm* related vehicles.

    (B) The vehicles are parked around existing *buildings*. Non-*farm* related vehicles cannot be parked on *farms* without *buildings*.

    (C) The vehicles have current licenses and are operable.

113. *Personal* service establishments. For the purposes of this ordinance, such uses will mean those which perform services on the *premises* for *person*s residing in adjacent residential areas such as shoe repair, dry cleaners, tailors, *laundromats*, beauty parlors, barber shops, and the like. All *person*al service uses will be conducted entirely within a *building*. Other uses and *structures* which meet the criteria specified above may be approved by the Department. *Person*al service activities require *site plan* review.

114. *Personal* wireless facilities, collocated on existing towers. Such uses will be collocated on existing towers, water towers, electrical transmission towers, fire towers, silos, grain dryers, or other *structure*s. The height of the existing *structure* will not be above that permitted by this Ordinance.

115. *Personal wireless facility towers*, commercial radio, and television towers. Such uses will be permitted as special exception only when all of the following conditions are satisfied:

    (A) The *applicant* demonstrates that the alternatives of consolidating the facility on an existing tower *structure* or incorporating the facility on a *structure* or water tower have been fully exhausted.

    (B) The *applicant* demonstrates a public need for the tower.

    (C) As part of applications for *personal wireless facility towers* only, the *applicant* demonstrates a comprehensive approach to facilities with a goal of minimizing the number of *sites* required.

    (D) The height of the tower, including antennas and appurtenances will not exceed 199 feet unless a *variance* is granted.

    (E) All towers and their accessory *buildings* will comply with the *building setback* provisions of the applicable zoning district. In addition, the minimum from the ground base of any tower to any property line, road, or public recreational area will be the height of the tower including any antennas or other appurtenances. This *setback* is considered a “fall zone.” The Board of Appeals may reduce the

fall zone by 50% of the required distance if it finds that a substantially better design will result from such a reduction. In making such a finding, the Board will consider both the visual and safety impacts of the proposed use.

(F) Monopoles or lattice towers will be the preferred tower *structure* in the County.

(G) The appearance of the tower *structure* will be minimized by the reasonable use of commercially available technology to reduce visual impact, with specific reference to size, color, and silhouette properties.

(H) Equipment shelters will be designed consistent with traditional Eastern Shore *architect*ural styles and materials with a pitched roof of at least 10/12. The shelters will be camouflaged behind an effective year-round *buffer* of existing dense vegetation that exceeds the height of the proposed *buildings*. The *Planning Commission* may set aside the requirements for shelter design when it finds that the existing vegetation will provide adequate year-round *screen*ing of the *buildings*.

(I) The tower will be *site*d within or adjacent to mature dense *tree* growth and under*story* vegetation that provides an effective year-round visual *buffer* and should only be considered elsewhere on the property when technical or aesthetic reasons indicate there are no other preferable locations. Where necessary, the Board will require the installation of a vegetated *buffer* of sufficient height and depth to create an effective year-round visual *buffer*.

(J) Towers will be lit only if required by the FAA. Lighting of equipment shelters and other facilities on *site* will be shielded from other properties.

(K) Sign*s* will be limited to identify the property owner, emergency contact, and to warn of danger.

(L) As part of applications for *personal wireless facility towers* only, a tower will not be within a 5-mile radius of any existing towers used for *personal wireless facilities* unless the *applicant* demonstrates a public need due to capacity or other service limitations.

(M) The tower will be used continuously. In the event the tower ceases to be used for a period of six months, the approval will terminate. The property owner will insure the tower removal within ninety days after the termination.

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(N) The facility will comply with all FCC and ANSI standards.

(O) The *applicant* will demonstrate that a tower will not unreasonably interfere with the view of, or from, *sites* of significant public interest such as public parks, a national or state designated scenic byway, a *structure* listed in the Kent County Historic *Site*'s survey, an historic district, or the Chesapeake Bay and its tributaries.

(P) All applications for approval of a *tower* will include:

i. A description of the facility and proposed licensed carriers. A licensed carrier will be the *applicant*, the co-*applicant*, or have a binding agreement with the tower company.

ii. Coverage maps showing the area to be served by the proposed facility and the coverage available under existing facilities, approved facilities, and other appropriate *structure*s.

iii. A master plan of the *applicant*s proposed communications network for the entire county.

iv. Siting elevations, existing photography, and a photo simulation from all directions.

v. Coverage, interference, and capacity analysis. The Director of Emergency Management may review the interference analysis.

vi. A copy of all reports required by or provided to the Federal Communications Commission including, but not limited, to the Environmental Assessment, NEPA Review, and SHPO Review.

vii. Computer modeling used in selecting the *site*.

viii. A narrative that explains how the *site* will not unreasonably interfere with the view of, or from, *site*s of significant public interest such as public parks, a national or State designated scenic byway, a *structure* listed in the Kent County Historic *Site*'s survey, an historic district, or the Chesapeake Bay and its tributaries.

116. Printing and publishing. Such use will be permitted as a special exception only when the operation is in compliance with the *regulations* of the State of Maryland.

117. *Private club*s. When located in the RCD, such uses will be limited to 15% *lot coverage*.

118. *Private destination/residence club*s in the Marine zoning district only. Such uses are subject to the following conditions:

(A) The aggregate Marine zoned property will consist of four (4) or more acres.

(B) The facilities for such overnight accommodations will pay the appropriate County taxes,including taxes payable under Chapter 152 of the Code of Public Local Laws of Kent County.

(C) The facilities for overnight accommodations will use a reservation system.

(D) Permitted *accessory use*s may include clubhouse, *restaurant*s, cafés or other dining facilities; bars, pubs or taverns; recreational facilities, such as tennis courts, *swimming pool*s, and spas and other *accessory use*s that are customarily associated with a lodging facility. The permitted *accessory use*s will not include trap, skeet, clay birds, paint ball, or other similar firearm activities. The *applicant* will describe all proposed *accessory use*s in the application for *site*

plan. Recreational facilities will be at least twenty-five (25) feet from the nearest property line.

(E) Where they exist, listed *historic structures* will be incorporated into the overall project.

(F) Significant view corridors, both from the *site* and onto the *site*, will be preserved as far as possible.

(G) The height of all *structure*s will not exceed thirty-eight (38) feet.

(H) Parking *lot*s will be landscaped as required for commercial *development*s per Article V of this Ordinance.

(I) The approval of such a facility for overnight accommodations will not impose restrictions that will preclude the use of the *marina* and property for commercial marine uses permitted in the Marine Zoning District, including boat *building*, storage, and repair; however, the continuation of these uses will not be required. The maintenance and continuation of boat *slip*s will be required.

(J) The County may require connection to a public sewer system, if and when such system is available.

(K) *Campground*s, mobile homes, *recreational vehicle* and *manufactured home* parks will not be considered private destination or residence clubs.

119. *Private garages*, *swimming pools*, game courts, and other customary residential outbuildings and *structures*. Such uses will be permitted as accessory uses only when all of the following conditions are satisfied:

(A) On parcels less than five acres, accessory *structures* do not exceed 2,000 square feet or the height of the primary residential structure. Where an accessory *structure* is proposed to exceed 2,000 square feet or the height of the primary residential structure on a parcel of less than five acres, it may be permitted if granted an administrative special exception.

(B) Accessory sheds may be located in the rear yard of a waterfront property, no closer than five feet to any road, via an administrative special exception.

(C) Swimming pools, swimming pool equipment, and related structures may be located in the front yard of a waterfront property and may be permitted without submittal for an administrative special exception.

120. Private *pier*s, *community piers*, and private shared *pier*s. Such uses will be permitted as accessory uses only when all of the following conditions are satisfied:

(A) The private *pier, community pier, or* private shared *pier* does not exceed 25% of the width of the *waterway*, the edge of the *channel*, or 150 feet in length, whichever is less.

(B) The private *pier, community pier, or* private shared *pier* is subject to the stipulations of Article VI of this Ordinance.

(C) *Regulations* governing *community piers* may be found in Article VI.

121. Private schools.

122. Production of biofuels. Such use will be permitted as special exception only when all of the following conditions are satisfied:

(A) The facility will be located within the US Route 301 Corridor.

(B) The *applicant* demonstrates a clear, identifiable market for the byproducts of the facility.

(C) The operation does not disturb the minimum 100-foot *buffer* or *stream protection corridor.*

(D) The operation does not adversely affect a non-*tidal wetland* directly or hydrologically.

(E) To assure continued compatibility with the surrounding area, the Board may place additional restrictions on the following:

i. *Screen*ing and landscaping from adjacent properties and public *roads.*

ii. Exterior displays, lighting, and signs.

iii. The location of access routes to the *site*, both onsite and *off-site.*

123. Public and private *forests*, wildlife reservations, and similar conservation projects.

124. Public and private parks and playgrounds for the purpose of conserving and enjoying natural resources. For the purposes of this Ordinance, such uses will include both active and passive parks owned and operated by Kent County, the State of Maryland, or federal government, but will not include any commercial play fields for football, baseball, and any other major sports activities such as motocross or drag racing fields. These latter uses are prohibited throughout Kent County.

125. *Public landings*. Such uses will be permitted as special exception only when all of the following conditions are satisfied:

(A) Adequate sanitary facilities exist.

(B) Service facilities are to the extent possible outside the 100-foot *buffer*.

(C) Permeable surfaces are used to the extent practicable, if no degradation of groundwater would result.

(D) Disturbance to *natural vegetation* is minimized.

(E) Areas for passive recreation, such as nature study, and for education, may be permitted in the *buffer* within the Resource Conservation Areas, if service facilities for these uses are outside the *buffer*.

126. Public uses, *buildings*, and *utilities*. Public *buildings* include but are not limited to schools, offices, parks, playgrounds, and *roads* funded, owned, and operated by local, State, or federal agencies. *Public utilities* are water, sewer, electric, gas, oil, and communication

facilities owned and operated by the Kent County Department of Public Works or another public utility. *Public utilities* improvements located on sites and in the public rights-of-way include substations, poles, lines, transformers, underground pipes, meters, treatment facilities, pumping stations, and appurtenances but not overhead transmission towers. The following items require *site plan* review: schools, offices, playgrounds, treatment facilities, water towers, substations, and transformers; distribution/transmission improvements do not require special exceptions.

127. Public utility *building*s, *structures*, water treatment plants, and transmission lines in Employment Center and ECCA. Such uses do not include *transportation facilities* and *utility transmission facilities*, except those necessary to serve permitted uses, or where regional or interstate facilities will cross tidal waters (*utility transmission facilities* do not include power plants); and such uses do not include permanent sludge handling, storage, and disposal facilities, other than those associated with wastewater treatment facilities. However, agricultural or horticultural use of sludge under appropriate approvals when applied by an approved method at approved application rates may be permitted in the *Critical Area*, except in the 100-foot *buffer*.

128. *Public utility lines and accessory structures* in Marine districts. Such uses will comply with the following conditions:

    (A) The *structure*s are *screen*ed from the road and adjacent properties; and

    (B) In so far as possible, *structure*s are located to maintain significant views; and

    (C) In so far as possible, *structure*s are not visually intrusive to the neighborhood.

129. Pubs, taverns, and bars, including open air facilities. Such uses will be permitted as special exception only when all of the following conditions are satisfied:

    (A) The project is designed to minimize impact on neighboring properties, particularly residential properties either with *open space*, landscaping, or *structure* design.

    (B) Measures are taken to limit any adverse effects of the use on *development* of the surrounding area due to noise, odor, traffic, lights, or any other reason.

    (C) Loading areas, dumpsters, and other unsightly *site* elements will be *screen*ed from adjacent properties and the public view.

130. Radio and television towers, commercial. See *personal wireless facility towers*.

131. Railroad *right of ways.* Such use includes a strip of land with tracks and auxiliary facilities for track operations; but such use does not include passenger stations, freight terminals, switching and classification *yard*s, repair shops, round houses, interlocking towers, and fueling, sanding, and watering stations. Such use will be permitted in the RCD only when such use existed as of April 12, 1988.

132. Recreational facilities, privately or commercially owned. Such uses do not include major sports arenas for football, baseball, drag racing, motocross, or other major sports activities. These latter uses are prohibited throughout Kent County.

133. Recreational uses, indoor, commercial. Such use includes game courts, *swimming pools*, and other like recreational facilities and is subject to *site plan* review.

134. *Resorts.* Such uses will be permitted as special exception only when all of the following conditions are satisfied:

(A) The parcel(s) on which the *resort* is proposed will be at least 250 acres.

(B) The *resort* will not exceed 750 acres.

(C) The *resort* has at least 40 but not more than 225 guest rooms.

(D) The project includes a regulation par 72, 18-hole golf course. The golf course will meet all the requirements found in this Ordinance.

(E) Permanent theme parks, amusement parks, and/or stadiums are prohibited.

(F) Where applicable, the *applicant* has applied for growth allocation from the County. Special exception approval will not be valid without the granting of growth allocation.

(G) The Board will make specific findings on the availability of public and governmental services.

(H) Where they exist, *historic structures* will be incorporated into the overall project.

(I) Significant view corridors, both from the *site* and onto the *site* will be preserved in so much as possible.

(J) The height of all *structures* will not exceed 38 feet.

(K) The design of the *resort* and *accessory uses* will reflect and complement the rural character of the area.

(L) The number of *dwelling units* will not exceed that which is permitted in the applicable zoning district. *Dwelling units* may be detached or attached.

(M) Continuous residential *lot development* aligned with golf course fairways will be prohibited within the *Critical Area* and discouraged elsewhere.

(N) Parking *lot*s will be landscaped as required for commercial *development*s in Article V of this Ordinance.

(O) Permitted *accessory uses* include *restaurants*, recreational facilities such as tennis courts and *swimming pools*; spas; retail use provided the establishments are in the main *building* with the entrance to the retail use from the inside the *building*; stables, equestrian center, other recreation amenities but not including trap, skeet, clay birds, paint ball or other similar firearm activities, *piers* and; other *accessory uses* that are customarily associated with a *resort*. The *applicant* will describe all proposed *accessory uses* in the application for a special exception. The Board of Appeals may deny or limit the size and extent of *accessory uses*.

(P) The number of *slips* on the accessory *pier* is limited to 25% of the number of guest rooms and is limited to use by those using the *resort* facilities. Accessory *piers* will meet all requirements applicable to *marinas* such as pump outs, restrooms, and showers.

(Q) All *structures* will comply with the minimum 100-foot *buffer* from mean high tide and 500 feet from all side and rear property lines whichever is greater.

(R) In RCD, RC, RR, and CAR at least 60% of the property will be in *open space*. A golf course will be considered *open space*. However, additional *open space* beyond that provided by the golf course is required.

(S) The Board of Appeals may place additional restrictions on the following:

i. Additional *yard* requirements for all *structure*s, including patios, and places of public assembly

ii. Lighting

iii. Landscaping and *screen*ing

iv. Outdoor activities, outdoor music, and their hours of operation

v. Access

(T) Application for a *resort* will include a sketch plan and renderings of all primary and each type of *accessory structure*.

135. *Restaurants* without drive through facilities. Such uses are subject to *site plan* review.

136. Restaurants with drive through facilities in the Route 301 Corridor. Such uses are subject to special exception use approval by the Planning Commission and the Board of Appeals.

137. Retail businesses with less than 60,000 square feet of gross floor area. Such uses will be permitted only when all of the following conditions are satisfied:

(A) All retail sales and/or storage will be conducted entirely within a *building* except where otherwise approved by the *Planning Commission* on a *site plan*.

(B) The *building* size does not exceed 60,000 square feet of gross floor area.

(C) In the M District, such uses will be accessory to a principal use and may include the sale of groceries, beverages, food, clothing, marine supplies, and similar products.

138. Retail businesses with more than 60,000 square feet of gross floor area. Such uses will be permitted as special exception only when all of the following conditions are satisfied:

(A) The proposed *development* will not adversely affect existing commercial centers and businesses as demonstrated by an economic impact study.

(B) The traffic impact will not lower the level of service more than one level of service or in any case below Level of Service C as demonstrated by a traffic impact study.

(C) The proposed *development* will not adversely affect the environment as demonstrated by an environmental impact study.

(D) All retail sales and/or storage will be conducted entirely within a *building* except where otherwise approved by the *Planning Commission*

(E) The *Planning Commission* has reviewed the preliminary *site plan*.

(F) The Board of Appeals may place additional restrictions on the following:

i. Additional *yard* requirements for all *structures*.

ii. Lighting

iii. Landscaping and *screen*ing

iv. Access

(G) The application will include a preliminary plan and renderings of all primary and *accessory structures*.

139. Retail businesses located within the Route 301 Corridor are permitted without size limits.

140. Retail nurseries and greenhouses.

141. Retail sales of products produced *on-site* in the Employment Center and ECCA.

142. *Retreats.* Such uses will be permitted as special exception only when all of the following conditions are satisfied:

(A) The project will collectively consist of at least 15 acres.

(B) In AZD, the *retreat* uses *buildings* that existed prior to August 1, 1989. *Buildings* are limited to a 50% expansion of the gross *floor area* of each individual *building* above that which existed as of August 1, 1989.

(C) The *retreat* has at least 10 but not more than 40 guest rooms.

(D) Permanent theme parks, amusement parks, and/or stadiums are prohibited.

(E) Where applicable, the *applicant* has applied for growth allocation. Special exception approval will not be valid without the granting of growth allocation.

(F) The Board will make specific findings on the availability of public and governmental services.

(G) Where they exist, *historic structures* will be incorporated into the overall project.

(H) Significant view corridors, both from the *site* and onto the *site* will be preserved in so much as possible.

(I) The height of all *structures* will not exceed 38 feet.

(J) The design of the *retreat* and *accessory uses* will reflect and complement the rural character of the area.

(K) One residential unit for use by an employee of the *retreat* may be provided.

(L) Permitted *accessory uses* include kitchen and dining facilities for guests only, recreational facilities such as tennis courts and *swimming pools*; spas; other recreation amenities but not including trap, skeet, clay birds, paint ball or other similar firearm activities, *piers*; and other *accessory uses* that are customarily associated with a *retreat*. The *applicant* will describe all proposed *accessory uses* in the application for a special exception. The Board of Appeals may deny or limit the size and extent of *accessory uses*.

(M) The number of *slips* on an accessory *pier* may not exceed 5.

(N) The *retreat* will be limited to 10 *buildings*. In AZD, the *retreat* is limited to existing *buildings*.

(O) All *structures* will comply with the minimum 100-foot *buffer*. Primary *buildings* will be 100 feet from all property lines or comply with the minimum 100-foot *buffer*, whichever is greater. *Accessory structures* may be 5 feet from the rear or side property line.

(P) At least 60% of the property will be in *open space*.

(Q) Parking *lot*s will be landscaped as required for commercial *development*s in Article V of this Ordinance.

(R) The Board of Appeals may place additional restrictions on the following:

i. Additional *yard* requirements for all *structures*, including patios and places of public assembly

ii. Lighting

iii. Landscaping and *screen*ing

iv. Outdoor activities and outdoor music and their hours of operation

v. Access

(S) The application for a *retreat* will include a sketch plan and renderings of all primary and each type of *accessory building* and *structure*.

143. Rifle and pistol ranges. Such uses will include trap and skeet shooting, sporting clays, or similar activities such as paint ball, and may include accessory snack bars and retail sales of shooting supplies and equipment, commercial or *private club.* Such uses will be permitted as special exception only when all of the following conditions are satisfied:

(A) The surrounding area is predominately undeveloped.

(B) Such uses will be for the period of time as determined by the Board. However, outdoor night shooting is prohibited at rifle and pistol ranges.

(C) Proposed *accessory uses*, such as stores, snack bars, and *recreational vehicle* parking are included in the application and specifically approved by the Board.

144. *Roadside stand*s. Such uses will be permitted as accessory uses only when all of the following conditions are satisfied:

(A) Such *roadside stands* offer for sale only locally grown fresh agricultural products in season.

(B) Such *roadside stands* are operated by the owner, lessee, or *tenant* of the *premises* upon which such stand is located.

(C) Adequate *off-street parking* will be provided.

(D) Such stands will be completely removed at the end of the local fresh produce season.

145. Rooming, boarding, and *lodging house*s.

146. *Rural inns.* Such uses will be permitted as special exceptions only when all of the following conditions are satisfied:

(A) The project will collectively consist of at least 20 acres.

(B) In AZD, the *Rural Inn* uses *building*s that existed prior to August 1, 1989. *Building*s are limited to a 50% expansion of the gross *floor area* of each individual *building* above that which existed as of August 1, 1989.

(C) The *Rural Inn* has at least 10 but not more than 25 guest rooms. Overnight lodging will not exceed 45 conse*cut*ive days.

(D) Permanent theme parks, amusement parks, and/or stadiums are prohibited.

(E) The Board will make specific findings on the availability of public and governmental services.

(F) Where they exist, *historic structures* will be incorporated into the overall project.

(G) Significant view corridors, both from the *site* and onto the *site* will be preserved in so much as possible.

(H) The height of all *structure*s will not exceed 38 feet.

(I) The design of the *Rural Inn* and *accessory use*s will reflect and complement the rural character of the area.

(J) Two residential units for use by employees of the *Rural Inn* may be provided.

(K) Permitted *accessory use*s include kitchen and dining facilities. Dining facilities may be provided to patrons in addition to guests registered for overnight lodging provided seating will not exceed 40 seats over and above those seats needed to accommodate the maximum number of lodging guests based on two (2) individuals per room; recreational facilities such as tennis courts and *swimming pool*s; other recreational amenities but not including trap, skeet, clay birds, paint ball or other similar firearm activities; and other *accessory use*s that are customarily associated with a *Rural Inn*. The *applicant* will describe all

proposed *accessory use*s in the application for a special exception. The Board of Appeals may deny or limit the size and extent of accessary uses.

(L) The *Rural Inn* may not exceed 15 *building*s. In AZD, the *Rural Inn* is limited to existing *building*s.

(M) At least 60% of the property will be in *open space*.

(N) Parking *lot*s will be landscaped as required for commercial *development*s in Article V of this Ordinance.

(O) All *building* associated with the principal uses of the *Rural Inn*, as well as the permitted *accessory use*s listed in paragraph (k) of this subsection, will be a minimum of 100 feet from all property lines.

(P) The Board of Appeals may place additional restrictions on the following:

i. Additional *yard* requirements for all *structure*s, including patios and places of public assembly

ii. Lighting

iii. Landscape and *screen*ing

iv. Outdoor activities and outdoor music and their hours of operation

v. Access

vi. Location and hours of operation of kitchen and dining facilities open to the public

(Q) The application for a *Rural Inn* will include a sketch plan and renderings of all primary and each type of accessory *building* and *structure*.

147. Sand and gravel pits, *excavation,* or extraction. Such use does not include the removal of sod, and *excavation* for foundations, *swimming pools*, *soil* and water conservation practices, and those removals approved in connection with *farm* use, *street* construction, *subdivision* or planned residential *development*. Such use will be permitted as special exception only when all of the following conditions are satisfied:

(A) Material is not brought from *off-site* for processing, mixing, or similar uses

(B) The *excavation* or extraction operation will be controlled to offer reasonable protection to surrounding properties and the neighborhood, particularly as regards to use of residential *streets* for access to the *site*.

(C) There are no known threatened or *endangered species*, areas of specific value, or rare assemblages of species or other vital habitat at the *site*.

(D) In RCD and CAR, *highly erodible soils* are not disturbed at the *site*.

(E) The operation will not disturb for future use prime agricultural lands or *forest* and *developed woodlands* of more than one acre.

(F) The operation will not de*grade* water quality.

(G) The operation does not disturb the minimum 100-foot *buffer* or *stream protection corridor*.

(H) The operation is under an approved operating and restoration plan from the State of Maryland.

(I) The operation does not adversely affect a *non-tidal wetland* directly or hydrologically.

(J) The location of the *excavation* or extraction with respect to property lines, the depth of *excavation*, and relation to the water table or *flood* criteria and the *slope* of the sides of the *excavation* will be controlled to prevent a continuing, unsightly, hazardous, or wasteful condition of the land.

148. *Sanitary landfill* or rubblefill. Such use will be permitted as a special exception only when the use is owned or managed by Kent County in AZD and provides a 100-foot-deep vegetative *screen* along all property lines.

149. Satellite dish, private, with an antenna exceeding 3 feet in diameter. Such use will be permitted as an accessory use only when all of the following conditions are satisfied:

(A) No antenna will exceed an overall diameter of 12 feet or an overall height of 15 feet above *existing grade*.

(B) The antenna will be permanently ground-mounted. An antenna will not be installed on portable or moveable *structures*.

(C) The antenna will be totally *screen*ed along the non-receptive axis, and low-level ornamental landscaping will be installed along the reception window axis of the base of the antenna. *Screen*ing may consist of fencing or a variety of plant types. *Screen*ing may be set aside when the antenna is located 100 feet from all property lines, or the antenna is not visible or intrusive to the neighborhood.

(D) In, RC, CAR, and CR: The final installation should be blended carefully with the surrounding landscape.

150. Satellite dish, private, with an antenna of 3 feet or less in diameter. Such use will be permitted as an accessory use only when all of the following conditions are satisfied:

(A) Satellite dish use will not be installed on portable or movable *structures.*

(B) In the RCD, the satellite dish is located only in the *rear yard*.

151. *Sawmills*, temporary, for cutting timber grown on the *premises.*

152. School bus parking *lot.* Such use will be permitted as special exception only when all of the following conditions are satisfied:

(A) No part of the school bus parking facility will be in the 100-year *floodplain*.

(B) Areas for school bus parking, fueling, or repair are a minimum of 100 feet from any residence.

(C) Areas for school bus parking are 100 feet from *wetlands*.

(D) Areas for school bus repair are enclosed in a *building*. Outdoor repair or storage of materials or products is prohibited.

(E) All buses will have current licenses and be operable.

(F) The Board determines that all access *roads* are capable of handling the traffic generated and that a safe route for school buses traveling to and from the facility is provided.

(G) Areas for parking and cartways are paved.

(H) The *site* is *screen*ed from adjacent properties and public *roads*.

(I) Adequate restroom facilities will be provided.

153. School buses, limited to five on farms in AZD. Such uses will be permitted as accessory uses only when the buses are parked around existing *buildings* and the buses have current licenses and are operable.

154. School buses, limited to two, parked. Such uses will be permitted as accessory uses only when all of the following conditions are satisfied:

(A) The school buses are parked only in the *rear* or *side yard* of the *dwelling* or *dwellings* on the lot.

(B) The school buses are owned or operated by the occupants of the *dwelling* or *dwellings* on the lot.

(C) The school buses have current licenses and are operable.

(D) In the AZD, RCD, RC, CAR, CR, V, and IV Districts, the number of school buses parked per lot is limited to two.

(E) In the C District, the number of school buses parked per lot is limited to three.

155. Seafood processing. Such use includes wholesale and retail sales of seafood products. Such use will be permitted as special exception only when all of the following conditions are satisfied:

(A) Open or uncovered storage of shells, bones, and refuse does not occur on *site*.

(B) No curing or smoking occurs on *site*.

(C) All *structures* for processing and all disposal areas for materials and byproducts of processing are a minimum of 300 feet from all property lines and 600 feet from residential district boundaries.

(D) Seafood processing facilities and disposal areas are not in the *100-year floodplain*.

(E) The operation is managed according to a management plan approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department.

(F) Parking, processing, and disposal areas are *screen*ed from adjacent properties and public *roads*.

(G) Access *roads* are capable of handling the type of traffic generated by the operation.

156. Self-storage. Self-storage uses will be permitted only when all of the following conditions are satisfied:

(A) In the V District, no self-storage use may have more than 30 self-storage units in 1 *building,* and no self-storage unit may exceed 100 square feet of floor space; and

(B) In the V District, any property used for self-storage will front on 2 public *roads*; and

(C) The front façade of the center and any other façade visible from adjoining public *roads* will reflect the scale, materials and design features common to residential or *historic structures* in the County; and

(D) Self-storage uses are subject to *site plan* review.

157. Septic tank maintenance and excavation.

158. Short-term vacation rentals (STVR). Kent County hotel rental taxes will be paid for each unit, and the required quarterly report will be filed by any establishment that provides sleeping accommodations for compensation for a period not exceeding four months.

159. *Single family dwelling*s

(A) Factory-constructed or prefabricated homes including manufactured, modular, and mobile homes, when provided with permanent foundations; permanent connections to utilities; required fire sprinklers; and reviewed, inspected, and approved as buildings utilizing all life-safety codes, and which meet all required zoning and environmental regulations in this Ordinance, will be treated in the same manner as a site-built building.

(B) When special exception approval is required, such single-family dwellings may be reviewed via an administrative special exception process.

160. *Single family dwelling*, one per existing property, in Employment Center and ECCA, subject to the *yard* requirements found in the Agricultural Zoning District, provided however, that bona fide *intrafamily transfers* may be permitted (thus exceeding the one *single family dwelling* per existing property requirement) under the following conditions:

(A) The owner of the parcel or the proposed parcel will attest, in writing, to the bona fide *family* relationship and that the intent of the *subdivision*/use is not for ultimate transfer to a third party.

(B) Any deed for a *lot* that is created by a bona fide *intrafamily transfer* will contain the covenant stating that the *lot* is created subject to the provisions of this

section and that the provisions of this section will control as long as the property continues to be zoned for industrial uses.

(C) A *lot* created by a bona fide *intrafamily transfer* may not be conveyed subsequently to any *person* other than a member of the owner's immediate *family* except under the following situations, as determined by the Kent County *Planning Commission*:

i. The *lot* was created as a part of bona fide *intrafamily transfer* and not with the intent of subdividing the original parcel of land for purposes of ultimate transfer to a third party; and

ii. The owner of the transferred property dies; or

iii. A change of circumstances has occurred since the original transfer was made that is consistent with the intent of this ordinance.

(D) This subsection will not prevent the conveyance of such a *lot* to a third party as security for a mortgage or deed of trust, or subsequent conveyances resulting from a foreclosure.

(E) The maximum *lot* size will be two acres.

(F) Any deed or *subdivision* plat for a *lot* created by a bona fide intra*family* transfer will contain a statement that the adjacent property is zoned for industrial uses.

(G) The parcel is created for the construction of a primary residence only.

(H) This provision applies to those individuals owning industrial zoned land prior to July 7, 1994. Subsequent owners of industrial zoned land will be limited to one *single family dwelling*.

161. Solar energy systems, small. Such uses will be permitted as accessory uses only when all of the following conditions are satisfied:

(A) *Tree* removal will be minimized, and any removal will be mitigated in accordance with the *Critical Area* Program requirements, or, if no *Critical Area* Program is in place in that location, *tree* removal will be mitigated at a ratio of one *tree* planted for each *tree* removed or as required in Article VI, whichever is greater.

(B) All solar collection devices will register with the Office of Emergency Services and will submit a map noting the location of the solar collection devices and the panel disconnect.

(C) The total height of solar collection systems will comply with the height requirements of the zoning district in which they are located.

162. Solar energy systems, utility scale in the Employment Center zoning district. Such uses will be permitted by right, but only when all of the following conditions are satisfied:

(A) A solar collection device or combination of devices are designed and located to avoid glare or reflection onto adjacent properties and adjacent *roadway*s and will not interfere with traffic or create a safety hazard.

(B) *Screen*ing, capable of providing year-round *screen*ing, is provided per all the requirements in Article V.

(C) Roof-mounted solar collection devices will not extend more than 15 feet from the top of the roof. The total height of the *building*, including the solar collection devices, will comply with the height *regulations*.

(D) Solar collection devices not mounted on roofs will not exceed 45 feet in height.

(E) All solar collection devices will register with the Kent County Office of Emergency Services and will submit a map noting the location of the solar collection devices and the panel disconnect.

(F) All solar energy systems will meet the Countywide standards in Article V.

Solar energy systems, utility scale, in the AZD and RCD will be permitted as special exception only when all of the following conditions are satisfied:

(A) The use takes place on a *farm*, as defined by this Ordinance.

(B) A solar collection device or combination of devices are designed and located to avoid glare or reflection onto adjacent properties and adjacent *roadway*s and will not interfere with traffic or create a safety hazard.

(C) *Screen*ing, capable of providing year-round *screen*ing, is provided per all the requirements of Article V.

(D) Roof-mounted solar collection devices will not extend more than 15 feet from the top of the roof. The total height of the *building*, including the solar collection devices, will comply with the height *regulations* established for each zoning district.

(E) Solar collection devices not mounted on roofs will not exceed 38 feet in height.

(F) The solar collection system will be incidental to the use of the *farm*.

(G) Installation of the solar collection system will not adversely impact adjacent properties.

(H) All *structure*s associated with the solar collection system will be neither visually intrusive nor inappropriate to their setting.

(I) All solar collection devices will register with the Office of Emergency Services and will submit a map noting the location of the solar collection devices and the panel disconnect.

(J) Other than wire size, there will be no *alteration* of utility infra*structure* to accommodate the system.

(K) The area of solar panel arrays may not exceed 5 acres. The area of the solar panel arrays shall be measured as the area within the solar panel arrays' security fence. Adjacent properties will not aggregate solar collection panels to achieve an area exceeding 5 acres.

(L) In AZD, only the five-acre maximum area of solar panel arrays, as measured in Subsection K. above, is considered *development* and counted toward the maximum percentage of the property in *lot*s.

(M) *Tree* removal will be minimized, and any removal will be mitigated in accordance with the *Critical Area* Program and the Forest Conservation Act.

(N) The *applicant* will demonstrate that a *utility scale solar energy system* will not unreasonably interfere with the view of, or from, *site*s of significant public interest such as public parks, a national or state designated scenic byway, a *structure* listed in the Kent County Historic *Site* Survey, an historic district, or the Chesapeake Bay and its tributaries.

(O) All solar energy systems will meet the Countywide standards in Article V.

Solar energy systems, utility scale, in C, and CCA, will be permitted as special exception only when all of the following conditions are satisfied:

(A) A solar collection device or combination of devices are designed and located to avoid glare or reflection onto adjacent properties and adjacent *roadway*s and will not interfere with traffic or create a safety hazard.

(B) *Screen*ing, capable of providing year-round *screen*ing, is provided per all the requirements in Article V.

(C) Roof mounted solar collection devices will not extend more than 15 feet from the top of the roof. The total height of the *building*, including the solar collection devices, will comply with the height *regulations* established for each zoning district.

(D) Solar collection devices not mounted on roofs will not exceed 45 feet in height

(E) All solar collection devices will register with the Office of Emergency Services and will submit a map noting the location of the solar collection devices and the panel disconnect.

(F) The *applicant* will demonstrate that a *utility scale solar energy system* will not unreasonably interfere with the view of, or from, *site*s of significant public interest such as public parks, a national or state designated scenic byway, a *structure* listed in the Kent County Historic *Site* Survey, an historic district, or the Chesapeake Bay and its tributaries.

(G) All solar energy systems will meet the Countywide standards in Article V.

163. Storage and office trailers, temporary during construction.

164. Storage of boats, campers, boat trailers, and camper trailers. Such use will be permitted as an accessory use only when all of the following conditions are satisfied:

(A) The storage is located in the *rear yard,* except that:

i. In the RCD and CAR Districts, the storage may be located on the waterfront side of the principal use; and

ii. Storage of boats in the buffer is permitted only if water-dependent to the subject site; and

iii. In the RC and RR Districts, the storage may be located in the *side yard.*

(B) The vehicle or trailer is titled under the name of the property owner or occupant.

(C) The vehicle or trailer is operable and has current licenses.

165. Stores or shops for the conduct of retail sales in the Marine zoning district. Such use may include the sale of groceries, beverages, food, clothing, marine supplies, and similar shops and stores.

166. *Structures* for the buying, processing, and sale of animal products in AZD, commercial. Such use will be permitted as special exception only when all of the following conditions are satisfied:

(A) *Structure*s, *retention*, and disposal areas will be 600 feet from the nearest property line.

(B) The front of the *site* will be appropriately landscaped.

(C) All activities will be completely enclosed.

(D) The operation is managed according to a waste management plan approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department.

167. *Structures* for the buying, processing, and sale of non-animal *farm* products related to *agriculture of* no more than 10,000 square feet in floor area. Such use excludes any animal products but includes seed and fertilizer sales. The total square footage of the *buildings* occupied for such use will not exceed 10,000 square feet; the 10,000 square foot restriction applies only to those *structures* associated with the approved business and not to *structures* normally associated with permitted agricultural operations. *Structures* for the buying, processing, and sale of *farm* products are subject to *site plan* review by the *Planning Commission* or where applicable the Planning Director.

168. *Structures* for the buying, processing, or sale of non-animal *farm* products related to *agriculture*, over 10,000 square feet in floor area. Such uses may include the sale of fertilizer and seed but may not include animal products and may not exceed 50,000 square feet in floor area.

169. Temporary *MET Tower* of any height. Such use will be permitted as an accessory use only when all of the following conditions are satisfied:

(A) The tower is erected for no more than 12 months.

(B) Any free-standing *structure* is located a minimum of three times its total height from a property line.

(C) Towers are not readily climbable from the ground up to 12 feet.

170. Tie-out pilings of private *pier*s, *community piers*, and private shared *pier*s. Such uses will be installed at a distance not to exceed 25% of the width of the *waterway*, the edge of the *channel*, or 180 feet from the mean high-water mark, whichever is less, for the exclusive mooring use by tall ships as safe harbors from hurricanes and other severe weather-related threats. Such uses will be permitted as special exception only when all of the following conditions are satisfied:

(A) Private *pier*s, *community piers*, and private shared *pier*s in RCD and CAR are subject to the stipulations and *regulations* of Article VI of this Ordinance.

(B) No portion of a *pier* consisting of any combination of non-floating fixed platforms, and/or floating *structure*s, with decking extending out over the water to provide pedestrian access, may exceed 25% of the width of the *waterway*, the edge of the *channel*, or 150 feet in length, whichever is less.

(C) Any tie-out pilings installed more than 150 feet from the mean high-water mark will be for the exclusive mooring use by tall ships and for no other use.

(D) The term "tall ships" means any large traditionally rigged sailing vessels, including schooners, which are federally documented with home ports located in Kent County, Maryland.

(E) The term "hurricanes and other severe weather-related threats" means weather events which are the subjects of a Tropical Storm Watch, Tropical Storm Warning, Hurricane Watch, or Hurricane Warning issued by the National Oceanic and Atmospheric Administration.

171. Townhouses. Such uses are subject to *site plan* review.

172. Transmission towers. Such uses include cellular towers. See *Personal Wireless* categories.

173. *Truck stops.* Such uses will be permitted as special exception only when all of the following conditions are satisfied:

(A) No part of the truck parking facility will be in the *100-year floodplain*.

(B) Areas for truck parking, fueling, or repair are a minimum of 300 feet from any residential district.

(C) Areas for truck parking are 100 feet from *wetlands*.

(D) Areas for truck repair are enclosed in a *building*.

(E) The Board determines that all access *roads* are capable of handling the traffic generated and that a safe route for trucks traveling to and from the facility is provided.

(F) Areas for parking and cartways are paved.

(G) The *site* is *screen*ed from adjacent properties. The *front yard* and all areas adjacent to public *roads* will be extensively landscaped.

(H) Adequate restroom facilities, driver rooms, and telephones will be provided.

174. *Truck terminals. Such uses are subject to the following conditions:*

(A) *Truck terminals* are limited to 20 trucks, except that the limitation on the number of trucks does not apply to Employment Center districts in the Route 301 corridor; and

(B) The parking and loading area of a *truck terminal* will be fenced, *screen*ed, and located at least 400 feet from any residential district boundary and 100 feet from all property lines.

Truck terminals will be permitted as a special exception only when all of the following conditions are satisfied:

(A) No part of the truck parking facility will be in the *100-year floodplain*.

(B) Areas for truck parking, fueling, or repair are a minimum of 100 feet from any residential district.

(C) Areas for truck parking are at least 100 feet from *wetlands*.

(D) Areas for truck repair are enclosed in a *building*.

(E) The Board determines that all access *roads* are capable of handling the traffic generated and that a safe route for trucks traveling to and from the facility is provided.

(F) Areas for parking and cartways are paved.

(G) The *site* is *screen*ed from adjacent properties and public *roads*.

(H) Adequate restroom facilities will be provided.

175. *Two-family dwelling*s.

176. Uses and *structures* which are customarily accessory and clearly incidental and subordinate to the permitted uses in the Employment Center and ECCA districts.

177. Veterinary *hospital*s or *clinic*s and animal shelters, as defined by the County Code of Public Laws. Such uses will ensure that all open kennels will be at least 200 feet from all property lines, unless otherwise approved by the *Planning Commission* via a *site plan* review.

178. Veterinary *hospital*s and offices without open kennels.

179. Vocational and trade schools, including training facilities.

180. Waste management *structures* in AZD and RCD where not otherwise stipulated in this Ordinance. Such uses will be permitted as accessory uses only when all of the following conditions are satisfied:

(A) Waste management *structures* will be a minimum of 600 feet from all property lines.

(B) No waste management *structure* will be in the *100-year floodplain*.

(C) The operation is managed according to waste and nutrient management plans, approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department.

181. Wedding venues on farms with a special exception approved by the Board of Appeals.

182. *Wind energy systems, small, where the height of the wind energy system exceeds 80 feet and/or is located on a parcel less than 20 acres.* Such uses will be permitted as a special exception only when all of the following conditions are satisfied:

(A) Within the AZD, RCD, RC, CAR and CR, the height of the wind energy systems exceeds 80 feet, or the wind energy systems are located on parcels less than 20 acres.

(B) If an alternative energy source can produce equal energy, then that should be used rather than a tall tower which impacts the landscape.

(C) If co-location with a *personal wireless facility* is proposed, then a need for a *personal wireless facility tower* will be documented and all appropriate studies submitted. In addition, the proposed tower will comply with all standards for both wind turbines and *person*al wireless facilities.

(D) The *applicant* will provide a report documenting that the wind energy system does not significantly impact migratory bird pathways.

(E) The wind energy system will not be located within the air path of a private or public airstrip.

(F) The height of the *structure* to the tip of the blade at its highest point does not exceed 120 feet.

(G) A small energy system will not have more than one wind turbine per parcel.

(H) Monopoles or lattice towers will be the preferred tower *structure* in the County.

(I) Guy wires are strictly prohibited.

(J) *Small wind energy system*s may not be located within the *buffer* or within a *stream protection corridor*.

(K) *Small wind energy system*s will not be artificially lit unless such lighting is required by the Federal Aviation Administration.

(L) *Small wind energy system*s will be galvanized steel, brushed aluminum finish, or a non-garish color or finish that conforms to the environment and *architect*ure of the community, unless Federal Aviation Administration *regulations* require otherwise.

(M) All signs, including flags, streamers, and decorative items, both temporary and permanent, are prohibited on a *small wind energy system* except the manufacturer or installer's identification or appropriate warning signs or placards.

(N) Any free-standing *structure* is located a minimum of 1.5 times its total height from a property line.

(O) Either towers are not readily climbable from the ground up to 12 feet or are fenced.

(P) All access doors to towers and electrical equipment will be lockable.

(Q) Appropriate warning signage is placed on the tower and electrical equipment.

(R) The blade tip at its lowest point has a ground clearance of at least 25 feet.

(S) Any *small wind energy system* that is not operable for a period of 12 consec*ut*ive months or more will be removed at the landowner's expense.

(T) *Small wind energy system*s will be *site*d in a manner that does not result in significant *shadow flicker*.

(U) *Small wind energy system*s, including wind turbine and tower, will comply with all applicable construction and electrical codes.

(V) Audible sound due to wind turbine operations will not exceed 55 dB(A) except during short-term events such as utility outages and/or severe windstorms. The sound level will be measured at ground level at the property line.

(W) Any *small wind energy system* found to be unsafe will be repaired by the property owner to meet these *regulations* and any applicable federal, State, and local safety standards or be physically removed within 90 days.

(X) The *applicant* will demonstrate that a *small wind energy system* will not unreasonably interfere with the view of, or from, *site*s of significant public interest such as public parks, a national or state designated scenic byway, a *structure* listed in the Kent County Historic *Site*s Survey, an historic district, or the Chesapeake Bay and its tributaries.

(Y) The following submittals are required for approval:

i. *Site plan*, at a standard scale, to adequately show: (1) Property lines and dimensions of subject property; (2) property lines and owner information for all abutting properties; (3) Locations of all existing *buildings*, *structures,* and underground and overhead utilities on the subject property; (4) locations of all existing *buildings* on abutting properties; (5) location of the proposed *small wind energy system* with distances to show required *setback*s; (6) *certification* by a licensed professional *engineer* or property owner that the information shown on the *site plan*

is accurate, and (7) a *shadow flicker* study documenting that the project will not result in significant *shadow flicker*.

ii. The *small wind energy system* manufacturer's specification sheet, including photograph, sound analysis and mounting recommendations.

iii. *Engineer*ed drawings showing the *small wind energy system structure*, including the tower, turbine, base and footings, and an *engineer*ing analysis showing compliance with the International *Building* Code certified by a licensed professional *engineer*. This analysis may be supplied by the manufacturer.

iv. Siting elevations, existing photography, and a photo simulation from all directions.

v. Any additional information as may be required by the Board of Appeals as appropriate to demonstrate compliance with the *regulations*.

vi. A narrative that explains how the *site* will not unreasonably interfere with the view or, or from, *site*s of significant public interest such as public parks, a national or state designated scenic byway, a *structure* listed in the Kent County Historic *Site*s Survey, an historic district, or the Chesapeake Bay and its tributaries.

183. *Wind energy systems, small*, accessory. Such uses will be permitted as accessory uses only when all of the following conditions are satisfied:

(A) The height of the *structure* to the tip of the blade at its highest point does not exceed 80 feet.

(B) Any system is located a minimum of three times its total height from a property line.

(C) Towers are not readily climbable from the ground up to 12 feet.

(D) All access doors to towers and electrical equipment will be lockable.

(E) Appropriate warning signage is placed on the tower and electrical equipment.

(F) The blade tip at its lowest point had a ground clearance of at least 25 feet.

(G) Wind turbines and towers maintain a galvanized steel, brushed aluminum finish, or a non-garish color.

(H) Any small wind energy system that is not operational for a period of 12 consecutive months or more will be removed at the landowner's expense.

(I) In the C, CCA, M, EC, and ECCA Districts, such use is limited to one tower.

ARTICLE IV. PROCESSES

SECTION 1 GENERAL PROVISIONS

1.1 STATEMENT OF INTENT

These provisions are intended to provide general standards for all review and approval processes in this Land Use Ordinance, in order to streamline and standardize the process and public notice. A Section is provided for each process type; elements in common are addressed in this Section.

The Goals and Objectives below are specifically included as part of the review of subdivisions and site plans. The remaining processes have other standards delineated in their individual sections. Although not directly linked to all other formal reviews, these Goals and Objectives provide an overview of the spirit and intent of the Land Use Ordinance approach to *development* in general.

1.2 GOALS

1. These procedures are to protect the health, safety, convenience, and general welfare of the inhabitants of the County. Subdivision and *site plan* review regulates the *development* of *sites* and *structures* in a manner which considers the following concerns and, where necessary, requires modification of *development* proposals to eliminate or minimize potential problems and nuisances. The principal areas of concern are:

   (A) The balancing of landowners' rights to use their land, with the corresponding rights of abutting and neighboring landowners to live without undue disturbances (noise, smoke, fumes, dust, odor, glare, *stormwater* runoff, etc.);

   (B) The convenience and safety of vehicular and pedestrian movements within the *site*, and in relation to adjacent areas or *roads*;

   (C) The adequacy of disposal methods and protection from pollution of surface or groundwater; and;

   (D) The protection of historic, natural, and environmental features on the *site* under review and in adjacent areas.

1.3 OBJECTIVES

1. At each stage of development review the *Planning Commission*, Planning Director, or the Planning Director's designee will review the *applicant*'s submitted *development* proposal and supporting documents, taking into consideration the reasonable fulfillment of the following objectives:

   (A) Conformance with the *Comprehensive Plan*.

   (B) Conformance with the provisions of all applicable rules and *regulations* of county, State, and federal agencies.

   (C) Convenience and safety of both vehicular and pedestrian movement within the *site* and in relation to adjoining ways and properties.

(D) Provisions for the off-*street* loading and unloading of vehicles incidental to the normal operation of the establishment, adequate lighting, and internal traffic control.

(E) Reasonable demands placed on public services and infra*structure*.

(F) Adequacy of methods for sewage and refuse disposal, and the protection from pollution of both surface waters and groundwater. This includes minimizing *soil erosion* both during and after construction.

(G) Protection of abutting properties and County amenities from any undue disturbance caused by excessive or unreasonable noise, smoke, fumes, dust, odors, glare, *stormwater* runoff, etc.

(H) Minimizing the area over which existing vegetation is to be removed. Where *tree* removal is required, special attention will be given to planting of replacement *tree*s.

(I) The *applicant*'s efforts to integrate the proposed *development* into the existing landscape through design features such as vegetative *buffer*s, *roads*ide plantings, and the *retention* of *open space* and agricultural land.

(J) The *building setback*s, area, and location of parking, *architect*ural compatibility, signage, and landscaping of the *development*, and how these features harmonize with the surrounding townscape and the natural landscape.

1.4 CRITICAL AREA COMMISSION REVIEW AND COMMENT REQUIRED

1. As required by the State of Maryland, Kent County will send copies of applications for all *developments*, subdivisions, and *site plans,* wholly or partially within the Critical Area, as specified in COMAR 27.03.01.04 to the Critical Area Commission for review and comment. This includes all projects located in the RCD, CAR, CCA, M, and ECCA zoning districts.
2. Until Kent County has received notice of receipt from the Critical Area Commission or the appropriate waiting period per the State of Maryland has expired, the County may not process an application that has been sent to the Critical Area Commission for notification.
3. Per the State of Maryland, any action by Kent County in violation of these State-required procedures shall be void.

1.5 TECHNICAL ADVISORY COMMITTEE (TAC)

1. Applications for processes will be filed with the Department on an official application form, together with the fee prescribed by County Commissioners, a narrative including a Citizen Participation Plan (please refer to the Department for a CPP brochure) and all supporting documents as required in the sections below for each specific process.
2. A pre-submission conference with the Department is recommended but not required.

3. The Department will schedule the project for the next, monthly meeting of the *Technical Advisory Committee* and circulate the completed application and all supporting documents to the various agency members of the *Technical Advisory Committee*.

4. The *Technical Advisory Committee* will review the proposal and submit formal comments to the *applicant*. The Department will provide a summary of the comments submitted.

5. *Plot Plans* regulated by Section 3 are not reviewed by the *Technical Advisory Committee*.

6. Waivers regulated by Section 6 are not reviewed by the *Technical Advisory Committee*.

1.6 PUBLIC NOTICE

This public notice section relates to approval processes described within this Article including subdivisions, site plans, special exceptions, variances, waivers, and permits. The zoning text amendment process for the Land Use Ordinance is in Article I and refers to this section. Waivers in Section 6 do not require public notice beyond that already given for subdivisions and site plans. Building permits in Section 7 do not require public notice. Minor processes require follow-up notice, while major processes, special exceptions, and variances require advance notice. The Land Use Ordinance does not regulate the comprehensive rezoning process.

For clarification, the County refers to meetings that are required to be noticed in the newspaper as public hearings, as opposed to public meetings for which a newspaper notice is not required.

1. MAILED NOTICE

   (A) For MINOR processes only (subdivision and site plan), the Department will send a notice by regular mail of the proposed project, after TAC review, to adjacent property owners using the address of record from the Maryland Department of Assessments and Taxation. Adjacent property owners have ten days from the date on the notice to comment on the project. No other notice is required.

   (B) For MAJOR subdivisions, MAJOR site plans, special exceptions, and variances, at least twenty (20) days before the initial meeting of the *Planning Commission* on MAJOR projects or the public hearing by Board of Appeals on variances and special exceptions, the Department will send written notice by regular mail, to adjacent property owners, which briefly describes the proposal and uses the address of record with the Maryland Department of Assessments and Taxation.

   (C) For any three-part development review processes or any combination sub-set thereof, notice is only provided at the initial step, except for delays per below.

2. POSTING THE SUBJECT PROPERTY

   (A) For MAJOR subdivisions, MAJOR site plans, special exceptions, and variances, the Department will post the subject property in a conspicuous manner with a sign including the date, time, and location of the applicable meeting within a reasonable timeframe of the mailing. Properties will only be posted one time.

(B) For any three-part development review processes or any combination sub-set thereof, notice is only provided at the initial step, except for delays per below.

(C) After issuance, building permits require a placard to be posted by the applicant.

3. NEWSPAPER ADVERTISMENTS FOR PUBLIC HEARINGS

(A) All public hearings for special exceptions and *variances* by the Board of Appeals will be advertised in the newspaper of record prior to the day of the hearing.

(B) All public hearings for administrative-type special exceptions and *variances* will be advertised in the newspaper of record prior to the day of the hearing.

(C) Before granting final approval of a subdivision on land designated as Tier III on the County Septic Tier Map, the *Planning Commission* will hold a public hearing advertised in the newspaper of record prior to the day of the hearing.

(D) Review of proposed zoning text amendments by the *Planning Commission* may be advertised in the newspaper of record prior to the day of the public hearing, at the discretion of the Department, depending on the substance of the matter. Housekeeping and non-substantive matters need not incur advertising costs.

4. DIGITAL NOTICE

The Department will post online all agendas, minutes, and packets in a timely fashion.

5. LONG DELAYS BETWEEN MEETINGS

In any case, where a proposal has not appeared before the *Planning Commission* or the Board of Appeals for six months, the Department will send another notice by regular mail regarding the proposed project to the adjacent property owners as specified above. No other re-notification is required including property posting or newspaper advertisements.

1.7 SUBDIVISION AND SITE PLAN PROCESSES

1. For MINOR processes only, the Planning Director, or Planning Director's designee, has the authority to approve, approve with conditions, or disapprove projects. At the Director's discretion, a minor project may be submitted to the *Planning Commission* for approval. The Planning Director, or Planning Director's designee, will consider and prepare findings of fact concerning the reasonable fulfillment of the goals and objectives listed in §1.2 and 1.3. In the absence of a Planning Director, the *Planning Commission* will approve, approve with conditions, or disapprove minor projects. Minor projects comprise only one step.

2. For all other subdivisions and site plan reviews, a MAJOR process is required. *Applicant*s submit projects for review in three stages including *stormwater management* as follows.

(A) CONCEPT

i. After determining that the application is substantially complete, the Department will place the project on the appropriate meeting of the *Planning Commission* for concept review. The concept review process

will review at a conceptual level, the feasibility, design, conceptual *stormwater management,* and environmental characteristics of the proposal based on the standards set forth in this Land Use Ordinance, the *Comprehensive Plan*, with the understanding that additional technical *engineer*ing, design material, survey work, and preparation of other documents will be submitted for review at later steps in the review process.

ii. The *Planning Commission* will comment and provide guidance as to the feasibility, design, and environmental characteristics of the proposal based on the standards set forth in this Land Use Ordinance, the *Comprehensive Plan* and taking into consideration the reasonable fulfillment of the goals and objectives listed in §1.2 and 1.3 above.

(B) PRELIMINARY

i. After determining the preliminary application is substantially complete, the Department will place the project on the appropriate meeting of the *Planning Commission* for preliminary review. The preliminary review process will review the project for compliance with the Land Use Ordinance, *Comprehensive Plan*, and its feasibility, environmental, and design characteristics based a specific proposal that complies the requirements for a preliminary review. At this stage, the *applicant* will demonstrate adequate provisions for water supply and sewage disposal, proposed methods for fire protection, preliminary *stormwater management*, and *Forest Conservation Plans*.

ii. The *Planning Commission* may approve, approve with conditions, or disapprove the preliminary project taking into consideration the reasonable fulfillment of the goals and objectives listed in §1.2 and 1.3 above. Conditional approval of the preliminary project will include a complete list and clear explanation of all conditions. Denial of the preliminary project will include a listing of reasons for denial. If the *Planning Commission* determines that more information is required for a decision to be made on the proposal, the *Planning Commission* may table its consideration of the plan.

(C) FINAL

i. After determining that the final project and supporting documents including all required estimates of sureties are substantially complete, the Department will place the project on the appropriate meeting of the *Planning Commission* for final review. The final review process will review the final project and supporting documents for compliance with all applicable *regulations* and will include approved final plans, deed restrictions, *conservation easements*, irrevocable letters of credit or other sureties as acceptable to the County Commissioners of Kent County, and

any other reports or studies as necessary. The *Planning Commission* attorney will review legal documents.

ii. The *Planning Commission* will prepare findings of fact concerning the reasonable fulfillment of the goals and objectives listed in §1.2 and 1.3.

(D) COMBINATIONS

Where deemed appropriate by the Planning Director, the final project may be combined with a preliminary project. In unusual cases where there is a minor impact on the community, with approval of the Planning Director, the concept, preliminary, and final projects may be combined. Public Notice is required for the initial step and combinations identified.

(E) PLOT PLAN EXCEPTION

Single family dwellings, residential *accessory uses* and *accessory structures* associated with a *single family dwelling*, agricultural *buildings* on farms in AZD, and alterations and remodeling of these types of existing *structures*, and other projects are eligible for *Plot Plan* review. Such projects have minor impacts and require less information for review. *Plot plans* are reviewed and approved by the Planning Director or the Planning Director's designee without Public Notice. This process is handled as a building permit review and not a formal site plan.

1.8 DECISIONS BY PLANNING COMMISSION

1. The *applicant* will submit to the Department, at least two mylars and three paper copies of the approved final subdivision drawings, or three paper copies of approved final site plan drawings for signatures and copies of any deed restrictions, covenants, or easements. If deemed necessary, the Planning Director may require additional paper copies of any documents.

2. One paper copy of the approved drawings will remain on file in the Department. Other paper copies of the signed documents will be distributed to the Kent County Health Department and other applicable agencies.

3. *Applicant*s are responsible for recording approved subdivisions in the Land Records with the Clerk of the Circuit Court and submitting proof to the Department following recordation. Lot line adjustments are subdivision documents; site plans are not recorded.

1.9 SPECIAL EXCEPTIONS AND VARIANCES

1. After receiving a substantially complete application for a special exception, administrative special exception, *variance*, or administrative *variance*, the Department will schedule the application for the next *Technical Advisory Committee*, and after a recommendation by the TAC that the project may proceed, an administrative hearing, or a review by the *Planning Commission*, and/or hearing before the Board of Appeals will be scheduled, as may be appropriate. Such applications are advertised as public hearings for the Board of

Appeals or as an administrative public hearing. Items for advisory review by the Planning Commission are not noticed nor are they advertised.

2. For administrative processes, a signed decision will be provided to the applicant by the end of 30 days following the date of the meeting. Building permits on file or submitted after the hearing may be reviewed and processed; however, permits cannot be issued, at a minimum, until thirty (30) days after the date of the public hearing when the decision is made, per the Appeals process below. In some cases, if a decision is not made at the public hearing, then the date for appeal purposes is the date of the signature on the decision.

1.10 DECISIONS BY BOARD OF APPEALS

1. Each case will be decided, and a decision and order issued no later than 30 days after the hearing is concluded. The decision and order granting or denying the *variance* will be in writing and will be signed by each member of the Board of Appeals.
2. Written findings may be based on evidence introduced and testimony presented by the *applicant*, any government agency, or any other *person* deemed appropriate by the Board. The decision and order will contain a summary of the hearing testimony, findings of fact, conclusions of law, and the final order.
3. The Department will email a copy of the decision to the *applicant*.
4. The decision and order will be made a part of the public record of the proceedings on file in the Department.

1.11 WAIVERS

The *Planning Commission*, or where applicable County staff, are authorized to approve waivers as a form of alternative compliance for specific aspects of a project, as set forth in the section on waivers below. Waivers are not variances nor are they special exceptions. Waivers are set forth in their own section; they are not advertised, nor are they noticed. Waivers are a stand-alone process. Waivers are subject to appeal per below.

1.12 LAPSE OF APPROVALS

The date of approval related to lapses is the date of the administrative action taken. This includes meeting dates of the Technical Advisory Committee, *Planning Commission*, or Board of Appeals, when these are the last formal step in an approval, or where a formal decision is signed, the date of the signed decision. In determining the date related to lapses, the latest date possible is used.

1. SUBDIVISIONS: SIX MONTHS

   Signed plats will be recorded by applicants within six months of approval, or they expire after six months, unless otherwise extended. All sureties will be received, and proof of all required recordation submitted to the Department, prior to signing by the County.

2. SITE PLANS: TWO YEARS

After site plan projects have been approved, said approval will lapse after the expiration of two years, if no substantial action has taken place in accordance with the approved project for which said approval was granted. Completion of footings are considered to constitute such an action in State of Maryland. Final site plan drawings will be submitted for signature within the two-year timeframe. All sureties will be received, and proof of all required recordation submitted to the Department, prior to signing by the County. If a project is not constructed and final inspection and/or certificate of occupancy obtained after two years, the site plan expires. In some circumstance, major code changes could require modifications to a site plan to be undertaken when life/safety issues are involved.

3. VARIANCES: ONE YEAR

After a *variance* has been granted, said approval will lapse after the expiration of one year if no substantial action has taken place in accordance with the approved plan for which such *variance* was granted, or if the decision does not specify a period longer than one year for good cause shown. Adopted decisions may grant longer periods, as appropriate.

4. SPECIAL EXCEPTIONS: TWO YEARS

Approval of a special exception granted under this Article shall be valid for two years after the date of approval and thereafter shall become null and void unless construction or use is substantially underway during said one year period, or unless the Board of Appeals, or where applicable the Planning Director, approves an extension before the expiration of said one year period. When provided with sufficient evidence, the Board, or where applicable the Planning Director, may grant a special exception for a longer period.

SPECIAL EXCEPTION: RECONSIDERATION, ONE YEAR LIMIT

Whenever an application for a special exception has been denied by the Board, such application, or one substantially similar, shall not be reconsidered sooner than one year after the previous denial.

5. APPROVALS PRIOR TO LAND USE ORDINANCE ADOPTION: SIX MONTHS

Drawings approved prior to adoption of this Land Use Ordinance, which would no longer comply with newly adopted provisions due to changes in said provisions, will be signed or recorded six months after the date of adoption, or expire, unless otherwise extended.

6. WAIVERS

Waivers are granted as part of the approval in another process. Waiver approvals lapse when project approval lapses. For example, a waiver by the *Planning Commission* granted as part of a concept site plan, preliminary site plan, or final site plan would lapse in tandem with the lapse of said approved site plan; a stormwater waiver would lapse when the building permit by which it was administratively approved lapses.

7. BUILDING PERMITS

A building permit will be valid for six months from the date issued. Each request for an inspection extends the building permit for six additional months. A six-month extension may be granted at any time by the Planning Director, or the Planning Director's designee. An extension may be granted after expiration. More than one extension may be granted.

1.13 EXTENSIONS FOR SUBDIVISIONS AND SITE PLAN APPROVALS

1. Approved projects under appeal will be automatically extended for twelve months without a request from the *applicant*. Projects may receive more than one extension.

2. When the *applicant* can show that the project is in the process of obtaining permits from County, State, or federal agencies and that these permits have been pursued diligently, the *Planning Commission* will grant a 12-month extension. A project may receive more than one extension. Extensions may be approved following expiration as may be needed at the discretion of the Planning Commission depending on the circumstances involved.

1.14 AMENDMENTS

1. MINOR: A project approved under this Ordinance or under any prior Ordinance, including any conditions or guarantees attached to its approval, may be amended in accordance with this section. If the Planning Director determines that the proposed amendment does not represent a significant change from the use or character of a project as originally approved or in previously approved amendments, the Planning Director may approve the amendment after the amendment is reviewed by the *Technical Advisory Committee*.

2. MAJOR: If the Planning Director determines that the amendment represents a significant change from the use or character of the original project and any previously approved amendments, or that the amendment requires more detailed review, the amendment may be regarded as an original application and follow the procedures for the review of a new project with appropriate alterations to the requirements herein as may be needed.

3. PARTIAL: If the Planning Director determines that an amendment represents a partial change from the use or character of the original project and merits review of a portion of the project, then the revised portion or phase may be submitted and reviewed as either a major or minor amendment with appropriate alterations to the requirements herein.

4. VARIANCES: The procedure for the amendment of an approved *variance* or a request for a change of conditions attached to an approval will be the same as for a new application.

5. SPECIAL EXCEPTIONS: The procedure for amendment follows the PARTIAL process above.

1.15 APPEALS

1. Within thirty (30) days of any *Planning Commission* decision, any person aggrieved by a decision of the *Planning Commission* may file a notice of appeal with the Circuit Court.

2. With thirty (30) days of any decision of the Board of Appeals, any person aggrieved by a decision of the Board of Appeals may file a notice of appeal with the Circuit Court.
3. With thirty (30) days of any decision or determination by the Planning Director, Planning Director's designee, a member of the Department, or the *Technical Advisory Committee*, any person may appeal the decision to the Kent County Board of Appeals.
4. Appeals are handled as a public meeting and noticed pursuant to the requirements above.
5. Provisions related to signage matters are handled separately under Article V, Section 3.

1.16 EMERGENCY PROVISIONS

Subject to any declaration by the County, State, or federal government of an emergency, or by the order of any Court of competent jurisdiction, or by written decision by County staff with good cause shown, any of these general provisions, deadlines, timelines, extensions, and any other requirements may be suspended or altered to provide for contingencies, as may be needed.

SECTION 2 SUBDIVISIONS

2.1 STATEMENT OF INTENT

Subdivision review has been established for the purpose of guiding and accomplishing the coordination and harmonious *development* of the unincorporated area of Kent County, in order to promote the health, safety, and welfare of the residents of the County. *Subdivision* review is required to ensure that new *development* complies with the *Comprehensive Plan*, Land Use Ordinance, and other various agency requirements.

1. Any owner who subdivides land into *lot*s, blocks, *street*s, *alley*s, public ways, or public grounds will prepare a plat of *subdivision* to be made in accordance with the *regulations* set forth herein and the laws of the State of Maryland and will record a copy of the plat with the Kent County Clerk of Court.
2. A plat of *subdivision* will not be recorded by the Clerk of Court until the plat is approved by the Kent County *Planning Commission* or, where applicable the Planning Director.
3. No parcel of land in a *subdivision* created after December 23, 1969, will be transferred, sold, or offered for sale, nor will a *building* permit be issued for any *structure* thereon, until a plat of *subdivision* is recorded with the Kent County Clerk of Court.

2.2 CRITICAL AREA COMMISSION REVIEW AND COMMENT REQUIRED

1. As required by the State of Maryland, Kent County will send copies of applications for all *developments*, subdivisions, and *site plans,* wholly or partially within the Critical Area, as specified in COMAR 27.03.01.04 to the Critical Area Commission for review and comment. This includes all projects located in the RCD, CAR, CCA, M, and ECCA zoning districts.
2. Until Kent County has received notice of receipt from the Critical Area Commission or the appropriate waiting period per the State of Maryland has expired, the County may not process an application that has been sent to the Critical Area Commission for notification.
3. Per the State of Maryland, any action by Kent County in violation of these State-required procedures shall be void.

2.3 YIELD CALCULATIONS FOR ORIGINAL TRACTS

All subdivision submittals will include yield calculations based on one of two calculations below:

1. **LOT COUNT DETERMINATION.** All *lot*s, parcels, tracts, *sites*, and other divisions of land recorded after December 23, 1969, from an original *lot*, *tract*, or parcel of land described in the Land Records of Kent County, will be counted in determining the number of *lot*s in a *subdivision*. An original/remainder *lot* is also counted in determining the number of *lot*s.
2. **NON-CRITICAL AREA DENSITY**. Outside the Chesapeake Bay *Critical Area*, all *lot*s, parcels, *site*s, and other divisions of land recorded after August 1, 1989, from an original *lot*, *tract*, or parcel of land described in the Land Records of Kent County, will be counted in determining the permitted *density* of a parcel of land.

3. **CRITICAL AREA DENSITY**. Within the Chesapeake Bay *Critical Area*, all *lot*s, parcels, *site*s, and other divisions of land recorded after December 1, 1985, will be counted in determining the permitted *density* of a parcel of land.

4. **ORIGINAL PARCEL**. The original parcel is counted when determining *density* both within and outside the Chesapeake Bay *Critical Area*.

2.4 TYPES OF SUBDIVISIONS

1. LOT LINE ADJUSTMENTS (LLA)

Lot line adjustments between adjoining property owners and within single properties, which do not create additional *building lot*s are reviewed and may be approved by the Planning Director, or Planning Director's designee, and are subject to the following:

(A) Transfer of these *lot*s is not counted in determining the number of *lot*s in a *subdivision*.

(B) Drawing requirements are at the discretion of the Planning Director but may not exceed those required for a minor *subdivision*.

(C) Procedures will be the same as that for a minor *subdivision* and minor project.

(D) Lot Line Adjustments to property in the Agricultural Zoning District, which has not been the subject of a subdivision action that created new lots, which was approved after August 19, 2003, will not be subject to the restrictions of the 10% Rule as set forth under Article II, Section 2, § 2.3, "Maximum percentage of property in l*ots*."

2. MINOR SUBDIVISIONS

Minor *subdivision*s contain seven or fewer *lot*s, *sites*, parcels, tracts, or other divisions of land from the original lot, per §2.2, 1. **LOT COUNT DETERMINATION** (above). The Planning Director, or Planning Director's designee, may approve minor *subdivision*s following Technical Advisory Committee review. At the Director's discretion, a minor *subdivision* may be submitted to the *Planning Commission* for approval. In the absence of a Planning Director, the *Planning Commission* will approve, approve with conditions, or disapprove minor *subdivision*s.

Note: *Private roads* are only allowed in minor subdivisions. A *private road* may serve no more than seven (7) parcels unless granted a waiver. *Private roads* will comply with the Kent County Road Design and Construction Standards. Please see Subdivision Design Requirements section below.

3. MAJOR SUBDIVISIONS

Major *subdivision*s contain eight or more *lot*s, parcels, *sites*, tracts, or other divisions of land. The *Technical Advisory Committee* reviews and the *Planning Commission* approves major *subdivision*s at three stages - Concept, Preliminary, and Final.

4. SPECIAL INSTRUCTIONS FOR RESUBDIVISIONS

When recording resubdivisions or combining *lot*s in recorded *subdivision*s, letters rather than numbers should be used to indicate *lot*s whose boundary and area have been affected. The numerical sequence will remain intact to avoid confusion in the future.

2.5 SPECIAL CIRCUMSTANCES - INTRAFAMILY TRANSFERS IN THE CRITICAL AREA

1. A bona fide *intrafamily transfer* will be permitted only from parcels of land in the Resource Conservation District that:
   (A) Were of record on March 1, 1986;
   (B) Are seven (7) acres or more and less than sixty (60) acres in size.
2. Land will be subdivided as indicated:
   (A) A parcel that is seven (7) acres or more and less that twelve (12) acres in size may be subdivided into two *lot*s;
   (B) A parcel that is twelve (12) acres of more and less than sixty (60) acres in size may be subdivided into three *lot*s. The *lot*s may be created at different times.
3. As a condition of approval, the following will be required:
   (A) The owner of the subdivided parcel attests to the bona fide *family* relationship and that the intent is not for ultimate transfer to a third party.
   (B) Any deed for a *lot* that is created by a bona fide *intrafamily transfer* will contain a covenant stating that the *lot* is created subject to the provisions of this section.
   (C) A *lot* created by a bona fide *intrafamily transfer* will not be conveyed subsequently to any *person* other than a member of the owner's immediate *family* except under procedures established herein.
   (D) This subsection does not prevent the conveyance of the *lot* to a third party as security for a mortgage or a deed of trust, or subsequent conveyance resulting from a foreclosure.
4. Subsequent conveyance of *lot*s to *persons* other than immediate *family* members:
   (A) The *lot* was created as a part of a bona fide *intrafamily transfer* and not with the intent of subdividing the original parcel of land for purposes of ultimate transfer to a third party; and
   (B) The owner of the transferred property dies; or
   (C) A change in circumstances has occurred since the original transfer was made that is not inconsistent with the *Critical Area* Law and that warrants an exception, or other circumstances that are consistent with the *Critical Area* Law and the *Critical Area* Law Criteria to maintain land areas necessary to support

the protective uses of *agriculture*, *forest*ry, *open space*, and natural habitats in Resource Conservation Areas warrant an exception as determined and approved by the *Planning Commission*.

2.6 SUBMITTAL REQUIREMENTS

Minor and Major subdivisions have similar requirements. Please see chart below for submittals.

TYPE:	1. Narrative	2. Preview	3. Summary	4. Detailed	5. Concluding
MINOR/LLA	X	X	X		
MAJOR					
• Concept	X	X			
• Preliminary	X	X	X	X	
• Final	X	X	X	X	X

The following documents are required to be submitted along with an application for subdivision.

1. NARRATIVE ITEMS LIST

All applications will contain a narrative. The *applicant* will provide a narrative that addresses the following. The Planning Director may not require some elements of the narrative that are not applicable to the proposed *subdivision*.

(A) Name and address of the landowner, the *developer* and/or representative, if different from the owner.

(B) *Street* address, tax map, parcel number, and *subdivision* if any.

(C) Zoning of the *site*.

(D) Current and proposed use of the property.

(E) An explanation of the viewshed, *open space*, and conservation analysis undertaken during the design of the *site plan*

(F) How the proposed *development* complies with the *Comprehensive Plan* and the design and environmental standards of this Land Use Ordinance.

(G) Proposed type of water and sewer service.

(H) The proposed *development* schedule and phases of *development* for all proposed construction.

(I) A statement of provisions for ultimate ownership and maintenance of all parts of the *development* including *streets*, *structures*, and *open space*.

(J) *Critical Area* and/or non-*Critical Area density* calculations based on the original parcel and *subdivision* hi*story* of the original parcel dating back to December 23, 1969.

(K) Proposed *lot* coverage for the *subdivision* and where applicable, *lot* coverage allotted to each *lot*.

(L) Citizen Participation Plan (please refer to the Department for a CPP brochure) Citizen Participation meetings are held once, prior to initial project submittal.

(M) Analysis of the cost of providing local government services to the proposed *subdivision*.

2. PREVIEW ITEMS LIST

(A) Scale – 1 inch = 100 feet or greater detail. The Planning Director may authorize the use of a different or not require a scale drawing, if, in the Director's opinion, the information shown on the plat can be presented with equal clarity by the use of a different scale or drawing.

(B) North arrow

(C) Vicinity Map, with *site* location clearly marked.

(D) Surveyor's signature and seal.

(E) Title Block that includes:

i. *Subdivision* name

ii. Names of owners of record and where applicable, names of *developer*, *architect*, surveyor, planner, and/or *engineer*

iii. Location by *Street* Address, Election District, County and State

iv. Date of plan and all revisions

(F) Names of adjoining property owners with Liber and Folio or name, recording reference, and *lot* numbers of adjoining recorded *subdivision*.

(G) Property boundaries and boundary survey.

(H) Where applicable, the *Critical Area* boundary and minimum 100-foot *buffer*; *Stream Protection Corridor*; Habitat Protection Area; *Forest Stand Delineation* and *Forest Conservation Plan*; *100-year floodplain* boundary, *flood* elevation and the *Airport* Safety Zone.

(I) Existing features, whether natural or manmade, that may influence the design of the project including but not limited to the following:

i. *Natural features* to be preserved in accordance with these *regulations*

ii. *Slopes* in excess of 15% separate from those in excess of 25%

iii. *Watercourses*, including both *perennial* and *intermittent streams*

iv. *Forest*, *tree* groves, and significant *tree*s

v. Outstanding natural topographic features

vi. Tidal, State, and private, and *non-tidal wetlands*

vii. Scenic, cultural and/or historic areas

viii. Existing *buildings*, parking, and other *impervious surfaces*

(J) Proposed layout of *street*s, *lot*s (including estimate dimensions and *lot area*), *stormwater management* areas, *forest conservation* areas, and *open space*.

(K) A tabulation of the following:

i. Total acreage

ii. Acreage in *100-year floodplain*

iii. Acreage in *Critical Area*

iv. Acreage in recreation and *open space*

v. Acreage in *forest*

vi. Acreage in *lot*s and *streets*

(L) Location of any municipal or corporate limits, election district lines, or *Critical Area* boundaries close to or crossing the *tract*.

3. SUMMARY ITEMS LIST

(A) Signature Blocks for Director of Planning, Kent County *Health Officer*, and where applicable, the Director of Water and Wastewater Services.

(B) *Easements*, covenants, *right of ways*, Public Drainage Association ditches, and *stormwater management structures* and devices and the purpose for which these *easements*, covenants, and rights-of way were established.

(C) Boundary of *subdivision* shown in heavy outline.

(D) Distances of courses to hundredths of a foot.

(E) Bearings accurate to one second.

(F) Location, width, and names of existing or proposed *roads* within or abutting the *subdivision*.

(G) Identification of *private roads*.

(H) Curve data in tabular form, if applicable.

(I) Area of each *lot* in acres and thousandths.

(J) No distance marked “more or less” except mean high water.

(K) Location and description of all monuments and markers as required.

(L) Location of water and sewer, or septic reserve area and well, where applicable.

(M) Where applicable, statement: "*Private roads* are not the responsibility of Kent County."

(N) Width of *waterway*, depth measurements, *channel*, adjacent *piers,* or landings, and 25% of the *waterway*, where applicable.

(O) *Topography*, if required by the Planning Director.

4. DETAILED ITEMS LIST

(A) *Topography*. The Planning Director, or Planning Director's designee, may not require submittal of field *topography*. When the Planning Director does not require such submittal, then a written explanation will accompany the plat.

(B) Soil classifications mapped, if required for stormwater management review.

(C) Sewer, water mains, culverts, fire hydrants, power transmission towers and the approximate location, pipe size, and direction of flow of each underground utility that exists in or is contiguous to the property.

(D) The location, width, and name of each existing or proposed *street* or *alley* within or abutting the *subdivision*.

(E) Layout of all existing and proposed *lot*s including:

i. *Lot* numbers

ii. Scaled areas

iii. Scaled dimensions

(F) Location, dimensions, and areas of property reserved for public or community use, where applicable

(G) A tabulation of the following:

i. Total number of *lot*s

ii. Acreage of each *lot*

iii. Acreage in *100-year floodplain*

iv. Acreage in *Critical Area*

v. Acreage in recreation and *open space*

vi. Acreage in *forest*

vii. Acreage of existing and proposed *forest*

viii. Total area of *roadways* and other lands to be dedicated.

ix. Total acreage of *subdivision*

(H) Conceptual and schematic plans for:

i. Water and sewer services

ii. The storm drainage system, including the overall *drainage area*.

iii. *Grading* and *sediment* control measures

iv. Landscaping

v. *Forest Conservation Plan*

(I) Proof that the required utilities, i.e., electric and telephone, are available to the proposed *development*.

(J) The method and type of sewer and water service.

(K) Where applicable, the width of *waterway*, depth measurements, *channel*, adjacent *piers,* or landings, and 25% of the *waterway*.

(L) Delineation of *development* staging, if any.

Note: Preliminary Plats **DO NOT** need to include Signature Blocks for the Director of Planning, Kent County *Health Officer*, and the Director of Water and Wastewater Services.

5. CONCLUDING ITEMS LIST

(A) Signature Blocks for the Chairman of the *Planning Commission*, Director of Planning, *Health Officer*, and where applicable, Director of Water and Wastewater Services.

(B) Owner's *certification* and dedication.

(C) Location and description of all monuments and markers as required by the Annotated Code of Maryland.

(D) Final landscape, *forest conservation*, *stormwater management*, *sediment* control and other applicable improvement plans.

(E) Deed restrictions and Public Works Agreements.

(F) Signed Forest Conservation deeds, covenants, and easement for recordation.

(G) Signed Stormwater Management easements and maintenance requirements.

(H) All sureties required by Public Works, Health Department, and the Department.

2.7 SUBDIVISION DESIGN REQUIREMENTS

ZONING REGULATIONS

1. *Subdivisions* will comply with requirements in Article V. *Zoning Regulations* that include General Provisions, Parking and Loading, Signage Provisions, and Standards for Utility-Scale Solar Energy Systems. Additional requirements are included in the sections below.

ENVIRONMENTAL REGULATIONS

2. *Subdivisions* will comply with requirements in Article VI. *Environmental Regulations* that include General Provisions, Forest Interior Birds, Habitat Protection Areas, Shoreline and Cliff Areas, Water Dependent Uses, Critical Areas, Forest Conservation, Erosion and Sediment Control, Stormwater Management, and Floodplain Management. Additional requirements are included in the sections below.

LAYOUT

3. All reasonable efforts should be made to protect adjacent residential areas from nuisances that could occur in commercial, industrial, and marine subdivisions by providing adequate depth in parcels adjacent to residential zoning.
4. Proposed street layout, blocks, and parcels will be suitable in area and dimension for the type of development anticipated.
5. The total area of lots will be sufficient to provide adequate space for off-street parking, loading, landscaping, and other facilities.
6. Whenever possible, subdivisions will be designed to minimize adverse impacts on nearby agricultural operations.
7. The lot arrangement, design, and orientation of subdivisions will be such that lots will provide satisfactory building sites, properly related to topography, the character of surrounding development, and avoid facing the rear of properties to the existing roadways as much as possible.
8. Topography, tree cover, and natural drainage ways will be treated as fixed determinants of road and lot configuration rather than malleable elements that can be changed to follow a preferred development scheme.

OPEN SPACE

9. When required by the relevant zoning district(s), proposed open space inside subdivisions will provide for connections to existing, planned, or platted open space on adjacent tracts, unless proposed connections of open space are found by the Planning Commission to be unnecessary for the coordination of development between the subdivision and such adjacent tract.
10. Whenever possible, in residential subdivisions where open space is required, the majority of lots designed for houses will abut on undivided open space.

11. Open space, playgrounds, or other recreational areas will be set aside at a rate of 1/10 acre per dwelling unit. Playground equipment is to be indicated on the plans. If the land is not of significant quality and size for the purpose of providing or developing parks and recreational facilities, the Planning Commission, or where applicable the Planning Director, may permit a developer to pay a fee equal to the assessed value of the area of the land required for open space and the value of the appropriate equipment in lieu of providing land and equipment for recreational purposes. Recreational land required within a subdivision will be located so as to be reasonably accessible from all lots in the subdivision in accordance with the following:

    (A) *Steep slopes*, streams, lakes, *watercourses*, and *floodplains* may constitute up to 40% of the recreational land.

    (B) At least 60% of the recreational land will be suitable for dry ground recreational use.

12. Only in CR, Major subdivisions will include 40% of the adjusted tract acreage in open space unless all of the parcels are 10 acres or more in size. The adjusted tract acreage will be determined by subtracting the acreage in slopes over 25%, tidal and non-tidal wetlands, required buffers, and stormwater management areas. The Planning Commission may set aside this requirement when the total amount of open space, including steep slopes, wetlands, buffers, and stormwater management areas exceeds 60% of the site. When all of the parcels in the subdivision exceed 10 acres in size, the developer will pay a fee of $250.00 for each lot in lieu of providing land for recreational purposes.

ROADWAYS

13. New public roads will be provided with a minimum of 50 feet total right-of-way; planned roads designated as requiring additional right-of-way will be provided by the proposal.

14. Where a subdivision adjoins or embraces any part of a major thoroughfare as designated on the Kent County Major Thoroughfare Map, the layout of such subdivision will provide for the platting and dedication of such part of the major thoroughfare in the location and at the width indicated on the major thoroughfare plan, except that the subdivider will not be required to dedicate that part of such major thoroughfare in excess of eighty (80) feet in width of the subdivider's own property.

15. Where deemed desirable to the layout of the subdivision and adjoining area, the Planning Commission may require the platting and dedication of one or more collector streets or parts thereof, to serve the subdivision.

16. The Department will review and approve street names proposed by applicants. A street name may not be approved if it duplicates or is too similar to the name of another roadway in the County or in one of the five incorporated Towns.

17. Every lot will abut and have access to a public road or approved private road.

18. Lots adjoining major thoroughfares and railroad lines should be designed with extra depth and provision for an appropriate means of buffer or deeper building setbacks.

19. Where land in a subdivision adjoins a railroad line, the street layout will make allowance for future grade separated railroad crossings at appropriate locations by providing extra street right of way widths for such crossings and by restricting intersecting streets at locations where they would cause interference with necessary approaches to such crossings.

20. Proposed streets in a subdivision will provide for the continuation of existing, planned, or platted streets on adjacent tracts, unless such continuation will be prevented by topography or other physical feature or unless such extension is found by the Planning Commission to be unnecessary for the coordination of development between the subdivision and such adjacent tract.

21. Where the Planning Commission deems it desirable or necessary to provide access to adjacent tracts not presently subdivided, proposed streets in the subdivision will be extended to the boundary lines with such tracts.

22. Private roads are permitted only in minor subdivisions and are subject to the following conditions:

    (A) Each road will serve no more than seven parcels. In the event that an eighth parcel is created, the eighth parcel and all further divisions of land will front on a public road.

    (B) The *subdivision* will provide a 50-foot *right-of-way* for each *private road*.

    (C) The construction of all lanes and *private roads* will adhere to the requirements established by the Kent County Department of Public Works and *sediment* control and *stormwater management regulations*.

    (D) The plat will identify all *private roads* and will state: "The road is private and not the responsibility of Kent County."

    (E) The deed and contract of sale of all *lot*s in the *subdivision* will state: "The road is private and not the responsibility of Kent County."

SHORELINE AND CLIFF AREAS

23. Subdivisions will meet the provisions set forth in Article VI, Section 4, related to conditions for new subdivisions and existing lots of three acres or greater.

SUBDIVISIONS IN VILLAGE AND INTENSE VILLLAGE – ADDITIONAL REQUIREMENTS

24. New developments should be an extension of the overall village development pattern rather than stand in contrast to it.

25. New designs should consist of small, understandable neighborhood segments rather than a single, large suburban theme.

26. New developments should reflect the unordered, historical growth of the village and avoid the cookie-cutter sameness of many new residential subdivisions.

27. Any opportunities for a strong, central focus should be studied and developed. These central places are usually a key to establishing community identity.

28. The types of open space provided should be a reflection of how passive and active open spaces are now used in the village, whether they are adequate, and how they may be complemented.

29. Strong provisions should be made for walking as opposed to vehicular connections both within and outside of the new community.

30. Street widths and alignments should be carefully scaled to neighborhood size and be patterned after the character of existing residential streets.

31. The streetscape of new developments should be designed in detail to avoid repetitious setbacks, driveways, elevations, and landscaping; and,

32. When deemed necessary by the Planning Commission, or where applicable the Planning Director, unobstructed easements of at least 10 feet will be provided to facilitate walkways to commercial facilities, community areas, schools, parks, playgrounds, or other public areas.

33. New developments should carefully study and reflect the physical diversity of the existing village in regard to the mixture of housing types; a mixture of housing styles; and a mixture of lot sizes and shapes.

AIRPORTS – *NOTE*: NO AIRPORT SAFETY ZONE IS ADOPTED IN KENT COUNTY, MARYLAND.

This section applies to properties that fall within the Kent County *Airport* Safety Zone as designated on the Kent County *Airport* Safety Zone Map. The Kent County *Airport* Safety Zone Map is incorporated into and made a part of this Ordinance. It is the purpose of this section to promote the public safety of the residents and visitors of Kent County by prohibiting to the extent possible, the creation or establishment of obstructions that are a hazard to air navigation.

1. No new ponds will be constructed within 5,000 feet of the runway.

2. No new solid waste disposal sites will be permitted within 5,000 feet of any publicly licensed airport. New solid waste disposal sites will not be permitted within the limits of the airport safety zone if the FAA determines the site to be a hazard.

3. Developments which produce lights, illumination, or other visual hazards or which produce electronic interference with airport/airplane navigation signals are subject to the standards specified in the FAA procedure manual 7400-2C.

4. Except as otherwise provided in this Ordinance, no structure will be erected, altered, or maintained and no tree or other vegetation will be allowed to grow in excess of the height limitations as designated on the Kent County Airport Safety Zone Map.

SECTION 3 SITE PLANS

3.1 STATEMENT OF INTENT

Site Development Plans are required to ensure *development* complies with the *Comprehensive Plan*, the Land Use Ordinance and various agency requirements, thereby promoting the health, safety, and general welfare of Kent County's residents.

3.2 PARCEL OF RECORD - ONE MAIN STRUCTURE

Every new structure or any structure that is relocated will be on a parcel of record; in no case will there be more than one main structure on a single parcel in a primarily residential district, except for accessory dwelling units, or unless otherwise provided by this Land Use Ordinance.

3.3 CRITICAL AREA COMMISSION REVIEW AND COMMENT REQUIRED

1. As required by the State of Maryland, Kent County will send copies of applications for all *developments*, subdivisions, and *site plans,* wholly or partially within the Critical Area, as specified in COMAR 27.03.01.04 to the Critical Area Commission for review and comment. This includes all projects located in the RCD, CAR, CCA, M, and ECCA zoning districts.
2. Until Kent County has received notice of receipt from the Critical Area Commission or the appropriate waiting period per the State of Maryland has expired, the County may not process an application that has been sent to the Critical Area Commission for notification.
3. Per the State of Maryland, any action by Kent County in violation of these State-required procedures shall be void.

3.4 TYPES OF SITE PLANS

1. PLOT PLAN – FOR PROJECTS EXEMPT FROM *TECHNICAL ADVISORY COMMITTEE* REVIEW

   One single family dwelling, residential *accessory uses* and *accessory structures* associated with a *single-family dwelling*, agricultural *buildings* on farms in AZD, and alterations and remodeling of such existing *structures* may be eligible for the *Plot Plan* review process.

   These projects have relatively minor impacts and thus require less information. *Plot plans* are reviewed and approved by the Planning Director or the Planning Director's designee.

   The following minor, non-residential projects may also be eligible for *Plot Plan* review:

   (A) Changes to internal parking lot layouts involving only changes to painted lines.

   (B) Changes to landscaped areas that do not reduce credit amounts for plantings and if changes do not affect specific conditions placed by *Planning Commission*.

   (C) Freestanding signs – new, altered, and relocated, when only signs are involved.

   (D) Other minor projects where no other agency review will be needed or required.

In most cases, *Plot Plans* are not reviewed by the *Technical Advisory Committee* (TAC), and sealed drawings are not required; however, at the Planning Director's discretion, TAC review and sealed drawings may be required, depending on project scope and complexity.

Pursuant to State Law, projects eligible for *Plot Plan* review may not be exempted from *stormwater management* review, if Limits of Disturbance (LOD) exceed 5,000 square feet.

2. MINOR SITE PLAN – FOR PROJECTS EXEMPT FROM *STORMWATER MANAGEMENT*

The following uses and *developments* are eligible for *Minor Site Plan* review. These projects have less impact on the community, require less information, and may be allowed a modified review and approval process, which is exempt from *stormwater management*. The *Technical Advisory Committee* reviews these projects. The Planning Director, or Planning Director's designee, may approve *minor site plans*. At the Director's discretion, a *minor site plan* may be submitted to the *Planning Commission* for approval. In the absence of a Planning Director, the *Planning Commission* will approve, approve with conditions, or disapprove *minor site plans*. *Minor site plan* eligibility includes:

(A) Adaptive Reuse Projects with additions to *buildings* and/or changes to site layouts with a Limit of Disturbance (LOD) of less than 5,000 square feet.

(B) Changes of use that do not include *building* additions or changes to site layout.

(C) Changes in vehicular access points in an existing non-residential or multi-*family development* with a Limit of Disturbance (LOD) of less than 5,000 square feet.

(D) A new Duplex on a single lot with a Limit of Disturbance (LOD) of less than 5,000 square feet.

(E) A non-residential addition that increases the size of the existing *building* with a Limit of Disturbance (LOD) of less than 5,000 square feet.

(F) A new non-residential *building* with a Limit of Disturbance (LOD) of less than 5,000 square feet.

(G) Special exceptions with additions to *buildings* and/or changes to site layouts with Limits of Disturbance (LOD) of less than 5,000 square feet.

3. MAJOR SITE PLAN – FOR REVIEW BY ALL AGENCIES AND *STORMWATER MANAGEMENT*

Commercial and industrial *development*, *multi-family dwellings*, special exceptions, public facilities, and quasi-public facilities require *major site plan* review including *concept plan*, preliminary site plan, and final site plan. The *Technical Advisory Committee* reviews these projects. The *Planning Commission* reviews and approves *major site plans*.

3.5 SUBMITTAL REQUIREMENTS

MINOR AND MAJOR SITE PLANS

Minor and Major site plans have similar requirements. Please see chart below for submittals.

TYPE:	1. Narrative	2. Preview	3. Summary	4. Detailed	5. Concluding
MINOR	X	X	X		
MAJOR					
• Concept	X	X			
• Preliminary	X	X	X	X	
• Final	X	X	X	X	X
PLOT PLAN – see Section 6 below					

The following documents are required to be submitted along with an application for site plans.

1. NARRATIVE LIST ITEMS

All applications for site plans will contain a narrative. The *applicant* will provide a narrative that addresses the following. The Planning Director may not require elements of the narrative that are not applicable to the proposed project.

(A) Name and address of the landowner, the *developer* and/or representative, if different from the owner.

(B) *Street* address, tax map, parcel number, and *subdivision* if any.

(C) Zoning of *site*.

(D) Current and proposed use of the property.

(E) An explanation of the viewshed, *open space*, and conservation analysis undertaken during the design of the *site plan*

(F) How the proposed *development* complies with the *Comprehensive Plan* and the design and environmental standards of this Ordinance.

(G) Proposed type of water and sewer service.

(H) Number of employees.

(I) The proposed *development* schedule and phases of *development* for all proposed construction.

(J) A statement of provisions for ultimate ownership and maintenance of all parts of the *development* including *streets*, *structures,* and *open space*.

(K) *Critical Area density* calculations based on the original parcel.

(L) For water dependent uses and facilities in the *Critical Area*, the narrative will include documentation that shows the following:

i. That all State and federal regulations, which are specifically listed in the narrative, will be adhered to and describing how compliance is achieved.

ii. That the activities will not significantly alter existing water circulation patterns or salinity regimes.

iii. That the water body upon which these activities are proposed has adequate flushing characteristics in the area of *development*.

iv. That disturbance to *wetlands*, submerged aquatic plant beds, or other areas of important aquatic habitats will be minimized.

v. That *adverse impact* to water quality that may occur as a result of these activities, such as non-point source runoff, sewage discharge from land activities or vessels, or from boat cleaning and maintenance operations, is minimized.

vi. That shellfish beds will not be disturbed or be made subject to discharge that will render them unsuitable for harvesting.

vii. That dredging will be conducted in a manner, and using a method, which creates the least disturbance to water quality and aquatic and terrestrial habitats in the area immediately surrounding the dredging operation or within the *Critical Area*.

viii. That dredge spoil will not be placed within the minimum 100-foot *buffer* or elsewhere in that portion of the *Critical Area* which has been designated as a Habitat Protection Area except as necessary for the following:

1. Backfill for permitted shore *erosion* protection measures;
2. Use in approved vegetated shore *erosion* projects;
3. Placement on previously approved *channel* maintenance spoils disposal area
4. Beach nourishment

ix. That interference with the natural transport of sand will be minimized.

x. That in the context of existing uses, the proposed use will result in only minimal individual and cumulative impact on water quality and fish, wildlife, and *plant habitat* in the *Critical Area*.

xi. That the activity meets all required environmental standards.

(M) For any site plan that includes proposed manufacturing or industrial uses:

i. The type of raw materials, waste products, and other by-products associated with the process.

ii. The identity of all chemicals and solids to be discharged into the sewage system.

iii. The type and amount of traffic expected to be generated by the operation.

iv. The proposed hours of operation.

v. The proposed *architect*ural design (graphic or narrative) of all *structures*.

(N) Citizen Participation Plan (please refer to the Department for a CPP brochure) Citizen Participation meetings are held once, prior to initial project submittal. Citizen Participation Plans are not required for *Plot Plans*.

2. PREVIEW LIST ITEMS

(A) Scale – 1 inch = 100 feet or greater detail. The Planning Director may authorize the use of a different scale or not require a scale drawing, if, in the Director's opinion, the information shown on the plat can be presented with equal clarity by the use of a different scale or drawing.

(B) North arrow

(C) Vicinity map, with *site* location clearly marked.

(D) Title Block that includes:

i. Names of owners of record and where applicable, names of *developer*, *architect*, surveyor, planner, and/or *engineer*

ii. Location by *Street* Address, Election District, County and State

iii. Date of plan and all revisions

(E) Names of adjoining property owners with Liber and Folio or name, recording reference, and *lot* numbers of adjoining recorded *subdivision*.

(F) Property boundaries.

(G) Where applicable, the *Critical Area* boundary and minimum 100-foot *buffer*; *Stream Protection Corridor*; Habitat Protection Area; *Forest Stand Delineation*; *100-year floodplain* boundary and *flood* elevation.

(H) Existing features, whether natural or manmade, that may influence the design of the project including but not limited to the following:

i. *Natural features* to be preserved in accordance with these *regulations*

ii. *Slopes* in excess of 15% separate from those in excess of 25%

iii. *Watercourses*, including both *perennial* and *intermittent streams*

iv. *Forest*, *tree* groves, and significant *tree*s

v. Outstanding natural topographic features

vi. Tidal, State, and private, and *non-tidal wetlands*

vii. Scenic, cultural and/or historic areas

viii. Existing *buildings*, parking, and other *impervious surfaces*

(I) Proposed use, *street* layout, parking and loading areas, *building setback* lines, *building* location, if known, and recreation and *open space* areas.

(J) Conceptual *stormwater management*.

(K) *Optional*: Photographs of similar projects and/or previous work for reference.

3. SUMMARY LIST ITEMS

(A) Signature Blocks for Director of Planning, Kent County *Health Officer*, and where applicable, the Director of Water and Wastewater Services.

(B) *Easements*, covenants, *right of ways*, Public Drainage Association ditches, and *stormwater management structures* and devices and the purpose for which these *easements*, covenants and rights-of way were established

(C) Existing and proposed *lot* coverage, existing *forest* and proposed *clearing* and *soil*s.

(D) The layout of all the proposal with the following:

i. Location, height and dimensions of *building*s and *lot*s

ii. The proposed use

iii. Proposed *setback*s

iv. Proposed driveways, parking, and loading areas including the number of spaces

v. Areas reserved for public use, recreation, *open space*, utilities, other *easement*s

vi. *Stormwater management* for Limits of Disturbance (LOD) that exceed 5,000 square feet

vii. Signs and lighting

(E) A tabulation of the following:

i. Total acreage

ii. Acreage in *100-year floodplain*

iii. Acreage in the *Critical Area*

iv. Acreage in recreation and *open space*

v. Acreage of *impervious surfaces*

vi. The total number of *dwelling units* or *building* types

vii. Total area of *buildings*

viii. The number and type of multi-*family* units for each *structure* and the total number of units with the subtotal of each type

ix. The total number of parking and *loading spaces*, the number of parking and *loading spaces* in each *off-street parking* area, and total of number of handicap parking spaces

x. Where applicable, maximum number of employees

(F) Location of any municipal or corporate limits, election district line, or *Critical Area* boundary close to or crossing the *tract*.

(G) Proof that the required utilities, i.e., electric and telephone are available to the proposed *development*

(H) The method and type of sewer and water service.

(I) The current zoning classifications.

(J) Width of *waterway*, depth measurements, *channel*, adjacent *pier*s, or landings, and 25% of the *waterway*

(K) Front, side, and rear elevations of all exterior walls, where applicable.

(L) Traffic Study may be required by the *Planning Commission* or Planning Director.

Note: *Minor Site Plans* will include *stormwater management* for Limits of Disturbance (LOD) that exceed 5,000 square feet. These plans are divided into three phases for other site plans.

4. DETAILED LIST ITEMS

(A) *Topography* via field survey work or LiDAR (Light Detection and Ranging) and a boundary survey. The Planning Director, or the Planning Director's designee, may not require submittal of field *topography*.

(B) *Soil* classifications mapped

(C) Sewer, water mains, culverts, fire hydrants, power transmission towers and the approximate location, pipe size, and direction of flow of each underground utility that exists in or is contiguous to the property.

(D) Where applicable, approved septic and septic reserve areas and well locations

(E) The location, width, and name of each existing improved or unimproved *street* or *alley* within 200 feet of the proposal.

(F) Conceptual and schematic plans for:

i. Water and sewer services

ii. The storm drainage system, including the overall *drainage area*.

iii. *Grading* and *sediment* control measures

iv. Landscaping

(G) Preliminary *stormwater management*.

(H) Delineation of *development* staging, if any.

Note: Preliminary Site Plans **DO NOT** need to include Signature Blocks for the Director of Planning, Kent County *Health Officer*, and the Director of Water and Wastewater Services.

5. CONCLUDING LIST ITEMS

(A) Signature Blocks for the *Planning Commission*, Director of Planning, *Health Officer*, and where applicable, Director of Water and Wastewater Services.

(B) Location and description of all monuments as may be required.

(C) No distances marked "approximate" except mean high water.

(D) The exact dimensional layout of the project including *buildings*, parking, *loading spaces*, driveways, use, all *easements*, etc.

(E) Registered surveyor's, *architect*'s, and/or *engineer's* signature and seal.

(F) All landscaping, lighting, and signage.

(G) Renderings and elevations, if applicable.

(H) Deed restrictions and Public Works Agreements..

(I) Signed Forest Conservation deeds, covenants, and easement for recordation.

(J) Signed Stormwater Management easements and maintenance requirements.

(K) All sureties required by Public Works, Health Department, and the Department.

6. PLOT PLANS – LIMITED SUBMITTAL ITEMS

This information will be presented in a clear and legible manner but does not have to be to scale. The Planning Director or the Director's Designee may determine if any information is not needed.

(A) Plat showing existing and proposed *topography*, location and dimensions of the *lot*, *lot* and block number, and name of *subdivision*, if any.

(B) Road name(s), width of *right of way*, centerline, road widths, and *grade*s.

(C) *Front*, *side*, and *rear yard* widths, and *easements*.

(D) *Sediment* control measures and limit of work.

(E) Discharge and storm drainage measures including rights and *easements*.

(F) *Stormwater management* plans and calculations for any Limit of Disturbance (LOD) that exceeds 5,000 square feet.

(G) Legal restrictions (such as *easements*, existing covenants, zoning boundaries, etc.)

(H) *Critical Area* boundary and acreage in the *Critical Area.*

(I) Location of existing and proposed *structures*, *new construction*, driveways, other access, septic systems, and wells including the distance to all property lines.

(J) Where applicable, areas of *afforestation* and/or *forest retention*.

(K) Where applicable, the width of the *waterway*, location of the *channel*, riparian right lines, *tidal wetlands*, State, and private, and *non-tidal wetlands*.

(L) Where applicable, existing and proposed *impervious surface* coverage, existing *forest* and proposed *clearing*, the minimum 100-foot *buffer*, *topography,* and *soil*s.

3.6 GENERAL DESIGN STANDARDS – ALL ZONING DISTRICTS

The general design standards are re-organized into five categories: design guidelines for projects in all districts with additional guidelines for residential districts (AZD, RCD, RC, CAR, and CR), small-scale commercial and mixed-use districts (C, CCA, V, and IV), and large-scale commercial and industrial districts (M, EC, and ECCA-IDA). These required design standards are **CUMULATIVE**.

All projects proposed for *Plot Plan* or *Site Plan* review will comply with the following standards.

SITE ACCESS

Site access will be subject to the following regulations to help ensure vehicle and pedestrian safety and alleviate congestion:

1. **Safe Access.** The *applicant* will demonstrate that access to the project is adequate and the *roads* which will be impacted have the capacity to handle the traffic generated by the proposed project and will not endanger the safety of the general public.
2. **Planned Access**. Where a proposed road is designated on an approved County or State map, *site plan*s for *development* adjacent to the designated *roadway* will include provisions for future access to the *roadway*.
3. **Consolidated Access.** All *site plans* will provide access for projects to a public or approved *private road*, and access will be consolidated whenever possible.
4. **Elevated Access.** Whenever possible, *roads* will be constructed above the elevation of the 100-year *floodplain*.

5. **Multimodal Access**. Pedestrian and bicycle links to adjacent *development*s, recreational facilities, and other public or semi-public uses will be provided whenever possible.

6. **ADA Access.** The design and construction of walkways and bicycle paths will be evaluated on the basis of safety, accessibility, and suitability, for use by motor-impaired individuals, and surface suitability in terms of anticipated use and maintenance requirements, per the 2010 ADA Standards for Accessible Design, as may be amended from time to time.

7. **Primary Access.** Where property abuts a primary, secondary, or collector road, access will be by way of the secondary or collector road. Exceptions to this rule will be instances where the *Planning Commission*, or where applicable the Planning Director, determines that direct access onto the *primary road* would promote traffic safety.

8. **Shared Access.** Where one or more contiguous parcels abutting a *primary road* are under single ownership and any one of the parcels abuts a *secondary road* or collector road, access to all of the parcels of the parcels under single ownership will be by way of the secondary or collector road. Exceptions to this rule will be instances when the *Planning Commission*, or where applicable the Planning Director, determines that direct access onto the *primary road* would promote traffic safety.

9. **Limited Access.** Only one direct access approach onto a *primary road* from an individual parcel of record as of August 1, 1989, will be permitted unless the *Planning Commission*, or where applicable the Planning Director, finds one of the following:

   (A) The *Planning Commission* may, with approval of the State Highway Administration or Kent County Public Works Department, approve additional access if the additional access is deemed to be significantly beneficial to the safety and operation of the highway; or, if allowing only one access approach would be a safety hazard or increase traffic congestion;

   (B) The *Planning Commission* may approve access when the parcel is bisected by *steep slopes*, bodies of water, or other topographic features in a manner as to render some portion of the property inaccessible without additional road access.

LIGHTING

10. **Dark sky**. Lighting will be dark-sky compliant, emitting no light above the horizontal plane.

11. **Color-corrected**. Lighting will use bulbs with a CRI (Color Rendering Index) of 90 or above.

12. **Glare-free.** Lighting will be designed to avoid glare onto adjacent properties, *roadway*s, and any *waterway*. Lighting will not interfere with traffic or create a safety hazard.

13. **Safety-oriented.** Lighting will be sufficient to provide for the safety and security of businesses, employees, and customers.

14. **Height Limit.** Lighting will be designed at the human scale and will not exceed 18 feet in height, unless mounted on a *building*. The *Planning Commission*, or where applicable the Planning Director, may set aside the height limitation.

ZONING REGULATIONS

15. *Site plans* will comply with requirements in Article V. *Zoning Regulations* that include General Provisions, Parking and Loading, Signage Provisions, and Standards for Utility-Scale Solar Energy Systems. Additional requirements are included in the sections below.

ENVIRONMENTAL REGULATIONS

16. *Site plans* will comply with requirements in Article VI. *Environmental Regulations* that include General Provisions, Forest Interior Birds, Habitat Protection Areas, Shoreline and Cliff Areas, Water Dependent Uses, Critical Areas, Forest Conservation, Erosion and Sediment Control, Stormwater Management, and Floodplain Management. Additional requirements are included in the sections below.

3.7 GENERAL DESIGN STANDARDS – RESIDENTIAL (AZD, RCD, RC, CAR, AND CR)

In addition to the All-Zoning Districts Design Standards set forth above, all projects proposed for *Plot Plan* or *Site Plan* in this review category review will also comply with the following additional standards.

1. **Purpose**. The purpose of these standards is to give a sense of the physical aspects of the County's environment to those contemplating new development in the community. Pertinent to this physical appearance is the design of the *site*, *buildings* and *structures*, plantings, *signs*, *street* hardware, and miscellaneous other objects observed by the public.

   These standards are not intended to restrict imagination, innovation, or variety, but rather assist in focusing on design principles which can produce creative solutions that will develop a satisfactory visual appearance within the County, preserve taxable values, and promote the public health, safety, and welfare.

2. **For AZD and RCD Zoning Districts only.** *Agriculture* is the preferred use, and agricultural operations are protected by the Kent County Right-to-*Farm* Law.

3. **Good Stewardship.** The reuse of existing *buildings* is encouraged.

4. **Conservation-based Design Principles.** The landscape will be preserved in its natural state, in so far as possible, by minimizing *tree* and *soil* removal.

   (A) Any grade changes will be in keeping with the general appearance of neighboring *development* areas.

   (B) *Buildings* are encouraged to be located so as to maintain maximum natural *topography* and cover.

   (C) *Topography*, *tree* cover, and natural drainage ways will be treated as fixed determinants rather than malleable elements that can be changed to follow a preferred *development* scheme.

   (D) Whenever possible, *development* will be outside the *floodplain*.

   (E) Internal *streets*, roadways, and lanes will be designed and located in a manner so as to maintain and preserve natural *topography*, cover, significant

landmarks, and trees; to minimize *cut* and *fill*; and to preserve and enhance views and vistas on and off the subject parcel.

(F) Proposed *development* will be related harmoniously to the terrain and to the use, scale, and architecture of existing *buildings* in the vicinity that have functional or visual relationships to the proposed *buildings*.

5. **Preservation.** Whenever possible, adverse effects on historic, traditional, or significant uses and *structures* will be minimized, whether these exist on the *site* or on adjacent properties.

6. **Open Space**. All *open space* (landscaped and usable) will be designed to add to the visual amenities of the area by maximizing its visibility to *persons* passing the *site* or overlooking it from nearby properties. *Open space* and naturally vegetative areas will be located, insofar as possible, so as to connect and expand existing greenways on adjacent *sites*.

7. **Signs**. The color, size, height, lighting, and landscaping of appurtenant *signs* and *structures* will be evaluated for compatibility with the local architectural motif and the maintenance of views and vistas of natural landscapes, recognized historic landmarks, parks, and landscaping.

8. **Rural Design.** Whenever possible, proposed developments should incorporate design elements such as single loaded *streets*, reverse curves, terminal vistas of *open space*, and foreground meadows.

9. **Public Utilities**. Where public water and sewer services are available, then connection to public water and sewer systems may be required by the *Planning Commission*.

10. **Supplemental**. The *Planning Commission* or the Planning Director may require additional standards and requirements to those stated in this Article as are necessary for the protection of the environment and the health and safety of the residents of the County.

LANDSCAPING – *STREET TREE*S

11. **Required.** *Street tree*s will be included in each *subdivision*. *Street tree*s may be clustered, evenly spaced, or when *building* envelopes are within 20 feet of the public road *right of way*, as *front yard* landscape *tree*s. The number of *tree*s will be calculated as follows:

(A) Small *tree*s (*tree*s less than 25 feet in height at maturity) – 1 per 25 linear feet of *lot* or *open space* along public or *private roads*

(B) Medium or large *tree*s (25 feet or taller at maturity) – 1 per 40 linear feet of *lot* or *open space* along public or *private roads*.

12. **Standards.** At the time of planting, deciduous *tree*s will have at least a 2-3-inch *caliper* at 6 inches above *grade*; coniferous *tree*s will be at least 5 to 6 feet in height.

13. **Exemption.** Where existing trees serve as *street trees*, the *Planning Commission*, or where applicable the Planning Director, may accept them as *street tree*s.

3.8 GENERAL DESIGN STANDARDS – SMALL-SCALE COMMERCIAL AND MIXED-USE DESIGN STANDARDS (C, CCA, V AND IV)

In addition to the All-Zoning Districts Design Standards and Residential Design Standards set forth above, all projects proposed for *Plot Plan* or *Site Plan* in this review category review will also comply with the following additional standards.

SITE DESIGN

1. **Purpose**. The purpose of imposing *regulations* governing *building* arrangement and *site* design is to help protect significant environmental and historic features, promote a sense of neighborhood and community identity and reduce the visual impact of high-density *development* on the surrounding area.

2. **Street Relationship.** Where existing *building*s express a traditionally modest (pre-zoning) front *setback*, creating a characteristically close relationship with the *street* (as in village and town centers and along their approach *roads*), it is highly desirable to continue this pattern in order to retain the area's character. Therefore, the *setback* of *new construction* should harmonize with the average *setbacks* of existing *buildings.*

3. **Setback Variety.** Outside the areas of generally uniform *building setbacks* (where existing *structures* are at various distances from the *roadway*), front *setback*s may vary to a greater degree, and principal *buildings* will generally be within 40 feet and no closer than 20 feet to the front line unless there are substantial counterbalancing considerations (such as irregular *topography*, *wetlands*, or the preservation of natural rural features, including pastures, crop land, meadows, or timber stands).

4. **Site Preservation.** Where significant *tree*s, groves, *waterways*, historic, archeological, or prehistoric *sites* or unique habitats are within the property boundaries of a proposed project, the *Planning Commission*, or where applicable the Planning Director, may require that every possible means will be provided to preserve these features. In addition to identifying existing *natural features* per this Ordinance, an inventory of existing *on-site* historic and archeological features may be required.

5. **Building Variety**. Projects should reflect the unordered, historical growth of the village and avoid the cookie-*cut*ter sameness of many new residential *subdivision*s.

6. **Pedestrian Emphasis**. Strong provisions should be made for walking as opposed to vehicular connections both within and outside of the new community.

7. **Streetscape Variety.** The *street*scape of projects should be designed in detail to avoid repetitious *setback*s, driveways, elevations, and landscaping.

8. **Design Diversity.** Projects should carefully study and reflect the physical diversity of the existing village in regard to the mixture of housing types; a mixture of housing styles; and a mixture of *lot* sizes and shapes.

9. **Supplemental**. The *Planning Commission* or the Planning Director may require additional standards and requirements to those stated in this Article as are necessary for the protection of the environment and the health and safety of the citizens of the County.

BUILDING DESIGN

10. **Sense of Place.** *Buildings* should be designed to enhance the community's sense of place by varying building massing and roof treatments, and by using building components and architectural design that emphasize the human scale. Commercial establishments are encouraged to limit the visual impression of height by the use of roof treatments and varying the plane of exterior walls. Projects should be an extension of the overall village *development* pattern rather than stand in contrast to it.

11. **Context Sensitive.** *New construction* throughout the village should be compatible with the surrounding properties, in terms of formal characteristics such as height, massing, roof shapes and window proportions. When *new construction* is surrounded by existing historic *building*s, *building* height and exterior materials will be harmonious with those of adjacent properties.

12. **Human Scale.** New *buildings* should not create large, *bulk*y, masses but should be scaled down into groupings of smaller attached *structures* and modules that reflect proportions similar to historic *buildings*. Methods used to create intervals that reflect and respect *historic structures* include but are not limited to the following:

    (A) Façade modulation – stepping back or extending forward a portion of a façade.

    (B) Repeating window patterns at established intervals.

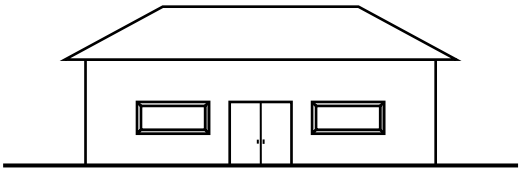
    (C) Providing a balcony or bay window at established intervals.

    (D) Changing the roofline by alternating dormers, stepped roofs, gables, or other roofelements.

    (E) Use of landscaping and *architect*ural detailing at the ground level.



Structure 1, Utilizes *building* massing



Structure 2, Does not utilize *building* massing

The above *structure*s are the same height and width and are drawn to the same scale.

13. **Materials.** *Building* designs will be encouraged to utilize traditional materials (brick or wood) and contemporary interpretations of earlier styles.

14. **Identity-building.** The design of new *buildings*, *building* additions, *alterations*, and façade renovations should reflect the positive aspects of the existing design features of the County. *Buildings* should complement and improve the overall environment of the area

15. **Orientation and Scale.** The proposed *building* orientation will respect the orientation and scale of surrounding *buildings* and where deemed necessary by the *Planning Commission* serve as an orderly transition to a different scale.

16. **Rooftop Screening.** All rooftop equipment will be *screen*ed from public view by *screen*ing material of the same nature as the *building*'s basic *building* materials.

17. **Multi-Family projects:**

    (A) To avoid monotonous linear *development*, multi-*family development* will be in small clusters designed as neighborhood units. A cluster will not include more than 30 units.

    (B) In multi-*family development*, the number of units in a row is to be limited to a maximum of eight.

    (C) *Offsets* at party walls and/or front and rear facades or similar devices are required to visually reduce *building* mass and create individualized spaces (*courtyards*, seating areas, etc.) for all multi-*family* projects. Drawings of the *building* elevations will be required. The *Planning Commission*, or where applicable Planning Director, may set aside this requirement.

COMMERCIAL DESIGN

18. **Local Design.** Corporate or trademark architecture will not be permitted.

19. **Massing.** Varied building massing is encouraged to enhance the community's sense of place.

20. **Street Relationship.** Commercial *building* projects and *buildings* in *shopping centers* are encouraged to be arranged in varied clustered masses related closely to the road.

21. **Projections and Porches.** Arches, porches, arcades, overhangs, roofs, and varying façade *setback*s are encouraged on *buildings* and *shopping centers*.

22. **Scale.** The scale within a *shopping center* will be consistent throughout the center. Where anchoror major tenants require larger *building* areas, the larger scale of these units will be broken down into comparable to the predominant unit in the *development*. The placement of anchor stores will consider the overall balance of the center.

23. **Fenestration.** Commercial establishments, offices, and financial institutions emphasize personal service as their primary products. These *structures* should reflect personal service by their architectural design which is at a human scale at entries and interior spaces. Building components such as windows, wooden doors, and decorative trim should emphasize the human scale in coordination with each other and the building scale.

24. **Articulation.** Each unit of *development*, and the total *development*, will create an environment of desirability and stability. Commercial establishments are encouraged to limit the visual impression of height by the use of roof treatments and varying the plane of exterior walls.

25. **Display Areas.** Whenever possible, display areas should be incorporated into the overall design of the *site*. Display areas will not be in the *front yard setback*.

26. **Auxiliary Facilities and Functions.** Loading docks, trash collection, and similar facilities and functions will be incorporated into the overall design of the *building* and landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public *streets*.

LANDSCAPE - GENERAL

27. **Total Requirement.** A minimum area of 15% of each new or redeveloped *site*, excluding *single family dwellings*, will be landscaped. Landscaping within the parking areas and *screen*ing may be counted toward this requirement. The *front yard* will be landscaped and maintained in a neat and attractive condition.

28. **Maintenance.** *Sites* will be permanently maintained in good condition with at least the same quality and quantity of landscaping as originally proposed.

29. **Professionals.** The *landscape plan* will be prepared by a registered professional *forest*er, landscape *architect*, or other professional with equivalent experience and qualifications.

30. **Exemptions.** The *Planning Commission*, or where applicable the Planning Director, may reduce or set aside the landscape requirement when it is demonstrated that the spirit and intent of the requirement are accomplished through other means, or the nature of the change does not require additional landscaping.

LANDSCAPE – PERIMETER AND *SCREEN*ING

31. **Purpose.** *Yards*, fences, walls, or vegetative *screen*ing will be provided where needed to protect residential districts or public *streets* from undesirable views, lighting, noise, or other *off-site* influences. In particular, outdoor storage, extensive *off-street parking* areas, and service areas for loading and unloading vehicles, and for storage and collection of refuse and garbage will be effectively *screen*ed.

32. ***Screen*ing** is required to protect adjoining properties and *roadways* from noise, glare, and uses which are visually incompatible with neighboring land uses. *Screen*ing is required:

    (A) On *sites* which involve loading or unloading (including the storage of vehicles and boats), trash, or disposal areas and where accessory *buildings* and *structures* are adjacent to residential properties.

    (B) Where exterior storage areas are visible from *roadways*, sidewalks, or nearby residential properties.

    (C) When noise not typically occurring in residential areas is expected to project ontonearby properties.

(D) To *screen* parking areas, but not approved display areas, from motorists, pedestrians, and adjoining residential properties.

(E) Where the commercial or industrial *site* abuts a residential district or a primary or *secondary road*.

(F) Where the *Planning Commission* determines that additional *screen*ing is necessary to protect properties in the area.

33. **Integration.** Landscaped *screen*s will be designed to complement other landscaping occurring naturally on the *site*, planted previously, or approved as a part of a *site plan*. Whenever possible, existing vegetation and landform will be used to create *screen*s.

34. **Duration.** The *screen* will be capable of providing year-round *screen*ing.

35. **Noise.** When noise is likely to be a factor, the *screen* will be of sufficient construction to be an effective noise *buffer*.

36. **Components.** *Screen*ing will consist of *tree*s and plants, and may include masonry, or wooden fencing used with or without *berms*. *Screen*ing will consist of a functional and well-designed combination of the following:

(A) Vegetative ground cover

(B) Coniferous and deciduous shrubs, specimens of which will reach and maintain a minimum height of five (5) feet of full vegetative growth and which measure a minimum of three (3) feet in height at the time of planting and are expected to attain a minimum height of five (5) feet within three (3) years.

(C) Coniferous and deciduous *tree*s, species and sizes of which will be chosen to best accomplish an adequate *screen* (i.e., evergreens used for visual *screen*ing, deciduous *tree*s for seasonal *screen*ing).

37. **Substitutions.** Natural *slopes* and existing vegetation may be substituted for some or all of the requirements above, provided that these features serve to *screen* the area from adjoining properties and *roadways*. The *Planning Commission*, or where applicable the Planning Director, will determine the acceptability of using existing *slopes* and vegetation for this purpose. The *Planning Commission*, or where applicable the Planning Director, may set aside *screen*ing where it is physically impossible to accomplish.

38. **Maintenance.** *Screen*ing and fencing will be maintained in good condition and (with) in at least the same quality and quantity as initially approved.

3.9 GENERAL DESIGN STANDARDS – MAJOR-SCALE COMMERCIAL AND INDUSTRIAL DESIGN STANDARDS (M, EC, AND ECCA-IDA)

MARINE DESIGN STANDARDS

1. **General Standards**. Projects in the Marine district will comply with the Design Standards for All Zoning Districts and enumerated items 3-7 from the Residential Design Standards.

2. **Overall Landscape Requirement**. A minimum area of 10% of each new *development* will be landscaped. *Buffer*s and *screen*ing count in the calculation of the landscaped area. This may be set aside by the *Planning Commission* or where applicable the Planning Director. All projects will meet the landscape requirements in the Design Standards above for Perimeters and Screening as well as the requirements set forth in Article V for Parking and Loading. All projects will comply with the General Landscape Requirements in the section above.

3. **Specific Design**. *Private Destination / Residence Clubs* will comply with the Mixed-Use Design Standards for Site Design and Building Design as well as Landscape requirements.

EMPLOYMENT CENTER AND ECCA-IDA DESIGN STANDARDS

In addition to the All-Zoning Districts Design Standards, Residential Design Standards, Small-Scale Commercial and Mixed-Use Design Standards set forth above, all projects proposed for *Site Plan* in this review category review will also comply with the following additional standards.

4. **Overall Landscape Requirement**. There is no minimum area of landscaping beyond the landscape requirements set forth in the Design Standards above for Perimeters and Screening, as well as the requirements set forth in Article V for Parking and Loading. All projects will comply with all landscape requirements in all Design Standards above.

5. **Curb Cut Limitations**. Projects in any Employment Center zoning district will not create or be a continuation of highway strip *development* with multiple access points or curb *cut*s within 3,000 feet of each other on a State or County Road, in so far as possible. The *Planning Commission* may waive this requirement, per the standards provided under the Waivers section below.

6. **Enclosed Structures**. In so far as possible, all uses will be conducted within a completely enclosed *structure* or be completely *screen*ed. Outdoor storage of materials and unfinished products is prohibited unless otherwise approved by the *Planning Commission* and subject to such conditions as may be determined by the *Planning Commission*. Finished or semi-finished products manufactured on the *premises* may be stored in the open if *screen*ed from the *street* and adjacent uses.

7. **Traffic Flow**. Principal vehicular access points will be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. Storage, turn lanes, or traffic dividers may be required by the *Planning Commission* where existing or anticipated heavy flows indicate need.

8. **Public Utilities**. Where public water and sewer are available, then connections to public water and sewer systems are mandatory.

PERFORMANCE STANDARDS FOR INDUSTRIAL AND MANUFACTURING USES

9. **General**. Designs for newly proposed uses will meet the following performance standards.

10. **Points of measurement** to determine compliance with performance standards will be the property *lot line* or zoning line nearest the source that is the subject of measurement.

11. **Noise**. All sources of noise (except those not under direct control of occupant of use, such as vehicles), will not create sound or impact noise levels in excess of the values specified below when measured at the points indicated. In addition, between 7:00 P.M. and 7:00 A.M., the permissible sound levels at a residential district boundary adjoining Employment Center Districts, will be reduced by five decibels in each octave band and in the overall band for impact noises.

(A) Noise will be measured by means of a sound level meter and octave band analyzer, calibrated in decibels (re 0.0002 microbar), and will be measured at the nearest *lot line* from which the noise level radiates. Impact noises will be measured by means of an impact noise analyzer. Impact noises are those whose pea*k value*s fluctuate more than six decibels from the steady values indicated on the sound level meter set at fast response.

(B) Decibel – A measurement of the intensity (volume) of a sound.

(C) Octave band – A prescribed interval of sound frequencies which classifies sound according to its pitch.

(D) Preferred frequency octave bands – A stigmatized series of octave bands prescribed by the American Standards Association in Sel. 6-1970 Preferred Frequencies for Acoustical Measurements.

(E) Sound level meter – An electronic instrument which includes a microphone, an amplifier, and an output meter which measures noise and sound pressure levels in a specified manner. It may be used with the octave band analyzer that permits measuring the sound pressure level in discrete octave bands.

MAXIMUM PERMITTED SOUND LEVELS (Decibels)		
Octave band, cycles/second	**At residential boundaries**	**At other *lot line*s**
31.5	64	72
63	64	74
125	60	70
250	54	65
500	48	59
1,000	42	55
2,000	38	51
4,000	34	47
8,000	30	44
Overall	80	90

(F) **Vibration**. The product of displacement in inches times the frequency in cycles per second of earthborn vibrations from any activity will not exceed the values specified below when measured at the points indicated. Earthborn vibrations will be measured by means of a three-component recording system, capable of measuring vibration in three mutually perpendicular directions. The

displacement will be the maximum instantaneous vector sum of the amplitude in the three directions.

MAXIMUM PERMITTED VIBRATIONS (INCHES PER SECOND) AREA OF MEASUREMENT		
Type of Vibrations	**At Residential Boundaries**	**At other *Lot line*s**
Continuous	0.003	0.015
Impulsive – 100/min or less	0.006	0.030
Less than 8 pulses per 24 hours	0.015	0.075

12. **Glare**. No direct or sky reflected glare, whether from *flood* lights or from high temperature processes such as combustion, welding or otherwise, is to be visible beyond the *lot line*, except for sign*s*, parking *lot* lighting and other lighting permitted by this Ordinance or required by any other applicable regulation, ordinance, or law.

13. **Air pollution**. The rules and *regulations* of the State of Maryland will apply.

14. **Water pollution**. The rules and *regulations* of the State of Maryland will apply.

15. **Radioactivity**. There will be no radioactive emission which would be dangerous to the health and safety of *person*s on or beyond the *premises* where such radioactive material is used. Determination of existence of such danger and the handling of radioactive materials, the discharge of such materials into the atmosphere and streams or other water, and the disposal of radioactive wastes will be by reference and in accordance with applicable current *regulations* of the governments of the United States and Maryland.

16. **Electrical interference**. There will be no electrical disturbance emanating from any *lot* that would adversely affect the operation of any equipment on any other *lot* or *premises*.

17. **Smoke and particulate matter limitations**

    (A) General limitations. In addition to the performance standard specified hereinafter, the emission of smoke or particulate matter in such manner or quantity as to be detrimental to or endanger the public health, safety, comfort, or welfare is declared to be a public nuisance and will henceforth be unlawful.

    (B) Particulate matter emission caused by the wind from open storage areas, *yards*, *roads*, etc., within *lot lines* will be kept to a minimum by appropriate landscaping, paving, wetting, or other means.

    (C) For the purposes of determining the *density* or equivalent opacity of smoke, the Ringelmann Chart as adopted and published by the United States Bureau of Mines in Circular No. 8333 (7718) will be employed.

    (D) Permitted smoke emission. Within 1,000 feet of a residence or commercial zoning district boundary line, the emission of visible smoke from any vent, stack, chimney, or combustion process, darker than Ringelmann No.2 for a period or periods aggregating more than 4 minutes in any 60-minute period will not be permitted.

18. **Toxic matter limitations**. In any Employment Center District, toxic materials which are released will not exceed 10% of the maximum permissible airborne concentration allowed an industrial worker when measured at any point beyond the *lot line*, either at ground level or habitable elevation, whichever is more restrictive. When maximum permissible airborne concentrations of toxic materials allowed an industrial worker are not contained in the most recent list of Threshold Limit Values published by the American Conference of Governmental Industrial Hygienists, the *applicant* will satisfy the County *Health Officer* that proposed levels will be safe to the general population.

19. **Odorous matter limitations**. The release of odorous matter from any Employment Center District across residential or commercial district boundary lines will be so controlled that at ground level or at habitable elevations the concentration will not exceed the odor threshold lines. Further, the release of odorous matter across *lot lines* will not become a nuisance or source of discomfort to neighboring uses. As a guide in determining qualities of offensive odors, Table III (*Odor Thresholds*), Chapter 5, *Air Pollution Abatement Manual*, by Manufacturing Chemists Association, Inc., as amended, may be used.

20. **Certified *engineer's* report - first submittal**. The *applicant* for a *grading* permit, *sediment control permit*, or *building* permit for uses in an Employment Center District, or *applicant*s for *variances* to the district will be required to submit proof that the uses proposed will not cause *violation*s of Federal, State or County laws or *regulations*. For industrial uses which will produce emissions of pollutants to the waters or air of the County, this proof will include measurements of the ambient water and air quality as well as documentation in the form of figures that the additional planned and proposed industrial use will not cause the *violation* of either ambient or source standards outlined by the laws and *regulations* of the Federal, State, or County governments.

21. **Certified *engineer's* report - additional submittals required.** Each future occupant of an industrial character will submit to the County as a part of final *site development plan* approval, a certified *engineer*'s report describing: the proposed operation, all machines, processes, products and by-products, stating the nature and expected levels of emission or discharge to land, air, water or liquid, solid, or gaseous effluent and electrical impulses, vibrations and noise under normal operations and the specifications or treatment methods and mechanisms to be used to control such emission or discharge.

22. **Expansion, modification, or enlargement**. Existing industrial uses will be permitted to continue and to expand, enlarge or modify provided that the industry continues to comply with the performance standards. Existing industrial uses that do not conform to the performance standards will be permitted to expand, modify, or enlarge provided the expansion, modification, or enlargement does not increase the degree of nonconformance and that the *applicant* submits a statement that identifies measures to bring the industry into compliance. When the *Planning Commission* finds that an existing industry is not making a good faith effort to comply with the performance standards, the *Planning Commission* may deny an application for expansion, modification, or enlargement and may initiate an enforcement action.

SECTION 4 SPECIAL EXCEPTIONS

4.1 STATEMENT OF INTENT

Special Exception uses are allowed and presumed to be compatible with other permitted uses in a zoning district; however, a review process is required to evaluate whether the particular use proposed at a particular location would have any adverse effects above and beyond those inherently associated with such a use irrespective of its location within the zoning district and to ensure that *development* complies with the *Comprehensive Plan*, the Land Use Ordinance and various agency requirements, thereby promoting the health, safety, and general welfare of Kent County's residents.

4.2 CRITICAL AREA COMMISSION REVIEW AND COMMENT REQUIRED

1. As required by the State of Maryland, Kent County will send copies of applications for all *developments*, subdivisions, and *site plans,* wholly or partially within the Critical Area, as specified in COMAR 27.03.01.04 to the Critical Area Commission for review and comment. This includes all projects located in the RCD, CAR, CCA, M, and ECCA zoning districts.
2. Until Kent County has received notice of receipt from the Critical Area Commission or the appropriate waiting period per the State of Maryland has expired, the County may not process an application that has been sent to the Critical Area Commission for notification.
3. Per the State of Maryland, any action by Kent County in violation of these State-required procedures shall be void.

4.3 TYPES OF SPECIAL EXCEPTIONS.

1. Administrative Special Exceptions.

   The Planning Director or the Planning Director's designee will have the right, but not the obligation, to hear and decide the following special exceptions when indicated as special exceptions in individual zoning districts:

   (A) Accessory residential structures with ground floor area of more than 2,000 sf

   (B) Accessory sheds on properties less than 20 acres in size

   (C) Accessory structures in the front yard requirement of waterfront parcels

   (D) Accessory structures in a front yard of through or corner lots

   (E) Adaptive reuse of existing structures in AZD, located on parcels under 20 acres

   (F) Assisted living facilities with five to eight beds

   (G) Cottage industries, tradesmen, and artisan shops

   (H) Day care group

   (I) Single family dwellings

2. Special Exceptions evaluated by the Boards of Appeal after *Planning Commission* review.

(A) Adaptive reuse of historic structures for uses not otherwise listed

(B) Agritourism on farms, as defined in Article VII

(C) *Aquaculture*

(D) *Airport*, landing field, heliport, or helistop, public or private

(E) Animal husbandry – all categories requiring special exception approval

(F) Attached retail businesses

(G) *Automobile repair*

(H) *Automobile service station*s

(I) Boat *building*, repairs, and sales

(J) Car wash

(K) Cemetery, including crematorium and mausoleum

(L) *Conference center*

(M) Convalescent, nursing, or *group home*s for the aged with five or more beds

(N) *Country inn*

(O) *Country stores*

(P) Dredge spoil *site*

(Q) *Excavation, landscaping, and other con*tract*or's yard*

(R) Farm Employee Housing

(S) Golf courses, public or private

(T) *Hospital*s, rehabilitation facilities, or other similar institutions for human care

(U) Houses of worship

(V) The manufacture, processing, and assembling of food products to include baked and confectioners' goods, frozen food processing, fruit and vegetable processing, canning and storage, or businesses of a similar nature, excluding animal and seafood processing. ++

(W) Livestock auction houses, located on farms

(X) Migrant labor camps

(Y) *Mobile home parks*

(Z) Multi-level boat storage

(AA) Outdoor entertainment

(BB) Outdoor recreation, miniature golf, but not golf courses

(CC) *Personal wireless facility tower*

(DD) Poultry houses on parcels where the owner cannot handle the waste generated

(EE) Printing and publishing

(FF) Private schools

(GG) Production of biofuels

(HH) *Public uses, buildings, utilities and structures*

(II) Pubs, taverns, and bars

(JJ) Radio and television tower, commercial

(KK) Recreational facilities

(LL) *Resorts*

(MM) *Restaurants* with drive through facilities in the Route 301 Corrdior

(NN) Retail businesses

(OO) *Retreats*

(PP) *Rural Inns*

(QQ) Sand and gravel pits

(RR) *Sanitary landfill* or rubble fill

(SS) School bus parking *lot* ++

(TT) Seafood processing

(UU) *Sewage sludge land application*

(VV) *Shopping center*s

(WW) *Solar energy systems, utility*

(XX) *Solar energy systems, utility scale* on *farm*s

(YY) *Structures* for the buying, processing, and sale of animal products

(ZZ) Tie-out pilings of private *pier*s, *community piers*, and private shared *pier*s, installed at a distance not to exceed 25% of the width of the *waterway*, the edge of the *channel*, or 180 feet from the mean high-water mark, whichever is less, for the exclusive mooring use by tall ships as safe-harbors from hurricanes and other severe weather-related threats. +

(AAA) Truck parking *lot*

(BBB) *Truck stops*

(CCC) *Truck terminals*

(DDD) Weddings on farms

(EEE) Wind energy systems, small

(FFF) Wind energy systems, small, with a height that exceeds 80 feet or on a *lot* less than 20 acres

3. Special Exceptions evaluated by the Board of Appeals only.

(A) *Dog kennels*, commercial

(B) Dormitories for employees

(C) Exposition center or fairgrounds

(D) *Farm* employee housing

(E) *Private club*s

(F) *Public landings*

(G) Rifle and pistol ranges

(H) *Structures* for the buying, processing, and sale of *farm* products in *structures* that exceed 10,000 square feet but are less than 50,000 square feet

4.4 CRITERIA FOR GRANTING SPECIAL EXCEPTIONS

A special exception may not be authorized, unless the Board of Appeals, or where applicable the Planning Director, finds that the establishment, maintenance, or operation of the special exception meets the standards set forth in this Section. The burden of proof is on the applicant to bring forth the evidence and the burden of persuasion on all question of fact which are determined by the Board or where applicable the Planning Director.

Unless otherwise specified in this Section or as a condition of approval, the height, *yard*, *lot area*, design, environmental, parking, and *sign* requirements will be the same as other uses in the district in which the special exception is located.

The Board, or where applicable the Planning Director, will make findings on the following where appropriate:

1. The nature of the proposed site, including its size and shape and the proposed size, shape, and arrangement of structures;
2. Traffic Patterns;
3. Nature of surrounding area;
4. Proximity of dwellings, houses of worship, schools, public structures, and other places of public gathering;
5. The impact of the development or project on community facilities and services;
6. Preservation of cultural and historic landmarks, significant natural features and trees;

7. Probable effect of noise, vibration, smoke and particulate matter, toxic matter, odor, fire or explosion hazards, or glare upon surrounding properties;
8. The purpose and intent of this Ordinance as set forth in Article II;
9. Design, environmental, and other standards of this Ordinance as set forth in Article V;
10. The most appropriate use of land and structure;
11. Conservation of property values;
12. The proposed development's impact on water quality;
13. Impact on fish, wildlife and plant habitat;
14. Consistency with the Comprehensive Plan and Land Use Ordinance;
15. Consistency with the Critical Area Program; and
16. Compatibility with existing and planned land use as described in the Comprehensive Plan and the Land Use Ordinance.

4.5 CONDITIONS AND GUARANTEES FOR SPECIAL EXCEPTIONS

1. Prior to the granting of any special exception, the Board, or where applicable the Planning Director, may impose such conditions and restrictions upon the establishment, location, construction, maintenance, and operation thereof as deemed necessary to reduce or minimize any effect of such use upon other property in the neighborhood, and to secure compliance with the standards and requirements specified in this Ordinance.
2. Special Exception uses will be evaluated using the specific conditions in Article III Uses.
3. General conditions or restrictions may also include but are not limited to the following:
   (A) Hours of operation
   (B) Permitted expansion
   (C) On-premises sales
   (D) Exterior display, lighting, storage, sign*s*, and other indicators or appearance of a business that may detract from the general character of the area
   (E) Location of parking
   (F) Increased *setback*s and *screen*ing
   (G) Landscaping
   (H) The size and type of equipment
   (I) The number of clients allowed on *premises* at one time or class size
   (J) Accessory vehicles
   (K) *Accessory uses*

(L) Letters of credit, bonds, or other surety, except relating to *Cottage industries, tradesmen, and artisan shops*, which may be set aside by the Planning Director

4. The Board of Appeals may hire expertise as may be needed to provide advice and assist in its decision-making. In its recommendation, the *Planning Commission* may recommend that additional expertise is warranted.

5. The Board, or where applicable the Planning Director, may require such evidence and guarantees as it deems necessary as proof that the conditions imposed in connection with a special exception will be implemented. Failure to comply with such conditions or restrictions imposed will constitute a *violation* of this Land Use Ordinance and the Department may revoke permits issued under the special exception.

SECTION 5 VARIANCES

5.1 STATEMENT OF INTENT

The granting of *variances* will comply, as nearly as possible, in every respect to the spirit, intent, and purpose of this Land Use Ordinance; variances are granted to (a) relieve *unwarranted hardship*s or other injustices arising out of the strict application of the provisions of this Land Use Ordinance and (b) for reasons of demonstrable practical difficulties, as distinguished from variations sought for purposes or reasons of convenience, profit, or caprice.

5.2 CRITICAL AREA COMMISSION REVIEW AND COMMENT REQUIRED

1. As required by the State of Maryland, Kent County will send copies of applications for all *developments*, subdivisions, and *site plans,* wholly or partially within the Critical Area, as specified in COMAR 27.03.01.04 to the Critical Area Commission for review and comment. This includes all projects located in the RCD, CAR, CCA, M, and ECCA zoning districts.
2. Until Kent County has received notice of receipt from the Critical Area Commission or the appropriate waiting period per the State of Maryland has expired, the County may not process an application that has been sent to the Critical Area Commission for notification.
3. Per the State of Maryland, any action by Kent County in violation of these State-required procedures shall be void.

5.3 TYPES OF VARIANCES

1. Administrative Zoning *Variances*

   The Planning Director, or Planning Director's designee, may authorize, upon application, *variances* from the *yard* (*front*, *side*, or *rear*), but not *buffer* in an amount that does not exceed 50% of the required *yard* for the applicable zoning district. Height, parking, sign, and loading requirements may be varied up to 50% of limits. At the Director's discretion, any *variance* of this nature may be submitted to the Board of Appeals for approval.

2. Administrative *Critical Area Variances*

   The Planning Director, or Planning Director's designee, may authorize, upon application, *variances* from the *buffer* requirements on parcels that existed on or before December 1, 1985, in order to repair, replace, or install septic systems for the applicable zoning district. At the Director's discretion, any *variance* of this nature may be submitted to the Board of Appeals for approval.

3. Zoning and *Critical Area Variance*s

   The Kent County Board of Appeals may authorize, upon application, *variances* from the *yard* (*front*, *side*, or *rear*), height, *bulk*, parking, sign, loading, *shoreline cliff*, 15% *slope*, *pier length*, *impervious surface*, *stream protection corridor*, *forest conservation retention* provisions, *buffer* requirements, and any non-use-related provision of this Ordinance.

4. *Floodplain Variances*

The Kent County Board of Appeals may authorize, upon application, *variances* from the *floodplain* provisions of this Land Use Ordinance. Such granting of a *variance* will comply, as nearly as possible, in every respect to the spirit, intent, and purpose of the *floodplain regulations* and sound *floodplain* management.

5. *Stormwater Management Variance*s

The Kent County Board of Appeals may grant a written *variance* from the *stormwater* requirements found in this Land Use Ordinance. A written request for *variance* will be provided to the County and will state the specific *variances* sought and reasons for their granting. The County will evaluate the cumulative effects of other *development*s that are relinquished from the requirements of *stormwater management*.

5.4 CRITERIA FOR ZONING VARIANCES

1. In order to grant a *variance*, the following will be found:

(A) That the *variance* will not cause a substantial detriment to adjacent or neighboring property.

(B) That the *variance* will not change the character of the neighborhood or district.

(C) That the *variance* is consistent with the *Comprehensive Plan* and the general intent of this Land Use Ordinance.

(D) That the practical difficulty or other injustice was caused by the following:

i. Some unusual characteristics of size or shape of the property;

ii. Extraordinary topographical or other condition of the property;

iii. The use or *development* of property immediately adjacent to the property, except that this criterion will not apply in the *Critical Area*.

(E) That the practical difficulty or other injustice was not caused by the *applicant*s' own actions.

(F) In considering an application for a *variance*, the reasonable use of the entire parcel or *lot* for which the *variance* is requested will be considered.

(G) The cause of a *variance* request may be considered, and if a *variance* request is the result of actions by the *applicant*, including whether commencement of *development* activity occurred before an application for a *variance* was filed.

5.5 CRITERIA FOR *CRITICAL AREA VARIANCES*

1. In order to grant a *variance*, the following will be found:

(A) The granting of a *variance* will be in harmony with the general spirit and intent of the *Critical Area* Law and the *regulations* adopted by Kent County;

(B) That the granting of a *variance* will not adversely affect water quality or adversely impact fish, wildlife, or *plant habitat*.;

(C) That the application for a *variance* will be made in writing with a copy provided to the *Critical Area* Commission;

(D) That the strict application of the Land Use Ordinance would produce an *unwarranted hardship*;

(E) Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;

(F) The authorization of such *variance* will not be a substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the *variance*;

(G) That a literal interpretation of this Land Use Ordinance deprives the *applicant* of rights commonly enjoyed by other properties in similar areas within the *Critical Area* of Kent County;

(H) That the granting of a *variance* will not confer upon an *applicant* any special privilege that would be denied by this Ordinance to other lands or *structure*s;

(I) Due to special features of a *site*, or special conditions or circumstances peculiar to the *applicant*'s land or *structure*, a literal enforcement of this Land Use Ordinance would result in *unwarranted hardship* to the *applicant*;

(J) The Board of Appeals finds that the *applicant* has satisfied each one of the *variance* provisions;

(K) Without the *variance*, the *applicant* would be deprived of a use of land or a *structure* permitted to others in accordance with the provisions of the *critical area* program.

(L) In considering an application for a Critical Area *variance*, it is presumed that the specific *development* activity in the *Critical Area* that is subject to the application and for which a *variance* is required does not conform with the general purpose and intent of this Ordinance and the *Critical Area* Law.

(M) The cause of a *variance* request may be considered, and if a *variance* request is the result of actions by the *applicant*, including whether commencement of *development* activity occurred before an application for a *variance* was filed.

5.6 CONDITIONS FOR ZONING AND CRITICAL AREA VARIANCES

1. In granting a *variance*, the Board may choose or not choose to limit the approval by such conditions as the case may require, including but not limited to, the imposition of the following specifications:

(A) No outside signs or advertising *structure*s except professional or directional signs.

(B) Limitation of signs as to size, type, color, location, or illumination.

(C) Amount, direction, and location of outdoor lighting.

(D) Amount and location of off-street parking and loading spaces.

(E) Cleaning or painting.

(F) Gable roof or other type.

(G) Construction and materials.

(H) Connected or disconnected to other *building*s.

(I) Exits or entrances, doors, and windows.

(J) Paving, shrubbery, landscaping, ornamental or *screen*ing fences, walls, or hedges.

(K) Time of day or night for operating.

(L) No structural changes.

(M) Control or elimination of smoke, dust, gas, noise, or vibration caused by operations.

(N) Requirements for termination of a use based on lapse of time or such other conditions as the Board may specify.

5.7 CRITERIA FOR FLOODPLAIN VARIANCES

1. In order to grant a *variance*, the Board will find:

(A) There is a good and sufficient cause for granting the *variance*.

(B) That the failure to grant a *variance* would result in exceptional hardship (not economic) to the *applicant*.

(C) That the granting of the *variance* would not result in increased *flood* heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud, or victimization of the public.

(D) That any *variance* including the placement of *fill* which encroaches on the *floodway* will not result in any increase in the 100-year *flood* levels.

(E) That the *variance* is the minimum necessary, considering the *flood* hazard, to afford relief.

(F) That the Board has received comments from the Maryland Department of the Environment.

(G) That no new *buildings* will be constructed in the *floodway*.

(H) That in the Coastal High Hazard Area, no *fill* for structural support is proposed.

(I) For a functionally dependent use that there is sufficient proof that the *structure* cannot perform its intended function unless it is in close proximity to the water and may require wet *floodproofing* which allows the *structure* to *flood* without significant damage.

(J) Reconstruction, rehabilitation, or restoration of *historic structures*, provided the *variance* is the minimum necessary and the *structure* will retain its listing on the Historic Register, Inventory, or Survey.

5.8 CONDITIONS FOR FLOODPLAIN VARIANCES

1. In granting a *variance*, the Board may choose or not choose to limit the approval by such conditions as the case may require, including but not limited to, the imposition of the following specifications:

(A) That a record of the *variance* and any conditions are recorded with the Kent County Clerk of Court.

(B) That a letter will be sent to the *applicant* which explains the increased risk of life and property as a result of the *variance* and that the cost of Federal *Flood* Insurance will be commensurate with the increased risk, with rates up to $25 per $100 of insurance coverage.

(C) The Board will maintain a record of all *variance* procedures which will be available for review by FEMA

(D) The Planning Director, or the Planning Director's designee, will notify, in writing, any *applicant* to whom a *variance* is granted to construct or substantially improve a *building* or *structure* with its lowest *flood* below the elevation required by these *regulations* that the *variance* is to the *floodplain* management requirements of these *regulations* only and that the cost of Federal *Flood* Insurance will be commensurate with the increased risk, with rates up to $25 per $100 of insurance coverage.

5.9 CRITERIA FOR STORMWATER VARIANCES

1. In order to grant a variance, the County will find the following:

(A) Exceptional circumstances exist applicable to the *site* such that strict adherence to the provisions of this ordinance will result in unnecessary hardship and not fulfill the intent of the Land Use Ordinance.

(B) Implementation of *ESD* to the *MEP* has been investigated thoroughly.

SECTION 6 WAIVERS

6.1 STATEMENT OF INTENT

1. Waivers are intended to provide an in-review approval process for specific provisions that are considered to be alternative compliance as opposed to variation requiring a variance. Waivers are not advertised as public hearings but can be included as part of a noticed public meeting, if applicable, and noted on the public agenda for review. Waivers may be granted by the *Planning Commission* during subdivision or site plan reviews, or where applicable by the County staff for stormwater management during the building permit review process. The building permit review process is neither advertised nor noticed.

   Note: This process has been re-structured. Some waivers had previously been structured like variances that could be granted by the *Planning Commission*. The Board of Appeals is the appropriate body to grant variances. Since waivers relate to standards for the design of projects, waivers are re-structured as a design-based, alternative compliance process.

   Note: *Forest conservation retention* alterations now require a variance to be granted by Board of Appeals. *Forest conservation retention* provisions are not a design-related issue.

6.2 TYPES OF WAIVERS AND CRITERIA– *PLANNING COMMMISSION* WAIVERS

1. DATA PROCESSING CENTERS - ALTERNATE DESIGN

   Upon the affirmative recommendation of the Planning Director, *applicant*s may present for approval to the *Planning Commission* an alternate design solution to the general design standards in Section 3 above. *Applicant*s will include a separate written narrative that explains how the proposed alternative design solution differs from requirements and the reasons for the changes proposed. The *Planning Commission* may require additional standards and requirements for the protection of the environment and the health and safety of the residents of the County.

2. CURB CUTS IN THE EMPLOYMENT CENTER DISTRICT

   The *Planning Commission* may authorize *waiver*s in EC and ECCA-IDA for multiple access points or curb cuts within 3,000 feet of each other on a State or County Road, within the boundaries of a single project and also among different highway strip *developments*.

3. SUBDIVISION/*PRIVATE ROADS*/ROAD FRONT *LOT*S/ DESIGNATED DESIGN STANDARDS

   The *Planning Commission* may authorize *waiver*s of the design aspects of *subdivisions*, *private roads*, road front *lots*, *protected lands lot line setback*, and certain designated design standard provisions of this Land Use Ordinance in order to provide for alternative compliance for design standards.

4. PARKING LOT DESIGN

   The *Planning Commission* may approve alternate designs for shared parking, parking lot designs, and parking lot landscaping provisions found in Article V, Section 2.

5. CRITERIA FOR WAIVERS

The *Planning Commission* may approve a waiver requested under one of the categories above for alternative compliance, when the Planning Commission finds the following:

(A) That the *waiver* is consistent with the *Comprehensive Plan*, and where applicable the adopted *Major Thoroughfare* Map for the County or similar instrument, and the general intent of this Ordinance.

(B) That the *waiver* will not cause any known substantial detriment to adjacent or neighboring properties.

(C) That the *waiver* will not create a safety hazard or increase traffic congestion.

(D) The *waiver* is not sought for reasons of convenience, profit, or caprice.

In granting *waiver*s, the *Planning Commission* may require such conditions as will, in its judgement, substantially secure the objectives of the provisions so waived.

6.3 TYPES OF WAIVERS AND CRITERIA - *STORMWATER MANAGEMENT* WAIVERS

(A) The County may grant a *waiver* of the *stormwater management* requirements for individual *development*s based on a case-by-case review. A written *waiver* request will be submitted by the *applicant* containing descriptions, drawings and any other information that is necessary to evaluate the proposed *development* and demonstrate that *ESD* has been implemented to the *MEP*. A separate written request will be required in accordance with the provisions of this section if there are subsequent additions, extensions or modifications to a *development* receiving a *waiver*.

(B) Except as provided in this Section *waivers* of *stormwater* quantitative control may be granted only to those projects that can conclusively demonstrate that:

i. The project is within an area where a *watershed* management plan has been developed consistent with this Land Use Ordinance.

ii. If the project is not in an area where a *watershed* management plan has been developed consistent with this Land Use Ordinance, *waivers* may be granted to proposed *development* projects provided the *applicant* has demonstrated that *ESD* has been implemented to the *MEP*: (1) That have *direct discharges* to tidally influenced receiving waters; and (2) When the County determines that circumstances exist that prevent the reasonable implementation of quantity control practices.

(C) Except as provided in this Section, if *watershed* management plans consistent with this Ordinance have not been developed, *stormwater management* quantitative control *waivers* may be granted to the following projects provided the *applicant* has demonstrated that *ESD* has been implemented to the *MEP*:

i. Projects that have *direct discharge* to tidally influenced receiving waters:

ii. Infill *development* located in a *Priority Funding Area* where the economic feasibility of the project is tied to the planned *density*, and where implementation of the 2009 regulatory requirements would result in a loss of the planned *development density* provided that: (1) Public water and sewer and *stormwater* conveyance exist; (2) The quantitative *waiver* is only applied to the project for the impervious cover that previously existed on the *site*; (3) *ESD* to the *MEP* is used to meet the full water quality treatment requirements for the entire *development*; and (4) *ESD* to the *MEP* is used to provide full quantity control for all new *impervious surfaces*: or

(D) When the *approving agency* determines that circumstances exist that prevent the reasonable implementation of quantity control practices.

(E) *Waivers* of *stormwater management* qualitative control may be granted only to those projects that can conclusively demonstrate that:

i. The project is an in-fill *development* where *ESD* has been implemented to the *MEP* and other *BMPs* are not feasible.

ii. The project is a *redevelopment* that satisfies the requirements of this Land Use Ordinance; or

iii. *Site*s where the County determines that circumstances exist that prevent the reasonable implementation of *ESD* to the *MEP*.

(F) *Stormwater management* quantitative and qualitative control *waivers* may be granted for phased *development* projects if a system designed to meet the 2000 regulatory requirements and the Kent County *Stormwater Management* Ordinance for multiple phases has been constructed by May 4, 2010. If the 2009 regulatory requirements cannot be met for future phases constructed after May 4, 2010, all reasonable efforts to incorporate *ESD* in future phases will be demonstrated.

(G) *Waivers* will only be granted when it has been demonstrated that *ESD* has been implemented to the *MEP* and will:

i. Be on a case-by-case basis;

ii. Consider the cumulative effects of the Kent County *waiver* policy.

iii. Reasonably assure the *development* will not adversely impact stream quality.

(H) Kent County may develop quantitative *waiver* and *redevelopment* provisions for *stormwater management* that differ from the requirements of this Land Use Ordinance as a part of an overall *watershed* management plan. *Watershed* management plans developed for this purpose will, at a minimum:

i. Include detailed hydrologic and hydraulic analyses to determine hydrographic timing;

ii. Evaluate both quantity and quality management and opportunities for *ESD* implementation;

iii. Include cumulative impact assessment of current and proposed *watershed development*;

iv. Identify existing *flood*ing and receiving stream *channel* conditions;

v. Be conducted at a reasonable scale determined by the County;

vi. Specify where *on-site* or *off-site* quantitative and qualitative *stormwater management* practices are to be implemented;

vii. Be consistent with the General Performance Standards for *Stormwater Management* in Maryland found in the *De*sign *Manual*; and

viii. Be approved by the Maryland Department of the Environment

SECTION 7 PERMITS, FEES, AND ENFORCEMENT

7.1 STATEMENT OF INTENT

The purpose of this section is to set forth the procedures for permits, fees, code enforcement, and interpretations of this Land Use Ordinance. The powers and duties of the Department are specified herein insofar as the administration of this Land Use Ordinance is concerned.

7.2 GENERAL

1. The Department is hereby vested with the duty and authority to grant approvals and issue building permits. All approvals and permits will conform with the provisions of this Land Use Ordinance, and no approval of a permit will be granted for any structure, use, subdivision, grading, or other development or purpose that would constitute a violation of this Land Use Ordinance. Any approval or permit granted or issued in conflict with this Land Use Ordinance will be null and void.
2. Whenever in the course of administration and enforcement of this Land Use Ordinance, it is necessary to make any administrative decision, unless other standards are provided in the Land Use Ordinance, the decision will be consistent with the spirit and intent of this Land Use Ordinance.

7.3 CRITICAL AREA COMMISSION REVIEW AND COMMENT REQUIRED

1. As required by the State of Maryland, Kent County will send copies of applications for all *developments*, subdivisions, and *site plans,* wholly or partially within the Critical Area, as specified in COMAR 27.03.01.04 to the Critical Area Commission for review and comment. This includes all projects located in the RCD, CAR, CCA, M, and ECCA zoning districts.
2. Until Kent County has received notice of receipt from the Critical Area Commission or the appropriate waiting period per the State of Maryland has expired, the County may not process an application that has been sent to the Critical Area Commission for notification.
3. Per the State of Maryland, any action by Kent County in violation of these State-required procedures shall be void.

7.4 PERMITS

1. No building or structure will be erected, constructed, altered, moved, converted, extended, enlarged, or demolished until a building or demolition permit is obtained from the Department. .
2. Change or alternation of the use of any *building*, *structure*, or land will not be permitted until a permit is obtained from the Department.
3. All applications for *building* and use permits will include a diagram showing the actual shape and size of the parcel, the location and size of the building or structure, and such

information as may be required by the Department to assure compliance with and to provide enforcement of this Land Use Ordinance.

4. No *person* will do any *grading*, *clearing*, *stripping*, excavating, filling of land; *forest* harvesting; create borrow pits, spoil areas, quarries, material processing facilities, or other facilities, without first obtaining a permit from the Department except as otherwise listed as an *exemption* in this Land Use Ordinance.

5. A *grading* or *building* permit may *not* be issued for any parcel or *lot* unless a *stormwater management plan* has been approved or waived by the County, meeting the requirements of this ordinance, the *De*sign *Manual*, and the policies adopted by Kent County for *redevelopment*. Where appropriate, a *building* permit may not be issued without:

   (A) Recorded *easements* for the *stormwater management* facility and *easements* to provide adequate access for inspection and maintenance from a public *right of way*.

   (B) A recorded *stormwater management maintenance agreement*.

   (C) A performance bond, an irrevocable letter of credit or other surety.

   (D) Permission from adjacent property owners, as may be required.

6. The Planning Director may place any condition on a permit that is deemed necessary to assure compliance with and to provide enforcement of this Land Use Ordinance.

7. After approval of the permit, no changes of any kind will be made to the plans, permit, specification, or other document without written approval from the applicable County official with authority to review and approve applications for building permits.

7.5 FEES

1. The Kent County Board of County Commissioners may establish a schedule of fees and a collection procedure related to the submittal of applications and other matters pertaining to this Ordinance. Upon application, the County Commissioners may waive any fees.

2. No permits will be issued nor final actions taken related to *subdivision*s, *site plan*s, special exceptions, *variance*s, waivers, appeals, or other matters pertaining to this Ordinance, unless the applicable fee, if any, has been paid in full. Staff may begin internal review at its discretion, prior to fees being paid, if a determination of payment is under review.

3. Building permit fees may be set aside by the Planning Director or the Planning Director's designee upon review and with the cause noted in writing in the file for the following:

   (A) Building permit extensions if regulations have not changed since last review.

   (B) Building permits for governmental agencies including local, State, and federal.

   (C) Building permits for nonprofits and charities for *bona fide* charitable activities.

   (D) Building permits for grant projects where the County is a sponsor/participant.

(E) Circumstances related to errors and omissions not on the part of the applicant.

7.6 ENFORCEMENT

1. It will be the duty of the Planning Director to enforce the provisions of this Ordinance and to refuse to issue any permit or approve any *minor site plan, minor subdivision*, special exception, *variance*, erosion and *sediment* control permit, *stormwater management* plan, or *forest conservation plan* that would violate the provisions of this Ordinance. It will be the duty of all officers and employees to assist the enforcing officer by reporting to the enforcing officer any seeming *violation* of this Ordinance.

2. The Planning Director or the Planning Director's designee is authorized and directed to institute any appropriate action to correct *violation*s of this Ordinance.

3. It will be unlawful to erect, construct, reconstruct, alter, repair, convert, *demolish* or maintain any *building* or *structure*; use any property, *building*, or *sign* in *violation* of any regulation in, or any provision of this Ordinance, or any amendment or supplement lawfully adopted by the County Commissioners; to fail to comply with any requirement or condition imposed by the Board of Appeals or *Planning Commission*; or violate the provisions of the *floodplain*, *subdivision*, *sediment* control, *stormwater management*, or *forest conservation* provisions of this Ordinance. Any *person*, *firm*, corporation, or other legal entity violating a provision of this Ordinance, or amendments thereto, will be deemed guilty of a *violation* and upon conviction will be fined according to the preset fine adopted by the County Commissioners of Kent County. Each and every day during which such *violation* occurs or continues may be deemed a separate offense.

4. The Planning Director is authorized to treat any *violation* as a civil *violation*, in which event the Planning Director, or the Planning Director's designee, will deliver a citation to the *person* believed to have committed a civil *violation*. A copy of the citation will be retained by the Department and bear *certification* attesting to the truth of the matters set forth. The citation will contain:

   (A) The name and address of the *person* charged;

   (B) The nature of the *violation*;

   (C) The place where and the time when the *violation* occurred;

   (D) The amount of the fine assessed;

   (E) The manner, location, and time in which the fine may be paid; and

   (F) The *person*'s right to elect to stand trial for the *violation*.

5. The preset fine will not be less than $100.00 nor more than $500.00 for zoning *violation*s. The preset fine will not exceed $5,000.00 for *violation* of the *floodplain* and *subdivision* provisions of this Ordinance, and $1,000.00 plus $0.30 a square foot for *forest conservation*. Non-compliance fees for *violation* of the *forest conservation* provisions of this Ordinance will be depo*sit*ed in the *forest conservation* fund and may be used by the

County for purposes related to implementing the *forest conservation* objectives of this Ordinance. Every day the *violation* continues may be considered a separate offense.

6. Within the *Critical Area*, in addition to any other penalty applicable under state law, a *person* whoviolates a provision pertaining to the *Critical Area* is subject to a fine not to exceed $10,000.00. In determining the amount of the penalty to be assessed, the following may be considered:

   (A) The gravity of the *violation*;

   (B) Any willfulness of negligence involved in the *violation*;

   (C) The environmental impact of the *violation*.

7. Fines will not exceed $5,000 for each *stormwater management violation* and nor exceed $50,000 for numerous on*site violation*s. Each day that a *violation* continues will be considered a separateoffense.

8. Penalties for *violation*s of *erosion and sediment control*.

   (A) Any *person* who violates any provision of the *erosion and sediment control* provisions of this Ordinance is guilty of a misdemeanor, and upon conviction in a Court of competent *jurisdiction* is subject to a fine not to exceed $10,000 for each *violation* with costs imposed in the discretion of the Court. Each day upon which the *violation* occurs constitutes a separate offense.

   (B) Any agency whose approval is required under this Ordinance, or any interested *person* may seek an injunction against any *person* who violates or threatens to violate any provision of this Ordinance.

   (C) In addition to any other sanction under this Ordinance, a *person* who fails to install or to maintain *erosion and sediment control*s in accordance with an approved plan will be liable to Kent County or the State in a civil action, for damages in an amount equal to double the cost of installing or maintaining the controls.

   (D) Any governing authority that recovers damages in accordance with this subsection will deposit them in a special fund, to be used solely for (1) correcting to the extent possible the failure to implement or maintain *erosion andsediment control*s, and (2) administration of the *sediment* control program.

9. The *person* who receives a citation may elect to stand trial for the offense by filing with the Department a notice of intent to stand trial. The notice to stand trial willbe given at least 5 days before the date of payment as set forth in the citation. Upon receipt of the notice of intent to stand trial, the County Attorney will forward to the District Court of Kent County a copy of the citation and notice of intent to stand trial. On receipt of the same, the District Court will schedule the case for trial and notify the defendants of the trial date.All fines, penalties, or forfeitures collected by the District Court for *violation*s of this Ordinance will be remitted to Kent County.

10. If a *person* who receives a citation for *violations* fails to pay the fine by the date of the payment set forth on the citation and fails to file notice of intention to stand trial, formal notice of the *violation* will be sent to the owner's last known address. If the citation is not satisfied within 15 days from the date of notice, the *person* is liable for an additional fine not to exceed twice the original fine. If after 35 days the citation is not satisfied, the Department may request adjudication of the case through the District Court. The District Court will schedule the case for trial and summon the defendant to appear.

11. Adjudication of a *violation* under paragraphs 4 through 7 of this section is not a criminal conviction nor does it impose any civil disabilities ordinarily imposed by a criminal conviction.

12. In any proceeding before the District Court, the *violation* will be pros*ecut*ed in the same manner and to the same extent as set forth for municipal infractions under Md. Code Ann. Local Government §§6-108 through §§6-115. The County Commissioners may authorize either the County Attorney, the Attorney for the *Planning Commission*, or any other designated attorney to pros*ecut*e any *violation*.

13. If a *person* is found by the District Court to have committed a civil zoning *violation*, the *person* will be liable for the cost of the proceedings in the District Court. All zoning certificates and *building* permits will be revocable subject to the continued compliance with all requirements and conditions of this and other applicable laws and *regulations*.

14. The imposition of a fine or penalty for any *violation* of this Ordinance will not excuse the *violation* or permit it to continue, and all such *violation*s will be corrected within a reasonable time.

15. The Planning Director, or the Planning Director's designee, may issue a stop work order against a *person* who violates a provision of this Ordinance, or any approval granted under this Ordinance.

16. The Planning Director, or the Planning Director's designee, may revoke an approved *Forest ConservationPlan* if the Planning Director finds that:

    (A) A provision of the plan has been violated;

    (B) Approval of the plan was obtained through fraud, misrepresentation, a false or misleadingstatement, or omission of a relevant or material fact; or

    (C) A change in the *development* or in the condition of the *site* necessitates preparation of a new or amended plan.

17. Enforcement procedures for *violation*s of the *sediment* control provisions of this Ordinance will be as follows:

    (A) When the *inspection agency* or an inspector determines that a *violation* of the approved *erosion and sediment control plan* has occurred, the inspector will notify the *on-site person*nel or the *permittee* in writing of the *violation*, describe the required corrective action and the time period in which to have the *violation* corrected.

(B) If the *violation* persists after the date specified for corrective action in the notice of *violation*, the *inspection agency* will stop work on the *site*. The *inspection agency* will determine the extent to which work is stopped, which may include all work on the *site*, except that work necessary to correct the *violation*s.

(C) If reasonable efforts to correct the *violation* are not undertaken by the *permittee*, the *inspection agency* will refer the *violation* for legal action.

(D) The Department may deny the issuance of any permits to an *applicant* when it determines that the *applicant* is not in compliance with the provisions of a *building* or *grading* permit or approved *erosion and sediment control plan*.

(E) Any step in the enforcement process may be taken at any time, depending upon the severity of the *violation*.

(F) If a *person* is working without a permit, the *inspection agency* will stop work on the *site* except activity necessary to provide *erosion and sediment control*.

(G) The Department may suspend or revoke any *grading* or *building* permits after providing written notification to the *permittee* based on any of the following reasons:

i. Any *violation*(s) of the terms or conditions of the approved *erosion and sediment control plan* or permit.

ii. Non-compliance with *violation* notices or stop work orders issued.

iii. Changes in *site* characteristics upon which plan approval and permit issuance was based.

iv. Any *violation*(s) of this Ordinance or any rules and *regulations* adopted under it.

(H) The Department will receive complaints and initiate enforcement procedures when *violation*s are confirmed. Any complaint received will be acted upon, routinely within three (3) working days or as soon as is reasonably possible and the complainant will be notified of any action or proposed action routinely within seven (7) working days of receipt of the complaint.

18. Enforcement procedures for *violation*s of the *stormwater management* provisions of this Ordinance consists of any one or a combination of the following actions:

(A) When the *inspection agency* or an inspector determines that a *violation* of the approved *stormwater management plan* has occurred, the inspector will notify the *on-site person*nel or the *permittee* in writing of the *violation*, describe the required corrective action and the time period in which to have the *violation* corrected.

(B) A stop work order will be issued for the *site* by the County if the *violation* persists.

(C) Bonds or securities will be withheld or the case may be referred for legal action.

(D) A civil action may be brought against any *person* in *violation* of the *stormwater* provisions of this Ordinance or the *De*sign *Manual*.

(E) Any step in the enforcement process may be taken at any time according to the severity of the *violation*.

(F) Any *person* convicted of violating the provisions of this Ordinance will be guilty of a misdemeanor, and upon conviction thereof, will be subject to a fine of not more than $5000 for each *violation* with costs imposed not to exceed $50,000. Each day the *violation* continues will be a separate offense.

(G) Kent County may institute injunctive, mandamus, or other appropriate action or proceedings of law to correct *violation*s.

i. The Department may deny the issuance of any permits to an *applicant* when it determines that the *applicant* is not in compliance with the provisions of a *building* or *grading* permit or approved *erosion and sediment control plan*.

ii. Any step in the enforcement process may be taken at any time, depending upon the severity of the *violation*.

iii. If a *person* is working without a permit, the *inspection agency* will stop work on the *site* except activity necessary to provide *erosion and sediment control*.

iv. The County may suspend or revoke any *grading* or *building* permits after providing written notification to the *permittee* based on any of the following reasons: (1) Any *violation*(s) of the terms or conditions of the approved *erosion and sediment control plan* or permit; (2) Non-compliance with *violation* notices or stop work orders issued; (3) Changes in *site* characteristics upon which plan approval and permit issuance was based; or, (4) Any *violation*(s) of this Ordinance or any rules and *regulations* adopted under it.

v. The County will receive complaints and initiate enforcement procedures when *violation*s are con*firm*ed. Any complaint received will be acted upon routinely within three (3) working days or as soon as is reasonably possible and the complainant will be notified of any action or proposed action routinely within seven (7) working days of receipt of the complaint.

19. In addition to the aforementioned provisions, the County may also seek an injunctionto bring about the discontinuance of illegal uses, and/or the removal of illegal *buildings*, *structures*, additions, *alterations*, or structural changes, and/or the discontinuance of any illegal work or activity being done or may take any other action authorized by this Ordinance.

20. The Planning Director or the Planning Director's designee is hereby authorized to enter upon any open land in Kent County for the purpose of enforcing and implementing this Ordinance.

SECTION 8 HISTORIC PRESERVATION DOCUMENTATION

1. A *demolition* permit may not be issued for any parcel or *lot* unless a *historic structure* review has been completed in accordance with the following process:

   (A) TIER 1.

   The Planning Director, or Planning Director's designee, will determine if the *structure* meets the definition of a *historic structure*, based on the public information readily available in the public record and any applicant statements.

   (B) TIER 2.

   i. If the *structure* is found to be more than seventy-five (75) years old or otherwise thought to be of historic significance, then the permit will require the following documentation:

      1. The *applicant* will provide a basic floor plan that includes interior and exterior dimensions of the *structure(s)*; and

      2. The Department will conduct a *site* inspection for the purpose of photographing the *historic structure(s)*, which may include the exterior and interior of the *structure(s)*.

   The Chair of the Historic Preservation Commission, or the Chair's designee, may accompany staff on the *site* inspection.

   ii. Subject to the review of documentation, the Planning Director, or the Planning Director's designee, in consultation with the Chair of the Historic Preservation Commission, or the Chair's designee, will determine if Tier 3 review and documentation is required. The decision will be made by the Planning Director, or the Planning Director's designee, with the advice of the Chair, or the Chair's designee, within 30 days of the receipt of the required floor plan by the Department..

   Note: This is intended to provide clarity for any appeal that may be filed. The appeal would be from a decision of the Planning Director instead of an appeal from a joint decision by a member of staff and a County board. Alternately, if preferred, a decision could be rendered by the HPC Board.

   (C) TIER 3.

   i. Pursuant to a determination of historic significance, Tier 3 review and documentation will be completed by staff within 45 days of the Tier 2 determination, which may result in completion of a Maryland Inventory of Historic Places form developed by the Maryland Historical Trust.

   ii. Tier 3 review and documentation will consist of the following:

      1. Photographs of exterior details, including but not limited to features suchas chimneys, wall coverings, windows, and doors;

2. Photographs of any outbuildings;
3. Access to the interior will be granted in order to obtain detailed photographs of the interior spaces to capture any unique elements in the rooms that may help date the *structure*, including but not limited to woodwork, window surrounds, fireplaces, stairways, mantels, doors, and newel posts, and
4. Overall measurements of the *structure*.

*Applicant*s will make any hazards known, and staff and/or Historic Preservation Commission board members will enter *structures* only with the subject property owner's written or verbal permission.

iii. The Historic Preservation Commission will review the documentation.

(D) Failure to complete Tier 3 documentation within 45 days of the Tier 2 determination will not delay the issuing of a permit unless another agency with review authority has failed to approve the permit or an extension is granted by the property owner. Failure of the *applicant* to grant interior access within the review time will not result in the issuing of a permit.

(E) **Emergency provisions**. These requirements may be set aside or modified by the Planning Director, or the Planning Director's designee, when a *structure* is deemed to be an imminent threat to health, safety, and welfare of the adjoining properties and *person*s.

ARTICLE V. ZONING REGULATIONS

SECTION 1 GENERAL PROVISIONS

1.1 STATEMENT OF INTENT

The purpose of this section is to set forth zoning *regulations* to supplement the dimensional, use, and other zoning-type *regulations* appearing elsewhere in this Ordinance.

1.2 ACCESSORY STRUCTURES; PRIOR CONSTRUCTION

1. No *accessory structure* will be constructed more than six months prior to the construction of the main *structure*. No *accessory structure* will be used for more than six months unless the main *structure* is also being used or is under construction. Extensions may be granted by the Planning Director or Planning Director's designee for cause shown.
2. The Planning Director, or Planning Director's designee, may grant a one (1) year extension to allow accessory *structures*, which were legal, conforming *structure*s and where the existence of the *structure* will not result in a nuisance to the neighborhood, to remain following the *demolition* of the main *structure.*

1.3 REDUCTION OF HEIGHT, BULK, AREA

No parcel area or lot dimension, if specifically required, will be reduced below the requirement of this Ordinance unless otherwise provided for by this Ordinance. The minimum *yard*s, required parking, and mandatory *loading space*s required by this Ordinance will not be encroached upon unless otherwise provided by this Ordinance. Setbacks may be varied as set forth in the districts.

1.4 MODIFICATION OF HEIGHT REGULATIONS

1. Except within an area defined as an *Airport* Approach Zone by the Federal Aviation Agency or in the Kent County *Airport* Safety Area, the height limitations of this Ordinance will not apply to:

Belfries	Ornamental towers and spires
Church spires	Public monuments
Conveyors	Silos and corn dryers
Elevator *bulk*heads	Stage towers or scenery lofts
Fire towers	Tanks
Flag poles	Water towers and standpipes
Personal wireless facility, commercial radio, and television towers less than 200 feet in height	Wind energy systems, small, with a height not to exceed 80 feet unless a special exception is granted

2. Except within an area defined as an *Airport* Approach Zone by the Federal Aviation Agency or the Kent County *Airport* Safety Area, public, semi-public or service *buildings*, *hospitals*, and institutions or schools, when permitted in a district, may be erected to a height not exceeding 60 feet and *houses of worship* may be erected to a height not exceeding 75 feet when the required *side* and *rear yards* are each increased by at least one foot for

each one foot of additional *building* height above the height *regulations* for the district in which the *building* is located.

1.5 YARDS AND OPEN SPACE GENERALLY

1. Whenever a *lot* abuts upon a public *alley*, one-half of the *alley* width may be considered as a portion of the required *yard*.
2. Every part of a required *yard* will be open to the sky, except as authorized by this Article, and except ordinary projections of sills, belt courses, window air conditioning units, chimneys, cornices, and ornamental features which may project to a distance not to exceed 24 inches into a required *yard* but not into a required *buffer*
3. More than one main *building* may be located upon a *lot* or *tract* in the following instances:
   (A) Institutional *buildings*
   (B) Public or semi-public *buildings*
   (C) *Multi-family dwellings*
   (D) Commercial or industrial *buildings*
   (E) Homes for the aged.
   (F) Permitted agricultural and marine uses
4. The provisions of this exception will not be construed to allow the location or erection of any *building* or portion of a *building* outside of the *buildable area* of the *lot*.

1.6 FRONT YARDS

1. Where an official line has been established for the future widening or opening of a *street* or *major thoroughfare* upon which a *lot* abuts, then the depth of a *front* or *side yard* will be measured from such official line. Unless otherwise provided, the *right of way* of any arterial *street*, so designated on the *Major Thoroughfare* Map will be assumed to extend 40 feet on each side of the center line of the existing *right of way* for the purpose of measuring *front yards* required by this Ordinance.
2. On *through lots*, the required *front yard* will be provided on each *street*.
3. There will be a *front yard* of at least 15 feet on the side *street* of a *corner lot* in any district; provided, however, that the *buildable width* of a *lot* existing as of August 1, 1989, of this Ordinance will not be reduced to less than 28 feet.

1.7 REAR YARDS

Open or lattice-enclosed fire escapes, outside stairways, balconies opening upon fire towers, and the ordinary projections of chimneys and flues may project into the required *rear yard* for a distance of not more than five (5) feet, but only where the same are so placed as not to obstruct light and ventilation.

1.8 ACCESSORY BUILDINGS AND STRUCTURES

Except as herein provided, no accessory *building* will project beyond a required *yard* line along any *street*. *Farm* accessory *building*s will be a minimum of twenty-five feet from the side and rear property lines.

1.9 OPEN SPACE

The boundaries of open space areas will be treated as property lines in determining required rear and side yard setbacks. At least 50% of the required open space will be contained as a single visually identifiable area exclusive of connecting corridors or pathways and in no case be less than 50 feet in width nor 5,000 square feet in area. In the *Critical Area*, land and water areas are retained in an essentially undeveloped state.

SECTION 2 OFF-STREET PARKING AND LOADING

2.1 STATEMENT OF INTENT

The purpose of this section is to set forth flexible standards for parking and loading and to ensure adequate parking for permitted uses.

2.2 PARKING REQUIRED

1. No *building*, *structure*, or *premises* will be erected, unless *off-street parking*, consistent with the provisions of this section, is provided. The number of parking spaces provided onsite for a project will be determined according to the flexible standards set forth in this section.
2. Accessible parking spaces are required to be provided on the shortest accessible route to the accessible entrance. Spaces will be provided to meet the current federal requirements as set forth in *2010 ADA Standards for Accessible Design*, as amended from time to time.

2.3 SHARED PARKING

1. The *Planning Commission* will use the use-based parking standards below as guidelines and may allow up to fifty percent (50%) fewer total number of required spaces where one or more of the following situations apply:
   (A) Two or more uses share parking in such a way that the hours or days of peak use are different, and less total spaces will provide for all uses adequately.
   (B) Clients of uses are such that a reduced number of spaces is appropriate, such as a neighborhood grocery, a business frequented by pedestrians, etc.
   (C) The use is water dependent or water related to an extent that most of the activity would be from the water, such as a fish processing facility without a retail outlet. Parking for employees and visitors would still be required.
   (D) Employees are residents of the *structure*, such as in a *home occupation*.
   (E) Display areas approved by the *Planning Commission* will not be included in the tabulation of parking spaces.
2. The *applicant* and the *Planning Commission* may agree to a reduced number of parking spaces below the use-based ratios below with the agreement and condition that if more spaces are required in the future because of miscalculation, unanticipated growth, or other error, those spaces and associated maneuvering area will be provided by the *applicant*. The *Planning Commission* may require that additional *open space* be kept for this purpose. An agreement will be drafted to this effect. The *Planning Commission* may also limit the maximum number of parking spaces above the number required through *site plan* review to encourage innovative design and safe and efficient vehicular and pedestrian circulation.

2.4 USE-BASED RATIOS

USE TYPE	**PARKING SPACES**
Assembly Halls	1 per 3 seats
Automobile Sales	1 per every 300 sq. ft gross *floor area* and 1 per each employee and 1 per service bay.
Banks	1 per 250 sq. ft. of gross *floor area*
Commercial Riding Academies, Stables	1 per 2 horse stalls
Community Centers, Civic Clubs, Museums	1 per 150 sq. ft. of gross *floor area*
Convalescent Home	1 per 5 patient beds.
*Country inn*s, Tourist Homes, Courts, Motels, *Hotel*s	1 per guest unit, plus 1 per employee
Data Processing Centers	1 per employee at maximum occupancy
Funeral Home, Mortuary	1 per 150 sq. ft. of gross *floor area*
Golf Course	5 per green and 50% of the requirement for *accessory use*s, if *on-site*
Hospital	1 per 2 patient beds
Houses of worship	1 per 5 seating spaces
Industrial uses, warehousing	1 per 2 employees in principal shift
Kennel	1 per 400 sq. ft of gross *floor area* but not less than 4
Laundromat	1 per 2 washer/dryer units
Lodging, Rooming, or *Boarding house*s, Bed & breakfast	1 per guest unit, plus 1 per employee
*Marina*s, multi-level boat storage *building*, *public landing*s	1 per *slip*, plus 1 per every 2 full time employees
Office *Building*s	1 per 400 sq. ft. of gross *floor area*
*Private club*s	1 per 5 members
Professional offices, *clinic*s	2 per professional *person*
Residential, Multi-*family*, *Townhouse*s	1 per unit, plus 1 space for each bedroom in the *dwelling*
Residential, Single-Family and Duplex	1.50 per *dwelling unit*
*Restaurant*s or establishments for on *premises* consumption of food, or beverages	1 per 150 sq. ft. of *floor area*, minimum of 3 spaces
Retail or wholesale stores	1 per 250 sq. ft. of gross *floor area*

2.5 DIMENSIONAL STANDARDS

Parking space dimensions	
-Parallel parking	Width: 8 ft. min. Length: 22 ft. min.
-Other than parallel parking	Width: 9 ft. min. Length: 20 ft. min.
Parking aisle dimensions	
-One-way parallel parking	Width: 10 ft. min.
-Two-way parallel parking	Width: 16 ft. min.
-One-way other than parallel parking	Width: 15 ft. min.
-Two-way other than parallel parking	Width: 20 ft. min.

2.6 OFF-STREET LOADING

Any *building* or part thereof having a gross *floor area* of 5,000 square feet or more and which is to be occupied by manufacturing, storage, warehousing, wholesale or retail store, *hotel*, *restaurant*, industrial, funeral home, or other uses requiring the receipt or dispatch of materials by vehicles, will provide a minimum of one off-*street loading space* plus one additional space for each 20,000 square feet of gross *floor area* or major fraction thereof in excess of the first 20,000 square feet. Each *loading space* will be a minimum of 12 feet in width, 45 feet in length and with a clear height of not less than 14 feet.

2.7 BICYCLE PARKING

No new commercial, industrial, marine or multi-*family* residential use will be erected, unless bicycle parking at a rate of one bicycle parking space per 20 required auto parking spaces is provided. Bicycle parking spaces will be visible and convenient to cyclists. Bicycle parking requirements may be met by providing lockers or racks inside a *building*, adjacent to the *building*, in an accessory parking *lot*, or underneath an awning or marquee. A bicycle parking space will be a minimum of six feet long by one foot wide and if enclosed a minimum of four feet high.

2.8 PARKING LOT DESIGN

1. **Pedestrian orientation**. Parking lot design will reflect the fact that once people step out their cars, they become pedestrians. Parking lots will be designed not only to facilitate efficient vehicle circulation but to also permit smooth pedestrian circulation.
2. **Bicycle accommodation**. Provision for safe and efficient bicycle circulation and parking should be included in the overall design of the parking lot.
3. **Traffic flow**. Sites will be designed to prevent awkward or dangerous vehicular flow.

4. **Location**. Parking *lot*s will be located as much as possible to the rear of *building*s. Parking *lot*s may not be located in between the front property line and the primary *building* except (a) for public recreational facilities in which the parking *lot* is a minimum of 200 feet from the front property line and existing public *roads*, and (b) in the Marine district.

5. **Cross-access**. Whenever possible, parking *lot* design will provide for connections to adjacent parcels where uses are compatible.

6. **Building entrances**. Marked walkways, separated from vehicular traffic, will be provided at the entrances of establishments.

7. **Pedestrian Accommodations**.

   (A) Sites will be designed to discourage pedestrians and vehicles from sharing the same pathways.

   (B) Sidewalks at least eight feet wide will be provided along all sides of the parking *lot* that abuts a public *street*.

   (C) Internal pedestrian walkways are distinguished from paved surfaces through the use of special pavers, bricks, scored concrete, or other materials that will clearly identify the pedestrian walkways.

   (D) Sidewalks will be provided along the full length of any *building* abutting public parking areas.

8. **Large Lots**. Parking areas with 80 automotive spaces or more will provide:

   (A) Walkways running parallel to the parking rows every four rows and walkways running perpendicular to the parking rows every 20 spaces.

   (B) Continuous internal pedestrian walkway from the perimeter sidewalk to the principal customer entrance. The walkway will be at least eight feet in width and will feature landscaping and other pedestrian amenities.

   (C) Weather protection features such as awnings extending a minimum of 30 feet from all customer entrances.

2.9 PARKING LOT LANDSCAPING

1. **Required**. At least 10% of parking areas where more than ten parking spaces are provided will be landscaped. Perimeter *screen*ing does not count toward parking area landscaping.

2. **Large Lots**. To avoid large expanses of paving in parking areas with 80 automobile parking spaces or more, the following provisions will apply:

   (A) A row will not contain more than twelve 12 spaces without a landscaped *island* of at least the size of one parking space.

   (B) The ends of parking rows will contain an *island* a minimum of six feet wide adequately landscaped with shade *tree*s, ground cover, and shrubs.

(C) Double rows of parking will be separated by a minimum six-foot planting strip adequately landscaped with shade *tree*s and shrubs.

3. **Screening**. Parking areas will be *screen*ed from the view of motorists, pedestrians, and adjoining residential properties with a vegetative *screen* or landscaped *berm*. The height of the *berm*will be approximately 3 feet. The width of the *berm* will be at least twice the height. The vegetative screen will have the potential of reaching a height of at least 3 feet within five years. The width of the landscaped area will be 4 feet or wider. Perimeter *screen*ing willnot restrict sight distance needed for vehicular or pedestrian safety.

4. **Context**. Natural *slopes* and existing vegetation may be substituted for some or all of the requirements above, provided that these features serve to *screen* the parking area from motorist, pedestrians, and adjoining property owners. Perimeter *screen*ing may be waived per Article IV, Section 6, where it is physically impossible to accomplish.

2.10 DELIVERY TRUCKS AND TRASH COLLECTION VEHICLES

1. Loading and un*loading space*s for delivery trucks will not block major pedestrian ways, the passage of other vehicles on the service drive or major pedestrian ways, or create blind spots when trucks are loading and unloading.

2. Trash boxes, containers for recycling and food composting, and dumpsters will be accessible to collection trucks when all vehicle parking spaces are filled.

2.11 WAIVERS

1. Alternate designs for shared parking, parking lot design, and parking lot landscaping may be approved via the waiver process set forth in Article IV, Section 6.

SECTION 3 SIGNS

3.1 STATEMENT OF INTENT

1. COMMUNITY CHARACTER

   The purpose of this section is to establish minimum *regulations* for the design and display of signs. The *regulations* and standards provide sufficient identification of property while preserving the overall attractiveness of the County. The intent of the County enacting this section is to: (A) encourage the effective use of signs; (B) maintain and enhance the aesthetic environment of the County while avoiding visual clutter; (C) promote the use of signs to identify *building*s and geographic areas; (D) improve pedestrian and vehicle traffic safety; and (E) promote the compatibility of signs with the surrounding land uses.

2. CONTENT-NEUTRAL REVIEW

   For the purposes of regulating signs in Kent County, the message of any sign will not be considered in any review. All reviews are content-neutral. Throughout this section of the Land Use Ordinance, there are sign types and sign descriptions that are intended to clarify the potential utility of signs for applicants. As long as proposed signs on a property comply with the requirements related to the number of signs, sign area, height, illumination, time restrictions, location, relative placement, and obscenity, such signs may be permitted. Issues related to color, design, and materials are subject to review and may be regulated. Prohibited signs are not permitted. Political signs are regulated by the State of Maryland. No signs may be erected on any property, unless the property owner of record consents.

3.2 DEFINED TERMS WITHOUT GRAPHICS

The following defined terms are used in this section:

1. ***Sign***: Any letters, figures, design, symbol, trademark, logo, or illuminating device intended to attract attention to any place, subject, *person*, *firm*, corporation, public performance, article, machine, or merchandise, whatsoever, and visible out of doors for advertising purposes. This does not include an official court or public notice, nor the flag, emblem or insignia of a government, school, or religious group, when displayed for official purposes.

2. **Common *Development***: A parcel or combination of parcels that are dependent upon one another for access, parking, and/or utilities and that share a common *development* plan.

3. **Electronic Message Center (EMC)**: An electrically activated changeable copy *sign* having variable graphic capabilities and programmed by computer. EMCs provide the public with information such as federally required information for gas stations and public information regarding public events held on site by quasi-public/institutional uses and fire companies.

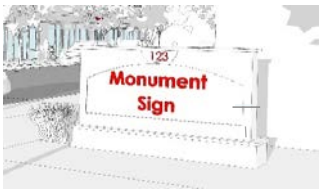
4. **Manually Changeable Copy**: Previously regulated as a separate sign subcategory, any sign may contain manually changeable copy. Sign area is regulated under the overall sign type.

5. **Portable** or **Temporary** *Sign*: Any *sign* that is not permanently attached to the ground or a *structure* including banners, sandwich board signs, yard signs, and signs on vehicles.

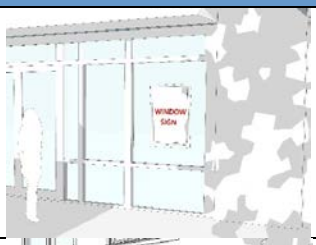
3.3 DEFINED TERMS WITH GRAPHICS

The example graphics below are illustrative only. They represent possibilities for the appearance of *sign* types that are allowed on private property within the County. Images are non-regulatory.

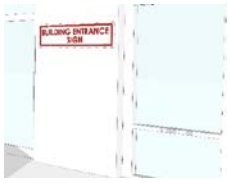
1. **GROUND-MOUNTED SIGNS** and **MONUMENT-TYPE SIGNS**

Sign Type	Definition	Example Graphic
Agricultural: Ground-Mounted Sign	A two-sided *sign* attached to poles, posts, or similar supports, which advertises products raised on the premises, agricultural industries, and agritourism. These signs are often placed near public roads or at the entrances to farm lanes and may be landscaped.	
Agricultural: Monument-Type Sign	A two-sided *sign* mounted on a permanent base, which is not attached or dependent on another *structure*, pole, post, or similar support. Such *sign*s are often landscaped and may be coordinated with the architectural treatments of nearby *structures*.	
Subdivision: Monument-Type Sign	A one-sided monument *sign* that contains only one distinct sign area on the *sign* face for the purpose of identifying the entrance of a *subdivision* along a public road. They are often generously landscaped.	

2. ***BUILDING*-MOUNTED SIGNS**

Sign Type	Definition	Example Graphic
Window Sign	A permanent *sign* that is painted on or mounted to a window, or that is hung directly inside a window. Neon window signs are included in this category. Temporary paper signs in windows and temporary banner signs are not included in this category.	
Wall Sign	A flat, permanent *sign* that is attached and parallel to an exterior wall, and projects no more than 12 inches from the wall. It may be painted onto a wall surface or erected and confined within the limits of the wall surface of a *building* or *structure*. The sign is located against the wall, and it displays only one *sign* surface.	
Projecting Sign	A *sign* that projects no more than 36 inches from and is supported by a wall of a *building* or *structure*. This includes a marquee *sign*. The sign is located against a wall, and it displays more than one *sign* surface. All surfaces are calculated for signage area, except when parallel faces are within 24 inches of each other.	

3. **DETACHED SIGNS** and **INCIDENTAL SIGNS**

Sign Type	Definition	Example Graphic
Freestanding Sign	A *sign* that is not attached to a *building* but rather a supporting *structure* attached to the ground. These *sign*s may be ground-mounted or pole-mounted. They are often made of high-quality materials and well landscaped. *Sign*s located on the All-American Road are encouraged to include relevant branding.	
Directional Sign	A *sign* that directs the public towards a *site* entrance and is visible from a public right-of-way, or any *sign* that provides traffic regulation on private property. These *sign*s are private and for information only, and they cannot be enforced by local law enforcement.	
Address Sign - and - Building Sign	A *sign* that is located on a wall immediately adjacent to the entrance of a *building* or in a yard area. These *sign*s are often used to identify a property address or to provide other information about an activity or use that occurs on the property for the general public.	

3.4 ILLUMINATION

1. No sign may be illuminated except when using external lighting, where the source of light is external to, and independent of, the sign structure, and illumination radiates toward the message area and away from the viewer. This includes goose neck, linear sign lights, and ground mounted spotlights. Interior illumination of signs is not permitted in any case.
2. The light from any illuminated *sign* will be so shaded, shielded, or directed that the light intensity or brightness will not be objectionable to surrounding areas.
3. No *sign* will have blinking, flashing, or fluttering lights, or any other illuminating device which has a changing light intensity, brightness, or color.
4. Beacon lights are not permitted.
5. No colored lights will be used at any location or in any manner so as to be confused with or construed as traffic control devices.
6. Neither the direct, nor the reflected light from primary light sources will create a traffic hazard to operators of motor vehicles on public thoroughfares.
7. No exposed reflective type bulbs, no strobe light, nor incandescent lamp which exceeds 15 watts will be used on the exterior surface of any *sign* so as to expose the face of the bulb, light, or lamp to any public *street* or adjacent property.
8. All new lighting for signs will be dark-sky compliant and use LED fixtures with automatic, light-sensitive shut-off technology that will turn off all sign lighting during daylight hours.

3.5 ELECTRONIC MESSAGE CENTER (EMC)

1. Electronic message centers is permitted as a component of permitted signage for gasoline stations, quasi-public/institutional uses, and fire companies. One *sign* of equal or less *sign* area and height, which is not an EMC, is permitted in lieu of the EMC, but not both *signs*.

2. No *sign* containing an electronic message center will be located within 125 feet of any signalized intersection as measured from the point where the existing right-of-way lines of the intersecting *street*s meet. In a case where a rounded or *cut* property corner exists, this measurement will be taken from the point of the intersection of the existing rights-of-way lines, as extended. The distance will be measured along the right-of-way line from the point of intersection. *(See graphic illustration.)*



3. Any electronic message center that is located within 300 feet of any residential use will be required to automatically turn off between the hours of 11:00 p.m. and 6:00 a.m. daily.

4. An electronic message sequence will be accomplished by means of fading or dissolving but will not scroll, travel, or flash. A transition sequence will be completed in no less than eleven (11) seconds.

5. No portion of any *sign* may change its message or background in a manner or by a method of display characterized by motion, other than fading or dissolving, or pictorial imagery or depicts action or a special effect to imitate movement, or the presentation of pictorials or graphics displayed in a progression of frames that give the illusion of motion or the illusion of moving objects, moving patterns or bands of light or expanding or contracting shapes.

6. Electronic message centers will be designed to freeze the display in one static position, display a full black *screen*, or turn off completely in the event of any malfunction.

7. Portable electronic message signs are prohibited. No electronic message center will be permitted to be included as part of any *sign* that will be erected for a limited timeframe.

8. Digital road signs, electronic traffic signs, and other variable message signs that provide real-time information to drivers, erected by governmental bodies and agencies including the State, County, and other local governments are not electronic message centers.

3.6. PERMITTED SIGNS Rural = AZD, RCD, and on any *bona fide* farm Residential = RC, CAR, and CR Business = C, CCA, EC, ECCA, M Village = V, IV Options are chosen by applicant; they are not based on sizes Special = Special exception uses when approved by the Board of Appeals and existing businesses in districts where they are no longer operating as permitted uses	Number of Signs	Max Area (sq ft)	Max Height (ft)	Illumination	Rural	Residential	Business	Village	Special
A. GROUND-MOUNTED and MONUMENT-TYPE SIGNS									
Agricultural: advertising products raised on the premises and ag industries only (prior 16 sq ft)	1	32	8	Yes	X				
Subdivision, rural: located at subdivision primary vehicle entrance only	1	4	8	Yes	X				
Subdivision, residential: located at subdivision primary vehicle entrance only	1	10	8	Yes		X	X	X	
Electronic Message Center (EMC) at gas stations, quasi-public/institutions, and fire companies	1	32	8	Yes	X		X	X	
B. BUILDING-MOUNTED SIGNS									
Window signs including neon signs but not temporary paper signs or banner signs	1	2	N/A	Yes			X	X	X
Small wall sign: PER ESTABLISHMENT: 5% of the area of the front façade and a max of …	1	25	N/A	Yes				X	X
OR **Projecting sign, small**: PER ESTABLISHMENT, if no flat sign is erected (choose one)	1	5	N/A	Yes					
BUILDINGS WITH A GROSS FLOOR AREA LESS THAN 20,000 SQUARE FEET **Medium wall sign**: PER ESTABLISHMENT: 5% of the area of the front façade and a max of …	1	25	N/A	Yes			X		
OR **Projecting sign, medium**: PER ESTABLISHMENT, if no flat sign is erected (choose one)	1	10	N/A	Yes					
BUILDNGS WITH A GROSS FLOOR AREA EQUAL TO OR GREATER THAN 20,000 SQUARE FEET **Large wall sign**: PER ESTABLISHMENT: 1.5 sq ft per linear foot of front façade with a max of … (Signage colors to be approved by *Planning Commission*; not eligible for bonus; see footnote †)	1	100	N/A	Yes			X		
OR **Projecting sign, large**: PER ESTABLISHMENT, if no flat sign is erected (choose one)	1	10	N/A	Yes					
C. DETACHED SIGNS and INCIDENTAL SIGNS									
Free-standing Pole sign ***OR*** Ground-mounted sign									
Business sign: for a stand-alone business or common development (e.g., *shopping center*)	1	25	25	Yes			X	X	X
Directory sign: identifying three or more establishments within a common development	1	65	8	Yes			X		
Waterfront sign: if directed at the water, for a stand-alone business or common development	1	20	20	Yes			X		
Incidental signs									
Address sign (formerly nameplate sign)	1	2	N/A	No	X	X	X	X	X
Building sign (formerly home occupation sign)	1	2	N/A	No	X	X	X	X	X
Directional signs (number not limited)	N/A	4	4	Yes	X	X	X	X	X
Flags of any Nation, State, County, or Municipality	3	28	N/A	Yes	X	X	X	X	X
Flag additional (formerly noted as non-commercial)	1	15	N/A	Yes			X	X	X
Portable or **Temporary signs** (including banners, sandwich boards, and yard signs)	1	6	8	No			X	X	X
Warning signs – danger, no trespassing, no hunting, and other warnings (number not limited)	N/A	2	6	No	X	X	X	X	X
TOTAL OVERALL SIGN AREA ALLOWANCE FOR ANY SINGLE BUILDING † **1.5 square feet per linear foot of building frontage and no more than:**	**100 sq feet**						X	X	X

†Buildings with a gross floor area equal to or greater than 20,000 square feet are exempt from the single-building maximum sign area limitation above.

3.7 CRITERIA FOR BONUS SIGN AREA

To encourage design excellence, the maximum *sign* areas in the Rural, Residential, Business, and Village categories may be increased by the percentages outlined below. A separate bonus is granted for compliance with each of these criteria and the area is cumulative, but the percentage is based on the original *sign* area. In no case will the overall *sign* area exceed 64 square feet.

1. Detached signs, both pole-mounted and monument-type, may be increased as follows:
   (A) Twenty (20) percent when the *sign* is constructed of solid wood and uses colors approved by the *Planning Commission*.
   (B) Ten (10) percent when a directory *sign* utilizes uniform coloring and lettering for all establishments listed in the directory with an exception for one major facility.
   (C) Twenty (20) percent when the *sign* is installed in a landscaped planter having an area twice the area of the resultant *sign* and the entire area is approved by the *Planning Commission*.
   (D) Fifteen (15) percent when the *sign* is not designed or used with illumination, only indirect lighting is permitted.
   (E) Twenty (20) percent when the *sign* uses a pedestal or monument base and does not exceed 5 feet in height.
2. Wall signs may be increased as follows, if they project less than 12 inches from the wall:
   (A) Ten (10) percent when all the lettering and background is uniform in style and color for signs in a *shopping center* or for any three consecutive separate establishments.
   (B) Fifteen (15) percent if the *sign* is not designed or used with any illumination, only indirect lighting is permitted.
   (C) Five (5) percent if the *sign* design compliments and utilizes the architectural details of the facade, particularly with respect to *historic structures*.
3. Temporary signs may be increased by the *Planning Commission* for project construction.

3.8 SIGN PERMIT REQUIRED GENERALLY

Except for the signs listed below, which may be erected without obtaining a permit, every *person* desiring to erect a *sign* will first obtain a *sign* permit along with all other permits required by law.

3.9 REGULATED SIGNS NOT REQUIRING A SIGN PERMIT

GROUND-MOUNTED and MONUMENT-TYPE SIGNS

1. In keeping with the content-neutral approach, new or replacement *sign* copy, including repainting and new cabinet faces will not require a *sign* permit, as long as the calculated *sign* area remains unchanged. Changes to electrical equipment will require an inspection.

BUILDING-MOUNTED SIGNS – THIS SUB-SECTION GRANTS ADDITIONAL SIGNS AND SIGN AREA

1. Temporary paper *signs* in windows that occupy less than 30 percent of each window area.
2. Painted logos, decals, or other informational symbols, such as credit card logos, directly inside of, or on the surface of, a window and/or door on the ground floor of a *building*, if the area of such informational *signs* is less than five (5) percent of the area of the window.
3. In keeping with the content-neutral approach, new or replacement *sign* copy, including repainting and new cabinet faces will not require a sign permit, as long as the calculated *sign* area remains unchanged. Changes to electrical equipment will require an inspection.

DETACHED and INCIDENTAL SIGNS

1. Address signs, building signs, flags, warning signs, and non-illuminated directional signs.
2. Portable or Temporary signs displayed for 60 days or less within any given calendar year.
3. In keeping with the content-neutral approach, new or replacement *sign* copy, including repainting and new cabinet faces do not require a *sign* permit, as long as the calculated *sign* area remains unchanged. Changes to electrical equipment will require an inspection.

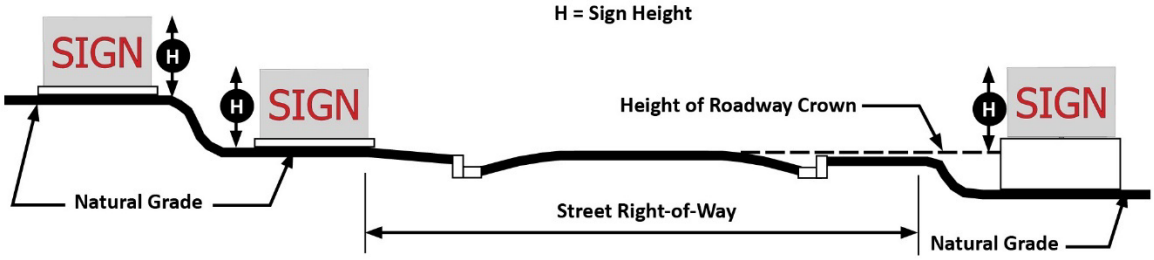
3.10 SIGNS EXEMPT FROM ANY REVIEW AND NOT SUBJECT TO THIS SECTION

The signs listed below may be erected without any review and are not subject to this sign section.

1. Federal, State, and County program-related interpretative signs for farmland preservation and archeological, cultural, and historic programs such as byways and All American Roads.
2. Public signs representing a public interest, erected by, or on the order of a public official.
3. Temporary public notices for public meetings and public hearings, erected by the County.
4. Traffic and information signs erected in the public rights-of-way by a governmental body.

3.11 HOW TO MEASURE SIGN DIMENSIONS

1. *Sign* Height Measurement

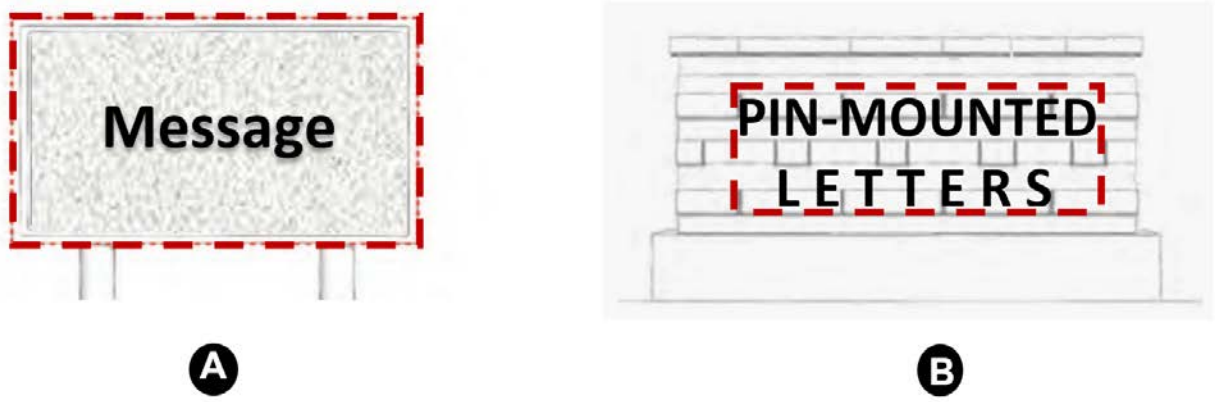


The height of a *sign* will be measured from the higher of (1) the natural *grade* immediately adjacent to or directly beneath the *sign* base, which will not be raised so as to create additional *sign* height, or (2) the height of the *roadway* crown of the adjacent *street* which the *sign* faces, to the highest point of the *sign structure*, including the bracket, supports, and any *sign* face surrounds. The above diagram illustrates *sign* height measurement.

2. *Sign* Area Measurement

(A) For signs mounted on a freestanding background or projecting from a *building*, the entire area of the framework or background of the *sign* is calculated as the *sign* area, including any material or color forming the *sign* face or background used to differentiate the *sign* from the *sign structure* against which it is placed. *Sign* area does not include any supporting framework or bracing unless such framework or bracing is part of the message or *sign* face. (Diagram "A" below).

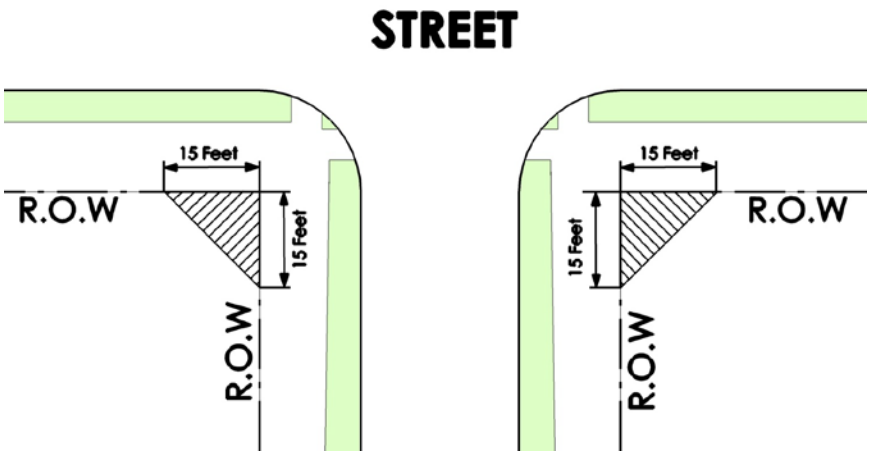
(B) For signs consisting of freestanding letters or features attached to a wall or monument, the *sign* area is calculated as the total area of an imaginary rectangle that contains all letters or features of the *sign*. (Diagram "B" below).



(C) **Other computations**. Only one side of a double-faced *sign* is included in the computation of *sign* area, when the two *sign* faces are placed back-to-back, so both are no more than 24 inches apart at their furthest distance. The area of a cylindrical sign is computed by multiplying one-half of the circumference by the height of the *sign*. Regular geometric shapes may be calculated using formulas.

3.12 SIGN LOCATION AND SAFETY

1. All ground-mounted *signs* will be setback no less than five feet from the right-of-way line.
2. All supports and wiring for building-mounted signs will be concealed from public view.
3. *Signs* will not be situated so they interfere with the movement or visibility for pedestrians, cyclists, or motorists, or so they obstruct views of traffic signals or other traffic devices.
4. *Signs* and their supporting *structure*s will not interfere with public utility equipment or communication lines/equipment that are either above or below the *grade*.
5. At a minimum, *signs* will not be located in the vision clearance triangle adjacent to the intersection of any *streets*. The triangle is fifteen (15) feet from the point of intersection of two *street*s along the right-of-way of each of the two intersecting *street*s, or a distance of five (5) feet from a point of intersection of a *street* and a driveway. Wall *signs* and any other *signs* that are placed flat against a *building* wall are not subject to this requirement.



3.13 PROHIBITED SIGNS GENERALLY

Except as otherwise provided, the following *signs* are prohibited:

1. *Signs* including all billboards, outdoor advertising *structure*s, poster panels, and *signs* of any type, which advertise products or services that are not available on the *premises*.
2. *Signs* that visually simulate an official traffic control device, warning *sign*, or regulatory *sign*, or which hide from view any traffic control device, signal, or public service *sign*.
3. *Signs* that interfere with road or highway visibility or obstruct or otherwise interfere with the safe and orderly movement of traffic or which otherwise pose a hazard to traffic.
4. *Signs* in the form of pennants, balloons, streamers, ribbons, spinners, strings of lights, air- or gas-filled figures, or other devices that are moved by wind, machine, or human activity.
5. *Signs* on public rights-of-way other than publicly owned or maintained signs and signs pertaining to railroad crossings.
6. *Signs* containing obscene statements, words, symbols, or graphic depictions that may be construed to offend public morals or decency.
7. *Signs* that emit or utilize, in any manner, any kind of sound that is produced by the *sign*.
8. *Signs* attached to a fire escape or that obstruct any fire escape, any means of egress, or ventilation, or will prevent free passage from one part of a roof to any other part.
9. *Signs*, other than approved Electronic Message Centers, that change color(s), flash, blink, oscillate, or intimate movement through lighting effect(s) or the use of video display of any kind, and in any way visible from the right-of-way or any other adjacent properties.
10. *Signs* painted or affixed on the roof of a *building* or supported by posts, poles, uprights, or braces extending from or attached to the roof of a *building* or projected above the roof of a *building* or above the parapet. Signs that extend above any eave line are prohibited.
11. *Signs* attached to a fence, wall, gazebo, antenna, other *sign*, *tree* or other vegetation, or to any public *structure* such as a utility pole or lamppost.

3.14 SIGN MAINTENANCE

All *signs* will be maintained in safe structural condition, in compliance with all applicable *building,* life safety, and electrical codes, and in conformance with this section at all times. Maintenance includes replacement of defective bulbs, parts, materials, painting, repainting, cleaning, and any other act required for maintenance of *signs*. If a *sign* is not adequately maintained or kept in good repair, the County may require its removal, utilizing the provisions in the section below.

3.15 REMOVAL OF UNSAFE, UNLAWFUL, OR ABANDONED SIGNS

1. Upon written notice by the County, the property owner of record where a *sign* is located will remove the *sign*, if it is unsafe, was unlawfully erected in *violation* of this section after August 1, 1989, or the permitted use related to the *sign* has been abandoned or vacated.
2. After 30 days from the date of the notice, the County may remove or cause to be removed at the expense of the property owner, any *sign* that is not in compliance with this section.
3. If any *sign* poses an immediate threat to public safety, it may be removed immediately.

3.16 LEGAL, NONCONFORMING SIGNS

1. A *sign* will be considered a legal, nonconforming *sign* if it:
   (A) Does not conform to one or more of the *sign* regulations in this section; and,
   (B) Existed on the effective date of this Land Use Ordinance; and either conformed to the *regulations* of, or was considered to be a legal, nonconforming *sign* by the Ordinance in effect on the day before the effective date of this Ordinance.
2. A prohibited *sign* existing on August 1, 1989, is considered a legal, nonconforming *sign*.
3. A legal, nonconforming *sign* may be retained in place, if the following conditions are met:
   (A) The legal, nonconforming *sign* is not expanded, structurally altered, relocated, completely replaced, or removed except to bring the legal, nonconforming *sign* into some greater compliance with the *sign* regulations of this section; and
   (B) The legal, nonconforming *sign* is maintained in good condition and repair.
4. A legal, nonconforming *sign* damaged or destroyed by Act of God or other circumstances beyond the control of the owner of the *sign* may be repaired, relocated, or replaced.
5. A question of the legal, nonconforming status of a *sign* is decided by the Board of Appeals in a public meeting with public notice given, per the requirements for notice in Article IV.

3.17 RELOCATION OF LEGAL, NONCONFORMING SIGNS

A nonconforming *sign* may be relocated for road or sidewalk construction, purchases of right-of-way, or other utility or transportation projects initiated by the County or any other public agency.

SECTION 4 STANDARDS FOR UTILITY-SCALE SOLAR ENERGY SYSTEMS

4.1 SETBACKS TO ACCOMMODATE REQUIRED LANDSCAPE BUFFER

1. 200 feet from any *lot* line.
2. 200 feet from any road/and or right-of way
3. 200 feet from any road/right-of-way within ½ mile of a town or village boundary that is the gateway into a town or village
4. 200 feet from any residential use or zoning district
5. Setbacks may be reduced to 100 feet for non-residential development with written consent from the property owners whose property is adjacent to the area in which the setback reduction is sought. The Planning Commission shall be the review agency to determine the application of this provision.
6. Setbacks shall be measured from the outermost edge of the nearest solar panel structure within the solar array including substations.

4.2 INSTALLATION AND MAINTENANCE STANDARDS

Solar arrays shall be constructed and maintained according to the following:

1. If solvents are required for cleaning of the solar modules, they must be biodegradable. Any unused solvents must be removed from the subject parcel.
2. All broken or waste solar modules shall be removed from the site subject parcel within 30 days of being taken out of service, including any leaching panels, and the subject parcel shall be maintained in good order.
3. All wiring not on the solar arrays shall be underground except when necessary to connect to the public utility.
4. Transmission wires to connect the project to the utility infrastructure shall not cross a roadway overhead.
5. Any required utility right of way shall be secured through an easement, lease, service agreement or other legally binding document.
6. The solar array shall be enclosed by a fence or other appropriate barrier at the interior edge of the required landscape buffer or immediately adjacent to the solar array. The fence or barrier shall:
   (A) Secure the facility at all times to prevent unauthorized persons or vehicles from gaining access.
   (B) All access gates will provide a sign that identifies the responsible parties or owners with current contact information.

7. Noise generated by the facility shall be limited by the project design to 45 dBAs measured at the property line, to be indicated on the site plan by the engineer, except when a back-up generator is needed for maintenance. Construction on the site is exempt from this standard.

8. Solar arrays, including the electrical and mechanical components, shall conform to relevant and applicable local, State, and national codes.

9. To protect adjacent properties, and not interfere with roadways or create a safety hazard, evidence shall be provided that the solar panels are designed to avoid glare and/or reflection with anti-reflective coating or non-glare technology and, if necessary, have been evaluated with a solar glare hazard and analysis tool.

10. Non-array uses such as power storage are not permitted.

4.3 LANDSCAPE BUFFER FOR UTILITY-SCALE SOLAR ENERGY SYSTEMS

1. Any utility scale solar facility shall comply with the requirements of the Forest Conservation Act. Reforestation planting may be incorporated as landscaping. 404.6

2. The gross usable area for panels will exclude wetland areas that are regulated by the Maryland Department of the Environment or the U.S. Department of the Interior. Impacts associated with access or interior roads and utility crossings shall provide the necessary authorization for any disturbances.

3. Existing topsoil shall not be removed from the site.

4. A vegetated buffer that is a minimum of 60 feet wide around the perimeter of the site area fronting on road or rights of way that are considered gateways to towns or villages and a minimum of 50 feet for all other applications. This buffer may be located within the setback and shall extend around the entire project with the exception of any boundaries contiguous to preserved, forested lands that are recorded on a plat.

5. Healthy existing vegetation within the designated buffer area may be used to satisfy the specific buffer standards.

6. Non-native plant material shall not total more than 10% of all plantings.

7. Where a phased construction plan is proposed, the landscape plan shall identify the phasing of the plantings applicable to each construction phase.

8. Not more than 25% of any single plant species should be included in the buffer to promote the growth of a natural landscape and avoid monotony and uniformity of the buffer. The vegetation shall be thickly planted and of such species that it will provide an opaque visual barrier that obscures the utility scale solar array from sight once the vegetation reaches maturity or within five years, whichever comes first. A mix of evergreen and deciduous trees, shrubs and beneficial habitat shall be included:

   (A) A minimum of two staggered rows of evergreen trees that at installation shall be at least 6 feet in height, each planted no more than 10 feet apart. Evergreen

tree species shall be a varied mixture of compatible types and achieve a height of eight feet in a minimum of 2 years.

(B) In addition to the evergreen trees, native deciduous or shade trees with a minimum size at installation of 2-inch caliper shall be interspersed to enhance the evergreen screening along with understory trees with a minimum size of installation of 1-inch caliper or 6 feet in overall height or greater if required by the Planning Commission to address gateway areas.

(C) Shrubs with a minimum size at installation of 24 inches in height or 30 inches in spread.

(D) The buffer shall include a flowering ground cover for pollinators, warm season grasses and other beneficial habitat. The ground cover seed mixture shall include a minimum of 10 plant species with a minimum of 2 flowering seasons. Lawns outside the required buffer are discouraged; plantings for pollinators are encouraged in all planted areas.

(E) The height of proposed planting may require alternatives based upon the site elevation and visibility from adjacent properties and roads and/or rights of ways. If necessary, an elevation or perspective illustration exhibit shall be provided with viewpoints from relevant locations around the site for the Planning Commission to consider.

4.4 LANDSCAPE BERM REQUIRED; CONDITIONS FOR EXEMPTION LISTED

A landscape berm shall be provided at a minimum of three (3) feet high to assist in screening. The design of the berm shall be such that the natural drainage patterns of the site will not be altered. The berm requirement may be waived in part or total subject to the following conditions:

1. A minimum of two staggered rows of evergreen trees that at installation are at least 8 feet in height and planted no more than 10 feet apart
2. Interspersed shade trees have a minimum size at installation of 2.5-inch caliper
3. Understory story trees with a minimum size at installation of 1.5-inch caliper or 6 feet in overall height
4. Shrubs with a minimum size at installation of 30 inches in height.
5. The landscaping plan is deemed to screen elevations of the site adequately within 2 years.

4.5 IRRIGATION REQUIRED

Irrigation shall be provided to assist in maintaining plant materials in a healthy condition for all newly created landscape buffer areas. Plants shall be watered in a manner adequate to ensure establishment and survival. The landscape plan shall include a watering schedule appropriate for the proposed plantings, which may include service by on-site irrigation or water truck, until the

plant material is sufficiently established to survive on natural soil moisture. An irrigation system is subject to the following:

1. The irrigation system shall be designed to prevent runoff, low head drainage, overspray, or other similar conditions where irrigation water flows onto nontargeted areas such as adjacent properties, roadways, or structures.
2. All automatic irrigation systems shall be designed to minimize water usage and shall be manually shut off during water emergencies or water rationing periods.
3. An alternative form of irrigation for a particular site may be approved through the applicable review process upon determining that underground irrigation is not necessary or available for the type of plant material being proposed.

4.6 MAINTENANCE AGREEMENT REQUIRED

A maintenance agreement for the landscape plan shall be provided with a surety or other financial assurance to cover replacement of the plantings and irrigation systems. All plantings shall be maintained in a live, healthy condition for the duration of the solar array life and shall be replaced by the solar array operator as necessary with appropriately sized plant material as necessary to maintain all required buffering standards.

4.7 LANDSCAPE SURETY REQUIRED

The surety may be provided on a phased basis per the landscape phasing plan and shall be held by the County for a period of three years following planting, after which the County, upon satisfactory inspection of the landscape buffer may release 50% of the surety, and the remaining 50% may be released after an additional two years. The County then reserves the right to inspect and require replacement for the duration of the solar array.

4.8 PROJECT ENTRANCE REQUIREMENTS

Entrances to the project should be designed to ensure that neighboring properties, public rights-of ways and roads are not exposed to an unscreened view through the entranceway. The use of a wire mesh or chain-link gate or fence with vinyl interwoven strips is not acceptable.

4.9 COMPLIANCE WITH FEDERAL AND STATE REQUIREMENTS

The project shall comply with all applicable federal and State regulations, including by not limited to obtaining a Certificate of Public Convenience and Necessity from the Public Service Commission if required, and in the removal and disposal of the utility scale solar array and all of its components.

4.10 COMLIANCE WITH ALL OTHER PUBLIC LAWS OF KENT COUNTY

The project shall comply with all other applicable regulations, as contained in the Public Laws of Kent County.

4.11 PROJECT BONDING REQUIREMENTS

The Project shall comply with the bond-related requirements below:

1. A bond, surety letter, or other financial instrument for removal of all solar-related structures and non-vegetative improvements on the site and for the restoration of the site to its pre-project condition shall be submitted, to be based on bona fide written estimates prepared by third-party consultants;
2. The cost estimate shall address provisions for the safe removal and proper disposal of all components of the project, including any components containing hazardous or toxic materials including leachates;
3. An estimate for review by County shall be submitted;
4. Bond shall be maintained for the life of the project;
5. Bonding may be in coordination with other required bonding by the State of Maryland, PSC, PULJ, PPRP, etc.;
6. In the event that no other bonding is required, then a bond in favor of the County shall be required;
7. Said bonding shall include an escalator provision based on changes to the cost of restoration, which shall be evaluated and updated every five years;
8. Said bond shall be for 110% of the above estimate(s) and/or updated estimate(s) from five-year reviews;
9. Said bond shall be redeemable by the County upon a finding that the project has been abandoned, with or without notice from project operators, if project has, in fact, been abandoned by its operators; and
10. The Project will be considered to be abandoned, if there is no electric generation provided to the grid for a period of twelve (12) consecutive months.

ARTICLE VI. ENVIRONMENTAL REGULATIONS

SECTION 1 GENERAL PROVISIONS

1.1 STATEMENT OF INTENT

The purpose of these standards is to provide for the proper stewardship of the County's natural resources. Specifically, it is the overall goal of the County to maintain the quality of the County's *ecosystem* in the face of continuing activity, growth, and change. In general, the regulations in Article VI are requirements set forth by the State of Maryland in the Maryland Code (State law) and regulations adopted by various State agencies in the Code of Maryland Regulations (COMAR). In some cases, there are formal processes by which exceptions may be granted, but in most cases these regulations are requirements, and the County is charged by the State with enforcing them.

1.2 MARYLAND CRITICTAL AREA AND NON-CRITICAL AREA REGULATIONS

The 12 zoning districts in this Land Use Ordinance comprise two categories. The first category is the zoning districts for land located in the State of Maryland's Critical Area for the Chesapeake and Atlantic Coastal Bays. These are the RCD, CAR, CCA, M, and ECCA. State of Maryland Critical Area regulations apply in these zoning districts. The remaining districts are outside the Critical Area. Critical Area regulations do not apply; Forest Conservation regulations apply. Blue highlighted Sections apply only to Critical Area zoning districts. Green highlighted Sections apply only to non-Critical Area zoning districts. Sections with no highlighting apply to all zoning districts.

Article VI Environmental Regulations Applicability	AZD	RCD	RC	CAR	CR	V	IV	C	CCA	M	EC	ECCA
Section 1. General Provisions	X	X	X	X	X	X	X	X	X	X	X	X
Section 2. Critical Area Program		X		X					X	X		X
Section 3. Forest Conservation Act	X		X		X	X	X	X			X	
Section 4. Erosion & Sediment Control	X	X	X	X	X	X	X	X	X	X	X	X
Section 5. Stormwater Management	X	X	X	X	X	X	X	X	X	X	X	X
Section 6. Floodplain Management*	X	X	X	X	X	X	X	X	X	X	X	X

* For properties located in a floodplain

1.3 GENERAL ENVIRONMENTAL STANDARDS

These regulations apply to all properties in all zoning districts and for all processes in Article IV. Applicants are required to identify the subject matter listed below and address all relevant issues.

1. **Agriculture.** Whenever possible, agricultural operations will follow agricultural *best management practices,* and property owners are encouraged to develop and implement soil conservation and water quality plans, nutrient and pest management plans.

2. ***Anadromous fish***.

   (A) Concrete riprap or other artificial surfaces will not be installed on the bottom of natural streams unless it can be demonstrated that water quality and fishery habitat will be improved.

   (B) Physical *alteration* of a stream, including but not limited to channelization, that interferes with the movement of fish will be prohibited.

   (C) The construction or placement of dams or other structures that would interfere with or prevent the movement of spawning fish or larval forms in streams will be prohibited.

   (D) Where practical, the removal of existing barriers is encouraged. Construction, repair or maintenance activities associated with bridges or other stream crossings or with utilities and roads which require disturbance to the buffer or stream protection corridor, or which occur in stream will be prohibited between March 1 and May 15.

3. ***Forest Interior Dwelling Birds***. New *development* will minimize impact on forest interior dwelling birds. Whenever possible, riparian forest will be expanded.

4. **Natural heritage areas** and locations considered for Areas of Critical State Concern will be preserved whenever possible. These areas are identified in Section 3.

5. ***Non-tidal wetlands***. *Non-tidal wetlands* will be protected according to the *regulations* of the State of Maryland, Army Corps of *Engineer*s, United States Fish and Wildlife Service, Environmental Protection Agency, and all other applicable State and Federal *Regulations*.

6. **Poorly drained and flood-prone property.** When possible, land subject to poor drainage or periodic flooding will not be developed for any use that might involve danger to health, life, or property or aggravate floods. If developed, the property owner will agree to make any improvements necessary to render the property safe for *development*.

7. **Threatened and *endangered species*** and *species in need of conservation* will be checked and noted by the *applicant* before any approvals are granted by the Planning Director or *Planning Commission*. The Federal or State guidelines (whichever is stricter) for habitat protection will be followed during *development*. Plans will also include provisions for continuance of the habitat protection after *development*. This can include *conservation easements*, cooperative agreements, special provisions in *forest management plans*, and donation or sale to a third party.

8. **Tributary Streams**. New *development* or *redevelopment* will provide a **100-foot** naturally vegetated *stream protection corridor* along all *tributary streams* to protect such streams and the natural course and *riparian habitat* of these streams, habitat protection areas, or any other significant habitat identified by the Department. New *development activities*, including *structure*s, parking areas, septic systems, and similar *impervious surface*s will not be permitted in the *stream protection corridor*. *Roads* that cross the *stream protection corridor* will be minimized.

The *Planning Commission* may modify the *stream protection corridor* when the following can be demonstrated that: (a) a reduced corridor achieves significant water quality and habitat improvements equal to the required corridor; (b) more than 50% of the corridor on the site is impervious or more than 75% of the corridor on the site is disturbed with stone, septic systems, decks, or other obvious human impacts; and, (c) the site will include all contiguous parcels under single ownership.

9. **Vegetation.** *Development* will minimize the removal of vegetation, protect remaining vegetation, replace removed vegetation onsite, and plant permeable areas, if practicable. *Native plants* are preferred and, in some cases, required by State law.

10. ***Wildlife corridor*s** will be created whenever feasible. Fragmentation of natural habitat areas is prohibited in any residential zoning district, and fragmentation of natural habitat areas will be minimized in all other zoning districts. *Hedgerow*s are desirable as *buffer*s.

SECTION 2 CRITICAL AREA PROGRAM

2.1 PURPOSE AND GOALS

1. The General Assembly enacted the Critical Area Act for the following purposes.

   (A) To establish a resource protection program for the Chesapeake Bay and Atlantic Coastal Bays and their tributaries by fostering more sensitive development activity for certain shoreline areas so as to minimize impacts to water quality and natural habitats; and

   (B) To implement a resource protection program on a cooperative basis between the State and affected local governments, with local governments establishing and implementing their programs in a consistent and uniform manner subject to State Criteria and oversight.

2. The goals of the Kent County Critical Area Program are to accomplish the following:

   (A) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or run off from surrounding lands;

   (B) Conserve fish, wildlife, and plant habitat; and

   (C) Establish land use policies for development in the Critical Area which accommodate growth as well as address the environmental impacts that the number, movement, and activities of people may have on the area.

2.2 IMPLEMENTATION

1. Notwithstanding any provision in this ordinance, or the lack of a provision in this ordinance, all of the requirements of Natural Resources Article 8-1801 through 8- 1817 and COMAR Title 27 shall apply to, and be applied by, Kent County as minimum standards.

2. In the case of conflicting provisions, the stronger provision applies.

2.3 CRITICAL AREA DESIGNATIONS

1. The extent of the Critical Area shall include:

   (A) All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide, and all state and private wetlands designated under Title 16 of the Environment Article of the Annotated Code of Maryland; and

   (B) All land and water areas within 1,000 feet beyond the landward boundaries of state or private wetlands and the heads of tides designated under Title 16 of the Environment Article of the Annotated Code of Maryland.

2. Within the designated Critical Area, all land is assigned one of the following land classifications, based on land uses and development in existence on December 1, 1985.

(A) Resource Conservation Area (RCA).

i. Resource Conservation Areas are those areas characterized by *nature-dominated* environments (that is, *wetlands*, *forest* and abandoned fields) and resource-utilization activities (that is, *agriculture*, *forest*ry, fisheries' activities or *aquaculture*). As of December 1, 1985, these areas had at least one of the following features:

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

ii. Zoning districts within the Resource Conservation Area of the *Critical Area*

1. Resource Conservation (RCD)

(B) Limited Development Area (LDA).

i. Limited *Development* Areas are those areas which are currently developed in low or moderate intensity uses. They also contain areas of plant and animal habitats, and the quality of runoff from these areas has not been substantially altered or impaired. As of December 1, 1985, these areas had at least one of the following features:

1. Housing *density* ranging from one *dwelling unit* per 5 acres up to four *dwelling unit*s per acre;
2. Areas not dominated by *agriculture*, wetland, *forest*, *barren land*, surface water or *open space*;
3. Areas meeting the conditions of an intense *development* area but not concentrated in an area of at least 20 acres; or
4. Areas having public sewer or public water or both.

ii. Zoning districts within the Limited Development Area:

1. *Critical Area* Residential (CAR)
2. Commercial *Critical Area* (CCA)
3. Employment Center *Critical Area* (ECCA)

(C) Intensely Developed Area (IDA).

i. Intense *Development* Areas are those areas where residential, commercial, institutional and/or industrial *developed land* uses predominate and where relatively little natural habitat occurs. As of December 1, 1985, these areas had at least one of the following features:

1. Housing density equal to or greater than four dwelling units per acre;

2. Industrial, institutional, or commercial uses concentrated in the area; or
3. Public sewer and water collection and distribution systems were currently serving the area and housing density was greater than three dwelling units per acre; and
4. These areas are concentrated in an area of at least 20 acres.

ii. Zoning districts within the Intense *Development* Area of the *Critical Area:*

1. Marine (M)

iii. Uses or parcels that have received growth allocation:

1. *Conference center*s, *resort*s, *retreat*s, *campground*s, and other uses that have received growth allocation.
2. Commercial *Critical Area* parcels that have received growth allocation.

2.4 DEVELOPMENT STANDARDS

1. Lot Coverage in an LDA or RCA

Except as otherwise stated below, lot coverage shall not exceed 15% of a lot or parcel, or that portion of a lot or parcel that is designated LDA or RCA.

(A) Additional lot coverage in the LDA or RCA is permitted if official documentation (plats, deed records) demonstrates that the lot existed on December 1, 1985. Lot coverage for such lots shall be limited as shown below.

Lot Size (square feet)	**Maximum Lot Coverage**
0 to 8,000	25% of parcel plus 500 square feet
8,001 to 21,780	31.25% of parcel
21,781 to 36,300	5,445 square feet
36,301 to 43,560	No increase over 15%

(B) If an individual lot one acre or less in size is part of a subdivision approved after December 1, 1985, the total lot coverage for the entire subdivision may not exceed 15%, and the lot coverage of an individual lot may not exceed 25%.

(C) Lots impacted by 2008 revisions to impervious surface limits. A lot or parcel not in compliance with the lot coverage requirements, but legally developed as of July 1, 2008, in accordance with the impervious surface requirements in effect at the time of construction, is legally nonconforming for purposes of lot coverage requirements.

(D) Properties granted growth allocation in accordance with the Kent County Growth Allocation Policy may be exempt from the 15% lot coverage requirement.

2. Steep Slopes

(A) Development on slopes 15 percent or greater, as measured before development, shall be prohibited unless the project is the only effective way to maintain or improve the stability of the slope.

(B) Development on slopes 15 percent or greater that are over six feet vertically as measured before development shall require a variance from the Board of Appeals.

3. Clearing in an LDA or RCA

(A) Forest clearing for lots created before December 1, 1985.

i. **Lots one-half acre or less.** Forest clearing on lots that are one-half acre or less in size and that were in existence on or before December 1, 1985, shall be limited to the minimum necessary to accommodate a house or other structure, initial septic system, driveway, and reasonable amount of yard or required parking, but the clearing may not exceed 6,534 square feet. Clearing above 6,534 square feet requires a variance.

ii. **Lots greater than one-half acre.** Forest clearing on lots that are greater than one-half acre in size that were in existence on or before December 1, 1985, shall be limited to the minimum necessary to accommodate a house or other structure, initial septic system, driveway, and reasonable amount of yard or required parking and may not exceed 20% of the forest, except that the Office of Planning and Zoning may approve clearing up to 30% for the installation of a required septic system. Clearing above 30% requires a variance.

(B) Developed woodland clearing for lots created before December 1, 1985.

i. **Lots one-half acre or less.** Developed woodland clearing on lots that are one-half acre or less in size and that were in existence on or before December 1, 1985, shall be limited to the minimum necessary to accommodate a house or other structure, initial septic system, driveway, and reasonable amount of yard or required parking.

ii. **Lots greater than one-half acre up to one acre.** Developed woodland clearing on lots that are greater than one-half acre and up to one acre in size that were in existence on or before December 1, 1985, shall be limited to the minimum necessary to accommodate a house or other structure, initial septic system, driveway, and reasonable amount of yard or required parking, and may not exceed 30% without a modification by the Planning and Zoning Officer.

iii. **Lots greater than one acre.** Developed woodland clearing on lots that are greater than one acre in size that were in existence on or before December 1, 1985, shall be limited to the minimum necessary to accommodate a house or other structure, initial septic system, driveway, and reasonable amount of yard or required parking, and may not exceed 30% without a variance.

(C) **Clearing for subdivisions created after December 1, 1985.** Clearing of subdivisions created after December 1, 1985, may not exceed 30% of the forest or developed woodland without a variance.

4. Clearing mitigation and afforestation.

(A) A**pplicability.** This section applies to afforestation and mitigation for clearing of forest or developed woodland for development on all lots located in the LDA and RCA.

(B) **Forest mitigation for lots created before December 1, 1985.** Forest clearing on lots in the critical area that were in existence before December 1, 1985 is subject to forest mitigation as follows.

i. **Lots one-half acre or less.** Forest mitigation on lots that are one-half acre or less in size shall equal the area to be cleared.

ii. **Lots greater than one-half acre.** Forest mitigation on lots that are greater than one-half acre in size for clearing less than 20% shall equal the area to be cleared. Mitigation for clearing between 20% and 30% shall be calculated at a rate of 1.5 times the area to be cleared.

(C) **Developed woodland mitigation for lots created before December 1, 1985.** Developed woodland clearing on lots in the critical area that were in existence before December 1, 1985 is subject to developed woodland mitigation as follows.

i. **Lots one-half acre or less.** Developed woodland mitigation on lots one-half acre or less in size shall equal the area to be cleared.

ii. **Lots greater than one-half acre and up to one acre.** Developed woodland mitigation on lots that are greater than one-half acre and up to one acre in size shall equal the area to be cleared.

iii. **Lots greater than one acre.** Developed woodland mitigation greater than one acre in size with less than 30% clearing shall equal the area to be cleared.

(D) **Mitigation for subdivisions created after December 1, 1985.** Mitigation for subdivisions created after December 1, 1985 for clearing less than 20% shall equal the area to be cleared. Mitigation for clearing between 20% and 30% shall be calculated at a rate of 1.5 times the area to be cleared.

(E) **Mitigation for variances to clearing limitations.** Mitigation for variances to the required clearing limitations shall be calculated at a rate of three times the additional area to be cleared granted by the variance decision.

(F) If an applicant is authorized to clear any percentage of forest or developed woodland, the remaining percentage shall be maintained through recorded, restrictive covenants or similar instruments approved by the County.

(G) Replacement of trees shall be of a species similar to that which was removed or a species appropriate to the replating site.

(H) If the acreage of the *site* limits the application of *reforestation* requirements, *forest* may be created on other lands in the *Critical Area* including County lands or a fee in an amount determined by the Maryland Department of Natural Resources to be the equivalent to the value of the required *forest* may be paid to the County Commissioners of Kent County. These funds shall be placed in a dedicated fund used to ensure the restoration or establishment of an equivalent *forest* area in the *Critical Area* or riparian areas.

(I) **Afforestation on a site with less than 20% forest or developed woodland.** For a site with less than 20% forest or developed woodland, afforestation shall occur to the extent required in the following table and be maintained through protective easements.

New subdivision or new development on a vacant lot	Afforestation equal to 20% of the site
Substantial alteration, new lot with an existing dwelling unit or the conversion of a land use on a parcel or lot to another land use	Afforestation based on total lot coverage, not to exceed 20% of the site
Addition or accessory structure	Afforestation based on net increase in lot coverage, not to exceed 20% of the site

(J) **Reforestation and afforestation planting.** Reforestation and afforestation planting shall be established first within the 100-foot buffer, if feasible, and shall include a combination of native species of trees, shrubs, and ground cover approved by the Office of Planning and Zoning, or, for land within the buffer, in accordance with COMAR, Title 27.

(K) **Clearing in violation of the law.** Forests, woodlands, woody vegetation, or individual non- hazardous trees cleared without a grading permit or other required approval, or in excess of allowed clearing limits, shall be replanted at three times the area of the cleared forest, woodlands or woody vegetation, and for individual trees cleared, three times the number of individual trees cleared, or a fee in an amount determined by the Maryland Department of Natural

Resources to be the equivalent to the value of the required *forest* may be paid to the County Commissioners of Kent County. These funds shall be placed in a dedicated fund used to ensure the restoration or establishment of an equivalent *forest* area in the *Critical Area* or riparian areas.

(L) In addition, all proposed development shall meet the following standards applicable to forest or developed woodland clearing:

i. Sediment, erosion and grading permits shall be issued before forest or developed woodland is cleared. Forest cleared prior to obtaining permits or that exceeds the maximum area allowed shall be replanted at three times the acreage of the cleared forest.

ii. Subject to the approval of the County, owners or developers shall provide surety suitable to ensure that any plantings that die within twenty-four (24) months of installation shall be replaced.

2.5 TIMBER HARVEST

1. Forest management plans shall be required for all timber harvest occurring within any one-year interval and which affect one or more acres in forest and developed woodlands in the Critical Area. The plans shall be prepared by a registered professional forester and be reviewed and approved by the Maryland Forest, Park and Wildlife Service through the District Forestry Boards and the project forester. Plans shall be filed with the Department of Planning and Zoning.

2. Plans shall include measures to protect surface and ground water quality and identify whether the activities will disturb or affect Habitat Protection Areas as set forth in the Land Use Ordinance or identified on the Habitat Protection Areas Map.

3. The plans shall include protective measures for Habitat Protection Areas and shall provide for the continuity of habitat. The plans shall address mitigation through forest management techniques which include scheduling size, timing, and intensity of harvest cuts, afforestation, and reforestation.

4. The cutting and clearing of trees within the minimum 100-foot buffer are permitted provided that:

i. Existing riparian forests of 300 x 300 feet or more and forest areas used by forest interior dwelling birds and other wildlife species shall be managed according to the guidelines developed by the Maryland Department of Natural Resources.

ii. When timber harvesting is being considered, a site survey for forest interior dwelling birds shall be done. Cutting and building shall be restricted to safe times (not during nesting).

iii. During timber harvest, corridors of existing forest or woodland vegetation shall be maintained to provide effective connections between wildlife habitat areas.

iv. Commercial harvesting by selection or by clear-cutting of Loblolly Pine and Tulip Poplar may be permitted to within 50 feet of the landward edge of the mean high water line of tidal water and perennial tributary streams or the edge of the tidal wetlands provided that the cutting does not occur in the Habitat Protection Areas and that cutting is conducted pursuant to the requirements of the sediment control and non-tidal wetlands requirements of this Ordinance and in conformance with a buffer management plan prepared by a registered forester and approved by the Department of Natural Resources. The plan shall be required for all commercial harvests within the minimum 100-foot buffer regardless of the size of the area to be cut and shall contain the following minimum requirements:

v. That disturbance to the stream banks and shorelines shall be avoided.

vi. That the area disturbed or cut shall be replanted, or allowed to regenerate in a manner that assures the availability of cover and breeding sites for wildlife, and reestablishes the wildlife corridor function of the buffer; and

vii. That the cutting does not involve the creation of logging roads and skid trails within the minimum 100-foot buffer.

5. Commercial harvesting of trees by any method may be permitted to the edge of intermittent streams if the cutting and removal is done in accordance with a Buffer Management Plan approved by the Department of Natural Resources Forester.

2.6 AGRICULTURE

1. Agriculture

No new agricultural land shall be created by:

(A) Draining, filling, or diking any palustrine wetlands that have a seasonally flooded or wetter water regime unless the impact is mitigated.

(B) Clearing of forest or woodland on soils with a slope greater than 15% or on soils with a K Value greater than 0.35 and slope greater than 5%.

(C) Clearing of existing natural vegetation within the buffer.

(D) Clearing of forest if the clearing will affect water quality or habitat protection areas as designated in this Ordinance.

2.7 THE BUFFER

1. Purpose. The Buffer is a habitat protection area that shall be established and managed to achieve or enhance the following functions:

i. Remove or reduce the sediments, nutrients, and potentially harmful or toxic substances in runoff entering the Chesapeake Bay and its tributary streams;

ii. Minimize the adverse effects of human activities on wetlands, shorelines, stream banks, tidal waters, and aquatic resources;

iii. Maintain an area of transitional habitat between aquatic and upland ecological communities;

iv. Maintain the natural environment of streams;

v. Protect riparian wildlife habitat; and

vi. Maintain natural vegetation.

2. Applicability and Delineation

An applicant for a development activity or a change in land use shall apply all the required standards as described below. The Buffer shall be delineated in the field and shall be shown on all applications as follows:

(A) A Buffer of at least 100 feet is delineated, and expanded as described in 2.6.3, based on existing field conditions landward from:

i. The mean high-water line of a tidal water;

ii. The edge of each bank of a tributary stream; and

iii. The upland boundary of a tidal wetland.

(B) Applications for subdivision or site plan approval located on land located within the RCA shall include a minimum Buffer of at least 200 feet from tidal waters or tidal wetlands, and 100 feet from a tributary stream, excluding for subdivisions only, one parent parcel, where the buffer may be 100 feet wide.

i. The 200-foot Buffer may be reduced if strict application of the 200-foot Buffer would preclude the creation of a new lot either by subdivision at a density of one dwelling unit per 20 acres, or through an intrafamily transfer subdivision.

ii. The reduced Buffer shall be the minimum necessary to accommodate a dwelling and a sewage reserve area, as determined by the Planning Director, but no less than 100 feet.

(C) The Buffer shall be expanded beyond 100 feet as described in 2.6.1 above, and beyond 200 feet as described in 2.6.2 above, to include and extend beyond contiguous sensitive areas, such as soils with slopes 15% or greater, hydric soils, or highly erodible soils.

i. The Buffer shall be expanded for slopes of 15% or greater (steep slopes) in accordance with the following. Also see "Buffer Expansion" as defined in Article VII.

1. If a steep slope is contained completely within the Buffer, Buffer expansion is required only to provide a Buffer of at least 25 feet from the top of the slope.

2. If a steep slope is partially within or contiguous to the Buffer, the Buffer shall be expanded four feet for every 1% of slope beyond the required

Buffer, or 25 feet from the top of the slope, whichever is greater in extent, except as provided in Subsection B.5.c below.

3. The Planning Commission may approve a Buffer expansion limited to 25 feet from the top of the slope, even if greater expansion would be required based on the Subsection B.5.b above, if the Planning Commission determines that the slope has one or more of the following characteristics:

   a. Steep slopes less than 10 feet in width, such as agricultural ditches;
   b. Steep slopes that are isolated and less than 10,000 square feet in area, irrespective of property lines;
   c. Steep slopes with width of less than 25 feet where the slope crosses the 100-foot Buffer boundary; or
   d. Similar characteristics exist that result in a narrow and/or isolated area of steep slopes.

ii. The following criteria shall be used to measure the expanded Buffer for highly erodible soils or hydric soils contiguous to the Buffer:

1. For a nontidal wetland of special state concern, expand the Buffer to include the upland boundary of the wetland and its regulated 100-foot Buffer;
2. For other nontidal wetlands, expand the Buffer to include the upland boundary of the nontidal wetland;
3. For highly erodible soils or hydric soils with a slope of 5% or greater, expand the Buffer to the lesser of the landward edge or 300 feet, including the Buffer width required under Subsection B.2 above.

iii. If the Buffer is contiguous to hydric or highly erodible soils on a slope less than 15%, and the Buffer is on a lot created before January 1, 2010, development activity may be approved in the expanded Buffer if:

1. The development activity is in the expanded portion of the Buffer, but not in the Buffer required under Subsection B.2 above;
2. The Buffer occupies at least 75% of the lot or parcel; and
3. Mitigation occurs at a 2:1 ratio, based on the lot coverage of the proposed development activity that is in the expanded Buffer.

(D) In Modified Buffer Areas, under certain conditions, Buffer setbacks may vary in accordance with provisions set forth in this Ordinance.

3. Maintaining the Buffer

(A) The Buffer shall be maintained in natural vegetation and managed to achieve or enhance the functions stated in Subsection 1 above.

(B) New development activities, including structures, fences with footers, roads, parking areas and other impervious surfaces, mining and related facilities, or septic systems, are not permitted in the Buffer, except for those necessarily associated with water-dependent facilities or individual private piers.

(C) Lot coverage in the Buffer may not exceed the minimum amount necessary for water-dependent facilities, regardless of the Critical Area classification or the size of the parcel or lot, except:

i. In Modified Buffer Areas;
ii. If a variance is granted in accordance with this Ordinance; or
iii. In accordance with this Ordinance.

(D) Cutting, clearing, and removal of existing vegetation, including understory trees, shrubs and ground cover within the Buffer is prohibited except as authorized by a Buffer Management Plan.

(E) Existing areas of public access to the shoreline, such as footpaths, scenic drives, and other public recreational facilities, shall be maintained, with new facilities encouraged in the IDA.

(F) Vegetation may be removed for one pathway to the shore or piers, subject to the approval of a Buffer Management Plan.

i. The pathways shall be:

1. Direct and no longer than necessary;
2. No wider than six feet; and
3. Constructed to maintain as much canopy as possible.

ii. Pathway surfaces shall be:

1. Grass or similar low vegetation, stabilized only with pervious wood chips or,
2. Materials such as boards, asphalt, or gravel, provided that mitigation is provided, in accordance with a buffer management plan, that covers two times the area of the hard surfaced pathway.

iii. In areas of steep slopes, wooden stairways may be constructed as approved by the Planning Director.

7. Normal and customary maintenance of lawns located in the Buffer may continue until approval of a development activity requiring a buffer management plan.

4. Buffer establishment.

(A) The requirements of this regulation are applicable to:

i. A development or redevelopment activity that occurs on a lot or parcel that includes a Buffer to tidal waters, a tidal wetland, or a

tributary stream if that development or redevelopment activity is located outside the Buffer; and

ii. The approval of a subdivision that includes a Buffer to tidal waters, a tidal wetland, or a tributary stream.

(B) If an applicant for a subdivision of a lot uses or leases the lot for an agricultural purpose, the applicant:

i. Shall submit a Buffer Management Plan under Section G of this Part which must be approved prior to recordation of the subdivision plat.

ii. If authorized by the local jurisdiction, may delay implementation of the buffer management plan until the use of the lot is converted to a nonagricultural purpose.

(C) The requirements of this regulation are not applicable to an in-kind replacement of a structure.

(D) An applicant shall establish the Buffer in vegetation in accordance with the table below and Section E of this Part; and to provide a Buffer Management Plan under Section G of this Part for the following types of applications:

i. A subdivision;

ii. Conversion from one land use to another land use on a lot or a parcel; or

iii. Development on a lot or a parcel created before January 1, 2010.

(E) When the Buffer is not fully forested or is not fully established in existing, naturally occurring woody or wetland vegetation, an applicant shall establish the buffer to the extent required in the following table:

BUFFER ESTABLISHMENT REQUIREMENTS	
Development Category	**Extent of buffer establishment required**
New development on a vacant lot created prior to April 12, 1988	Establish the buffer based on total lot coverage outside the buffer
New development on vacant lot created after April 12, 1988	Fully establish the buffer
New subdivision or new lot	Fully establish the buffer
New lot with an existing dwelling unit	Establish the buffer based on total lot coverage outside the buffer
Conversion of a land use on a parcel or lot to another land use	Fully establish the buffer
Addition or accessory structure	Establish the buffer based on net increase in lot coverage outside the buffer
Substantial alteration (total footprint is increased by 50% or more)	Establish the buffer based on total lot coverage outside the buffer

(F) Any lot coverage removed from the Buffer may be deducted from the total cumulative amount of establishment required if:

i. The lot coverage existed before the date of local program adoption or was allowed by local procedures; and

ii. The total area is stabilized.

5. Mitigation for impacts to the Buffer.

An applicant for a development activity that includes disturbance to the Buffer shall mitigate for impacts to the Buffer and shall provide a Buffer Management Plan in accordance with the standards set forth in this Part.

(A) All authorized development activities shall be mitigated based on the ratios noted in the table below, in addition to the area of canopy coverage removed for an individual tree, developed woodland or forest:

BUFFER MITIGATION RATIOS	
Activity	**Mitigation Ratio**
Septic on a lot created before local program approval if located in existing grass or if clearing is not required	Not applicable
Septic system in a forest or developed woodland on a lot created before local program approval if clearing is required	1:1
Shore erosion control	1:1
Riparian water access	2:1
Development of a water-dependent facility or activity under COMAR 27.01.03	2:1
Variance	3:1
Violation	4:1

(B) For the removal of a dead tree, the affected area shall be stabilized with native groundcover or other native vegetation as necessary.

(C) The removal of a diseased, dying, invasive, or hazardous tree shall be mitigated with one tree of at least ¾-inch caliper for each tree removed or the affected area shall be stabilized in native woody vegetation if a tree cannot be replanted due to space constraints.

(D) Any lot coverage removed from the Buffer may be deducted from the total cumulative amount of mitigation required if:

i. The lot coverage existed before the date of local program adoption or was allowed by local procedures; and

ii. The total area is stabilized.

(E) Planting for mitigation shall be planted onsite within the Buffer. If mitigation planting cannot be located within the Buffer, then plantings may be allowed in the following order of priority:

i. On-site and adjacent to the Buffer; and

ii. On-site elsewhere in the Critical Area.

(F) The installation or cultivation of new lawn or turf in the Buffer is prohibited.

(G) As applicable to a site, an applicant shall restore any area in the Buffer that is temporarily disturbed by a development activity to pre-disturbance conditions.

6. Buffer planting standards.

An applicant that is required to plant the Buffer to meet establishment or mitigation requirements shall apply the following planting credits and standards:

(A) If planting to meet a mitigation requirement, the following combination of plantings may be used:

i. If required to plant less than 1 acre, the entire requirement must be met using landscape stock as noted in the Planting Credits table below.

ii. If required to plant 1 acre or more, at least 50% of the planting requirement may be met in landscape stock per the table below and the remainder may be met in flexible stock per the Planting Credits table.

(B) If planting to meet an establishment requirement, the following combination of plantings may be used:

i. If required to plant less than ¼ acre, the entire requirement must be met using landscape stock per the Planting Credits table.

ii. If required to plant at least ¼ acre and up to 1 acre, at least 25% of the requirement must be met using landscape stock per the Planting Credits table and the remainder may be met in flexible stock per the Planting Credits table.

iii. If required to plant more than 1 acre, at least 10% of the requirement must be met using landscape stock per the table below and the remainder may be met in flexible stock per the Planting Credits table.

(C) Per COMAR 27.01.09.01-2, a variance to the planting and mitigation standards of this Ordinance is not permitted.

7. Planting credits.

(A) If required to plant using landscape stock the following planting sizes and credit shall be used and shall be 100 percent guaranteed for at least 2 years after planting is completed:

LANDSCAPE STOCK CREDIT			
Vegetation Type	**Minimum Size Eligible for Credit**	**Maximum Credit Allowed (Square Feet)**	**Maximum Percentage of Landscape Stock Credit**
Canopy Tree	2-inch caliper	200	Not Applicable
Canopy Tree	¾-inch caliper	100	Not applicable
Understory Tree	¾-inch caliper	75	Not applicable
Large Shrub	3 feet high	50	30%
Small Shrub	18 inches high	25	20%
Herbaceous perennial	1 quart or based on the area covered by plugs or seed mix	2	10%
Planting Cluster A (For less than ½ acre of planting)	1 canopy tree; and 3 large shrubs or 6 small shrubs of size listed above	300	Not applicable
Planting Cluster B (For less than ½ acre of planting)	2 understory trees; and large shrubs or 6 small shrubs of size listed above	350	Not applicable

(B) The County may authorize an applicant to increase the percentage of large shrubs, small shrubs, or herbaceous perennials if:

i. The Buffer has existing canopy coverage of at least 50 percent; or

ii. There are verified site constraints that preclude canopy plantings, including severely eroding slopes, saltwater intrusion, predominately sandy soils, or unconsolidated fill.

(C) The following flexible planting stock may be used if authorized under other sections of this Part:

FLEXIBLE PLANTING STOCK			
Stock Size of Trees Only	**Required # of Stems/Acre**	**Survivability Requirement**	**Minimum Financial Assurance Period After Planting**
Bare-root seedlings or whip	700	50 percent	5 years
½-inch to 1-inch container grown trees	450	75 percent	2 years
More than 1-inch container grown trees	350	90 percent	2 years

8. Required Submittal of Buffer Management Plans.

An applicant that is required to plant the Buffer to meet establishment or mitigation requirements shall submit a Buffer Management Plan in accordance with COMAR 27.01.09.01-3. The provisions of this Part do not apply to maintaining an existing grass lawn or an existing garden in the Buffer.

(A) Any permit for a development activity that requires Buffer establishment or Buffer mitigation will not be issued until a Buffer Management Plan is approved by **the County.**

(B) An applicant may not obtain final approval of a subdivision application until the Buffer Management Plan has been reviewed and approved by **the County.**

(C) **The County** may not approve a Buffer Management Plan unless:

i. The plan clearly indicates that all planting standards under Section E of this Part will be met; and

ii. Appropriate measures are in place for the long-term protection and maintenance of all Buffer areas.

(D) For a Buffer Management Plan that is the result of an authorized disturbance to the Buffer, a permit authorizing final use and occupancy will not be issued until the applicant:

i. Completes the implementation of a Buffer Management Plan; or

ii. Provides financial assurance to cover the costs for:

1. Materials and installation; and

2. If the mitigation or establishment requirement is at least 5,000 square feet, long-term survivability requirements as set forth in COMAR 27.01.09.01-2.

(E) Concurrent with recordation of a subdivision plat, an applicant shall record a protective easement for the Buffer.

(F) If an applicant fails to implement a Buffer Management Plan, that failure shall constitute a violation of this Ordinance. A permit for any development activity will not be issued for a property that has the violation.

(G) An applicant of a subdivision or of a site plan for a multifamily, commercial, industrial, or institutional use shall post permanent signs prior to final recordation in accordance with COMAR 27.01.09.01-2.

(H) Buffer management plans that includes natural regeneration shall follow the provisions of COMAR 27.01.09.01-4.

9. Fee-in-lieu of Buffer mitigation.

A fee in-lieu for mitigation will be collected if the planting requirements of Section D of this Part cannot be fully met onsite, in accordance with the following standards:

(A) Fee-in-lieu monies shall be collected and held in a special fund, which may not revert to the County's general fund;

(B) Fee-in-lieu shall be assessed at $1.50 per square foot of required Buffer mitigation;

(C) A portion of fee-in-lieu money can be used for management and administrative costs; however, this cannot exceed 20% of the fees collected; and

(D) Fee-in-lieu monies shall be used for the following projects:

i. To establish the Buffer on sites where planting is not a condition of development or redevelopment;

ii. For water quality and habitat enhancement projects as approved by the Critical Area Commission or by agreement between [**County**] and the Critical Area Commission.

2.8 MODIFIED BUFFER AREA PROVISIONS

1. Applicability

(A) Modified Buffer Areas (MBAs) are areas of the 100-foot Buffer that have been mapped by Kent County and approved by the Critical Area Commission.

(B) The purpose of MBAs is to accommodate limited use of the Buffer under the provisions of this Section, while protecting water quality and wildlife habitat to the greatest extent possible.

2. Mapping Standards

The following standards shall apply for the mapping of new Modified Buffer Areas:

(A) Only lots of record as of December 1, 1985, are eligible for mapping as Modified Buffer Areas (MBAs).

(B) The parcel or lot being considered for MBA status shall contain a Buffer that was significantly impacted by development at the time of program adoption and that prevent the Buffer from fulfilling its functions.

(C) Developed parcels or lots shall contain a Buffer intrusion by the principal structures (excluding utilities or septic systems).

(D) Undeveloped or vacant parcels or lots (i.e., infill) may be designated as a MBA if development within the Buffer cannot be avoided based on the size of the parcel or lot, area of the parcel or lot within the Buffer, or the surrounding pattern of development.

(E) If only part of a parcel or lot meets the criteria for designation as a Modified Buffer Area, then only portions of the parcel or lot shall be designated as a Modified Buffer Area. The portion of the parcel designated as a Modified Buffer Area will be subject to the Modified Buffer Area requirements. Portions of the property that are not designated as a Modified Buffer Area shall comply fully with the 100-foot Buffer restrictions.

(F) Any proposal by the County for designation of an area as a MBA shall include, at a minimum, a written evaluation and supporting reasons which demonstrate the degree to which the proposed MBA does not perform each of the following Buffer functions:

i. Provide for the removal or reduction of sediments, nutrients, and potentially harmful or toxic substances in runoff entering the Bay and its tributaries;

ii. Minimize the adverse effects of human activities on wetlands, shorelines, stream banks, and aquatic resources;

iii. Maintain an area of transitional habitat between aquatic and upland communities;

iv. Maintain the natural environment of streams; and

v. Protect riparian wildlife habitat.

3. Development standards in Modified Buffer Areas (MBA)

The following development standards apply to all applications for development activity in an MBA:

(A) New development or redevelopment activities, including structures, roads, parking areas and other lot coverage or septic systems are not permitted in the Buffer unless the applicant can demonstrate that there is no feasible alternative and the **Planning Director** finds that efforts have been made to minimize Buffer impacts.

(B) Development and redevelopment activities shall be located as far as possible from mean high tide, the landward edge of tidal wetlands, or the edge of tributary streams.

(C) Variances to other local setback requirements have been considered before additional intrusion into the Buffer.

(D) Convenience or expense are not factors to consider when evaluating the extent of allowable impacts to the Buffer.

(E) Development may be located in the Buffer and shall meet the setback lines as described below. Structures on adjacent properties shall not be used to determine the setback line.

(F) Development and redevelopment may not impact any Habitat Protection Area (HPA) other than the Buffer, including nontidal wetlands, other State or federal permits notwithstanding.

(G) Modified Buffer Area designation shall not be used to facilitate the filling of tidal wetlands that are contiguous to the Buffer or to create additional buildable land for new development or redevelopment.

(H) No natural vegetation may be removed in the Buffer except that required by the proposed construction.

(I) Mitigation shall be provided as follows:

i. Natural forest vegetation of an area twice the extent of the footprint of the development activity within the 100-foot Buffer shall be planted on site in the Buffer or at another location, preferably on-site, approved by the Planning Director.

ii. Applicants who cannot fully comply with the planting requirement in (i) above, may use offsets to meet the mitigation requirement. Offsets include the removal of an equivalent area of existing impervious surfaces in the Buffer, the construction of Best Management Practices for stormwater, wetland creation or restoration, or other measures that improve water quality or habitat.

iii. Applicants who cannot comply with either the planting or offset requirements in (a) or (b) above shall pay a fee-in-lieu at a rate of $1.50 per square foot.

iv. Any fees-in-lieu collected under these provisions shall be placed in an account that will assure their use only for projects within the Critical Area to enhance wildlife habitat, improve water quality, or otherwise promote the goals of the County's Critical Area Program.

v. Any required mitigation or offset areas shall be protected from future development through an easement, development agreement, plat notes or other instrument and recorded among the land records of the County.

4. In the case of commercial, industrial, institutional, recreational, and multi-family residential development or redevelopment, the following additional standards apply:

(A) New development shall not be located closer to the water (or edge of tidal wetlands) than the local setback for the zoning district or 50 feet, whichever is greater. The 50-foot setback shall be maintained for all subsequent development or redevelopment of the property.

(B) Redevelopment shall not be located closer to the water (or edge of tidal wetlands) than the local setback for the zoning district or 25 feet, whichever is greater.

i. Existing structures located within the setback may remain or a new structure may be constructed on the footprint of an existing structure or lot coverage.

ii. Opportunities to establish a 25-foot setback should be maximized.

(C) In addition to any required mitigation, a forested or landscaped buffer yard, 25 feet wide, shall be established on the project site between the development and the distance to the water. This buffer yard shall be densely planted with trees and shrubs in accordance with the Required Buffer Yard Planting table.

(D) In the case of redevelopment, the County may approve appropriate modifications to the width of the planted buffer yard on a case-by-case basis where existing structures or those rebuilt on an existing footprint limit the area available for planting.

REQUIRED BUFFER YARD PLANTING		
Area	**Quantity and Stocking**	**Suggested Species**
For every 100 linear feet of buffer yard	5 Trees and 10 Understory Trees/Large Shrubs, and 30 Small Shrubs and 40 Herbaceous Plants, Grasses, etc.	White or Red Oak, Pin Oak, Willow Oak, Red Maple, American Holly, Eastern Red Cedar Dogwood, Mountain Laurel, Bayberry, Shadbush, Winterberry Pepperbush, Chokeberry, Strawberry Bush, Sweetspire Wild Columbine, Butterflyweed, Common Milkweed, Asters

5. In the case of single-family residential development or redevelopment, the following additional standards apply:

(A) New development and redevelopment shall not be located closer to the water (or the edge of tidal wetlands) than principal structures on adjacent properties or the local setback for the zoning district, whichever is greater. Except as described below, new development or redevelopment shall be located no less than 50 feet from the water (or the edge of tidal wetlands).

(B) Existing principal or accessory structures in the Buffer may be replaced in-kind in the same footprint. If a replacement structure is expanded, the development shall comply with the setback requirement.

(C) New accessory structures may be permitted in the Buffer in accordance with the following setback requirements:

i. New accessory structures may be located closer to the water or edge of tidal wetlands than the principal dwelling only if it has been determined by the Planning Commission or their designee that there are no other locations for the accessory structures.

ii. The area of the accessory structures within the Buffer shall be minimized and the cumulative total area of all new and existing accessory structures on the property shall not exceed 500 square feet within 50 feet of the water and 1,000 square feet total.

iii. In no case shall new accessory structures be located less than 25 feet from the water (or edge of tidal wetlands).

2.9 FOREST INTERIOR BIRDS

1. No outdoor construction activities are permitted during safe dates in areas with *forest interior dwelling bird* species identified by the State of Maryland. Areas are identified online by Maryland's Environmental Resources and Land Information Network (MERLIN). Safe dates are set forth in the chart and policy below.
2. A site survey for forest interior dwelling birds will be conducted prior to any development or agricultural expansion (1) on deciduous forest of at least 50 acres or, (2) 300-feet by 300-feet of riparian deciduous forest. The Planning Director may set aside a site survey for forest interior dwelling birds provided the forest is managed for all forest interior dwelling bird species.
3. Existing riparian forest of 300-feet by 300-feet or more, and forest areas used by forest interior dwelling birds and other wildlife species will be managed according to the guidelines developed by the Maryland Department of Natural Resources and the Critical Area Commission. Whenever possible, riparian forest will be expanded.
4. The safe dates or nesting times for breeding species of *forest interior dwelling birds* are listed below, when no outdoor construction is allowed.

Note: As a matter of policy, the Department has adopted a range from April 1 through August 31 for properties where specific species have not been identified. A study, acceptable to the State of Maryland, may be undertaken by the applicant's consultant to narrow the safe dates range.

Common Name	***Safe Dates* / Nesting times**		
Creeper, brown	May 15	to	August 31
Hawk, broad-winged	June 5	to	August 31
Flycatcher, acadian	May 25	to	August 5
Hawk, red-shouldered	May 1	to	August 31
Ovenbird	May 20	to	August 5
Owl, barred	January 15	to	August 31
Parula, northern	June 1	to	August 31
Redstart, American	June 10	to	July 20
Tanager, scarlet	May 25	to	August 10
Veery	June 10	to	August 31
Vireo, red-eyed	June 1	to	July 31
Vireo, yellow-throated	May 25	to	August 15
Warbler, black-and-white	May 15	to	July 25
Warbler, black-throated green	June 10	to	August 5
Warbler, cerulean	May 25	to	August 5
Warbler, hooded	May 25	to	July 25

Common Name	***Safe Dates* / Nesting times**		
Warbler, Kentucky	May 25	to	July 15
Warbler, prothonotary	May 10	to	July 20
Warbler, Swainson's	April 20	to	August 31
Warbler, worm-eating	May 20	to	July 20
Waterthrush, Louisiana	May 1	to	July 10
Whip-poor-will	May 10	to	July 15
Woodpecker, hairy	April1	to	August 31
Woodpecker, pileated	April 1	to	August 31
Wood Thrush	May 25	to	August 20

2.10 HABITAT PROTECTION AREAS

1. All Habitat Protection Areas, *buffer*s, and protective zones will be protected by property owners during *development* and at all other times. All property owners and applicants for new *development* are required to identify species and areas as specified below and to protect them. Plans will address protection strategies.

2. The Habitat Protection Areas in Kent County include:

   (A) Colonial water bird nesting sites, and historic waterfowl staging and concentrations areas in tidal water, tributary streams or tidal and non-tidal wetlands;

   (B) Riparian *forest*, *forest*ed areas of 50 acres or more, and *forest* corridors connecting them;

   (C) Anadromous fish spawning areas, threatened and endangered species, and Species in Need of Conservation with their habitat;

   (D) *Non-tidal wetlands* and the minimum 100-foot *buffer*;

   (E) Other areas which, because of their unique *wildlife habitat* types and plant communities, are of local significance. These are managed to protect the unique habitat or community.

      i. Lloyd Creek Habitat for proposed State threatened species;

      ii. Andover Branch

      iii. Sandy Bottom - St. Paul's Lake

      iv. Churn Creek (Still Pond Creek Headwaters)

      v. Big Marsh

      vi. Swantown Creek

      vii. Jacobs Creek

viii. Upper Sassafras

ix. Sassafras Lake

x. Mill Creek (wooded swamp, 1118-555 on the Maryland Coordinated Grid System)

xi. Still Pond Creek (inland open fresh water, 1050-540 on the MCGS)

xii. East Langford Mill Pond (Shrub swamp, 1050-495 on the MCGS)

xiii. Langford Creek East Fork Head (inland shallow fresh marsh, 1055-499 on the MCGS)

xiv. N/W Fork Morgan Creek (inland shallow fresh marsh, 1077-536 on the MCGS)

xv. Tavern Creek

(F) Any other *Natural heritage areas*, as may be designated by the State of Maryland, and locations considered for Areas of Critical State Concern.

3. All roads, bridges and utilities that must cross a Habitat Protection Area will be located, designed, constructed, and maintained so as to provide maximum erosion protection and minimize negative impacts to wildlife, aquatic life and their habitats and maintain hydrologic processes and water quality. Roads, bridges, or utilities will not be located in any Habitat Protection Area unless no feasible alternative exists.

4. Natural heritage areas and locations considered for Areas of Critical State Concern will be preserved whenever possible in accordance with the recommendations of the Department of Natural Resources.

5. During and after *development* in forested areas, corridors of existing forest, or woodland vegetation will be maintained to provide effective connections between wildlife habitat areas.

2.11 THREATENED AND ENDANGERED SPECIES AND SPECIES IN NEED OF CONSERVATION

1. Any *development* shall include a statement on the type and location of any threatened or endangered species or species in need of conservation on the property, and any recommendation for maintaining and protecting that habitat from the Department of Natural Resources.

2. Threatened or endangered species and species in need of conservation shall be checked and noted by the developer before any approvals can be granted by the Planning Director or the *Planning Commission*.

3. The Federal or State guidelines (whichever is stricter) for habitat protection shall be followed during development. Plans shall include provisions for the continuance of the habitat protection after development. This can include conservation easements,

cooperative agreements, special provisions in forest management and soil conservation plans, and donation to a third party.

2.12 SHORELINE AND CLIFF AREAS

1. SPECIAL PURPOSE: The *shoreline cliff setback* is designed to allow *development* in a manner that will protect the property and the lives of residents and protect the scenic integrity of the shoreline.

2. NEW SUBDIVISIONS AND EXISTING LOTS OF THREE ACRES OR GREATER

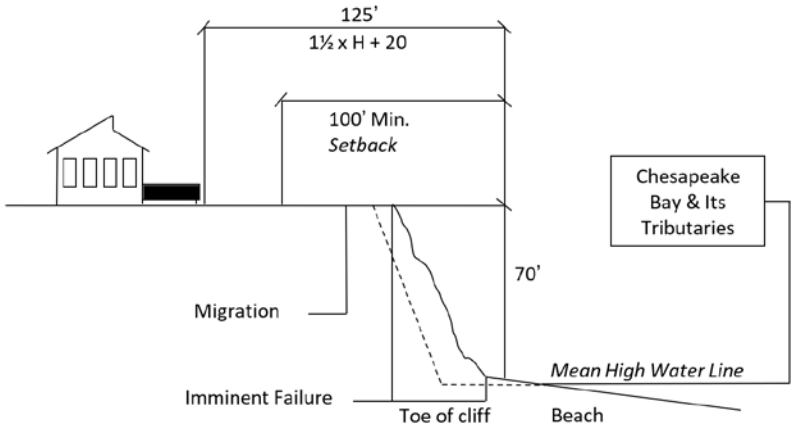
   (A) All *structure*s will be a sufficient distance from the cliff to ensure protection of *structure*s and to allow for natural *erosion* and/or cliff failure with enough *setback* to be able to employ the use of conventional *erosion* control measures.

   (B) The minimum *setback* for a *shoreline cliff* is as follows:

      i. For each foot of rise above the mean high-water line (MHW), a one and one-half foot setback from the toe of the cliff measured landward plus 20 feet to the house site is required.

      ii. The elevation measured will be the highest point on the lot fronting the water or measured in a direct line from the house placement to the cliff and water for large lots (one acre or more) with extensive water frontage.

   (C) When these conditions conflict with other water*front yard* requirements of this Ordinance, the stricter will apply.



2.13 SHORE EROSION PROTECTION WORKS

The purpose of this Section is to encourage the protection of rapidly eroding portions of the shoreline in the County by public and private landowners. When such measures can effectively and practically reduce or prevent shoreline *erosion*, the use of nonstructural shore protection

measures will be encouraged to conserve and protect plant, fish and *wildlife habitat*. The following criteria will be followed when selecting shore *erosion* protection practices:

1. Nonstructural practices will be used whenever possible.
2. Structural measures will be used only in areas where nonstructural practices are impractical or ineffective.
3. Where structural measures are required, the measure that best provides for the conservation of fish and *plant habitat* and which is practical and effective will be used.
4. If significant *alteration* of the characteristics of a shoreline occurs, the measure that best fits the change may be used for *site*s in that area.

2.14 WATER DEPENDENT FACILITIES

The following *regulations* will apply to *boathouse*s, boat docks, *pier*s, *marinas*, and wharves. Review by the Department of new water dependent facilities and changes to any existing facilities is required, using the standards at the end of this Section under REQUIRED REVIEW.

1. GENERAL REQUIREMENTS

   (A) Projections of docks, wharves, and *piers* into *waterways* beyond the *waterway line*, *lot lines*, or established *bulk*head lines will be limited by applicable County ordinances, State laws, and applicable *regulations* of the United States Army Corps of *Engineer*s.

   (B) Groins, levees, *bulk*heads, pilings, breakwaters, and other similar *structures* will be erected and maintained in accordance with applicable location and construction standards of the County, State, and the United States Army Corps of *Engineer*s.

   (C) New water-dependent facilities will be located so as to prevent disturbance to sites of significance to wildlife such as historic aquatic staging and concentration areas for waterfowl, shellfish beds, finfish nursery areas, and submerged aquatic vegetation beds.

2. PRIVATE BOATHOUSES

   (A) *Boathouses* that extend *channel* ward of mean high tide (*boathouses* over water) are prohibited. *Boathouses* will not be permitted in areas where such would obstruct the view of those using the *waterway* so as to endanger navigation.

   (B) A boathouse may not be used as a dwelling, guest house, or servants' quarters.

   (C) No *boathouse* may be closer to the side property line than the required *side yard* width of the zoning district in which it is located.

(D) No private *boathouse* will occur within 100 feet of any private *pier* or other *boathouse* on the same side of a body of water, except in the case where this would deny a property owner the right to a *boathouse*.

(E) It will not be permitted for the owner or owners of a *boathouse* to receive compensation for use of their private *boathouse*.

3. PRIVATE DOCKS, PIERS, and WHARVES

(A) It will not be permitted for the owner or owners of a private *pier* to receive compensation for use of their private *pier*.

(B) No private *pier* will occur within 100 feet of any other private *pier* or *boathouse* on the same side of a body of water, except in the case where this would deny a property owner the right to a single *pier*.

(C) A *pier* may not be closer to the side property line than the required *side yard* width of the district in which it is located. A *pier* will not be closer to the side line or its extension over water than the required *side yard* width of the zoning district in which it is located.

(D) *Dwelling*s and other non-water dependent facilities are prohibited on *pier*s.

(E) It will be permissible for adjacent property owners to construct a single shared *pier*. The right of ownership and access to such *pier* will be set forth in a property document that runs to the benefit of the owners of the *pier*, their heirs and assigns and will be exe*cut*ed by the owners and recorded with the Kent County Clerk of Court and a copy filed with the Department prior to such construction.

(F) If a shared *pier* or a *community pier* is allowed, then no other *piers* will be permitted on the property of such owners. In the event such *piers* are removed or destroyed beyond use and not rebuilt or re-established within one year, then the agreement for such *piers* will become void. However, the one-year requirement can be extended if extenuating circumstances can be demonstrated to the County by the property owner.

(G) A *community pier*, for the use of three or more property owners, will be permissible provided the *site plan* demonstrates that such *pier* does not adversely affect neighboring property owners or the public interest. The *site plan* will show all properties in the neighborhood, including the owners of the *community pier* and their access to such *pier*. The ownership and access will further be set forth in a proper document that runs to the benefit of owners of the *pier*, their heirs and assigns, and will be exe*cut*ed by all owners and recorded with the Kent County Clerk of Court and a copy filed with the Department. Sanitary facilities approved by the Kent County Health Department will be provided except where other acceptable facilities are available.

(H) The following will apply to *community piers*, shared *slips*, and other related non-commercial boat docking and storage facilities:

i. New or expanded *community piers*, shared *slip*s, *marina*s and other non-commercial boat-docking and storage facilities may be permitted in the minimum 100-foot *buffer* subject to the requirements of this Section; and

ii. Provided that:

1. These facilities may not offer food, fuel, or other goods and services for sale and will provide adequate and clean sanitary facilities;

2. The facilities are community-owned and established and operated for the benefit of the residents of a platted and recorded riparian *subdivision*;

3. The facilities are associated with a residential *development* approved by Kent County for the *Critical Area* and consistent with all criteria and County *regulations* for the *Critical Area*;

4. Disturbance to the *buffer* is the minimum necessary to provide a single point of access to the facilities;

5. If *community piers*, *slips*, or moorings are provided as part of the new *development*, private *piers* in the *development* are not allowed; and

6. Sanitary Facilities and pump-outs will be provided *on-site*, except where other acceptable facilities are available.

iii. Provided that adverse effects on water quality, fish, plant, and *wildlife habitat* are minimized; and

iv. The number of *slips*, *piers*, or mooring buoys permitted at the facility will be the lesser of the options below:

1. One *slip* for each 50 feet of shoreline in a *subdivision* in the Intensely Developed Areas (IDA) or Limited Development Areas (LDA).

2. One *slip* for 300 feet of shoreline in a *subdivision* in Resource Conservation Areas (RCA).

3. A *density* of *slip*s, shared *slip*s, or *pier*s, to platted *lot*s or *dwelling*s in a *subdivision* in the *Critical Area* according to the following schedule:

Platted *Lots* or *Dwellings* in the *Critical Area*	*Slips*
5 to 15	One for each *lot*
16-40	15 or 75% whichever is greater
Over 40	30 or 50% whichever is less

4. PUBLIC BEACHES

(A) Public beaches or other *public water-oriented recreation* areas including, but not limited to publicly owned boat launching and docking facilities and fishing *piers* may be permitted in the *buffer* provided:

i. Adequate sanitary facilities exist;

ii. Service facilities are to the extent possible, located outside the *buffer*;

iii. Permeable surfaces are used to the extent practicable, if no degradation of groundwater would result.

iv. Disturbance to *natural vegetation* is minimized; and

v. Areas for passive recreation, such as nature study, hunting and trapping, may be permitted in the *buffer* within Resource Conservation Areas (RCA), if service facilities for these uses are located outside of the *buffer*.

(B) Water-dependent research facilities or activities operated by State, federal, or local agencies, or water-dependent educational institutions, may be permitted in the *buffer*.

(C) Commercial water-dependent fisheries facilities including, but not limited to, *structures* for crab shedding, fish off-loading docks, shellfish culture operations, and shore-based facilities necessary for *aquaculture* operations and *fisheries activities*, may be permitted in the *buffer*.

5. COMMERCIAL MARINAS

In this Land Use Ordinance, marinas are facilities operated as businesses and regulated as such.

(A) New and existing *marinas* will meet the sanitary requirements of the Maryland Department of the Environment.

(B) New marinas will establish a means of minimizing the discharge of bottom wash waters into tidal waters.

(C) All new development and redevelopment will reduce pollutant loadings coming off the site by at least 10%. Pollutant loads will be calculated in the manner developed by the Metropolitan Washington Council of Governments using phosphorous as the keystone pollutant. All sites will comply with the stormwater management qualitative control measures found in Section 9 of this Article VI.

(D) New and expanding marinas will provide pump-outs for boat holding tanks. Adequate signs will be posted to make boaters aware of the service available.

(E) New marinas and expanding marinas will provide facilities for recycling or proper disposal of oil, anti-freeze, paint thinner, and other toxic or hazardous substances associated with the type of facility being developed.

(F) Activities will not significantly alter existing water circulation patterns or salinity regimes.

(G) The water body upon which these activities are proposed will have adequate flushing characteristics in the area.

(H) Disturbances to wetlands, submerged aquatic plant beds, or other areas of important aquatic habitats will be minimized and mitigated.

(I) Shellfish beds will not be disturbed or be made subject to discharge that will render them unsuitable for harvesting.

(J) Dredging will be conducted in a manner, and using a method which causes the least disturbance to water quality and aquatic and terrestrial habitats in the area immediately surrounding the dredging operation or within the Critical Area, generally.

(K) Dredged spoil will not be placed within the buffer or elsewhere in that portion of the Critical Area which has been designated as a Habitat Protection Area except as is necessary for:

i. Backfill for permitted shore erosion protection measures;

ii. Use in approved vegetated shore erosion projects;

iii. Placement on previously approved channel maintenance spoil disposal areas; and

iv. Beach nourishment.

(L) Interference with the natural transport of sand will be minimized.

6. REQUIRED REVIEW

(A) The Department will review all applications for *water-dependent facilities* in order to determine that:

i. The activities will not significantly alter existing water circulation patterns or salinity regimes;

ii. The water body upon which these activities are proposed will have adequate flushing characteristics in the area;

iii. Disturbances to *wetlands*, submerged aquatic plant beds, or other areas of important aquatic habitats will be minimized and mitigated;

iv. *Adverse impacts* to water quality that may occur as a result of these activities, such as non-point source runoff, sewerage discharge from land activities or vessels, or from boat cleaning and maintenance operations will be minimized;

v. Shellfish beds will not be disturbed or be made subject to discharge that will render them unsuitable for harvesting;

vi. Dredging will be conducted in a manner, and using a method, which causes the least disturbance to water quality and aquatic and terrestrial habitats in the area immediately surrounding the dredging operation or within the *Critical Area* generally;

vii. Dredged spoil will not be placed within the *buffer* or elsewhere in that portion of the *Critical Area* which has been designated as a Habitat Protection Area unless the Board of Appeals grants a special exception and only as is necessary for:

1. Backfill for permitted shore *erosion* protection measures;
2. Use in approved vegetated shore *erosion* projects;
3. Placement on previously approved *channel* maintenance spoil disposal areas; and
4. Beach nourishment.

viii. Interference with the natural transport of sand will be minimized;

ix. Information necessary for evaluating dredge spoil applications if not available locally, will be obtained from appropriate State and federal agencies.

(B) The Department may also require signed and sealed drawings from a professional land surveyor or an engineer certifying that the requirements above have been satisfied. The Department may also engage third-party professionals to review the drawings to ensure compliance with the regulations in this Section, the Land Use Ordinance in general, and any applicable federal, State, or other laws, rules, and regulations. The costs for any third-party professionals will be paid by the applicant or property owner of record.

2.15 LOT CONSOLIDATION AND RECONFIGURATION

1. Applicability.

The provisions of this part apply to a consolidation or a reconfiguration of any nonconforming legal grandfathered parcel or lot. These provisions do not apply to the reconfiguration or consolidation of parcels or lots which are conforming or meet all Critical Area requirements. Nonconforming parcels or lots include:

(A) Those for which a Critical Area variance is sought or has been issued; and

(B) Those located in the Resource Conservation Area and are less than 20 acres in size.

2. Procedure.

   (A) An applicant seeking a parcel or lot consolidation, or reconfiguration shall provide the required information in Section 3 below to the County.

   (B) The County may not approve a proposed parcel or lot consolidation or reconfiguration without making written findings in accordance with Section 4 below and COMAR 27.01.02.08.F.

   (C) The County shall issue a final written decision or order granting or denying an application for a consolidation or reconfiguration.

   (D) After a final written decision or order is issued, the County shall send a copy of the decision or order and a copy of any approved development plan to the Commission within 10 business days.

   (E) The County may not issue a building permit until the appeal time has expired.

3. Application.

   An application for the consolidation or reconfiguration of any nonconforming legal parcel of land or recorded legally buildable lot shall contain at least the following information:

   (A) The date of recordation of each legal parcel of land or legally buildable lot to be consolidated or reconfigured;

   (B) A plan drawn to scale that shows all existing and proposed lot or parcel boundaries;

   (C) Information sufficient for the County to make the findings set forth in Section 4 below, and

   (D) A table that lists the number of all legal parcels of land or recorded, legally buildable lots and the number of proposed lots or parcels or dwelling units to be derived.

4. Standards.

   The Planning Director, or designee, shall review a proposed lot consolidation or reconfiguration and will make written findings that each one of the following standards has been met:

   (A) The proposed consolidation or reconfiguration will result in no greater number of lots, parcels, or dwelling units in the Critical Area than the existing configuration would allow;

   (B) In the Limited Development Area or Resource Conservation Area, the proposed lot consolidation or reconfiguration:

      i. Will result in no greater lot coverage than the existing configuration would allow; and

ii. Will result in no greater impact to a steep slope than the existing configuration would allow, if that steep slope is located outside the buffer or expanded buffer.

(C) The proposed consolidation or reconfiguration does not:

i. Create an additional riparian lot or parcel, waterfront lot, or any other lot or parcel deeded with water access; or

ii. Intensify or increase impacts associated with riparian access;

(D) The proposed consolidation or reconfiguration does not create:

i. A lot or parcel or portion of a lot or parcel that will serve development activities outside the Critical Area; or

ii. A Resource Conservation Area lot or parcel that serves development activities in the Intensely Developed Area or Limited Development Area;

(E) The proposed consolidation or reconfiguration identifies each Habitat Protection Area and if impacts to a Habitat Protection Area are proposed, the proposal demonstrates that:

i. No greater impact to a Habitat Protection Area would result than the impact that would have resulted from the existing lot configuration;

ii. Adverse impacts to a Habitat Protection Area are minimized; and

iii. Protective measures and restoration measures are included that provide for the least possible impact;

(F) The proposed consolidation or reconfiguration provides:

i. Stormwater management for all proposed development activities; and

ii. Benefits to fish, wildlife, and plant habitat that are clearly identified.

(G) The proposed consolidation or reconfiguration fully complies with the afforestation and reforestation requirements in COMAR 27.01.05 and 27.01.09, unless clearing is necessary to avoid a habitat protection area.

2.16 RENEWABLE ENERGY GENERATING SYSTEMS

1. Applicability.

(A) The requirements of this Part are applicable to major, minor, and small renewable energy generating systems located in the Critical Area.

(B) In accordance with COMAR 27.01.14.02, these provisions may not be construed to limit the authority of the Public Service Commission under Public Utilities Article §7-207, Annotated Code of Maryland.

2. Application requirements.

(A) An applicant for a major solar energy generating system in a Resource Conservation Area, shall provide [County] a site plan that addresses the requirements of COMAR 27.02.07 and includes the following:

i. Calculations of any required reservation of resource conservation area density development rights; and

ii. The identification and location of property restrictions including the boundary and area of a conservation easement, restrictive covenant, or other protective instrument.

(B) The [County] may require a site plan for a minor solar energy generating system.

3. General provisions.

(A) On or after April 1, 2021, the [County] may authorize:

i. A major or minor solar energy generating system within the Critical Area in accordance with Part 25.C;

ii. A major solar energy generating system in the resource conservation area without growth allocation in accordance with Part 25.D; and

iii. A small residential accessory solar energy generating system in the Buffer or in a Modified Buffer Area if:

1. There is not an alternative location outside the Buffer;

2. The lot is 1/4 acre or less in size and created before local program approval; and

3. Mitigation is required at a 1:1 ratio.

(B) A major and minor solar energy generating system may be authorized in a modified buffer area provided the project is located over existing legally developed lot coverage.

(C) In addition to meeting the requirements of this Part, [County] may not authorize a growth allocation to accommodate a major or a minor solar energy generating system in the limited development area or the resource conservation area.

(D) Except for a regulated activity that is authorized by the Maryland Department of the Environment in accordance with COMAR 26.23.02, [County] may not authorize a major or minor solar energy generating system:

i. In a habitat protection area designated under COMAR 27.01.09; or

ii. On a steep slope or a highly erodible soil.

(E) In accordance with COMAR 27.01.14, a variance, modification, waiver, or other approval that alters the requirements of this Part may not be granted.

4. Criteria for a solar energy generating system.

Except for a small residential accessory solar energy generating system, the provisions of this section are applicable to a major and minor solar energy generating system in an intensely developed area, a limited development area, and a resource conservation area:

(A) The area of a solar panel shall not count as lot coverage and:

i. For a minor solar energy generating system, the solar panel shall be:

1. Located over existing, legally developed lot coverage as described in Natural Resources Article, §8-1808.3, Annotated Code of Maryland; or

2. Elevated above the ground and the area under the solar panel is maintained as an area of existing grass, established grass, or other natural vegetation, or as an agricultural use; and

ii. For a major solar energy generating system, the solar panel shall be:

1. Located over existing, legally developed lot coverage; or

2. Elevated above the ground and the area under the solar panel is maintained in accordance with the planting plan requirements of Part 25.E as:

a. Pollinator habitat;

b. Native vegetation other than pollinator habitat; or

c. An agricultural use.

(B) The Buffer shall be measured and delineated in accordance with COMAR 27.01.09.01.E(3)-(7) and Part 9.A of this Ordinance and:

i. Unless there is no feasible alternative, access through the Buffer to the project area is prohibited;

ii. When there is no feasible alternative to access through the buffer, ne point of access through the buffer to the project area, may be authorized. Where a project includes noncontiguous parcels, the number of access points through the buffer shall be minimized;

iii. Mitigation for disturbance to the Buffer is required at a 2.5:1 ratio; and

iv. A buffer management plan shall be provided in accordance with COMAR 27.01.09.01-3.

(C) Except when a project area is in an IDA, clearing of forest and developed woodlands shall be minimized and not exceed the following:

i. In a LDA, clearing of forest and developed woodlands is limited to 20 percent of the entirety of the forest and developed woodlands on the parcel or parcels on which the project area is located; and

ii. In a RCA, clearing of forest is limited to 10 acres or 20 percent of the entirety of the forest and developed woodlands on the parcel or parcels on which the project area is located, whichever is less.

(D) In an IDA, LDA, and RCA, mitigation for cleared forest and developed woodlands shall be provided on at least an equal area basis.

(E) For a major solar energy generating system, on-site or off-site planting in shall be in accordance with the following:

i. 15 percent of the total project area in a limited development area; and

ii. 20 percent of the total project area in a resource conservation area.

(F) A planting plan shall be provided in accordance with Section E below.

(G) Stormwater management shall be provided in accordance with Environment Article, §§4-201—4-215, Annotated Code of Maryland, and COMAR 26.17.02.

(H) A decommissioning plan shall be required if one is not otherwise required as a result of obtaining a Certificate of Public Convenience and Necessity from the Public Service Commission.

5. Criteria for a major solar energy generating system in the resource conservation area.

These provisions apply to a major solar energy generating system in the RCA in addition to the requirements under Part 25.C above:

(A) Except for access allowed in accordance with Part C(3) and in accordance with the provisions in COMAR 27.01.06, forest clearing shall be restricted within 300 feet beyond the landward boundary of tidal waters or tidal wetlands, or the edge of each bank of a tributary stream.

(B) In addition to any applicable local land recordation requirements, a Reservation of Resource Conservation Area Density Rights Agreement shall be recorded in the County land records that reserves RCA density rights associated with the project as follows:

i. The number of density rights reserved is equal to:

1. The permitted RCA density associated with the project area of each parcel as calculated under Natural Resources Article, §8- 1808.1(e), Annotated Code of Maryland, and COMAR 27.01.02.05C(4); and

2. The number of density rights that are attributable to the project area, with a minimum of one density right reserved.

(C) The Reservation of Resource Conservation Area Density Rights Agreement shall remain in effect until:

i. The decommissioning plan, as required in Section C, has been implemented and completed; and

ii. The termination of the Reservation of Resource Conservation Area Density Rights Agreement is reflected in the land records.

(D) The remaining land unencumbered by the solar energy generating system or lands not otherwise restricted by the Reservation of Resource Conservation Area Density Rights Agreement may be developed in accordance with Natural Resources Article, §8-1808.1, Annotated Code of Maryland, and COMAR 27.01.02.05C(4).

(E) A lot, a parcel, or a portion of a lot or parcel is not eligible for a major solar energy generating system if the density rights associated with that lot, parcel, or portion of a lot or parcel have been:

i. Utilized for an intrafamily transfer;

ii. Transferred through a transfer of development rights program;

iii. Preserved or conserved through an easement; or

iv. Otherwise reserved in association with an area of land to be utilized for the solar energy generating system.

6. Planting plan requirements.

(A) [County] shall require a planting plan for:

i. The area to be vegetated under the solar panels; or

ii. Replanting required in Section C (4) and (5).

(B) The County may consider the constraints and opportunities presented by a project area and authorize planting or other mitigation to address the requirements of Sections C(4) and (5) from any of the following options:

i. Planting on-site in one of the following planting areas:

1. The area within 300 feet beyond the landward boundary of tidal waters or tidal wetlands, or the edge of each bank of a tributary stream;

2. Contiguous to or within a designated forest interior dwelling bird habitat; or

3. A wildlife corridor; or

ii. Based on a signed agreement with the Critical Area Commission:

1. Planting off-site in accordance with the options specified in 1(a) above;

2. Create a wetland migration area, nonstructural shoreline erosion control project, or other nature-based practice that naturally adjusts to changing environmental conditions through the lifespan of the practice and is designed to address future sea level rise, precipitation-induced flooding, or other climate change impacts;

3. Create, restore, or enhance a nontidal wetland that results in habitat and water quality benefits provided it is authorized by the Maryland Department of the Environment; or

4. Other alternative mitigation options that include provisions for Commission review; or

iii. Collect a fee in lieu in accordance with Section F below.

(C) Any general landscape screening requirements for an energy generating system shall not be included as part of the mitigation planting required in Section C.

(D) Long-term maintenance of the plantings through financial assurance measures shall be provided.

(E) All planting shall be in accordance with this ordinance's reforestation and planting plan requirements, including protecting all planted areas through conservation easements, restrictive covenants, or other protective instruments.

7. Fee-in-lieu.

The County may elect to collect a fee-in-lieu based on the following standards:

(A) The fee shall be set at a $1.50 42per square foot of mitigation as required in Part E;

(B) The fee shall cover the cost associated with administration, acquisition, planting, monitoring, and maintenance for the required mitigation or required planting requirements of Section C (4) and (5).

(C) The fee shall be held in separate account independent of other Critical Area funds, which may not revert to a the general fund;

(D) The fee shall not be used to meet other landscaping requirements; and

(E) [County] shall use the fees to accomplish:

i. Off-site plantings in accordance with the options provided in Section E (2) (a); or

ii. Other water quality and habitat enhancement projects provided in Section E (2) (b), and as described in a local Critical Area program approved by the Commission or in an agreement between the local jurisdiction and the Commission.

2.17 GRANDFATHERING IN THE CRITICAL AREA

1. Except as otherwise provided, the types of land described in the following subsection may be developed in accordance with the *density* requirements in effect prior to the adoption of the Kent County *Critical Area* Program.

2. A single *lot* or parcel of land that was legally of record on the date of the program approval will be permitted to be developed with a *single-family dwelling*, if a *dwelling* is not already placed there, notwithstanding that such *development* may be inconsistent with the *density* provisions of the approved programs:

   (A) Any land on which *development* activity has progressed to the point of the pouring of foundation/ footings or the installation of structural members;

   (B) Any legal parcel of land, not being part of a recorded or approved *subdivision*, that was recorded as of December 1, 1985, and land that was subdivided into recorded, legally buildable *lot*s, where the *subdivision* received the County's final approval prior to December 1, 1985.

   (C) Land that was subdivided into recorded, legally buildable *lot*s, where the *subdivision* received the County's final approval after December 1, 1985, provided that either *development* of such land conforms to the *Critical Area* criteria in this Ordinance and the other necessary *regulations*, or the area of the land is counted by the County against the growth increment permitted under COMAR 27.01.02.06.

   (D) Nothing in this section will be interpreted as altering any requirements for *development activities* as set forth in Articles II and V of this Ordinance for habitat protection areas and water-dependent facilities.

   (E) Kent County encourages the consolidation or reconfiguration of these *lot*s to bring these lands into conformance with the *critical area* program.

2.18 GROWTH ALLOCATION

Applications for Growth Allocation will be consistent with the County's Growth Allocation policy and the provisions found in COMAR.

2.19 LOCAL DEVELOPMENT PROJECTS

Applications for Local Development Projects will be consistent with provisions found in COMAR.

2.20 CRITICAL AREA COMMISSION REVIEW AND COMMENT REQUIRED

1. As required by the State of Maryland, Kent County will send copies of applications for all *developments*, subdivisions, and *site plans,* wholly or partially within the Critical Area, as specified in COMAR 27.03.01.04 to the Critical Area Commission for review and comment. This includes all projects located in the RCD, CAR, CCA, M, and ECCA-LDA zoning districts.

2. Until Kent County has received notice of receipt from the Critical Area Commission or the appropriate waiting period per the State of Maryland has expired, the County may not process an application that has been sent to the Critical Area Commission for notification.

3. Per the State of Maryland, any action by Kent County in violation of these State-required procedures shall be void.

SECTION 3 FOREST CONSERVATION ACT

3.1 STATEMENT OF INTENT

The purpose of this Section is to conserve the *forest*s of Kent County. *Forest*s and individual *tree*s greatly contribute to the quality of life in Kent County, the health of the natural *ecosystem*, and the health and welfare of the citizens of Kent County. The County's economic health depends heavily on its natural resources of which *forest*s are a major component. It is not the intent of the law to place unreasonable restrictions on *development*. Rather it aims to maximize the benefits of *forest* in a cooperative effort with *development*, thereby limiting the loss of *forest*ed land in Kent County and improving the environment of both developed and undeveloped areas. In this Section, the County adopted standards that are more stringent than the State of Maryland.

3.2 APPLICABILITY

This Section applies in AZD, RC, CR, V, IV, C, and EC, to minor and *major site plan*s, *subdivision*s, *public utilities* not otherwise exempt, and all *grading* permits for any disturbed area over 40,000 square feet excluding land in the Critical Area (§§8-1801–1817, Annotated Code of Maryland).

3.3 EXEMEPTIONS

This Section also does not apply to the following:

1. Highway construction activities under Natural Resources Article, Section 5-103, Annotated Code of Maryland.
2. *Commercial logging and timber harvesting operations*, including harvesting conducted subject to the *Forest Conservation* and Management Program under Tax Property Article, Section 8-211, Annotated Code of Maryland, that are completed after July 1, 1991 on property which:
   (A) Has not been the subject of application for a *grading* permit for *development* within five years after the logging or harvesting operation; and
   (B) Is the subject of a *Declaration of Intent* as provided for in Section 8.3 of this Ordinance.
3. Agricultural activities, not resulting in a change in land use category, including agricultural support *buildings* and other related activities constructed using *best management practices* provided that no more than 40,000 square feet of *forest* is cleared within a one-year period. A *person clearing* 40,000 square feet or greater of *forest* within a one-year period may not receive an *exemption* unless the *person* files a *Declaration of Intent* which includes:
   (A) A statement that the landowner or the landowner's agent will practice *agriculture* on that portion of the property for five years from the date of the declaration; and
   (B) A sketch of the property which shows the area to be cleared.

4. The *cut*ting or *clearing* of a public utility *right of way* licensed under Public Utility Companies, §§7-207 and 7-208 or 7-205, Annotated Code of Maryland, or land for electric generating stations licensed under Public Utility Companies, §§7-207 and 7-208 or 7-205 Annotated Code of Maryland, provided:

   (A) Certificates of public conveniences and necessity have been issued in accordance with Natural Resources Article §5-1603(f), Annotated Code of Maryland; and

   (B) *Cut*ting or *clearing* of the *forest* is conducted to minimize the loss of *forest*.

5. Routine maintenance or emergency repairs of the public utility *right of way* licensed under Public Utility Companies, §§7-207 and 7-208 or 7-205, Annotated Code of Maryland.

6. Routine maintenance or emergency repairs of public utility *right of way* not subject to Section 8.2 (4) of this Ordinance, provided:

   (A) The *right of way* existed prior to January 5, 1993; or

   (B) The *right of way's* initial construction was approved after January 5, 1993.

7. Non-coal surfacing mining regulated under Environment Article, Title 15, Subtitle 8, Annotated Code of Maryland.

8. An activity required for the purpose of constructing a *dwelling* intended for the use of the owner or a child of the owner, if the activity:

   (A) Does not result in the *cut*ting, *clearing*, or *grading* of more than 20,000 square feet of *forest*; and

   (B) Is the subject of a *Declaration of Intent* filed in the Department which states that a transfer in ownership may result in the loss of the *exemption*.

9. A real estate transfer to provide a security, leasehold, or other legal or equitable interest, including a transfer of title, of a portion of a *lot* or parcel if:

   (A) The transfer does not involve a change in land use, or new *development* or *redevelopment* with associated land disturbing activities.

   (B) Both the grantor and grantee file a *Declaration of Intent*.

10. An activity on a property that has more than 50% of its acreage within the Chesapeake Bay *Critical Area*.

11. A residential construction activity conducted on an existing single *lot* of any size of record at the time of application, or a *linear project* not otherwise exempted under this section, if the activity:

   (A) Does not result in the cumulative *cut*ting, *clearing*, or *grading* of more than 20,000 square feet of *forest*; and

(B) Does not result in the *cut*ting, *clearing*, or *grading* of a *forest* that is subject to the requirements of a previous *forest conservation plan* approved under this ordinance; and

(C) Is the subject of a *Declaration of Intent* filed in the Department which states that a transfer in ownership may result in the loss of the *exemption*.

12. An activity on a previously developed area covered by *impervious surface* and located in a *Priority Funding Area*.

13. Maintenance or *retrofitting* of a *stormwater management structure* that may include *clearing* of vegetation or removal and trimming of *tree*s, if the maintenance or *retrofitting* is within the original limits of disturbance for construction of the existing *structure*, or within any maintenance *easement* for access to the *structure*.

14. A *stream restoration project* for which the *applicant* for a *grading* or *sediment control permit* has exe*cut*ed a binding maintenance agreement of at least five years with the affected property owner or owners.

3.4 FOREST CONSERVATION STANDARDS

1. In AZD, RC, CR, and C:

(A) A parcel with less than 20% of its *net tract area* in *forest cover* will be af*forest*ed to 20% of its *net tract area*.

(B) *Forest* on parcels with less than 20% of its *net tract area* in *forest* may be *cut* or cleared provided: the *afforestation* required to achieve the 20% *afforestation* level is determined prior to any *clearing* of *forest*; and the *afforestation* area consists of two (2) times the total surface area cleared and the area needed to achieve the 20% *afforestation* level before *clearing* occurred. For example, the *afforestation* area for a project with a *net tract area* of one hundred acres with ten (10) acres of existing *forest* of which five (5) acres are to be cleared is twenty (20) acres ten (10) acres to achieve the required *afforestation* level and ten (10) acres to replace the *forest* cleared.

(C) A parcel with more than 50% of its *net tract area* in *forest* may be *cut* or cleared provided *reforestation* occurs at a rate of one-quarter (1/4) acre planted for each acre removed above 50% of the *net tract area* or at a rate of two (2) acres planted for every acre removed below 50% of the *net tract area*. *Forest* retained over 50% of the *net tract area* is credited toward the required *reforestation*. For example, a project with a *net tract area* of one hundred (100) acres and an existing *forest* of sixty (60) acres that proposes to clear twenty (20) acres, the *reforestation* area is 22.5 acres.

2. In V, IV, and EC

(A) A parcel with less than 15% of its *net tract area* in *forest cover* will be af*forest*ed to 15% of its *net tract area*.

(B) *Forest* on parcels with less than 15% of its *net tract area* in *forest* may be *cut* or cleared provided: the *afforestation* required to achieve the 15% *afforestation* level is determined prior to any *clearing* of *forest*; and the *afforestation* area consists of two (2) times the total surface area cleared and the area needed to achieve the 15% *afforestation* level before *clearing* occurred. For example, the *afforestation* area for a project with a *net tract area* of one hundred acres with ten (10) acres of existing *forest* of which five (5) acres are to be cleared is fifteen (15) acres five (5) acres to achieve the required *afforestation* level and ten (10) acres to replace the *forest* cleared.

(C) A parcel with more than 15% of its *net tract area* in *forest* may be *cut* or cleared provided *reforestation* occurs at a rate of one-quarter (1/4) acre planted for each acre removed above 15% of the *net tract area* or at a rate of two (2) acres planted for every acre removed below 15% of the *net tract area*. *Forest* retained over 15% of the *net tract area* is credited toward the required *reforestation*. For example, a project with a *net tract area* of one hundred (100) acres and an existing *forest* of thirty (30) acres of which twenty (20) acres will be cleared, requires a *reforestation* area of 13.75 acres.

3. In all non-Critical Area zoning districts – AZD, RC, CR, V, IV, C, and EC:

(A) The following *tree*s, shrubs, plants, and specific areas are considered a priority for *retention* and protection and will be left in an undisturbed condition unless the *applicant* demonstrates, to the satisfaction of the Department, that reasonable efforts have been made to protect them and the plan cannot be reasonably altered.

i. *Tree*s, shrubs, and plants in sensitive areas including the non-tidal 100-year *floodplain*, intermittent and *perennial stream protection corridor*s, *steep slopes*, *non-tidal wetlands*, and critical habitats; and

ii. Contiguous *forest* that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the *site*.

(B) The following *tree*s, shrubs, plants, and specific areas are considered a priority for *retention* and protection and will be left in an undisturbed condition unless the *applicant* demonstrates, to the satisfaction of the *Planning Commission*, that the *applicant* qualifies for a *waiver* in accordance with Article IV.

i. *Tree*s, shrubs, and plants that are determined to be rare, threatened, or endangered under:

1. The Federal *Endangered Species* Act of 1973 in 16 U.S.C. §§1531—1544 and in 50 CFR 17;

2. The Maryland Nongame and *Endangered Species* Conservation Act, Natural Resources Article, §§10-2A-01—10-2A-09, Annotated Code of Maryland; and

3. COMAR 08.03.08

ii. *Tree*s that are associated with an *historic structure* or *site*, or *tree*s that have been designated by the state or county as a national, state, or county *champion tree*; and

iii. Any *tree* having a diameter, measured at 4.5 feet above the ground, of:

1. Thirty inches or more; or

2. Seventy-five (75%) or more of the diameter, measured at 4.5 feet above the ground, of the current State *Champion tree* of that species as designated by the Department of Natural Resources.

(C) The required *reforestation* or *afforestation* may be accomplished *on-site*, *off-site*, by contributing to a *forest* bank in the same *watershed* or by contributing to the Kent County *Reforestation* Fund. The preferred method of *afforestation* or *reforestation* is *on-site* or *forest* banking.

(D) Whenever possible and appropriate, *afforestation* and *reforestation* will include native species.

3.5 ADDITIONAL STANDARDS FOR NON-TIDAL WETLANDS

A *regulated activity* is subject to the following requirements in AZD, RC, CR, V, IV, C, and EC:

1. For the purposes of delineation, permitting, and mitigation, areas determined to be *non-tidal wetlands* under COMAR 08.05.04 will be regulated under COMAR 08.05.04 or this ordinance, whichever is more stringent.

2. For the purposes of calculating *reforestation* mitigation under this Ordinance, a *forest*ed *non-tidal wetland* permitted to be *cut* or cleared and required to be mitigated under COMAR 08.05.04 will be shown on the *Forest Conservation Plan* and subtracted on an acre for acre basis from the total amount of *forest* to be *cut* or cleared as part of a *regulated activity*.

3. *Non-tidal wetlands* will be considered priority areas for *retention* and replacement.

4. *Forest*ed *non-tidal wetland* identification and delineation should be included at the earliest stage of planning to assist the *applicant* in avoidance and reduction of impacts to the *non-tidal wetlands* and to avoid delay in the approval process.

3.6 TYPES OF SUBMITTALS

1. *Declaration of Intent*

(A) A *person* seeking an *exemption* under this sub-section 7.3 will file a *Declaration of Intent* with the Department.

(B) A *Declaration of Intent* is effective for five years.

(C) The existence of a *Declaration of Intent* does not preclude:

i. An exempted activity on a property subject to a *Declaration of Intent* if the activity: (1) Does not conflict with the purpose of any existing *Declaration of Intent*, and (2) Complies with the applicable requirements for an exempted activity.

ii. A *regulated activity* on the area covered by the *Declaration of Intent*. However, if the activity occurs within five years of the effective date of the *Declaration of Intent*: (1) There will be an immediate loss of *exemption*, or (2) There may be a non-compliance action take by the Department, as appropriate, under this Ordinance, or

iii. A *regulated activity* on that area of the property not covered under the *Declaration of Intent* if the requirements of this Ordinance are satisfied.

2. TWO TYPES of *Forest Stand Delineations*

(A) Simplified *Forest Stand Delineation*

i. A simplified *Forest Stand Delineation* (SFSD) may be submitted when *forest cover* is not disturbed during a construction activity and the area is under a long-term protective agreement.

ii. A simplified *Forest Stand Delineation* will be submitted at the time of concept *site plan* and concept *subdivision* review. A SFSD will be used to determine the most suitable and practical areas for conservation.

iii. The delineation will be prepared by a registered surveyor, licensed *forest*er, licensed landscape *architect*, or other qualified professional who meets the requirements of COMAR 08.19.06.01B. A simplified *Forest Stand Delineation* will meet the requirements found in this Section. The Planning Director may permit the *Forest Stand Delineation* to be combined with the *site* or *subdivision* plan.

(B) *Forest Stand Delineation*

i. A *Forest Stand Delineation* (FSD) will be submitted at preliminary *site plan* or *subdivision* review, and before application for a *grading* or *sediment control permit* unless sub-section (A) above applies. A FSD will be submitted with the application for *minor site plan* or minor *subdivision* approval unless sub-section (A) above applies.

ii. The delineation will be prepared by a licensed *forest*er, licensed landscape *architect* or other qualified professional who meets the requirements of COMAR 08.19.06.01B and will meet the requirements for a Forest Stand Delineation found in this Section.

iii. The delineation will be used to determine the most suitable and practical areas for *forest conservation*.

iv. An approved *Forest Stand Delineation* may remain in effect for a period not longer than 5 years.

3. TWO STAGES of *Forest Conservation Plan*s

(A) At the time of application for preliminary *subdivision* and *site plan* review, the *applicant* will submit a preliminary *Forest Conservation Plan*. The review of the *Forest Conservation Plan* will be concurrent with the review of the preliminary *subdivision* or *site plan*.

(B) A final conservation plan will be submitted with:

i. Minor and final *subdivision* plan

ii. *Minor* and final *site plan*

iii. Application for a *grading* and *sediment control permit*

(C) Both preliminary and final *Forest Conservation Plans* will be prepared by a licensed *forest*er, licensed landscape *architect* or other qualified professional who meets the requirements of COMAR 08.19.06.01B. If *forest* is not going to be disturbed, a registered surveyor may prepare preliminary and final *Forest Conservation Plans*. Preliminary and final *Forest Conservation Plans* will meet the requirements of this Section.

(D) The preliminary *Forest Conservation Plan* may be modified during the review process.

(E) Where deemed appropriate by the Planning Director, the preliminary and final conservation plans may be incorporated into other plans and plats required by this Ordinance.

(F) If existing *forest* on the *site* subject to a *Forest Conservation Plan* cannot be retained, the *applicant* will demonstrate to the satisfaction of the Department:

i. How techniques for *forest retention* have been exhausted;

ii. Why the priority *forest*s and priority areas specified in the design standards of the zoning districts cannot be left in an undisturbed condition: (1) If priority *forests* and priority areas cannot be left undisturbed, how the sequence for *afforestation* or *reforestation* will be followed in compliance with Natural Resources Article, §5-1607, Annotated Code of Maryland; (2) Where on the *site* in priority areas, *afforestation* or *reforestation* will occur in compliance with Natural Resources Article, §5-1607, Annotated Code of Maryland; and (3) How the disturbance to the priority *forests* and priority areas specified in the design standards of the zoning districts qualifies for a *waiver*.

(G) If the *applicant* proposes to make a payment into the local *forest conservation* fund instead of *afforestation* or *reforestation*, the *applicant* will demonstrate to the satisfaction of the Department that the requirements for *afforestation* or *reforestation on-site* or *off-site* cannot be reasonably accomplished

3.7 SUBMITTAL REQUIREMENTS

1. SIMPLIFIED FOREST STAND DELINEATION

A simplified *Forest Stand Delineation* will include:

(A) Topographic map delineating *intermittent* and *perennial streams* and *steep slopes* over twenty-five percent (25%).

(B) *Soils* map delineating *soils* with structural limitations, such as, *hydric soils*, or *soils* with a *soil K Value* greater than 0.35 on *slopes* of fifteen percent (15%), or more.

(C) Location of 100-year *non-tidal floodplains*.

(D) Property boundaries

(E) Map showing existing *forest cover* verified by field inspection.

(F) Other information that the Department determines is necessary to implement *forest conservation*.

2. FOREST STAND DELINEATION

A *Forest Stand Delineation* will include the following:

(A) Stand summary sheets that include a summary of the data collected at individual sampling *sites* including the following:

i. Dominant species and *forest* association

ii. *Site* class of dominant *tree*

iii. Total number of *tree* species

iv. Number of *tree*s per acre

v. Common under*story* species

vi. Forest structure rating

(B) A Forest Stand Delineation Map

i. North arrow

ii. Property boundaries

iii. Perennial and intermittent streams and their required stream protection corridors

iv. Topography

v. *Soils*, highlighting hydric and *soils* with a *K Value* over 0.35 on *slopes* of fifteen percent (15%) or more.

vi. Current *forest* and un*forest*ed areas, including species, location, size of *tree*s and showing dominant and co-dominant *forest* types

vii. *Forest* stand locations

viii. *Tree* lines extending *off-site*

ix. Steep slopes

x. Field sampling points

xi. Prime agricultural *soils*

xii. Critical habitats

xiii. Adjacent land uses

xiv. Cultural features

xv. Historic *sites*

xvi. Non-tidal 100-year floodplain

xvii. Non-tidal wetlands

xviii. Vicinity Map at a scale of 1:2000 which indicates major *roads*, land uses, and *forest cover* within one square mile of the *site*.

(C) A written summary of *forest* stand conditions

i. Stand Condition: (1) Stand *structure* (dominant species and under*story* species); (2) *Forest structure*; (3) *Retention* potential; (4) Comments on evidence of past management

ii. Environmental Features: (1) *Non-tidal floodplains*; (2) *Hydric soils*; (3) *Non-tidal wetlands*; (4) *Stream protection corridors*; (5) Critical habitats; (6) *Steep slopes* and *soils* with a *K Value* which exceeds 0.35 on *slopes* of fifteen percent (15%) or more; (7) Cultural features; (8) Historic *sites*; (9) Adjacent land uses; (10) Specimen *tree*s and *champion tree*s

(D) Other information may be required if the Department determines it is necessary to implement this Ordinance.

3. PRELIMINARY FOREST CONSERVATION PLAN

A preliminary *Forest Conservation Plan* will include the following:

(A) The approved Forest Stand Delineation

(B) A table listing:

i. Net tract area

ii. Area of forest conservation required

iii. Area of *forest conservation*, both on- and *off-site* provided by the *developer*

iv. Afforestation and reforestation plan

1. Plat, drawn at the same scale as the preliminary plan which indicates:

2. Areas designated for *forest retention*
3. Areas designated for *reforestation*
4. Areas designated for *afforestation*
5. Limits of disturbance
6. Stockpile areas

v. Construction schedule, showing the sequence of *forest conservation*

vi. Two-year maintenance agreement

vii. A narrative on how the requirements for *forest conservation* have been addressed

viii. Forest Conservation Worksheet

(C) Other information the Department determines is necessary to implement *forest conservation*.

4. FINAL FOREST CONSERVATION PLAN.

A final *Forest* Conservation *Plan* will include the following:

(A) The approved Forest Stand Delineation

(B) A Forest Conservation Worksheet. A worksheet and instructions for its completion may be found in the Forest Conservation Technical Manual.

(C) A Forest Conservation Map which clearly indicates the following:

i. *Forest retention* areas (with priority rating)

ii. Reforestation areas

iii. Afforestation areas

iv. Protective devices, including specifications

v. Limits of disturbance

vi. Stockpile areas

(D) Construction Schedule, including the sequence of *reforestation* areas, *afforestation* areas, maintenance and protective measures to be employed at the *site*.

(E) *Forest* Protection Plan that addresses:

i. Pre-construction activities including stress reduction and temporary and permanent protective devices.

ii. Future protection measures

(F) *Reforestation* and *Afforestation* Plans, which include:

i. Narrative evaluation of sequential analysis of *reforestation* and *afforestation* methods.

ii. Planting plan which includes: (1) Summary of *site* assessment and preparation; (2) Target species for *reforestation*; (3) Plant materials table including plant material source, species, number of plants, size of plants. Methods found in the *Forest Conservation Technical Manual* will be used to determine species *selection* and *site* stocking.

(G) Incorporate a binding 5-year maintenance agreement as specified in COMAR 08.19.05.01 which includes:

i. Watering, and

ii. A reinforcement planting provision if survival rates fall below required standards, as provided in the Forest Conservation Technical Manual, and

iii. Name and contact information for company or individual responsible for tree care.

(H) Long term binding protective agreement, that:

i. Provides protection for areas of *forest conservation*, including areas of *afforestation*, *reforestation*, and *retention*, and

ii. Limits uses in areas of *forest conservation* to those uses designated and consistent with *forest conservation* including recreational activities and *forest management* practices used to preserve *forest*.

iii. A narrative on how the general provisions of *forest conservation* found in this Ordinance have been addressed.

(I) Table listing:

i. Net tract area

ii. Area of forest conservation required

iii. Area of *forest conservation* provided both on and *off-site*

(J) Other information that the Department determines is necessary to implement *forest conservation*.

3.8 FOREST CONSERVATION FUND

1. A *forest conservation* fund is established that meets the requirements of Natural Resources Article, §5-1610(h-1), Annotated Code of Maryland.

2. When the Department determines that the requirements for *reforestation* or *afforestation on-site* or *off-site* cannot be reasonably accomplished and credits generated by a *forest mitigation bank* in the same County or *watershed* are not available, the *applicant* will contribute money into the *forest conservation* fund.

(A) For a project inside a *Priority Funding Area*, at a rate of 40.0 cents per square foot of the area of required planting with the amount adjusted by the Department of Natural Resources based on the previous year's inflation rate; and

(B) For a project outside a *Priority Funding Area*, at a rate of 50.0 cents per square foot of the area of required planting with the amount adjusted to be 20% higher than the rate set under item 2 (A) of this sub-section.

3. The money will be paid prior to final approval.

4. Money depos*it*ed in the local *forest conservation* fund:

(A) May be spent on the costs directly related to *reforestation* and *afforestation*, including *site* identification, acquisition, preparation, and maintenance of existing *forest*s and achieving urban *canopy* goals.

(B) Will be depos*it*ed in a separate *forest conservation* fund; and

(C) May not revert to the general fund

5. The County will accomplish the *reforestation* or *afforestation* for the equivalent number of acres, or *forest* land acquisition for which the money is depos*it*ed within two years or three *growing seasons*, whichever is the greater time period after receipt of the money.

6. *Reforestation*, *afforestation*, *forest easement* purchase, or *forest* land acquisition paid for by this fund will occur in Kent County or its municipalities and in the same *watershed* in which the project is located.

7. If the *reforestation*, *afforestation*, *forest easement* purchase, or *forest* land acquisition cannot be reasonably accomplished in the same *watershed* in which the project is located, the *reforestation*, *afforestation*, *forest easement* purchase, or *forest* land acquisition will occur within the same county or *watershed* in the state in which the project is located.

3.9 FOREST PROTECTIVE DEVICES

1. Before *cut*ting, *clearing*, *grading*, or construction begins on a *site*, the *applicant* will demonstrate to the Department that protective devices have been established.

2. Protective device standards are found in the *Forest Conservation Technical Manual*.

3.10 BONDS

1. A *person* required to conduct *afforestation* or *reforestation* will furnish financial security in the form of a bond, an irrevocable letter of credit, or other security approved by the County Commissioners of Kent County. The surety will:

(A) Assure that the *afforestation*, *reforestation*, and the associated *maintenance agreement* are conducted and maintained in accordance with the approved *Forest Conservation Plan*.

(B) Be in an amount that is 125% of the estimated cost of *reforestation* or *afforestation* as determined by the Department.

(C) Be in a form and content approved by the Department.

2. After two *growing seasons*, an *applicant* may request reduction of the amount of the bond or other financial security by submitting a written request to the Department with a justification for reducing the bond or other financial surety amount, including estimated or actual costs to ensure *afforestation* or *reforestation* requirements are met.

(A) The Department will determine whether a lesser amount is sufficient to cover the cost of *afforestation* or *reforestation*, taking into account such factors as the number of acres, proposed method of *afforestation* or *reforestation*, cost of planting materials, and maintenance costs.

(B) If after four *growing seasons* the plantings associated with the *afforestation* or *reforestation* meet or exceed the standards of the Kent County *Forest Conservation Technical Manual*, the amount of the bond, letter of credit, surety bond, or other security will be returned or released.

3.11 STATE FUNDS

1. A local agency or *persons* using state funds making application to conduct a *regulated activity* will submit the *subdivision*, construction, *grading*, or *sediment* control plan to the Department who will notify the Department of Natural Resources within fifteen (15) days of receipt of the plan or project.

2. Within fifteen (15) days of receipt of notice from the Department, the Department of Natural Resources will:

(A) Determine whether the project has impact on significant *forest* resources; and

(B) Notify the Department whether the project is subject to the State Program.

3. If the Department of Natural Resources determines that the project is subject to the State program:

(A) The time limit for approval of the *Forest Stand Delineation* and preliminary and final *Forest Conservation Plan* will begin when the Department of Natural Resources receives the necessary documents from the Department;

(B) The Department may not approve a *subdivision* or *site plan* or issue the *grading* or *sediment control permit* until the Maryland Department of Natural Resources notifies the county that the standards and requirements of the State program have been satisfied.

4. If the Department of Natural Resources determines the project need not be reviewed under the state program, the time limit for approval of the *Forest Stand Delineation* and *Forest Conservation Plan* under the Kent County Plan begins when the Department receives notice from the Department of Natural Resources.

3.12 FOREST MITIGATION BANKS

1. Payment by credits from a *forest mitigation bank*

   (A) When the Department determines that the requirements for *reforestation* or *afforestation on-site* or *off-site* cannot be reasonably accomplished, the *applicant* may contribute credits from a *forest mitigation bank*. A credit is required for each tenth of an acre of an area of required planting.

   (B) The credits will be debited from an approved *forest mitigation bank* prior to final approval.

2. Establishing *forest mitigation bank*s

   (A) A *person* may create a *forest mitigation bank* from which *applicant*s may purchase credits to meet the *afforestation* and *reforestation* requirements of this ordinance.

   (B) The *forest mitigation bank* will:

      i. *Afforest* or re*forest* an area of land in accordance with a *Forest Mitigation Bank Agreement*;

      ii. Be protected by an *easement*, deed restrictions, or covenants which require the land in the bank to remain *forest*ed in perpetuity and are enforceable by the Department and the Department of Natural Resources;

      iii. Limit the use of the land in the bank to those activities which are not inconsistent with *forest conservation* such as recreational activities, *forest management* under a *forest conservation* and management program under Tax Property Article, §8-211, Annotated Code of Maryland, or activities specified in a *forest management* plan prepared by a licensed *forest*er and approved by the Department;

      iv. Use native plant materials for *afforestation* or *reforestation* unless inappropriate; and

      v. Cause *tree*s to be planted which: (1) Establish or enhance *forest*ed *buffer*s adjacent to *intermittent* and *perennial streams* and coastal bays to widths of at least 50 feet; (2) Establish or increase existing *forest*ed corridors, which, where practical, should be a minimum of 300 feet in width to facilitate wildlife movement, to connect existing *forests* within or adjacent to the *site*; (3) Establish or enhance *forest buffer*s adjacent to *critical habitat*s where appropriate; (4) Establish or enhance *forest*ed areas in 100-year *floodplain*s; (5) Stabilize *slope*s of 25 percent or greater; (6) Stabilize *slope*s of 15 percent or greater with a *soil k value* greater than 0.35 including the *slope*s of ravines or other natural depressions; (7) Establish *buffer*s adjacent to areas of differing land use where appropriate, or adjacent to highways or utility rights-of-way; or (8) Establish *forest* areas

adjacent to existing *forest*s to increase the overall area of contiguous *forest cover*, when appropriate.

(C) A *person* proposing to create a *forest mitigation bank* will submit to the Department:

i. A completed application on a form approved by the Department which has been signed by an authorized individual;

ii. *Forest mitigation bank plan* which contains a: (1) Vicinity map of the proposed mitigation bank *site*; (2) Simplified *forest stand delineation* that meets the requirements for such delineations in this Section; (3) Detailed *afforestation* or *reforestation* plan, which will include a timetable and description of the *site* and *soil* preparation needed, species, size, and spacing to be utilized, prepared by a licensed Maryland *forest*er, a licensed landscape *architect*, or a qualified professional who meets the requirements stated in COMAR 08.19.06.01a; and (4) Proposed 2-year maintenance agreement that includes: (4a) Watering plans; (4b) Fertilizing plans; (4c) Control of competing vegetation; (4d) Protection from disease pest, and mechanical injury; (4e) Replanting provisions when survival fall below acceptable levels; (4f) Name of company or individual responsible for *tree* care

iii. Copy of the deed to the property;

iv. Survey or other legally sufficient description of the bank *site* for inclusion in the deeds of *easement*, deed restrictions, or covenants;

v. Title report or other assurance that: (1) The property is not encumbered by any covenants or other types of restrictions which would impair the property's use as a *forest mitigation bank*; and (2) There is legally sufficient access to the *forest mitigation bank site* which can be used by the Department and its assignees to inspect the *forest mitigation bank*; and

vi. Description of the system to be used by the *person* owning and operating the *forest mitigation bank* to identify and keep track of which portions of the bank have been debited to meet an *applicant*'s off*site afforestation* or *reforestation* requirements.

(D) The owner of an approved *forest mitigation bank* will enter into an agreement with the Department which contains:

i. The approved *reforestation* or *afforestation* plan;

ii. The approved system for marking and tracking which portions of the bank have been debited; and

iii. An acknowledgment that the bank may not debit any portion of the af*forest*ed or re*forest*ed land until two (2) years of successful growth has

been achieved unless the banker has posted a bond or alternate form of security.

SECTION 4 EROSION & SEDIMENT CONTROL

4.1 STATEMENT OF INTENT

1. The purpose of this Ordinance is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the *adverse impacts* associated with land disturbances. The goal is to minimize *soil erosion* and prevent *off-site sediment*ation by using *soil erosion and sediment control* practices designed in accordance with the Code of Maryland *Regulations* (COMAR) 26.17.01, the 2011 Maryland *Standards and Specifications* and the *Stormwater Management* Act of 2007. Implementing this Ordinance will help reduce the negative impacts of land *development* on water resources, maintain the chemical, physical, and biological integrity of streams, and minimize damage to public and private property.

2. The provisions of this Ordinance pursuant to Title 4, Environment Article, Subtitle 1, Annotated Code of Maryland will apply to all land *grading* occurring within Kent County. The application of this Ordinance and the provisions expressed herein will be the minimum *erosion and sediment control* requirements and will not be deemed a limitation or repeal of any other powers granted by State Statute.

3. No *person* will disturb land without implementing *soil erosion and sediment control*s in accordance with the requirements of this Ordinance and the *Standards and Specifications* except as provided within this Section.

4.2 APPLICABILITY

1. A permit will be obtained for any *grading*, *clearing*, *stripping*, excavating, filling of land, or *forest* harvesting. A permit will also be obtained for the creation of borrow pits, spoil areas, quarries, material processing facilities, or any other facilities.

2. A permit will not be required for the following, subject to compliance with the requirements of the Department of the Environment, relating to *sediment* control plans approved by the Kent *Soil* and Water Conservation District:

   (A) Outside the Chesapeake Bay *Critical Area*, *agricultural land management* operating according to *best management practices* in Maryland.

   (B) In the Chesapeake Bay *Critical Area*, *agricultural land management* operating according to an approved *soil* and water conservation plan approved by the Kent *Soil* and Water Conservation District. Landowners who have signed up as conservation district cooperators but do not have a conservation plan developed for them by the District will be exempt from the requirements of this Section, if *best management practices* are used.

   (C) *Clearing* or *grading* of land, provided that:

      i. The aggregate of area(s) affected or bared at any one time does not exceed five thousand (5,000) square feet; and

ii. The *grading* does not involve a quantity of materials in excess of one hundred (100) cubic *yard*s.

(D) State and federal projects that are reviewed and enforced by the Maryland Department of the Environment.

4.3 PROCEDURES

A *person* making an application for a *Sediment Control Permit* will submit to the Department the following:

1. Application
2. One original and five copies of the *erosion and sediment control plan*, including specifications and timing schedules.
3. Fee
4. A bond, if required under this Section.

4.4 GENERAL REQUIREMENTS

1. Permits issued under this Section do not relieve the owner of responsibility for securing required permits for work to be done which is regulated by any other applicable code, act, or County ordinance. This Section will not preclude the inclusion in other permits of more stringent *regulations* or requirements concerning *sediment* control.
2. Standard *sediment* control plans and provisions may be approved for *single family dwellings* and other minor projects. A plan will be approved prior to the issuance of a *grading* or *building* permit.
3. The Kent *Soil* and Water Conservation District may prepare *sediment* control plans for agricultural projects such as barns, chicken houses, dairy operations or other agricultural *buildings*.
4. A copy of the current approved plan will be kept at the construction *site*.
5. Prior to the issuance of a *grading* permit, copies of the plan will be referred by the Department to the Kent *Soil* and Water Conservation District for approval. Where applicable, the Maryland Department of the Environment may also review any plans that may require a water resources permit. Where deemed necessary, the Maryland Department of the Environment may also serve Kent County and the Kent *Soil* and Water Conservation District as a technical authority in *erosion and sediment control*. The *Soil* and Water Conservation District will notify the Department of its recommendations and/or approval.
6. Major modifications of the approved *grading* plans will be submitted to the Department and reprocessed in the same manner as the original plan. Field modifications of a minor nature may be authorized by the Department provided that written authorization is given

to the *applicant* performing work pursuant to this Section, with copies forwarded in a timely manner to the Kent *Soil* and Water Conservation District.

7. The permit and inspection fee will be paid to the Department and will be determined by the Department after consultation with the Kent *Soil* and Water Conservation District. The fee for a permit authorizing additional work will be the difference between the fee paid for the original permit and the fee required for the entire *sediment* control project.

8. If the land area for which the *grading* is proposed lies within the *floodway* of any stream or *watercourse*, the Department will deny a *sediment control permit*, unless such *grading* is authorized or permitted by the Maryland Department of the Environment in accordance with its rules and *regulations*.

9. In granting any permit pursuant to this Section, the Department may impose conditions that may be reasonably necessary to prevent the creation of a nuisance or unreasonable hazard to *persons* or to public or private property. Such conditions include but are not limited to:

   (A) Improvement of any existing *grading* to meet the standards required under this Section for new *grading* and for *sediment* control.

   (B) Designation of *easements* for drainage facilities and for the maintenance of *slopes*, *erosion* control facilities, and storm water management *structures* or devices.

   (C) Adequate control of dust by watering or other control methods acceptable to the Department and in conformance with applicable air pollution ordinances.

10. The Department will have the right to deny issuance of a *grading* permit when the proposed *grading* would cause hazards adverse to the public safety and welfare.

11. For steep banks along the shorelines that are actively eroding and ten feet in height or more, the Department may elect not to issue a permit for the construction of a *dwelling* or any other substantial *building*.

12. *Sediment control permits* expire after three years unless construction of the project has begun.

13. Approved erosion and sediment control plans remain valid for three (3) years from the date of approval, except surface mines (e.g., sand and gravel pits) and landfill plans, which remain valid for five (5) years from the date of approval.

14. Following initial disturbance or re-disturbance, permanent or temporary *stabilization* on areas not under active *grading* will be completed within:

   (A) Three calendar days as to the surface of all perimeter dikes, swales, ditches, perimeter *slopes*, and all *slopes* greater than three horizontal to one vertical (3:1).

   (B) Seven days as to other disturbed or *grade*d areas on the project *site*.

15. The *permittee* will fully perform and complete all of the work required to be done pursuant to the *grading* within the time limit specified in the *grading* permit. If an *applicant* is unable to complete the work in the specified time, the *applicant* will submit a written request for an extension to the Department that explains the need for the requested extension.

16. All permits issued for sand, gravel, or clay pits and rock quarries or any other mining or material processing operations involving *excavation* and/or stockpiling of *soil*, rock, or other materials will lapse one year after termination of active, productive (i.e. actually removing material whether at a profit or not and whether stockpiled or sold) and continuous operations as determined by the Department. Said permits will be reviewed by the Department for compliance in accordance with the approved *grading* plan.

17. Neither the issuance of a permit under the provisions of this Section nor the compliance with the provisions hereto or with any condition imposed by the Department will relieve any *person* from any responsibility for damage to *persons* and/or property.

18. During *grading* control operations the *permittee* will be responsible for the prevention of damage to any *public utilities* or services within the limits of *grading* and along any routes of travel of equipment. No *person* will *grade* on land so close to property lines as to endanger any adjoining public *street*, sidewalk, *alley*, or any other public or private property without supporting and protecting such property from settling, cracking, or other damage. *Grading* can occur on adjacent property if *grading* rights are secured from the property owner. Storm drains will terminate in an *acceptable outfall*. Kent County, Maryland will not be responsible for any drainage damage to downstream properties for failure of any work to be done pursuant to this Section.

19. No *soil*, miscellaneous debris, or other spilled or dumped material is to be depos*ite*d in *floodplain*s, *watercourses*, public *streets*, highways, sidewalks, or other public thoroughfares during transit or operation.

20. The owner of any property on which *grading* or other work has been done under the provisions of this Section will maintain and/or promptly repair or restore all *grade*d surfaces, *erosion* control measures, vegetative covers and/or other protective measures if disturbed or destroyed during the course of operations. Repair and restoration will be in conformance with the approved plans until permanent measures are accepted by the Department.

4.5 STEEP SLOPE REQUIREMENTS

1. *Development* may occur within steep *slope* areas provided that a minimum of 30% of the *lot* or parcel upon which the principal *structure* is to be situated is less than 10% *grade* and is contiguous to a road meeting Kent County design standards. The extent of *cut*ting and filling that will be permitted on any *lot* will be based on the *soil* conditions at the *site* and as determined by the Department upon recommendation of the Kent *Soil* and Water Conservation District. Construction on piling and/or supports will be permitted.

2. All *roads* and *streets* will be placed as close to the contour as possible, to minimize *cut*ting and filling.

3. The construction of all *structures* will be preceded by the installation of storm drainage system(s) and *stabilization* measures.

4. In the case of a single *lot development* within such areas where no central storm drainage system exists, runoff from driveways, roofs, and other improved surfaces will be diverted and carried to an acceptable outlet by one or a combination of the following methods: filtration beds, subsurface dry wells, storm drainage systems and/or underground conduit systems or other adequate or protected outlets.

4.6 VEGETATIVE REQUIREMENTS

Vegetative *erosion and sediment control* measures will include, but not be limited to, the following:

1. Following initial *soil* disturbance or re-disturbance, permanent or temporary *stabilization* on areas not under active *grading* will be completed within:

   (A) Three calendar days as to the surface of all perimeter dykes, swales, ditches, perimeter *slopes*, and all *slopes* greater than three to one (3:1).

   (B) Seven days as to all other disturbed or *grade*d areas on the project *site*.

2. All projects must comply with the provisions set forth in the *2011 Maryland Standards and Specifications for Erosion and Sediment Control*, and as may be amended.

   https://mde.maryland.gov/programs/water/stormwatermanagementprogram/pages/esc_standards.aspx

4.7 REVIEW AND APPROVAL OF EROSION AND SEDIMENT CONTROL PLANS

1. A *person* may not *grade* land without an *erosion and sediment control plan* approved by the *Kent Soil and Water Conservation District*.

2. The *Kent Soil and Water Conservation District* will review *erosion and sediment control plan*s to determine compliance with this Ordinance and the *2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control* prior to approval. In approving the plan, the *approving agency* may impose such conditions that may be deemed necessary to ensure compliance with the provisions of this Ordinance, COMAR 26.17.01, the *2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control*, and the preservation of public health and safety.

3. At a minimum, a *concept plan* will include the mapping of natural resources and sensitive areas including *highly erodible soils* and *slope*s greater than 15% as well as information required under *Stormwater Management*. These areas are to remain undisturbed, or an explanation will be included with either the concept or *site development plan* describing enhanced protection strategies for these areas during construction.

4. A *site development plan* submittal will include all *concept plan* information and indicate how proposed *erosion and sediment control* practices will be integrated with proposed *stormwater management* practices. The latter is to be done through a narrative and an overlay plan showing both *Environmental Site De*sign *(ESD)* and *erosion and sediment control* practices. An initial sequence of construction and proposed project phasing to achieve the *grading unit* restriction should be submitted at this time.

5. An *applicant* will submit a *final erosion and sediment control plan* to the *approving agency* for review and approval. The plan will include all of the information required by the concept and *site development plan*s as well as any information in Section 8.8 not already submitted.

6. A *final erosion and sediment control plan* will not be considered approved without the inclusion of the signature and date of signature of the *approving agency* on the plan.

7. Approved plans remain valid for three (3) years from the date of approval unless extended or renewed by the *approving agency*, except surface mines (e.g., sand and gravel pits) and landfill plans, which remain valid for five (5) years from the date of approval.

4.8 CONTENTS OF EROSION AND SEDIMENT CONTROL PLANS

1. An *applicant* is responsible for submitting *erosion and sediment control plan*s that meet the requirements of the *approving agency*, this Section, *Stormwater Management*, and the *Standards and Specification*s. The plans will include sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed *grading* on water resources, and the effectiveness and acceptability of measures proposed to minimize *soil erosion* and *off-site sediment*ation.

2. At a minimum, *applicant*s will submit the following information:

   (A) A letter of transmittal and/or application;

   (B) Name, address, and telephone number of:

      i. The owner of the property where the *grading* is proposed;

      ii. The *developer*; and

      iii. The *applicant*;

   (C) A vicinity map indicating north arrow, scale, *site* location, and other information necessary to easily locate the property;

   (D) *Drainage area* map(s) at a 1" = 200' minimum scale showing existing, interim, and proposed *topography*, proposed improvements, standard symbols for proposed *sediment* control features, and pertinent drainage information including provisions to protect downstream areas from *erosion* for a minimum of 200 feet downstream or to the next conveyance system;

   (E) The location of natural resources, *wetlands*, *floodplain*s, *highly erodible soils*, *slope*s 15% and steeper, and any other sensitive areas;

(F) A general description of the predominant *soil* types on the *site*, as described by the appropriate *soil* survey information available through the local *soil* conservation district or the USDA Natural Resources *Soil* Conservation Service;

(G) Proposed *stormwater management* practices;

(H) *Erosion and sediment control plan*s including:

i. The existing *topography* and improvements as well as proposed *topography* and improvements at a scale between 1" = 10' and 1" = 50' with 2-foot contours or another approved contour interval. For projects with more than minor *grading*, interim contours may also be required;

ii. Scale, project and sheet title, and north arrow on each plan sheet;

iii. The limit of disturbance (LOD) including: (1) Limit of *grading* (*grading unit*s, if applicable); and (2) Initial, interim, and final phases;

iv. The proposed *grading* and earth disturbance including: (1) Total disturbed area; (2) Volume of *cut* and fill quantities; and (3) Volume of borrow and spoil quantities;

v. Storm drainage features, including: (1) Existing and proposed bridges, storm drains, culverts, outfalls, etc.; (2) Velocities and peak flow rates at outfalls for the two-year and ten-year frequency storm events; and (3) *Site* conditions around points of all surface water discharge from the *site*;

vi. *Erosion and sediment control* practices to minimize *on-site erosion* and prevent *off-site sediment*ation including: (1) The salvage and reuse of top*soil*; (2) Phased construction and implementation of *grading unit*(s) to minimize disturbances, both in extent and duration; (3) Location and type of all proposed *sediment* control practices; (4) Design details and data for all *erosion and sediment control* practices; and (5) Specifications for temporary and permanent *stabilization* measures including, at a minimum: (5a) The "Standard *Stabilization* Note" on the plan stating: (5a-1) "Following initial *soil* disturbance or re-disturbance, permanent or temporary *stabilization* will be completed within: (5a-2) Three calendar days as to the surface of all perimeter dikes, swales, ditches, perimeter *slope*s, and all *slope*s steeper than 3 horizontal to 1 vertical (3:1); and (5a-3) Seven calendar days as to all other disturbed or *grade*d areas on the project *site* not under active *grading*." (5b) Details for areas requiring accelerated *stabilization*; and (5c) Maintenance requirements as defined in the *Standards and Specification*s;

vii. A *sequence* of construction describing the relationship between the implementation and maintenance of controls, including permanent and temporary *stabilization*, and the various stages or phases of earth disturbance and construction. Any changes or revisions to the sequence of construction will be approved by the *approving agency* prior to proceeding

with construction. The sequence of construction, at a minimum, will include the following: (1) Request for a pre-construction meeting with the appropriate enforcement authority; (2) *Clearing* and grubbing as necessary for the installation of perimeter controls; (3) Construction and *stabilization* of perimeter controls; (4) Remaining *clearing* and grubbing within installed perimeter controls; (5) Road *grading*; (6) *Grading* for the remainder of the *site*; (7) Utility installation and connections to existing *structure*s; (8) Construction of *building*s, *roads*, and other construction; (9) Final *grading*, landscaping, and *stabilization*; (10) Installation of *stormwater management* measures; (11) Approval of the appropriate enforcement authority prior to removal of *sediment* controls; and (12) Removal of controls and *stabilization* of areas that are disturbed by removal of *sediment* controls.

viii. A statement requiring the owner/*developer* or representative to contact the *inspection agency* or its agent at the following stages of the project or in accordance with the approved *erosion and sediment control plan*, *grading* permit, or *building* permit: (1) Prior to the start of earth disturbance; (2) Upon completion of the installation of perimeter *erosion and sediment control*s, but before proceeding with any other earth disturbance or *grading*; (3) Prior to the start of another phase of construction or opening of another *grading unit*; and (4) Prior to the removal of *sediment* control practices;

ix. *Certification* by the owner/*developer* that any *clearing*, *grading*, construction, or *development* will be done pursuant to the approved *erosion and sediment control plan*. The *certification* will also require that the *responsible personnel* involved in the construction project have a Certificate of Training at an MDE approved training program for the control of *erosion* and *sediment* prior to beginning the project. The Certificate of Training for *Responsible Personnel* may be waived by the *approving agency* on any project involving four or fewer residential *lot*s. Additionally, the owner/*developer* will allow right of entry for periodic *on-site* evaluation by the *approving agency*, Department, the *inspection agency*, and/or MDE; and

x. *Certification* by a professional *engineer*, *land surveyor*, landscape *architect*, *architect*, or *forest*er (for *forest* harvest operations only) registered in the State that the plans have been designed in accordance with *erosion and sediment control* laws, *regulations*, and standards, if required by the *approving agency* or the Maryland Water Management Administration.

(l) Any additional information or data deemed appropriate by the *approving agency*.

3. All plans will conform to the following terms and conditions:

(A) The *development* will be fitted to the *topography* and *soils* so as to create the least *erosion* potential.

(B) *Natural vegetation* will be retained and protected wherever possible.

(C) Only the smallest practical area will be exposed for the shortest practical period of time.

(D) *Erosion* control practices (such as interceptor ditches, *berms*, terraces, contour ripping, *soil erosion* checks and *sediment* basins) will be installed to minimize *soil* and water losses.

(E) Temporary vegetation and/or mulching will be used to protect *critical area*s exposed during the time of *development*.

(F) During and after *development*, provisions will be made to effectively accommodate the increased runoff caused by changeable *soil* and surface conditions and not cause siltation, destruction, or deterioration of the receiving stream.

(G) Permanent vegetation and *structures* will be installed in the *development* as soon as the season permits.

4.9 SECURITIES

1. A *grading* permit will not be issued for *grading* involving the movement of more than 1,000 cubic *yard*s of *soils* unless the *permittee* will post with the Department a performance bond, letter of credit or other surety. The bond, irrevocable letter of credit or other surety will be in a form approved by the County Attorney and in an amount not less than the total estimated cost of the *erosion* control and *stabilization* of the *site*. Said estimated cost will be that which is approved by the Department or in consultation with the Kent *Soil* and Water Conservation District after reviewing the cost estimates proposed by the *applicant*'s acceptable *engineer*, *land surveyor*, or *architect* and submitted with the *grading* permit application.

2. The bond, irrevocable letter of credit or other surety will include the following provisions:

   (A) The *applicant* will comply with all of the provisions of this Ordinance and all other applicable laws and ordinances.

   (B) The *applicant* will comply with all of the terms and conditions of the *grading* permit.

   (C) Any extension of completion time under this Section will not release the *applicant* or surety on the bond, irrevocable letter of credit, or other surety.

   (D) Upon default, the *applicant* and surety will continue to be *firm*ly bound under a continuing obligation for payment of one of the following at the election of the surety:

i. All costs and expenses necessary to complete the work in accordance with the approved plans and specifications (or any approved modification thereof).

ii. All necessary costs and expenses or liabilities which may be incurred to stabilize in accordance with a *stabilization* plan for *erosion* control presented by the surety and approved by Kent County.

iii. Payment of the full amount of the bond to Kent County to perform the work necessary. If the cost for restoration of the *site* to meet the minimum requirements of this Section (with particular emphases on stability, safety, drainage, and *erosion* control) exceeds the amount of the bond, the *permittee* will continue to be *firm*ly bound under a continuing obligation for payment of all excess cost and expenses incurred by the county.

3. The bond, irrevocable letter of credit or other surety will remain in full force and effect until the completion of the work to the specifications required. If all work of the permit is not completed within the time specified therein, or as otherwise provided for in this Section or violates any other term or condition, payment in full to Kent County may be ordered. The funds so received will be used by the County to defray the cost of restoration of the *site*. Upon approval of a certificate of completion, the bond, irrevocable letter of credit or other surety will be released.

4.10 HAZARDOUS CONDITIONS

1. If the Department determines that an *excavation*, *embankment*, or a *fill* endangers or adversely affects the safety or stability of any public or private property, as determined from the guidelines of this Ordinance, the Planning Director, or the Planning Director's designee, will promptly notify in writing the owner (or other *persons* in control) of the property upon which the condition exists.

2. If the correction is not commenced in accordance with the provisions of the Ordinance within the period of time specified in the notice, the owners (or other *persons* in control) will be subject to the penalties set forth in this Land Use Ordinance.

4.11 INSPECTIONS

1. All work will be inspected by the Department according to the following schedule.

(A) *Clearing* and grubbing for those areas necessary for installation of perimeter controls.

(B) Completion of perimeter controls.

(C) Remaining *clearing* and grubbing.

(D) Road *grading*

(E) *Grading* for remainder of the *site*.

(F) Utility and storm drain installation.

(G) Final *grading*, landscaping, or *stabilization*.

(H) Removal of controls and maintenance.

(I) At other times determined by the Department.

(J) Every two weeks, for compliance with approved *sediment* control plans.

2. It will be a condition of every *grading* or *building* permit that the *inspection agency* has the right to enter the property periodically to inspect for compliance with the approved *erosion and sediment control plan* and this Ordinance.

3. Inspection Procedure. Work approved will not proceed until the Department inspects the *site* and approves the work previously completed or notifies the *permittee* otherwise. Upon notification from the *permittee*, the Department will inspect the *site* and notify the *permittee* of its approval or rejection within forty-eight (48) hours (exclusive of Saturdays, Sundays, and Holidays). If the inspector does not make an inspection within the specified time period, work may proceed without presumption of approval at the risk of the *permittee*. The Department will have the right to waive inspections except final inspection as necessary.

4. Inspection Reports.

(A) Written reports: Structural *erosion and sediment control* measures will include, but not be limited to, those described and depicted in the booklet entitled "*Standards and Specification*s for *Soil Erosion* Control" as approved by the Maryland Department of the Environment. This booklet, as currently amended, is readily available at offices of the Department, 400 High *Street*, Chestertown, Maryland; *Kent Soil* and Water Conservation District, Chestertown, Maryland; Natural Resources Conservation Service, Chestertown, Maryland; and the Maryland Department of the Environment.

(B) Written inspection reports will be completed by the inspector for all inspections. The reports will include, at minimum: (1) Date and location of *site* inspection; (2) Degree of plan implementation; (3) Deficiencies of plan or practice; (4) Enforcement action taken, if any; (5) A time frame for corrective measures

5. When required by the Department, inspections and testing will be performed under the direction of an *engineer*, *land surveyor* or *architect* who will certify all inspection reports and tests results. Such reports will include *certification* by an *engineer* for the adequacy of:

(A) Cleared areas and benched or keyed surfaces prepared to receive fills.

(B) Removal of unsuitable materials.

(C) Construction of *erosion* control or drainage devices, buttress fills, under-drains, retaining walls, and other *grading* appurtenances.

(D) The degree of *compaction* where tests are performed.

6. All certified inspection reports and certified test results will be periodically submitted to the Department, during the performance of the work.

7. Final Reports. The Department will maintain permanent files on their respective inspections. Upon completion of permitted work, the Department will require the following for these files and will also require copies for the *Kent Soil* and Water Conservation District.

   (A) An as-built original plan by a *land surveyor* or *engineer* and showing all improvements and final *grade*s with red line *alteration*s allowed.

   (B) *Certification* by the owner that all *grading*, drainage, *erosion* control measures, and facilities and vegetative measures have been completed in conformance with the approved plans and specifications.

   (C) A report summarizing the inspection reports, field and laboratory tests and locations of tests.

8. Final Inspection Request. The *permittee* or the *permittee*'s agent will notify the Department when the *grading* operation is ready for final inspection. Final approval will be given in a timely manner when all work (including installation of all drainage *structure*s and *erosion* protective devices) has been completed as well as the required vegetative *stabilization* and the required reports have been submitted.

9. The Department may also require signed and sealed drawings from a professional land surveyor or engineer, certifying that the requirements above have been satisfied. The Department may also engage third-party professionals to review the drawings to ensure compliance with the regulations in this Section, the Land Use Ordinance in general, and any applicable federal, State, or other laws, rules, and regulations. The costs for any third-party professionals will be paid by the applicant or property owner of record.

SECTION 5 STORMWATER MANAGEMENT

5.1 STATEMENT OF INTENT

The purpose of this ordinance is to protect, maintain and enhance the public health, safety and general welfare by establishing minimum requirements and procedures to control the *adverse impact*s associated with increased *stormwater* runoff. The goal is to manage *stormwater* by using *environmental site de*sign *(ESD)* to the *maximum extent practicable (MEP)* to maintain after *development* as nearly as possible, the p*redevelopment* runoff characteristics, and to reduce stream *channel erosion*, pollution, siltation, and *sediment*ation, and local *flood*ing, and use appropriate structural *best management practices* (*BMP*) only when necessary. This will restore, enhance, and maintain the chemical, physical, and biological integrity of streams, minimize damage to public and private property and reduce the impacts of land *development*.

5.2 AUTHORITY; EXPLANATION OF PROVISIONS

The provisions of this ordinance pursuant to the Environment Article, Title 4, Subtitle 2, Annotated Code of Maryland, 2009-replacement volume, are adopted under the Code of Public Local Laws of Kent County and will apply to all *development* or *redevelopment* occurring within the unincorporated area of Kent County. The application of this ordinance and the provisions expressed herein will be the minimum *stormwater management* requirements and will not be deemed a limitation or repeal of any other powers granted by state statute. The County will be responsible for the coordination and enforcement of the provisions of this Ordinance. Any *development* that has not received final approval for *erosion and sediment control* and *stormwater management plan*s by May 4, 2010, will comply with the 2010 revised Ordinance, unless the *development* or *redevelopment* is granted an administrative *waiver* under this Section.

5.3 INCORPORATION BY REFERENCE

1. The 2000 Maryland *Stormwater De*sign *Manual*, Volumes I & II (Maryland Department of the Environment, April 2000 and as may be amended), will be incorporated by reference and will serve as the official guide for *stormwater management* principles, methods, and practices.
2. The USDA Natural Resources Conservation Service Maryland Conservation Practice Standard Pond Code 378 (January 2000 and as may be amended) will be incorporated by reference.

5.4 GRANDFATHERING

1. DEFINITIONS APPLICABLE TO THE GRANDFATHERING. For the purpose of determining the grandfathering of *development stormwater management plan*s as set forth in this Section certain words are hereby defined.

   (A) Administrative *Waiver*: A decision by Kent County pursuant to this Ordinance to allow the construction of a *development* to be governed by the *stormwater*

management ordinance in effect as of May 4, 2009. An administrative *waiver* is distinct from a *waiver* granted pursuant to Article IV Processes.

(B) Approval: A documented action by Kent County following a review to determine and acknowledge the sufficiency of submitted material to met the requirements of a specified stage in a local *development* review process. Approval does not mean acknowledgment by Kent County that material has been received for review.

(C) Final Project Approval: Approval of the *final stormwater management plan* and *erosion and sediment control plan* required to construct a project's *stormwater management* facilities. Final approval also includes securing the bonding or financing for final *development* plans if required as a prerequi*site* for approval.

(D) Preliminary Project Approval: Approval of the preliminary *development* plan that includes at a minimum:

i. The number of planned *dwelling unit*s or *lot*s

ii. The proposed project *density*

iii. The proposed size and location of all land uses for the project

iv. A plan that identifies: (1) The proposed drainage patterns; (2) The location of all points of discharge from the *site*; and (3) The type, location, and size of all *stormwater management* measures based on *site*-specific *stormwater management* requirement computations.

v. Any other information required by Kent County including but not limited to: (1) The proposed alignment, location and construction type and standard for all *roads*, access ways, and areas of vehicular traffic; (2) A demonstration that the methods by which the *development* will be supplied with water and wastewater services are adequate; and (3) The size, type, and general location of all proposed wastewater and water system infra*structure*.

2. ADMINISTRATIVE *WAIVERS*. Kent County may grant an administrative *waiver* to a *development* that received a preliminary project approval prior to May 4, 2010. Administrative *waiver*s expire according to this Section and may be extended. Kent County may impose such conditions upon the approval of an administrative *waiver* deemed necessary to secure compliance with the spirit and intent of this Ordinance.

3. EXPIRATION OF ADMINISTRATIVE *WAIVERS*. Except as provided for in this Section, an administrative *waiver* will expire on May 4, 2013, if the *development* does not receive final project approval prior to May 4, 2013, or May 4, 2017, if the *development* receives final approval prior to May 4, 2013. All construction authorized pursuant to an administrative *waiver* will be completed by May 4, 2017, unless otherwise extended. Administrative *waiver*s which receive an extension will expire according to the requirements of this Section.

4. EXTENSION OF ADMINISTRATIVE *WAIVERS*

   (A) In order to grant an extension to an administrative *waiver*, Kent County will find the following: (1) the project received preliminary project approval prior to May 4, 2010; and (2) the project was subject to a *Development* Rights and Responsibilities Agreement, a Tax Increment Financing Approval, or an annexation agreement.

   (B) Administrative *waivers* which receive an extension will expire with the expiration of the *Developer*s Rights and Responsibilities Agreement, the Tax Increment Financing approval or the Annexation agreement.

5.5 SCOPE

No *person* will develop any land for residential, commercial, industrial, or institutional uses or redevelop land without having provided for appropriate *stormwater management* measures that control or manage runoff from such *development*s, except as provided in this section. *Stormwater management* measures will be designed consistent with the *De*sign *Manual* and constructed according to an approved plan for new *development* or polices stated in Section 9.7 below for *redevelopment*.

5.6 EXEMPTIONS

The following *development activities* are exempt from the provisions of this Section and the requirements of providing *stormwater management*:

1. Normally accepted *agricultural land management* activities and *BMPs*, (i.e. *waterway*s, ponds, etc.)
2. Additions or modifications to existing single *family* detached residential *structures* provided that these additions or modifications do not disturb over 5,000 square feet of land.
3. *Development*s that do not disturb over 5,000 square feet of land.
4. Land *development activities* that the Maryland Department of the Environment determines will be regulated under specific state laws, which provide for managing *stormwater* runoff.

5.7 REDEVELOPMENT

This Section applies to any construction, *alteration*, or improvement performed on *site*s where existing land use is commercial, industrial, institutional, or multi-*family* residential and existing *site* impervious area exceeds forty (40) percent.

1. *Stormwater management plan*s are required by Kent County for all *redevelopment*, unless otherwise specified by *watershed* management plans developed according to this Ordinance. *Stormwater management* measures will be consistent with the *De*sign *Manual*.

2. All *redevelopment* designs will:

   (A) Reduce *impervious surface* area within the limit of disturbance (LOD) by at least 50% according to the *De*sign *Manual*;

   (B) Implement *ESD* to *MEP* to provide water quality treatment for at least 50% of the existing *impervious surface* area within the limit of disturbance; or

   (C) Use a combination of 9.7 2a and 2b of this Ordinance for at least 50% of the existing *site* impervious area.

3. Alternative *stormwater management* measures may be used to meet the requirements of this Section, if the *applicant* satisfactorily demonstrates to the County that impervious area reduction has been maximized and *ESD* has been implemented to the *MEP*. Alternative *stormwater management* measures include, but are not limited to:

   (A) An *on-site* structural *BMP*;

   (B) An *off-site BMP* to provide water quality treatment for an area equal to or greater than 50% of the existing impervious area; or

   (C) A combination of impervious area reduction, environmental *site* design implementation, and an *on-site* or *off-site* structural Best Management Practice for an area equal to or greater than 50% of the existing *site impervious surface* area within the limit of disturbance.

4. Kent County may develop separate policies for providing water quality treatment for *redevelopment* projects if the requirements of this sub-section cannot be met. Any separate *redevelopment* policy will be reviewed and approved by the Maryland Department of the Environment and may include but not be limited to:

   (A) A combination of *ESD* and an *on-site* or off*site* structural *BMP*;

   (B) *Retrofitting* including existing *BMP* up*grade*s, filtering practices and off*site ESD* implementation;

   (C) Stream restoration in the same 12-digit *watershed* as the proposed *development* and an area restored equivalent to the area required for treatment.

   (D) Pollution trading with another entity.

   (E) Payment of a fee in lieu; or

   (F) A partial *waiver* of the treatment requirements if *ESD* is not practicable.

5. The determination of alternatives available may be made by Kent County at the appropriate stage in the *development* review process. Kent County will consider the prioritization of alternatives in this Section, after it has been determined that it is not practicable to meet the 2009 regulatory requirements using *ESD*. In deciding the alternatives that may be required, Kent County may consider factors including but not limited to the following:

(A) Whether the project is in an area targeted for *development* incentives such as a *Priority Funding Area*;

(B) Whether the project is necessary to accommodate growth consistent with the *Comprehensive Plan*; or

(C) Whether bonding or other financing mechanisms have been secured based on an approved *development* plan.

6. *Stormwater management* will be addressed according to the new *development* requirements in the *De*sign *Manual* for any net increase in impervious areas.

5.8 STORMWATER MINIMUM CONTROL STANDARDS

Stormwater management will be accomplished for all new *development* according to the minimum requirements established in this Section and the *De*sign *Manual* as follows:

1. All *planning techniques*, nonstructural practices, and design methods specified in the *De*sign *Manual* will be used to implement *ESD* to the *MEP*. The use of *environmental site de*sign *planning techniques* and treatment practices will be exhausted before any structural *BMP* is implemented. *Stormwater management plan*s for *development* projects subject to this Ordinance will be designed using *ESD* sizing criteria, *recharge volume*, *water quality volume*, and *channel protection storage volume* criteria according to the *De*sign *Manual*. The *MEP* standard is met when *channel* stability is maintained, p*redevelopment* groundwater recharge is replicated, nonpoint source pollution is minimized, and structural *stormwater management* practices are used only if determined to be absolutely necessary.

2. Control of the 10-year frequency storm event is required according to the *De*sign *Manual* if the County determines that additional *stormwater management* is necessary because historical *flood*ing problems exist and downstream *floodplain development* and conveyance system design cannot be controlled.

3. Kent County may require more than the minimum control requirements specified in this Ordinance if hydrologic or topographic conditions warrant or if *flood*ing, stream *channel erosion*, or water quality problems exist downstream from a proposed project.

4. Alternate minimum control requirements may be adopted subject to approval by the Maryland Department of the Environment. The Maryland Department of the Environment will require a demonstration that alternative requirements will implement *ESD* to the *MEP* and control *flood* damages, accelerated stream *erosion*, water quality and *sediment*ation. Comprehensive *watershed* studies may also be required.

5. *Stormwater management* and *development* plans where applicable, will be consistent with adopted and approved *watershed* management plans or *flood* management plans as approved by the Maryland Department of the Environment in accordance with the *Flood* Hazard Management Act of 1976.

5.9 STORMWATER MANAGEMENT MEASURES

The ESD *planning techniques* and practices and structural *stormwater management* measures established in this Ordinance and the *De*sign *Manual* will be used, either alone or in combination in a *stormwater management plan*. The *applicant* will demonstrate that ESD has been implemented to the MEP before the use of a structural Best Management Plan is considered in developing the *stormwater management plan*.

1. *ENVIRONMENTAL SITE DE*SIGN TECHNIQUES AND PRACTICES

   (A) The following *planning techniques* will be applied according to the *De*sign *Manual* to satisfy the applicable minimum control requirements established in SECTION 5.8:

   i. Preserving and protecting natural resources

   ii. Conserving natural drainage patterns

   iii. Minimizing impervious areas

   iv. Reducing runoff volume

   v. Using *ESD* practices to maintain 100% of the annual p*redevelopment* groundwater *recharge volume*.

   (B) The following *ESD* practices will be designed according to the *De*sign *Manual* to satisfy the applicable minimum control requirements established in SECTION 5.8.

   i. Disconnection of rooftop runoff

   ii. Disconnection of non-rooftop runoff

   iii. Sheet flow to conservation areas

   iv. Rainwater harvesting, including rain barrels, rainwater tanks, and cisterns.

   v. Submerged gravel *wetlands*

   vi. Landscape *infiltration*

   vii. *Infiltration berm*s

   viii. Dry wells

   ix. Micro-bio*retention*

   x. Rain gardens

   xi. Swales

   xii. Enhanced Filters

   xiii. Any practice approved by the Maryland Department of Environment

(C) The use of *ESD planning techniques* and treatment practices specified in this Section will not conflict with existing State law or local ordinances, *regulations*, or policies. The County will modify ordinances and codes to eliminate any impediments to implementing *ESD* to the *MEP* according to the *De*sign *Manual*.

2. STRUCTURAL *STORMWATER MANAGEMENT* MEASURES

(A) The following structural *stormwater management* practices will be designed according to the *De*sign *Manual* to satisfy the applicable minimum control requirements established SECTION 5.8:

i. *Stormwater managemen*t ponds

ii. *Stormwater managemen*t *wetlands*

iii. *Stormwater managemen*t *infiltration*

iv. *Stormwater managemen*t filtering systems

v. *Stormwater managemen*t open *channel* systems

(B) When selecting structural *stormwater management* practices, the *applicant* will consider the performance criteria specified in the *De*sign *Manual* with regard to general feasibility, conveyance, p*retreat*ment, treatment and geometry, environment and landscaping, and maintenance.

(C) Structural *stormwater management* practices will be selected to accommodate the unique hydrologic or geologic regions of the State.

3. ALTERNATIVE PRACTICES AND MEASURES. Alternative ESD *planning techniques* and treatment practices and structural *stormwater* measures may be used for new *development* runoff control if the practices and measures meet the performance criteria in the *De*sign *Manual* and all subsequent revisions and are approved by the Maryland Department of Environment. Practices used for *redevelopment* projects will be approved by the County.

4. RECORDATION OF PRACTICES AND MEASURES. ESD techniques and treatment practices and structural *stormwater management* measures used to satisfy the minimum requirements in SECTION 5.8 will be recorded in the land records of Kent County and remain unaltered by subsequent property owners. Prior approval from the County will be obtained before any *stormwater management* practice is altered.

5. MODIFICATION. For purposes of modifying the minimum control requirements or design criteria, the *applicant* will submit an analysis to the County of the impacts of *stormwater* flows downstream in the *watershed*. The analysis will include hydrologic and hydraulic calculations necessary to determine the impact of hydrographic timing modifications of the proposed *development* upon a dam, highway, *structure*, or natural point of restricted stream flow. The point of investigation will be established with the concurrence of the County downstream of the first downstream tributary whose *drainage area* equals or exceeds the contributing area to the project or *stormwater management* facility.

5.10 SPECIFIC DESIGN CRITERIA

The basic design criteria, methodologies, and construction specifications, subject to the approval of Kent County and the Maryland Department of Environment will be those of the *De*sign *Manual*.

5.11 STORMWATER MANAGEMENT PLANS - REVIEW AND APPROVAL

1. For any proposed *development* a phased *stormwater management plan* will be submitted to the County for review and approval. Unless otherwise determined by the County, plans will be submitted for the concept, *site* design, and final *stormwater management* construction. When deemed appropriate by the County due to minor cumulative impacts of the *development* and when the *applicant* has demonstrated that *ESD* standards have been met to the *MEP*, the *site* design and final *stormwater management* construction may be combined. *Site plan*s, *subdivision*s, and *building* permits with a total proposed *lot* coverage of 15% and total land disturbance less than 20,000 square feet may combine all review phases when the *applicant* has demonstrated that *ESD* standards have been met to the *MEP* using the Standard Plan. *Site*s Plans and *building* permits that meet the criteria outlined on the Standard *Stormwater* Plan may utilize the Standard *Stormwater Management Plan*.

2. Conceptual *stormwater management plan*s should be submitted with conceptual *site* or *subdivision* plans and will include sufficient information for an initial assessment of the proposed project and proposed *stormwater*. The concept review process will review at a conceptual level, the feasibility, design and environmental characteristics of the proposal with a goal to ensure that significant natural areas are protected and to determine if *stormwater management* can be provided according the *Stormwater Management* Measures identified in SECTION 5.9.

3. Following conceptual approval and where applicable in conjunction with the preliminary *site* or *subdivision* plan, the *applicant* will submit a *site development plan*. The *site development plan* will include detailed designs for *stormwater management* and *erosion and sediment control*. The *site development plan* process will review the plan to ensure that all options for implementing *ESD* have been exhausted and comments received during conceptual review have been incorporated into the *site development plan*.

4. Following *site development plan* approval and where applicable in conjunction with the final *site* or *subdivision* plan and the *sediment* and *erosion* control plan, the *applicant* will submit a *final stormwater management plan*. The *final stormwater management plan* will include *stormwater* construction drawings accompanied by a report that includes sufficient information to evaluate the effectiveness of the proposed runoff control design. The final *stormwater* plan process will review the plan and supporting documents for compliance with all applicable *regulations* and to ensure that when structural practices are used, all reasonable options for implementing *ESD* have been exhausted.

5. The County will perform a comprehensive review of the *stormwater management plan*s for each phase of the *site* design. Coordinated comments will be provided for each plan phase that reflects input from all appropriate agencies including but not limited to the

Kent *Soil* and Water Conservation District, the Department of Planning, Housing, and Zoning, and the Department of Public Works. All comments will be addressed and reflected in the next phase of project design.

6. The *stormwater management plan* will not be considered approved without the inclusion of the signature and date of the signature of the Kent County designee for approval of *stormwater management plan*s.

5.12 CONTENTS OF STORMWATER MANAGEMENT PLANS

1. *CONCEPT PLAN*. A concept *stormwater management plan* will include:
   - (A) Scale of 1 inch = 100 feet or greater detail
   - (B) Vicinity map with *site* location clearly marked
   - (C) North arrow
   - (D) Existing *natural features*, water and other sensitive resources
   - (E) *Topography*
   - (F) Natural drainage patterns
   - (G) Anticipated location of all proposed impervious areas, *building*s, *roadway*s, parking, sidewalks, utilities, and other *site* improvements
   - (H) Location of the proposed limit of disturbance, erodible *soil*s, *steep slopes*, and areas to be protected during construction
   - (I) Preliminary estimates of *stormwater management* requirements, the *selection* and location of *ESD* practices to be used, and the location of all points of discharge from the *site*
   - (J) A narrative that supports the concept design and describes how *ESD* will be implemented to the *MEP*
   - (K) Any other information required by the County
2. *SITE DEVELOPMENT PLAN*. A *site development plan* will include:
   - (A) Scale of 1 inch = 100 feet or greater detail
   - (B) Vicinity map with *site* location clearly marked
   - (C) North arrow
   - (D) All the information provided in the concept *stormwater management plan*
   - (E) Final layout
   - (F) Exact impervious area locations and acreages
   - (G) Proposed *topography*
   - (H) Delineated *drainage areas* at all points of discharge from the *site*

(I) *Stormwater* volume computations for *ESD* and quantity control

(J) Preliminary *erosion and sediment control plan* that contains the construction sequence, any phasing necessary to limit earth disturbances and impacts to natural resources and an overlay showing the types and locations of *ESD* and *erosion and sediment control* practices to be used

(K) A narrative that supports the *site development* design, describes how *ESD* will be used to meet the minimum control requirements, and justifies any proposed structural *stormwater management* measures

(L) Any other information required by the County

3. FINAL *STORMWATER* PLAN. A final *stormwater* plan will be of sufficient detail to permit all *stormwater management* approvals and permits to be issued and will include:

(A) *Final erosion and sediment control plan*s submitted according to COMAR 26.17.01.05

(B) Include construction drawings

(C) A report that includes sufficient information to evaluate the effectiveness of the proposed runoff and control design. The report will include but is not limited to the following:

i. Geotechnical investigations including *soil* maps, borings, *site* specific recommendations, and any additional information necessary for the final *stormwater management* design

ii. *Drainage area* maps depicting p*redevelopment* and post *development* runoff flow path segmentation and land use

iii. Hydrologic computations of the applicable *ESD* and unified sizing criteria according to the *De*sign *Manual* for all points of discharge from the *site*

iv. Hydraulic and structural computations for all *ESD* practices and structural *stormwater management* measures to be used

v. Narrative that supports the final *stormwater management* design

vi. Any other information required by the County

(D) Construction drawings that include but are not limited to the following:

i. Vicinity Map

ii. North arrow

iii. Existing and proposed *topography*

iv. Proposed *drainage areas* including areas necessary to determine downstream analysis for proposed *stormwater management* facilities

v. Proposed improvements including the location of *building*s and other *structures*, *impervious surfaces*, storm drainage facilities, and all *grading*

vi. Location of existing and proposed *structures* and utilities

vii. Existing and proposed *easements* and rights-of-ways

viii. Delineation of 100-year *floodplain*s and on*site tidal* and *non-tidal wetlands*, where applicable

ix. Structural and construction details including representative cross-sections for all components of the proposed drainage system or systems and *stormwater management* facilities

x. All necessary construction specifications

xi. h) Sequence of construction

xii. Data for total *site* area, disturbed area, new impervious areas, and total impervious areas

xiii. Table showing the *ESD* and unified sizing criteria volumes required in the *De*sign *Manual*

xiv. Table of materials to be used for *stormwater management* facility planting

xv. All *soil* boring logs and locations

xvi. Inspection and maintenance schedule

xvii. Owner's *certification* that all *stormwater management* construction will be done according to the approved *stormwater management plan*.

xviii. As-built *certification* signature block to be exe*cut*ed after project completion

xix. Any other information required by the County

(E) When the *stormwater management plan* involves direction of some or all runoff off the *site*, it is the responsibility of the *applicant* to obtain from the adjacent property owners any *easements* or other necessary property interests concerning flowage of water. Approval of a *stormwater management plan* does not create or affect any right to direct runoff onto adjacent property without the property owner's permission.

5.13 PREPARATION OF STORMWATER MANAGEMENT PLANS

1. *Stormwater management plan*s will be prepared by a professional *engineer*, professional *land surveyor*, or landscape *architect* licensed in the State of Maryland.

2. If a *stormwater BMP* requires either a dam safety permit from the Maryland Department of the Environment or small pond approval by the Kent *Soil* and Water Conservation District, the *stormwater management plan* will be prepared by a professional *engineer* licensed in Maryland.

5.14 PERMITS

A *grading* or *building* permit may not be issued for any parcel or *lot* unless final *erosion and sediment control* and *stormwater management plan* has been approved County as meeting all the requirements of this Ordinance and the *De*sign *Manual*. Where appropriate, a *building* permit may not be issued without:

1. Recorded *easements* for the *stormwater management* facility and *easements* to provide adequate access for inspection and maintenance from a public *right of way*.
2. A recorded *stormwater management maintenance agreement* as described in SECTION 5.22.
3. A performance bond, an irrevocable letter of credit or other surety; as described in this Ordinance.
4. Permission from adjacent property owners, as may be required.

5.15 PERMIT AND REVIEW FEES

1. The County Commissioners will establish a schedule of fees and collection procedure for *stormwater management* review and permits. Permits fees will be based on the relative complexity of the project and may cover the cost of plan review, administration and management of the permit process, and inspection of all projects subject to this Ordinance.
2. No permits will be issued, nor action taken on amendments or other matters pertaining to this Ordinance, until the fee has been paid in full.

5.16 SUSPENSION AND REVOCATION

Any *grading* or *building* permit issued by Kent County may be suspended or revoked after written notice is given to the *permittee* for any of the following reasons:

1. Any *violation*(s) of the conditions of the *stormwater management plan* approval.
2. Changes in *site* runoff characteristics upon which an approval or *waiver* was granted.
3. Construction is not in accordance with the approved plans.
4. Non-compliance with correction notice(s) or stop-work order(s) issued for the construction of the *stormwater management* practice.
5. An immediate danger exists in a downstream area in the opinion of the County.

5.17 CONDITIONS FOR APPROVAL

In granting the plan approval, the County may impose such conditions thereto as may be deemed necessary to ensure compliance with the provisions of this Ordinance and the preservation of the public health and safety.

5.18 PERFORMANCE BONDS

The *developer* is required to obtain a surety, irrevocable letter of credit, or other means of security acceptable to Kent County and payable to the County Commissioners of Kent County, prior to the issuance of any *building* and/or *grading* permit for construction of a *development* requiring *stormwater management*. The amount of the security will not be less than 125% of the total estimated construction cost of all *stormwater management* facilities and practices. The security so required in this Section will include provisions relative to forfeiture for failure to complete work specified in the approved *stormwater management plan*, compliance with all the provisions of this Section and other applicable laws and *regulations*, and any time limitations. The security will not be fully released without a final inspection of the completed work by Kent County, submission of "as-built" plans, and *certification* of completion by the County, that all *stormwater management* facilities and practices as being in compliance with the approved plan and the provisions of this Section. A provision may be made for partial release of the amount of the bond pro-rata upon completion and acceptance of the various stages of *development* as specifically delineated, described, and scheduled on the required plans and specifications. The provision for partial release of the surety will be specified by Kent County in writing prior to *stormwater management plan* approval. The *developer* will notify the County upon completion of each stage that is ready for inspection.

5.19 INSPECTIONS

1. INSPECTION SCHEDULE AND REPORTS

   (A) The owner/*developer* will notify the County at least 48 hours before beginning any work in conjunction with *site development*, the *stormwater management plan* and completion of construction.

   (B) Regular inspections will be made and documented for each *ESD* planning technique and practice at the stages of construction specified in the *De*sign *Manual* by Kent County, its authorized representative, or a certified *engineer* license in the State of Maryland. At a minimum, all *ESD* and other nonstructural practices will be inspected upon completion of final *grading*, the establishment of permanent *stabilization*, and before issuance of use and occupancy approval.

   (C) Written reports will be prepared for every inspection and will include:

      i. The date and location of the inspection

      ii. Whether construction was in compliance with the approved *stormwater management plan*

      iii. Any variations from the approved construction specifications

      iv. Any *violation*s that exist

(D) The owner/*developer* and *on-site person*nel will be notified in writing when *violation*s are observed. Written notification will describe the nature of the *violation* and the required corrective action.

(E) Work will not proceed until the work previously complete is approved by the appropriate inspector and the inspector furnishes the *developer* with the results of the inspection reports. The inspector should provide copies of the inspection report to the *developer* as soon as possible after completion of each required inspection.

2. INSPECTION REQUIREMENTS DURING CONSTRUCTION

At a minimum, regular inspections will be made and documented at the following specific stages of construction:

(A) Ponds:

i. Upon completion of *excavation* to sub-foundation and when required, installation of structural supports or reinforcement for *structures* including but not limited to: (1) Core trenches for structural embankments; (2) Inlet and outlet *structures*, anti-seep collars or diaphragms, and watertight connectors; (3) Trenches for enclosed storm drainage facilities

ii. During placement of structural fill, concrete, and installation of piping and catch basins

iii. During backfill of foundations and trenches

iv. During embankment construction

v. On completion of final *grading*, establishment of permanent *stabilization*

(B) *Wetlands* - At all stages specified for pond construction, during and after *wetlands* reservoir planting, and during the second *growing season* to verify a vegetation survival rate of at least 50%.

(C) *Infiltration* trenches:

i. During *excavation* to sub*grade*

ii. During placement and backfill of under drain systems and observation wells

iii. During placement of geotextiles and all filter media

iv. During construction of appurtenant conveyance systems such as *diversion structures*, pre-filters and filters, inlets, outlets, and flow distribution *structures*

v. Upon completion of final *grading* and establishment of permanent *stabilization*

(D) *Infiltration* basins - At all stages specified for pond construction, during placement of and backfill of under drainage system.

(E) Filtering Systems:

i. During *excavation* to sub*grade*

ii. During placement and backfill of under drain systems

iii. During placement of geotextiles and all filter media

iv. During construction of appurtenant conveyance systems such as *diversion structures*, pre-filters, and filters, inlets, outlets, and flow distribution *structures*

v. Upon completion of final *grading* and establishment of permanent *stabilization*

(F) Open *Channel* Systems:

i. During *excavation* to sub*grade*

ii. During placement and backfill of under drain systems for dry swales

iii. During installation of diaphragms, check dams, or weirs

iv. Upon completion of final *grading* and establishment of permanent *stabilization*

(G) *Environmental Site De*sign Practices – At the stage of construction specified in the *De*sign *Manual* for each *ESD* planning technique and practice and at a minimum upon completion of final *grading*, the establishment of permanent *stabilization* and before issuance of use and occupancy approval.

5.20 AS-BUILT PLANS

Once construction is complete, "as-built" plan *certification* will be submitted by a professional *engineer* or professional *land surveyor* licensed in the State of Maryland to ensure that ESD techniques, treatment practices, and structural *stormwater management* practices and conveyance systems comply with the specifications contained in the approved plan. The "as-built" plan will compare the approved plan with what was constructed. As-built plans shall certify that all constructed elements conform to the dimensions, intent, and function of the approved plan, denoting any deviations in constructed elements and/or existing conditions of the property. At a minimum, "as-built" *certification* will include a set of drawings comparing the approved plan with what was constructed. Other information will be submitted as required by the County.

The Department may also engage third-party professionals to review said drawings to ensure compliance with the regulations in this Section, the Land Use Ordinance in general, and any applicable federal, State, or other laws, rules, and regulations. The costs for any third-party professionals will be paid by the applicant or property owner of record of the subject property.

5.21 NOTICE TO THE MARYLAND DEPARTMENT OF THE ENVIRONMENT

Within 45 days of construction, the County will submit a notice of construction completion to the Maryland Department of the Environment on a form supplied by the Maryland Department of

the Environment for each structural *stormwater management* practice. The type, number, total *drainage area*, and total impervious area treated by all ESD techniques and practices will be reported to the Maryland Department of the Environment. A notice of construction completion will be sent to the Kent *Soil* and Water Conservation District when *BMPs* requiring District approval are constructed.

5.22 MAINTENANCE

1. Maintenance Inspection

   (A) The County will ensure that preventive maintenance is performed by inspecting all *ESD* treatment systems and structural *stormwater management* measures. Inspections will occur during the first year of operation and then at least once every three years thereafter. A *maintenance agreement* between the property owner and Kent County will be exe*cut*ed for privately owned *ESD* treatment practices and structural *stormwater management* measures as described in this Section.

   (B) Inspection reports will be maintained by the County for all *ESD* treatment systems and structural *stormwater management* measures. Inspection reports will include the following:

      i. Date of inspections and names of inspectors

      ii. An assessment of the quality of the *stormwater management system* related to *ESD* treatment practice efficiency and the control of runoff to the *MEP*

      iii. The condition of: (1) vegetation or filter media; (2) fences or other safety devices; (3) spillways, valves, or other control *structures*; (4) *slope*s, embankments, and safety benches; (5) reservoir or treatment areas; (6) inlet and outlet *channel*s or *structures*; (7) underground drainage; (8) *sediment* and debris accumulation in storage or forebay areas; (9) any nonstructural practice to the extent possible; (10) any other item that could affect the proper function of the *stormwater management system*

      iv. Description of needed maintenance

   (C) After notification is provided to the owner of the inspection results, the owner will have 30 days, or other time frame to which the County, and the owner mutually agree to correct the deficiencies. The County will then conduct an inspection to ensure completion of the repairs.

   (D) Failure to complete the repairs or repairs found to be improperly completed will be considered *violation*s and subject to the provisions of this Ordinance.

   (E) If, after an inspection by the County, the condition of a *stormwater management* facility presents an immediate danger to the public health or safety, because of an unsafe condition or improper construction, or poor

maintenance, the County, will take such action as may be necessary to protect the public and make the facility safe. Any cost incurred by the County will be assessed against the owner(s).

2. Maintenance Agreement

(A) Prior to the issuance of any *building* permit for which *stormwater management* is required, the County will require the *applicant* or owner to exec*ut*e an inspection and *maintenance agreement* binding on all subsequent owners of land served by the private *stormwater management* facility. Such agreement will provide for access to the facility at reasonable times for regular inspection by the County, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any provisions established.

(B) The agreement will be recorded by the *applicant* and/or owner with the Kent County Clerk of Court. A copy of the recorded agreement will be returned to the Department.

(C) The agreement will also provide that if, after notice by the County, to correct a *violation* requiring maintenance work, satisfactory corrections are not made by the owner(s) within a reasonable period of time (thirty (30) days maximum), the County, may perform all necessary work to place the facility in proper working condition. The owner(s) of the facility will be assessed the cost of the work and any penalties, and there will be a lien on the property, which may be placed on the tax bill and collected as ordinary taxes by Kent County.

3. Maintenance Responsibility

(A) The owner of the property on which work has been done pursuant to this Ordinance for private *stormwater management* facilities, or any other *person* or agent in control of such property, will maintain in good condition and promptly repair and restore all *ESD* practices, state *grade* surfaces, walls, drains, dams and *structures*, vegetation, *erosion and sediment control* measures, and other protective devices in perpetuity. Such repairs or restoration and maintenance will be in accordance with previously approved or newly submitted plans.

(B) A maintenance schedule will be developed for the life of any *stormwater management* facility or system of *ESD* practices and will state the maintenance to be completed, the time period for completion and who will perform the maintenance. This maintenance schedule will be on the *stormwater management plan*.

SECTION 6 FLOODPLAIN MANAGEMENT

6.1 STATEMENT OF INTENT

The purpose of the *floodplain* management Section is to provide a unified, comprehensive approach to *floodplain* management which addresses the natural *floodplain* functions and encourages the use of appropriate construction practices that prevent or minimize *flood* damage. In combination with the *floodplain* design standards found in Article II of this Ordinance, these *regulations* address the requirements of the Federal and State programs concerned with *floodplain* management; namely: the National *Flood* Insurance Program (44 CFR 59-79), the Maryland *Waterway* Construction Permit Program for *Non-tidal Floodplains*, the Maryland Tidal and *Non-tidal Wetlands* Permit Programs, the U.S. Army Corps of *Engineers*' Section 10 and 404 Permit Programs, and the Maryland Coastal Zone Management Program.

6.2 ESTABLISHMENT OF FLOODPLAIN DISTRICT

1. Identification of *flood* zones. The regulatory *floodplain* will be those areas of Kent County, Maryland, which are subject to the *1-percent annual chance (100-year) flood* as delineated on the most recent revision of the community's *Flood Insurance Rate Maps* (*FIRMs*) and *Flood Insurance Study (FIS)* for Kent County, Maryland and incorporated areas dated June 9, 2014 prepared by the Federal Emergency Management Agency (FEMA). Areas along non-tidal streams that do not have FEMA delineations as described above are subject to regulation by this Ordinance and the State.

2. The *Flood Insurance Rate Maps* (*FIRMs*) and *Flood Insurance Studies (FIS)*, and all notations, dimensions, references, and symbols thereon, will be considered a part of this Ordinance and will be filed as a part of this Ordinance with the Department. Copies of the *FIRMs* and *FIS* will be available for inspection in the Department.

3. The *floodplain* will be comprised of the following *subdivision*s:

   (A) *Non-tidal floodplains*: These consist of the *floodway* and *floodway fringe*. *Non-tidal floodplains* may have detailed *engineer*ing study data, profiles, and water surface elevations or may have approximate delineations only. For *development* in *Special Flood Hazard Areas* of non-tidal waters of the State with *Base Flood Elevations (BFE)* but no designated *floodway*s, the cumulative effect of all past and projected *development* will not increase the BFE by more than 1 foot.

   (B) Tidal *floodplains*: Those areas subject to coastal or tidal *flood*ing by the *1-percent annual chance (100-year) flood*. These areas are *flood*ed due to high tides, hurricanes, tropical storms and steady on-shore winds.

   (C) *Coastal high hazard areas*: Those areas subject to coastal or tidal *flood*ing with the addition of high velocity water and wind action. These areas are designated as V-Zones on the *Flood Insurance Rate Maps*.

(D) Shallow *Flood* Zones (Zone AO): Those areas of shallow *flood*ing, with *flood* depths of 1 to 3 feet (usually areas of ponding or sheet flow on sloping terrain), with or without BFEs of designated *flood* depths.

4. *Floodplain* Zone Determination.

(A) The Planning Director or Planning Director's designee will determine the *floodplain* zone in which the *development* activity is proposed using the *FIRMs* and *FIS* if applicable. Without prior approval from FEMA, the community will use no other data to enforce *floodplain* management *regulations*. Where map boundaries and elevations disagree, elevations prevail, with approval from FEMA through the issuance of a Letter of Map Change or Amendment.

(B) The Planning Director of the Planning Director's designee will submit to FEMA, or require *applicant*s to submit to FEMA, data and information necessary to maintain *FIRM*s, including hydrologic and hydraulic *engineer*ing analyses prepared by or for Kent County, within six months after such data and information becomes available if the analyses indicate changes in *Base Flood Elevations* or boundaries.

5. Approximate *Floodplain* Determination. For *development* proposed in the approximate *floodplain* (no water surface elevations or *floodway* data provided), the *applicant* will use the best available information to determine the elevation of the *1-percent annual chance (100-year) flood* and the extent of the *floodway*, and will delineate these on the *site plan* submitted for approval. For new *subdivision*s, the *applicant* will have the *1-percent annual chance (100-year) flood* elevations certified by a registered professional *engineer* based on hydrologic and hydraulic analyses which include a *floodway* analysis.

6. Unmapped Streams. In cases in which *development* is proposed in the vicinity of unmapped streams which have no delineated *1-percent annual chance (100-year) floodplain*, a 100-foot *flood* protection *setback* from the banks of the stream will be used. State permits may be required and *applicant*s are advised to seek a determination from the State.

6.3 DEVELOPMENT REGULATIONS

1. **General**. In order to prevent excessive *flood* damage, to determine whether proposed activities will be reasonably safe from *flood*ing, to implement construction methods and practices which minimize *flood* damage, and to allow for the protection of the natural and beneficial *floodplain* functions, all *development*, *new construction*, and *substantial improvements* to existing *structures* in all *floodplain* zones will comply with the requirements of this Section and those found in Article II. In the event that a *structure* is in more than one (1) zone, the more stringent provision will apply to the entire *structure*.

2. ***Watercourses***. In all *floodplain* zones, any *development* which proposes to alter a *watercourse* will obtain a *variance*. All conditions for encroachment in the *floodway* will

be met and *adverse impacts* to aquatic resources will be minimized. Adjacent communities and property owners, the U.S. Army Corps of *Engineer*s, FEMA, and MDE will be notified by the *applicant* prior to any modification of a *watercourse*. Any activity falling within the 100-year non-tidal *floodplain* may require a *waterway* construction permit from the Maryland Department of the Environment.

3. ***Non-tidal*** **and Tidal** ***Floodplains*** (Zones A, AE, and A1-30)

(A) General *development* will not occur in the *floodplain* where alternative locations exist. Before a permit is issued, the *applicant* will demonstrate that new *structures* cannot be located out of the *floodplain* and that encroachments onto the *floodplain* are minimized

(B) Elevation Requirements, Residential *Structures*.

i. *Basements* are prohibited. Enclosures below the *Flood Protection Elevation* (three feet above the elevation of the *1-percent annual chance (100-year) flood*) will be constructed with water equalizing vents to meet the specification found in SECTION 6.4.

ii. The elevation of the *lowest floor* of all new or substantially improved *structures*, including *manufactured homes*, will be elevated to or above the *Flood Protection Elevation* (three feet above the elevation of the *1-percent annual chance (100-year) flood*). In *non-tidal floodplains*, horizontal expansions which increase the footprint and that are less than substantial will also have the *lowest floor* elevated to or above the *Flood Protection Elevation*. A registered surveyor or professional *engineer* will certify elevation of the *lowest floor* on the *Elevation Certificate* after the *lowest floor* is in place. An elevation certificate should be submitted at the time of finished construction prior to any certificate of occupancy being issued.

iii. Improvements in tidal *floodplains* which are less than substantial will be constructed to minimize damage during *flood*ing or will be elevated to the greatest extent possible.

(C) Elevation Requirements, Non-residential *Structures*.

i. All new or substantially improved non-residential *structures* will either be elevated as required for residential *structures* or will be *flood*proofed. *Basements* are prohibited. Enclosures below the *Flood Protection Elevation* (three feet above the elevation of the *1-percent annual chance (100-year) flood*) will be constructed with water equalizing vents to meet the specification found in SECTION 6.4.

ii. Horizontal expansions in the *non-tidal floodplain* which increase the footprint and that are less than substantial will also have the *lowest floor* elevated to or above the *Flood Protection Elevation* (three feet above the elevation of the *1-percent annual chance / 100-year flood*).

iii. In *non-tidal floodplains*, *basements* and *floodproofing* are prohibited.

iv. *Floodproofing* designs will insure that areas below the *Flood Protection Elevation* (three feet above the elevation of the *1-percent annual chance (100-year) flood*) are watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

v. When the *floodproofing* option is chosen, a *Floodproofing Certificate* will be completed by a registered professional *engineer* or *architect*. If a *Floodproofing Certificate* is not provided, then an *Elevation Certificate* will be completed by a registered *surveyor* or professional *engineer*.

(D) Fill

i. An *applicant* will demonstrate that the *fill* will not affect the *flood* storage capacity or increase *flood*ing onto neighboring properties.

ii. In the event that *structures* on adjacent properties are known or determined to be subject to *flood*ing under current conditions, the Planning Director or the Planning Director's designee may require submission of hydrologic and hydraulic analysis of the effects of the proposed *fill*. All *fill* will meet the standards set forth in this Ordinance.

(E) *Subdivision*s

i. *Non-tidal floodplains*. To avoid *flood* damage and to protect the natural and beneficial *floodplain* functions, new *flood*-prone *building sites* will not be permitted in *non-tidal floodplains*. Each new *lot* will have a suitable *building site* outside the *floodplain*. Whenever possible, *development* should be located outside the *floodplain*. An access road, constructed above the elevation of the *1-percent annual chance (100-year) floodplain* will be provided.

ii. The *applicant* will submit a plan which demonstrates that all *building sites* located outside of the 100- year *floodplain*, and that the *floodplain* areas are protected in their natural state.

iii. Tidal *floodplain*s. New *subdivision*s in tidal *floodplain*s will be designed to develop land outside the *floodplain* whenever possible. An access road constructed above the elevation of the *1-percent annual chance (100-year) flood* will be provided whenever possible.

iv. *Subdivision* proposals and *development* proposals will minimize *flood* damage and have adequate drainage paths provided to reduce exposure to *flood* hazards and to guide *flood*waters around and away from proposed *structure*s.

4. ***Floodway***

(A) *Floodways* will be preserved to carry the discharge of the *1-percent annual chance (100-year) flood*. *Floodways* present increased risks to human life and property because of their relatively faster and deeper flowing waters. In a regulatory *floodway*, any encroachment is prohibited which would cause any increase in the *base flood* level unless hydrologic and hydraulic analyses prove that the proposed encroachment would not increase *flood* levels during the *base flood* discharge.

(B) *Fill* will not be permitted.

(C) New *structures* will not be permitted.

(D) New *development* will not be permitted where alternatives exist elsewhere or if any increase in the water surface elevations of the *1-percent annual chance (100-year) flood* will occur.

(E) *Development* in the *floodway* which may result in any increase in water surface elevations or change to the *floodway* will be submitted to FEMA for a conditional letter of map revision. Hydrologic and hydraulic analysis on existing *floodway* models and performed in accordance with standard *engineer*ing practices and certified by a registered professional *engineer* will be submitted. Failure to receive this conditional letter of map revision will be grounds for denial of a permit.

(F) Alternative analysis requirement. An alternative analysis will be submitted to the Department before a permit will be issued. The alternative analysis will demonstrate that:

i. No reasonable alternative exists outside the *floodway*.

ii. Encroachment in the *floodway* is the minimum necessary.

iii. The *development* will withstand the *1-percent annual chance (100-year) flood* without significant damage.

iv. The *development* will not increase downstream or upstream *flood*ing or *erosion*.

(G) Existing *structures*. Existing *structures* in the *floodway* will be substantially improved only by *variance* and if they can be brought into conformance with this Ordinance without increasing the footprint. Minor additions (less than substantial) will be elevated to the *Flood Protection Elevation* (three feet above the *flood* elevation) on pilings or columns. In the event of *substantial damage* or replacement, the *applicant* will submit an alternative analysis to determine if the *structure* can be relocated to a less hazardous *site*. Where replacement *structures* cannot be relocated, they will be limited to the footprint of the previous *structure* and will comply with the elevation requirements of this Ordinance. Permits for incremental improvements and additions will be tracked by the Department, and if cumulative improvements constitute

substantial improvement, no further permits may be issued unless the *structure* conforms to the provisions of this Ordinance.

(H) Maintenance of natural *channel*. The natural *watercourse* will be maintained for protection of aquatic resources. A *variance* is required for *alteration* of *watercourses*. Any *variance* issued will assure that the conditions for encroachment in the *floodway* are met, *adverse impacts* to aquatic resources are minimized, and the public good outweighs the *adverse impacts*. The provisions of SECTION 6.3.2 pertaining to altering a *watercourse* will be met.

(I) Obstructions. *Structures* or *fill* which may impede, retard, or change the direction of the flow of *flood*waters, or any materials that may be carried downstream to cause damage will not be placed in the *floodway*. Fences, except two wire fences, will not be placed in the *floodway*.

(J) Construction of *roads*, bridges, culverts, dams and in-stream ponds. Construction of *roads*, bridges, culverts, dams and in-stream ponds in non-tidal waters of the State will not be approved unless they comply with this Section and the *applicant* has received a permit from MDE.

5. ***Coastal high hazard areas*** (V-Zones and *Coastal A Zone*s)

(A) New *development* will not be permitted in the Coastal High Hazard Area where the action of wind and waves, in addition to tidal *flood*ing, is a factor unless the *applicant* demonstrates that:

i. No reasonable alternative exists outside the Coastal High Hazard Area;

ii. The encroachment into the Coastal High Hazard Area is the minimum necessary;

iii. The *development* will withstand the 100-year wind and water loads without damage;

iv. The *development* will not create an additional hazard to existing *structures*; and

v. Any natural dune system will not be disturbed.

(B) New and substantially improved *structures*.

i. All new or substantially improved *structures* will be elevated on adequately anchored pilings or columns to resist f*lot*ation, collapse, and lateral movement due to the effects of the one-hundred-year water loads and wind loads acting simultaneously on all *building* components. Water loading values will be those associated with the *base flood*, and wind loading values will be those required by local *building* standards. The bottom of the lowest horizontal structural member supporting the *lowest floor* will be elevated to three feet above the *Base Flood Elevation*. A registered professional *engineer* or *architect* will certify that *building* designs, elevations and anchoring have been designed to withstand the

water and wind loads. The use of slabs or other at *grade* foundation systems will be prohibited.

ii. The space below the *Flood Protection Elevation* (three feet above the elevation of the *1-percent annual chance (100-year) flood*) will be free of obstruction or may be enclosed with open wood lattice, insert *screen*ing or *breakaway walls*.

iii. *Breakaway walls* will be designed to collapse under a wind and water load less than would occur during the *1-percent annual chance (100-year) flood*, and have a design safe loading resistance of not less than ten pounds and no more than twenty pounds (20) per square foot. Glass walls will not be considered *breakaway walls*. Enclosed areas below the *Flood Protection Elevation* will be used solely for the parking of vehicles, limited storage, and *building* access. If such areas are enclosed, a *Declaration of Land Restrictions* will be signed. Electrical, mechanical, and plumbing system components will not be mounted on or penetrate through walls that are designed to break away under *flood* loads.

(C) *Manufactured homes* and *recreational vehicles*. *Manufactured homes* will not be permitted in the Coastal High Hazard Area. *Recreational vehicles* will meet the requirements of SECTION 6.55

(D) *Fill* and *excavation*. *Fill* will not be used for the structural support of *buildings*. *Excavation* under existing *structures* or *excavation* within any enclosed space will be prohibited. Minor *grading*, and the placement of minor quantities of fill, will be permitted for landscaping and for drainage purposes under and around *building*s and for support of parking slabs, pool decks, patios, and walkways.

(E) Location of *structures*. *New construction* within the reach of mean high tide is prohibited. *Alteration* of the dune system is prohibited.

(F) Existing *structures*. Existing *structures* will not be substantially improved or expanded vertically or horizontally unless the entire foundation system is certified by a professional *engineer* or *architect* as capable of supporting the existing *building* and the proposed improvement during the *1-percent annual chance (100-year) flood* as specified in SECTION 6.3.56.55. Permits for incremental improvements will be tracked, and when cumulative improvements constitute *substantial improvement*, the entire *building* will comply with SECTION 6.3.56.55.

(G) Decks and patios. In addition to the requirements of the *building* code or the residential code, decks and patios will be located, designed, and constructed in compliance with the following:

i. A deck that is structurally attached to a *building* or *structure* will have the bottom of the lowest horizontal structural member at or above the *Flood*

Protection Elevation and any supporting members that extend below the design *flood* elevation will comply with the foundation requirements that apply to the *building* or *structure*, which will be designed to accommodate any increased loads resulting from the attached deck.

ii. A deck or patio that is located below the *Flood Protection Elevation* (three feet above the elevation of the *1-percent annual chance (100-year) flood*).will be structurally independent from *structure*s and their foundation systems and will be designed and constructed either to remain intact and in place during *base flood* conditions or to break apart into small pieces that will not cause structural damage to adjacent elevated *structure*s.

iii. A deck or patio that has a vertical thickness of more than 12 inches or that is constructed with more than the minimum amount of fill that is necessary for *site* drainage will not be approved unless an analysis demonstrates no harmful *diversion* of *flood*waters or wave run-up and wave reflection that would increase damage to adjacent elevated *structure*s.

iv. A deck or patio that has a vertical thickness of 12 inches or less and that is at natural *grade* or on fill material that is similar to and compatible with local *soil*s and is the minimum amount necessary for *site* drainage may be approved without requiring analysis of the impact on *diversion* of *flood*waters or wave run-up and wave reflection.

6. **Areas of shallow *flood*ing** (Zone AO). In areas of shallow *flood*ing (Zone AO), have the *lowest floor* (including *basement*) elevated at least as high above the *highest adjacent grade* as the depth number specified in feet on the *FIRM* plus three (3) feet, or at least four (4) feet if a depth number is not specified; and:

(A) Have enclosures below the *lowest floor*, if any, that comply with the requirements of Section 10.4; or

(B) If proposed to be elevated on fill, meet the limitations on fill in Section 10.3.3.d

7. ***Critical and Essential Facilities***. *Critical and essential facilities* will:

(A) Not be located in *coastal high hazard areas* (V Zones), *Coastal A Zone*s or *floodway*s.

(B) If located in *flood* hazard areas other than *coastal high hazard areas*, *Coastal A Zone*s and *floodway*s, be elevated to the higher of the elevation required by these *regulations* plus one (1) foot, the elevation required by the *building* code, or the elevation of the 0.2 percent chance (500-year) *flood*.

6.4 DESIGN STANDARDS

1. **Placement of *Buildings* and Materials** – In general, *buildings* and *accessory structures* should be located entirely out of the *floodplain*, out of the *flood* protection *setback*, or on land that is least susceptible to *flood*ing. All *structures* permitted in the *floodplain* will be oriented so as to offer the least resistance to the flow of *flood*waters. Materials which are buoyant, flammable, explosive, hazardous to health, or which at times of *flood*ing may be injurious to human, animal, or plant life, will not be stored below the *Flood Protection Elevation* (three feet above the elevation of the *1-percent annual chance (100-year) flood*).

2. **Enclosures below *Lowest Floor*** – *Buildings* which have been elevated and have fully enclosed areas below the *Flood Protection Elevation* (three feet above the elevation of the *1-percent annual chance (100-year) flood*), as well as garages and *accessory structures* which are not elevated will be constructed with water equalizing vents which meet or exceed the following standards:

   (A) A minimum of two (2) openings on different walls having a total net area of not less than one square (1) inch for every square foot of enclosed area subject to *flood*ing or an *engineer*ed opening certified by a licensed professional;

   (B) The bottom of all openings will be no higher than one foot above *grade*; and

   (C) Openings may be equipped with *screen*s, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of *flood*waters to equalize hydrostatic forces on the walls.

   (D) Fully enclosed areas below the *Flood Protection Elevation* (three feet above the elevation of the *1-percent annual chance (100-year) flood*) will be used solely for parking of vehicles, access to the *building*, or limited storage. If such areas are enclosed, a *Declaration of Land Restriction* will be signed by the *applicant*.

   (E) In *coastal high hazard areas*, enclosures below the *Flood Protection Elevation* (three feet above the elevation of the *1-percent annual chance (100-year) flood*) will comply with the provisions of SECTION 6.3 and 6.35.

3. ***Manufactured Homes* and *Manufactured Home* Parks** – New *manufactured homes* and *manufactured home* parks will be prohibited in the Coastal High Hazard Area and in the *floodway*. In other *floodplain* zones, all new, replacement, or substantially improved *manufactured homes*, whether in a *manufactured home* park or not, will comply with SECTION 6.3.

   (A) Methods of anchoring will include the use of over the top and frame ties to ground anchors. Pilings or columns will be used to maintain the storage capacity of the *floodplain*. Concrete block support pilings will be reinforced by placing reinforcing bars inside and extending them into the footing, filling the hollows with cement, and using mortar to cement the blocks together. FEMA Publication 85, "Protecting *Manufactured Home*s from *Flood*s and Other Hazards," should be consulted for specific recommendations.

(B) *Manufactured homes* repaired or replaced due to substantial *flood*ing or other causes will be considered new *structures* and will fully comply with SECTION 6.3.

(C) Owners of *manufactured home* parks or *subdivision*s that are partially or fully within the *floodplain* will file an evacuation plan with the Director of Emergency Management. New *manufactured home* parks will provide an access road elevated to the *Flood Protection Elevation* (three feet above the elevation of the *1-percent annual chance (100-year) flood*).

4. **Anchoring** – All *structures* will be *firm*ly anchored in accordance with acceptable *engineer*ing practices to prevent f*lot*ation, collapse, and lateral movement during *flood*ing. All air ducts, large pipes and storage tanks located below the *Flood Protection Elevation* (three feet above the elevation of the *1-percent annual chance (100-year) flood*) will be *firm*ly anchored to resist f*lot*ation.

5. **Utilities**

(A) Electric. Distribution panel boxes will be installed at least two (2) feet above the *Flood Protection Elevation*. All outlets and electrical installations, such as heat pumps, air conditioners, water heaters, furnaces, generators, and distribution systems will be installed at or above the *Flood Protection Elevation* (three feet above the elevation of the *1-percent annual chance (100-year) flood*).

i. Plumbing. Toilets, sinks, showers, water heaters, pressure tanks, furnaces, and other permanent plumbing installations will be installed at or above the *Flood Protection Elevation* (three feet above the elevation of the *1-percent annual chance (100-year) flood*).

ii. Gas and liquid storage. Meters and appliances will be installed at or above the *Flood Protection Elevation* (three feet above the elevation of the *1-percent annual chance (100-year) flood*): (1) Underground tanks in *flood* hazard areas will be anchored to prevent f*lot*ation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the *base flood*. (2) Above-ground tanks in *flood* hazard areas will be anchored to a supporting *structure* and elevated to or above the *Base Flood Elevation*, or will be anchored or otherwise designed and constructed to prevent f*lot*ation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the *base flood*. (3) In *flood* hazard areas, tank inlets, fill openings, outlets and vents will be: (3a) At or above the *Base Flood Elevation* or fitted with covers designed to prevent the inflow of *flood*water or outflow of the contents of the tanks during conditions of the *base flood*; and (3b) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the *base flood*.

(B) Water supply and sanitary facilities. Water supply distribution and sanitary disposal collection systems will be designed to minimize or eliminate the *infiltration* and to avoid impairment or contamination of *flood*waters into the systems or discharges from the systems into *flood*waters and will be located and constructed so as to minimize or eliminate *flood* damage. *On-site* sewage disposal systems will meet these same standards.

(C) Other service facilities. In addition to utilities noted in this Section, all other service facilities will be designed and/or located to prevent water entry or accumulation.

6.5 ACCESSORY STRUCTURES

1. Where feasible, *accessory structures* and garages will be located out of the *floodplain* or elevated to or above the *Flood Protection Elevation* (three feet above the elevation of the *1-percent annual chance (100-year) flood*). When these measures are not feasible the following will apply:

   (A) The floor of the *structure* will be at or above *grade*;

   (B) The *structures* will be located, oriented, and constructed so as to minimize *flood* damage;

   (C) The *structure* will be *firm*ly anchored to prevent f*lot*ation; and

   (D) The structure will be constructed with *flood* damage-resistant materials below the *Base Flood Elevation*.

2. *Accessory structures* or detached garages, that do not exceed six hundred (600) square feet in size, and used solely for the parking of vehicles and limited storage may be constructed below the *Flood Protection Elevation* (three feet above the elevation of the *1-percent annual chance (100-year) flood)* under the conditions of SECTION 6.8. No machinery, electric devices, or appliances will be located below the *Flood Protection Elevation* (three feet above the elevation of the *1-percent annual chance (100-year) flood*). All interior walls, ceilings and floors located below the *Flood Protection Elevation* (three feet above the elevation of the *1-percent annual chance (100-year) flood*) will remain unfinished. A *Declaration of Land Restriction* will be signed by the property owner and recorded with the Kent County Clerk of Court. A copy of the recorded document will be attached to the *building* permit.

3. An *accessory structure* or garage larger than six hundred (600) square feet in size will be elevated to the proper *Flood Protection Elevation* (three feet above the elevation of the *1-percent annual chance (100-year) floodplain*).

4. Attached Garages

(A) Attached garages, used solely for the parking of vehicles, storage or *building* access and no more than six hundred (600) square feet in size, are exempt from the elevation requirement but will be elevated to the greatest extent possible. Attached garages will meet the venting requirements found in this Section. All interior walls, ceilings, and floors below the *Flood Protection Elevation* (three feet above the elevation of the *1-percent annual chance (100-year) flood*) will be unfinished.

(B) No machinery, electrical devices, or appliances will be located below the *Flood Protection Elevation* (three feet above the elevation of the *1-percent annual chance (100-year) flood*). A *Declaration of Land Restriction* will be signed by the property owner and recorded with the Kent County Clerk of Court. A copy of the recorded document will be attached to the *building* permit.

5. *Recreational* Vehicles

(A) *Recreational vehicles* located within the *floodplain* may be exempt from the elevation and anchoring requirements provided they are:

i. Located on the *site* less than one-hundred eighty (180) conse*cut*ive days per year;

ii. Fully licensed and ready for highway use; and

iii. Properly permitted.

(B) A *recreational vehicle* is ready for highway use if it is on its wheels and jacking system, is attached to the *site* only by quick disconnect type utilities and securing devices, and has no permanently attached additions. If it cannot meet all of these criteria, the *recreational vehicle* will be considered a *manufactured home* and is subject to the elevation and construction standards of this Ordinance.

6. Fill

(A) *Fill* will not be placed in the *floodway*. *Fill* will not be used for structural support in the Coastal High Hazard Area.

(B) *Fill* will consist of *soil* and rock materials only. Dredge material will be used as *fill* only upon *certification* of suitability by a registered professional geo-technical *engineer*. Landfills, rubble fills, dumps, and sanitary fills will not be permitted in the *floodplain*.

(C) *Fill* used to support *structures* will be compacted to 95% of the maximum *density* obtainable by the Standard Proctor Test (*ASTM* Standard D-698), and its suitability to support *structures* certified by a registered professional *engineer*. *Fill slopes* will be no greater than two horizontal to one vertical. Flatter *slopes* may be required where velocities may result in *erosion*.

(D) The use of *fill* will not increase *flood*ing onto or interfere with drainage from neighboring properties.

(E) In the event that *structures* on adjacent properties are known or determined to be subject to *flood*ing under current conditions, the Planning Director or the Planning Director's designee may require submission of hydrologic and hydraulic analysis of the affects of the proposed *fill*. All *fill* will meet the standards set forth in this Ordinance.

6.6 PERMITS

1. No *development* will occur without first obtaining a permit form the Department. This permit will not be valid until all applicable federal or state permits are obtained.

2. Application for a permit will contain, at a minimum, the following information.

   (A) Name, address, and phone number of the *applicant*

   (B) Name, address, and phone number of the property owner, if different from that of the *applicant*

   (C) Name, address, and phone number of the contractor

   (D) Legal description of the *site*

   (E) Proposed use of the *site*

   (F) Type, dimensions, and estimated cost of the improvement

   (G) *Site* characteristics and improvements

   (H) *Site plan* drawn to scale which shows:

      i. Dimensions of the *site*

      ii. Size and location of existing and proposed *structures* or *alterations*

      iii. *Setback*s

      iv. Elevation contours in mean sea level (*NAVD*)

      v. Delineation of the *1-percent annual chance (100-year) flood* boundary.

      vi. Proposed elevation of the *lowest floor* and method of elevation, if applicable.

   (I) A signed agreement stating that the *applicant* will supply an *Elevation Certificate*.

   (J) For additions or improvements, market value or assessed value of *structures* before improvement.

   (K) *Declaration of Land Restriction* where applicable.

3. General permits will be granted only after determining that the proposed *development* will be in compliance with this Ordinance.

4. After approval of a permit, no changes of any kind will be made to the application, permit, plans, specifications, or other documents submitted with the application without the

written approval of the applicable county official. A copy of the permit will be displayed at the construction *site*.

5. During construction, the *building* inspector will inspect the *site* to determine that work is in compliance with the permit. Any work not in compliance with the permit will be corrected before any additional work is undertaken.

6. A record of all *floodplain* permits will be maintained and be available upon request by the Federal Emergency Management Agency or its authorized agent during periodic assessments of the County's participation in the National *Flood* Insurance Program. All documents needed to support permit action, such as *Elevation Certificates*, map amendments or revisions, or *variance* actions will be available for review during these assessments.

6.7 DAM SAFETY

The condition design criteria, hazard class and danger reach of the dam will be considered when reviewing *development* downstream of existing or proposed dams. *Development* within the dam break *flood* wave will be denied unless the dam meets the standards for a high hazard dam.

6.8 CONDITIONAL PERMITS

A conditional permit may be issued for garages and *accessory structures* less than six hundred (600) square feet in size, provided:

1. The *structure* is incidental to the primary *structure*.

2. It is used solely for limited storage and parking of vehicles.

3. The floor of the *structure* is constructed at or above *grade*.

4. The *structure* is located, oriented, and constructed so as to minimize *flood* damage.

5. The *structure* is *firm*ly anchored to prevent f*lot*ation.

6. The *structure* meets the requirements of this Section.

7. A *Declaration of Land Restriction* is recorded with the Kent County Clerk of Court. A copy of the recorded document will be attached to the *building* permit.

6.9 ENFORCEMENT

1. It will be the duty of the Planning Director of the Planning Director's designee to perform the function of the *Floodplain Administrator* and to enforce the provisions of this Ordinance and to refuse to issue any permit or approve any *development* that would violate the provisions of this Ordinance. It will be the duty of all officers and employees of Kent County to assist in the enforcement of this Ordinance by reporting seeming *violations*.

2. The Planning Director of the Planning Director's designee is authorized and directed to institute any appropriate action to correct *violations* of this Ordinance.

3. Any *violation* of Section 10 will be subject to the fines and penalties established in this Ordinance.

4. The Federal Insurance *Administrator* and the State of Maryland will be notified immediately in writing of any *structure* or property in *violation* of this Section.

5. The Department may require signed and sealed drawings from a professional licensed surveyor or an engineer, certifying that the requirements above have been satisfied. The Department may also engage third-party professionals to review the drawings to ensure compliance with the regulations in this Section, the Land Use Ordinance in general, and any applicable federal, State, or other laws, rules, and regulations. The costs for any third-party professionals will be paid by the applicant or property owner of record.

6.10 LIABILITY

1. The degree of *flood* protection provided by this chapter is considered reasonable for regulatory purposes and is based on *engineer*ing experience and scientific methods of study. *Flood*s of greater magnitude may occur or *flood* heights may be increased by man-made or natural causes. This Section does not imply that *flood*ing will not occur outside of delineated *floodplain* zones, nor that the permitted *development* and land uses within the *floodplain* will be free of *flood*ing and associated *flood* damage. This Section does not create liability on the part of the County, any officer, or employee thereof for any damage which may result from reliance on this Section.

2. The degree of the *flood* protection required by these *regulations* is considered reasonable for regulatory purposes and is based on scientific and *engineer*ing considerations. Larger *flood*s can and will occur, and *flood* heights may be increased by man-made or natural causes. These *regulations* do not imply that land outside of the *Special Flood Hazard Area*s or uses that are permitted within such areas will be free from *flood*ing or *flood* damage.

ARTICLE VII. DEFINITIONS

SECTION 1 GENERAL RULES OF CONSTRUCTION

The following general rules of construction will apply to the *regulations* of this Ordinance.

1. The singular number includes the plural and the plural the singular, unless the context clearly indicates the contrary.
2. Words used in the present tense include the past and future tense, and the future the present.
3. The word "will" is always mandatory. The word "may" is permissive.
4. The word "*building*" or "*structure*" includes any part thereof, and the word "*structure*" includes the word "*building*."
5. Words and terms not defined herein will be interpreted in accordance with their normal dictionary meaning and customary usage.
6. The word "Commission" refers to the Kent County *Planning Commission*, a seven-member board appointed the County Commissioners.
7. The word "Board" refers to the Board of Appeals, a three-member board appointed by the County Commissioners.

SECTION 2 DEFINITIONS

For the purpose of this ordinance, certain terms and words are hereby defined.

Acceptable Outfall: The tidewater or that point as determined by the Kent County *Soil* and Water Conservation District where *stormwater* can be released to a *channel* without causing scouring, *erosion*, or resulting *sediment*ation to the receiving *channel* or its *floodplain*. (Where necessary, the outlet will include structural and vegetative measures to assure non-erosive velocities.)

Accessory Structure: A detached *structure* on the same parcel as the principal *structure* or use and which is customarily incidental and subordinate to the principal *structure* or use, for example, a shed or detached garage.

Accessory Use: One which: (a) is subordinate to and serves a principal *structure* or principal use; (b) is on the same *lot* as the principal *structure* or use served except as otherwise expressly authorized by provisions of this Ordinance; and (c) is customarily incidental to the principal use or *structure*.

: *Adverse Impact*: For purposes of *stormwater management*, any deleterious effect on waters or *wetlands* including their quality, quantity, surface area, species, species composition, aesthetics or usefulness for human or natural causes which is or may potentially be harmful or injurious to health, welfare, safety, or property, to biological productivity, diversity, or stability or which unreasonably interferes with the enjoyment of life or property, including outdoor recreation.

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

Agricultural Easement: A non-possessory interest in land which restricts the conversion of use of the land, preventing nonagricultural uses.

Agricultural Land Management: Those methods and procedures used in the cultivation of land in order to further crops or livestock production and conservation of related *soil* and water resources. Logging and timber removal operations will not be considered a part of this definition.

Agriculture: Farming activities including plowing, tillage, cropping, installation of *best management practices*, seeding, cultivating, and harvesting for production of food and fiber products (except *commercial logging and timber harvesting operations*), sod production, orchards, nurseries, land in government set aside programs, and other products cultivated as part of a recognized commercial enterprise, but not including *animal husbandry*.

Agritourism: Activities conducted on a farm and offered to the public or to invited groups for the purpose of education, recreation, or active involvement in the farm operation. These activities will be related to agriculture or natural resources and incidental to the primary operation on the site. The term will include hayrides; corn mazes; seasonal petting farms; pumpkin patches; "pick your own" or "cut your own" produce; classes related to agricultural products or skills; harvest festivals; field trips; farm tours; farm museums; picnic and party facilities offered in conjunction with any agritourism activity; food services, including farm to table meals; fishing; hunting; wildlife study; guest farms; and activities or events related to agriculture or natural resources, agricultural products, or agricultural skills.

Animal husbandry: Farming activities permitted as separate uses in specific zoning districts.

Airport: A permanent installation or facility from which aircraft may take off or land, discharge or receive cargo or passengers, be repaired, take on fuel, or be stored, including hangers, terminals, or accessory activities.

Alley: A narrow public thoroughfare not exceeding 16 feet in width, which provides only a secondary means of access to abutting properties and is not intended for general traffic circulation.

Alteration: Any construction or renovation to an existing *structure* other than repair or addition.

Anadromous Fish: Fish that travel upstream from their primary habitat in the ocean to fresh waters in order to spawn.

Anadromous Fish Spawning Areas: Those streams that are tributary to the Chesapeake Bay where spawning of anadromous species of fish (e.g., rockfish, yellow perch, white perch, and river herring) occurs or has occurred. The streams are designated by the Maryland Department of Natural Resources.

Apartment: A part of a *building* containing cooking and housekeeping facilities, consisting of a room or suite of rooms intended, designed, and used as a residence for an individual or single *family*.

Apartment House: Same as *Dwelling, Multi-Family Dwelling*.

Applicant: For *erosion and sediment control* and *stormwater management* proposes: Any *person*, *firm*, or government agency who exe*cut*es the necessary forms to procure official approval of a project or a permit to carry out construction of a project.

Approved Forest Management Plan: For the purposes of *forest conservation* outside of the Chesapeake Bay *Critical Area*, an *approved forest management plan* is a document, approved by the Department of Natural Resources *Forest*er assigned to Kent County, that operates as a protective agreement for *forest conservation* as described in Natural Resources Article, Section 5-1607(e)- (f), Annotated Code of Maryland.

Approving Agency: For *erosion and sediment control* and *stormwater management* purposes: The entity responsible for the review and approval of *erosion and sediment control plan*s and *stormwater management plan*s.

Aquaculture: (1) 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; (2) Activities include the hatching, cultivating, planting, feeding, raising, and harvesting of aquatic plants and animals and the maintenance and construction of the necessary equipment, *building*s, and growing areas; (3) 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 subtidal areas. For the purpose of this definition, related activities such as wholesale and retail sales, processing, and product storage are not considered aquacultural practices.

Aquifer: A porous water bearing geologic formation generally restricted to materials yielding an appreciable supply of water.

Architect: A professional with training in *architect*ure and licensed by the State of Maryland.

Area, Gross: The total area of the *site* subject to no exclusions.

: *Automobile Repair*: Any *building*, *structure*, or area used for major *automobile repair*, body work, or servicing including the accessory sale of fuels, oils, or parts.

Automobile Service Station: Any *building*, *structure*, or use of land for the retail sale of automobile fuels, oils, and accessories and where repair service, if any, is incidental.

Barren land: Unmanaged land having sparse vegetation.

Base Flood: The 1-percent annual chance (100-year) *flood* event as indicated in the *Flood Insurance Study*, as amended; the elevation of which is used for regulatory purposes in this Ordinance.

Base Flood Elevation: The water surface elevation of the *base flood* in relation to the datum specified on the community's *Flood Insurance Rate Map*. In areas of shallow *flood*ing, the *Base Flood Elevation* is the highest adjacent natural *grade* elevation plus the depth number specified in feet on the *Flood Insurance Rate Map*, or at least four (4) feet if the depth number is not specified.

Basement: An enclosed area which is below *grade* on four sides.

: *Bench terrace*: A relatively flat area (i.e., less than 2% *grade*) constructed on sloping land to planned dimensions and *grade*s. *Bench terrace*s are applied along the contour with the length and width controlled by the natural terrain and the required *erosion* limitations.

Berm: A mound of *soil*, either natural or manmade, used to obstruct views, noise, direct runoff, or control *soil* loss.

Best Management Practices (*BMP*): Conservation practices or systems of practices and management measures that control *soil* loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and *sediment*. Agricultural *BMPs* include, but are not limited to, strip cropping, terracing, contour *stripping*, grass *waterway*s, animal waste *structure*s, ponds, minimal tillage, grass and naturally vegetated filter strips and proper nutrient application measures. For *stormwater management* purposes: A structural device or non-structural practice designed to temporarily store or treat *stormwater* runoff in order to mitigate *flood*ing, reduce pollution, and provide other amenities.

Boarding House: Same as *rooming house*

Boathouse: A *building* constructed for the purposes of storing a boat and boat gear.

Breakaway Wall: A wall that is not part of the structural support of a *building* and is intended to collapse under specific lateral loading forces without causing damage to the supporting foundation system of the *building*.

Buffer: Within the Chesapeake Bay *Critical Area*, an existing, naturally vegetated area or an area established in vegetation and managed to protect aquatic environments, *wetlands*, shoreline, and terrestrial environments from man-made disturbances. The purpose of the *buffer* is to: (1) Provide for the removal or reduction of *sediment*s, nutrients, and potentially harmful or toxic substances in runoff entering the Bay and its tributaries; (2) Minimize the adverse effects of human activities on *wetlands*, shorelines, stream banks, tidal waters and aquatic resources; (3) Maintain an area of *transitional habitat* between aquatic and upland communities; (4) Maintain the natural environment or streams; and (5) Protect riparian *wildlife habitat*. (6) The *buffer* will be expanded for *slopes* of 15% or more, *hydric soils*, or *highly erodible soils* whose *development* or disturbance may impact streams, *wetlands*, or aquatic environments. The *buffer* will be a minimum of 100 feet and will be expanded 4 feet for every 1% of *slope* if the *slope* is over 15% (measured at the 100-foot mark) or to the top of the *slope*, whichever is greater in extent. For example, the *buffer* on a property with an 18% *slope* is 172 feet [100 + (4 x

18)]. The *buffer* is measured horizontally from mean high tide, the edge of *tidal wetlands* or *tributary streams*.

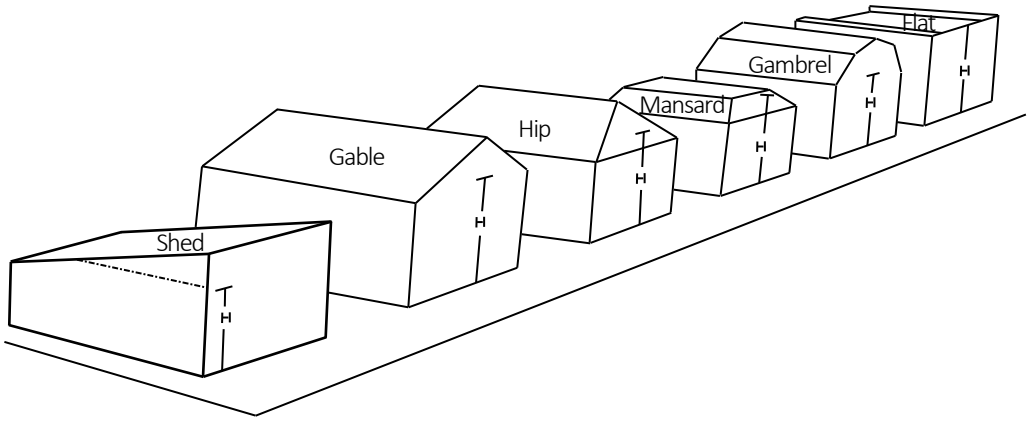
Buildable Area: The area of that part of the *lot* not included within the *yards*, *open space*, or environmental areas herein required.

Buildable Width: The width of the *lot* not included within the *yards*, *open space*, or environmental areas herein required.

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

Building, Totally Enclosed: Any *building* having no outside openings other than ordinary doors, windows, and ventilators.

Building, Height of: The vertical distance from the average elevation of finished ground surface around the *building* to the highest point of the coping of a flat roof, or to the deck line of the highest point of coping or parapet of a mansard roof, or to the mean height level between the eaves and ridge for gable, hip, shed, and gambrel roofs. When the highest wall of a *building* with a shed roof is within 30 feet of a *street*, the height of such *building will* be measured to the highest point of coping or parapet.



Building Line: A line within a *lot*, so designated on a plat of *subdivision*, between which line and the *street line* of any abutting *street*, no *building* or *structure* may be erected.

Bulk: A term used in this Ordinance to describe the size and shape of a *building* or *structure* and its relationship to other *buildings*, to the *lot area* for a *building*, and to *open space*s and *yards*.

Caliper: The diameter of a *tree* measured at six inches above *grade*.

Camp, Boarding: As for *day camp*, except that uses and *structures* for the lodging of guests will be permitted in locations appropriate for extensive outdoor recreation.

Camp, Day: A *lot*, *tract*, or parcel of land operated as a resource utilization enterprise in which seasonal facilities, boating, fishing, swimming, outdoor sports, and activities incidental and relating to the foregoing but not including miniature golf, golf courses, golf driving

ranges, mechanical amusement devices, or permanent *structures* for the housing of guests.

Campground: Any area or *tract* of land owned by a single entity to which accommodations for temporary and not year-round occupancy are located or may be placed including cabins, tents, *recreational vehicle*s, and campers, and which is used for recreational purposes and retains an open air or natural character.

Canopy: A detachable, roof-like cover supported from the ground, or deck, or walls, of a *building* for the protection from the sun.

Certificate of Occupancy or Use: A permit to legally occupy or use a *building* for the intended purpose.

Certification: A signed, written statement that specific conditions, inspections, or tests (when required) have been performed and that such comply with the applicable requirements of this Ordinance.

Champion of the State: In terms of *forest conservation*, a *tree* that appears in the State *Forest Conservation* Manual list of State *Champion tree*s.

Champion Tree: The largest *tree* of its species within the United States, the State, County, or a municipality.

Channel: That part of the *waterway* where the largest class vessel that could use such *waterway* is required to navigate because of shallowness of water on both sides of such part, or as delineated on an approved plan or navigational chart.

Channel Protection Storage Volume: The volume used to design structural management practices to control stream *channel erosion*. Methods for calculating the *channel protection storage volume* are specified in the 2000 Maryland *Stormwater De*sign *Manual*, Volumes I and II, and as amended.

Clear-cutting: The removal of the entire stand of *tree*s in one *cut*ting with *tree* reproduction obtained by natural seeding from adjacent stands or from *tree*s that were *cut*, from advance regeneration or stump spouts, or from planting of seeds or *seedlings* by man.

Clearing: The removal of *tree*s and/or brush from the land but which will not include the ordinary mowing of grass.

Cliff Height: The distance measured from mean high tide to the top of the bank.

Clinic -A *building* or a portion thereof designed for and used by two or more physicians, surgeons, dentists, psychiatrists, physiotherapists, or practitioners in related specialties, or a combination of *person*s in these professions, but not including lodging of patients overnight.

Club, Private: *Buildings* and facilities owned or operated by a corporation, association, *person*, or *persons* for social, educational, or recreational purposes, but not primarily to render service which is normally carried on as a business.

Cluster Development: Within the *Critical Area*, a residential *development* in which *dwelling unit*s are concentrated in a selected area or selected areas of the *development tract* so as to provide a natural habitat or other *open space* uses on the remainder.

Coastal high hazard areas: Those areas subject to coastal or tidal *flood*ing with the addition of high velocity water and wind action. These areas are designated as a V-Zone on the *Flood Insurance Rate Map*.

Coastal A Zone: An area within a *special flood hazard area*, landward of a coastal high hazard area (V Zone) or landward of a shoreline without a mapped coastal high hazard area, in which the principal source(s) of *flooding* are astronomical tides and storm surges, and in which, during *base flood* conditions, the potential exists for breaking waves with heights greater than or equal to 1.5 feet. The inland limit of the *Coastal A Zone* may be delineated on *FIRM*s as the *Limit of Moderate Wave Action (LiWMA)*.

Collector Street: A *street* which is intended to collect traffic from *minor streets* within a neighborhood or a portion thereof and to distribute such traffic to *major thoroughfares*, in addition to providing access to properties abutting thereon.

Colonial Water Birds: Herons, egrets, terns, and glossy ibis. For the purpose of nesting these birds congregate (i.e., colonize) in relatively few areas, at which time, the regional populations of these species are highly susceptible to local disturbances.

Commercial Logging and Timber Harvesting Operations: The *cut*ting and removing of *tree* stems from a *site* for commercial purposes; leaving the root mass intact, includes all commercial operations done by companies and private individuals for economic gain.

Community Piers: Boat docking facilities associated with *subdivision*s and similar residential areas, and with condominiums, *apartments*, and other *multi-family dwelling units*. Private *pier*s are excluded from this definition.

Compaction: Desiccation (drying up) of a *soil* or rock *fill* by mechanical or other procedures.

: *Concept Plan*: For *stormwater management* purposes: The first of three plan approvals that includes information necessary to allow an initial evaluation of a proposed project.

Conference Center: A year-round facility with staff, equipment, and support services dedicated to providing an environment that will support and facilitate meetings. A minimum of 100 square feet of meeting space is provided per guest room. Dedicated meeting rooms are separate from living and leisure areas.

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

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

Cottage Industry: *Family* type businesses which employ less than ten people and manufacture and/or provide services with low-impact to the surrounding area and residents (e.g. low traffic volume, no heavy, noisy or environmentally disruptive machinery to perform tasks, little or no outdoor storage). Often home-based industries utilize

telecommunications networks. *Cottage industries* include, but are not limited to plumbers, electricians, carpenters, and other tradesmen.

Country Inn: An existing *building* where, for compensation and only by prearrangement for definite periods, lodging and meals are provided. Such uses are limited to fifteen rooming units excluding resident manager quarters.

Country Stores: A retail store or shop which sells general merchandise and food serving the local area.

Courtyard: An *open space* that may or may not have direct *street* access and around which is arranged a single *building* or group of related *buildings*.

Cover Crop: The establishment of a vegetative cover to protect *soils* from *erosion* and to restrict pollutants from entering the *waterways*. *Cover crop*s can be dense, planted crops of grasses or legumes, or crop residues such as corn, wheat, or soybean stubble which maximize *infiltration* and prevent runoff from reaching erosive velocities.

Critical Area: All lands and waters defined in Md. Code Ann., Natural Resources, §8-1807. These include: (1) All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide and all state and private *wetlands* designated under Title 16 of the Environmental Article, Annotated Code of Maryland. (2) All lands and water areas within 1,000 feet beyond the landward boundaries of state or private *wetlands* and the heads of tides designated under Title 16 of the Environmental Article, Annotated Code of Maryland. (3) Modification to these areas through inclusions or exclusions proposed by local *jurisdiction*s and approved by the Commission as specified in Md. Code Ann., Natural Resources § 8-1807.

Critical and Essential Facilities: *Building*s and other *structures* that are intended to remain operational in the event of extreme environmental loading from *flood*, wind, snow or earthquakes. [Note: See Maryland *Building* Performance Standards, Section 1602 and Table 1604.5.] *Critical and essential facilities* typically include *hospital*s, fire stations, police stations, storage of critical records, facilities that handle or store hazardous materials, and similar facilities.

Critical Habitat Area: A critical habitat for an *endangered species* and its surrounding protection area. A *critical habitat area* will (1) Be likely to contribute to the long-term survival of the species; (2) Be likely to be occupied by the species for the foreseeable future; and (3) Constitute habitat of the species that is considered critical under Md. Code Ann., Natural Resources, §4-2a-04 and 10-2a-06.

Critical Habitat for Endangered Species: a habitat occupied by an *endangered species* as determined or listed under Md. Code Ann., Natural Resources, §4-2a-04 and 10-2a-04.

Crosswalk: A public way intended for pedestrian use and excluding motor vehicles, which *cut*s across a block in order to furnish improved access to adjacent *streets* or properties.

Cut: See "*excavation*"

Day Care Group: A licensed home or agency that regularly provides supervision for nine or more non-related children.

Day Care Home: The provision of supplemental parental care and supervision for eight or fewer non-related children.

Declaration of Intent: (1) A signed and notarized statement by a landowner or the landowner's agent certifying that the activity on the landowner's property: (1a) Is for certain activities exempted under this Ordinance or Md. Code Ann., Natural Resources, §5-103 and §§5-16-1 through 5-1612; (1b) Does not circumvent the requirements of this Ordinance or Md. Code Ann., Natural Resources, §5-103 and §§5-16-1 through 5-1612; and (1c) Does not conflict with the purposes of any other *Declaration of Intent*. (2) The document required under this Ordinance.

Declaration of Land Restriction (Non-conversion Agreement): A form signed by the owner to agree not to convert or modify in any manner that is inconsistent with the terms of the permit and these *regulations* certain enclosures below the *lowest floor* of elevated *building*s and certain *accessory structures*. The form requires the owner to record it on the property deed to inform future owners of the restrictions.

Department. The Kent County Department of Planning, Housing, and Zoning, unless otherwise specified.

Demolition/*demolish*: means the act of pulling down, destroying, removing, or razing a *building* or *structure* or commencing the work of total or substantial destruction with the intent of completing the same. For the purposes of *Historic structure* review, the term "*demolition*" will not include routine maintenance, interior renovations, removal, or construction of porches, decks, windows, or other types of renovations for which approval is generally not required.

Density: The permitted number of *dwelling units* per acre of land to be developed.

*De*sign *Manual*: The 2000 Maryland *Stormwater De*sign *Manual*, Volumes I and II, and as amended, that serves as the official guide for *stormwater management* principles, methods, and practices.

Detention Structure: A permanent *structure* for the temporary storage of runoff that is designed so as not to create a permanent pool of water.

Developed Land: For *stormwater management* purposes: To change the runoff characteristics of a parcel of land in conjunction with residential, commercial, industrial, or institutional construction or *alteration*.

Developed Woodland: Those areas of 1 acre or more in size which predominately contain *tree*s and *natural vegetation,* and which also includes residential, commercial, or industrial *structures* and uses.

Developer: A *person*, partnership, or corporation constructing more than one *dwelling unit* or constructing one *dwelling unit* for occupancy by persons other than the owner, or any type of commercial of industrial *development* or subdividing of land.

Development: Any construction, reconstruction, modification, extension, or expansion of *buildings* or *structures*; placement of *manufactured homes*; mining; dredging; placement of *fill*; *grading*; paving; dumping; storage of equipment or materials; land *excavation*; land *clearing*; land improvement; *subdivision* of land; or any combination thereof.

Development Activities: The construction or substantial *alteration* of residential, commercial, industrial, institutional, or *trans*port*ation facilities* or *structures*.

Development Project Completion: For the purposes of *afforestation*, *reforestation*, or payment into a *forest conservation* fund; (1) The release of the *development* bond, if any; (2) Acceptance of the project's *street*s, utilities and public services by the county; or (3) Designation by the County that a: (3a) *Development* project has been completed, or (3b) Particular stage of a staged *development* has been completed.

Direct Discharge: The concentrated release of *stormwater* to tidal waters or vegetated *tidal wetlands* from new *development* or *redevelopment* projects in the Chesapeake Bay *Critical Area*.

Diversion: A *channel* or ditch and a ridge constructed across a *slope* so as to intercept and divert surface runoff.

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

Dog Kennel, Commercial: The keeping of any dog or dogs, regardless of number, for breeding, sale, boarding, or treatment purposes, except in an animal *hospital* or pet shop as permitted by these *regulations*. The keeping of five or more dogs, six months or older, for any purpose.

Drainage Area: That area contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridge line.

Drainageway: See "*watercourse and/or drainageway*"

Dwelling: A *building* or portion thereof, designed and used primarily for residential occupancy, but not including trailers, mobile homes, *hotel*s, motels, motor lodges, boarding and *lodging houses*, tourist courts, or tourist homes.

Dwelling Unit: A room or group of rooms occupied or intended to be occupied as separate living quarters by a single *family*. Within the *Critical Area*: A single unit providing complete, independent living facilities for at least one *person*, including permanent provisions for sanitation, cooking, eating, sleeping, and other activities routinely associated with daily life. *Dwelling unit* includes living quarters for domestic staff or other employees or *tenants*, an in-law or accessory *apartment*, a *guest house*, or a caretaker residence.

Dwelling, Multi-Family: A *building* designed for and occupied exclusively by three or more families living independently of each other.

Dwelling, Single Family: A *building* designed for and occupied exclusively by one *family*.

Dwelling, Two-Family: A *building* designed for and occupied exclusively by two families living independently of each other.

Easement: A grant or reservation by a property owner of the right to use an identifiable piece of land or right for a specified purpose or purposes. For *stormwater management* purposes: A grant or reservation by a property owner of the right to use an identifiable piece of land or right for a specified purpose or purposes, and which will be included in the conveyance of land affected by such *easement*.

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

Elevation Certificate: A FEMA form on which surveyed elevations and other data pertinent to a property and a building are identified and which shall be completed by a licensed professional land surveyor or a licensed professional engineer, as specified by the Floodplain Administrator. When used to document the height above grade of buildings in special flood hazard areas for which base flood elevation data are not available, the Elevation Certificate shall be completed in accordance with the instructions issued by FEMA. Note: FEMA Form 086-0-33 and instructions are available online.

https://www.fema.gov/media-library/assets/documents/160

Embankment or Fill: A deposit of *soil*, rock, or other materials placed by man.

Endangered Species: Any species of fish, wildlife, or plants which have been designated as such by regulation by the Secretary of the Department of Natural Resources. Designation occurs when the continued existence of these species as viable components of the State's resources is determined to be in jeopardy. This includes any species determined to be an "*endangered species*" pursuant to the Federal *Endangered Species* Act.

Engineer: A *person* with professional, technical, or practical training, ability, and experience in *engineer*ing and licensed in the State of Maryland to practice *engineer*ing.

*Environmental Site De*sign *(ESD)*: Using small-scale *stormwater management* practices, nonstructural techniques, and *site plan*ning to mimic natural hydrologic runoff characteristics and minimize the impact of land *development* on water resources. Methods for designing ESD practices are specified in the *De*sign *Manual.*

Erosion: The process by which the ground surface is worn away by the action of wind or water.

Erosion and Sediment Control: A system of structural and vegetative measures that minimizes *soil erosion* and *off-site sediment*ation.

Erosion and Sediment Control Plan: An *erosion and sediment control* strategy or plan designed to minimize *erosion* and prevent *off-site sediment*ation.

Excavation, *landscaping, or other Con*tract*or's Yard*: Any land and/or *buildings* used primarily for the storage of equipment, vehicles, machinery, new or used *building* materials, paint, pipe, or electrical components used by the owners or occupants of the *premises* in the conduct of any *building* trades, *building* craft, or *excavation* / construction trade. This definition was revised to include a wide range of contractors including landscapers.

Excavation or Cut: Any act by which the ground surface is *cut* into, dug, quarried, uncovered, removed, displaced, or relocated and will include the conditions resulting therefrom.

Excess Stormwater Runoff: In the *Critical Area*, all increases in *stormwater* resulting from: (1) An increase in the imperviousness of the *site*, including all additions to *building*s, *roads*, and parking *lot*s; (2) Changes in permeability caused by *compaction* during construction or modifications in contours, including the filling or drainage of small depression areas; (3) *Alteration* of *drainageways* or re*grading* of *slope*s; (4) Destruction of *forest*; or (5) Installation of collection systems to intercept *street* flows or to replace swales or other *drainageways*.

Exemption: For *stormwater management* purposes: Those land *development activities* that are not subject to the *stormwater management* requirements contained in this Ordinance. For *erosion and sediment control* purposes: Those land *development activities* that are not subject to the *erosion and sediment control* requirements contained in this Ordinance.

Existing Grade: The vertical location of the existing ground surface prior to excavating or filling.

Extended Detention: A *stormwater* design feature that provides gradual release of a volume of water in order to increase settling of pollutants and protect downstream *channel*s from frequent storm events. Methods for designing *extended detention BMPs* are specified in the *De*sign *Manual*.

Extreme Flood Volume: The storage volume required to control those infrequent but large storm events in which overbank flows reach or exceed the boundaries of the *100-year floodplain*.

Family: An individual or individuals living together by joint agreement and occupying a single housekeeping unit with a single primary culinary facility on a non-profit, cost-sharing basis. Domestic servants employed and living on the *premises will* be considered as part of the *family*.

Farm: A parcel of land not less than 20 acres in size used for *agriculture* including *animal husbandry*, and as defined in this Ordinance.

: *Feedlot*: Any *tract* of land or *structure*, pen, or corral where cattle, horses, sheep, goats, and/or swine are maintained in close quarters for the purposes of fattening such livestock for final shipment to market. This includes any enterprise used for the production, growing, or holding of agricultural animals regardless of species or number that does not control through ownership sufficient land to allow environmentally safe treatment and disposal of the waste produced by those animals will .

Final Erosion and Sediment Control Plan: The last of three plan approvals that includes the information necessary to allow all approvals and permits relating to *erosion and sediment control* to be issued by the *Approving Agency*.

Final Stormwater Management Plan: The last of three plan approvals that includes the information necessary to allow all approvals and permits relating to *stormwater management* to be issued by the *approving agency*.

Finished Grade: The final *grade* or elevation of the ground surface conforming to the proposed design.

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, offloading docks, shellfish culture operations, and shore-based facilities necessary for *aquaculture* operations.

Flood: General and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waters, or rapid unusual accumulation of runoff from any source.

Flood Insurance Rate Map (FIRM): Map which depicts the minimum *Special Flood Hazard Area* to be regulated by this Ordinance.

Flood Insurance Study (FIS): The official report in which the Federal Emergency Management Agency has provided *flood* profiles, *floodway* information, and the water surface elevations.

Flood Protection Elevation (FPE): The elevation of the *base flood* plus three feet *freeboard*.

Floodplain: (1) A relatively flat or low area adjoining a river, stream, *watercourse*, or *drainageway* which is subject to partial or complete inundation; (2) An area subject to the unusual and rapid accumulation or runoff of surface waters from source; or (3) Land typically adjacent to a body of water with ground surface elevations that are inundated by the *base flood*.

Floodproofing: Any combination of structural and non-structural changes which reduce or eliminate *flood* damage to improved property.

Floodproofing Certificate: Form supplied by FEMA to certify that a *building* has been designed and constructed to be structurally dry *flood*proofed to the *Flood Protection Elevation*.

Floodway: The *channel* and adjacent land area required to discharge the waters of the 100-year *flood* of a *watercourse* without increasing the water surface elevations more than a specified height.

Floodway Fringe: That portion of the *floodplain* outside of the *floodway*.

Floor Area, Commercial: For Commercial, business, and industrial *buildings* or *buildings* containing mixed uses; the sum of the gross horizontal area of the several floors of a *building* measured from the exterior faces of the exterior walls separating two *buildings* but not including: (1a) Attic space providing headroom of less than seven feet; (1b) *Basement* space not used for retailing; (1c) Uncovered steps or fire escapes; (1d) Accessory water towers or cooling towers; and (1e) Accessory off-*street loading spaces*.

Floor Area, Residential: For Residential *buildings*: the sum of the gross horizontal areas of the several floors of a *dwelling*, exclusive of garages, *basement*, and open porches, measured from the exterior faces of the exterior walls.

Flow Attenuation: Prolonging the flow time of runoff to reduce the peak discharge.

Forest: A biological community dominated by *tree*s and other woody plants covering a land area of 10,000 square feet or greater, includes (1) areas that have at least 100 live *tree*s per acre with at least 50 percent of those *tree*s having a 2-inch or greater diameter at 4.5 feet above the ground and larger; and (2) areas that have been *cut* but not cleared.

Forest Conservancy District Board: The *forest*ry board created for each State *Forest* Conservancy District under Md. Code Ann., Natural Resources, §§5-601 through 5-610.

Forest Conservation: The *retention* of existing *forest* or the creation of new *forest*.

Forest Conservation and Management Agreement: An agreement as stated in the Md. Code Ann., Tax: Property, § 8-211.

Forest Conservation Plan: A plan approved pursuant to the requirements of this Ordinance and the *Forest Conservation Technical Manual*.

Forest Conservation Technical Manual: The technical manual incorporated by reference, used to establish standards of performance required in preparing *Forest Stand Delineations* and *Forest Conservation Plans*.
https://mdstatedocs.slrc.info/digital/collection/mdgov/id/11130/

Forest Cover: The area of a *site* meeting the definition of *forest*.

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

Forest Management: The protection, manipulation, and utilization of the *forest* to provide multiple benefits, such as timber harvest, water transpiration, *wildlife habitat*, etc.

Forest Management Plan: A plan establishing best conservation and management practices for a landowner in assessment of the resource values of *forest*ed property.

Forest Mitigation Bank: an area of land which has been intentionally af*forest*ed or re*forest*ed for the express purpose of providing credits for *reforestation* requirements.

Forest Mitigation Bank Agreement: an agreement entered into by an individual owning a *forest mitigation bank* and the county which commits the banker to certain procedures and requirements when creating and operating the *forest mitigation bank*.

Forest Mitigation Bank Plan: a plan submitted for approval of a *forest mitigation bank* to the county by an individual proposing to establish a *forest mitigation bank*.

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.

Forest Stand Delineation: The methodology for evaluating the existing vegetation on a *site* proposed for *development*, as provided in the *Forest Conservation Technical Manual*.

Fowl: birds which are hunted or kept for food, including Galliformes (such as turkeys, chickens, partridges, and quail) and waterfowl of the order Anseriformes (such as ducks, geese, and swans). See also *Livestock* and *Poultry*.

Freeboard: An increment of elevation added to the *Base Flood Elevation* to provide a factor of safety for uncertainties in calculations, wave actions, subsidence, or other unpredictable effects.

Frontage, Lot: The distance for which the front boundary line of the *lot* and the *street line* are coincident.

Frontage, Street: All of the property on one side of a *street* between two intersecting *streets* (crossing or terminating), measured along the line of the *street*, or if the *street* is dead-ended, then all of the property abutting on one side between an intersecting *street* and the dead-end of the *street*.

Garage, Private: A garage used for storage purposes only.

Grade: *Grade* elevations will be determined by averaging the elevations of the finished ground at all corners and/or principal points in the perimeter wall of the *building*.

Grading/*grade*: Any act by which *soil* is disturbed, including but not limited to, *clearing*, *stripping*, stockpiling, excavating, grubbing, scarified, filling, removing root mat or top*soil*, or any combination thereof.

Grading Unit: The maximum contiguous area allowed to be *grade*d at a given time. For the purposes of *erosion and sediment control*, a *grading unit* is the maximum contiguous area allowed to be *grade*d at a given time and can be established on a *site*-specific basis.

Grain Dryer, Commercial: A facility for drying grain, in which the grain that is dried is primarily supplied by sources other than the owner and/or operator of the facility.

Group Home: A place, home, or institution which is licensed to provide boarding, shelter, and *person*al services to not more than eight *person*s, regardless of age, who have a need for supervision or assisted community living based on emotional, mental, physical, familial, or social differences. (Examples of such *person*s include but will not be limited to the mentally or physically handicapped, alcoholics, elderly, drug-dependent, and juveniles under the *jurisdiction* of the courts, the Department of Social Services, or the Juvenile Services Administration). *Group home*s do not include public or private schools organized and operated under Maryland laws, *person*s related by blood or marriage within the third degree to the custodial *person*, or to houses of worship, other religious or other public institutions for caring for such *person*s within the *building* while parents or other custodial *person*s are attending services, activities, or meetings.

Growing Season: The period of conse*cut*ive frost-free days as stated in the current *soil* survey for Kent County published by the National Cooperative *Soil* Survey Program, 16 U.S.C. Section 590 (a): (f).

Guest House: Living quarters within a detached accessory *building* located on the same *premises* as the main *dwelling*. Such quarters not rented or otherwise used as a separate *dwelling* and having no separate utility or kitchen.

Health Officer: The *Health Officer* of Kent County.

Highly Erodible Soils: Those *soil*s with a *slope* greater than 15%; or those *soil*s with a *K Value* greater than 0.35 and with *slope*s greater than 5%.

Highest Adjacent Grade: The highest natural elevation of the ground surface, prior to construction, next to the proposed foundation of a *structure*.

Historic Structures: Any *structure*, including but not limited to residential, agricultural, civic and commercial *building*s, which is equal to or greater than seventy-five years of age, or otherwise deemed to be of historical significance by meeting one or more of the following aspects of Kent County, Maryland or United States Hi*story*: (1) Association with historic events or activities; (2) Association with *person*s who are important to the community or to specific *development*s of hi*story*; (3) Embodiment of distinctive characteristics of a type, period, method of construction, or the work of a master; or (4) Potential to provide important information about hi*story* or prehi*story*. (5) For *floodplain* purposes: Any *structure* that is: (5a) Individually listed in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (5b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or (5c) Individually listed on the Maryland Register of Historic Places.

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

Home Occupation: An occupation or business activity which results in a product or service and is conducted in whole or in part in a *dwelling unit* or *accessory structure* and is clearly secondary and subordinate to the residential use of the property.

Hospital: A *building* or group of *building*s having room facilities for overnight patients, used for providing services for the inpatient medical or surgical care of sick or injured *person*s, and which may include related facilities, central service facilities, and staff offices; provided however, that such related facilities will be incidental and subordinate to the main use and will be an integral part of the *hospital* operation.

Hotel: A *building* in which lodging or boarding are provided for more than 15 *person*s, primarily transient, or with more than ten guest rooms, offered to the public for compensation. 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 contrast

to a boarding, rooming, or *lodging house* or an *apartment house* which are herein separately defined. A *hotel* may include *restaurant*s, taverns, clubrooms, public banquet halls, ballrooms, and meeting rooms.

House of Worship: A *building* wherein *person*s regularly assemble for religious worship, and those accessory activities as are customarily associated therein, which *building* and activities are maintained and controlled by a religious body organized to sustain public worship but not to render a service which is customarily carried on as a business.

Hedgerow: A row or rows of bushes, shrubs, or *tree*s forming a hedge.

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 these *soils*.

Hydrophytic Vegetation: Those plants cited in "Vascular Plant Species Occurring in Maryland *Wetlands*" (Dawson, F. et al., 1985) which are described as growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content (plants typically found in wet areas).

Impervious Surface: A surface that has been compacted or covered with a layer of material so that it is highly resistant to *infiltration* by water. For *stormwater management* purposes: Any surface that does not allow *stormwater* to infiltrate into the ground.

Infiltration: The passage or movement of water into the *soil* surface.

Inspection Agency: The Maryland Water Management Administration or, if enforcement authority has been delegated, Kent County.

Intermittent Stream: A stream in which surface water is absent during a part of the year as shown on the most recent 7.5-minute topographic quadrangle published by the United States Geologic Survey as con*firm*ed by field verification.

Intrafamily Transfers: A transfer to a member of the owner's immediate *family* of a portion of the owner's property for the purpose of establishing a residence for that *family* member.

Island: In *street* or parking design, a raised area, usually curbed, placed to guide traffic and separate lanes or used for landscaping, signage, or lighting.

Junk: Dilapidated automobiles, trucks, tractors, and other such vehicles and parts thereof, dilapidated wagons, trailers, and other kinds of vehicles and parts thereof, scrap *building* material, scrap contractor's equipment, tanks, caskets, appliances, cans, barrels, boxes, drums, piping, bottles, glass, old iron, machinery, rags, paper, excelsior, hair, mattresses, beds or bedding, or any other kind of scrap or waste material which is stored, kept, handled, or displayed.

Jurisdiction: Territory of a county or municipal corporation within which its powers may be exercised.

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

Land Surveyor: A *person* who is licensed as a *land surveyor* in the State of Maryland.

Land-based aquaculture: In the *Critical Area*, the raising of fish or shellfish in any natural or man- made, enclosed, or impounded, water body.

Landforms: Features of the earth's surface created by natural causes.

Landscape Plan: A plan showing the dimensions and details for *reforesting* an area at least 35 feet wide and covering 2,500 square feet or greater in size or landscaping, using native or indigenous plants when appropriate, and where applicable, and is made a part of an approved *Forest Conservation Plan*.

Laundromat: A business that provides washing, drying, and/or ironing machines or dry-cleaning machines for hire to be used by customers on the *premises*.

Linear Project: a project which is elongated with nearly parallel sides and is used to transport a utility product or public service not otherwise contained in an application for *subdivision*, such as electricity, gas, water, sewer, communications, trains, and vehicles. It may traverse fee simple properties through defined boundaries or established *easement* rights

Limit of Moderate Wave Action (LiMWA): Inland limit of the area affected by waves greater than 1.5 feet during the *base flood*. *Base flood* conditions between the VE Zone and the LiMWA will be similar to, but less severe than those in the VE Zone.

Load-Bearing Fill: Any facility, earthwork, or *fill* placed in a controlled manner to support structural foundations or vehicular traffic, the instability of which would constitute a public hazard or nuisance.

Livestock: domesticated animals that are kept for purposes including meat, leather, wool, or labor, which may include but not be limited to cattle, swine, sheep, horses, mules, or goats. Large ruminants include cattle; small ruminants include sheep and goats; equines include horses and mules. See also *Fowl* and *Poultry*.

Loading Space: An off-*street* space or berth within or adjacent to the main *building* for the standing, loading, or unloading of vehicles.

Lodging house: Same as *rooming house*.

Lot: A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or plat and which is recognized as a separate legal entity for the purposes of transferring title.

Lot Area: The total horizontal area within the *lot lines* of the *lot*.

Lot Line: The boundary line of a *lot*.

Lot, Corner: A *lot* abutting upon two or more *streets* at their intersection.

Lot, Depth: The average horizontal distance between the front and rear *lot lines*.

Lot, Interior: A *lot* other than a *corner lot*.

Lot, Through (Double Frontage): A *lot* having a *frontage* of two approximately parallel *streets* or places.

Lot Width: The horizontal distance between the side *lot lines* measured at the front *building setback* line.

Lowest Floor: In the application of the *floodplain regulations*, the *lowest floor* of the lowest enclosed area, including a *basement*. An unfinished enclosure constructed of *flood* resistant materials used solely for parking of vehicles, storage, or *building* access in an area other than a *basement*, and which is not the *lowest floor*, as long as it is supplied with water equalizing vents.

MET Tower:: A temporary tower erected for the purpose of performing a wind study to determine the optimal location for a wind energy system.

Maintenance Agreement or Guarantee: 1) Any security which may be required and accepted by Kent County to ensure that necessary improvements will function as required for a specified period of time. 2) The short-term management agreement associated with *afforestation*, *reforestation*, or landscaping. 3) The long-term management agreement for *private roads* and *stormwater management* facilities.

Major Thoroughfare: A *street* or highway so designated on the Kent County *Major Thoroughfare* Map.

Manufactured Home: A transportable *structure* that is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. A mobile home is separately defined below.

Marina: A location for docking or mooring boats and providing services for compensation to boats and the occupants thereof. *Marina* does not include a community *pier* or other noncommercial boat docking and storage facility.

Maximum Extent Practicable (MEP): Designing *stormwater management systems* so that all reasonable opportunities for using *ESD planning techniques* and treatment practices are exhausted and only where absolutely necessary, a structural *BMP* is implemented.

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

Microbrewery: A facility in which beer is brewed for distribution and consumption, and which possesses the appropriate license from the State of Maryland, including tasting rooms on the *premises* for the consumption of *on-site* produced beer .

Minor Street: A *street* other than a *major thoroughfare* or *collector street* and intended primarily for providing access to abutting properties.

Mobile Home: A *structure*, transportable in one or more sections, which when erected on *site* is 320 square feet or more, and is built on a permanent chassis and is designed to be used as a *dwelling* with or without a permanent foundation when connected to the required utilities and includes plumbing, heating, air conditioning, and electrical systems contained in it. This term will apply to any *structure* which meets all the requirements of this definition except the size requirement and with respect to which the manufacturer

voluntarily files a *certification* required by the Secretary of HUD and complies with the standards established under the federal act.

Mobile Home Development: Any *lot*, parcel, or *tract*, together with required *open space*, used, designed, maintained, or held out to accommodate *mobile homes*, whether by rental or ownership and all *buildings* and *structures* intended as *accessory uses*. A *mobile home development* does not include automobile or *mobile home* sales *lot*s on which unoccupied *mobile homes* are parked for inspection and sale. A *mobile home development* provides for the permanent or long-term location of *mobile homes* to be occupied as residences.

Mobile Home Park: A *mobile home development* which is divided into individual *sites* and solely operated exclusively as a rental project.

Mobile Home Subdivision: A *mobile home development* which is subdivided into individual *lot*s.

Modified Buffer: An area of 100 feet measured horizontally from mean high tide, the edge of *tidal wetlands*, or *tributary streams* and located within a *Modified Buffer Area*. This *modified buffer* will include a 25-foot area of existing naturally vegetated area, or an area established in vegetation and managed to protect aquatic environments, *wetlands*, shoreline, and terrestrial environments from man-made disturbances. *Sites* with a *non-functioning buffer will* be required to have a *modified buffer*.

Modified Buffer Area: Those areas as mapped by the Kent County Department of Planning and Zoning and approved by the *Critical Area* Commission.

Motel, Tourist Home, or Motor Lodge: A *building* in which lodging, or boarding and lodging, are provided and offered to the public for compensation. As such, it is open to the public in contradistinction to a boarding or *lodging house*, or a *multi-family dwelling*; same as a *hotel* except that the *buildings* are usually designed to serve tourists traveling by automobile, ingress and egress to rooms need not be through a lobby or office and parking is usually adjacent to the rooms.

Native Plants: Species native to the State of Maryland, including improved cultivars of those species.

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*s, aquatic life, and wildlife.

Natural Ground Surfaces: The ground surface in its original state before *grading*, *stripping*, *excavation*, or filling.

Natural Heritage Area: Any community of plants or animals which are considered to be among the best Statewide examples of their kind and are designated by regulation by the Department of Natural Resources.

Natural Parks: Areas of natural habitat that provide opportunities for those recreational activities that are compatible with the maintenance of natural conditions.

Natural Regeneration: The natural establishment of *tree*s and other vegetation with at least 400 woody, free-to-grow *seedlings* per acre, which are capable of reaching a height of at least twenty feet at maturity.

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

Nature-dominated: A condition where *landforms* or biological communities, or both, have developed by natural processes in the absence of human intervention.

Net Tract Area: For *forest conservation* : (1) Except in agricultural (AZD) and resource (RCD) areas, the total area of a *site*, including both *forest*ed and non-*forest*ed areas, to nearest 1/10 acre, reduced by the area where *forest clearing* is restricted by another local ordinance or program. (2) In agricultural (AZD) and resource (RCD) areas, the part of the total *tract* for which land use will be changed or will no longer be used for primarily agricultural activities, reduced by the area where *forest clearing* is restricted by another local ordinance or program. (3) For a *linear project*, the area of a right-of-way width, new access *roads*, and storage, or the limits of disturbance as shown on an application for *sediment* and *erosion* control approval or in a capital improvements program project description.

New Construction: In terms of *floodplain* management, *structure*s, including additions and improvements, and the placement of *manufactured home*s, for which the *start of construction* (herein defined) commenced on or after April 25, 1975, the initial effective date of the Kent County *Flood Insurance Rate Map*, including any subsequent improvements, *alteration*s, modifications, and additions to such *structure*s.

NAVD: In terms of *floodplain*: the North American Vertical Datum of 1988 elevation reference points set by the National Geodetic Survey based on mean sea level.

Nonconformities: (1) Nonconforming *Lot*s: A validly recorded *lot* which at the time it was recorded fully complied with all applicable laws and ordinances but which does not fully comply with the *lot* requirements of this Ordinance concerning minimum *density*, area, or dimension. (2) Nonconforming *Structure*s: A *structure* or *building*, not including signs, which lawfully existed on the effective date of this Ordinance but which does not comply with one or more of the *development* standards for the district in which it is located. (3) A use or activity that was lawful prior to the effective date of this Ordinance but fails to comply with the present requirements of the Ordinance.

Non-Functioning Buffer: A *buffer* will be considered non-functioning if: (1) More than 50% of the *buffer on-site* is impervious, or (2) More than 75% of the *buffer* on the *site* is disturbed either with stone, decks, septic systems, or other obvious human impacts. The *site* will include all contiguous parcels under single ownership. (3) The *site* is located within a *Modified Buffer Area*. (4) Contiguous *buffer*s of *natural vegetation* of 100 feet of shoreline are considered functioning *buffer*s.

Non-Point Source Pollution: Pollution generated by diffuse land use activities rather than from an identifiable or discrete facility. It is conveyed to *waterways* through natural processes, such as rainfall, storm runoff, or groundwater seepage rather than by

deliberate discharge. *Non-point source pollution* is not generally corrected by "end-of-pipe" treatment, but rather, by changes in land management practices.

Non-Renewable Resources: Resources that are not naturally regenerated or renewed.

Non-tidal Floodplains: These *floodplain*s consist of the *floodway* and *floodway fringe*. *Non-tidal floodplains* may have detailed *engineer*ing study data, profiles, and water surface elevations, or may have approximate delineations only.

Non-tidal wetlands: (1) Within the *Critical Area*, those lands, excluding *tidal wetlands* regulated under Md. Code Ann., Natural Resources, Title 9, where the water table is usually at or near the surface, or lands where the *soil* or substrate is covered by shallow water at some time during the *growing season*, and which are usually characterized by one or both of the following: (1a) At least periodically, the lands support predominately *hydrophytic vegetation*; and (1b) The substrate is predominately undrained *hydric soils*. (2) Excluded from these *regulations* are *farm* ponds and other man-made bodies of water whose purpose is to impound water for *agriculture*, water supply, recreation, or *waterfowl* habitat purposes. (3) Outside the *Critical Area*, as defined by the State of Maryland, Army Corps of *Engineer*s, Environmental Protection Agency, Natural Resources Conservation Service, U.S. Fish and Wildlife Service, and any other applicable State or Federal Agency.

Nursing Home: Same as *Convalescent Home*.

Office of Sediment Control: The Kent County Department of Planning and Zoning for inspection purposes and the Kent Soil and Water Conservation District for plans review purposes.

Offsets: *Structure*s or actions that compensate for undesirable impacts.

Off-site: Outside of the limits of the area encompassed by the *development* or *tract*.

Off-site Stormwater Management: The design and construction of a facility necessary to control *stormwater* from more than one *development*.

On-site: Within the limits of the area encompassed by a *development* or *tract*, including an area classified as a 100-year *floodplain*.

On-site Stormwater Management: The design and construction of systems necessary to control *stormwater* within an immediate *development*.

One Percent Annual Chance (100-Year) Floodplain: An area along or adjacent to a stream or body of water that is capable of storing or conveying *flood*waters during the 100-year frequency *flood* as shown on the *Flood Insurance Rate Map* and *Flood Insurance Study*.

One Percent Annual Chance (100-Year) Flood: The *base flood*, having one chance in hundred (one percent chance) of being equaled or exceeded in any year.

Open Space: Those areas suitable for common recreational use or which provide visual relief to developed areas, exclusive of *flood* control *channel right of way*s, areas devoted to parking, vehicular traffic, or private land, and any other area which does not significantly

lend itself to the overall benefit of either the particular *development* or surrounding environment.

Overbank Flood Protection Volume: The volume controlled by structural practices to prevent an increase in the frequency of out-of-bank *flood*ing generated by *development*. Methods for calculating the *overbank flood protection volume* are specified in the *De*sign *Manual*.

Overburden: In the *Critical Area*, the strata or material in its natural state, before its removal by *surface mining*, overlying a mineral deposit, or in between mineral deposits.

Palustrine: All *non-tidal wetlands* dominated by *tree*s, shrubs, persistent emergent plants, or emergent mosses or lichens and all such *wetlands* that occur in tidal areas where the salinity due to ocean derived salts is below one-half part per 1,000 parts of water.

Parking, off-street: An all-weather surface area not in a *street* or *alley* and having an area of not less than 200 square feet, exclusive of driveways, permanently reserved for the temporary storage of one vehicle and connected with a *street* or *alley* by a paved driveway which affords ingress and egress for an automobile without requiring another automobile to be moved.

Perennial Stream: A stream containing surface water throughout an average rainfall year, as shown on the most recent 7.5-minute topographic quadrangle published by the United States Geologic Survey, as con*firm*ed by field verification.

Permanent Construction: Any *structure* occupying a *site* for more than 180 days per year.

Permittee: Any *persons* to whom a permit is issued pursuant to this Ordinance.

Person: Includes, in addition to any other meaning it may have under this chapter, an individual, a corporation, a partnership, the federal government, a county, a municipal corporation, or any other political *subdivision* of the State, an agency, or any other similar entity whatsoever.

Personal Wireless Facility: Facility for the provision of *person*al wireless services, as defined by the Telecommunications Act but not including public and commercial radio and television facilities.

Personal Wireless Facility Tower: A tower, including guyed towers, lattice towers, and monopoles, for the purpose of supporting *personal wireless facilities*.

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

Pier: A *structure* built over the water and supported by pillars, piles, or floats, and used as a landing place, including tie-out pilings.

Pier Length: The straight-line distance between the mean high-water mark and the outermost piling.

Planning Commission: The Kent County *Planning Commission*.

Planning Techniques: For *stormwater management* purposes: A combination of strategies employed early in the project design to reduce the impact from *development* and to incorporate *natural features* into a *stormwater management plan*.

Plant Habitat: A community of plants commonly identifiable by the composition of its vegetation and its physiographic characteristics.

Plot Plan: A *site plan* for review of *single-family dwelling*s, *accessory use*s, and *structure*s, which may include new *single-family dwelling*s, additions and *alteration*s to *single family dwelling*s, and agricultural *structure*s. These projects have minor impact, require less information, and may be reviewed and approved by the Planning Director or the Planning Director's designee. Other minor, non-residential projects may be eligible for review by this type of site plan.

Port: A facility or area established or designated by the State or local *jurisdiction*s for purposes of water-borne commerce.

Poultry: domesticated fowl to include but not be limited to chickens, ducks, geese, turkeys, and pigeons or doves. See also *Fowl* and *Livestock*. *Premises*: A *lot*, together with all the *buildings* and *structures* thereon.

Primary Road: *Primary roads* are identified on the Kent County *Road Classification System* map in the Kent County Comprehensive Plan (See the adopted Kent County Comprehensive Plan: https://www.kentcounty.com/planning/compplan).

Priority Funding Area: An area designated as a *Priority Funding Area* under State Finance and Md. Code Ann., Procurement, §5-7B-02.

Private Destination/Residence Club: Tourist accommodations in one or more *building*s owned, co-owned, or operated by a corporation, association, *person*, or *person*s, and serving as the temporary abode of *person*s having a residence elsewhere and offering both pre- and post-arrival concierge service. The use and occupancy of the units circulates among individuals on a periodically recurring basis and is inherently transient.

Private Harvesting: The *cut*ting and removal of *tree*s for *person*al use.

Private Road: A way for vehicular traffic maintained by private property owners using it.

Professional Offices: Offices for doctors, dentists, attorneys, engineers, land surveyors, counselors, and similar uses as determined by the *Department*.

Project Approvals: The approval of *development*, other than *development* by a State or local government agency, in the Chesapeake Bay *Critical Area* by the appropriate local approval authority. The term includes approval of *subdivision* plats and *site plan*s; inclusion of areas within floating zones; issuance of *variance*s, special exceptions, and conditional use permits; and issuance of zoning permits. The term does not include *building* permits.

Protected Lands: A Maryland Agricultural Land Preservation Foundation (MALPF) district or any other *agricultural* or *conservation easement*, both public and private.

Public Landing: Areas adjacent to the waters of Kent County and owned by the Kent County Commissioners for use by the public for water related activities, subject to rules and *regulations* as may be promulgated by the Kent County Commissioners.

Public Utilities: Uses or *structures* for the public provision, transmission, and distribution of electricity (but not power generation); fuel transmission and distribution (but not manufacture or storage) of gas; potable water treatment and distribution; sewerage collection and treatment; telephone and internet service facilities (not including stations or terminals). This does not include *public utility lines and accessory structures*.

Public Utility Lines and Accessory structures: Underground gas mains and pipes and underground and overhead electrical and communications wires, cables, pipes, conduits, and their supporting poles, towers, repeaters, boosters, anodes, regulating and measuring devices, and the minor *buildings* or *structures* in which they may be housed, but not including major *buildings*, *yard*s, stations, or substations for transforming, boosting, switching, or pumping purposes, where such facilities are constructed on the ground.

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

Recharge Volume: That portion of the *water quality volume* used to maintain ground water recharge rates at *development sites*. Methods for calculating the *recharge volume* are specified in the *De*sign *Manual*.

Reclamation: The reasonable rehabilitation of disturbed land for useful purposes, and the protection of natural resources of adjacent areas, including water bodies.

Recreational Vehicle: A vehicular, portable device, not more than 45 feet in length, built on a chassis designed to be self-propelled or permanently towable by a light duty truck, and used as a temporary *dwelling* for travel or recreational purposes.

Redevelopment: For *stormwater management* purposes: Any construction, *alteration*, or improvement on *sites* where existing land use is commercial, industrial, institutional, or multi-*family* residential and existing *site* impervious area exceeds forty (40) percent. For *Critical Area* purposes: The process of developing land, which is or has been developed.

Reforestation: The establishment of a *forest* through artificial reproduction or *natural regeneration* and including for *forest conservation* purposes: (1) The creation of a biological community dominated by *tree*s and other woody plants containing at least one hundred live *tree*s per acre with at least 50 percent of those *tree*s having the potential of obtaining a two-inch or greater diameter measured at 4.5 feet above the ground within seven years. (2) Establishment of a *forest* according to the *Forest Conservation Technical Manual*. (3) Landscaping of areas under an approved *landscape plan* establishing a *forest* at least 35 feet wide and covering an area of 2,500 square feet or more. (4) For a *linear project* involving overhead transmission lines, it may consist of a biological community dominated by *tree*s and woody shrubs with no minimum height or diameter criteria.

Regulated Activity: For application of *forest conservation* outside of the *Critical Area*, any of the following activities when that activity occurs on a unit of land which is 40,000 square feet or greater: (1) *Subdivision*; (2) *Grading*; (3) An activity that requires a *sediment control permit*; or (4) Project plan of a State or local agency.

Regulated Grading: Any *grading* performed with the approval of, and in accordance with, criteria established by this Ordinance.

Regulations: The whole body of *regulations*, text, charts, diagrams, notations, and references contained in or referred to in this Ordinance.

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

Resort: A self-contained facility that serves as a primary attraction for visitors which provides recreational and/ or therapeutic facilities. A *resort* may also include meeting facilities.

Resource Banking: The restoration, creation, enhancement, and in certain defined circumstances, preservation of a natural resource such as *wetlands* or *forest* for the express purpose of compensating for the loss of the natural resource.

Responsible Personnel: Any foreman, superintendent, or project *engineer* who is in charge of on-*site clearing* and *grading* operations or the implementation and maintenance of an *erosion and sediment control plan*.

Restaurant: An establishment that serves food and beverages primarily to customers seated at tables or counters in a *building* or designated outdoor seating areas and may include drive through service, when such service are listed as being permitted in a zoning district. This includes cafes, tearooms, and snack bars.

Retail businesses, including *shopping centers*, are businesses which supply, on the premises, household goods, new automotive parts, agricultural supplies and commodities, sporting goods, and the like including department, outlet, and discount stores.

Retention: In *forest conservation*, the deliberate holding and protection of existing *tree*s, shrubs, or plants on the *site* according to established standards as provided in the Kent County *Forest Conservation Technical Manual*.

Retention Structure: A permanent *structure* that provides for the storage of runoff by means of a permanent pool of water.

Retreat: A small meeting facility in a private, natural area, free from distractions thus allowing meeting participants to focus on the goals and objectives of the meeting.

Retrofitting: The implementation of *ESD* practices, the construction of structural *BMPs*, or the modification of an existing structural *BMP* in a previously developed area to improve water quality over current conditions.

Right-of-way: A strip of land occupied or intended to be occupied by a *street*, *crosswalk*, railroad, road, electrical transmission line, gas pipeline, water main, sanitary or storm sewer main, shade *tree*s, or for another special purpose.

Riparian Habitat: A habitat that is strongly influenced by water and which occurs adjacent to streams, shorelines, and *wetlands*.

Roads: Collector, Primary, and Secondary: As shown on the County's *Road Classification System* map in the Kent County Comprehensive Plan or Town's *Major Thoroughfare* Map (See Comprehensive Plan https://www.kentcounty.com/planning/compplan).

Roadside Stand: A *structure* designed or used for the display or sale of local agricultural products.

Roadway: That portion of a *street* or highway available for and intended for use by motor vehicle traffic.

Rooming House: A *building* where, for compensation and by prearrangement for definite periods, lodging, meals, or lodging and meals are provided for three or more *person*s but containing no more than five guest rooms or r*ental units that* intended for rental to transients on a day to day or week to week basis, but are not intended for use or used as a permanent *dwelling*, and where individual units do not include kitchen facilities.

Rural Inn: A facility with 10 to 25 guest rooms that are not for use as permanent residences, with on-site management for the purpose of providing overnight lodging to the general public for transient stays of 45 consecutive days or less for compensation and only by prearrangement, and at which limited dining facilities may also be offered for guests and the general public.

Sanitary Landfill: A land disposal *site* employing an *engineer*ing method of disposing of solid waste on land in a manner that minimizes environmental hazards by spreading the solid waste to the smallest practical volume and applying and compacting cover at the end of each operating day or more often if required.

Sawmill: A facility where logs or partially processed cants (logs slabbed on one or more sides) are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products (but not paper or paper products) not including the processing of timber for use on the same *lot* by the owner or resident of that *lot*.

Screen: A *structure* or planting consisting of fencing, *berms*, and/or deciduous or coniferous *tree*s or shrubs providing a continuous view obstruction within a *site* or property.

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

Secondary Road: *Secondary roads* are identified on the Kent County *Road Classification System* map in the Kent County Comprehensive Plan (see the adopted Kent County Comprehensive Plan: https://www.kentcounty.com/planning/compplan). or *roads* so designated by an incorporated Town.

Sediment: *Soils* or other surficial materials transported or depos*ite*d by the action of wind, water, or artificial means.

Sediment Control Officer: Kent County Planning Director or the Director's designee or the District Manager of the Kent Soil and Water Conservation District (KSWCD).

Sediment Control Permit: The authorization of an activity regulated under a *sediment* control plan as provided in the Md. Code Ann., Environment, Title 4.

Seedlings: An unbranched woody plant, less than 24 inches in height and having a diameter of less than ½ inch measured at two inches above the root collar.

Selection: In the *Critical Area*, the removal of single, scattered, mature *tree*s or other *tree*s from uneven-aged stands by frequent and periodic *cut*ting operations.

Selective Clearing: The careful and planned removal of *tree*s, shrubs, and plants using specific standards and protection measures under an approved *Forest Conservation Plan*.

Servants' Quarters: Living quarters within a portion of the main *building* or in an accessory *building* on the same *lot* with the main *building* used for servants employed on the *premises*, such quarters having no kitchen facilities or separate utility meters, and not rented or otherwise used as a separated *dwelling*.

Setback: The distance between the *street right of way* and the line of a *building* or any projection thereof.

Sewage Sludge: The accumulated semi-liquid or dried solid residue that is depo*site*d from sewage or septage in a wastewater treatment plant, as defined in the COMAR *regulations*.

Sewage Sludge Land Application: The deposition of *sewage sludge* on the surface or the injection or incorporation of such material into the root zone or *soil* profile.

Shadow Flicker: The moving shadow created by the sun shining on rotating blades of the wind turbine.

Shopping Center: An integrated *development* of four or more commercial, retail, or service establishments, either connected or freestanding sharing common parking facilities and common access.

Shoreline Cliff: A steep face of 10 feet or higher with a *slope* in excess of 60 degrees either vegetated or non-vegetated which borders the Chesapeake Bay, the Chester River, the Sassafras River, or any open water tributary within Kent County.

Sign: See Article V for all sign-related definitions.

Sign*ificantly Eroding Areas*: Areas that erode 2 feet or more per year.

Site: Any *tract*, *lot*, or parcel of land or combination of tracts, *lot*s, or parcels of land which are under one ownership, or are contiguous and in diverse ownership where *development* is to be performed as a part of a unit, *subdivision*, or project.

Site Development Plan: For *erosion and sediment control* and *stormwater management* purposes: The second of three plan approvals that include the information necessary to allow a detailed evaluation of a proposed project.

Site Plan: A drawing illustrating a proposed *development* and prepared in accordance with the specifications of Article IV.

Site Plan, Major: A *site plan* which is reviewed and decided upon by the Kent County *Planning Commission*. This includes all *site plans* required by this Ordinance that do not meet the criteria for *plot plans* or *minor site plans*.

Site Plan, Minor: A *site plan* which is reviewed and decided upon by the Planning Director, or the Planning Director's designee, after review by the Technical Advisory Committee.

Slip: That area of the *waterway* contained within the tie-out pilings, a bulkhead, or a *pier*, whether covered or not.

Slope: The inclined exposed surface of fill, *excavation*, or natural terrain.

Soil: All earth material of whatever origin that overlies bedrock, and including, but not limited to, the decomposed zone of bedrock which can be readily excavated by mechanical equipment.

Soil Conservation and Water Quality Plans: In the *Critical Area*, land use plans for *farm*s, which show *farm*ers how to make the best possible use of their *soil* and water resources while protecting and conserving those resources for the future. It is a document containing a map and related plans that indicate: (1) How the landowner plans to treat a *farm* unit; (2) Which *best management practices* the landowner plans to install to treat undesirable conditions; and (3) The schedule for applying those *best management practices*.

Solar Energy System, utility scale: Any device or combination of devices or elements which rely upon direct sunlight as an energy source, including but not limited to any substance or device which collects sunlight for generating energy primarily for use *off-site*. Energy generated may be used to serve on *site* power needs.

Solar Energy System, small: Any device or combination or devices or elements which rely upon direct sunlight as an energy source, including but not limited to any substance or device which collects sunlight for generating energy for use on *site*. The energy output may also be delivered to a power grid to offset the cost of energy on *site*, as well as aggregate metering as defined by the State of Maryland.

Special Flood Hazard Area (*SFHA*): The land in the *floodplain* subject to a one percent or greater chance of *flood*ing in any given year. *Special Flood Hazard Area*s are designated by the Federal Emergency Management Agency in *Flood Insurance Studies* and on *Flood Insurance Rate Maps* as Zones A, AE, AH, AO, A1-30, and A99, and Zones VE and V1-30. The term includes areas shown on other *flood* maps that are identified in Article VI.

Species in Need of Conservation: Those fish, plants, and wildlife whose continued existence as part of the State's resources are in question and which may be designated by regulation by the Secretary of Natural Resources as in need of conservation pursuant to the requirements of Md. Code Ann., Natural Resources, §10-2A-06, among others.

Stabilization: The protection of exposed *soil*s from *erosion* by the application of seed and mulch, seed and matting, sod, other vegetative measures, and/or structural means.

Stable, Private: An accessory *building*, not related to the ordinary operation of a *farm*, for the housing of not more than four horses or mules owned by a *person* or *person*s living on the *premises* and which horses or mules are not for hire or sale.

Stable Commercial: Any stable for the housing of horses or mules, operated for remuneration, hire, sale, or stabling, or any stable not related to the ordinary operation of a *farm*, with the capacity for more than four horses or mules, whether or not such stable is operated for remuneration, hire, sale, or stabling.

Standards and Specification: The "2011 Maryland *Standards and Specification* from *Soil Erosion and Sediment Control*" or any subsequent revisions.

Start of Construction: For *floodplain* management, the date of issue of the *building* permit for any *development*, including *new construction* and *substantial improvements*, provided that the actual start of the construction or improvement was within 180 days of permit issuance. The actual *start of construction* is the placement of slab or footings, piles, columns, or actual placement of a *manufactured home*. For *substantial improvement*, the *start of construction* is the first *alteration* of any structural part of the *building*.

Steep Slopes: *Slopes* of 15% or greater incline.

Stormwater: Water that originates from a precipitation event.

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

Stormwater Management Plan: A set of drawings or other documents submitted by a *person* as a prerequi*site* to obtain *stormwater management* approval, which contains all of the information and specifications pertaining to *stormwater management*.

Stormwater Management System: Natural areas, *ESD* practices, *stormwater management* measures, and any other *structure* through which *stormwater* flows, infiltrates, or discharges from a *site*.

Stream Protection Corridor: A 100-foot naturally vegetated area or an area established in vegetation and managed to protect aquatic environments, *wetlands*, shoreline, and terrestrial environments from man-made disturbances. The *stream protection corridor* will be 100 feet and will be measured horizontally from the top of each normal bank of a *perennial* or *intermittent stream*.

Stream Restoration Project: an activity that: (1) Is designed to stabilize stream banks or enhance stream function or habitat located within an existing stream, *waterway*, or *floodplain*; (2) Avoids and minimizes impacts to *forest*s and provides for replanting *on-site* an equivalent number of *tree*s to the number removed by the project; (3) May be

performed under a separate storm sewer system permit, a *watershed* implementation plan growth offset, or another plan administered by the State or County to achieve or maintain water quality standards; and (4) Is not performed to satisfy *stormwater management*, *wetlands* mitigation, or any other regulatory requirement associated with proposed *development* activity.

Street: A public or private thoroughfare which affords the principal means of access to abutting property.

Street Line: A dividing line separating a *lot*, *tract*, or parcel of land and a contiguous *street*.

Story: That portion of a *building*, other than a *basement*, including between the surface of any floor and the surface of the floor next above it; or if no floor next above it exists, then the space between such floors and the ceiling next above it.

Stripping: Any activity which removes the vegetative surface cover, including *tree* removal, *clearing*, grubbing, and storage or removal of topsoil.

Structural Alteration: Any change in the supporting members of a *building*, footings, bearing walls or petitions, columns, beams, girders, or any substantial change in the roof or exterior walls, excepting such repair as may be required for the safety of the *building*.

Structural Rock Fills: Fills constructed predominately of rock materials for the purpose of supporting *structures*.

Structure: Anything constructed or erected, the use of which requires a more or less permanent location on the ground or attached to something having a permanent location on the ground, including but not limited to *mobile homes*, *swimming pools*, fences with footers or a foundation, gas and liquid storage tanks, backstops for tennis courts, sheds, barns, and pergolas, excluding slabs, driveways, and walkways outside the Critical Area.

Subdivider: Any *person*, individual, *firm*, partnership, association, corporation, estate, trust, or any other group or combination, acting as a unit, dividing or proposing to divide land so as to constitute a *subdivision* as defined below and including any agent of the *subdivider*.

Subdivision: The division of a *lot*, *tract*, or parcel of land into two or more *lot*s, parcels, *sites*, or other divisions of land. It includes re*subdivision* and when appropriate to the context, will refer to the process of subdividing or the land subdivided. *Subdivision*s will be classified into one of the following: (1) Major *Subdivision:* Any *subdivision* containing eight or more *lot*s, parcels, *sites*, or other divisions of land. (2) Minor *Subdivision:* Any *subdivision* containing seven or fewer *lot*s, parcels, *sites*, or other divisions of land. (3) Adjustment of *Lot lines:* Adjustment of *lot lines* between adjoining property owners.

Substantial Damage: Damage of any origin sustained by a *structure* whereby the cost of restoring the *structure* to its before damage condition would equal or exceed 50% of the market value of the *structure* before the damage occurred.

Substantial Improvement: Any repair, reconstruction, or improvement of a *structure*, the cost of which equals or exceeds 50% of the market value of the *structure* (without any land

value included) either before the improvement or repair is started; or if the *structure* has incurred *substantial damage* and been restored, before the damage occurred. *Substantial improvement* occurs when the first *alteration* of any wall, ceiling, floor, or other structural part of the *building* commences. The minimum repairs needed to correct previously identified *violation*s of local health, safety, or sanitary codes, and *alterations* to *historic structures* which do not preclude their continued designation as *historic structures* are not considered *substantial improvements*. In *floodway* and *coastal high hazard areas*, permits will be tracked by property locations to determine if the cumulative value of improvements constitute *substantial improvement* of a *structure*.

Surface Mining: (1a) The breaking of the surface *soil* in order to extract or remove minerals. (1b) Any activity or process constituting all or part of a process for the extraction or removal of minerals from their original location; (1c) The extraction of sand, gravel, rock, stone, earth, or *fill* from borrow pits for highway construction purposes or other public facilities. (2) For the purpose of this Ordinance, *surface mining* includes: (2a) Operations engaged in processing minerals at the *site* of *excavation*; (2b) Removal of *overburden* and mining of limited amounts of any mineral when done for the purpose of prospecting and to the extent necessary to determine the location, quantity, or quality of any natural deposit; and (2c) Mining operations, if the affected land exceeds one acre or more in area.

Swimming Pool: Any portable pool or permanent *structure* containing a body of water 42 inches or more in depth and 250 square feet or more of water surface area, intended for recreational purposes, including a wading pool but not including an ornamental reflecting pool or fishpond or any other type of pool, located and designed so as not to create a hazard or be used for swimming or wading.

Technical Advisory Committee (TAC): A committee organized to review and comment on *subdivision* and other *development* proposals. TAC consists of the following types of agencies and their designated representatives: Planning and Zoning, Public Works, Environmental Health, State Highway Administration, State *Forest*er, , and representatives of other agencies and utilities concerned with *development* or *subdivision* review.

Tenant: An occupant of land or *premises* who occupies, uses, and enjoys real property for a fixed time, usually through a lease arrangement with the property owners.

Tenant House: A *farm dwelling*, other than the main *farm*house, for occupancy by a *person* or *family* associated with the agricultural endeavors on the *farm* or by a member of the property owner's immediate *family*.

Thinning: A *forest practice* used to accelerate the growth of quality *tree*s in the shortest interval of time.

Tidal Wetland: Defined as State and private *wetlands* by the State of Maryland in Md. Code Ann., Natural Resources, Title 9.

Timber Harvesting: a *tree-cut*ting operation affecting 1 or more acres of *forest* or *developed woodland* within a 1-year interval that disturbs 5,000 square feet or more of *forest* floor. It does not include grubbing and *clearing* of root mass.

Topography: The existing configuration of the earth's surface including the relative relief, elevation, and position of land features.

Townhouse: A *single family dwelling* forming one of a group or series of three or more attached *single-family dwellings* separated from one another by party walls without doors, windows, or other provisions for human visibility.

Tract: Property or unit of land subject to an application for a *grading* or *sediment control permit*, *subdivision* approval, project plan approval, or areas subject to this Ordinance.

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

Transportation Facilities: Anything that is built, installed, or established to provide a means of transport from one place to another.

Tree: A large, branched woody plant having one or several self-supporting stems or trunks that reach a height of at least twenty feet at maturity.

Tributary Streams: Those *perennial* and *intermittent steams* that are so noted on the most recent U.S. Geological Survey 7.5-minute topographic quadrangle maps, or on more detailed maps or studies used at the discretion of Kent County.

Truck Stop: An independent facility catering predominantly to tractor trailers and other large highway vehicles in which highway services such as fuel, food, repair, and similar items are provided.

Truck Terminal: A facility where truck transport goods are transferred, or stored pending transfer, and which may include truck dispatching, parking, and servicing. The terminal cannot be used for permanent or long-term storage of goods.

Unwarranted Hardship: Within the *Critical Area*, without a *variance*, an *applicant* would be denied reasonable and significant use of the entire parcel or *lot* for which the *variance* is requested.

Utility Transmission Facilities: Fixed *structures* that convey or distribute resources, waste, or both, including, but not limited to electrical lines, water conduits, and sewer lines.

Variance: The grant of relief from a term or terms of this Ordinance. For *stormwater management* purposes: The modification of the minimum *stormwater management* requirements for specific circumstances such that strict adherence to the requirements would result in unnecessary hardship and not fulfill the intent of this Ordinance.

Violation: For *floodplain* purposes: Any construction or *development* in a *Special Flood Hazard Area* that is being performed without an issued permit. The failure of a *building*, *structure*, or other *development* for which a permit is issued to be fully compliant with

these *regulations* and the conditions of the issued permit. A *building*, *structure*, or other *development* without the required design *certification*s, the *Elevation Certificate*, or other evidence of compliance required is presumed to be a *violation* until such time as the required documentation is provided.

Waiver: For *Stormwater Management* Purposes: The relinquishment from *stormwater management* requirements by Kent County for a specific *development* on a case-by-case review basis: (1) "Qualitative *stormwater management waiver*" includes *water quality volume* and *recharge volume* design parameters. (2) "Quantitative *stormwater management waiver*" includes *channel protection storage volume*, *overbank flood protection volume*, and *extreme flood volume* design parameter.

Wash Plant: A facility where sand and gravel are washed during processing.

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

Water Quality Volume: The volume of water needed to capture and treat the runoff from 90% of the average annual runoff volume at a *development site*. Methods for calculating the *water quality volume* are specified in the *De*sign *Manual*.

Water Use Industry: An industry that requires location near the shoreline because it utilizes surface waters for cooling or other internal purposes.

Watercourse and/or Drainageway: Any natural or artificial *watercourse* (including, but not limited to streams, rivers, creeks, ditches, *channel*s, canals, conduits, culverts, drains, *waterways*, gullies, ravines, or washes) in which waters flow in a definite direction or course, either continuously or intermittently; and including any area adjacent thereto which is subject to inundation by reason of overflow or *flood*waters.

Water-Dependent Facilities: Those *structures* or works associated with industrial, maritime, recreational, educational, or *fisheries activities* that require location at or near the shoreline within the *buffer*. An activity is water dependent if it cannot exist outside the *buffer* and is dependent on the water by reason on the intrinsic nature of its operation. These activities include, but are not limited to, ports, the intake and outfall *structures* of power plants, water use industries, *marina*s and other boat docking *structures*, public beaches and other *public water-oriented recreation* areas, and *fisheries activities*.

Waterfowl: Birds which frequent and often swim in water, nest, and raise their young near water, and derive at least part of their food from aquatic plants and animals.

Watershed: The total *drainage area* contributing runoff to a single point. For *forest conservation* purposes all land lying within an area described as a sub-basin in water quality *regulations* adopted by the Department of the Environment under COMAR 26.08.02.08.

Waterway: Any body of water, including any creek, canal, river, lake, or bay.

Waterway Line: A line marking the normal division between land and a *waterway* as established by the *Department*.

Waterway, Width Measurement: The measurement is made at the shoreline location of the *pier* and the narrowest width of the *waterway* from that point including consideration of data and information available from State of Maryland and Army Corps of Engineers.

Wetlands: See "*tidal wetlands*" and "*non-tidal wetlands*".

Whip: An unbranched woody plant greater than twenty-four inches in height and having a diameter of less than one inch measured at two inches above the root collar.

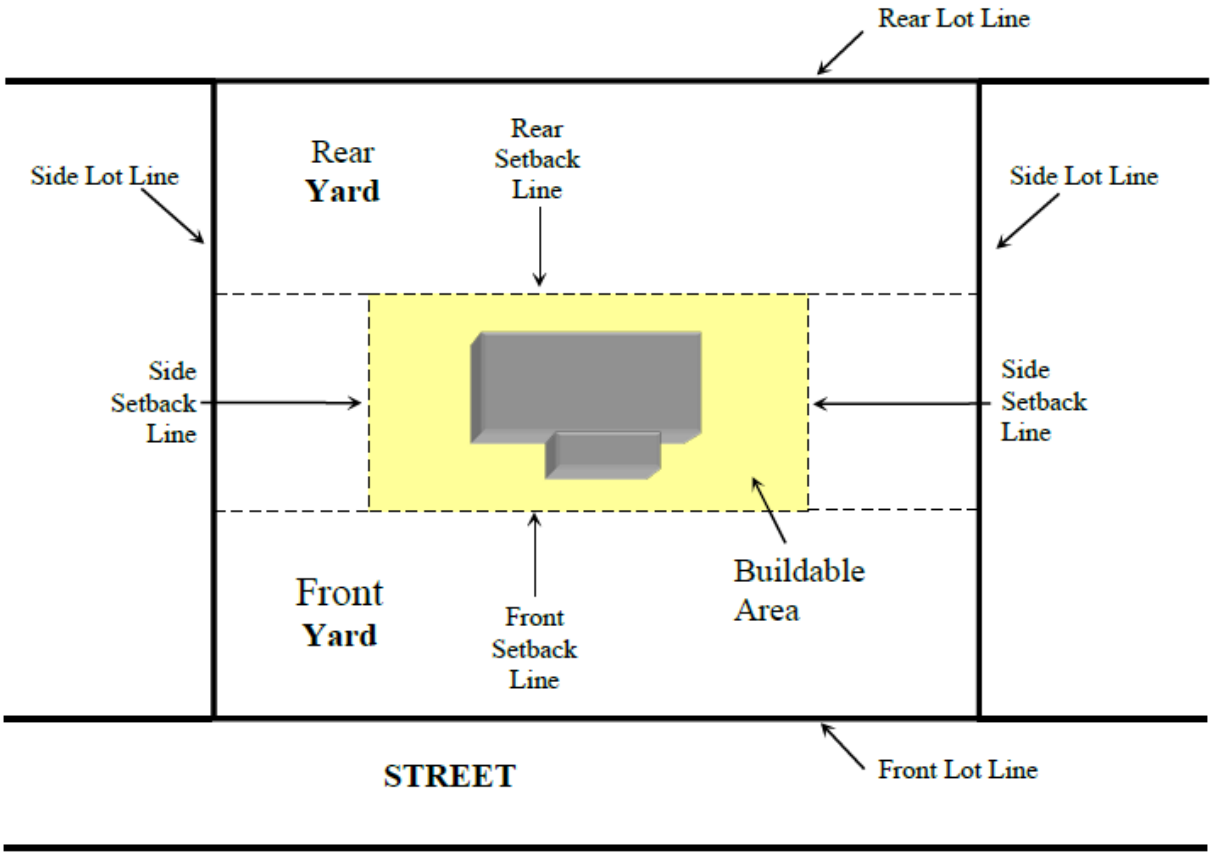
Wildlife Corridor: A strip of land having vegetation that provides habitat and a safe passageway for wildlife.

Wildlife Habitat: Those plant communities and *physiographic features* that provide food, water, cover, nesting, foraging, and feeding conditions necessary to maintain populations of animals.

Wind Energy System, small: A wind turbine mounted on a free-standing wind tower or *building* for the purpose of generating energy for use on *site* and not for sale and includes windmills that are used for pumping water or other purposes. However, the energy output may be delivered to a power grid to offset the cost of energy on *site*.

Yacht Club: A *yacht club* for the purposes of this Ordinance is considered to be a *marina*.

Yard: An *open space* other than a court, on a *lot*, and unoccupied and unobstructed from the ground upward, except as otherwise provided in this Ordinance.



Yard, Front: A *yard* extending across the front of a *lot* between the side *lot lines* and being the minimum horizontal distance between the *street line* and the required *front yard* line. (See diagram above.)

On *corner lots*, the *front yard* will be considered as one of the following: (a) the yard parallel to the *street* upon which the *lot* has its least dimension, or (b) the yard that abuts the primary access to the primary residential building, or (c) the yard parallel to the address street, as determined by the *Department*, except for waterfront *lot*s.

For waterfront properties, the front yard is that part of the *yard* extending across a *lot* between the side *lot lines* and being the minimum horizontal distance from the water and the main *building*. The front yard is determined by the location of the main building. In the absence of a building on, the front yard is considered to be the 100-foot buffer.

Yard, Rear: A *yard* extending across the rear of the *lot* between the side *lot lines* and measured between the rear *lot line* and the required rear yard setback.

Yard, Side: A *yard* extending from the *front yard* to the *rear yard* and being the minimum horizontal distance between the side lot line and the required side yard setback.

Procedures For Public Comment
8/1/2023
County Commissioners Meeting

ATTACHMENTS:

Description

08.01.23 Melinda Bookwalter Written Testimony re Code Home Rule

Public Comment Sign in Sheet

Press and Public Comments

Read & turn in...

Melinda Bookwalter
31638 W Edge Rd
Millington, MD 21651

August 1, 2023

Good evening, Commissioners,

MB: ~~Thank you for your time and allowing me to speak.~~

I am addressing the public notice of the Code Home Rule height legislation adopted July 18. Commissioner Albertson voted against the height increase for industrial buildings in the 301 Corridor, Commissioner Price and Commissioner Fithian voted for the height increase.

Thank you, Commissioner Price, for talking and meeting with several of us and then expressing our concerns at the Commissioners meeting on July 18. You spoke of our concerns regarding maintenance of county roads, traffic issues, access from route 301, berms, landscaping, possible sound barrier.

You put these concerns in the form of a "directive for County staff to address and assure that the appropriate measures are implemented to a satisfactory level".

That's all well and good.

However, these concerns and the language to address them, along with actions to be taken, are merely verbalizations which are not codified in writing in either the newly revised Land Use Plan or the Comprehensive Plan. Therefore, there is no legal bound by which to hold developers accountable for implementation.

Without legal accountability, there are no guard rails.

MB: you

We can ASK that developers commit to reasonable cost sharing of maintenance of county roads, address traffic issues, access from 301, berms, landscaping, possible sound barrier etc. as directed by Commissioner Price. But we cannot DEMAND by law because, again, it is NOT codified.

There are other infrastructure costs that will tax our county budget: police, fire, environment (btw, most Chester River testing spots fail the safe swimming bacteria count).

Precedent will be set with the building of these first two distribution centers bordering Mills Branch. There are four bigger plots, one on the west side of 301 and three on the east side of 301 that fall into the newly adopted 60-foot height.

MB: you

We can ASK them too.

MB: Thank you, for your time + allowing me to speak.

Melinda Bookwalter
swain2@verizon.net
410-708-3601

08/01/23
rec'd S. Bachus

PUBLIC COMMENTS
SIGN IN SHEET
August 1, 2023

NAME **(please print)**	ADDRESS	TOPIC
Melinda Bookwalter	31638 W Edge Road Millington, MD 21651	CHR 2-2023 Adoption-Industrial Structures in 301 Corridor

Press and Public Comments

Time is allotted at the beginning and end of each meeting for the Commissioners to receive comments from the public. Anyone interested in speaking must sign up on the provided The Public Comment sign-up sheet is located on the table inside the meeting room.

The President of the Board will call the names of the listed individuals when it is time to speak. When making comments, individuals are asked to speak slowly, clearly, and concisely. Precede all comments with your name and address and speak only on the subject under discussion.

Comments in writing are welcomed and should be given to the staff after your presentation. Any person making personal, impertinent, or slanderous remarks, or whose speech or actions become disruptive, will be asked to leave the meeting.

Interested parties may address the Commissioners in writing at any time about any matter pertaining to County business. Written statements can be hand-delivered or mailed to:

The County Commissioners of Kent County, Maryland
400 High Street
Chestertown, MD 21620

American Rescue Plan Act (ARPA) Funds Spend Plan
8/1/2023
County Commissioners Meeting

ATTACHMENTS:

Description

7-25-2023 ARPA Fund Commissioner Report

AMERICAN RESCUE PLAN ACT FUND
AS OF COMMISSIONER MEETING MINUTES DATED
7/25/2023

Project	Department	Project Estimate	Date Approved	Amount Approved	Date Completed
Feed the Elderly Year 1	Local Management Board	112,800	08/31/21	112,800	
Feed the Elderly Year 2 and 3	Local Management Board	204,115	03/08/22	204,115	
Clariflocculator Replacement Project	Water & Wastewater Fund	275,000	08/31/21	275,000	6/28/2022
Clariflocculator Replacement Project Change Order #1		2,817	01/11/22	2,817	6/28/2022
Clariflocculator Replacement Project Change Order #2		90,642	01/11/22	90,642	11/23/2022
AV System	Information Technology	71,254	10/26/21	71,254	
IT Software	Information Technology	27,095	10/26/21	27,095	
Neighborhood & Infrastructure Grants	Information Technology	258,402	12/14/21	258,402	
A/V Equipment in EOC	Emergency Operation Center	14,087	02/01/22	14,087	
SCADA Pump Station Monitoring	Water & Wastewater Fund	110,065	02/08/22	110,065	
Millington/RT301 Wastewater Treatment Feasibility Study	Water & Wastewater Fund	57,500	02/08/22	57,500	
Millington/RT301 Wastewater Conveyance System Capacity Study		9,500	09/27/22	9,500	
Tolchester Wastewater-Design Services Influent Screen	Water & Wastewater Fund	52,910	02/08/22	52,910	
Tolchester Wastewater - Bid Services and Const. Management		35,735	09/27/22	35,735	
Tolchester Wastewater Influent Screen Construction		600,914	04/25/23	600,914	
Worton WWTP Influent Lagoon Engineer Design & Bid Services	Water & Wastewater Fund	32,981	03/22/22	32,981	
Worton WWTP Influent Lagoon Engineer Const. Management		43,736	03/08/23	43,736	
Worton WWTP Lagoon Sludge Removal Contract		1,400,500	12/13/22	1,400,500	
Worton WWTP Lagoon Sludge Removal Contract Change Order #1		30,000	06/13/23	30,000	
Kennedyville Pump Station #2 Relocation Design	Water & Wastewater Fund	52,338	09/27/22	52,338	
Kennedyville Pump Station #2 Relocation Const. Management		*Deferred*			
Kennedyville Pump Station #2 Construction		*Deferred*			
Worton/Kennedyville GIS Water and Sewer Facilities Mapping	Water & Wastewater Fund	75,770	09/27/22	75,770	
Worton Vehicle Storage Building & site prep/lighting/heat	Water & Wastewater Fund	40,000	10/25/22	40,000	
Worton WWTP Solids Press Replacement Design	Water & Wastewater Fund	*40,000.00*			
Worton WWTP Solids Press Replacement Construction Management		*20,000.00*			
Worton WWTP Solids Press Replacement		*250,000.00*			
Total Amount of Funds Committed		$ 3,908,161		$ 3,598,161	
Amount of ARPA Funds		3,766,777		3,766,777	
Balance of ARPA Funds Remaining		$ (141,384)		$ 168,616	

Contingency and Use of Fund Balance Report
8/1/2023
County Commissioners Meeting

ATTACHMENTS:

Description

7-25-2023 Commissioner Report Contingency

FY24 CONTINGENCY & USE OF FUND BALANCE
AS OF COMMISSIONERS MEETING MINUTES DATED
July 25, 2023

CONTINGENCY

DATE APPROVED	DEPARTMENT	AMOUNT APPROVED	DESCRIPTION
7/25/23	Buildings and Grounds-Government Center I	$ 53,522	Cornice and fascia repair to the Kent County Government Center Building (400 High Street)
7/25/23	Buildings and Grounds-Courthouse	23,945	Replacement of (2) Packaged Terminal Air Conditioner Units within Jury Assignment Office
		-	
		-	
		-

Shelley Heller, County Administrator
8/1/2023
County Commissioners Meeting

Item Summary:
Personnel
The meeting was closed under the Annotated Code of Maryland, General Provisions Article § 3-305(b) (1) To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; or any other personnel matter that affects one or more specific individuals.