COUNCIL OF THE TOWN OF INDIAN HEAD

Ordinance No. 12-01-23

Introduced by:	**Mayor & Council**
Date Introduced:	**December 4, 2023**
Planning Commission Hearing:	**October 18, 2023**
Town Council Hearing:	**December 4, 2023**
Amendments Adopted:	**None**
Date Adopted:	**January 8, 2024**
Date Effective:	**January 28, 2024**

AN ORDINANCE concerning

ZONING ORDINANCE

FOR the purpose repealing the Town's existing Zoning Ordinance and adopting a new Zoning Ordinance for the Town of Indian Head.

SECTION 1. BE IT ENACTED BY THE COUNCIL OF THE TOWN OF INDIAN HEAD that the Town's existing Zoning Ordinance is hereby repealed and a new Zoning Ordinance consisting of the "Town of Indian Head Zoning Ordinance June 2023", a copy of which is attached to this Ordinance as Exhibit A and incorporated by reference, is hereby adopted as the Zoning Ordinance for the Town of Indian Head. A true and accurate copy of the Zoning Ordinance adopted by this Ordinance shall be kept on file in the office of the Town Clerk.

SECTION 2. AND BE IT FURTHER ENACTED that this Ordinance shall become effective at the expiration of twenty (20) calendar days after its approval by the Council.

INDIAN HEAD TOWN COUNCIL

Brandon Paulin, Mayor

Ron Sitoula, Vice Mayor

Cassandra Grumbine, Councilwoman

ATTEST:

Andrea Brady, Town Clerk

Date: 1/8/24

Exhibit A

Town of Indian Head Zoning Ordinance June 2023

Town of Indian Head
Zoning Ordinance
June 2023



Town of Indian Head, Maryland Zoning Ordinance

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ARTICLE I GENERAL PROVISIONS

Section 100. Short Title

This Chapter shall be known, cited, and referred to as the Town of Indian Head Zoning Chapter.

Section 101. Intent/Authority

(a) This Chapter is intended to promote the orderly development of the Town of Indian Head, Maryland, in accordance with the Official Comprehensive Land Use Plan or any of the component parts thereof and in compliance with the Land Use Article of the Annotated Code of Maryland as amended. This Chapter is also intended to implement the requirements of the Maryland Economic Growth, Resource Protection and Planning Act of 1992 and to regulate the use of land in the Chesapeake Bay Critical Area in accordance with COMAR 27.01.01 - 27.01.11. It is also the intent of this Chapter that the extent of its applicability shall be automatically changed in accordance with the provisions hereof or with any provision of State Law which may hereinafter affect the applicability of this Chapter.

(b) The purpose of this Chapter is to implement the Comprehensive Land Use Plan for the Town of Indian Head and to promote the health, safety, order, convenience and general welfare of the citizens of the Town in accordance with present and future needs. It is the further purpose of this Chapter to provide for economic and efficient land development, encourage the most appropriate use of land, provide for convenient and safe movement of people and goods, control the distribution and density of population to areas where necessary public service can be provided, protect historic and environmental areas, protect water quality and promote habitat protection in the portions of Town located in the Chesapeake Bay Critical Area, encourage good civic design, and provide for adequate public utilities, facilities and services.

(c) The Zoning Map for the Town of Indian Head, Maryland, on file in Indian Head Town Hall, is hereby adopted as the official zoning map for the Town of Indian Head.

Section 102. Jurisdiction

This Chapter shall be effective throughout the corporate boundaries of the Town. Such planning jurisdiction may be modified from time to time in accordance with the Land Use Article of the Annotated Code of Maryland.

Section 103. Interpretation

(a) The regulations set by this Chapter within each district shall be held to be the minimum requirements for the promotion and protection of the public health, safety, morals, comfort, convenience, prosperity, environment and natural resources, and general welfare, and shall apply uniformly to each class or kind of structure or land except as hereinafter provided.

(b) It is not the intent of this Chapter to repeal, abrogate, annul, or in any way impair or interfere with any existing provisions of law, chapter or resolution, or with any rules, regulations, or permits previously adopted or issued, or which shall be adopted or issued pursuant to law relating the use of buildings or premises, or with any private restrictions placed upon property by covenant, deed, or recorded plat. Where this Chapter imposes a greater restriction upon the use of buildings or premises or upon the heights or buildings or requires greater lot areas, larger yards, or other open spaces than are imposed or required by such existing provisions of law, chapter, or resolution, or by such rules, regulations, or permits, or by such private restrictions, the provisions of this Chapter shall control.

(c) Whenever these regulations, subdivision plats, or development plans approved in conformance with these regulations, are in conflict with other local chapters, regulations, or laws, the more restrictive chapter, regulation, law, plat, or plan shall govern and shall be enforced by appropriate local agencies. When subdivision and development plans, approved by the Planning Commission, contain setback or other features in excess of the minimum Chapter requirements, such features as shown on the approved plan shall govern and shall be enforced by the local permit official. Private deed restrictions or private covenants (for a subdivision), which have not been approved by the Planning Commission and made a part of the approved subdivision plan, do not fall within the jurisdiction of enforcement by any local agency and cannot be enforced by the permit official.

(d) To avoid undue hardship, nothing in this Chapter shall be deemed to require change in the plans, construction, or designated use of any building or premises on which an application for a certificate or permit was filed with the Town Manager prior to the date of adoption of this Chapter or amendment thereto, providing that the application meets all zoning and other requirements in effect on the date of said application. The issuance of said certificate or permit shall be valid only if it is exercised within 180 days from the date of issuance of the certificate or permit. "Exercised", as set forth in this section, shall mean that binding contracts for the construction of the main building or other main improvement have been let, or in the absence of contracts, that the main building or other main improvement is under construction to a substantial degree or that prerequisite conditions involving substantial investments shall be under contract, in development, or completed. When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions as set forth in the permit or certificate.

Section 104. Severability

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

Section 105. Location and boundaries of zones

(a) The location and boundaries of zones established in the each district shall be as shown on the Zoning Map for the Town of Indian Head. This map, sections or portions thereof, together with all notations, dimensions, designations, references, and other data shown thereon, are made a part of this Chapter to the same extent as if the information set forth on the map were fully described and incorporated herein.

(b) Where uncertainty exists as to the boundaries of any of the zones established in this Chapter, as shown on the Zoning Map, the following rules shall apply:

(i) Zone boundary lines are intended to follow street, alley, or lot lines or lines parallel or perpendicular thereto, unless such zone boundary lines are otherwise identified on the zoning map;

(ii) Where zone boundaries are indicated as approximately following street or alley lines or proposed street lines, such lines shall be construed to be such boundaries;

(iii) Where zone boundaries are so indicated that they approximately follow lot lines and are not more than 10 feet distant therefrom, such lot lines shall be such boundaries;

(iv) In unsubdivided property, or where a zone boundary divides a lot, the location of any such boundary, unless the same is identified on such maps, shall be determined by the use of the map scale shown thereon and scaled to the nearest foot.

(c) Any area annexed to Indian Head after the date of adoption shall immediately, upon such annexation, be automatically classified in the most nearly comparable zone until a zoning map amendment for such area has been adopted by the Town Council. The Commission shall recommend to the Council appropriate zoning for the annexed area within six (6) months after the effective date of such annexation.

Section 106. Permitted uses

(i) For the purpose of this Chapter, permitted uses are listed for the various districts. Unless the contrary is clear from the context of the list of permitted uses or other regulations contained within this Chapter, uses not specifically permitted are prohibited, except that a use may be declared by the Planning Commission to be allowed as a permitted use upon application and following a public hearing and finding that there is no appreciable difference in the quality, character, or degree of the requested use as compared with the permitted uses in the zoning district.

(b) No building or tract of land shall be devoted to any use other than a use permitted hereinafter in the zoning district in which such building or tract of land shall be located, with the exception of the following:

(i) Uses lawfully existing on the effective date of this Chapter.

(ii) Special Exceptions approved by the Board of Appeals, in accordance with the provisions of Article IV, of this Chapter.

(iii) Planned Development Districts approved by the Town Council, in accordance with the provisions of Article IX of this Chapter.

(c) Uses lawfully existing on the effective date of this Chapter or any amendment to this Chapter and rendered nonconforming by the provisions thereof shall be subject to the regulations of Article VIII of this Chapter.

Section 107. Adequate public facilities requirements

(a) No concept or plan for a subdivision or development plan for a Planned Development shall be approved unless the Planning Commission first determines that adequate facilities, within the criteria as specified in Article XIX, are available to support and service the proposed subdivision or Planned Development.

(b) The applicant shall submit with any subdivision concept plan or PUD development plan sufficient information and data to demonstrate the expected impact on the use of the public facilities by Town residents or occupants of the proposed subdivision or PUD.

(c) Article XIX specifies the criteria for determining the adequacy of facilities serving the proposed development.

Section 108. Accessory uses on vacant lots

No accessory uses or structures shall be permitted on vacant lots unless the principal use or structure is previously existing or until construction has begun on the principal use or structure to the point of putting in place footings and foundation members and providing the construction on the principal use or structure is diligently pursued, or unless such use or structure is permitted by the provisions of Article X of this Chapter.

Section 109. No use or sale of land or buildings except in conformity with Chapter provisions

(a) Subject to Article VIII of this Chapter, no person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under his control except in accordance with all of the applicable provisions of this Chapter.

(b) For the purposes of this section, the "use" or "occupancy" of a building or lands relates to anything and everything that is done to, on, or in that building or land.

Section 110. Violations and penalties

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

Section 111. Relationship to existing zoning, subdivision, and flood control ordinances

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

Section 112. Fees

Fees established in accordance with the Town of Indian Head Budget Ordinance shall be paid upon submission of a signed application or notice of appeal, unless otherwise determined by the Zoning Inspector.

Section 113. Computation of time

(a) Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded.

(b) Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served by mail, three days shall be added to the prescribed period.

ARTICLE II BASIC DEFINITIONS AND INTERPRETATIONS

Section 200. Definitions of Basic Terms

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

To amplify and clarify all provisions of this Chapter, the following rules shall apply:

1. Words used in the present tense shall include the future tense; words used in the singular number shall include the plural number, and the plural number shall include the singular number, unless the obvious construction of the wording indicates otherwise.

2. The word "shall" is mandatory and not discretionary.

3. The word "may" is permissive.

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

5. All "measured distances" shall be to the nearest "integral foot". If a fraction is one-half foot or more, the "integral foot" next above shall be taken.

Abatement. The act of putting an end to a land alteration or development activity or reducing the degree or intensity of the alteration or activity.

Accessory Apartment. A second dwelling unit either in or added to an existing single-family detached dwelling, or in a separate accessory structure on the same lot as the main dwelling, for use as a complete, independent living facility. Such a dwelling is an accessory use to the main dwelling. (See Article XI)

Accessory Use. A use that is incidental or subordinate to, and on the same lot as a principal use. (See Article X)

Accessory Structure. A subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure.

Addition. Construction that increases the size of a structure.

Adult Day Care Center. A public or private institution, agency, or establishment where care is provided for less than 24 hours per day to adults who are 16 years old or older; live alone or with a spouse, relative or friend; and have a disability that is: a reasonably static physical impairment that prevents gainful employment or the accomplishment of the routine of normal daily activities

outside of an institutional or sheltered environment; or a permanent or recurrent mental impairment that requires domiciliary of institutional care in a sheltered environment. Also included in this definition is care provided for the elderly who are: 55 years old or older; live alone or with a spouse, family relative, or friend; needs temporary supervision and care during part of a day in a protective group setting; and has a disability that is: a reasonably static physical impairment that prevents gainful employment; or the accomplishment of the routine of normal daily activities without assistance; or a permanent or recurrent mental impairment.

Affordable Housing. A housing project for low to moderate income Town residents in which the rent or mortgage does not exceed 30% of the gross household income. A low to moderate income household earns 50% or less of the area median household income.

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

Aggregate. The combined distance of both side yard setbacks.

Agriculture. All methods of production and management of livestock, crops, vegetation, and soil. This includes, but is not limited to, the related activities of tillage, fertilization, pest control, harvesting, and marketing. It also includes, but is not limited to, the activities of feeding, housing, and maintaining of animals such as cattle, dairy cows, sheep, goats, hogs, horses, and poultry and handling their by-products. This definition does not include gardening or the raising of up to 8 domesticated chickens in a residential zone as a hobby.

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

Alley. A right of way that provides secondary service access for vehicles to the side or rear of abutting properties.

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

Amenity Space. Space devoted to such uses as uncovered open space for public enjoyment consisting of such things as, but not limited to, green areas, gardens, malls, plazas, walks, pathways, promenades, arcades, lawns, fountains, decorative plantings, and passive or active recreational areas. Such space shall not include parking or maneuvering areas for vehicles. Area devoted to this purpose shall be easily and readily accessible to the public or residents of the development. In areas where pedestrian walkways are shown on an approved and adopted master plan or sector plan, such area within the percentage required for amenity space as is necessary shall be devoted to the provision of pedestrian walkways or paths for general public use.

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

Anadromous Fish Propagation Waters. All streams that are tributary to the Chesapeake Bay and Atlantic Coastal bays in which the spawning of anadromous species of fish (e.g., rockfish, striped bass, yellow perch, white perch, shad, and river herring) occurs or has occurred. The streams are identified by the Department of Natural Resources.

Annexation. The act or process of adding land to the Town in the manner specified by the Local Government Article of the Maryland Annotated Code.

Antenna. Equipment designed to transmit or receive electronic signals. *Aquaculture.* Means:

(a) 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;

(b) Activities include hatching, cultivating, planting, feeding, raising, and harvesting of aquatic plants and animals and the maintenance and construction of necessary equipment, buildings, and growing areas; and

(c) Cultivation methods include, but are not limited to, seed or larvae development and grow out facilities, fish ponds, shellfish rafts, rack and longlines. For the purpose of this definition, related activities such as wholesale and retail sales, processing and product storage facilities are not considered aqua cultural practices.

Assisted Living Facility. A public or private residential facility that provides housing and supportive services, supervision, personalized assistance, health-related services, or a combination of these services to meet the needs of residents who are unable to perform or who need assistance in performing the activities of daily living in a way that promotes optimum dignity and independence for the residents. A small assisted living facility shall include providing services for 8 or fewer individuals. A large assisted living facility shall include providing services for more than 8 individuals.

Automobile Parking Lot, Parking Garage, Public and Private. A lot or building or part thereof, whether public or private, designed and used for the parking of motor vehicles, whether for compensation or not. Such lot or building or part thereof is not to be used for the storage of dismantled or wrecked vehicles, parts thereof, or junk.

Automobile Parts or Accessories. A store that sells new automobile parts, tires, and accessories. It may also include minor part installation but does not include tire recapping.

Automobile Sales and Service. Premises on which new or used passenger automobiles or trucks less than one ton and in operating condition are displayed and sold and where an accessory service repair or warranty work is conducted on the premises.

Barren Land. Unmanaged land having sparse vegetation.

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

Basement. A story partly underground and having at least one-half of its height above the average adjoining grade. A basement shall be termed a cellar when more than one-half of its height is below the average adjoining grade. A basement or cellar shall be counted as a story if the vertical distance from the average adjoining grade to the ceiling is over five feet. Bed and Breakfast Home. "Bed and breakfast home" or "tourist home" means a single-family, owner-occupied dwelling that provides for the lodging of up to eight transient guests at any one time, none of whom remain for more than fourteen consecutive nights each, and that provide no food or beverage service for the transient guests other than for breakfast provided in the area of the dwelling that is generally used by the resident family for the consumption of food. (See Article XI)

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

Blighted Area. Any area in which a majority of buildings have declined in productivity by reason of obsolescence, depreciation or other causes to an extent that they no longer justify fundamental repairs and adequate maintenance; or in which dwellings predominate that, by reason of depreciation, overcrowding, faulty arrangement or design, lack of ventilation, light or sanitary facilities or any combination of these factors, are detrimental to the public safety, health or morals.

Block. That property abutting one side of a street and lying between the two nearest intersecting or intercepting streets or the nearest intersecting or intercepting street and railroad right-of-way, unsubdivided acreage, river, or live stream, or between any of the foregoing and any other barrier to the continuity of development.

Board. The Town of Indian Head Board of Zoning Appeals.

Buffer. A naturally vegetated area or vegetated area established or managed to protect aquatic, wetland, shoreline, and terrestrial environments from man-made disturbances. An area on a lot or parcel that parallels the side and/or rear property lot line(s) that extends into the lot from the property line, and which is included within the building setback line. The buffer is an area that may contain a berm, wall, or natural growth, or combination thereof, which shall serve as barrier to vision, light, or other nuisances between adjoining properties, wherever required by this Chapter. Whenever used for screening or buffering purposes, “natural growth” shall be taken to mean coniferous, trees, bushes and shrubbery.

Buffer, Critical Area. The area, based on conditions at the time of development, that is immediately landward from mean high water of tidal waterways, the edge of bank of a tributary stream, or the edge of a tidal wetland. The area may exist, or may be established, in natural vegetation to protect a stream, tidal wetland, tidal waters, or areas that are not naturally vegetated and may be developed or disturbed. The minimum buffer width is 100 feet, or 200 feet for new lots in the RCA; and also includes any expansion for contiguous areas including a steep slope,

hydric soil, highly erodible soil, nontidal wetland, or a Nontidal Wetland of Special State Concern as defined in COMAR 26.23.01.01.

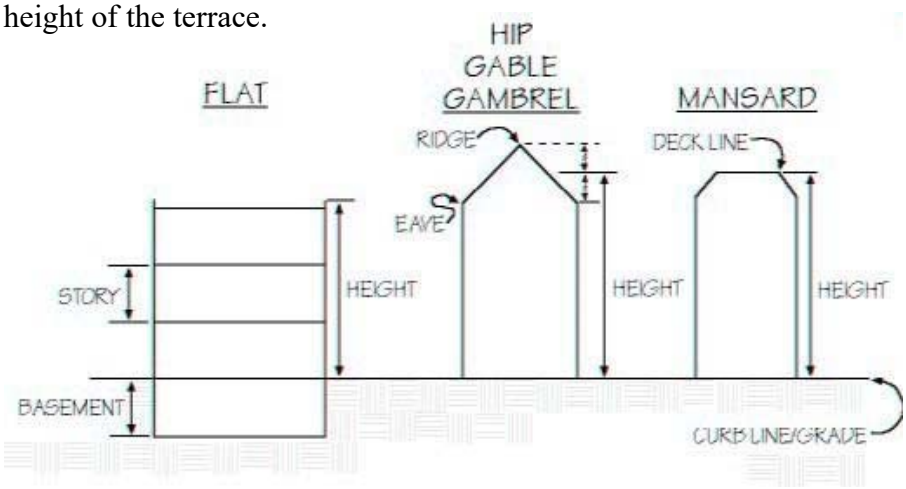
Buffer Management Plan. A narrative, graphic description, or plan of the Buffer that is necessary when an applicant proposes a development activity that will affect a portion of the Buffer, affect Buffer vegetation, or require the establishment of a portion of the Buffer in vegetation. Buffer Management Plan includes a Major Buffer Management Plan, a Minor Buffer Management Plan, or a Simplified Buffer Management Plan as described in this ordinance.

Buffer yard. A combination of setback and a visual buffer or barrier in a yard or area together with the planting required thereon (see Article XVIII).

Building. A structure designed to be used as a place of occupancy, storage or shelter. A structure other than a tent or travel trailer, which has one or more stories and a roof, and is designed primarily for the permanent shelter, support, or enclosure of persons, animals, or property of any kind. For purposes this Chapter, a "building" is a structure created to shelter human activity.

Building, floor area of. The total number of square feet area in a building, excluding cellars, uncovered steps, and uncovered porches, but including the total floor area of accessory buildings on the same lot. All horizontal measurements shall be made between interior faces of walls. This definition also applies to "Floor Area".

Building, height of. The vertical distance measured from the average elevation of finished ground surface along the front of the building to the highest point of roof surface of a flat roof; to the deck line of a mansard roof; and to the mean height level between the eaves and ridge of a gable, hip, or gambrel roof. If a building is located on a terrace, the height above the street grade may be increased by the height of the terrace.



Building Permit. A permit issued by the Zoning Administrator that authorizes the recipient to make use of property in accordance with the requirements of this Chapter, plus other requirements as indicated by the Zoning Administrator.

Building, principal. The primary building on a lot or a building that houses a principal use.

Building Setback Line. A line beyond which the foundation wall and/or any enclosed porch, vestibule, or other enclosed portion of a building shall not project (except as provided in Article XII).

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

Building Scale. The relationship between the mass of a building and its surroundings, including the width of street, open space, and mass of surrounding buildings.

Caliper. The diameter measured at two (2) inches above the root collar.

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

Certificate of Occupancy. A certificate which permits use of any structure, premises, or part thereof (See Article IV).

Certify. Whenever this Chapter requires that some agency certify the existence of some fact or circumstance to the Town, the Town may require that such certification be made in any manner that provides reasonable assurance of the accuracy of the certification. By way of illustration, and without limiting the foregoing, the Town may accept certification by telephone from some agency when the circumstances warrant it, or the Town may require that the certification be in the form of a letter or other document.

Child Day Care Center, or Nursery. A public or private institution, agency, or establishment that is licensed by the State of Maryland and provides care to 9 or more children younger than 16 years of age in a facility located outside the home of the child's parent(s) or legal guardian(s) for part of a 24 hour day on a regular basis and at least twice a week. Such a facility is generally described as a childcare center, day care center, day nursery, nursery school, parent cooperative, pre-school, play group, drop-in center, or similar term.

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

Clinic. An establishment where patients are treated by specialists in various ailments practicing as a group.

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

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

COMAR. The Code of Maryland Regulations, as from time to time amended, including any successor provisions.

Commission. The Town of Indian Head Planning Commission.

Community (or regional) Essential Services. The erection, construction, alteration or maintenance, by public utilities or by municipal or other parties, of underground or overhead electrical, gas, communication, steam, water or sewer transmission, distribution, collection, supply or display lines, including poles, crossarms, guy wires, towers, repeaters, booster switches, transformers, regulators, pumps, mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar accessories and equipment used in connection with and constituting integral parts of such lines and reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for protection of public health, safety or general welfare, but not including buildings, yards or stations used for storage, repair or processing of equipment or material and not for transforming, boosting, switching or pumping purposes when such facilities are constructed on the ground.

Community, Philanthropic Institution. A private nonprofit organization which is not organized or operated for the purpose of carrying on a trade or business, no part of the net earnings of which insures to the benefit of any member of said organization or individual, and which either provides volunteer aid to the sick and wounded armies in time of war and national relief in case of great calamities or provides all or any of the following: religious, social, physical, recreational and benevolent services.

Community Garden. An area of land that is planted, cultivated, maintained and harvested by various participating members of the community for their own hobby and consumption and not for commercial purposes.

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

Comprehensive Plan. The Town of Indian Head Comprehensive Plan adopted by the Town Council on February 1, 2010, and any future amendments, revisions or updates that may be officially adopted by the Town Council. A composite of mapped and written text the purpose of which is to guide the systematic physical development of the Town, which is adopted by the Mayor and Council and includes all changes and additions thereto made under the provision of the Annotated Code and the Land Use Article.

Condominium. An estate in real property consisting of an undivided interest in common with other purchasers in a portion of a parcel of real property, together with separate interest in space in a residential building, such as an apartment. A condominium may include, in addition, a separate interest in other portions of such real property.

Conference Center. A structure or group of structures designed, used or intended to be used by more than fifty (50) individuals for the purpose of gathering or meeting. Excluded from the definition are schools, hospitals, public institutions, houses of worship, and fire assembly halls when capacity is less than 400 persons.

Conforming. A parcel or lot that meets all Critical Area requirements. Conforming does not include a parcel or lot for which a Critical Area variance is sought or has been issued; or that is located in the Resource Conservation Area and is less than twenty acres.

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 or open space.

Consolidation. A combination of any legal parcel of land or recorded legally buildable lots into fewer lots or parcels than originally existed. Consolidation includes any term used by the Town for a development application that proposes to combine legal parcels of land or recorded, legally buildable lots into fewer parcels or lots than the number that existed before the application, a lot line abandonment, a boundary line adjustment, a replatting request, and a lot line adjustment.

Convenience Store. A one-story, retail store containing less than 4,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket"). It is designed to attract, and depends upon a large volume of stop-and-go traffic. Illustrative examples of convenience stores are those operated by the "7-11," and "Dash In" chains.

Critical Area. All lands and waters within or adjacent to the Town of Indian Head as defined in Section 8-1807 of the Natural Resources Article, Annotated Code of Maryland and further regulated under Article IX of this Chapter. They include:

(a) All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the State wetlands maps and all State and private wetlands designated under Title 16 of the Environment Article, Annotated Code of Maryland;

(b) All land and water areas within 1,000 feet beyond the landward boundaries of State or private wetlands and the heads of tides designated under Title 16 of the Environment Article, Annotated Code of Maryland; and

(c) Modification to these areas through inclusions or exclusions proposed by the Town of Indian Head and approved by the Commission as specified in Section 8-1807 of the Natural Resources Article, Annotated Code of Maryland.

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

Day Care Home. A residence licensed by the State of Maryland in which care is given to a child in place of parental care, for less than 24 hours a day, in a residence located outside the home of the child's parents for which the day care provider is paid. No more than eight (8) children consisting of no more than four (4) children under age two (2), including the provider's own, under

the age of 6, may be provided for.

Density. For residential developments, the number of dwelling units per acre within a defined and measurable area. For non-residential developments, floor area ratio (FAR).

Developed woodlands. An area of trees or trees and natural vegetation that is interspersed with residential, commercial, industrial, or recreational development.

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

Development. Any activity that materially affects the condition or use of dry land, land under water, or any structure.

Development Activities. Human activity that results in disturbance to land, natural vegetation, or a structure.

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

Disturbance. An alteration or change to the land. It includes any amount of clearing, grading, or construction activity. Disturbance does not include gardening or maintenance of an existing grass lawn.

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

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

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

Duplex. See Residence, Duplex.

Dwelling. A building, or portion thereof, designed or used exclusively for residential occupancy, including single-family dwellings, two-family dwellings, and multi-family dwellings (not including hotels and motels).

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

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

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

Elderly and/or Physically Impaired.

(a) People who are 62 years of age or over.

(b) Families where either the husband or wife is 62 year of age or older.

(c) People who have physical impairments which (1) are expected to be of long continued and indefinite duration, (2) substantially impede the ability to live independently, and are of such a nature that the ability to live independently could be improved by more suitable housing conditions.

Endangered Species. Any species of fish, wildlife, or plants that have been designated as endangered by regulation by the Secretary of the Department of Natural Resources. Designation occurs when the continued existence of these species as viable components of the State's resources are determined to be in jeopardy. This includes any species determined to be an "endangered" species pursuant to the Federal Endangered Species Act, 16 U.S.C. §et seq., as amended.

Establishment. The planting or regeneration of native vegetation throughout the Critical Area Buffer.

Excess Stormwater Run-off. All increases in stormwater resulting from:

(a) An increase in the imperviousness of the site, including all additions to buildings, roads, and parking lots;

(b) Changes in permeability caused by compaction during construction or modifications in contours, including the filling or drainage of small depression areas;

(c) Alteration of drainage ways, or regrading of slopes;

(d) Destruction of forest; or

(e) Installation of collection systems to intercept street flows or to replace swales or other drainage ways.

Expenditure. A sum of money paid out in return for some benefit or to fulfill some obligation. The

term also includes binding contractual commitments to make future expenditures, as well as any other substantial changes in position.

Family. One or more persons living together as a single housekeeping unit. More than five (5) unrelated individuals occupying a dwelling unit shall not be considered a family.

Family Day Care. The care given to 8 or fewer children younger than 13 years old or to a developmentally disabled person younger than 21 years old in place of parental care for less than 24 hours a day, in a residence located outside the home of the child's parents, for which the provider is paid in cash or in kind, and registered under COMAR 13A.14.01.

Financial Assurance. A performance bond, letter of credit, cash deposit, insurance policy, or other instrument of security acceptable to the Town.

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

Floodplain. Any land area susceptible to be inundated by water from the base flood. As used in this Chapter, the term refers to that area designated as subject to flooding from the base flood (100-year flood) on the "Flood Boundary and Floodway Map" prepared by the Federal Emergency Management Agency, a copy of which is on file in Town Hall.

Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. As used in this Chapter, the term refers to that area designated as a floodway on the "Flood Boundary and Floodway Map" prepared by the Federal Emergency Management Agency, a copy of which is on file in the Town Hall.

Floor Area Ratio (FAR). An intensity measured as a ratio derived by dividing the gross floor area of all buildings by the base site area.

Forest. A biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater. Forest includes areas that have at least 100 trees per acre with at least 50% of those trees having two-inch or greater diameter at 4.5 feet above the ground and forest areas that have been cut, but not cleared. Forest does not include orchards.

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

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

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

Frontage. The length of all property fronting on one side of a street between the two (2) nearest intersecting streets, measured along the line of the street; or, if dead-ended, then all of the property abutting on one side between an intersection street and dead end of the same.

Frontage, zoning lot. The length of all the property of such zoning lot fronting on a street measured between side lot lines.

Fully Established. When the Critical Area Buffer contains as much diverse, native vegetation as necessary to support a firm and stable riparian habitat capable of self-sustaining growth and regeneration.

Garage, parking. A building designed and used for the storage of automotive vehicles operated as a business enterprise with a service charge or fee being paid to the owner or operator for the parking or storage of privately owned vehicles.

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

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

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

Grandfathered Parcel or Grandfathered Lot. A parcel of land created prior to December 1, 1985; or a lot created through the subdivision process and recorded as a legally buildable lot prior to December 1, 1985.

Gross Developable Area. Total site acreage minus tidal wetland acreage equals gross developable area.

Gross Floor Area. The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

Gross Residential Density. For the total site, excluding areas designated as tidal wetlands, gross residential density shall not exceed the average number of dwelling units per acre as permitted.
Group Home, private. "Private Group home" means a residence in which individuals that have been or are under treatment for a mental disorder may be provided care or treatment in a homelike environment, as provided for in Mental Hygiene Law, 10-514, of the Annotated Code of Maryland. A large private group home admits at least nine but not more than sixteen individuals; a small

private group home admits at least four but not more than eight individuals.

Group Home/Halfway House (small). A home for not more than eight people who have demonstrated a tendency toward alcoholism, drug abuse, mental illness, or antisocial or criminal conduct, together with not more than two people providing supervision and other services to such persons, all of whom live together as a single housekeeping unit.

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

Growth Allocation. The number of acres of land in the Critical Area that the County may use, or allocate to municipal jurisdictions to use, to create new Intensely Developed Areas and new Limited Development Areas. The Growth Allocation is five percent of the total Resource Conservation Area acreage in the County at the time the Critical Area Commission approved the County's original Critical Area Program, not including tidal wetlands or land owned by the federal government.

Guest, permanent. A person who occupies, or has the right to occupy, a hotel or apartment hotel accommodation as his domicile and place of permanent residence.

Habitat Protection Area. An area that is designated for protection:

(a) Under Natural Resources Article §8-1806, Annotated Code of Maryland, regulations adopted under that authority, or a local program; or

(b) By the Secretary of Natural Resources.

Habitat Protection Area includes:

(a) The Buffer as described in COMAR 27.01.01.01B(8);

(b) A nontidal wetland as defined in COMAR 26.24.01.02B

(c) A habitat of a threatened species as defined in COMAR 27.01.09.03A;

(d) A habitat of an endangered species as defined in COMAR 27.01.09.03A;

(e) A habitat of a species in need of conservation as defined in COMAR 27.01.09.03A;

(f) A plant habitat as defined in COMAR 27.01.09.04A;

(g) A wildlife habitat as defined in COMAR 27.01.09.04A;

(h) Anadromous fish propagation waters as defined in COMAR 27.01.09.05A.

Habitable Floor. Any floor usable for living purposes, which includes working, sleeping, eating, cooking, or recreation, or any combination thereof. A floor used only for storage is not a habitable floor.

Hardship. A restriction on property so unreasonable that it results in an arbitrary and capricious interference with basic property rights and would render the property unusable without the granting of a variance. Hardship relates to the physical characteristics of the property, not the personal circumstances of the owner or use.

Hazardous Material. Any of the following: liquid or gaseous petroleum, explosives, pathogenic or toxic substances, radioactive materials or any other substances that when mixed with water or exposed to air becomes explosive in nature or reacts in such a way as to release a toxic gas or liquid.

High-Volume Traffic Generation. All uses in the 2.000 classification other than low-volume traffic generation uses.

Highly Erodible Soils. Soils with a slope greater than 15 percent; or those soils with a K value greater than .35 and with slopes greater than 5 percent.

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 that their location is common knowledge and because these areas have been used regularly during recent times.

Home Association (Homeowners' Association). An incorporated nonprofit organization operating under recorded land agreements through which each lot and/or homeowner in a planned unit or other described land area is automatically a member and each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property, and the charge, if unpaid, becomes lien against the property. When required or used, the owner(s) or developer(s) must establish a Home Association in accordance with the requirements and procedures as outlined by the Federal Housing Administration in Section 7 and 8.2 of the Land Planning Bulletin, No. 6, entitled "Planned Unit Development with a Home Association" dated December 1963.

Home Occupation. A home occupation is an activity carried out for financial gain in a residential dwelling and is subordinate to the residential use of the property.

Horticulture Sales. The art or science of growing flowers, fruit and vegetables for commercial sale.

Hospital. A building or group of buildings having room facilities for one or more abiding patients, used for providing services for the in-patient medical or surgical care of sick or injured humans and which may include related facilities such as laboratories, out-patient departments, training facilities, central service facilities, and staff offices, providing, however, that such related facility must be incidental and subordinate to the main use and must be an integral part of the hospital operation.

Hotel. A building in which lodging or boarding are provided for more than 20 people, primarily transient, and offered to the public for compensation, and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. A hotel may include restaurants, taverns or club rooms, public banquet halls, ballrooms and meeting rooms.

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

Intensely Developed Area. An area of at least 20 acres or the entire upland portion of the critical area within the Town, whichever is less, where:

(a) Residential, commercial, institutional, or industrial developed land uses predominate; and

(b) A relatively small amount of natural habitat occurs; and

(c) Includes an area with a housing density of at least four dwelling units per acre; or

(d) Includes an area with public water and sewer systems with a housing density of more than three dwelling units per acre; or

(e) Is a commercial marina redesignated by the Town from a resource conservation area or limited development area to an intensely developed area through a mapping correction that occurred before January 1, 2006.

Junk (or salvage) Yard. An open area where waste or scrap materials (including but not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles) are bought, sold, exchanged, stored, baled, packed, disassembled, or handled. A "junk or salvage yard" includes an auto wrecking yard and the storage of inoperable vehicles, but does not include uses established entirely within enclosed buildings.

Kennel. A commercial operation that (i) provides food and shelter and care of animals for purposes

not primarily related to medical care (a kennel may or may not be run by or associated with a veterinarian), or (ii) engages in the breeding of animals for sale, or (iii) any place where more than two adult animals (over 6 months) are kept for a boarding or other fee, or (iv) any place where more than five adult animals are kept for any purpose, except 8 or less domesticated chickens complying with all provisions of this Chapter.

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

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

Land clearing. Any activity that removes the vegetative ground cover. *Landforms*. Features of

the earth's surface created by natural causes.

Landscape Ratio (LSR). The ratio derived by dividing the area of the landscaped surface by the base site area.

Landward Edge. The limit of a site feature that is farthest away from a tidal water, tidal wetland, or tributary stream.

Legally Developed. All physical improvements to a property:

(a) Existed before Critical Area Commission approval of a local program; or

(b) Were properly permitted in accordance with the local program and impervious surface policies in effect at the time of construction.

Level of Service (LOS). The ranking of the degree of traffic congestion at an intersection, using six levels of service ranging from A, which is free flowing, to F, which is a forced movement, using criteria and methods as presented in the Highway Capacity Manual by the Transportation Research Board. The generally accepted industry standard is that levels of Service A, B, or C are acceptable, D is marginal, and E and F are unacceptable.

Limited Development Area. An area:

(a) That is developed in low or moderate intensity uses and contains areas of natural plant and animal habitat; and

(b) Where the quality of runoff has not been substantially altered or impaired.

(c) With a housing density ranging from one dwelling unit per five acres up to four dwelling units per acre;

(d) With a public water or sewer system;

(e) That is not dominated by land, wetland, forests, barren land, surface water, or open space; or

(f) That is less than 20 acres and otherwise qualifies as an intensely developed area.

Loading and Unloading Area. That portion of the vehicle accommodation area used to satisfy the requirements of Section 1710.

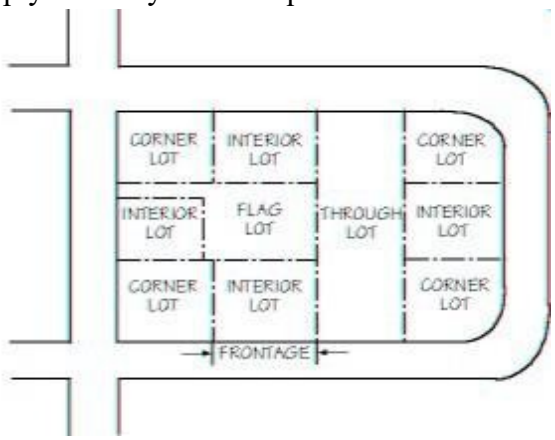
Local Significance. Development of a minor scale which:

(a) Causes environmental or economic consequences that are largely confined to the immediate area of the parcel of land on which it is located;

(b) Does not substantially affect the Critical Area Program of the Town; and

(c) Is not considered to be major development as defined in this chapter.

Lot. A parcel of land whose boundaries have been established by some legal instrument such as recorded deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title. If a public body or any authority with the power of eminent domain condemns, purchases, or otherwise obtains fee simple title to or a lesser interest in a strip of land cutting across a parcel of land otherwise characterized as a lot by this definition, or a private road is created across a parcel of land otherwise characterized as a lot by this definition, and the interest thus obtained or the road so created is such as effectively to prevent the use of this parcel as one lot, then the land on either side of this strip shall constitute a separate lot. Subject to Section 803, the permit-issuing authority and the owner of two or more contiguous lots may agree to regard the lots as one lot if necessary or convenient to comply with any of the requirements of this Chapter.



Lot Coverage. The percentage of a total lot or parcel that is:

(a) Occupied by a structure, accessory structure, parking area, driveway, walkway, or roadway; or

(b) Covered with gravel, stone, shell, impermeable decking, a paver, permeable pavement, or any manmade material.

(c) Ground area covered or occupied by a stairway or impermeable deck. Does not include:

(a) A fence of wall that is less than 1 foot in width that has not been constructed with a footer;

(b) A walkway in the buffer or expanded buffer, including a stairway, that provides direct access to a community or private pier;

(c) A wood mulch pathway; or

(d) A deck with gaps to allow water to pass freely

Lot, corner. A lot abutting on and at the intersection of two or more streets. (See Lot Line, Front and Yard, Front definitions.)

Lot, flag. A lot or parcel with less frontage on a public street than is normally required with access provided to the bulk of the lot by means of a narrow corridor.

Lot, interior. A lot other than a corner lot, flag lot or through lot.

Lot, through. A lot having a pair of opposite lot lines along two (2) more or less parallel public streets and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines.

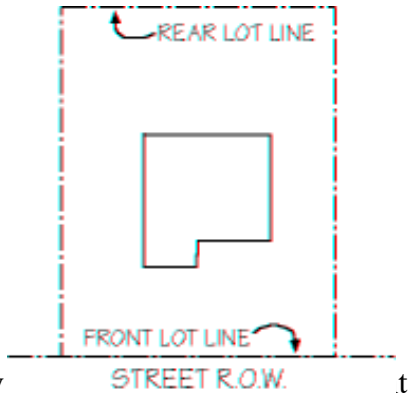
Lot Area. The total area circumscribed by the boundaries of a lot, except that: (i) when the legal instrument creating a lot shows the boundary of the lot extending into a public street right-of- way, then the lot boundary for purposes of computing the lot area shall be the street right-of-way line, or if the right-of-way line cannot be determined, a line running parallel to and 30 feet from the center of the traveled portion of the street, and (ii) in a residential district, when a private road that serves more than three dwelling units is located along any lot boundary, then the lot boundary for purposes of computing the lot area shall be the inside boundary of the traveled portion of that road.

Lot Depth. The mean horizontal distance between the front lot line and rear lot line of a lot, measured within the lot boundaries.

Lot Lines. The property lines bounding the lot.

Lot Line, front. That boundary of a lot which is along an existing private or dedicated public street or where a public street exists is along a public way. In the case of a corner lot, both boundaries along a public way shall be considered front lot lines.

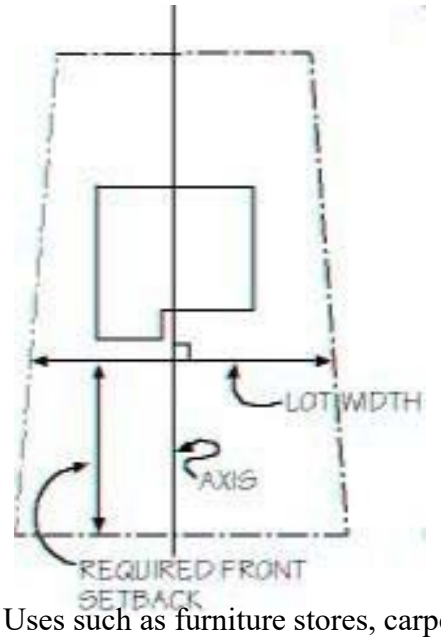
Lot Line, rear. The lot line not intersecting a front lot line that is most distant from and most closely parallel to the front lot line.



Lot Line, side. Any boundary t lot line nor a rear lot line.

Lot of Record. A parcel of land which has been legally recorded in the land records of Charles County.

Lot Width. The horizontal distance between the side lot lines of a lot measured at the required front yard setback line.



Low-Volume Traffic Generation. Uses such as furniture stores, carpet stores, major appliance stores, etc. that sell items that are large and bulky, that need a relatively large amount of storage or display area for each unit offered for sale, and that therefore generate less customer traffic per square foot of floor space than stores selling smaller items.

Manufactured Housing. Single-family detached housing that is built to the National Manufactured Housing Construction and Safety Standards Act of 1974, is transportable in one or more sections, is built on a permanent chassis; but which is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site and does not have wheels or axles permanently attached to its body or frame.

Marina. Any facility for the mooring, berthing, storing, or securing of watercraft, but not including community piers and other non-commercial boat docking and storage facilities. A marina may include boat sales, boat fuel sales, boat construction, boat repair, marine equipment sales or promotional events, boat and jet ski rental and other uses clearly incidental to watercraft activities.

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

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

Mining. The excavation or extraction of any earth products of natural mineral deposit, except where such excavation is for the purposes of grading for a building lot or roadway, where grass sod is removed to be used for landscaping, or where materials are excavated from a lot for use on that same lot by the owner of the property. Mitigation. An action taken to compensate for adverse impacts to the environment resulting from development, development activity, or a change in land use or intensity.

Mobile Home. A dwelling unit that: (i) is not constructed in accordance with the standards set forth in the town's building code applicable to site-built homes, and (ii) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis, (iii) exceeds 40 feet in length and eight feet in width and (iv) was built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974.

Mobile Home, park. A residential use in which more than one manufactured home or mobile home is located on a single lot.

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

Motel. The same as "Hotel" except it is designed to accommodate any number of guests, the building or buildings are designed primarily to serve tourists traveling by automobile, and ingress and egress to rooms need not be through a lobby or office.

Motor Vehicle Sales. Storage and display for sale of more than one (1) motor vehicle or any type of trailer provided the trailer is unoccupied, and where repair or body work is incidental to the operation of the new or used vehicle sales.

Motor Vehicle Service, Repair and Maintenance. Any building, structure, improvements, or land used for repair and maintenance of automobiles, motorcycles, trailers, or similar vehicles including but not limited to body, fender, muffler, or upholstery work, oil change, lubrication, painting, tire service and other functionally similar repairs. This use does not include dismantling or salvage of parts.

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

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

Natural Forest Vegetation. Vegetation consisting of canopy trees, understory trees, shrubs, and herbaceous plants that are typically found in riparian areas in the State of Maryland. Areas of natural forest vegetation planted to meet the mitigation requirements in this ordinance shall resemble the structure and species composition of natural forests.

Natural Regeneration. The natural establishment of trees and other vegetation with at least 400 free-to-grow seedlings per acre, which are capable of reaching a height of at least 20 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 activities.

Neighborhood Essential Services. Any utility facility needed to provide basic services such as water, sewer, telephone, gas, and cable to the individual users and including electric charging stations.

New Development. Within the Critical Area, new developments (as opposed to redevelopment) means a development activity that takes place on a property with pre- development imperviousness (in IDA) or lot coverage (LDA and RCA) of less than 15 percent as of December 1, 1985.

Nonconforming Lot. A lot lawfully existing at the effective date of this Chapter or any amendment to this Chapter that does not meet the minimum area requirement of the district in which the lot is located.

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

Nonconforming Situation. A situation that occurs when, on the effective date of this Chapter or any amendment of this Chapter, any lawful existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a non-conforming situation may arise because a lot does not meet minimum acreage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with this Chapter, or because land or

buildings are used for purposes made unlawful by this Chapter. Nonconforming signs shall not be regarded as nonconforming situations for purposes of Article VIII but shall be governed by the provisions of Article XVI.

Nonconforming Use. A nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. (For example, a commercial office building in a residential district may be a nonconforming use). The term also refers to the activity that constitutes the use made of the property. (For example, all the activity associated with operating a retail clothing store in a residentially zoned area constitutes a nonconforming use.)
Non-point Source Pollution. Pollution generated by diffuse land use activities rather than from an identifiable or discrete facility. It is conveyed to waterways through natural processes, such as rainfall, storm runoff, or groundwater seepage rather than by deliberate discharge. Non-point source pollution is not generally corrected by "end-of-pipe" treatment, but rather by changes in land management practices.

Non-Renewable Resources. Resources that are not naturally regenerated or renewed.

Non-tidal Wetlands. Means those areas regulated under Subtitle 26 of the Environment Article that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation. The determination of whether an area is a nontidal wetland shall be made in accordance with the publication known as the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands", published in 1989 and as may be amended. Nontidal wetlands do not include "tidal wetlands" regulated under Title 16 of the Environment Article of the Annotated Code of Maryland.

Non-water Dependent Project. Means a temporary or permanent structure that, by reason of its intrinsic nature, use, or operation, does not require location in, on, or over State or private wetlands.

(a) Nonwater-dependent includes:

(i) A dwelling unit on a pier;

(ii) A restaurant, a shop, an office, or any other commercial building or use on a pier;

(iii) A temporary or permanent roof or covering on a pier;

(iv) A pier used to support a nonwater–dependent use; and

(v) A small–scale renewable energy system on a pier, including:
(1) A solar energy system and its photovoltaic cells, solar panels, or other necessary equipment;

(2) A geothermal energy system and its geothermal heat

exchanger or other necessary equipment; and

(3) A wind energy system and its wind turbine, tower, base, or other necessary equipment.

(b) A non-water dependent project does not include:

(i) A fuel pump or other fuel–dispensing equipment on a pier;

(ii) A sanitary sewage pump or other wastewater removal equipment on a pier; or

(iii) An office on a pier for managing marina operations, including monitoring vessel traffic, registering vessels, providing docking services, and housing electrical or emergency equipment related to marina operations.

Nursing Care Home. A facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital, institutional facility or nursing facility to not more than nine persons.

Nursing Facility. An institutional facility (or a distinct part of an institution) which is primarily engaged in providing skilled nursing care and related services for residents who require medical or nursing care, rehabilitation services for the rehabilitation of injured, disabled, or sick persons, or on a regular basis, health-related care and services to individuals who because of their mental or physical condition require care and services (above the level of room and board) which can be made available to them only through institutional facilities, and is not primarily for the care and treatment of mental diseases.

Occupancy Permit. Official certificate that a premise conforms to provisions of the Chapter and may be occupied. Unless such a permit is issued, a structure cannot be occupied.

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

Offsets. Structures or actions that compensate for undesirable impacts.

Open Air Market. An open or covered outside area used for the display and sale of farm, craft, or similar items and may include flea markets and produce markets, served by adequate parking.

Open Space. An area of land that provides light and air, or scenic, recreational or similar purposes. Open space may include, but not be limited to, lawns, decorative plantings, sidewalks and walkways, active and passive open space, including playgrounds, fountains, swimming pools, wooded areas, and watercourses, but shall not include loading areas, parking areas, or surfaces for

the storage of vehicles.

Open Space Ratio (OSR). The proportion of a site consisting of open space calculated using the base site area.

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

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

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

Parking Space. A portion of the vehicle accommodation area set aside for the parking of one vehicle.

Person. An individual, trustee, executor, other fiduciary, corporation firm, partnership, property owner, association, organization, or other entity acting as a unit.

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

Pier. A structure built out over water with piles used for access to the water, watercraft and other water oriented activities. Pier means any pier, wharf, dock, walkway, bulkhead, breakwater, piles or other similar structure. Pier does not include any structure on pilings or stilts that was originally constructed beyond the landward boundaries of State or private wetlands.

Pier, community. Boat docking facilities associated with subdivisions or similar residential areas, and with condominium, apartment and other multiple family dwelling units. Private piers are excluded from this definition.
Pier, private. Pier serving the occupant of a single residential property.

Planning Commission. The Town of Indian Head Planning Commission.

Plant Habitat. A community of plants commonly identifiable by the composition of its vegetation

and its physiographic characteristics.

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

Principal structure. The primary or predominant structure on any lot or parcel. For residential parcels or lots, the principal structure is the primary dwelling

Private Harvesting. The cutting and removal of trees for personal use.

Private Road. Any road or right-of-way that is used for ingress or egress that is not owned or maintained by a public body.

Private Service Club. An incorporated or unincorporated association for civic, social, cultural, religious, literary, fraternal, political, and recreational or like activities operated for the benefit of its members and not open to the general public.

Program Amendment. Any change or proposed change to an adopted program that is not determined by the Chairman of the Critical Area Commission to be a Program refinement.

Program Refinement. Any change or proposed change to an adopted program that the Chairman of the Critical Area Commission determines will result in a use of land or water in the Chesapeake Bay Critical Area or Atlantic Coastal Bays Critical Area in a manner consistent with the adopted Program, or that will not significantly affect the use of land or water in the Critical Area. Program refinement may include:

(a) A change to an adopted Program that results from State law;

(b) A change to an adopted Program that affects local processes and procedures;

(c) A change to a local ordinance or code that clarifies an existing provision; and

(d) A minor change to an element of an adopted Program that is clearly consistent with the provisions of State Critical Area law and all the Criteria of the Commission.

Project Approvals. The approval of development, including approval of subdivision plats and site plans; inclusion of areas within floating zones; issuance of variances, special exceptions, and conditional use permits; and issuance of zoning permits. The term does not include building permits.

Property Lines. The lines bounding a zoning lot, as defined herein.

Property Owner. A person who holds legal or equitable title to the real property including two or more persons holding legal or equitable title to the property under any form of joint ownership.

Public Water-Oriented Recreation. Shore-dependent recreation facilities or activities provided by

public agencies which are available to the general public.

Public Way. Any sidewalk, street, alley, highway, or other public thoroughfare. *Quarry*

Operation. The excavation of stone or slate for commercial sale.

Receive-Only Earth Station. An antenna and attendant processing equipment for reception of electronic signals from satellites.

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

Recycling Center. A use conducted for private (non-governmental) and/or commercial (for profit) purposes by an owner or operator duly and currently licensed by all applicable governmental authorities that serves and operates as a drop-off point for temporary storage (not processing) of non-liquid "recyclable solid waste materials" (as herein defined). "Hazardous" or "toxic" materials as defined by Charles County, State of Maryland and/or Federal laws shall not be permitted to be dropped off and/or collected. All equipment and operations associated with a recycling center (with the exception of motor vehicle access or parking) including but not limited to loading and unloading, shall be located and conducted inside a "building" containing four walls, and a roof, shielded from public view and "supervised". The term "supervised" shall be defined for the purposes of the recycling collection facility as having an employee of the duly licensed recycling collection facility owner and/or operator on site and personally observing and monitoring all drop-off and/or collection activity.

Redevelopment. The process of developing land which is or has been developed. For purposes of implementing Critical Area provisions of this ordinance, redevelopment (as opposed to new development) means a development activity that takes place on property with pre-development imperviousness (in IDA) or lot coverage (in LDA and RCA) of 15 percent or greater.

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

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

Residence, commercial. A single or multi-family residence located above and/or behind the principal commercial use.

Residence, duplex. A two-family residential use in which the dwelling units share a common wall (including without limitation the wall of an attached garage or porch) and in which each dwelling unit has living space on the ground floor and a separate, ground floor entrance.

Residence, apartment(s). A residential use consisting of one or more buildings containing three or more dwelling units. For purposes of this definition, a building includes all dwelling units that are enclosed within that building or attached to it by a common floor or wall (even the wall of an attached garage or porch).

Residence, multi-family conversion. A multi-family residence containing not more than four dwelling units and results from the conversion of a single building containing at least 2,000 square feet of gross floor area that was in existence on the effective date of this provision and that was originally designed, constructed and occupied as a single-family residence.

Residence, townhouses. A multi-family resident use in which each dwelling unit shares a common wall (including without limitation the wall of an attached garage or porch) with at least one other dwelling unit and in which each dwelling unit has living space on the ground floor and a separate, ground floor entrance.

Residence, primary with accessory apartment. A residential use having the external appearance of a single-family residence but in which there is located a second dwelling unit that comprises not more than 30 percent of the gross floor area of the building or less than 300 square feet. The accessory apartment may be located in the principal residence or an accessory building. The owner of the residential unit must occupy at least one of the dwelling units on the premises.

Residence, single-family detached. A residential use consisting of a single detached building containing one dwelling unit and located on a lot containing no other dwelling units.

Residence, two-family apartment. A two-family residential use other than a duplex, two-family conversion, or primary residence with accessory apartment.

Residence, two-family conversion. A two-family residence resulting from the conversion of a single building containing at least 2,000 square feet of gross floor area that was in existence on the effective date of this provision and that was originally designed, constructed and occupied as a single-family residence.

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

Resource Conservation Area. An area that is characterized by:

(a) Nature dominated environments, such as wetlands, surface water, forests, and open space; and

(b) Resource-based activities, such as agriculture, forestry, fisheries or aquaculture; and

(c) An area with a housing density of less than one dwelling per five twenty.

Restaurants.

(a) Restaurant, standard - A food serving establishment whose principal business is the sale of food and the principal method of operation is its service when ordered from a menu to seated customers at a table, booth or counter inside the establishment. A snack bar or refreshment stand at a public or nonprofit community swimming pool,

playground or park, operated solely for the convenience of its patrons shall not be considered a restaurant.

(b) Restaurant, fast food - an establishment where ready-to-eat food primarily intended for immediate consumption is available upon a short waiting time and wrapped or presented so that it can readily be eaten outside or inside the premises.

(i) Restaurant, fast food carry-out - any establishment where ready-to-eat food primarily intended for immediate consumption is available upon a short waiting time and packaged or presented so it can readily be eaten away from the premises as there are no facilities for on premises consumption of food.

(ii) Restaurant, drive-in or drive-thru - any establishment where ready-to-eat food primarily intended for immediate consumption is available upon a short waiting time and packaged or presented so that it can be readily eaten inside the premises and whose method of operation is also to serve customers in motor vehicles either at a drive-thru window or while parked.

(c) Restaurant, cafeteria - any establishment where ready-to-eat food is available upon a short waiting time and served to customers on a tray through a cafeteria line for consumption at a table, booth or counter inside the establishment.

Restoration. The act of returning a site or area to an original state or any action that reestablishes all or a portion of the ecological structure and functions of a site or area.

Rezoning. An amendment to or change in the official zoning map.

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

Road. A public thoroughfare under the jurisdiction of the State, a county, a municipal corporation, or any other public body. "Road" does not include a drive aisle or driveway.

Roadside Stand. An area, structure, or vehicle used for display and sale of agricultural produce, where the majority of the produce is produced by the owner on the premises or within the immediate neighborhood of the roadside stand, or the preparation and sale of cooked and packaged food on a temporary basis subject to County Health Department approval.

Rooming House. A dwelling in which lodging is furnished, for compensation, to three (3) or more, but not exceeding nine (9) guests. A "rooming house" shall not be deemed a home occupation.

Satellite Dish. An accessory structure that allows the direct reception and/or broadcast of signals to or from geostationary earth communications and generally less than one (1) meter in diameter.

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.

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

School. A site or lot of record used exclusively or primarily used as a nursery school, kindergarten, elementary school, junior high school, middle school, senior high school, vocational school or exceptional learning center. "School" does not include a premises or site upon which there is an institution devoted solely to professional education or training or an institution of higher education, including but not limited to, a community college, junior college, four–year college, or university.

Shore Erosion Protection Works. Structures or measures constructed or installed to prevent or minimize erosion of the shoreline in the Critical Area.

Shoreline Erosion Hazard Area. Any shoreline that has a historical shoreline erosion of four (4) to eight (8) feet or greater according to the Atlas of Historic Erosion Rates in Maryland (1965, Coastal Resources Division, Tidewater Administration).

Sign. Any device that is sufficiently visible to persons not located on the lot where such device is located and is designed to attract the attention of such persons or to communicate information to them. See Article XVI for definitions of signs.

Sign, nonconforming. A sign that, on the effective date of this Chapter, does not conform to one or more of the regulations set forth in this Chapter, particularly Article XVI.

Sign Permit. A permit issued by the Zoning Administrator that authorizes the recipient to erect, move, enlarge, or substantially alter a sign.

Significantly Eroding Areas. Areas that erode two feet or more per year.

Silviculture. The art and science of controlling the establishment, growth, composition, health or quality of forests and woodlands to meet the diverse needs of landowners and society on a sustainable basis.

Site Plan, Major or Minor. A plan, to scale, showing uses, structures, and required improvements proposed for a parcel of land as required by this Chapter.

Sketch Plat. A plat containing the required information listed in Appendix A.

Small Wind Generators. A specially designed turbine elevated above the ground surface that converts wind power to electrical energy for residential or commercial use.

Solar Panels. A specially designed and arranged group of cells that convert light energy to electrical energy for use by residential and commercial users.

Special Events. Circuses, fairs, carnivals, festivals, or other types of special events that (i) run for

longer than one day but not longer than two weeks, (ii) are intended to or likely to attract substantial crowds, and (iii) are unlike the customary or usual activities generally associated with the property where the special event is to be located.

Special Exception. A permit issued by the Board of Zoning Appeals that authorizes the recipient to make use of property in accordance with the requirements of this Chapter as well as any additional requirements imposed by the Board.

Special Overlay District. An area described in this Chapter or on the official zoning map within which special regulations are applicable.

Species In Need of Conservation. Those fish and wildlife whose continued existence as part of the State's resources are in question and which may be designated by regulation by the Secretary of Natural Resources as in need of conservation pursuant to the requirements of Natural Resources Article Sections10-2A-06 and 4-2A-03, Annotated Code of Maryland.

Specimen Tree. All native and non-native trees, excluding invasive species, of 25 inches in diameter at breast height (dhb/4.5' high above ground level) or greater and trees having 75% or more of the dbh of the current State champion of that species.

Spoil Pile. The overburden and reject materials as piled or deposited during surface mining. *Steep*

Slopes. Slopes of 15 percent or greater incline.

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

Stormwater Management.

(a) For quantitative control, a system of vegetative and structural measures that control the increased volume and rate of surface runoff caused by man-made changes to the land; and

(b) For qualitative control, a system of vegetative, structural, and other measures that reduce or eliminate~~d~~ pollutants that might otherwise be carried by surface runoff.

Street. A public street or a street with respect to which an offer of dedication to the Town of Indian Head has been made.

Street, cul-de-sac. A minor street with only one outlet and having an appropriate terminal for safe and convenient reversal of traffic movement.

Street, Intermediate Arterial. (Maryland Route 210) – A route for which the major function is movement of large volumes of vehicular through traffic.

Street, Local Roads. A route for which the major function is movement of small volumes of local vehicular traffic, primarily to provide access to abutting property.

Street, Major Collector. (Blair Road, Strauss Avenue) – A route for which the major function is movement of large volumes of primarily vehicular through traffic, which provides access to abutting land as a secondary function.

Street, Minor Collector. (Bland Drive, Dogwood Street, Jennifer Drive, Jenkins Drive, Indian Head Avenue, McWilliams Street, Mattingly Avenue, Woodland Drive) – An intra-town route for which the major function is movement of large volumes of local traffic. Providing access for through traffic is a secondary function.

Street, private. A way that is privately owned and maintained.

Structure. Anything constructed or erected. In the Critical Area, anything constructed or erected on or over land or water that may or may not result in lot coverage.

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

Subdivision, major. Any subdivision other than a minor subdivision.

Subdivision, minor. A subdivision that does not involve any of the following: (i) the creation of more than a total of three lots; (ii) the creation of any new public streets, (iii) the extension of a public water or sewer systems, or (iv) the installation of drainage improvements through one or more lots to serve on or more other lots.

Substantial Alteration. Any repair, reconstruction, or improvement of a principal structure, where the proposed total footprint is at least 50 percent greater than that of the existing principle structure.

Temporary Emergency, Construction or Repair Residence. A residence (which may be a mobile home) that is (i) located on the same lot as a residence made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by such disaster, or (ii) located on the same lot as a residence that is under construction and occupied by the persons intending to live in such permanent residence when the work is completed, or (iii) located on a nonresidential construction site and occupied by persons having construction or security responsibilities over such construction site.

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

Threatened Species. Any species of fish, wildlife, or plants designated as such by regulation by the Secretary of the Department of Natural Resources that appear likely, within the foreseeable future, to become endangered, including any species of wildlife or plant determined to be a "threatened" species pursuant to the federal Endangered Species Act, 16 U.S.C. § 1431 et seq., as

amended.

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

Tourist Home. (See Bed and Breakfast Home)

Tower. Any structure whose principal function is to support an antenna. *Town.* Town of Indian

Head located in Charles County, Maryland.

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

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

Transportation Facilities. Anything that is built, installed, or established to provide a means of transport from one place to another.

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

Tree. A large, woody plant having 1 or several self-supporting stems or trunks and numerous branches that reach a height of at least 20 feet at maturity.

Tributary streams. A perennial stream or intermittent stream within the Critical Area that has been identified by site inspection or which are so noted on the most recent U.S. Geological Survey 7-1/2 minute topographic quadrangle maps (scale 1:24,000) or on more detailed maps or studies at the discretion of the Town of Indian Head.

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

Upland Boundary. The landward edge of a tidal wetland or nontidal wetland.

Use. The activity or function that actually takes place or is intended to take place on a lot. *Use,*

accessory. See accessory use

Use, permitted. A use which may be lawfully established in a particular district or districts provided it conforms to all regulations, requirements, and standards of such district and is listed in the Table of Permissible Uses.

Use, principal. A use listed in the Table of Permissible Uses and clearly the dominant use of the property.

Utility Facilities. Any above-ground structures or facilities (other than buildings, unless such buildings are used as storage incidental to the operation of such structures or facilities) owned by a governmental entity, a nonprofit organization, a corporation, or any entity defined as a public utility and used in connection with the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, gas oil, or electronic signals. Excepted from this definition are utility lines and supporting structures listed in Section 1004.

Utility Facilities, Community or Regional. All utility facilities other than neighborhood facilities.

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

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

Variance. A grant of permission by the board of zoning appeals that authorizes the recipient to do that which, according to the strict letter of this Chapter, the applicant could not otherwise legally do.

Vehicle Accommodation Area. That portion of a lot that is used by vehicles for access, circulation, parking, and loading and unloading. It comprises the total of circulation areas, loading and unloading areas, and parking areas.

Veterinarian Office. A facility staffed by at least one (1) veterinarian duly licensed by the State of Maryland for the medical treatment and care of animals and the keeping and boarding of animals incidental thereto.

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

Water Dependent Facilities. Structures or works associated with industrial, maritime, recreational, educational, or fisheries activities that require location at or near the shoreline within the Critical Area Buffer. An activity is water-dependent if it cannot exist outside the Buffer and is dependent on the water by reason of the intrinsic nature of its operation. Such activities include, but are not limited to, ports, the intake and outfall structures of power plants, water-use industries, marinas and other boat docking structures, public beaches and other public water-oriented recreation areas, and fisheries activities.

Water-Use Industry. An industry that requires location near the shoreline because it utilizes surface waters for cooling or other internal purposes.

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.

Wetlands, tidal (state): Any land under the navigable waters of the state below the mean high tide, affected by the regular rise and fall of the tide.

Wildlife Corridor. A strip of land having vegetation that provides habitat and safe passage for wildlife.

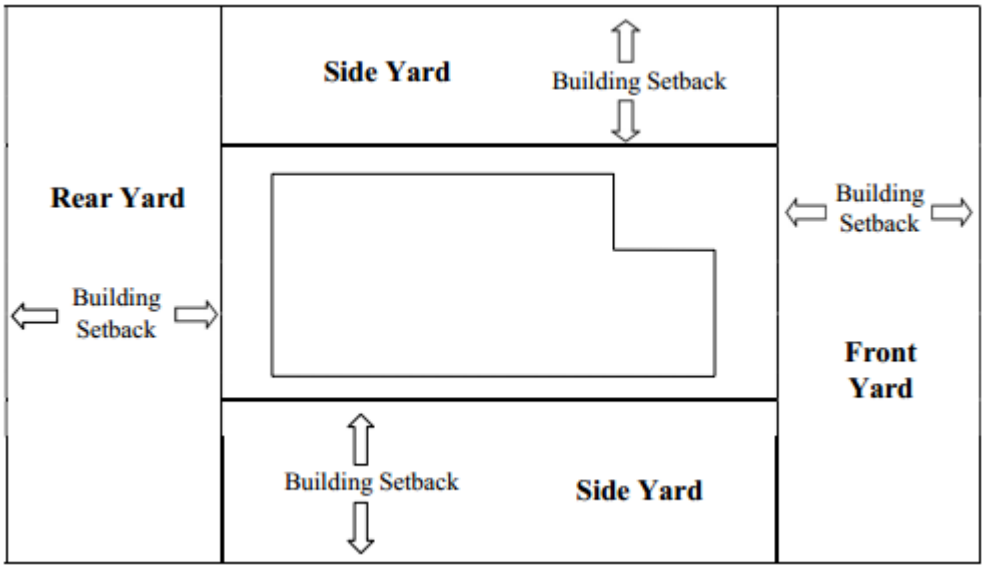
Wildlife habitat. Plant communities and physiographic features that provide food, water, cover, and nesting areas, as well as foraging and feeding conditions necessary to maintain populations of animals in the Critical Area.

Wholesale Sales. On-premises sales of goods primarily to customers engaged in the business of reselling the goods.

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

Wrecking (Demolition) Permit. A permit required for razing, demolishing, or removing a building or structure, either entirely or in part.

Yard. An open space on the same zoning lot with a building or structure, unoccupied and unobstructed from its lowest level to the sky, except as otherwise permitted in this Chapter. A "yard" extends along a lot line and to a depth or width specified in the yard requirements for the zoning district in which such zoning lot is located.



Yard, front. A yard extending along the full length of the front lot line of the zoning lot. In the case of a corner lot, both yards extending along the public streets shall be considered front yards.

Yard, rear. A yard extending along the full length of the rear lot line of the zoning lot.

Yard, side. A yard extending along a side lot line measured from the front yard to the rear yard.

Yard, corner side. A side yard which adjoins a public street.

Yard, interior side. A side yard which is located immediately adjacent to another zoning lot or to an alley separating such yard from another zoning lot.

Zoning Administrator. The official designated as the official responsible for enforcing and administering all requirements of this Chapter.

Zoning Special Overlay District. A district which is placed over the existing regular or parent zoning because of siting of a zoning district or imposes additional restrictions and includes all those districts listed as Special Overlay Districts in Article IX, Part II and Part III.

Zoning Parent District. Those basic districts initially listed other than Special Overlay Districts in Article IX.

Zoning Permit. A permit issued by the Zoning Administrator that authorizes the recipient to make use of property in accordance with the requirements of this Chapter.

Section 201. Lots Divided by District Lines

(a) Whenever a single lot one acre or less in size is located within two or more different zoning districts, the district regulations applicable to the district within which the large portion of the lot lies shall apply to the entire lot.

(b) Whenever a single lot greater than one acre in size is located within two or more different zoning districts, each portion of that lot shall be subject to all the regulations applicable to the district in which it is located.

ARTICLE III ADMINISTRATIVE MECHANISMS

Section 300. Appointment and Terms of Planning Commission Members

(a) There shall be a Planning Commission consisting of seven members, all of whom shall be residents of the Town and shall be qualified by knowledge and experience in matters pertaining to the development of the Town. All seven members shall be appointed by the Town Council. The members shall be appointed to represent as many different geographical areas of the Town of Indian Head as is practicable. Members shall be appointed for terms of five (5) years or until their successors are appointed and qualified. The respective terms of the members shall be on a staggered basis. Vacancies shall be filled by appointment by the Town Council for the unexpired term only. Members of the commission may receive such compensation as deemed appropriate and shall be reimbursed for all necessary and reasonable expenses actually incurred in the performance of their official duties.

(b) One member of the Town Council shall also be an ex-officio, non-voting member of the Planning Commission and shall be selected by the Mayor with the approval of the Council. The term of this member shall correspond to his official term as a member of the Council. The term on the Planning Commission of the member of the Council shall cease whenever his official tenure as a member of the Council terminates.

Section 301. Meetings of the Planning Commission

(a) The Planning Commission shall establish a regular meeting schedule and shall meet frequently enough so that it can take action on all complete applications in an expeditious manner. This shall entail at least one regular meeting each month.

(b) The Planning Commission need not conduct its meetings strictly in accordance with the quasi-judicial procedures set forth in Article IV, V, and VI. However, it shall conduct its meetings so as to obtain necessary information and to promote the full and free exchange of ideas.

(c) Minutes shall be kept of all Planning Commission proceedings.

(d) All Planning Commission meetings shall be open to the public, and whenever feasible, the tentative agenda for each meeting shall be made available in advance of the meeting.

(e) Whenever the Planning Commission is called upon to make recommendations, on any proposal requiring a public hearing, the Zoning Administrator shall post on or near the subject property one or more notices that are sufficiently conspicuous in size, location, and content to provide reasonably adequate notice to potentially interested persons concerning the matter that will appear on the Commission's agenda at a specified date and time. Such notice(s) shall be posted at least two weeks prior to the meeting at which the matter is to be considered. Written notice shall be sent to adjoining property owners if and to the extent required by any regulation or requirements of the Planning Commission adopted under Subsection 304(b).

Section 302. Reserved

Section 303. Planning Commission Chairman

(a) The Planning Commission shall annually elect one chairman and one vice chairman from among its members.

(b) The chairman and vice chairman may take part in all deliberations and vote on all issues.

Section 304. Powers and Duties of Planning Commission

(a) The Planning Commission may:

(i) Make studies and recommend to the Town Council plans, goals, and objectives relating to the growth, development and redevelopment of the Town.

(ii) Develop and recommend to the Town Council policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.

(iii) Make recommendations to the Town Council concerning proposed zoning amendment requests.

(iv) Hear and decide applications for land development and approve subdivision plats and site development plans.

(b) The Planning Commission may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this Chapter.

Section 305. Advisory Committees

(a) From time to time, the Town Council may appoint one or more individuals to help the Planning Commission carry out its planning responsibilities with respect to a particular subject area. By way of illustration, without limitation, the Town Council may appoint advisory committees to consider the comprehensive development plan, housing plans, economic development plans, etc.

(b) Members of such advisory committees shall sit as nonvoting members of the Planning Commission when such issues are being considered and lend their talents, energies, and expertise to the Planning Commission. However, all formal recommendations to the Town Council shall be made by the Planning Commission.

(c) Nothing in this section shall prevent the Town Council from establishing independent advisory groups, committees, or commissions to make recommendations on any issue directly to the Town Council.

Section 306. Appointments and Terms of Board of Appeals

(a) There shall be a Board of Appeals consisting of Three members to be appointed by the Town Council. The members shall be individuals who are residents of the Town. No member of the Board of Appeals shall be a member of the Planning Commission nor shall any member hold other elective or appointive office in the Town government. Appointment shall be for staggered terms of three (3) years. If a vacancy occurs, by resignation or otherwise, among the members of the Board of Appeals, the Town Council shall appoint a member for the unexpired term. Members of the Board may receive such compensation as the Town Council deems appropriate and shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties.

(b) The Town Council shall designate one alternate member for the Board of Appeals who may be empowered to sit on the Board in the absence of a member of the Board.

Section 307. Meetings of the Board of Appeals

(a) The Board of Appeals shall establish a regular meeting schedule and shall meet frequently enough so that it can take action on all complete applications in an expeditious manner.

(b) The board shall conduct its meetings in accordance with the quasi-judicial procedures set forth in Articles IV, V, and VI.

(c) All meetings of the Board shall be open to the public, and whenever feasible the tentative agenda for each Board meeting shall be made available in advance of the meeting.

(d) The Board shall keep an audio recording of all proceedings and minutes showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, which shall be immediately filed in the office of the Board and shall be a public record.

Section 308. Quorum

(a) A quorum for the Board of Appeals shall consist of a majority of the regular Board membership (excluding vacant seats). A quorum is necessary for the Board to take official action.

(b) A member who has withdrawn from the meeting without being excused as provided in Section 309 shall be counted as present for purposes of determining whether a quorum is present.

(c) All actions of the Board of Appeals shall be taken by majority vote, a quorum being present.

Section 309. Voting

(a) The concurring vote of the majority of the Board membership (excluding vacant seats), a quorum being present, shall be necessary to reverse any order, requirement, decision, or determination of the Administrator or to decide in favor of the applicant any matter upon

which it is required to pass under any ordinance or to grant any variance.

(b) Once a member is physically present at a Board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with subsection (c) or has been allowed to withdraw from the meeting in accordance with subsection (d).

(c) A member may be excused from voting on a particular issue by majority vote of the remaining members present under any of the following circumstances:

(i) If the member has a direct financial interest in the outcome of the matter at issue, or

(ii) If the matter at issue involves the member's own official conduct, or

(iii) If participation in the matter might violate the letter or spirit of a member's code of professional responsibility, or

(iv) If a member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest.

(d) A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.

(e) A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.

(f) A roll call vote shall be taken upon the request of any member.

Section 310. Board of Appeals Officers

(a) The Board of Appeals shall annually elect one of its members to serve as chairman, who will preside over the board's meetings, and one member vice chairman, who will preside over the Board's meetings in the absence of the chairman. The person so designated shall serve in this capacity for a term of one year.

(b) The chairman or any member temporarily acting as chairman may administer oaths to witnesses coming before the board.

(c) The chairman and vice-chairman may take part in all deliberations and vote on all issues.

Section 311. Powers and Duties of Board of Appeals

(a) The Board of Appeals shall hear and decide:

(i) Appeals from any order, decision, requirement, or interpretation made by the administrator, as provided in Article V.

(ii) Applications for Special Exception Uses, as provided in Article IV.

(iii) Applications for variances in the Critical Area District, as provided in Article IX, Section 957.

(iv) Applications for variances, as provided in Article V.

(v) Questions involving interpretations of the zoning map, including disputed district boundary lines and lot lines, as provided in Article V.

(vi) Any other matter the board is required to act upon by any other Town Chapter.

(b) The Board may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this Chapter.

Section 312. Zoning Administrator

Except as otherwise specifically provided, primary responsibility for administering and enforcing this Chapter shall be the Town Manager. The Town Manager may assign responsibility to one or more individuals. The person or persons to whom these functions are assigned shall be referred to in this Chapter as the "Zoning Administrator" or "Administrator". The term "staff" is sometimes used interchangeably with the term "Administrator".

Section 313. Powers and Duties of the Zoning Administrator

The Zoning Administrator shall have the power to administer this Chapter on a day to day basis. The Administrator shall also prepare staff comments on such matters as required by this Chapter or when so directed by the Town Council, Planning Commission, or Board of Zoning Appeals. The Administrator is primarily responsible for ensuring that this work is completed on a timely basis. The planning director, if there is one, may serve as the Zoning Administrator.

Section 314. Town Council

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

ARTICLE IV DEVELOPMENT APPROVAL

Part I Building and Occupancy Permits

Section 400. Permits Required

(a) No building or other structure shall be erected, nor shall any existing building or structure be moved, added to, enlarged, or structurally altered, and no excavation for any building or other structure shall begin without the issuance of a building permit by the Zoning Administrator.

(b) No building, or other structure, or land shall be used, nor shall any buildings, structure, or land be converted, wholly or in part, to any other use, except for a single-family dwelling, agricultural purposes, accessory uses, or home occupations permitted under the provisions of this Chapter, until an occupancy permit, certifying compliance with these regulations, has been issued by the Zoning Administrator.

(c) In addition to the building permit and occupancy permit, the following permits may be required by the Zoning Administrator:

(i) Permits Authorized by the Board of Appeals. The Zoning Administrator shall issue permits in conformance with the written authorization of the Board of Appeals concerning administrative review appeals, special exception permit appeals, dimensional variance appeals, or other appeals as authorized in this Chapter.

(ii) Wrecking Permits. No building or other structures shall be razed, demolished, or removed, either entirely or in part, nor shall any of said activities be commenced, without a wrecking permit.

(iii) Sign permits. No sign shall be created, erected, moved, added to, or structurally altered, nor shall any of said activities be commenced without a sign permit.

(iv) Other Permits. Additional permits, including approvals by other agencies, including but not limited to the Maryland Chesapeake Bay Critical Area Commission, may be required to enforce the provisions of this Chapter.

(d) Permits are issued under this Chapter only when a review of the application submitted, including the plans contained therein, indicates that the development will comply with the provisions of this Chapter if completed as proposed. Such plans and applications as are finally approved are incorporated into any permit issued, all development shall occur strictly in accordance with such approved plans and applications.

(e) Physical improvements to land to be subdivided may not be commenced except in accordance with a certificate of approval issued by the Planning Commission for major subdivisions or after final plat approval by the Zoning Administrator for minor subdivisions. (See Subdivision Regulations)

(f) In the discharge of his duties, the Zoning Administrator or his authorized representative shall have the authority to enter at any reasonable hour any building, structure, or premise in the Town to enforce the provisions of this Chapter. He may adopt a badge of office for himself and assistants that shall be displayed for the purpose of identification. The assistance and cooperation of sheriffs and/or police, fire, and health departments and all other Town officials shall be available to him as required in the performance of his duties.

(g) In the event that the owner or occupant denies access for inspection, the owner/occupant shall be responsible for all legal and administrative costs associated with the issuance of an administrative search warrant or injunction from the appropriate court.

Section 401. Severability

(a) Compliance with Other Codes, Statutes, and Regulations. Nothing in this section or other sections of this Chapter shall be construed to exempt any applicant for a permit from compliance with all local, state, and federal codes, statutes, and regulations.

(b) Prior Permits. No building permit which was lawfully issued prior to the original effective date of this Chapter or the effective date of any amendment to this Chapter and which is in full force and effect at said date shall be invalidated by the passage of this Chapter, provided that all such permits shall expire not later than 120 days from the effective date of this Chapter, unless actual construction shall have begun and continued pursuant to the terms of said permit.

(c) Conflict with Other Permits. Except as provided herein, no permit pertaining to the use of land or buildings shall be issued by any agency, department or employee unless a Zoning Permit has been issued by the Zoning Administrator. Any permit issued in conflict with the provisions of this Chapter shall be null and void.

Section 402. Time Limits for Zoning and Building Permits

Any building permit issued shall become invalid if the authorized use or construction for which the permit was issued is not commenced within 180 days of the date of issuance, or is suspended or abandoned for a period of 180 days. The Zoning Administrator may, upon good cause shown, extend a permit without additional charge for an additional period not exceeding 180 days.

Section 403. Permit Application Requirements and Procedures

(a) All applications for permits shall be accompanied by such plans and information as the Town of Indian Head deems to be necessary to determine compliance and provide for enforcement of this Chapter. The application materials listed in Appendix A shall be the minimum. Additional information may be required.

(b) After reviewing the application materials, the Zoning Administrator shall mark the application either as "Approved" or "Disapproved" and attest to the same by signature on such copy. The Zoning Administrator shall notify the applicant in writing not later than 45

days after receipt of the site plan.

(c) Site Plans Required:

(i) Minor Site Plan. A minor site plan shall be filed for a single-family dwelling, a duplex, a residence with an accessory apartment, any accessory building, an addition or change of a commercial or industrial structure, or for a special exception use which does not require a building permit. Upon determination by the Zoning Administrator, in those cases where a field inspection indicates that the scope of the proposed building, addition, accessory use, or special exception is of such a nature that the provisions for the handling of natural and stormwater, sediment control, off-street parking, set-backs, water and sewerage, and other requirements cannot be adequately addressed with a minor site plan, a major site plan shall be required.

(ii) Major Site Plan. All applications for building permits, other than those accompanied by a minor site plan, or those that are considered minor or major subdivisions (see definitions), shall be accompanied by a major site plans.

(iii) General Development Plan

(2) A general development plan is a site plan by which, at the early stages of development design, the Planning Commission may consider, approve, or restrict major aspects of the development without requiring an undue amount of final design work on the part of the developer. The general development plan is less detailed and specific than a major site plan in terms of exact arrangement of buildings, parking areas, open spaces, access points, and any other site design features. No building permits can be issued based upon a general development plan.

(3) General development plans shall be required as follows:

(a) All applications for zoning map amendments shall be accompanied by a general development plan

(b) General development plans shall be required to permit more than one principal structure and its accessory structures on a lot or parcel of land.

(iv) Subdivision Plat. If the permit involves the subdivision of land, an approved subdivision plat shall be required as provided in Land Subdivision Rules and Regulations.

(v) Sign Permits. Requirements for sign permits shall be as provided in Article XVI.

(vi) Stormwater Management Plan. A permit may not be issued for any parcel or lot unless a stormwater management plan has been approved or waived by the

Zoning Administrator as meeting all the requirements of the Stormwater Management Chapter.

(d) The following additional requirements shall be applicable to site plans required under this section:

(i) Compliance with applicable established design criteria, construction standards, and specifications for all improvements as may be required by the Town Council and this Chapter.

(ii) The building permit shall not be issued unless and until the State Highway Administration has approved the site plan as it relates to access point design details and parking lot circulation layout on a state highway.

(iii) Other Approvals. If this Chapter requires approval by another agency, including but not limited to the Chesapeake Bay Critical Area Commission, of certain site plan features, such approval shall be obtained prior to issuance of a building permit.

(iv) Development Plan as Site Plan. In any case, where the Zoning Administrator has approved a detailed final development plan showing essentially the same information as required above for the property seeking a building permit, no separate site plan shall be required to be prepared. The applicant shall be required to supply such supplementary information as necessary to comply with all requirements of this Section.

(v) Any or all of the information required for a minor or major site plan may be waived if the Zoning Administrator finds that it is not needed to make a determination of zoning compliance.

(vi) The basic information required with building permit applications is shown in Appendix A.

Section 404. Certificate of Occupancy

(a) Certificate of Occupancy Required. No person shall use or permit the use of any structure or premises or part thereof hereafter created, erected, changed, converted, enlarged or moved, wholly or partly, until a certificate of occupancy shall have been issued by the Zoning Administrator. Such certificates shall show that the structure or use, or both, or the premises, or the affected part thereof, are in conformity with the provisions of this Chapter. It shall be the duty of the Zoning Administrator to issue such certificate if it is found that all of the provisions of this Chapter have been met and to withhold or revoke such certificate unless all requirements of this Chapter and all other applicable regulations have been met. Within 14 calendar days after written notification that the building or premises is ready for inspection, a certificate of occupancy shall be issued or written notice given to the applicant stating in

fact why a certificate of occupancy cannot be issued.

(b) Temporary Certificates of Occupancy. A temporary certificate of occupancy may be issued by the Zoning Administrator for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion in accordance with general rules or regulations concerning such additional conditions or safeguards as are necessary in the circumstances of the case to protect the safety of the general public.

(c) Certificate of Occupancy for Existing Uses or Structures. Upon request from the owner or tenant, and upon inspection to determine the facts in the case, the Zoning Administrator shall issue a certificate of occupancy for any building premises or use that is conformity with the provisions of this Chapter or that a legal non-conformity exists as specified in the certificate.

(d) No Certificate of Occupancy shall be issued until all stormwater management facilities are completed and functioning, or bonded for completion in accordance with this Chapter. Any stormwater management structure which creates an embankment of four (4) feet or greater, or any other structure of significant size or impact to downstream drainage shall be inspected during construction and upon completion by the Soil Conservation Service.

(e) A final Certificate of Occupancy permit may be issued for any appropriate complete building or part of building located in a part of the total area of an approved site plan, such part of the total area to be known as a section provided:

(i) The other on-site construction and improvements included in the approved site plan for the section have been inspected and accepted by the Zoning Administrator and other appropriate agencies and a certified "as built" site plan (see Section 406) has been submitted to the Zoning Administrator two (2) weeks prior to the proposed date of occupancy; and

(ii) The off-site improvements related to and necessary to service the section have been completed and inspected and accepted by the Zoning Administrator, the State Highway Administration or appropriate agencies; and the developer has submitted a certified "as built" drawing for the section; or the developer has provided surety acceptable to the appropriate agencies.

Section 405. Inspection and Supervision During Installation

(a) Unless specifically provided in this Chapter, the construction standards for all off-site improvements and on-site improvements required by this article shall conform to the Town design and construction standards contained in Appendices B, C, and D. Appropriate Town authorities shall approve the plans and specifications for all required improvements and shall inspect the construction of such improvements to assure conformity thereto.

(b) Inspection during the installation of the off-site improvements shall be made by the department responsible for monitoring or maintaining such improvements as required to

certify compliance with the approved site plan and applicable standards.

(c) The owner shall notify the appropriate Town agencies in writing three (3) days prior to the beginning of all street, water sewer or storm sewer work to be performed.

(d) The owner shall provide adequate supervision on the site during the installation of all required improvements and have a responsible superintendent or foreman together with one (1) set of approved plans, profiles, and specifications available at all times when work is being performed.

(e) Upon satisfactory completion of the required improvements and after having received verification by the appropriate Town approving authorities, the Zoning Administrator shall recommend to the Town Manager the release of any bond which may have been furnished for the guarantee of satisfactory installation of such improvements of parts thereof. This release shall provide for 25 percent of the total bond to be retained for a period of 12 months after completion of all work. Bond retention period may be extended for an additional 12 months if major failures or deficiencies occur as determined by the Zoning Administrator. Said retainer shall be for the protection of the Town to cover failures, discrepancies, etc., in the previously approved improvements.

(f) The installation of improvements as required in this article shall in no case serve to bind the Town to accept such improvement for the maintenance, repair, or operation thereof.

Section 406. As-Built Site Plan

Upon satisfactory completion of required improvements as shown on the approved site plan or a section thereof, the developer shall submit to the Zoning Administrator four (4) copies of the "as-built" site plan including the stormwater management facilities, certified by the project engineer before occupancy of any building, for the review and approval for conformity with the approved site plan by the appropriate Town departments (as designated in this section). The Zoning Administrator shall not process the occupancy permit until the appropriate "as-built" site plan has been reviewed and approved by the Town Manager and other appropriate agencies. As-built site plans should indicate any deviations from site improvements shown on final approved site plan. In addition to paper copies, the developer shall provide the "as-built" site plan in electronic format suitable to the Town.

Section 407. No Occupancy, Use, or Sale of Lots Until Requirements Fulfilled

Issuance of a special exception or zoning permit authorizes the recipient to commence the activity resulting in a change in use of the land or (subject to obtaining a building permit) to commence work designed to construct, erect, move, or substantially alter buildings or other substantial structures or to make necessary improvements to a subdivision. However, except as provided in Sections 412 and 413, the intended use may not be commenced, no building may be occupied, and in the case of subdivisions, no lots may be sold until all of the requirements of this Chapter and all additional requirements imposed pursuant to the issuance of a special exception permit have been met.

Section 408. Who May Submit Permit Applications

(a) Applications for zoning, special exception, sign permits, other permits, or minor subdivision plat approval will be accepted only from persons having the legal authority to take action in accordance with the permit or the minor subdivision plat approval. By way of illustration, in general this means that applications should be made by the owners or lessees of property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this Chapter, or the agents of such persons (who may make application in the name of such owners, lessees, or contract purchasers).

(b) The Zoning Administrator may require an applicant to submit evidence of his authority to submit the application in accordance with subsection (a) whenever there appears to be a reasonable basis for questioning this authority.

Section 409. Applications To Be Complete

(a) All applications for zoning, special exception, sign permits, or other permits must be complete before the permit-issuing authority is required to consider the application.

(b) Subject to Section 400, an application is complete when it contains all of the information that is necessary for the permit-issuing authority to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this Chapter.

(c) In this Chapter, detailed or technical design requirements and construction specifications relating to various types of improvements (streets, sidewalks, etc.) are set forth in one or more of the appendices to this Chapter. It is not necessary that the application contain the type of detailed construction drawings that would be necessary to determine compliance with these appendices, so long as the plans provide sufficient information to allow the permit issuing authority to evaluate the application in the light of the substantive requirements set forth in this text of this Chapter. However, whenever this Chapter requires a certain element of a development to be constructed in accordance with the detailed requirements set forth in one or more of these appendices, then no construction work on such element may be commenced until detailed construction drawings have been submitted to and approved by the Administrator. Failure to observe this requirement may result in permit revocation, denial of final subdivision plat approval, or other penalty as provided in Article VII.

(d) The presumption established by this Chapter is that all of the information set forth in Appendix A is necessary to satisfy the requirements of this section. However, it is recognized that each development is unique, and therefore the permit-issuing authority may allow less information or require more information to be submitted according to the needs of the particular case. This is particularly true for projects located in those portions of the Town in the Critical Area District. For applications submitted to the Board of Appeals, the applicant may rely in the first instance on the recommendations of the Administrator as to whether more or less information than that set forth in the Appendix A should be submitted.

(e) The Administrator shall make every effort to develop application forms, instructional sheets, checklists, or other techniques or devices to assist applicants in understanding the application requirements and the form and type of information that must be submitted. In classes of cases where a minimal amount of information is necessary to enable the administrator to determine compliance with this Chapter, such as applications for zoning permits to construct single-family or two-family houses, or applications for sign permits, the Administrator shall develop standard forms that will expedite the submission of the necessary plans and other required information.

Section 410. Staff Consultation Before Formal Application

(a) To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Chapter, a pre-application meeting between the developer and the Zoning Administrator is encouraged or required as provided in this section.

(b) Before submitting an application for a zoning permit authorizing a development that consists of or contains a major subdivision, the developer shall submit to the Zoning Administrator a pre-application concept plan of such subdivision, drawn approximately to scale (1inch = 100 feet). The concept plan shall contain the information set forth in Appendix A. The Administrator shall meet with the developer as soon as conveniently possible to review the sketch plan.

Section 411. Staff Consultation after Application Submitted

(a) Upon receipt of a formal application for a zoning, or special exception permit, the Administrator shall review the application and confer with the applicant to ensure that the applicant understands the Town staff's interpretation of the applicable requirements of this Chapter, that the applicant has submitted all of the information that the applicant intends to submit, and that the application represents precisely and completely what the applicant proposes to do.

(b) If the application is for a special exception permit, the Zoning Administrator shall place the application on the agenda of the appropriate board when the applicant indicates that the application is as complete as the applicant intends to make it. However, if the Administrator believes that the application is incomplete, the Zoning Administrator shall recommend to the appropriate board that the application be denied on that basis.

Section 412. Authorizing Use or Occupancy Before Completion of Development Under Zoning Permit

(a) In cases when, because of weather conditions or other factors beyond the control of the zoning-permit recipient (exclusive of financial hardship), it would be unreasonable to require the zoning-permit recipient to comply with all of the requirements of this Chapter prior to commencing the intended use of the property or occupying any buildings, the Administrator

may authorize the commencement of the intended use or the occupancy of buildings (in so far as the requirements of this Chapter are concerned) if the permit recipient provides a performance bond or other security satisfactory to the Administrator to ensure that all of the requirements of this Chapter will be fulfilled within a reasonable period (not to exceed 12 months) determined by the Administrator.

(b) With respect to subdivisions in which the developer is selling only undeveloped lots, the Planning Commission may authorize final plat approval and the sale of lots before all the requirements of this article are fulfilled if the subdivider provides a performance bond or other security satisfactory to the Town Manager to ensure that all of these requirements will be fulfilled within not more than 12 months after final approval.

Section 413. Completing Developments in Phases

(a) As a prerequisite to taking advantage of the provisions of Section 412(a), the developer shall submit plans that clearly show the various phases or stages of the proposed development and the requirements of this Chapter that will be satisfied with respect to each phase or stage.

(b) If a development is constructed in phases or stages in accordance with this section, then, subject to subsection (c), the provisions of Sections 407 and 412 shall apply to each phase as if it were the entire development.

(c) If a development that is to be built in phases or stages includes improvements that are designed to relate to, benefit, or be used by the entire development (such as a swimming pool or tennis courts in a residential development) then, as part of his application for development approval, the developer shall submit a proposed schedule for completion of such improvements. The schedule shall relate completion of such improvements to completion of one or more phases or stages of the entire development. Once a schedule has been approved and made part of the permit by the permit-issuing authority, no land may be used, no buildings may be occupied, and no subdivision lots may be sold except in accordance with the schedule approved as part of the permit, provided that:

(i) If the improvement is one required by this Chapter, then the developer may use the provisions of Subsections 412 (a) or (b).

(ii) If the improvement is an amenity not required by this Chapter or is provided in response to a condition imposed by the Board, then the developer may use the provisions of Subsection 412 (b).

Section 414. Expiration of Permits

(a) Zoning, special exception, sign, and other permits shall expire automatically if, within 180 days after the issuance of such permits:

(i) The use authorized by such permits has not commenced, in circumstances where to

substantial construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use, or

(ii) Less than 10 percent of the total cost of all construction, erection, alteration, excavation, demolition, or similar work on any development authorized by such permits has been completed on the site. With respect to phased development (see Section 413), this requirement shall apply only to the first phase.

(b) If, after some physical alteration to land or structures begins to take place, such work is discontinued for a period of 180 days, then the permit authorizing such work shall immediately expire. However, expiration of the permit shall not affect the provisions of Section 415.

(c) The Zoning Administrator may extend for a period of up to 180 days, the date when a permit would otherwise expire pursuant to subsections (a) or (b) if it concludes that (i) the permit has not yet expired, (ii) the permit recipient has proceeded with due diligence and in good faith, and (iii) conditions have not changed so substantially as to warrant a new application. Successive extensions may be granted for periods up to 180 days upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit.

(d) For purposes of this section, a permit within the jurisdiction of the Board of Appeals is issued when such Board votes to approve the application with or without conditions (written minutes of such board action will state conditions in full) and issue the permit. A permit within the jurisdiction of the Zoning Administrator is issued when the earlier of the following takes place:

(i) A copy of the fully executed permit is delivered to the permit recipient, and delivery is accomplished when the permit is hand-delivered or mailed to the permit applicant; or

(ii) The Zoning Administrator notifies the permit applicant that the applicant has been approved and that all that remains before a fully executed permit can be delivered is for the applicant to take certain specified actions, such as having the permit executed by the property owner so it can be recorded if required.

(e) Notwithstanding any of the provisions of Article VII, this Section shall be applicable to permits issued prior to the date this Section becomes effective.

Section 415. Effect of Permit on Successors and Assigns

(a) Zoning, special exception, sign and other permits authorize the permittee to make use of land and structures in a particular way. Such permits are transferable. However, so long as the land or structures or any portion thereof covered under a permit continues to be used for the purposes for which the permit was granted, then;

(i) No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit for the purposes

authorized in the permit except in accordance with all the terms and requirements of that permit, and

(ii) The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit was obtained, but also with respect to persons who subsequently obtain any interest in all or part of the covered property and wish to use it for or in connection with purposes other than those for which the permit was originally issued, so long as the persons who subsequently obtain an interest in the property had actual or record notice (as provided in subsection (b)) of the existence of the permit at the time they acquired their interest.

(b) Whenever a zoning, or special exception permit is issued to authorize development (other than single-family or two-family residences) on a tract of land in excess of one acre, nothing authorized by the permit may be done until the record owner of the property signs a written acknowledgement that the permit has been issued so that the permit may be recorded in the Indian Head Town Hall and indexed under the record owner's name as grantor.

Section 416. Amendments to and Modifications of Permits

(a) Insignificant deviations from the permit (including approved plans) issued by the Board of Appeals or Administrator are permissible, and the Administrator may authorize such insignificant deviations. A deviation is insignificant if it has no discernible impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.

(b) Minor design modifications or changes in permits (including approved plans) are permissible with the approval of the permit-issuing authority. Such permission may be obtained without a formal application, public hearing, or payment of any additional fee. For purposes of this section, minor design modifications or changes are those that have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.

(c) All other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the Board of Appeals, new conditions may be imposed, but the applicant retains the right to reject such additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit.

(d) The Administrator shall determine whether amendments to and modifications of permits fall within the categories set forth above in Subsections (a), (b), and (c).

(e) A developer requesting approval of changes shall submit a written request for such approval to the Administrator, and that request shall identify the changes. Approval of all changes must be given in writing.

Section 417. Reconsideration of Board Action

(a) Whenever the Board of Appeals disapproves an application for a special exception permit or a variance, on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the respective Board at a later time unless the applicant clearly demonstrates that:

(i) Circumstances affecting the property that is the subject of the application have substantially changed, or

(ii) New information is available that could no, with reasonable diligence, have been presented at a previous hearing. A request to be heard on this basis must be filed with the Administrator within the time period for an appeal to the Charles County Circuit Court (see Article VII). However, such a request does not extend the period within which an appeal must be taken.

(b) Notwithstanding subsection (a), the Board of Appeals may at any time consider a new application affecting the same property as an application previously denied. A new application is one that differs in some substantial way from the one previously considered.

Section 418. Maintenance of Common Areas and Facilities

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

Section 419. Records of Zoning Administrator

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

Section 420. Structures and Uses to be as Provided in Building Permits, Plans and Certificates of Occupancy

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

Part II Special Exception Permits

Section 421. Intent

(a) The development and execution of this Chapter are based upon the division of the Town into districts within which the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are certain uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts without consideration in each case of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location.

(b) The intent of this Article is to establish procedures and minimum standards to be used as guidelines for the consideration and authorization of those uses classified as special exceptions under the respective District regulations.

(c) The granting of a special exception does not exempt the applicant from complying with all other requirements of this Chapter or of the law.

Section 422. Initiation of Special Exceptions

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

Section 423. Application for Special Exception

Such application for special exception shall be filed with the Zoning Administrator on a form prescribed by the Zoning Administrator. The application shall be accompanied by such plans and/or data as necessary and shall include a statement in writing by the applicant and adequate evidence showing that the proposed use will conform to the standards hereinafter set forth. Such application shall be forwarded from the Zoning Administrator to the Board of Appeals for review and decision. The Board of Appeals shall, within 60 days of the conclusion of the public hearing held in accordance with Section 424, render a decision on the application.

Section 424. Hearing on Application

The Board of Appeals shall hold a public hearing on each application for a special exception at such time and place as shall be established by the Board of Appeals after providing public notice as provided in Article V. The hearing shall be conducted and a record of such proceedings shall be preserved in such a manner as the Board of Appeals shall, by rule, prescribe from time to time.

Section 425. Authorization

For each application for a special exception, the Board of Appeals shall normally, within sixty (60) days of receipt of the application, conduct its public hearing and report its findings and decisions, including the stipulations or additional conditions and guarantees deemed necessary for the protection of the public interest.

Section 426. Standards – General

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

(i) That the establishment, maintenance and operation of the special exception will not be detrimental to or endanger the public health, safety, convenience, morals, order or general welfare.

(ii) That the special exception will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.

(iii) That the exterior architectural appeal and functional plan of any proposed structure will not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district, as to cause a substantial depreciation in the property values within the neighborhood.

(iv) That adequate utilities, water, sewer or septic system, access roads, storm drainage and/or other necessary public facilities and improvements have been or are being provided.

(v) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

(vi) That the proposed special exception is not contrary to the objectives of the current Comprehensive Plan for the Town of Indian Head.

(vii) That the special exception shall, in all other respects, conform to the applicable regulations of the district in which it is located or to the special requirements established for the specific use.

(viii) Conditions and Guarantees. Prior to the granting of any special exception, the Board of Appeals shall stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the special exception as is deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified in Article XI. In all cases in which special exceptions are granted, the Board of Appeals shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Such proof shall be filed with the board on or before March 15 of each year. The first filing shall not be made unless and until at least 12 months have elapsed since the date of the grant

of the special exception.

Section 427. Effect of Denial of a Special Exception

No application for a special exception which has been denied wholly or in part by the Board of Appeals shall be resubmitted for a period of two (2) years from the date of said order of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Board of Appeals.

Section 428. Complaints

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

Section 429. Revocation (See Article VII for enforcement provisions.)

(a) Failure to Comply with Conditions. Whenever the Zoning Administrator shall find, in the case of any permit heretofore or hereafter granted pursuant to the provisions of this Article that any of the terms, conditions, or restrictions upon which such permit was granted are not being complied with, the Board is authorized, after due notice to all parties concerned and granting full opportunity for a public hearing, to suspend or revoke such permit or take other action as it deems necessary to ensure compliance. The Board is authorized to request and obtain investigations and reports as to compliance from such Town or state agencies or administrative officers as may be appropriate.

(b) Abandonment, etc. Whenever the Zoning Administrator shall determine that a special exception appears to have been abandoned, that an approved special exception is not initiated within one (1) year after the date of approval, that its annual proof referred to above has not been filed within 45 days of its due date, or that all of the terms and conditions of its grant are not being complied with, the Zoning Administrator shall notify the Board and the Town Attorney's office. Upon receipts of notice of such determination by the Administrator, the Board shall issue an order to show cause why such special exception should not be revoked. Notice thereof shall be given to the party to whom the special exception has been granted and to all parties who would be entitled to receive notice of a new application for special exception concerning the property. The applicant shall have 60 days from the date of written notice of expiration to file an appeal of said notice.

Section 430. Standards for Special Exceptions

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

ARTICLE V APPEALS, VARIANCES, INTERPRETATIONS

Section 500. Appeals

(a) An appeal from any final order or decision of the Administrator or Planning Commission may be taken to the Board of Appeals by any person aggrieved. An appeal is taken by filing, with the Administrator and the Board of Appeals, a written notice of appeal specifying the grounds therefor. A notice of appeal shall be considered filed with the Administrator and the Board of Appeals when delivered to the Town Hall, and the date and time of filing shall be entered on the notice by the Zoning Administrator.

(b) An appeal must be filed within 30 days after the date of the decision or order appealed from.

(c) Whenever an appeal is filed, the Administrator shall transmit to the Board of Appeals all the documents constituting the record relating to the action appealed from.

(d) An appeal stays all actions by the Administrator seeking enforcement of or compliance with the order or decision appealed from, unless the Administrator certifies to the Board of Appeals that (because of facts stated in the certification) a stay would, in his opinion, cause imminent peril to life or property. In that case, proceedings shall not be stayed except by order of the Board of Appeals or a court, issued on application of the party seeking the stay, for due cause shown, after notice to the Administrator.

(e) The Board of Appeals may reverse or affirm (wholly or partly) or may modify the order, requirement, decision or determination appealed from and shall make any order, requirement, decision or determination that, in its opinion, ought to be made in the case before it. To this end, the board shall have all the powers of the officer from whom the appeal is taken.

Section 501. Variances

(a) An application for a variance shall be submitted to the Board of Appeals by filing a copy of the application with the Administrator in the Town Hall. Applications shall be handled in the same manner as applications for zoning permits and special exceptions in conformity with the provisions of Article IV. When the application for a variance seeks a deviation in applicable setbacks for a non-conforming lot of record, the standards set forth in Article VIII shall apply in lieu of the following.

(b) An application for a variance in the Critical Area District shall be submitted to the Critical Area Commission, and all related correspondence shall be provided to the Town.

(c) A variance may be granted by the Board of Appeals if it concludes that strict enforcement of this Chapter would result in practical difficulties or unnecessary hardships for the applicant and that, by granting the variance, the spirit of this Chapter will be observed, public safety and welfare secured, and substantial justice done. It may reach these conclusions if it finds:

(i) That if the applicant complies strictly with the provisions of the Chapter, he can make no reasonable use of his property.

(ii) That special conditions or circumstances exist that are unique to the subject property or structure and that a literal enforcement of the provisions of this Chapter would result in unwarranted hardship which is not generally shared by owners of property in the same land use classification.

(1) The hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public,

(2) The hardship relates to the applicant's land, rather than personal circumstances.

(3) The hardship is unique, or nearly so, rather than one shared by many surrounding properties;

(4) The hardship is not the result in the applicant's own actions.

(iii) That strict enforcement of the provisions of this chapter would deprive the property owner of rights commonly shared by other owners of property in similar areas.

(iv) That the granting of a variance will not confer upon an applicant any special privilege that would be denied to other owners of like property and/or structures within the Zoning District.

(v) That the variance request is not based upon conditions or circumstances which are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming which are related to adjacent parcels.

(vi) That greater profitability or lack of knowledge of the restrictions shall not be considered as sufficient cause for a variance.

(vii) That the proposed variance is consistent with the Town of Indian Head Comprehensive Plan.

(viii) That the variance will neither result in the extension of a nonconforming situation in violation of Article VIII nor authorize the initiation of a nonconforming use of land.

(ix) That the granting of the variance will be in harmony with the general purpose and intent of this Chapter and the Town's Critical Area Program and shall not result in a use not permitted in the zone in which the property subject to variance is located, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(d) In granting variances, the Board of Appeals may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practical with the surrounding properties. Violations of such conditions, when made part of the

terms under which the variance is granted, shall be deemed a violation of this Chapter and punishable under Article VII.

(e) A variance may be issued for an indefinite duration or for a specified duration only.

(f) The nature of the variance and any conditions attached to it shall be entered on the face of the zoning permit, or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this Chapter.

Section 502. Interpretations

(a) The Board of Appeals is authorized to interpret the zoning map and to pass upon disputed questions of lot or district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the Zoning Administrator, they shall be handled as provided in Section 500.

(b) An application for a map interpretation shall be submitted to the Board of Appeals by filing a copy of the application with the Zoning Administrator in the Town Hall. The application shall contain sufficient information to enable the Board to make the necessary interpretation.

(c) Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

(i) Boundaries indicated as approximately following the centerline of alleys, streets, highways, streams, or railroads shall be construed to follow such centerline,

(ii) Boundaries indicated as approximately following lot lines, and Town boundary lines shall be construed as following such lines, limits or boundaries,

(iii) Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as following such shorelines,

(iv) Where a district boundary divides a lot or where distances are not specifically indicated on the Official Zoning Map, the boundary shall be determined by measurement, using the scale of the Official Zoning Map.

(v) Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.

(d) Interpretations of the location of floodway and floodplain boundary lines may be made by the Zoning Administrator.

Section 503. Requests to Be Heard Expeditiously

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

Section 504. Burden of Proof in Appeals and Variances

(a) When an appeal is taken to the Board of Appeals in accordance with Section 500, the Administrator shall have the initial burden of presenting to the Board sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.

(b) The burden of presenting evidence sufficient to allow the Board of Appeals to reach the conclusions set forth in Section 501(b), as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

Section 505. Board Action on Appeals and Variances

(a) With respect to appeals, a motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of facts that support the motion. If a motion to reverse or modify is not made or fails to receive the majority vote necessary for adoption, then a motion to uphold the decision appealed from shall be in order. This motion is adopted as the Board's decision if supported by a majority of the Board's membership (excluding vacant seats).

(b) A motion to deny a variance may be made on the basis that any one or more of the criteria set forth in Section 501(b) are not satisfied or that the application is incomplete. Insofar as practicable, such a motion shall include a statement of the specific reasons or findings of fact that support it. This motion is adopted as the Board's decision if supported by a majority of the Board's membership (excluding vacant seats).

Section 506. Hearing Required on Appeals and Applications

(a) Before making a decision on an appeal or an application for a variance, special exception, or a petition from the planning staff to revoke a special exception, the Board of Appeals shall hold a hearing on the appeal or application.

(b) Subject to subsection (c), the hearing shall be open to the public, and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments and ask questions of persons who testify.

(c) The Board of Appeals may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the matter at issue

may be heard and decided without undue delay.

(d) The Board may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be published unless a period of six weeks or more elapses between hearing dates.

Section 507 Notice of Hearing

The Administrator shall give notice of any hearing required by Section 506 as follows:

(a) Notice shall be given to the appellant or applicant and any other person who makes a written request for such notice by mailing to such persons a written notice not later than 10 days before the hearing. When lands subject to application of a variance or special exception are located in the Critical Area, notice shall also be provided to the Critical Area Commission.

(b) Notice shall be given to neighboring property owners by mailing a written notice not later than 10 days before the hearing to those property owners about the lot that is the subject of the application or appeal. Notice shall also be given by prominently posting signs in the vicinity of the property that is the subject of the proposed action. Such signs shall be posted not less than seven days prior to the hearing.

(c) In the case of special exceptions, notice shall be given to other potentially interested persons by publishing a notice one time in a newspaper having general circulation in the area not less than seven nor more than fifteen days prior to the hearing.

(d) The notice required by this section shall state the date, time, and place of the hearing, reasonably identify the lot that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

Section 508. Evidence

(a) The provisions of this section apply to all hearings for which a notice is required by Section 600.

(b) All persons who intend to present evidence to the Board, rather than arguments only, shall be sworn.

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

Section 509. Modification of Application at Hearing

(a) In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Board of Appeals, the applicant may agree to modify his application, including the plans and specifications submitted.

(b) Unless such modifications are so substantial or extensive that the Board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the Board may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the planning staff.

Section 510. Record

(a) An audio recording shall be made of all hearings required by Section 506, and such recordings shall be kept for at least two years. Accurate minutes shall also be kept of all such proceedings, but a transcript need not be made.

(b) Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the Town for at least two years.

Section 511. Written Decision

(a) Any decision made by the Board of Appeals regarding an appeal or variance or issuance of revocation of a special exception shall be reduced to writing and served upon the applicant or appellant and all other persons who make a written request for a copy.

(b) In addition to a statement of the Board's ultimate disposition of the case and any other information deemed appropriate, the written decision shall state the Board's findings and conclusions, as well as supporting reasons or facts, whenever this Chapter requires the same as a prerequisite to taking action.

ARTICLE VI Reserved

ARTICLE VII ENFORCEMENT AND REVIEW

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

Section 700. Complaints Regarding Violations

Whenever the Zoning Administrator receives a written, signed complaint alleging a violation of this Chapter, he shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken.

Section 701. Persons Liable

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

Section 702. Procedures Upon Discovery of Violations

(a) If the Administrator finds that any provision of this Chapter is being violated, he shall send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the Administrator's discretion.

(b) The final written notice (and the initial written notice may be the final notice) shall state what action the Administrator intends to take if the violation is not corrected and shall advise that the administrator's decision or order may be appealed to the Board of Appeals in accordance with Article V.

(c) Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this Chapter or pose a danger to the public health, safety, or welfare, the Administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in Article V.

Section 703. Penalties and Remedies for Violations

(a) Any person, firm, or corporation that violates any of the provisions of this Chapter by constructing or altering any building not in accordance with a plan approved under the regulations herein, or defaces, removes, or destroys an official warning, safety or stop work sign, or who interfere with or threatens, in any manner, any person engaged in the performance of a duty required by the terms of this Chapter shall be guilty of a misdemeanor and shall be liable to a fine not to exceed $1,000 per day that the violations exist, imprisonment, or both fine and imprisonment.

(b) All other violations of the provisions of this Chapter or failure to comply with any of its requirements shall constitute a municipal infraction. Any person who violates this Chapter or fails to comply with any of its requirements shall be subject to the penalties specified in Section 1-37 of the Code of the Town of Indian Head. Each day such violation continues shall be considered a separate offense and shall be subject to a separate citation.

Section 704. Permit Revocation

(a) A zoning, sign, or special exception permit may be revoked by the permit-issuing authority (in accordance with the provisions of this Section) if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this Chapter, or any additional requirements lawfully imposed by the permit-issuing authority.

(b) Before a special exception permit may be revoked, all of the notice and hearing and other requirements of Article VI shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation.

(i) The burden of presenting evidence sufficient to authorize the permit-issuing authority to conclude that a permit should be revoked for any reasons set forth in subsection (a) shall be upon the party advocating that position. The burden of persuasion shall also be upon that party.

(ii) A motion to revoke a permit shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.

(c) Before a zoning or sign permit may be revoked, the Administrator shall give the permit recipient 10 days' notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for revocation and of his right to obtain an informal hearing on the allegations. If the permit is revoked, the Administrator shall provide to the permittee a written statement of the decisions and the reasons therefor.

(d) No persons may continue to make use of land or buildings in the manner authorized by any zoning, sign, or special exception use permit after such permit has been revoked in accordance with this Section.

Section 705. Judicial Review

(a) Every decision of the Zoning Administrator and every decision of the Board of Appeals may be appealed to the Circuit Court of Charles County in accordance with the Maryland Rules of Procedure.

(b) A petition for judicial review must be filed with the Charles County Clerk of Court within 30 days after A written copy of the Zoning Administrator's or Board's decision (see Article V) has been delivered by personal service or certified mail, return receipt requested, to the applicant.

ARTICLE VIII NONCONFORMING SITUATIONS

Section 800. Intent

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

Section 801. Definitions

See Article II for basic definitions and Interpretations. Unless otherwise specifically provided or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this article.

Section 802. Continuation of Nonconforming Situations and Completion of Nonconforming Projects

(a) Unless otherwise specifically provided in this Chapter and subject to the restrictions and qualifications set forth in Sections 803 through 807, nonconforming situations that were otherwise lawful on the effective date of this Chapter may be continued.

(b) Nonconforming projects may be completed only in accordance with the provisions of this Article.

Section 803. Nonconforming Lots

(a) When a nonconforming lot can be used in conformity with all of the regulations applicable to the intended use, except that the lot is smaller than the required minimums set forth in Article XII, then the lot may be used as proposed just as if it were conforming. However, no use that requires a greater lot size than the established minimum lot size for a particular zone is permissible on a nonconforming lot.

(b) When the use proposed for a nonconforming lot is one that is conforming in all other respects but the applicable setback requirements cannot reasonably be complied with, then the Board of Appeals may allow deviations from the applicable setback requirements if it finds that:

(i) The property cannot reasonably be developed for the use proposed without such deviations,

(ii) These deviations are necessitated by the size or shape of the nonconforming lot, and

(iii) The property can be developed as proposed without any significantly adverse impact on surrounding properties or the public health or safety.

(c) For purposes of subsection (b), compliance with applicable building setback requirements is not reasonably possible if a building that serves the minimal needs of the use proposed for the nonconforming lot cannot practicably be constructed and located on the lot in conformity with such setback requirements. However, mere financial hardship does not constitute grounds for finding that compliance is not reasonably possible.

(d) This Section applies only to undeveloped nonconforming lots. A lot is undeveloped if it has no principal building upon it or if there is a principle building upon it which is physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by a duly authorized official to be unsafe or unlawful by reason of physical condition. A change in use of a developed nonconforming lot may be accomplished in accordance with Section 806.

(e) If an undeveloped nonconforming lot adjoins and has continuous frontage with one or more other undeveloped lots under the same ownership, and such lot was created prior to November 22, 1992, then neither the owner of the nonconforming lot nor his successors in interest may take advantage of the provisions of this section. This subsection shall not apply to a nonconforming lot if a majority of the developed lots located on either side of the street where such lot is located and within 500 feet of such lot are also nonconforming. The intent of this subsection is to require nonconforming lots to be combined with other undeveloped lots to create conforming lots under the circumstances specified herein, but not to require such combination when that would be out of character with the way the neighborhood has previously been developed.

(f) A single lot or parcel of land in the Critical Area Overlay District that was legally recorded as of August 3, 1989, may be developed with a single-family dwelling and customary accessory building, if the dwelling was not already placed there not withstanding that such development may be inconsistent with the density provisions contained in Article XII provided that:

(i) It is on land where development activity has legally progressed to the point of pouring foundation footings or installation of structural members, prior to August 3, 1989, will be permitted to complete construction as per existing development approvals.

(ii) It is a 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 lots, where the subdivision received the Town's final approval prior to June 1, 1984, if:

(1) At the time of development, the land is brought into conformance with the Critical Area Program insofar as possible, including the consolidation or re-

configuration of lots not individually owned; or

(2) The land has received a building permit subsequent to December 1, 1985, but prior to local critical area program approval by the Critical Area Commission.

(iii) It is on land that was subdivided into recorded, legally buildable lots, where the subdivision received the Town's final approval between June 1, 1984, and December 1, 1985.

(iv) It is on land that was subdivided into recorded, legally buildable lots, where the subdivision received the Town's final approval after December 1, 1985, provided that either any such land conforms to the IDA, LDA or RCA requirements in the Critical Area Overlay District or the area of land is counted against the growth allocation permitted under this Chapter, or was approved by the Critical Area Commission at the time of local program approval.

Section 804. Extension or Enlargement of Nonconforming Situations

(a) Except as specifically provided in this Section, no person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming use. In particular, physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:

(i) An increase in the total amount of space devoted to a nonconforming use, or

(ii) Greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations, density requirements, or other requirements such as parking requirements.

(b) Subject to subsection (d), a nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this Chapter, was manifestly designed or arranged to accommodate such use. However, subject to Section 806, a nonconforming use may not be extended to additional buildings or to land outside the original building. Subject to Section 804, a nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that a use that involves the removal of natural materials from the lot shall have one (1) year to comply with all sections of this Chapter.

(c) The volume, intensity, or frequency of use of property where a nonconforming situation exists may be increased and the equipment or processes used at a location where a nonconforming situation exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind and no violations of other paragraphs of this section or other sections of this Chapter occur.

(d) Notwithstanding subsection (a), any structure used for single-family residential purposes

and maintained as a nonconforming use may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to such matters as setback and parking requirements. This subsection is subject to the limitations stated in Section 807.

(e) A nonconforming structure may be altered to decrease its nonconformity.

(f) Notwithstanding subsection (a), whenever: (i) there exists a lot with one or more structures on it, and (ii) a change in use that does not involve any enlargement of a structure is proposed for such lot, and (iii) the parking or loading requirements of Article XVII that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can practicably be used for parking or loading, then the proposed use shall not be regarded as resulting in an impermissible extension or enlargement of a nonconforming situation. However, the applicant shall be required to comply with all applicable parking and loading requirements that can be satisfied without acquiring additional land and shall also be required to obtain satellite parking in accordance with Article XVII if: (i) parking requirements cannot be satisfied on the lot with respect to which the permit is required; and (ii) such satellite parking is reasonably available. If such satellite parking is not reasonably available at the time the zoning or special exception use permit is granted, then the permit recipient shall be required to obtain it if and when it does become reasonably available. This requirement shall be a continuing condition of the permit.

Section 805. Repair, Maintenance, Reconstruction

(a) Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted without a permit. Major renovation, i.e., work estimated to cost more than 25% of the appraised valuation of the structure to be renovated, may be done only in accordance with a zoning permit issued pursuant to this Section.

(b) If a structure located on a lot where a nonconforming situation exists is damaged to an extent that the costs of repair or replacement would exceed 25% of the appraised valuation of the damaged structure, then the damaged structure may be repaired or replaced only in accordance with a zoning permit issued pursuant to this Section. This subsection does not apply to structures used for single-family residential purposes, which structures may be reconstructed pursuant to a zoning permit just as they may be enlarged or replaced as provided in Section 804 (e).

(c) For purposes of subsections (a) and (b):

(i) The "cost" of renovation or repair or replacement shall mean the fair market value of the materials and services necessary to accomplish such renovation, repair, or replacement.

(ii) The "cost" of renovation or repair or replacement shall mean the total cost of all

such intended work, and no person may seek to avoid the intent of subsections (a) or (b) by doing such work incrementally.

(iii) The "appraised valuation" shall mean either the appraised valuation for property tax purposes, updated by the increase in the consumer price index since the date of the last valuation, or the valuation determined by a professionally recognized property appraiser.

(d) The Zoning Administrator shall issue a permit authorized by this Section if he finds that, in completing the renovation, repair or replacement work:

(i) No violation of Section 804 will occur, and

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

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

Section 806. Change in Use of Property Where a Nonconforming Situation Exists

(a) A change in use of property (where a nonconforming situation exists) that requires a new zoning or special-use permit in accordance with Article IV may not be made except in accordance with subsections (b) through (d). However, this requirement shall not apply if only a sign permit is needed.

(b) If the intended change in use is to a principal use that is permissible in the district where the property is located, and all of the other requirements of this Chapter applicable to that use can be complied with, permission to make the change must be obtained in the same manner as permission to make the initial use of a vacant lot. Once conformity with this Chapter is achieved, the property may not revert to its nonconforming status.

(c) If the intended change in use is to a principal use that is permissible in the district where the property is located, but all of the requirements of this Chapter applicable to that use cannot reasonably be complied with, then the change is permissible if the Zoning Administrator issues a permit authorizing the change. This permit may be issued if the Zoning Administrator finds, in addition to any other findings that may be required by this Chapter, that:

(i) The intended change will not result in a violation of Section 804, and

(ii) Compliance with a requirement of this Chapter is not reasonably possible without

adding additional land to the lot where the nonconforming situation is maintained or without moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible. In no case may an applicant be given permission pursuant to this subsection to construct a building or add to an existing building if additional nonconformities would thereby be created.

(d) If the intended change in use is to another principal use that is also nonconforming, then the change is permissible if the Zoning Administrator issues a permit authorizing the change. The Zoning Administrator may issue the permit if it finds, in addition to other findings that may be required by this Chapter:

(i) The use requested is one that is permissible in some zoning district with a zoning or special exception use permit, and

(ii) All of the conditions applicable to the permit authorized in subsection (c) of this section are satisfied, and

(iii) The proposed development will have less adverse impact on existing surrounding uses and will be more compatible with the existing surrounding uses than the use in operation at the time the permit is applied for.

Section 807. Abandonment and Discontinuance of Nonconforming Situation

(a) When a nonconforming use is discontinued for a consecutive period of 365 days, the property involved may thereafter be used only for conforming purposes.

(b) For purposes of determining whether a right to continue a nonconforming use is lost pursuant to this Section, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a nonconforming apartment building for one year shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter.

ARTICLE IX ZONING DISTRICTS AND ZONING MAP

Part I. Zoning Districts

Section 900. Districts Established

The incorporated area of the Town of Indian Head shall be divided into seven (7) zoning districts: "R-1", Single-Family Residential; "R-2", Single-Family Residential' "RM", Multiple- Family Residential; “GC”, General Commercial; "TCMX", Town Center Mixed-Use; Public Institutional, and “OS”, Open Space districts. The districts shall be established to regulate and restrict the location of trades, industries, and buildings erected or altered for specific uses; to regulate and limit the height and bulk of buildings hereafter erected or structurally altered; to regulate and limit population density and the intensity of the use of lot areas; and to regulate and determine the areas of yards, courts, and other open spaces with and surrounding such buildings.

Section 901. Residential Districts

(a) R-1: Single-Family Residential -- Low Density

The intent of this district is to provide for low-density single-family detached residences (other than mobile homes) and supporting uses. This zone is located in areas of the Town where low-density single-family development patterns are generally established or where services and facilities will be adequate to serve the anticipated population. This zone is also intended to provide for minor in-filling of existing neighborhoods consistent with their zoning and character at the time of enactment of this Chapter. Such neighborhoods are relatively uniform in character and stable. The regulations permit future development consistent with existing character.

(b) R-2: Single-Family Residential -- Medium Density

The intent of this district is to provide for medium-density single-family detached residences (a special exception for mobile homes is provided) and supporting uses. This zone is located in areas of the Town where medium-density single-family development patterns are generally established or where services and facilities will be adequate to serve the anticipated population. This zone is also intended to provide for minor in-filling of existing neighborhoods consistent with their zoning and character at the time of enactment of this Chapter. Such neighborhoods are relatively uniform in character and stable. The regulations permit future development consistent with existing character. In general, re-subdivision of lots in existing subdivisions to create additional building lots is not permitted.

(c) RM: Multi-Family Residential

This zone is primarily for multi-family dwellings and supporting uses at a higher density than is provided for in either R-1 or R-2 zones. Within this zone, a variety of housing-types including single-family, two-family, townhouse, and garden apartments are encouraged in order to provide for a mix in housing prices, household sizes, age groups, and lifestyles. Residential cluster is encouraged for development on minimum lot areas to provide for additional open space for

common use by local residents as well as by the adjacent community. Recreation, health, and community activity facilities for the elderly and handicapped are also encouraged in this zone.

Section 902. Commercial Districts

(a) GC: General Commercial

The intent of this zone is to provide for the location of area-wide-oriented business with a variety of office and commercial uses that are not suitable for location in other zones. This zone serves higher volume automobile traffic generation commercial uses and allows for more intensive uses than the TCMX zone. Light industrial use is permitted without special exception. This zone is located on both sides of the Rt. 210 corridor and is in locations where new development can be grouped with existing compatible development.

Section 903. Planned Development Districts

(a) TCMX: Town Center Mixed Use

The intent of this zone is to provide for a mixture of residential and commercial. This zone is intended to promote and enhance a particularly pedestrian-oriented environment and is designed to permit a mix of uses that can be generally found located in a traditional town center or neighborhood setting. General Concepts can be found in the Indian Head – New Horizons, The Plan for the Future of Downtown – on file at the Town Municipal Building. The zone is to also accommodate auto oriented businesses, but done in a manner to compliment pedestrian activities. It should encourage both development and redevelopment and should, where possible, enhance the identity of the town. The residential/commercial mixed-uses allowed in this zone are appropriate to encouraging "infill" development and renovations adjacent to the existing town center at a pedestrian scale. This zone may also be used to provide for assisted living facilities for the elderly as well as light industrial use without special exception. Design principles to be fostered in this district include:

(i) Dwellings, shops and workplaces generally located in close proximity to each other; the scale of which accommodates and promotes pedestrian travel for trips within the Town.

(ii) Modestly sized buildings fronting on, and aligned with, streets in a disciplined manner, uninterrupted by parking lots.

(iii) A generally rectilinear pattern of streets, alleys and blocks reflecting the street network of the existing Town which provides for a balanced mix of pedestrians and automobiles.

(iv) Squares, greens landscaped streets and parks woven into the street and block patterns to provide space for social activity, parks and visual enjoyment.

(v) Promotion of civic buildings for assembly or other civic purposes.

(vi) A recognizable, functionally diverse, visually unified Town center, focused on a village green or square.

(vii) A development size and scale which accommodates and promotes pedestrian travel rather than vehicle trips within the Town.

(viii) To provide a more attractive and varied living environment.

(ix) To encourage a more intimate, efficient and aesthetic use of open space.

(x) To encourage variety in the physical development pattern of residential areas.

(xi) To foster forms of development which exhibit the characteristics of Traditional Neighborhoods within the Town.

(xii) To encourage the developer to combine adjacent tracts of land where appropriate to allow a well-designed and functional mixed use development.

(xiii) Provide for the careful consideration of key elements of building form, design, and context in the Town, without limiting the potential for architectural innovation. If the development is within the Highway Overlay Zone, brick and/or stone façade shall be employed.

(xiv) Provide sidewalks that are 5 feet wide as a minimum.

(xv) Provide on-street parking.

(xvi) Provide an abundance of quality landscaping.

(xvii) To the extent practical, provide a variety of housing stock and styles serving a range of incomes and age groups. Examples are apartments, townhomes, single-family homes, and senior housing. No one style shall take up more than fifty percent (50%) of the dwelling units.

(xviii) Provide a variety of open space in the form of parks, greens, squares and plazas which incorporate hiker and biker trails and promote pedestrian and community activity.

(xix) Provide a variety of thoroughfares that are designed to be equitable to the pedestrian, bicycle and automobile, and are connected in such a way as to encourage walking and reduce the number and length of automobile trips.

(xx) Provide alley loaded garage entrances where practical.

(xxi) Provide superior building products with emphasis on quality exterior finishes; such as brick, stone, and Hardie Board.

(xxii) Building mass showing variations in form and broken into smaller components by the use of offsets and other design techniques.

(xxiii) A human scale achieved at ground level, at entryways, and along street frontages through the use of such elements as windows, doors, columns, and canopies.

(xxiv) Buildings constructed of superior quality materials and design.

(1) Building materials applied to any building wall fronting or visible from a public street shall wrap around onto the adjoining wall, unless sideboard trim is applied.

(2) Windowless walls at ground level adjacent to major pedestrian travel ways should be avoided.

(3) Service bay openings shall not be visible from public rights-of-way.

(4) Residential areas shall provide safe and comfortable passage for residents, regardless of physical challenge, to commercial and service areas and transportation networks.

(xxv) For all commercial and municipal uses, parking shall be provided as specified in Article XVII.

(xxvi) For any residential use except dwellings above commercial uses, on-street parking spaces directly abutting the property may be used to satisfy fifty percent (50%) of the off-street parking requirements of that unit.

(xxvii) For any commercial or municipal use, on-street parking spaces directly abutting the property may be used to satisfy off-street parking requirements without limitation.

(xxviii) Each garage door opening facing a frontage does not exceed forty percent (40%) of the width of the house façade (including the garage).

(xxix) Private sidewalks are provided between the public sidewalk and building entrances and between connecting parking areas and the public sidewalk.

(xxx) All parking lots along frontages are masked by a street wall and/or hedge.

(xxxi) Alleys and streets are interconnected.

(xxxii) The street layout connects to all adjacent public stub streets and includes public stub streets to facilitate connection to adjacent future development sites. Internal connections shall also exist within the site. The street layout contains no cul-de-sacs, or other unconnected streets, unless approved by the Planning Commission.

(xxxiii) Development plan shall include a bicycle network of trails, lanes, sidewalks, and/or routes and connection to adjacent properties.

(xxxiv) Office buildings front on public or private vehicular thoroughfares except alleys or passages. Buildings do not back onto public or private vehicular thoroughfares, except alleys or passages.

(b) TCMX Requirements

(i) Permitted uses

(1) Town Center Mixed Use Developments are contemplated to provide a compatible mixture of residential and commercial development.

(2) The Planning Commission may approve and/or require land and places for public assembly, recreational buildings, public buildings and accessory buildings, or may require the reservation of lands for such uses if it is deemed they are advantageous or necessary for the purpose of serving the Town Center Mixed Use Development and the local community.

(3) A minimum of 7% commercial footprint on a property is a requirement. Incentives for higher percentage of commercial footprint may be offered.

(ii) A TCMX shall be an architecturally integrated development meeting the following criteria:

(1) Within individual parcels, no specific architectural style or character is mandated; however, some identifiable, coherent character should be established at the scale of individual streets or clusters without necessarily being the same throughout the entire parcel.

(2) Hybrid "styling" should be avoided; there should be consistency between the overall composition of individual houses – their massing, roofs, fenestration, and their materials, colors and details.

(3) Adjacent houses should not be exactly identical, nor should they be totally unrelated in character, scale, material, color, and details – for example, they may have porches, roof slopes, window types, and siding materials in common – so that the overall streetscape appears to have a clear and coherent architectural.

(iii) To the extent practicable, the two-family and multi-family portions of a TCMX shall be developed more toward the interior rather than the periphery of the tract so that the single-family detached residences border adjacent single-family residential properties.

(iv) Administrative Procedures

(1) Preliminary application shall be made to the Planning Commission for consideration and shall include, but not be limited to:

(a) A general diagram showing the projects relation to the Town of Indian Head and major public access to the project.

(b) The General Development Plan setting forth preliminary information as identified in Appendix A. In addition to such information, the Town Planning Commission may require, but not be limited to the following:

(i) Elevations of each building type.

(ii) Proposed open spaces, their size, their location, their uses, and their proposed ownership (Town and/or association).

(iii) General statement concerning provision of utilities.

(iv) Statement of expected Town responsibilities.

(v) Study of adequacy of public facilities as discussed in Article XIX.

(vi) Tentative time table and staging of development (schedule of construction)

(c) After the Planning Commission makes its findings, and finds that the proposal has merit, it will be given conceptual approval.

(2) Preliminary Site Plan. The developer shall submit the following to the Planning Commission for its review after receiving conceptual approval.

(a) A preliminary site plan shall be filed with the Town. The preliminary plan shall comply with the requirements of this Article and be accompanied by such other written or graphic materials as may be necessary or desirable in aiding in the decisions of the Planning Commission.

(b) The Zoning Administrator shall review the site plan for compliance with the requirements of this Chapter. Before returning the preliminary site plan to the Planning Commission, the Zoning Administrator shall consult with such Town officials as may be appropriate, and may offer such comments as may be appropriate.

(c) A preliminary site plan shall include but not be limited to the requirements set forth in Appendix A.

(d) A schedule of construction or timetable (acceptable to the Planning Commission).

(e) The developer shall provide a statement detailing the means by which the development and all its various aspects shall be managed. This shall include deed restrictions and covenants designed to ensure perpetuity of agreements.

(f) The preliminary site plan shall also include a management statement governing the construction, operation, and maintenance of:

(i) Sanitary and storm sewers, water mains, culverts, and other underground structures.

(ii) Streets, alleys, driveways, curb cuts, entrances and exits, parking and loading area, and outdoor lighting systems.

(iii) Parks, parkways, bikeways, playground, open spaces, fences, walls, screen planting, and landscaping and signs.

(g) The Planning Commission may establish additional requirements for the preliminary site plan.

(h) After review and a public hearing on the proposed development, the Planning Commission shall take appropriate action.

(3) Final Review and Approval Procedure

(a) The Planning Commission shall review the final site plan and other documents.

(b) The Planning Commission shall hold a public hearing.

(c) The Planning Commission may approve or disapprove the proposed Developer Proposal. In granting approval, the Planning Commission shall secure:

(i) A surety bond or equivalent to be filed for/or deposited in escrow with the Town Council in an amount sufficient to ensure completion of all requirements established by the Planning Commission.

(ii) If the plan involves subdivision, a final plat shall be prepared, filed, and recorded. The final plat shall comply with the specifications set forth in Appendix A, and

applicable State and Town laws, and regulations governing the subdivision of land.

(iii) Permits for building shall be issued in accordance with the schedule for construction approved by the Planning Commission as part of the final approval.

(iv) When a proposal is to be developed in stages, each stage shall be processed as a separate development after first submitting and received approval of the proposal for the entire project.

(v) As part of the final approval, the Planning Commission shall approve dates for initiation and completion of the development and/or its phases. Any departure from these dates shall constitute material breach of contract and outstanding bonds can be called in. The Planning Commission can waive completion dates for cause.

(d) Conflict with other Articles

(i) Provisions of the TCMX zone when found to be in conflict with other provisions of this Chapter shall supersede those other provisions with which they conflict.

Section 904. Floodplain and Floodway Districts

The floodplain and floodway districts are hereby established as "overlay" districts, which means that these districts are overlaid upon other districts, and the land so encumbered may be used in a manner permitted in the underlying district only if, and to the extent, such use is also permitted in the applicable overlay district. The floodplain and floodway districts are further described in Chapter 65 of the Code of the Town of Indian Head.

Section 905. Open Space District

The intent of this district is to identify those open spaces within the Town that have been determined to be significant features of the landscape. By doing so, open spaces within the Town may be protected from future development and preserved for the enjoyment of the community.

(a) The following principal uses shall be allowed in this zone:

(i) Public parks, greenways, trails, playgrounds, golf courses, pools and the like.

(ii) Arboretums, exhibits, and libraries.

(iii) Public utility installations, flood control works, and the like.

(iv) Public cemeteries.

(b) The following accessory uses shall be allowed in this zone: uses and structures that are necessary and desirable adjuncts to permissible uses and structures and are under the management or control of the Town.

(c) There are no minimum lot area or lot width requirements for this zone.

Section 906. Public – Institution District

In the public-institution district, the following regulations shall apply:

(a) Permitted principal uses and structures shall be as follows:

(i) Public parks, playgrounds, golf courses and the like.

(ii) Arboretums, exhibits and libraries.

(iii) Public and semipublic institutions, including churches, schools, hospitals, elderly and children's convalescent homes and the like.

(iv) Public administrative offices.

(v) Public utility installations, flood control works and the like.

(vi) Public housing.

(vii) Public cemeteries.

(viii) Public child-care centers.

(ix) Assisted living facilities for the elderly, subject to special provisions listed for such uses, provided that any such facilities are owned and operated by a government, a government agency, or a public housing authority.

(b) Permitted accessory uses and structures shall be as follows;

(i) Uses and structures which are necessary and desirable adjuncts to permissible uses and structures are under the management or control of the public or semipublic agency responsible for the principal use and structure.

(c) Special exception uses and structures shall be as follows:

(i) Public garages, maintenance yards, equipment yards.

(d) Dimensional requirements shall be as follows:

(i) There are no minimum lot area or lot width requirements. See schedule of zone regulations in Article XII.

(ii) The maximum height of any structure within fifty (50) feet of a residential shall be fifty (50). See schedule of zone regulations in Article XII.

(e) Permitted accessory signs shall be regulated as set forth in Article XVI of this Chapter.

(f) Off-street parking requirements shall be as follows:

(i) The applicable parking requirements set forth in Article XVII.

(ii) Public housing: One (1) space per unit.

Part II Special Overlay District -- Highway Corridor Section 930.

Section 930. Purpose

(a) The purpose of establishing this overlay district is to: stimulate private sector investment in the Town of Indian Head; preserve, protect and enhance the value of properties along the Rt. 210 corridor; improve the quality of development and the image of the Rt. 210 corridor as a good place to live and work by ensuring high standards of construction in all forms of development; to continually improve the quality of the neighborhoods, housing and businesses to make the Rt. 210 corridor a location for quality economic development projects; to ensure that all structures are maintained in a safe, sanitary condition; to prevent decay and blight and improve and protect the quality and durability of all structures within the Rt. 210 corridor; assure sound economic development and the expansion of the tax base to ensure the continued economic vitality of the Town of Indian Head and Rt. 210 corridor; and protect and/or enhance the aesthetic and visual character of the Town of Indian Head to provide for the orderly growth and development of the same. The overlay district regulations are intended to supplement the regulations of the underlying zoning districts and to provide for the harmony and capability of development along the Rt. 210 corridor. All development proposed within this District shall be subject to those standards pertaining to the particular base zoning district in which the development occurs. Additionally, the regulations applicable within the Highway Corridor Overlay District are intended to:

(i) To provide for the continued safe and efficient use of this roadway.

(ii) To maintain natural beauty and scenic, cultural, and historic character of the corridor, particularly distinctive views, vistas, and visual continuity.

(iii) To prohibit indiscriminate clearing, excessive grading, and clear cutting along the corridor.

(iv) To minimize intersection and site access points.

(v) To improve and protect the economic value and vitality of the Town center by encouraging positive visual experiences, with high quality, durable construction and development within the corridor.

(vi) These purposes will be accomplished through evaluation of proposed developments within this zoning district by an Architectural Review Board, which shall review the location, character and appearance of new development. It is the purpose of such review to determine, in a cooperative fashion with the applicant, whether a proposed plan meets the guidelines and other standards of this zoning district. Unless otherwise provided by action of the Town Council, the Planning Commission shall serve as the Architectural Review Board.

(b) The Highway Corridor Overlay District shall include all lands within 500 feet of each side of the center line of Maryland State Route 210. The approximate boundary of the overlay district shall be shown on the Official Zoning Map and shall be shown as a surveyed line by the applicant on each property subject to review.

Section 931. Affected Development

(a) All development plan applications for development located in the Highway Corridor Overlay District shall be reviewed by the Architectural Review Board (ARB). All changes subject to approval by the Architectural Review Board shall receive such approval before proceeding. If a portion of the corridor will not be visible from the road once the project is completed, the Architectural Review Board may waive review of that portion. The Architectural Review Board may also review preliminary development plans or design development drawings at the request of the Planning Commission or the applicant so that major redesign of final plans by the applicant may not be necessary.

(b) Development Activity Permitted Within The District.

(i) There shall be no alteration of the existing condition of the lands, uses or structures within the Special Overlay District from the date of enactment of this Section henceforth except as provided for by this section or by other sections of this Article.

(ii) The Overlay District regulations are supplementary to the permitted uses and requirements for the appropriate underlying zoning district as contained in Article IX and X of this Chapter.

(c) Development activity prohibited within the District. Uses prohibited in the underlying zoning district are also prohibited in the Overlay District.

Section 932. Tree Protection

(a) Development of land for different uses and intensity of uses will oftentimes necessitate the

removal of trees to accommodate roads, parking, buildings, and facilities. It is the expressed intent of this Chapter that every effort be made through the design, layout, and construction of development projects to incorporate and save as many trees as possible.

(b) No person shall cut, destroy, move, or remove any living, disease-free tree of any species having a trunk with a diameter of eight (8) inches or larger, measured four and one-half (4.5) feet from the base, in conjunction with any development of land governed by this Chapter unless and until such removal or destruction has been approved under the provisions of this Chapter.

(c) No person shall cut or clear land of trees for the sole purpose of offering land for sale. Land may be underbrushed (bushhogged) in preparation for sale or development.

(d) The clear-cutting of trees is prohibited. The term "clear-cutting" as used herein shall mean the cutting of more than 75 percent of the trees six inches in trunk diameter or larger. Clear-cutting pursuant to an approved development plan shall require the planting of replacement trees as indicated in the detailed landscape plan accompanying the development application.

(e) A survey of all trees of applicable size shall be made and submitted in conjunction with the development site layout. All trees proposed for removal shall be clearly noted. The tree survey shall be certified by a registered land surveyor, registered engineer, or registered landscape architect.

(f) The requirement for a tree survey may be waived when preliminary site evaluation reveals the ability to accomplish the proposed project without removal of any trees eight (8) inches in diameter or larger. In the latter case, the applicant shall submit a written statement that no trees will be removed, and his permit will indicate No Tree Removal as a condition thereof.

(g) Removal of endangered or valued trees will not normally be permitted. Trees included in this category are:

--American Elm (Ulmus americana)
--American Holly (Ilex opaca)
--Bald Cypress (Taxodium distichum)
--Live Oak (Quercus virginiana)
--Loblolly-bay (Gordonia lasianthus)
--Pecan (Carya illinoensis)
--Southern Magnolia (Magnolia Grandflora)
--Sweet Bay (Magnolia virginiana)
--Tulip Popular (Liriodendron Tulipifera)
--American Chestnut (Castanea Dentata)

(h) Considerable damage to or the death of trees may result if more than six (6) inches of soil is added around the base of a tree, more than 30 percent of circumferential bark is removed, or more than 30 percent of the root system is removed. In addition, asphalt paving, building

construction, and soil compaction too close to the drip line of the trees may cause their destruction. Accordingly, it shall be the responsibility of the developer to institute alternative site designs to assure the best chance of tree survival whenever these criteria cannot be adhered to.

(i) Those trees designated for preservation in accordance with the provisions of this Chapter as shown on the approved landscape plan shall be marked with bright blue ribbons encircling the tree trunk at a height of four (4) feet above the ground, and a four (4)-foot high barricade will be constructed around the tree at the drip line prior to the start of construction.

(j) As a condition of approval under this Chapter, the applicant may be required to plant replacement trees for trees approved for removal as part of the final plan. In requiring replacement trees, the following will be considered:

(i) the intended use of the property;

(ii) the existing or pre-development tree coverage, sizes, and types;

(iii) the number, size, type, and location of natural trees proposed for preservation by the applicant;

(iv) the grading, road, building, parking, and drainage requirements.

Section 933. Retention of and/or Creation of a Minimum Visual Buffer along the Rt. 210 Corridor Right-of-Way

(a) Each approved application for development shall provide a minimum visual buffer between the right-of-way line of the subject roadway and all proposed structures and parking areas. The purpose of the minimum visual buffer is to soften the appearance of structures and parking lots from the road, to screen vehicular headlight glare on and off site, and to lessen spillover light from on-site lighting. The buffer shall be continuous, except as set forth in (b) below, and be no less than the requirements for Buffer yard B contained in Article XVIII and Appendix F. The minimum Buffer yard depth shall not occur at the high activity areas of a project. These areas include, but are not limited to, building entrances, drop-offs, and drive-throughs.

To determine the average depth of the minimum visual buffer, measurements shall be taken at intervals not greater than 10 feet perpendicular to the property line. Side buffer areas required by other sections of this Chapter shall not be used when calculating the minimum visual buffer. Where lagoons and drainage swales occur in the minimum visual buffer because of natural land forms or drainage patterns, additional buffer depth and vegetation may be required to augment the screening effect.

(b) The intent of the minimum visual buffer is to leave the naturally occurring buffer vegetation intact for its softening effect. This buffer may be enhanced or created, where such vegetation is insufficient or non-existent, with trees and shrubs of a variety of species

appropriate to Town character. If the minimum visual buffer already has trees of protected size and species as noted in Article XVIII, their preservation is required. Where masses of native shrubs are present, their preservation with minimum disturbance is strongly encouraged. While complete screening of a project is not required, sufficient plant material shall be installed to accomplish the softening effect required in (a) above. In order to maintain the screening effect, existing vegetation shall not be limbed-up from the ground more than five feet to the lowest branches. However, if understory planting is planned, existing vegetation may, with the approval of the Zoning Administrator, be limbed-up to a height that will provide adequate sunlight to those plants. Minimum height and caliper of new trees shall be consistent with provisions of the tree protection requirements in Section 932. Minimum height of new shrubs used to create the minimum visual buffer shall be three feet.

Section 934. Exemptions From Buffer Requirements

Exemptions, whether partial or total, from the buffer yard provisions may be granted if it can be sufficiently demonstrated that such buffer yard will have a deleterious visual effect upon an existing situation. The following outlines those anticipated situations where the buffer yard requirement may be relaxed or removed.

(a) Protection of existing visual environment. In the following cases where the characteristics of the existing visual environment would be detracted from by the provision of a required buffer yard:

(i) Views and Vistas of existing buildings which exhibit a high degree of aesthetic value serving to heighten the visual experience, serve as important points of spatial identification, contain value as important historical resources.

(ii) Views and Vistas of existing natural landscape/topographical features of a particular locale which correspond to certain high points affording panoramic views, views to settlement clusters, views of water, valleys, and other elements of the physical landscape.

(iii) Views and Vistas to existing recreational/open space areas, whether natural or man- made, which serve to contribute to the overall visual environment. Uses such as golf-courses, local parks, cemeteries.

(iv) Views and Vistas to which give the observer an awareness of a locations inherent character related to views of farmland, pastures, water activities, such as docks or other maritime activities specific to the area.

(b) Protection of proposed visual environment. In the following cases, where a proposed development intended to further enhance or protect the existing visual environment would be visually affected by the required buffer yard:

(i) A proposed development which, by virtue of the characteristics of its structures, indicates innovation of design, a unique relationship with the site, represents a focal

point, and establishes a particular identifying element for the locale.

(ii) A proposed development which exhibits innovative or unique uses of site landscaping, or which combines in the use of the site open recreational areas such as described above.

(c) Retention of existing natural attributes of the site. Significant steps must be taken by a developer to preserve significant tree stands, and topographic characteristics, even in the event that such elements are in locations where they are not wholly visible. The intent is to provide incentives to retain the features of the existing natural environment rather than encourage its destruction, and then to remedy the situation with new plantings.

(d) Management of existing and proposed resources. In order to encourage management programs for visual natural resources, so that the continuation of such resource is assured, buffer yard requirements may be reduced or waived.

Section 935. Permitted Activity in Minimum Visual Buffer Before and After Development

(a) No existing vegetation of any type, size, or origin shall be altered or removed unless it satisfies the tree protection requirements of Section 932.

(b) Within the minimum visual buffer there shall be no development, clearing, grading, or construction activity, except for the following:

(i) Roadway and/or driveway access to the portion of the site not in the minimum visual buffer provided that it is approximately perpendicular to right-of-way.

(ii) Provision for water, sanitary sewer, storm drainage, electrical, telephone, natural gas, cable, etc. service lines provided they are approximately perpendicular to the right-of-way. In the event that utilities must be installed approximately parallel to the road right-of-way, an equal amount of buffer may be required to substitute for the area of vegetation removal. Permission for easement and right-of-way disturbance and clearing for such services shall be more favorably considered when such activity is consolidated with vehicular access routes.

(iii) Pedestrian and bicycle paths designed to provide continuous connection along the Route 210 corridor, provided that they can be constructed without materially reducing the screening and visual softening capacity of the vegetation buffer.

(iv) Lighting fixtures only for approved signs or if, for safety reasons, they cannot be placed outside the buffer and then only when electric utility lines serving these fixtures and necessary easements can be established and constructed without reducing the screening and visual softening capacity of the vegetation buffer.

(v) Signs in accordance with the sign regulations in Article XVI, only if such signs cannot be placed outside the buffer.

(vi) Clear sight distances at the permitted entrances and exits to any development as needed to provide for reasonable traffic safety, in accordance with accepted traffic engineering practices (see Appendix C).

(vii) The addition of plantings, earth forms, or other visual buffers that, in the opinion of the Architectural Review Board, would better achieve the purpose set out in Appendices E and F than would otherwise be the case.

Section 936. Architectural Review

(a) Guidelines. The compatible relationship of architecture along Rt. 210 is of public concern. The intent of the architectural review is not to stifle innovative architectural design but to assure respect for, and reduce incompatible and adverse impacts on, the visual experience from the roadway. To accomplish this, the Architectural Review Board shall use the following guidelines in reviewing proposed structures, site improvements, signs, and streetscape improvements, or external changes to existing structures:

(i) Proposed development shall avoid excessive or unsightly grading, indiscriminate earth moving or clearing of property, and removal of trees and vegetation that could cause disruption of natural water courses or disfigure natural land forms.

(ii) Proposed development shall be located and configured in a visually harmonious manner with the terrain and vegetation of the parcel and surrounding parcels. Structures shall impede, as little as reasonably practical, scenic views from the main road or from existing structures and the natural environment. Structures shall not dominate, by excessive or inappropriate height or mass, any general development, adjacent building, or natural landscape in an incompatible manner.

(iii) The architectural design of structures and their materials and colors shall be visually harmonious with the overall appearance, history, and cultural heritage of the Town, with natural land forms and existing vegetation and with other development plans approved by the Town. Specific consideration shall be given to compatibility with adjacent properties where such projects demonstrate the Town's character.

(1) Large work area doors or open bays shall not open toward or face the highway.

(2) Heating, ventilating, and air conditioning equipment, duct work, air compressors, other fixed operating machinery shall be either screened from view or located so that such items are not visible from the highway. Large trash receptacles, dumpsters, utility meters, above-ground tanks, satellite dishes, antennas, etc., shall be similarly treated, as practicably as possible.

(3) Modular homes and office-type mobile units shall be screened from view

from the highway and equipped with skirting on all sides.

(4) All development, including those in which the principal facade is oriented to the interior of the lot, shall be designed so that all facades visible from the roadway or from adjacent sites shall be completed in an aesthetically pleasing manner.

(5) No temporary structures are permitted except those used in conjunction with and during construction projects.

(6) Fencing along the highway right-of-way is discouraged, but, if used, such fencing shall be of quality materials (brick, stone, wood) and shall be landscaped to minimize visibility from the highway.

(7) Long monotonous facade designs including, but not limited to, those characterized by unrelieved repetition of shape or form or by unbroken extension of line shall be avoided.

(8) Materials with similar texture and appearance as appropriate to the Town's character. Facades, if visible from the highway, sides of the buildings, shall incorporate brick or stone.

(9) Generally, no more than three colors per building should be used. Semi-transparent stains are recommended for application on natural wood finishes.

(10) The location and dimensions of wall signs shall be indicated and shall maintain compatibility with architectural features of the building.

(11) Architectural lighting shall be recessed under roof overhangs or generated from concealed source, low level light fixtures.

(12) Building massing should reflect proportion and scale appropriate to the existing Town design.

(iv) The landscape plans for the proposed development shall provide visually harmonious and compatible setting for structures on the same lot and on adjoining or nearby lots and shall blend with the surrounding landscape. Natural appearing landscape forms are strongly encouraged; formal plans and the appearance of straight hedges are discouraged. Landscaping shall be required between buildings and sidewalks, parking lots and driveways. The scale of the proposed landscaping shall be in proportion to the building.

(v) Site lighting shall be of low-intensity from a concealed source, shall be of a clear white light that does not distort colors, and shall not spill over into adjoining properties, buffers, roadways, or in any way interfere with the vision of on- coming motorists. Cut-off fixtures shall be provided to prevent light pollution of the night

sky.

(vi) The design and construction techniques of the proposed development shall respond to energy consumption and environmental quality considerations such as heat loss, heat gain, air emission, and runoff water quality.

(vii) Streetscape Improvements and External Changes.

(1) Streetscape improvements include those architectural or functional facilities or structures that occur on site but are not part of the building and that encourage and facilitate human interaction with the environment. Examples include, but are not limited to the following: decorative light fixtures, fountains, sculpture, benches and tables, planters, retaining walls, pedestrian and bicycle paths, bicycle parking structure, trash receptacles and enclosures, vendor areas, bollards, and fences. These improvements shall be designed to be consistent with all guidelines listed above, and shall be reviewed for aesthetic functionality and compatibility with the Town's character.

(2) Decorative, low-level intensity, non-concealed source lighting that defines vehicular and/or pedestrian ways may be acceptable if part of a planned unit lighting master plan. It is strongly discouraged as general lighting for a development. The master plan must show the relationship of the fixtures and the light patterns to each other, to the project site, to unit development, and to the Rt. 210 corridor.

(3) External changes to streetscape improvements and existing structures and sites subject to review by the Architectural Review Board shall be consistent with all guidelines and standards in this section. External changes of a minor nature include external color and structural material changes, parking lot additions and alterations, relocation of accessory structures, and similar minor changes as determined by the Zoning Administrator.

(viii) Signs, permanent.

(1) Applicants for new or replacement signs in the Highway Corridor Overlay District shall apply to the Architectural Review Board for review at the time of full development review or as a separate application.

(2) The Architectural Review Board is hereby authorized to approve or disapprove the appearance of features of such proposed signs and the Zoning Administrator's approval shall be given only after the Architectural Review Board's approval is granted.

(3) All signs shall meet all requirements of Article XVI.

(4) The amount of information on signs shall be no more than is necessary to provide reasonable identification of the name of the business to the passerby. While corporate logos that are part of a business name or business identification are authorized within Article XVI, color, size, and subject matter are reviewed under this subsection.

(5) An integrated sign system design shall be required for all new Planned Developments, commercial and residential subdivisions, office complexes, and shopping centers within the Highway Corridor District. The establishment of integrated sign systems for existing developments is strongly encouraged. These systems shall be reviewed for materials, colors, shapes, sizes, compatibility with architecture, and establishment of unity of design for the development. Individual signs shall be reviewed for conformance with such sign systems, whether newly established or existing.

(6) Materials, colors, and shapes of proposed signs shall be compatible with the related building(s). Size and proportions shall not be a dominant feature of the site and shall be judged by sizes and proportions of signs on adjacent and nearby properties that are compatible with the Town's character.

(7) Spot-lighting of signs shall be restricted to not more than one 150-watt light per side for sign faces up to 40 square feet and no more than two 150-watt lights per sign faces over 40 square feet. The sign base and/or proposed landscaping shall be designed to shield the light from on-coming motorists and to conceal the light fixture.

(ix) Signs, temporary.

(1) Temporary signs within the Highway Corridor Overlay District shall comply with the design guidelines set forth in this section for colors and materials and with Article XVI and shall be reviewed for such compliance by the Architectural Review Board.

(2) In the case of multiple principals (for example, owner, developer, architect, engineer, contractor, or real estate or leasing agent), all information shall be contained on a single sign not to exceed the maximum size and height allowed in Article XVI.

(3) Temporary signs within the corridor shall not be lighted.

(b) Following Project Completion, all design features required by the Town or shown on approved plans shall be maintained in good condition by all subsequent owners of the property. Changes proposed shall require approval by the Architectural Review Board.

Section 937. Performance Incentives

(a) The Zoning Administrator and the Architectural Review Board shall approve any individual or combination of the following development bonuses in order to recognize innovative design beyond that required to comply with the special overlay district regulations and which are considered to better further the goals for the Town of Indian Head.

(i) Floor-to-area ratio increase of up to 0.5.

(ii) Building height increases not to result in a maximum height exceeding 45 feet in R-1 and R-2 zones, 60 feet in TCMX zones. Building height increases exceeding 60 feet in TCMX zones can be submitted through special exception application.

(iii) Reduced setbacks of up to 25 percent less than those required.

(iv) A density bonus of residential development within the TCMX zoning district of up to two (2) times the allowable residential density for the underlying zoning district.

(b) Performance criteria to be considered in recommending bonuses shall relate reasonably to the bonuses being approved and shall include the following:

(i) Preserving scenic vistas, including the provision of public observation points. This incentive is allowed only where a view can be preserved.

(ii) Limiting access to roadways so as to discourage traffic through residential areas, to encourage the use of combined access points or to encourage the use of service drives.

(iii) Reducing impervious cover by 15 percent or more beyond the minimum standards allowed by this or other regulations.

(iv) Increasing landscaping or setbacks by more than 50 percent; increasing natural areas.

(v) Providing mixed-use development, particularly those that include residential uses and community facilities.

(vi) Reducing building mass by breaking up buildings.

(vii) Using "pervious pavers" when not receiving impervious cover credit.

(viii) Consolidating small lots to create parcels with a minimum of 300 feet of frontage on a corridor.

(ix) Constructing or dedicating public facilities such as parks, roadways and right-of-way, police, fire, or EMS sites, regional drainage facilities, or other facilities in

excess of that required by this Chapter.

(x) Maintaining the construction of all buildings and parking areas on 0-15 percent slopes.

(xi) Using energy-conserving or water-conserving devices that reduce consumption below that required by this Chapter.

(xii) Including workforce housing as a substantial component of the density bonus by developing and implementing strategies and concepts to encourage and promote occupancy by this segment of the community. Workers that comprise this segment of the community are generally defined as those having an income band between 80 and 120 percent of the median income for Charles County and whose full-time jobs are vital to the community's day-to-day functioning; such as, teachers, engineers, police, firefighters, hospital workers and others who respond first in an emergency.

(xiii) The nature of the development must be redevelopment of blighted areas and be consistent with the Town's current Comprehensive Plan and in general Conformance with the Town's generalized redevelopment document "Indian Head – New Horizons – The Plan for Future of Downtown."

(xiv) All other zoning requirements for the underlying zoning district shall apply.

(xv) The Project shall incorporate water conservation techniques in an effort to reduce water and sewer demands on the Town's water supply and infrastructure below that required by Town ordinances and building codes. The goal should be to limit water and sewer demand to no more than 25% more than the consumption that would be expected from the density permitted without the bonus. The applicant shall provide a written report to the Planning Commission as part of the site plan submittal, detailing the methods intended to achieve the water conservation goal. The Planning Commission will then make a determination, based on the information presented by the Applicant, whether the Applicant's efforts are commensurate with receiving all or a portion of the density bonus.

(xvi) The project shall incorporate "Green" Building techniques to reduce the negative impact of buildings and tenant spaces on occupants and the environment. The goal of reducing the destruction of natural areas, reducing air and water pollution, reducing the depletion of finite resources, creating a healthier and safer indoor and outdoor environment can be achieved in a number of ways including such elements as: site selection; community connectivity; protect or restore tree line and/or habitats; controlling storm water runoff; reducing light pollution; water efficient landscaping; energy performance criteria practices; on-site renewable energy; reuse of building materials; use of regional materials and service; use of natural light indoors; use of renewable materials; controllability of light and thermal comfort to occupants to name a few. The applicant shall provide a written report to the

Planning Commission as part of the site plan submittal, detailing the methods intended to achieve the desired goal. The Planning Commission will then make a determination, based on the information presented by the Applicant, whether the Applicant's efforts are commensurate with receiving all or a portion of the density bonus.

(c) In order to qualify for bonuses under this section, a development shall demonstrate compliance with at least 50 percent of the above criteria.

Section 938. Access Standards

The Town hereby incorporates, by reference, the access standards in the County Road Ordinance.

Section 939. Maintenance and Repair Required

All buildings and structures located within the Highway Corridor Overlay District shall be preserved against decay and deterioration and maintained free from structural defects to the extent that such decay, deterioration or defects may, in the opinion of the Architectural Review Board, result in the irreparable deterioration of any exterior appurtenance or architectural feature or produce a detrimental effect upon the character of the district as a whole or upon the life and character of the structure itself, including but not limited to:

(a) The deterioration of exterior walls or other vertical supports;

(b) The deterioration of roofs or other horizontal members;

(c) The deterioration of exterior chimneys;

(d) The deterioration or crumbling of exterior plaster or mortar;

(e) The ineffective waterproofing of exterior walls, roofs and foundations, including broken windows or doors;

(f) The peeling of paint, rotting, holes and other forms of decay;

(g) The lack of maintenance of the surrounding environment including fences, gates, sidewalks, steps, signs, accessory structures and landscaping; and

(h) The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.

After notice of violation of these provisions by the Architectural Review Board by certified or registered mail of specific instances of failure to maintain or repair, the owner or person in charge of said structure shall have 90 days to remedy such violation. Thereafter, each day during which there exists any violation of this section shall constitute a separate offense and shall be punishable

as provided in Article VII. In the alternative, if the owner fails to act, the Board may order the Zoning Administrator, after due notice to the owner, and with the permission of the Owner or court order, to enter the property and make or cause to be made such repairs as are necessary to preserve the integrity and safety of the structure and reasonable cost thereof shall be placed as a lien against the property.

Section 940. Waivers of Corridor Requirements

The Planning Commission may waive one or more of the specific requirements of the Highway Corridor Overlay District upon a showing by the applicant that these corridor regulations impose an undue hardship due to the peculiar configuration, topography, or location of the tract, or that the proposed project demonstrates the use of highly innovative architectural, site planning, or land use techniques. The Planning Commission may approve any waiver to the minimum extent necessary to allow the project to be constructed. The applicant for any such waiver shall have the burden of showing that the proposed project, with such waiver granted, will be as good as or better than a project developed in compliance with the District regulations in terms of environmental protection, aesthetic enhancement, land use compatibility, and traffic considerations. The grant or denial of a waiver by the Commission pursuant to this section may be appealed in accordance with Article V of this Chapter. An application for appeal shall be filed (received by the Zoning Administrator or postmarked) not later than 10 days after the decision is appealed in order to be considered by the Board of Appeals.

Section 941. Architectural Review Board

(a) Applicability. All development proposed in the Highway Corridor Overlay District and other applicable projects shall submit an application to the Zoning Administrator for review by the Architectural Review Board. Such application shall be reviewed for consistency with the guidelines and standards found in this Article and according to the submission and review requirements in this Article. When a project lies within the jurisdiction of a homeowners association review board, the Architectural Review Board shall receive written notice of any action which may be taken by such homeowners association review board prior to their review.

(b) Requirement of Complete Application; Minimum Items for Review. All applications for Architectural Review Board review shall be complete according to the requirements of this Article before being reviewed by the Zoning Administrator for conformance with all standards and guidelines of this Article. No application shall be reviewed by the Architectural Review Board until the minimum items of submission required by this Article have been submitted in a format acceptable to the Zoning Administrator.

(c) Application Content. Applications submitted for review by the Architectural Review Board shall be considered complete if they conform to all provisions of Article IV, in addition to the information directly related to those additional provisions to be addressed as part of the Highway Corridor Overlay District review including:

(i) Tree survey and protection as described in section 932;

(ii) The boundaries of the Highway Corridor Overlay Zoning District;

(iii) Required buffer yard according to Section 933;

(iv) Signage;

(v) Building elevations;

(vi) Proposed streetscape drawings; and

(vii) Any additional information for consideration of performance criteria (Section 937).

(d) An application shall be accompanied by the filing fee in the amount specified.

Section 942. Plan Review Procedures of Application for Corridor Review

All applications for the Highway Corridor Overlay District review shall be submitted and reviewed according to the procedures set forth in this Section. Complete applications shall be submitted not less than 21 days before the Architectural Review Board meeting at which the applicant wishes to be reviewed.

(a) The Architectural Review Board shall act on an application within 60 days of its being found complete by the Zoning Administrator. Failure of the Architectural Review Board to act within 60 days will make the Planning Commission responsible for corridor review.

(b) Applicants shall be informed in writing of the outcome of their review. The Architectural Review Board shall direct its determination and findings to the Zoning Administrator and the applicant in writing not more than five working days after taking action.

(c) Upon review of a project within the jurisdiction of a homeowners association review board, the Architectural Review Board must review the application independently according to the requirements of this Chapter and is not obligated to reach the same conclusion as the association.

(d) In addition to those items required elsewhere in this Article, an application for development plan approval shall be considered complete by the Zoning Administrator only when the Architectural Review Board's final approval with written recommendations and findings shall be received by the Zoning Administrator, except when the 60 day period for action has been exceeded.

Section 943. Appeal

The determination made by the Architectural Review Board pursuant to the procedures set forth in this Article and the standards set forth in Article V of this Chapter shall be a final determination. Any applicant aggrieved by the Architectural Review Board's determination may appeal such

determination as provided in Article V. An application for appeal shall be received by the Zoning Administrator or postmarked no later than 10 days after the decision being appealed in order to be considered by the Board of Appeals.

Part III Special Overlay District— Chesapeake Bay Critical Area

Section 950. Implementation of the Critical Area Program Purpose and Goals

(a) Goals.

The goals of the Town of Indian Head's Critical Area Program are to accomplish the following:

(i) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or run off from surrounding lands;

(ii) Conserve fish, wildlife, and plant habitat; and

(iii) 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.

(b) The Town of Indian Head's Critical Area Program.

The Town of Indian Head's Critical Area Program consists of the Town's Zoning Ordinance and the Official Critical Area map(s). Related provisions may be found in the Town of Indian Head's Subdivision Regulations.

(c) Applicability.

The Zoning Administrator shall review a permit or license for a development or redevelopment activity in the Critical Area for compliance with this Part III prior to issuance of that permit or license.

(d) Critical Area Overlay District Map.

(i) The Official Critical Area Overlay District Map is maintained as part of the Official Zoning Map for the Town. The Official Critical Area Map delineates the extent of the Critical Area Overlay District that shall include:

(1) All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide, and all state and private wetlands designated under Title 16 of the Environment Article of the Annotated Code of Maryland; and

(2) All land and water areas within 1,000 feet beyond the landward boundaries of state or private wetlands and the heads of tides designated under Title 16 of the Environment Article of the Annotated Code of Maryland.

(ii) Within the designated Critical Area Overlay District, all land shall be assigned one of the following land management and development area classifications:

(1) Intensely Developed Area (IDA).

(2) Limited Development Area (LDA).

(3) Resource Conservation Area (RCA).

(iii) The Critical Area Overlay District Map may be amended by the Town Council in compliance with amendment provisions in this chapter (ordinance), the Maryland Critical Area Law, and COMAR Title 27.

Section 951. Development Standards in the Critical Area

(a) General Requirements in all Critical Area Overlay Zones.

(i) Development and redevelopment shall be subject to the Habitat Protection Area requirements prescribed in this Part III as well as all other provisions of this Chapter.

(ii) Development and redevelopment shall be subject to the water-dependent facilities requirements of this Part III.

(iii) Roads, bridges, and utilities are prohibited in a Habitat Protection Area unless no feasible alternative exists. If a road, bridge, or utility is authorized the design, construction and maintenance shall:

(1) Provide maximum erosion protection;

(2) Minimize negative impacts on wildlife, aquatic life and their habitats; and

(3) Maintain hydrologic processes and water quality.

(b) All development activities that must cross or affect streams shall be designed to:

(i) Reduce increases in flood frequency and severity that are attributable to development;

(ii) Retain tree canopy so as to maintain stream water temperature within normal variation;

(iii) Provide a natural substrate for stream beds; and

(iv) Minimize adverse water quality and quantity impacts of stormwater.

(c) Reasonable accommodations for the needs of disabled citizens.

(i) An applicant seeking relief from the Critical Area standards contained in this Part III in order to accommodate the reasonable needs of disabled citizens shall have the burden of demonstrating by a preponderance of evidence the following:

(1) The alterations will benefit persons with a disability within the meaning of the Americans with Disabilities Act;

(2) Literal enforcement of the provisions of this Part III would result in discrimination by virtue of such disability or deprive a disabled resident or user of the reasonable use and enjoyment of the property;

(3) A reasonable accommodation would reduce or eliminate the discriminatory effect of the provisions of this Part III or restore the disabled resident's or user's reasonable use or enjoyment of the property;

(4) The accommodation requested will not substantially impair the purpose, intent, or effect, of the provisions of this Part III as applied to the property; and

(5) The accommodation would be environmentally neutral with no greater negative impact on the environment than the literal enforcement of the statute, ordinance, regulation or other requirement; or would allow only the minimum environmental changes necessary to address the needs resulting from the particular disability of the applicant/appellant.

(ii) The Board of Appeals shall determine the nature and scope of any accommodation under this Part III and may award different or other relief than requested after giving due regard to the purpose, intent, or effect of the applicable provisions of this Part III. The Board may also consider the size, location, and type of accommodation proposed and whether alternatives exist which accommodate the need with less adverse effect.

(iii) The Board of Appeals may require, as a condition of approval, that upon termination of the need for accommodation, that the property be restored to comply with all applicable provisions of this Part III. Appropriate bonds may be collected or liens placed in order to ensure the Town's ability to restore the property should the applicant fail to do so.

(d) Intensely Developed Areas.

(i) Development activities shall be designed and implemented to minimize destruction of forest and woodland vegetation;

(ii) All development and redevelopment activities shall include stormwater

management technologies that reduce pollutant loadings by at least 10 percent below the level of pollution on the site prior to development or redevelopment as provided in Critical Area 10% Rule Guidance Manual – Fall 2003 and as may be subsequently amended.

(e) Limited Development Areas.

(i) If a wildlife corridor system is identified by the Department of Natural Resources on or near the site, the following practices are required:

(1) The applicant shall incorporate a wildlife corridor system that connects the largest undeveloped or most vegetative tracts of land on and adjacent to the site;

(2) The Town shall require and approve a conservation easement, restrictive covenant, or similar instrument to ensure maintenance of the wildlife corridor;

(3) The wildlife corridor shall be preserved by a public or private group.

(ii) Development on slopes 15 percent or greater, as measured before development, shall be prohibited unless the project is the only effective way to maintain or improve the stability of the slope and is consistent with the policies and standards for Limited Development Areas.

(iii) Except as otherwise provided in this subsection, lot coverage is limited to 15% of a lot or parcel, or any portions of a lot or parcel, that are designated LDA.

(1) If a parcel or lot of one-half acre or less in size existed on or before December 1, 1985, then lot coverage is limited to twenty-five (25%) of the parcel or lot.

(2) If a parcel or lot greater than one-half acre and less than one acre in size existed on or before December 1, 1985, then lot coverage is limited to fifteen percent (15%) of the parcel or lot.

(3) If an individual lot one acre or less in size is part of a subdivision approved after December 1, 1985, then lot coverage may exceed fifteen percent (15%) of the individual lot; however the total lot coverage for the entire subdivision may not exceed fifteen percent (15%).

(4) Lot coverage limits provided in §(a) and §(b) above may be exceeded upon findings by the Planning Commission or its designee that the following conditions exist:

(a) The lot or parcel is legally nonconforming. A lot or parcel legally developed as of July 1, 2008, may be considered legally

nonconforming for the purposes of lot coverage requirements.

(b) Lot coverage associated with new development activities on the property have been minimized;

(c) For a lot or parcel one-half acre or less in size, total lot coverage does not exceed the lot coverage limits in §(a) by more than twenty-five percent (25%) or five hundred square feet (500 square feet), whichever is greater; and

(d) For a lot or parcel greater than one-half acre and less than one acre in size, total lot coverage does not exceed the lot coverage limits in §(b) or five thousand, four hundred and forty-five (5,445) square feet, whichever is greater;

(e) The following table summarizes the limits set forth in §(i) through §(iv) above:

Table C.(3)(d). Lot Coverage Limits.

Lot/Parcel Size (Square Feet)	Lot Coverage Limit
0 – 8,000	25% of parcel + 500 SF
8,001 – 21, 780	31.25% of parcel
21,781 – 36,300	5,445 SF
36,301 – 43,560	15% of parcel

(5) If the Planning Commission makes the findings set forth in subsection (d) above and authorizes an applicant to use the lot coverage limits set forth in that paragraph, the applicant shall:

(a) Demonstrate that water quality impacts associated with runoff from the development activities that contribute to lot coverage have been minimized through site design considerations or the use of best management practices to improve water quality; and

(b) Provide on-site mitigation in the form of plantings to offset potential adverse water quality impacts from the development activities resulting in new lot coverage. The plantings shall be equal to two times the area of the development activity.

(c) If the applicant cannot provide appropriate stormwater treatment and plantings due to site constraints, then the applicant shall pay a fee to the Town in lieu of performing the on-site mitigation.

(iv) The alteration of forest and developed woodlands shall be restricted and mitigated as follows:

(1) The total acreage in forest and developed woodlands within the Town in the Critical Area shall be maintained or preferably increased;

(2) All forests and developed woodlands that are allowed to be cleared or developed shall be replaced in the Critical Area on not less than an equal area basis;

(3) If an applicant is authorized to clear more than 20 percent of a forest or developed woodlands on a lot or parcel, the applicant shall replace the forest or developed woodlands at 1.5 times the areal extent of the forest or developed woodlands cleared, including the first 20 percent of the forest or developed woodlands cleared; and

(4) An applicant may not clear more than 30 percent of a forest or developed woodlands on a lot or parcel, unless the Board of Appeals grants a variance and the applicant replaces forest or developed woodlands at a rate of 3 times the areal extent of the forest or developed woodlands cleared.

(v) The following are required for forest or developed woodland clearing as required in (4) above:

(1) The applicant shall ensure that any plantings that die within twenty- four (24) months of installation are replaced. A performance bond in an amount determined by Town of Indian Head shall be posted to assure satisfactory replacement as required in (4) above and plant survival;

(2) A permit issued by the Town before forest or developed woodland is cleared. Forests and developed woodlands which have been cleared before obtaining a Town permit is a violation and shall be replanted at three times the areal extent of the cleared forest;

(3) Clearing of forest or developed woodlands that exceed the maximum area allowed in (4) above shall be replanted at three times the areal extent of the cleared forest; and

(4) If the areal extent of the site limits the application of the afforestation or reforestation standards in this section, the applicant may be allowed to plant offsite or pay a fee in lieu of planting.

(vi) If no forest exists on proposed development sites, these sites shall be planted to provide a forest or developed woodland cover of at least 15 percent. The applicant shall designate, subject to the approval of the Town, a new forest area on a part of the site not forested.

(vii) All forest, including afforested areas, shall be maintained through conservation easements, restricted covenants, or other protective instruments.

(f) Resource Conservation Areas.

(i) Nothing in this Section shall limit the ability of a participant in any agricultural easement program to convey real property impressed with such an easement to

family members provided that no such conveyance will result in a density greater than one dwelling unit per 20 acres.

(ii) Land use management practices shall be consistent with the policies and criteria for the Habitat Protection Area provisions of this Part III.

(iii) Development activity within the Resource Conservation Areas shall be consistent with the requirements and standards for Limited Development Areas as specified in this Part III.

(iv) Density

(1) Land within the Resource Conservation Area may be developed for residential uses at a density not to exceed one dwelling unit per 20 acres. In calculating the 1-in-20 acre density of development that is permitted on a parcel located within the Resource Conservation Area, the Town:

(a) Shall count each dwelling unit;

(b) May permit the area of any private wetlands located on the property to be included under the following conditions:

(i) The density of development on the upland portion of the parcel may not exceed one dwelling unit per eight acres; and

(ii) The area of private wetlands shall be estimated on the basis of vegetative information as designated on the State wetlands maps or by private survey approved by the Town, the Commission, and Maryland Department of the Environment.

Section 952. The Buffer.

(a) Applicability & Delineation.

An applicant for a development activity or a change in land use shall apply all of the required standards as described below. The buffer shall be delineated in the field and shall be shown on all applications as follows:

(i) A Buffer of at least 100 feet is delineated, and expanded as described in A(3), based on existing field conditions landward from:

(1) The mean high water line of tidal water;

(2) The edge of each bank of a tributary stream; and

(3) The upland boundary of a tidal wetland.

(ii) Applications for a subdivision or development activity on land located within the RCA requiring site plan approval after July 1, 2008, shall include a minimum Buffer of at least 200 feet from a tidal waterway or tidal wetlands. In the following instances, the 200 foot buffer does not apply and the buffer shall be delineated in accordance with A(1) and A(3):

(1) The application for subdivision or site plan approval was submitted before July 1, 2008, and legally recorded (subdivisions) or received approval (site plans), by July 1, 2010; or the application involves the use of growth allocation.

(iii) The Buffer shall be expanded beyond 100 feet as described in §A(1) above, and beyond 200 feet as described in §A(2) above, to include the following contiguous land features:

(1) A steep slope at a rate of four feet for every one percent of slope or the entire steep slope to the top of the slope, whichever is greater;

(2) A nontidal wetland to the upland boundary of the nontidal wetland;

(3) The 100-foot buffer that is associated with a Nontidal Wetland of Special State Concern as stated in COMAR §26.23.06.01;

(4) For an area of hydric soils or highly erodible soils, the lesser of:

(i) The landward edge of the hydric or highly erodible soils; or

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

(b) Development activities in the Buffer.

The Town may authorize disturbance to the buffer for the following activities, provided mitigation is performed in accordance with subsection (d) of this Section and an approved Buffer Management Plan is submitted as required per subsection (f) of this Section:

(i) A new development or redevelopment activity associated with a water- dependent facility as described in Section 954.

(ii) A shore erosion control activity constructed in accordance with COMAR 26.24.02, a shore erosion control measure under COMAR 26.24.04, and this Part III.

(iii) A development or redevelopment activity approved in accordance with the

variance provisions of this Part III.

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

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

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

(v) A septic system on a lot created before January 1, 2010 where mitigation is provided at a 1:1 ratio for area of canopy cleared of any forest or developed woodland.

(c) Buffer Establishment.

(i) The requirements of this subsection are applicable to:

(1) 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

(2) The approval of a subdivision that includes a buffer to tidal waters, a tidal wetland, or a tributary stream.

(ii) If an applicant for a subdivision of a lot uses or leases the lot for an agricultural purpose, the applicant:

(1) In accordance with local land recordation requirements, shall record an approved buffer management plan under subsection (f) of this Section; and

(2) If authorized by the Town, may delay implementation of the Buffer Management Plan until the use of the lot is converted to a nonagricultural purpose.

(iii) The requirements of this subsection are not applicable to an in-kind replacement of a structure.

(iv) The Town shall require an applicant to establish the buffer in vegetation in accordance with the table below and subsection (e) of this Section and to provide a Buffer Management Plan under subsection (f) of this Section when an applicant

applies for:

(1) Approval of a subdivision;

(2) Conversion from one land use to another land use on a lot or a parcel; or

(3) Development on a lot or a parcel created before January 1, 2010.

(v) 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:

Table 3.C.(5). Buffer establishment requirements.

Development Category	Lot Created Before	Lot Created After
	January 1, 2010	January 1, 2010
Development on a vacant lot	Establish the buffer based on total square footage of lot coverage outside the buffer	Fully establish the buffer
Subdivision	Fully establish the buffer	
New lot with an existing dwelling unit	Establish the buffer based on total square footage of lot coverage outside the buffer	
Conversion of a land use on a parcel or lot to another land use	Fully establish the buffer	
Addition, accessory structure, or redevelopment	Establish the buffer based on net square footage increase in lot coverage outside the buffer	
Substantial alteration	Establish the buffer based on total square footage of lot coverage outside the buffer	

(vi) The Town may authorize an applicant to deduct from the total establishment requirement an area of lot coverage removed from the buffer if:

(1) The lot coverage existed before the date of local program adoption or was allowed by local procedures; and

(2) The total area is stabilized.

(d) 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 Section.

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

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

(iii) Planting for mitigation shall be planted onsite within the buffer. If mitigation planting cannot be located within the buffer, then the Town may permit planting in the following order of priority:

(1) On-site and adjacent to the buffer; and

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

(iv) The installation or cultivation of new lawn or turf in the buffer is prohibited.

(e) Buffer Planting Standards.

(i) An applicant that is required to plant the Buffer to meet establishment or mitigation requirements shall apply the planting standards set forth in COMAR 27.01.09.01-2 and 01-4.

(ii) A variance to the planting and mitigation standards of this Ordinance is not permitted.

(f) 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 Section do not apply to maintaining an existing grass lawn or an existing garden in the buffer.

(i) 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 Town of Indian Head.

(ii) An applicant may not obtain final approval of a subdivision application until the Buffer Management Plan has been reviewed and approved by the Town.

(iii) The Town may not approve a Buffer Management Plan unless:

(1) The plan clearly indicates that all planting standards under subsection (e) of this Section will be met; and

(2) Appropriate measures are in place for the long-term protection and maintenance of all Buffer areas.

(iv) 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:

(1) Completes the implementation of a Buffer Management Plan; or

(2) Provides financial assurance to cover the costs for:

(i) Materials and installation; and

(ii) 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.

(v) Concurrent with recordation of a subdivision plat, an applicant shall record a protective easement for the buffer.

(vi) If an applicant fails to implement a Buffer Management Plan, that failure shall constitute a violation of this Chapter. A permit for development activity will not be issued for a property that has the violation.

(vii) An applicant shall post a subdivision with permanent signs prior to final recordation in accordance with COMAR 27.01.09.01-2.

(viii) Buffer Management Plans that includes natural regeneration shall follow the provisions of COMAR 27.01.09.01-4.

(g) Fee-In-Lieu of Buffer Mitigation.

A fee in-lieu of mitigation will be collected if the planting requirements of subsection (d) above cannot be fully met onsite, in accordance with the following standards:

(i) Fee-in-lieu monies shall be collected and held in a special fund, which may not revert to the Town's general fund;

(ii) Fee-in-lieu shall be assessed at $1.50 per square foot of required buffer mitigation;

(iii) A portion of fee-in-lieu money may be used for management and administrative costs; however, this cannot exceed 20% of the fees collected; and

(iv) Fee-in-lieu monies shall be used for the following projects:

(1) To establish the buffer on sites where planting is not a condition of development or redevelopment;

(2) For water quality and habitat enhancement projects as approved by the Critical Area Commission or by agreement between the Town and the Critical Area Commission.

Section 953. Other Habitat Protection Areas.

(a) Identification.

An applicant for a development activity, redevelopment activity or change in land use shall identify all applicable Habitat Protection Areas and follow the standards contained in this Section. Habitat Protection Areas includes:

(i) Threatened or endangered species or species in need of conservation;

(ii) Colonial waterbird nesting sites;

(iii) Historic waterfowl staging and concentration areas in tidal waters, tributary streams or tidal and nontidal wetlands;

(iv) Existing riparian forests;

(v) Forest areas utilized as breeding areas by forest interior dwelling birds and other wildlife species;

(vi) Other plant and wildlife habitats determined to be of local significance;

(vii) Natural Heritage Areas; and

(viii) Anadromous fish propagation waters.

(b) Standards.

(i) An applicant for a development activity proposed for a site within the Critical Area that is in or near a Habitat Protection Area listed above; shall request review by the Department of Natural Resources Wildlife and Heritage Service (DNR WHS), and as necessary United States Fish and Wildlife Service (USFWS), for comment and technical advice. Based on the Department's recommendations, additional research and site analysis may be required to identify the location of threatened and endangered species and species in need of conservation on a site.

(ii) If the presence of any Habitat Protection Area is confirmed by the Department of Natural Resources, the applicant shall follow all recommendations from DNR WHS, and as necessary, USFWS.

(a) If potential FIDS habitat is identified, the proposed development shall conform to the Critical Area Commission's FIDS Guidance Manual, dated June 2000 and as updated.

(b) If potential anadromous fish propagation waters are identified, the proposed development shall conform to the policies and criteria listed in COMAR 27.01.09.05.

(iii) The specific protection and conservation measures recommended by DNR WHS and USFWS shall be included on the site plan and shall be considered conditions of approval for the project.

Section 954. Water Dependent Facilities.

(a) Applicability.

The provisions of this Section apply to those structures or work 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 of the intrinsic nature of its operation.

(b) Identification.

Water dependent facilities include, but are not limited to, ports, the intake and outfall structures of power plants, water-use industries, marinas, and other boat docking structures, public beaches and other public water-oriented recreation areas, and fisheries activities. Excluded from this regulation are individual private piers installed or maintained by riparian landowners, and which are not part of a subdivision that provides community piers.

(c) Standards.

The following standards shall apply to new or expanded development activities associated with water-dependent facilities:

(i) New or expanded development activities may be permitted in the buffer in the Intensely Developed Areas and Limited Development Areas provided that it can be shown:

(1) That they are water-dependent;

(2) That the project meets a recognized private right or public need;

(3) That adverse effects on water quality, fish, plant, and wildlife habitat are minimized;

(4) That, insofar as possible, non-water-dependent structures or operations associated with water-dependent projects or activities are located

outside the buffer; and

(5) That the facilities are consistent with an approved local plan as set forth below.

(ii) New or expanded development activities may not be permitted in those portions of the buffer which occur in Resource Conservation Areas. Applicants for water-dependent facilities in a Resource Conservation Area, other than those specifically permitted herein, must apply for a portion of the County's growth allocation as set forth in Section 955.

(d) Evaluating plans for new and expanded water-dependent facilities.

The Town shall evaluate on a case-by-case basis all proposals for expansion of existing or new water-dependent facilities. The Town shall work with appropriate State and federal agencies to ensure compliance with applicable regulations. The following factors shall be considered when evaluating proposals for new or expanded water dependent facilities:

(i) That the activities will not significantly alter existing water circulation patterns or salinity regimes;

(ii) That the water body upon which these activities are proposed has adequate flushing characteristics in the area;

(iii) That disturbance to wetlands, submerged aquatic plant beds, or other areas of important aquatic habitats will be minimized;

(iv) That adverse impacts to water quality that may occur as a result of these activities, such as non-point source run-off, sewage discharge from land activities or vessels, or from boat cleaning and maintenance operations, is minimized;

(v) That shellfish beds will not be disturbed or be made subject to discharge that will render them unsuitable for harvesting;

(vi) That dredging shall 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) That 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 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) That interference with the natural transport of sand will be minimized; and

(ix) That disturbance will be avoided to historic areas of waterfowl staging and concentration or other Habitat Protection Areas identified in this Part III.

Section 955. Growth Allocation.

(a) Growth allocation acreage and deduction.

(i) Growth allocation available to the Town includes:

(a) An area equal to five (5) percent of the RCA acreage located within the Town and;

(b) Growth allocation available to the Town as provided for by Charles County.

(ii) The Town of Indian Head's original growth allocation acreage allocated by the County was 39.55 acres. The Town has used 22 acres as of April 6, 2022. The Town shall request from the County any growth allocation it may need when necessary.

(iii) A local jurisdiction shall deduct acreage from its growth allocation reserves in accordance with COMAR 27.01.02.06-4.

(b) Purpose.

Growth Allocation is available for use in a Resource Conservation Area (RCA) or in a Limited Development Area (LDA) in the Town's Critical Area Overlay District. The purpose is to authorize a change in the Critical Area classification to develop at a higher density or use than the current classification allows.

(c) Process.

An applicant shall submit to the Town a complete application for growth allocation that complies with the submittal and environmental report requirements of COMAR 27.01.02.06-1—.06-2. A Growth Allocation request shall be approved by Charles County and the Town's Planning Commission prior to submission to the Commission.

(d) Requirements.

When locating new Intensely Developed or Limited Development Areas, the following requirements apply:

(i) A new Intensely Developed Area shall be at least 20 acres.

(ii) No more than half of the Town's growth allocation may be located in Resource Conservation Areas except as provided in (iii) below

(iii) If the Town is unable to use a portion of its growth allocation as set out in (ii) above, then that portion of the growth allocation which cannot be so located may be located in the Resource Conservation Area. If growth allocation is consistent with the Town's adopted comprehensive plan and whether the growth allocation would implement the goals and objectives of the adopted plan. "Consistency with" means that a standard or factor will further, and not be contrary to, the following items in the comprehensive plan:

(1) Policies;

(2) Timing of the implementation of the plan, of development, and of rezoning;

(3) Development patterns;

(4) Land uses; and

(5) Densities or intensities

(e) Standards.

When locating new Intensely Developed or Limited Development Areas the following standards shall apply:

(i) A new Intensely Developed Area shall only be located in a Limited Development Area or adjacent to an existing Intensely Developed Area.

(ii) A new Limited Development Area shall only be located adjacent to an existing Limited Development Area or an Intensely Developed Area.

(iii) A new Limited Development Area or Intensely Developed Area shall be located in a manner that minimizes impacts to Habitat Protection Area as defined herein and in COMAR 27.01.09 and in an area and manner that optimizes benefits to water quality;

(iv) A new Intensely Developed Areas shall only be located where they minimize their impacts to the defined land uses of the Resource Conservation Area (RCA);

(v) A new Intensely Developed Area or a Limited Development Area in a Resource Conservation Area shall be located at least 300 feet beyond the landward edge of tidal wetlands or tidal waters;

(vi) New Intensely Developed or Limited Development Areas to be located in Resource Conservation Areas shall conform to all criteria of the Town for such areas, shall be so designated on the Town's Critical Area Maps and shall constitute an amendment to this Part III subject to review and approval by the Town's Planning Commission, the Mayor and Town Council, and the Critical Area Commission as provided herein.

(f) Additional Factors.

In reviewing map amendments or refinements involving the use of growth allocation, the Town shall consider the following factors:

(i) Consistency with the Town's adopted comprehensive plan and whether the growth allocation would implement the goals and objectives of the adopted plan.

(ii) For a map amendment or refinement involving a new Limited Development Area, whether the development is:

(a) To be served by a public wastewater system or septic system that uses the best available nitrogen removal technology;

(b) A completion of an existing subdivision;

(c) An expansion of an existing business; or

(d) To be clustered.

(iii) For a map amendment or refinement involving a new Intensely Developed Area, whether the development is:

(a) To be served by a public wastewater system;

(b) If greater than 20 acres, to be located in a designated Priority Funding Area; and

(c) To have a demonstrable economic benefit.

(iv) The use of existing public infrastructure, where practical;

(v) Consistency with State and regional environmental protection policies concerning the protection of threatened and endangered species and species in need of conservation that may be located on- or off-site;

(vi) Impacts on a priority preservation area;

(vii) Environmental impacts associated with wastewater and stormwater management practices and wastewater and stormwater discharges to tidal waters, tidal wetlands, and tributary streams; and

(viii) Environmental impacts associated with location in a coastal hazard area or an increased risk of severe flooding attributable to the proposed development.

Section 956. Grandfathering.

(a) Continuation of existing uses.

(i) The continuation, but not necessarily the intensification or expansion, of any use in existence on April 3, 1989, may be permitted, unless the use has been abandoned for more than one year or is otherwise restricted by existing Town ordinances.

(ii) If any existing use does not conform to the provisions of this Ordinance, its intensification or expansion may be permitted only in accordance with the variance procedures in Section 957.

(b) Residential density on grandfathered lots.

(i) Except as otherwise provided, the following types of land are permitted to be developed with a single-family dwelling, if a dwelling is not already placed there, notwithstanding that such development may be inconsistent with the density provisions of this Ordinance.

(1) Any land on which development activity has progressed to the point of pouring of foundation footings or the installation of structural members;

(2) A legal parcel of land, not being part of a recorded or approved subdivision that was recorded as of December 1, 1985;

(3) Land that received a building permit subsequent to December 1, 1985, but prior to April 3, 1989;

(4) Land that was subdivided into recorded, legally buildable lots, where the subdivision received final approval between June 1, 1984, and December 1, 1985; and

(5) Land that was subdivided into recorded, legally buildable lots, where the subdivision received the final approval after December 1, 1985, and

provided that either development of any such land conforms to the IDA, LDA or RCA requirements in this Ordinance or the area of the land has been counted against the growth allocation permitted under this Ordinance.

(c) Implementation.

(i) For purposes of implementing this Section, the Town shall have determined, based on land uses and development in existence on December 1, 1985, which land areas fall within the three types of development areas described in this Part III.

(ii) Nothing in this Section may be interpreted as altering any requirements of this Part III related to water-dependent facilities or Habitat Protection Areas.

Section 957. Variances.

(a) Applicability.

A Critical Area variance may be obtained where, owing to special features of a site or other circumstances, implementation of this Part III or a literal enforcement of provisions within this Part III would result in unwarranted hardship to an applicant.

(i) In considering an application for a variance, the Town shall presume that the specific development activity in the Critical Area, that is subject to the application and for which a variance is required, does not conform with the general purpose and intent of Natural Resources Article, Title 8 Subtitle 18, COMAR Title 27, and the requirements of this Ordinance.

(ii) Unwarranted hardship means that without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.

(b) Standing.

In accordance with Natural Resources Article, §8-1808(d)(2), Annotated Code of Maryland, if a person meets the threshold standing requirements under federal law, the person shall have standing to participate as a party in a Town variance proceeding.

(c) Standards.

In order to grant a variance the Board of Zoning Appeals must find that the following standards are met:

(i) Due to special features of the site or special conditions or circumstances peculiar to the land or structure involved, a literal enforcement of provisions and requirements of this Part III would result in unwarranted hardship;

(ii) A literal interpretation of the provisions of this Part III will deprive the applicant the use of land or a structure permitted to others in accordance with the provisions of this Part III;

(iii) The granting of a variance will not confer upon an applicant any special privilege that would be denied by this Part III to other lands or structures within the Critical Area;

(iv) The variance request is not based upon conditions or circumstances which are the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed;

(v) The request does not arise from any condition relating to land or building use, either permitted or non-conforming on any neighboring property; and

(vi) The granting of a variance shall not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the Critical Area; and

(vii) The granting of the variance will be in harmony with the general spirit and intent of the State Critical Area Law and this Part III.

(d) Process.

Applications for a variance will be made in writing to the Town's Board of Zoning Appeals with a copy provided to the Critical Area Commission. The Town shall follow its established procedures for advertising and notification of affected landowners.

(i) After hearing an application for a Critical Area Program variance, the Board of Zoning Appeals shall make written findings reflecting analysis of each standard. With due regard for the person's technical competence, and specialized knowledge, the written findings may be based on evidence introduced and testimony presented by:

(1) The applicant;

(2) The Town or any other government agency; or

(3) Any other person deemed appropriate by the Board.

(ii) If the variance request is based on conditions or circumstances that are the result of actions by the applicant, the Board shall consider that fact, and whether the application has met the requirements of subsection (e) below.

(iii) The applicant has the burden of proof and the burden of persuasion to overcome the presumption of nonconformance established in subsection A. above.

(iv) The Town shall notify the Critical Area Commission of the Board's findings and decision to grant or deny the variance request.

(e) After-the-Fact Requests

(i) The Town may not accept an application for a variance to legalize a violation of this Part III, including an unpermitted structure or other development activity until the Town:

(1) Issues a notice of violation; and
(2) Assesses an administrative or civil penalty for the violation.

(ii) The Board may not issue a permit approval, variance, or special exception to legalize a violation of this subtitle unless an applicant has:

(1) Fully paid all penalties imposed under Natural Resources Article, §8-1808(c)(l)(iii)14-15 and (2)(i), Annotated Code of Maryland;

(2) Prepared a restoration or mitigation plan, approved by the Town, to abate impacts to water quality or natural resources as a result of the violation; and

(3) Performed the abatement measures in the approved plan in accordance with the Town's Critical Area program.

(iii) If the Board of Zoning Appeals denies the requested after-the-fact variance, then the Town shall:

(1) Order removal or relocation of any illegal structure; and

(2) Order restoration of the affected resources.

(f) Appeals.

Appeals from decision concerning the granting or denial of a variance under this Section shall be taken in accordance with all applicable laws and procedures of the Town for variances. Variance decisions by the Board of Zoning Appeals may be appealed to the Circuit Court in accordance with the Maryland Rules of Procedure. Appeals may be taken by any person, firm, corporation or governmental agency aggrieved or adversely affected by any decision made under this Section.

(g) Conditions and mitigation.

The Board of Zoning Appeals shall impose conditions on the use or development of a property which is granted a variance as it may find reasonable to ensure that the spirit

and intent of this Part III is maintained including, but not limited to the following:

(i) Adverse impacts resulting from the granting of the variance shall be mitigated as recommended by the Zoning Administrator, but not less than by planting on the site per square foot of the variance granted at no less than a three to one basis.

(ii) New or expanded structures or lot coverage shall be located the greatest possible distance from mean high water, the landward edge of tidal wetlands, tributary streams, nontidal wetlands, or steep slopes.

(h) Commission notification.

Within ten (10) working days after a written decision regarding a variance application is issued, a copy of the decision shall be sent to the Critical Area Commission. The Town may not issue a permit for the activity that was the subject of the application until the applicable 30-day appeal period has elapsed.

Section 958. Lot Consolidation and Reconfiguration.

(a) Applicability.

The provisions of this Section 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:

(i) Those for which a Critical Area variance is sought or has been issued; and

(ii) Those located in the Resource Conservation Area and are less than 20 acres in size.

(b) Procedure.

An applicant seeking a parcel or lot consolidation or reconfiguration shall provide the required information required in COMAR 27.01.02.08.E to the Town.

(i) The Town may not approve a proposed parcel or lot consolidation or reconfiguration without making written findings in accordance with COMAR 27.01.02.08.F.

(ii) The Town shall issue a final written decision or order granting or denying an application for a consolidation or reconfiguration.

(1) After a final written decision or order is issued, the Town shall send a copy of the decision or order and a copy of any approved development

plan within 10 business days by U.S. mail to the Commission's business address.

Section 959. Amendments.

(a) Amendments.

The Town Council may, from time to time, amend this Part III. Changes may include, but are not limited to amendments, revisions, and modifications to these zoning regulations, Critical Area Maps, implementation procedures, and local policies that affect the Town's Critical Area. All such amendments, revisions, and modifications shall also be approved by the Critical Area Commission as established in § 8-1809 of the Natural Resources Article of the Annotated Code of Maryland. No such amendment shall be implemented without approval of the Critical Area Commission. Standards and procedures for Critical Area Commission approval of proposed amendments are as set forth in the Critical Area Law § 8-1809(i) and § 8- 1809(d), respectively.

(b) Zoning map amendments.

Except for program amendments or program refinements developed during a six-year comprehensive review, a zoning map amendment may only be granted by the Town Council upon proof of a mistake in the existing zoning. This requirement does not apply to proposed changes to a zoning map that meet the following criteria:

(i) Are wholly consistent with the land classifications as shown on the adopted Critical Area Overlay Map; or

(ii) The use of growth allocation in accordance with the growth allocation provisions of this Ordinance is proposed.

(c) Process.

(i) When an amendment is requested, the applicant shall submit the amendment to the Planning Commission for review and research. Upon completing Findings of Fact, these documents shall be forwarded to the Town Council.

(ii) The Town Council shall hold a public hearing at which parties of interest and citizens shall have an opportunity to be heard. At least fourteen (14) days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in the Town.

(iii) After the Town Council approves an amendment, it shall forward the decision and applicable resolutions along with the amendment request to the Critical Area Commission for final approval.

Section 960. Enforcement.

(a) Consistency.
This Part III supersedes any inconsistent law or plan of the Town. In the case of conflicting provisions, the stricter provisions shall apply.

(b) Violations.

(i) No person shall violate any provision of this Part III. Each violation that occurs and each calendar day that a violation continues shall be a separate offense.

(ii) Each person who violates a provision of this Part III shall be subject to separate administrative civil penalties, abatement and restoration orders, and mitigation for each offense.

(iii) Noncompliance with any permit or order issued by the Town related to the Critical Area shall be a violation of this Part III and shall be enforced as provided herein.

(c) Responsible persons.

The following persons may each be held jointly or severally responsible for a violation:

(i) Persons who apply for or obtain any permit or approval;

(ii) Contractors;

(iii) Subcontractors;

(iv) Property owners;

(v) Managing agents; or

(vi) Any person who has committed, assisted, or participated in the violation.

(d) Required enforcement action.

In the case of violations of this Part III, the Town shall take enforcement action including:

(i) Assessing administrative civil penalties as necessary to cover the costs associated with performing inspections, supervising or rendering assistance with identifying and citing the violation, issuing abatement and restoration orders, and reviewing mitigation plans and ensuring compliance with these

plans;

(ii) Issuing abatement, restoration, and mitigation orders as necessary to:

(1) Stop unauthorized activity;

(2) Restore and stabilize the site, as appropriate, to its condition prior to the violation or to a condition that provides the same water quality and habitat benefits; and

(iii) Requiring the implementation of mitigation measures, in addition to restoration activities, to offset the environmental damage and degradation or loss of environmental benefit resulting from the violation.

(e) Right to enter property.

Except as otherwise authorized and in accordance with the procedures specified herein, the Zoning Administrator or his designee may obtain access to and enter a property in order to identify or verify a suspected violation, restrain a development activity, or issue a citation if the Town has probable cause to believe that a violation of this Ordinance has occurred, is occurring, or will occur. The Town shall make a reasonable effort to contact a property owner before obtaining access to or enter the property. If entry is denied, the Town may seek appropriate judicial relief to enter the property to pursue an enforcement action.

(f) Administrative civil penalties.

In addition to any other penalty applicable under State or Town law, every violation of a provision of Natural Resources Article, Title 8 Subtitle 18, or this Part III shall be punishable by a civil penalty of up to $10,000 per calendar day.

(i) Before imposing any civil penalty, the person(s) believed to have violated this Part III shall receive written notice of the alleged violation(s) including which, if any, are continuing violations, and an opportunity to be heard. The amount of the civil penalty for each violation, including each continuing violation, shall be determined separately. For each continuing violation, the amount of the civil penalty shall be determined per day. In determining the amount of the civil penalty, the Zoning Administrator shall consider:

(1) The gravity of the violation;

(2) The presence or absence of good faith of the violator;

(3) Any willfulness or negligence involved in the violation including a history of prior violations;

(4) The environmental impact of the violation; and

(5) The cost of restoration of the resource affected by the violation and mitigation for damage to that resource, including the cost to the Town for performing, supervising, or rendering assistance to the restoration and mitigation.

(ii) Administrative civil penalties for continuing violations shall accrue for each violation, every day each violation continues, with no requirements for additional assessments, notice, or hearings for each separate offense. The total amount payable for continuing violations shall be the amount assessed per day for each violation multiplied by the number of days that each violation has continued.

(iii) The person responsible for any continuing violation shall promptly provide the Zoning Administrator with written notice of the date(s) the violation has been or will be brought into compliance and the date(s) for the Town inspection to verify compliance. Administrative civil penalties for continuing violations continue to accrue as set forth herein until the Zoning Administrator receives such written notice and verifies compliance by inspection or otherwise.

(iv) Assessment and payment of administrative civil penalties shall be in addition to and not in substitution for recovery by the Town of all damages, costs, and other expenses caused by the violation.

(v) Payment of all administrative civil penalties assessed shall be a condition precedent to the issuance of any permit or other approval required by this Part III.

(g) Cumulative remedies.

The remedies available to the Town under this Section are cumulative and not alternative or exclusive, and the decision to pursue one remedy does not preclude pursuit of others.

(h) Injunctive relief.

The Town is authorized to institute injunctive or other appropriate actions or proceedings to bring about the discontinuance of any violation of this Part III, an administrative order, a permit, a decision, or other imposed condition.

(i) The pendency of an appeal to the Board of Appeals or subsequent judicial review shall not prevent the Town from seeking injunctive relief to enforce an administrative order, permit, decisions, or other imposed condition, or to restrain a violation pending the outcome of the appeal or judicial review.

(i) Variances pursuant to a violation.

The Town may accept an application for a variance regarding a parcel or lot that is subject to a current violation of this Part III or any provisions of an order, permit, plan, or this Part III in accordance with the variance provisions of Section 957. However, the application shall not be reviewed nor shall a final decision be made until all abatement, restoration, and mitigation measures have been implemented and inspected by the Town.

(j) Permits pursuant to a violation.

The Town may not issue any permit, approval, variance, or special exception, unless the person seeking the permit has:

(i) Fully paid all administrative, civil, or criminal penalties as set forth in subsection (f) above;

(ii) Prepared a restoration or mitigation plan, approved by the Town, to abate impacts to water quality or natural resources as a result of the violation;

(iii) Performed the abatement measures in the approved plan in accordance with the Town's regulations; and

(iv) Unless an extension of time is approved by the Town because of adverse planting conditions, within 90 days of the issuance of a permit, approval, variance, or special exception for the affected property, has completed any additional mitigation required as a condition of approval for the permit, approval, variance, or special exception.

(k) Appeals.

An appeal to the Town's Board of Zoning Appeals may be filed by any person aggrieved by any order, requirement, decision or determination by the Town in connection with the administration and enforcement of this Part III.

(i) An appeal is taken by filing a written notice of appeal with the Board of Zoning Appeals in accordance with the provisions in this Chapter and accompanied by the appropriate filing fee.

(ii) An appeal must be filed within thirty (30) days after the date of the decision or order being appealed; and

(iii) An appeal stays all actions by the Town seeking enforcement or compliance with the order or decisions being appealed, unless the Town certifies to the Board of Zoning Appeals that (because of facts stated in the certificate) such stay will cause imminent peril to life or property. In such a case, action by the

Town shall not be stayed except by order of the Board of Zoning Appeals or a court up on application of the party seeking the stay.

Attachment 1: Supplemental Uses.

Permitted uses in the Critical Area shall be limited to those uses allowed by the underlying zoning classification as modified by the following supplemental use standards.				
Item	Use Description	IDA	LDA	RCA
1.00	RESIDENTIAL			
1.10	Accessory Dwelling Unit	P	P	PC
2.00	INSTITUTIONAL			
2.10	Existing institutional uses	P	P	PC
2.20	New institutional uses	P	P	NP
2.30	Cemetery	P	P	PC
2.40	Group Home	P	P	PC
2.50	Day Care	P	P	PC
3.00	COMMERCIAL			
3.10	Existing commercial uses	P	P	PC
3.20	New commercial uses	P	P	NP
3.30	Home occupation	P	P	PC
3.40	Bed and breakfast facility	P	P	PC
4.00	MARITIME/WATER DEPENDENT			
4.10	Expansion of existing commercial marinas	P	P	PC
4.20	New marina, commercial	P	P	NP
4.30	Community piers and noncommercial boat docking and storage	P	P	PC
4.40	Public beaches and public water-oriented recreational and educational areas	P	P	PC
4.50	Research Areas	P	P	PC
4.60	Fisheries activities	P	P	P
4.70	Structures on Piers	PC	NP	NP
4.80	Private pier	P	P	P
5.00	RECREATION			
5.10	Golf course	P	P	PC
6.00	INDUSTRIAL			
6.10	Existing industrial uses	P	P	PC
6.20	New industrial uses	P	PC	NP
6.30	Non-maritime heavy industry	P	NP	NP
7.00	TRANSPORTATION/PARKING/COMMUNICATIONS/UTILITIES			
7.10	Utility transmission facilities	PC	PC	PC
8.00	PUBLIC/QUASI-PUBLIC			
8.10	Sanitary landfill; rubble fill	PC	PC	PC
8.20	Solid or hazardous waste collection or disposal facilities	PC	PC	PC
8.30	Sludge Facilities	PC	PC	PC

P = Permitted

PC = Permitted with conditions

NP = Not permitted

Section 961 Critical Area Supplemental Use Standards

The following supplemental use standards apply to the permitted uses listed in the table above and shall apply when the permitted use is allowed in the underlying zoning district.

Accessory Dwelling Unit (1.10)

(a) If a permitted use in the underlying zoning district, one additional dwelling unit (accessory dwelling unit) as part of a primary dwelling unit may be permitted in the Resource Conservation Area provided the additional dwelling unit is served by the same sewage disposal system as the primary dwelling unit and:

(a) Is located within the primary dwelling unit or its entire perimeter is within 100 feet of the primary dwelling unit and does not exceed 900 square feet in total enclosed areas; or

(b) Is located within the primary dwelling unit and does not increase the amount of lot coverage already attributed to the primary dwelling unit.

(b) An additional dwelling unit meeting all of the provisions of this section may not be subdivided or conveyed separately from the primary dwelling unit; and

(c) The provisions of this section may not be construed to authorize the granting of a variance, unless the variance is granted in accordance with the variance provisions contained herein.

Existing institutional uses (2.10)

(a) Existing institutional facilities, including those that directly support agriculture, forestry, aquaculture, or residential development, shall be allowed in Resource Conservation Areas.

(b) Expansion of existing institutional facilities and uses in the Resource Conservation Area shall be subject to the non-conforming use provisions of Part III and the Grandfathering provisions in Section 956 and may require growth allocation.

New institutional uses (2.20)

(a) New institutional facilities and uses, except those specifically listed shall not be permitted in Resource Conservation Areas.

(b) Certain institutional uses may be permitted if allowed in the underlying zoning district and if the use complies with all requirements for such uses as provided in this Chapter. These institutional uses are limited to:

(i) A cemetery (2.30) that is an accessory use to an existing church; provided manmade lot coverage is limited to 15 percent of the site or 20,000 square feet, whichever is less;

(ii) A group home (2.40) or assisted living facility with no more than eight (8) residents;

(iii) A day care facility (2.50) in a dwelling where the operators live on the premises and there are no more than eight (8) children; and

Existing Commercial Uses (3.10)

(a) Existing commercial facilities and uses, including those that directly support agriculture, forestry, aquaculture or residential development, shall be allowed in Resource Conservation Areas.

(b) Expansion of existing commercial facilities and uses in the Resource Conservation Area shall be subject to the non-conforming use provisions of this Part III and the Grandfathering provisions in Section 256 and may require growth allocation.

New commercial uses (3.20)

(a) New commercial uses, except those specifically listed, shall not be permitted in Resource Conservation Areas.

(b) Certain commercial uses may be permitted if allowed in the underlying zoning district and if the use complies with all requirements for such uses as provided in this Chapter. These commercial uses are limited to:

(i) A home occupation (3.30) as an accessory use on a residential property and as provided for in this Chapter;

(ii) A bed and breakfast (3.40) facility located in an existing residential structure and where meals are prepared only for guests staying at the facility;

(iii) A gun club or skeet shooting range or similar use, excluding main buildings and/or structures, such as a clubhouse, snack bar, etc.; and

Expansion of existing commercial marinas (4.10)

(a) Expansion of existing commercial marinas may be permitted within Resource Conservation Areas provided:

(i) Water quality impacts are quantified and appropriate Best Management Practices that address impacts are provided;

(ii) That it will result in an overall net improvement in water quality at or leaving the site of the marina;

(iii) The marina meets the sanitary requirements of the Department of the Environment; and

(iv) Expansion is permitted under the nonconforming use provisions of this Part III.

(b) Expansion of existing commercial marinas may be permitted in the Buffer in the Intensely Developed Areas and Limited Development Areas provided that the applicant demonstrates:

(i) The project meets a recognized private right or public need;

(ii) Adverse effects on water quality and fish, plant, and wildlife habitat are minimized;

(iii) Insofar as possible, non-water-dependent structures or operations associated with water-dependent projects or activities are located outside the buffer; and

(iv) Expansion is permitted under the nonconforming use provisions of this Part III.

New marina, commercial (4.20)

(a) New commercial marinas shall not be permitted in Resource Conservation Areas.

(b) New commercial marinas may be permitted in Limited Development Areas and Intensely Developed Areas if allowed in the underlying zoning district, provided:

(i) New marinas shall establish a means of minimizing the discharge of bottom wash waters into tidal waters.

(ii) New marinas meet the sanitary requirements of the Department of the Environment.

(iii) New marinas may be permitted in the buffer in the Intensely Developed Areas and Limited Development Areas provided that it is shown that:

(1) The project meets a recognized private right or public need;

(2) Adverse effects on water quality, fish, plant and wildlife habitat are minimized; and

(3) Insofar as possible, non-water-dependent structures or operations associated with water-dependent projects or activities are located outside the buffer.

Community piers and noncommercial boat docking and storage (4.30)

(a) New or expanded community marinas and other non-commercial boat-docking and storage facilities may be permitted in the buffer subject to the requirements in this Part III provided that:

(i) The facilities may not offer food, fuel, or other goods and services for sale and shall provide adequate and clean sanitary facilities;

(ii) The facilities are community-owned and established and operated for the benefit of the residents of a platted and recorded riparian subdivision;

(iii) The facilities are associated with a residential development approved by the Town for the Critical Area and consistent with all State requirements and the requirements of this Ordinance applicable to the Critical Area;

(iv) Disturbance to the Buffer is the minimum necessary to provide a single point of access to the facilities; and

(v) If community piers, slips, or moorings are provided as part of the new development, private piers (4.80) in the development are not allowed.

(b) Number of slips or piers permitted.

The number of slips or piers permitted at the facility shall be the lesser of items (i) or (ii) below:

(i) One slip for each 50 feet of shoreline in the subdivision in the Intensely Developed and Limited Development Areas and one slip for each 300 feet of shoreline in the subdivision in the Resource Conservation Area; or

(ii) A density of slips or piers to platted lots or dwellings within the subdivision in the Critical Area according to the following schedule:

Number of Slips Permitted

Platted Lots or Dwellings in the Critical Area	Slips
up to 15	1 for each lot
16 – 40	15 or 75% whichever is greater
41 – 100	30 or 50% whichever is greater
101 – 300	50 or 25% whichever is greater
over 300	75 or 15% whichever is greater

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

(a) Public beaches or other public water-oriented recreation or education areas including, but not limited to, publicly owned boat launching and docking facilities and fishing piers may be permitted in the buffer in Intensely Developed Areas.

(b) These facilities may be permitted within the buffer in Limited Development Areas and Resource Conservation Areas provided that:

(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 possible recreation, such as nature study, hunting and trapping, and for education, may be permitted in the buffer within

Resource Conservation Areas if service facilities for these uses are located outside of the buffer.

Research areas (4.50)

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

Fisheries activities (4.60)

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

Non-Water Dependent Structures on Piers (4.70)

(a) Except as provided in paragraphs (2) and (3) below and notwithstanding any other provisions of the law, the Town may not issue a building permit or any other approval to authorize a non-water dependent project located on State or private wetlands within the Critical Area.

(b) The Town may issue a building permit or other approval to authorize a non- water dependent project for a small scale renewable energy system on a pier located on State or private wetlands within the Critical Area if the project:

(i) Involves the installation or placement of a small-scale renewable energy system that is permitted as a secondary or accessory use on a pier that is authorized under Title 16 of the Environment Article;

(ii) Is located in:

(1) The Chesapeake and Atlantic Coastal Bays Critical Area and the project is authorized under a program amendment to the Town's Critical Area Program approved on or after July 1, 2013, if the approved program amendment includes necessary changes to Town's zoning, subdivision, and other ordinances so as to be consistent with or more restrictive than the requirements provided under this item (i); or

(2) An area that has been excluded from the Town of Indian Head's Critical Area Program that has been adopted or approved by the

Critical Area Commission for the Chesapeake and Atlantic Coastal Bays;

(iii) Is approved by the Town's Planning Commission and Town Council after the Town's amendment in accordance with item (3)(b)(i) above, if applicable, has been approved;

(iv) A building permit or other approval issued under the requirements in paragraph (3) above may include the installation or placement of:

(1) A solar energy system attached to a pier of the device or equipment associated with that system does not extend more than:

(a) four (4) feet above or 18 inches below the deck of the pier; or

(b) one (1) foot beyond the length or width of the pier;

(2) A solar energy system attached to a piling if there is only one solar panel per boat slip;

(3) A solar energy system attached to a boathouse roof if the device or equipment associated with that system does not extend beyond the length, width, or height of the boathouse roof;

(4) A closed-loop geothermal heat exchanger under a pier if the geothermal heat exchanger or any associated devices or equipment do not:

(a) Extend beyond the length, width, or channelward encroachment of the pier;
(b) Deleteriously alter longshore drift; or

(c) Cause significant individual or cumulative thermal impacts to aquatic resources; or

(5) A wind energy system attached to a pier if there is only one wind energy system per pier for which:

(a) The height from the deck of the pier to the blade extended at its highest point is up to 12 feet;

(b) The rotor diameter of the wind turbine is up to four (4) feet; and

(c) The setbacks of the wind energy system from the nearest property line and from the channelward edge of the pier to which that system is attached are at least 1.5 times the total height of the system from its base to the blade extended at its highest point.

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

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

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

Existing industrial uses (6.10)

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

(b) Expansion of existing industrial facilities and use in the Resource Conservation Area shall be subject to the non-conforming use provisions of this Part III and the Grandfathering provisions in Section 956 and may require growth allocation.

New industrial uses (6.20)

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

(b) New, expanded or redeveloped industrial facilities may only be permitted in Limited Development Areas (LDA) if such a use is permitted in the underlying zoning district and provided such facilities meet all requirements for development in the LDA.

(c) New, expanded or redeveloped industrial or port-related facilities and the replacement of these facilities may be permitted only in those portions of Intensely Developed Areas that have been designated as Buffer Management Areas.

Non-maritime heavy industry (6.30)

(a) Non-maritime heavy industry may be permitted if:

(i) The site is located in an Intensely Developed Area; and

(ii) The activity or facility has demonstrated to all appropriate local and State permitting agencies that there will be a net improvement in water quality to the adjacent body of water.

Utility transmission facilities (7.10)

(a) Utility transmission facilities, except those necessary to serve permitted uses, or where regional or interstate facilities must cross tidal waters, may be permitted in the Critical Area provided:

(i) The facilities are located in Intensely Developed Areas; and

(ii) Only after the activity or facility has demonstrated to all appropriate local and State permitting agencies that there will be a net improvement in water quality to the adjacent body of water.

(b) These provisions do not include power plants.

Sanitary landfill; rubble fill (8.10)

(a) Sanitary landfills or rubble fills may not be permitted in the Critical Area unless no environmentally acceptable alternative exists outside the Critical Area, and these development activities or facilities are needed in order to correct an existing water quality or wastewater management problem.

(b) Existing, permitted facilities shall be subject to the standards and requirements of the Department of the Environment.

Solid or hazardous waste collection or disposal facilities (8.20)

(a) Solid or hazardous waste collection or disposal facilities, including transfer stations, may not be permitted in the Critical Area unless no environmentally acceptable alternative exists outside the Critical Area, and these development activities or facilities are needed in order to correct an existing water quality wastewater management problem.

(b) Existing, permitted facilities shall be subject to the standards and requirements of the Department of the Environment.

Sludge Facilities (8.30)

(a) Permanent sludge handling, storage, and disposal facilities, other than those associated with wastewater treatment facilities, may be permitted in the Critical Area provided:

(i) The facility or activity is located in an Intensely Developed Area; and

(ii) Only after the activity or facility has demonstrated to all appropriate local and State permitting agencies that there will be a net improvement in water quality to the adjacent body of water.

(iii) 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 year floodplain.

ARTICLE X PERMISSIBLE USES

Section 1000. Use of the Designations P and SE in the Table of Permissible Uses

When used in connection with a particular use in the Table of Permissible Uses, the letter "P" means that the use is permissible in the indicated zone with a zoning permit issued by the administrator. The letters "SE" mean a special exception permit must be obtained from the Board of Zoning Appeals. A blank space indicates the use is not permitted under any conditions.

Section 1001. Reserved

Section 1002. Permissible Uses and Specific Exclusions

(a) The presumption established by this Chapter is that all legitimate uses of land in the Town are provided for within at least one zoning district in the Town's planning jurisdiction. Because the list of permissible uses set forth in the Table of Permissible Uses cannot be all inclusive, those uses that are listed shall be interpreted liberally to include other uses that have similar impacts to the listed uses.

(b) Notwithstanding subsection (a), all uses that are not listed in the Table of Permissible Uses, even given the liberal interpretation mandated by subsection (a), are prohibited. Nor shall the Table of Permissible Uses be interpreted to allow a use in one zoning district when the use in question is more closely related to another specified use that is permissible in another district or districts.

(c) The following uses are specifically prohibited in all districts:

(i) Any use that involves the manufacture, handling, sale, distribution, or storage of any highly combustible or explosive materials.

(ii) Stockyards, slaughterhouses, rendering plants.

(iii) Use of a travel/mobile trailer as a temporary or permanent residence.

(iv) Use of a motor vehicle parked on a lot as a structure in which, out of which, or from which any goods are sold or stored, any services are performed, or other business is conducted.

Section 1003. Accessory Uses

(a) The Table of Permissible Uses classifies different principal uses according to their different impacts. Whenever an activity (which may or may not be separately listed as a principal use in this table) is conducted in conjunction with another principal use and the former use (i) constitutes only an incidental or insubstantial part of the total activity that takes

place on a lot, or (ii) is commonly associated with the principal use and integrally related to it, then the former use may be regarded as accessory to the principal use and may be carried on underneath the umbrella of the permit issued for the principal use. For example, a swimming pool/tennis court complex is customarily associated with and integrally related to a residential subdivision or multi-family development and would be regarded as accessory to such principal uses, even though such facilities, if developed apart from a residential development, would require a special-exception permit or not permitted.

(b) The following activities, so long as they satisfy the general criteria set forth above, are specifically regarded as accessory to residential principal uses:

(i) Offices or studios within an enclosed building and used by an occupant of a residence located on the same lot as such building to carry on administrative or artistic activities, so long as such activities do not fall within the definition of a home occupation.

(ii) Hobbies or recreational activities of a noncommercial nature.

(iii) The renting out of one or two rooms within a single-family residence (which one or two rooms do not themselves constitute a separate dwelling unit) to not more than two persons who are not part of the family that resides in the single- family dwelling.

(iv) Yard sales or garage sales, so long as such sales are not conducted on the same lot for more than three days (whether consecutive or not) during any 90-day period.

(c) Storage outside of a substantially enclosed structure of any motor vehicle that is neither licensed nor operational shall not be regarded as accessory to a residential principal use and is prohibited in residential districts.

Section 1004. Permissible Uses Not Requiring Permits

Notwithstanding any other provisions of this Chapter, no zoning or special-exception permit is necessary for the following uses:

(i) Streets.

(ii) Electric power, telephone, telegraph, cable television, gas, water, and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way.

(iii) Neighborhood utility facilities located within a public right-of-way with the permission of the owner (state or town) of the right-of-way.

Section 1005. Change in Use

(a) A substantial change in use of property occurs whenever the essential character or nature of the activity conducted on a lot changes. This occurs whenever:

(i) The change involves a change from one principal use category to another.

(ii) The original use is a combination use or planned development and the relative proportion of space devoted to the individual principal uses that comprise the combination use or planned development use changes to such an extent that the parking requirements for the overall use are altered.

(iii) The original use is a combination use or planned development use, and the mixture of types of individual principal uses that comprise the combination use or planned development use changes.

(iv) The original use is a planned residential development, and the relative proportions of different types of dwelling units change.

(v) There is only one business or enterprise conducted on the lot (regardless of whether that business or enterprise consists of one individual principal use or a combination of uses), and that business or enterprise moves out and a different type of enterprise moves in (even though the new business or enterprise may be classified under the same principal use or combination use category as the previous type of business). For example, if there is only one building on a lot and a florist shop that is the sole tenant of that building moves out and is replaced by a clothing store that constitutes a change in use even though both tenants fall within principal use classification 2.111. However, if the florist shop were replaced by another florist shop, that would not constitute a change in use since the type of business or enterprise would not have changed. Moreover, if the florist shop moved out of a rented space in a shopping center and was replaced by a clothing store that would not constitute a change in use since there is more than one business on the lot and the essential character of the activity conducted on that lot (shopping center-combination use) has not changed.

(b) A mere change in the status of property from unoccupied to occupied or vice versa does not constitute a change in use. Whether a change in use occurs shall be determined by comparing the two active uses of the property without regard to any intervening period during which the property may have been unoccupied, unless the property has remained unoccupied for more than 180 consecutive days or has been abandoned.

(c) A mere change in ownership of a business or enterprise or a change in the name shall not be regarded as a change in use.

Section 1006. Combination Uses

(a) When a combination use comprises two or more principal uses that require different types of permits (zoning or special-exception), then the permit authorizing the combination use shall be:

(i) A special-exception permit if any of the principal uses combined requires a special-exception permit; or

(ii) A zoning permit in all other cases.

(b) When a combination use consists of a single-family detached, architecturally integrated subdivision and two-family or multi-family uses, then the total density permissible on the entire tract shall be determined by dividing the area of the tract by the minimum square footage per dwelling unit specified in Section 1201.

Section 1007. More Specific Use Controls

Whenever a development could fall within more than one use classification in the Table of Permissible Uses, the classification that most closely and most specifically describes the development controls. For example, a small doctor's office or clinic clearly falls within the 3.110 classification (office and service operations conducted entirely indoors and designed to attract customers or clients to the premises). However, classification 3.130, "office or clinics of physicians or dentists with not more than 10,000 square feet of gross floor area" more specifically covers this use and therefore is controlling.

Section 1008. Table of Permissible Uses by Zoning Districts

The following table lists the permitted uses in each general zoning district, the type of review and approvals required, and additional regulations. Additional regulations pertaining to certain uses and activities are listed in Article XI, Supplementary Use Regulations.

OFFICIAL TABLE OF USER REGULATIONS BY ZONING DISTRICTS

KEYTOTABLE
P - Permitted Use within Zoning District
SE - Use Subject to Special Exception from the Board of Appeals
(Site Plan Review and Approval and Planning Commission Recommendation Required)
Blank - Not Permitted
(1) Indicates conditions for development are included in Article XI, Supplemental Regulations

USES DESCRIPTION	ZONING DISTRICTS						
	R-1	R-2	RM	TCMX	CG	Public Institute	OS
Zoning District Description Location	9.901(a)	9.901(b)	9.901(C)	9.903	9.902(a)	9.906	9.905
1.000							
RESIDENTIAL							
1.100 Single-Family Residence							
1.110 Single Family Detached Home							
1.111 Site Built and Modular Structures	P	P	P	P			
1.112 Mobile Home Park/Subdivisions							
1.200 Two-Family Residence							
1.210 Primary Residence with Accessory Apartment (1)	P	P		P		P	
1.220 Duplex			P	P		P	
1.230 Two-Family Conversion			P	P		P	
1.240 Two-Family Apartment			P	P		P	
1.300 Multi-Family Residence							
1.310 Townhouses (1)			P	P		P	
1.320 Apartments/Condominiums (1)			P	P		P	
1.330 Multi-Family (1)			P	P		P	
1.400 Homes Emphasizing Special Services, Treatment, or Supervision							
1.410 Assisted Living Facility/Nursing Care Home - Small (8 or fewer) (1)	P	P	P	P	P	P	
1.420 Child Care (1)							
1.421 Family Day Care Having 8 or Fewer Children (1)	P	P	P	P	P	P	
1.422 Child or Adult Day Care Center or Day Nursery (1) Having 9 or more Children				P	P	P	
1.423 Day Care Home (1)	SE	SE	SE	P		P	
1.424 Group Home Disabled or Infirm Home	SE	SE				P	
1.425 Nursing Care Home	SE	SE	SE	P		P	
1.430 Group Home/Halfway House - Small (9 or fewer)	SE	SE				P	
1.500 Miscellaneous Rooms for Rent Situations							
1.510 Bed and Breakfast, Tourist Homes, and other Temporary Residences Rented by the Day or Week (1)	SE	SE	SE	P			
1.520 Hotels, Motels, Convention Centers, and Similar Businesses Institutions Providing Overnight Accommodations (1)				P	P		
1.530 Rooming House (1)	SE	SE	SE				
1.600 Temporary Emergency Construction and Repair of Residences (1)	P	P	P	P	P	P	
1.700 Home Occupations (1)	P	P	P	SE	P		
1.800 Commercial Apartment				P	P		

OFFICIAL TABLE OF USER REGULATIONS BY ZONING DISTRICTS

USES DESCRIPTION	ZONING DISTRICTS						
	R-1	R-2	RM	TCMX	CG	Public Institute	OS
2.000							
COMMERCIAL SALES AND RENTAL OF GOODS, MERCHANDISE AND EQUIPMENT							
2.100 No Storage or Display of Goods Outside Fully Enclosed Building							
2.110 Retail Store (1)							
2.111 High-Volume Traffic Generation							
2.111.1 Automobile Parts, Accessories, Supplies, and Tire Stores				SE	P		
2.111.2 Drug Stores and Grocery and Beverage				P	P		
2.111.3 Convenience Stores and Delicatessens				P	P		
2.111.4 Department Stores				SE	P		
2.111.5 Alcoholic Beverage Sales (1)				SE	P		
2.120 Wholesale Sales				SE	P		
2.200 Storage and Display of Goods Outside							
2.210 Retail Store							
2.211 High-Volume Traffic Generation (Building Material and Supply, Boat Sales, Farm Implements Storage and Sales, Feed and Grain Storage and Sales Heavy Equipment Sales)					P		
2.212 Low-Volume Traffic Generation							
2.210 Wholesale Sales					P		
2.220 Food Trucks/Mobile Vendors	P	P	P	P	P	P	P
3.000							
OFFICE, CLERICAL, RESEARCH AND SERVICES NOT PRIMARILY RELATED TO SALE OF GOODS OR MERCHANDISE							
3.100 All Operations Conducted within Fully Enclosed Building (1)							
3.110 Operations Designed to Attract and Serve Customers (1)							
3.111 The Offices of Attorneys, Architects, Engineers, Other Similar (1) Professions, Insurance and Stock Brokers, Travel Agents, Government Office Buildings, etc.				P	P		
3.112 Banks and Financial Institutions, Barber and Beauty Shops, (1) Dry Cleaning/Laundry, Laundromats				P	P		
3.120 Operations Designed to Attract Little or No Customers or Client Traffic Other Than Employees of the Entity Operating the Principal Use				P	P		
3.130 Office or Clinics of Physicians or Dentists with Not More Than (1) 10,000 sq. ft. of Gross Floor Area				P	P		
3.200 Operations Conducted within and/or Outside Fully Enclosed							
3.210 Operations Designed to Attract and Serve Customers or Clients on the Premises (Plumbing, Mechanical Contractors)				SE	P		
3.220 Operations Designed to Attract Little or No Customer or Client Traffic Other than the Employees of the Entity Operating the Principal Use (Furniture Repair Shops, Sign Painting)				SE	P		

OFFICIAL TABLE OF USER REGULATIONS BY ZONING DISTRICTS

USES DESCRIPTION	ZONING DISTRICTS						
	R-1	R-2	RM	TCMX	CG	Public Institute	OS
4.000							
MANUFACTURING, PROCESSING, CREATING, REPAIRING, RENOVATING, PAINTING,CLEANING, ASSEMBLING OF GOODS, MERCHANDISE AND EQUIPMENT							
4.100 All Operations Conducted Entirely Within Fully Enclosed Building							
4.110 High Volume Traffic Business Done with Walk-in Trade (1)					P		
4.120 Low-Volume Business Not Done with Walk-in Trade (Printing and Publishing, Dry Cleaning Plants, Electronics Assembly) (1)				P	P		
4.200 Operations Conducted Within or Outside Fully Enclosed Building							
4.210 Welding Shops, Ornamental Iron works, Machine Shops (Excluding Drop Hammers and Punch Presses Over 20 Tons Rated Capacity, Sheet Metal) Urban Industry (1)				SE	P		
5.000							
EDUCATIONAL, CULTURAL, RELIGIOUS, PHILANTHROPIC, SOCIAL FRATERNAL USES							
5.100 Schools							
5.110 Public and Private Elementary and Secondary (Includes Pre-School, Associated Grounds and Athletic and Other Facilities) (1)	SE	SE	SE	P	P	P	
5.120 Trade or Vocational Schools (1)	SE	SE	SE	P	P	P	
5.130 Colleges, Universities, Community Colleges (Including Associated Facilities Such As Dormitories, Office Buildings				P	P	P	
5.200 Churches, Synagogues and Temples (Including Residential Structures for Religious Personnel and Associated Buildings but not Including Elementary or Secondary School (Buildings)				P	P	P	
5.300 Libraries, Museums, Art Galleries, Art Centers and Similar Uses (1) (Including Associated Educational and Instructional Activities) (1)				P	P	P	P
5.400 Social, Fraternal Clubs and Lodges, Union Halls and Similar (1)				P	P		
5.500 Conference Centers and Related Facilities				P	P		
6.000							
RECREATIONS, AMUSEMENT, ENTERTAINMENT							
6.100 Activity Conducted Entirely Within Building or Substantial							
6.110 Bowling Alleys, Skating Rinks, Indoor Tennis and Squash Courts Billiard and Pool Halls, Rifle and Pistol ranges, Indoor Athletic and Exercise Facilities and Similar Uses				SE	P		
6.120 Movie Theaters							
6.122 Seating Capacity up to 1000				SE	P		
6.200 Activity Conducted Primarily Outside Enclosed Buildings							
6.210 Privately Owned Outdoor Recreational Facilities Such as Golf and Country Clubs, Swimming or Tennis Clubs, etc. Not Constructed Pursuant to a Permit Authorizing the Construction of Some Residential Development. (1)				P			
6.220 Publicly Owned and Operated Outdoor recreational Facilities Such As Athletic Fields, Golf Courses, Tennis Courts, Swimming Pools Parks, etc. Not Constructed Pursuant to a Permit Authorizing the Construction of Another Use Such as a School (1)				P	P	P	P

OFFICIAL TABLE OF USER REGULATIONS BY ZONING DISTRICTS

USES DESCRIPTION	ZONING DISTRICTS						
	R-1	R-2	RM	TCMX	CG	Public Institute	OS
7.000							
INSTITUTIONAL RESIDENCE OR ASSISTED LIVING FACILITIES OR CONFINEMENT FACILITIES							
7.100 Hospitals, Clinics, Other Medical (Including Mental Health) Treatment (1) Facilities in Excess of 10,000 Sq ft. of Floor Area				SE	SE	P	
7.200 Nursing Facility, Handicapped or Infirm Institutions (1)				P	P	P	
7.300 Assisted Living Facilities - Large (More than 8 residents) (1)				P	P	P	
7.400 Group Home/Halfway House - Large (More than 9 residents)				P	P	P	
8.000							
RESTAURANTS, BARS, NIGHTCLUBS, DINNER THEATRES							
8.100 Restaurant, Standard and Cafeteria (1)				P	P		
8.200 Restaurant, Fast Food (1)				P	P		
8.300 Taverns, Bars, Drinking Establishments (1)				SE	P		
9.000							
MOTOR VEHICLE RELATED SALES AND SERVICE OPERATIONS							
9.100 Motor Vehicle Sales or Rental (1)				SE	P		
9.200 Sales and Service (1)				SE	P		
9.300 Motor Vehicle Repair and Maintenance, Not Including Body Work (1)				SE	P		
9.400 Motor Vehicle Painting and Body Work (1)				SE	P		
9.500 Gas Sales (1)				SE	P		
9.600 Car Wash				SE	P		
10.000							
STORAGE AND PARKING (INCLUDING INDUSTRIAL AND BULK STORAGE)							
10.100 Automobile Parking Garages or Parking Lots Not Located on a Lot (1) On Which There is Another Principal Use to Which the Parking is Used For					P	P	
10.200 Storage of Goods Not Related to Sale of Use of Those Goods on the Same Lot Where They Are Stored							
10.210 All Storage Within Completely Enclosed Structures (1)				SE	P	P	
10.220 Storage Inside or Outside Completely Enclosed Structures (Contractors Yard)					P	P	
10.300 Parking of Vehicles or Storage of Equipment Outside Enclosed Structures Where (1) Vehicles or Equipment are Owned and Used by the Person Making Use of Lot and (2) Parking or Storage Occupies More (1) More than 75% of the Developed Area					SE	SE	
11.000							
RESERVED							
12.000							
SERVICE AND ENTERPRISES RELATED TO ANIMALS							
12.100 Veterinarian, Veterinary Hospital (1)				SE	P		
12.200 Kennel (1)				SE	SE		

OFFICIALTABLE OF USER REGULATIONSBY ZONING DISTRICTS

USES DESCRIPTION	ZONING DISTRICTS						
	R-1	R-2	RM	TCMX	CG	Public Institute	OS
13.000							
EMERGENCY SERVICES							
13.100 Police Stations				P	P	P	
13.200 Fire Stations				P	P	P	
13.300 Rescue Squad, Ambulance Service				P	P	P	
13.400 Civil Defense Operation				P	P	P	
14.000							
AGRICULTURE, SILVICULTURE, MINING, QUARRYING OPERATIONS							
14.100 Chickens, Domesticated (1)	P	P					
14.200 Silvicultural, Mining							
14.300 Quarry Operations							
14.400 Agriculture							
15.000							
MISCELLANEOUS PUBLIC AND SEMI-PUBLIC FACILITIES							
15.100 Post Office, Local				P	P	P	
15.200 Recycling Centers					SE	SE	
16.000							
PIERS, PORT FACILITIES, MARINAS & RELATED USES							
16.100 Marine Including Boat Sales and Repair and Boat Rental, Including Sailboards and Jet Skis				P	P		
16.200 Pier, Related Port Facilities when Ancillary to a Permitted Use of Both the Permitted Use and the Pier, Marinas or Water Dependent Facilities				SE			SE
17.000							
UTILITY FACILITIES							
17.100 Neighborhood Essential Services	P	P	P	P	P	P	P
17.200 Community or Regional Essential Service (1)							
17.210 Water or Sewerage Treatment Facilities for more than 200 Homes	P	P	P	P	P	P	P
17.220 Electric Substations Electric Transmission Overhead >69KW				SE	SE	SE	P
17.230 Motor Vehicle Charging Station	P	P	P	P	P	P	P
18.000							
TOWERS AND RELATED STRUCTURES							
18.100 TV and Radio Antennas 40 Feet Tall or Less	SE	SE	SE	SE	SE	P	P
18.200 Towers and Antennas More Than 40 Feet Tall(1)				SE	SE	SE	SE
18.300 Satellite Dishes - Roof (1)	P	P	P	P	P	P	
18.400 Satellite Dishes - Free Standing (1)	P	P	P	P	P	P	
18.500 Solar Panels - Roof Mounted (1)	P	P	P	P	P	P	P
18.600 Solar Panels - Free Standing (1)	P	P	P	P	P	P	P
18.700 Small Wind Generators (1)	P	P	P	P	P	P	P
19.000							
OPEN AIR MARKETS AND HORTICULTURAL SALES							
19.100 Open-Air Markets (Farm and Craft Markets, Flea Markets, Produce Markets				SE	P	P	P
19.200 Roadside Stands (1)				P	P	P	

OFFICIAL TABLE OF USER REGULATIONS BY GENERAL ZONING DISTRICTS

USES DESCRIPTION	ZONING DISTRICTS						
	R-1	R-2	RM	TCMX	CG	Public Institute	OS
20.000							
FUNERAL HOME							
20.100 Funeral Home (1)				SE	P		
21.000							
CEMENTARY AND CREMATORIUM							
21.100 Cemetery (1)						SE	
21.200 Crematorium (1)						SE	
22.000							
NOT USED							
23.000							
TEMPORARY USES							
23.100 Temporary Structures Used in Connection with the Construction of a Permanent Building (Time Limit and With Permit)	P	P	P	P	P	P	P
23.200 Events of Public Interest and Special Events (1)	P	P	P	P	P	P	P
23.300 Christmas Tree Sales				P	P	P	
23.400 Real Estate Sales Office	P	P	P	P	P	P	
24.000							
BUS STATIONS, TRAIN STATIONS, PARK & RIDE FACILITY							
24.100 Bus Stations, Park & Ride Facility				SE	P	P	
25.000							
COMMERCIAL GREENHOUSE OPERATION							
25.100 No On-Premises Sale, Horticultural Sales (1)				SE	P		
25.200 On Premise Sales Permitted, Horticultural Sales (1)				SE	P		
25.300 Community Gardens	P	P	P	P	P	P	P

ARTICLE XI SUPPLEMENTARY USE REGULATIONS

This Article contains regulations to specific uses that supplement the requirements found in other articles of this Chapter.

Section 1100. Reserved

Section 1101. Reserved

Section 1102. Reserved

Section 1103. Accessory Apartments (Use Group 1.210)

(a) Accessory apartments in the residential zones. It is the specific purpose and intent of this Chapter to allow accessory apartments through conversion of existing larger residential structures located in those zones permitting residential uses and to provide the opportunity and encouragement to meet the special housing needs of single persons and couples of low and moderate income, both young and old, as well as relatives of families currently residing in the Town of Indian Head. It is furthermore the intent and purpose of this provision to allow the more efficient use of the Town's existing housing stock. The following specific standards are set forth as condition for such accessory uses:

(i) The owner of the residential dwelling unit in which the accessory apartment is to be located shall occupy at least one of the dwelling units on the premises.

(ii) An accessory apartment may be located either in the principal dwelling unit or in an accessory building.

(iii) Apartment size. The minimum floor area for an accessory apartment within a principal dwelling shall be three hundred (300) square feet but in no case shall it exceed thirty percent (30%) of the gross floor area of the dwelling in which it is located. For accessory apartments located in accessory buildings, the minimum floor area shall also be three hundred (300) square feet, there shall be no more than two (2) bedrooms in the apartment, and the apartment shall not occupy more than 50% of the main structure.

(iv) Number of accessory apartments per lot. There shall be no more than one (1) accessory apartment permitted per existing single family dwelling.

(v) Exterior appearance. When an accessory apartment is located in the principal dwelling building, the entry to such unit and its design shall be such that, to the degree reasonably feasible, the appearance of the building will remain as a single-family residential structure and that no external entrance that faces a road or street will be added.

(vi) Water and sewer service. Prior to the issuance of a building permit for the

establishment of an accessory apartment in an existing residential structure, or the conversion of an existing accessory building to an accessory apartment use, approval of the proposed method of water supply and sewage disposal shall be obtained.

(vii) Off-street parking. Off-street parking shall be provided in accordance with the standards and requirements of Article XVII.

Section 1104. Residential structures - single-family attached and multi-family units (Use Group 1.300)

(a) Townhouses

(i) Both sides of rear yards shall be screened with a privacy type fence or hedge of six (6) feet minimum height approved by the Planning Commission and extending not less than fifteen (15) feet from the rear building wall.

(ii) Open Space. A minimum of eight hundred (800) square feet per townhouse lot shall be maintained in common open space areas exclusive of front, side, or rear yards in a location approved by the Planning Commission.

(iii) Landscaping. All areas not occupied by buildings, roads, parking areas, service areas, or other required or permitted uses, including open spaces and usable recreation areas shall be landscaped by lawns, trees, shrubs, gardens, or other suitable ground cover.

(iv) Landscaping plan and approval. A landscaping plan and a schedule of planting shall be included with the site plan. Landscaping plans shall meet the requirements of the sediment control Chapter and other applicable regulations.

(v) Building requirements and relationship.

(1) Dwelling units per townhouse structure and length of structure. No more than five dwelling units shall be contained in a townhouse structure without a setback between structures as specified below.

(2) Distance between buildings. The minimum distance between any two unattached townhouse structures shall be forty (40) feet. The distance shall be increased to sixty (60) feet if the townhouse structures are face to face. The point of measurement shall be the exterior walls of the structures and does not include balconies or other architectural features. In the event that the structures are contained within a townhouse cluster, the above distances may be reduced to twenty-five (25) feet and forty (40) feet respectively.

(3) Distance to service areas. No townhouse structure shall be closer than twenty (20) feet to any interior driveway or closer than fifteen (15) feet to any off-street parking area excluding garages built into an individual townhouse unit.

(4) Code requirements. All structures shall comply with all Town, County and State Codes. In addition, separation walls between units must be a listed, fire rated assembly, constructed of block and all units must be provided with sprinkler protection in accordance with the requirements of NFPA 13D. Exterior walls shall be constructed of brick. The use of aluminum or vinyl siding is not permitted.

(5) All lots within a townhouse cluster shall front on a public way. A public way intended for pedestrian circulation shall have a minimum width of five (5) feet.

(6) All public ways or other common facilities within a townhouse cluster shall be maintained by the property owners within the townhouse cluster.

(7) A townhouse cluster shall not be bisected or penetrated by a public street.

(8) A public way intended for pedestrian circulation shall be provided between abutting rear lot lines.

(9) Off-street parking shall be provided in accordance with the provisions of Article XVII of this Chapter.

(b) Apartments/Condominiums. (Use Group 1.320)

(i) Density controls.

(1) Maximum density. The maximum density shall not exceed the permitted density for the Zoning District as average for the total area.

(2) Open area. A minimum of thirty (30%) percent of the total tract area shall be maintained as open area. This required open area shall not be devoted to service driveways, off-street parking, loading spaces, or drying yards. It is further provided that twenty-five (25%) of the above- referenced open area be suitable for usable recreational space and each such recreational space shall be at least fifty (50) feet in the least dimension with a minimum area of five thousand (5,000) square feet.

(c) Other multi-family development. (Use Group 1.330)

(i) Density controls. When permitted in a residential zoning district, the multi-

family structure shall meet the maximum density for that district. When permitted in other zoning districts, the intensity will be regulated by the floor area ratio standards below.

(ii) Floor area ratio. The floor area ratio is shown in the Schedule of Zone Regulations (Article XII). In calculating the floor area ratio, only the floor area

contained within the principal structure shall be included. Floor area within covered parking garages, providing this area is exclusively devoted to off- street parking facilities, is excluded from the calculation.

(iii) Building coverage. The following maximum lot coverage shall apply to principal and accessory buildings within the District.

(1) The maximum coverage of principal buildings shall not exceed twenty (20%) percent of the total tract area.

(2) A combination of principal buildings and accessory parking structures shall not exceed a maximum tract coverage of thirty-five (35%) percent.

(iv) Minimum floor areas. For the purposes of this section, the following shall be considered minimum habitable floor areas:

(1) Efficiency apartments - 600 square feet

(2) One-bedroom apartment - 700 square feet

(3) Two-bedroom apartment - 800 square feet

(4) Three or more bedroom apartments - 1,200 square feet.

(v) Open area. A minimum of thirty (30%) percent of the total tract area shall be maintained as open area. It is further provided that fifty (50%) percent of the above-referenced open area shall be maintained for and suitable as usable recreation space. This required recreation space shall be in such dimensions as to be usable for active and passive recreation.

(vi) Setbacks. All buildings and structures shall be set back a minimum of two hundred (200) feet from the right-of-way line of any public street or adjacent property lines. This setback shall be exclusively devoted to landscaping and open area and shall not be occupied by any building, structure, or off-street parking area.

(vii) Setback between buildings. The setback between any two principal buildings on the same lot shall be two (2) feet of setback for every one (1) foot of building height, provided, however, that the minimum setback between buildings shall be fifty (50) feet.

(viii) Landscaping.

(1) Area to be landscaped. All lot area not occupied by principal and accessory structures, required off-street parking, loading, access, and circulation facilities, or other required areas shall be landscaped by lawns, trees, shrubs, ground cover, and other appropriate materials.

(2) Bufferyards. Within the required setback areas, there shall be a landscaped bufferyard as set forth in Article XVIII.

(ix) Building height.

(1) Principal building or structure. Within the RM or TCMX Planned Districts, principal structures may be erected to a height not exceeding 60 feet when the required side and rear yards are each increased by at least one (1) foot for each additional foot of building height above the height restrictions for the district in which the building is located, except as otherwise prohibited in as an obstruction to air navigation. TCMX Planned Districts, principal structures may be erected exceeding 60 feet through a special exception application. When permitted in zoning districts outside the RM and TCMX Districts, the height shall be limited to the overall height limitations of that District.

(2) Accessory structures. No accessory structure shall exceed two (2) stories or twenty (20) feet in height.

(x) Signs. Signs shall be permitted in accordance with the provisions of Article XVI.

(xi) Off-street parking. Off-street parking shall be required for each use in accordance with the provisions of Article XVII.

Section 1105. Nursing Care Institutions (Use Group 1.410, 7.200)

(i) A nursing home or care home may be allowed upon a finding that such use will not constitute a nuisance because of traffic, noise, or number of patients or people being cared for; that, except for buildings completed prior to the time of adoption of this Section and additions thereto, such use will be housed in buildings architecturally compatible with other buildings in the surrounding neighborhood; that such use will not adversely affect the present character or future development of the surrounding residential community; and that such use can and will be developed in conformity with the following minimum area, density, coverage, frontage, setback, access, and screening requirements where specified:

(i) Care home for care of not more than nine people:

(1) Total area: 20,000 square feet.

(2) Frontage: fifty (50) feet.

(3) Setback: same as in the area regulations for the zone in which the care home or nursing home is proposed to be located.

(ii) All care institutions hereafter established and all additions to existing homes where nine or more people are cared for:

(1) Minimum lot area, as stated in the applicable zone, but in no case less than one acre.

(2) Maximum density.

(a) One bed per eight hundred (800) square feet of net lot area in only residential zones.

(b) One bed per six hundred (600) square feet of net lot area in commercial zones.

(3) Maximum coverage, as required in the applicable zone.

(4) Minimum lot frontage, as stated in the requirements for the applicable zone.

(5) Minimum setbacks.

(a) Front yards, as specified for the applicable zone, except that, for purposes of this Section, all yards facing a street shall be considered front yards.

(b) Side yards. The following minimums are in addition to those otherwise required in the various zones:

(i) One (1) foot for each side yard for each bed in a residential zone.

(ii) One half (½) feet for each side yard for each bed in commercial and planned development zones.

(iii) In no case shall any minimum side yard be required to be greater than fifty (50) feet more than would otherwise be required in the applicable zone.

(c) Back yards: one-half of the total of both side yards as required in item b.2. above, but not less than the minimum required in the applicable zone.

(6) Minimum screening, as determined by the Board with special attention given to off-street parking and loading areas in accordance with Articles XVII and XVIII and in no case less than bufferyard `C' as shown in Appendix F.

(7) The Board shall increase the number of off-street parking spaces required for nursing or care homes under Article XVII where the operation or method of operation, or type of care to be provided, indicates such increase will be needed.

Section 1106. Childcare Centers, Day Care Centers, Day Nursery, Day Care Home, Family Day Care or Adult Day Care Centers (Use Group 1.421, 1.422, 1.423)

(a) A site plan must be submitted for Childcare Centers, Day Care Centers, Day Nurseries, Day Care Homes, and Family Day Care Facilities showing existing or proposed building, play area, fencing, parking, ingress and egress, and with the following:

(i) Applicant shall meet requirements of state and local health departments for family/group care.

(ii) The Board may prescribe specific conditions determined necessary to minimize effects of use on neighboring properties given identifications of concerns specific to a particular site.

(iii) The applicant shall provide 100 square feet of usable outdoor recreation area for each child that may use this space at any one time. Such usable outdoor recreation area shall be identified on the site plan and shall be sufficiently buffered from adjacent residential area. Usable outdoor recreation areas shall be limited to the side and rear yard of the property. Recreational areas shall not include the required front yard of the property or any off-street parking areas.

(iv) The child care provider shall comply with all applicable State laws and regulations that govern the facility for which the approval is sought from the Town. Applicant must be able to present a childcare licensing certificate and inspection report from the State of Maryland agency that regulates the facility.

(v) The applicant must provide guarantees as may be deemed necessary by the Board that the proposed child daycare center will not constitute a nuisance nor be disruptive to the neighborhood due to the number of children being cared for, noise, traffic, or any other activity associated with the use. The Board shall specifically consider existing daycares within a five hundred foot (500) radius of the proposed daycare in order to determine the extent of neighborhood impact. Said radius shall be measured from the center point of the front building setback line.

(vi) The applicant must demonstrate to the Board's satisfaction that sufficient pickup and drop-off areas are available.

(b) A site plan must be submitted for Adult Day Care Centers showing existing or proposed building, fencing, parking, ingress and egress, and with the following:

(i) The applicant shall meet the requirements of federal, state, and local regulations including, but not limited to; building, zoning, fire, food, safety, health, and Americans with Disabilities Act of 1990 and latest amendments thereto.

(ii) The Board may prescribe specific conditions necessary to minimize effects of use on neighboring properties given identifications of concerns specific to a particular site.

(iii) The provider shall comply with Subtitles 2 and 3 as defined in Health-General Article, Title 14, of the Annotated Code of Maryland. The applicant must present a licensing certificate and inspection report from the State of Maryland.

(iv) The applicant must provide guarantees as may be deemed necessary by the Board that the proposed elderly daycare center will not constitute a nuisance nor be disruptive to the neighborhood due to the number of elderly being cared for, noise, traffic, or any other activity associated with the use. The Board shall specifically consider existing daycares within a five hundred foot (500) radius of the proposed daycare in order to determine the extent of neighborhood impact. Said radius shall be measured from the center point of the front building setback line.

(v) The applicant must demonstrate to the Board's satisfaction that sufficient pickup and drop-off areas are available.

Section 1107. Boardinghouses, Bed & Breakfasts, Country Inns (Use Group 1.510, 1.530)

(a) The use of a one-family dwelling for a boardinghouse, bed & breakfast, or country inn may be allowed by special exception, upon a finding by the Board that such use will not constitute a nuisance because of sidewalk or street traffic, noise, or type of physical activity, and that such use will not tend to affect adversely the use and development of adjoining properties in the immediate neighborhood. Such establishments are subject to the following criteria:

(i) The establishment shall be located on a State-maintained road with direct access to the State-maintained road. Direct access shall mean an entrance located on the same property as the boardinghouse, bed & breakfast, or country inn.

(ii) The driveway entrance onto the State-maintained road shall meet MDOT standards

(iii) One off-street parking space shall be provided for each guest room and shall be located at the rear of the site. Further parking area shall be 50 feet from any adjacent residentially zoned property or shall be adequately screened.

(iv) Applicable requirements of the Health Department, the Fire Marshal's Office, the Town Building Code, and the Annotated Code of Maryland shall be met.

(v) The establishment shall be owner/manager occupied and managed.

(vi) Accessory commercial activities such as weddings, graduation, and similar parties are allowed only if included as part of the special exception application.

(vii) No separate kitchen facilities shall be provided.

(viii) The individual rooms may not contain any cooking facilities. For boarding houses, the individual rooms may not contain more than one (1) person.

(b) Site Development Criteria.

(i) Off-street parking:

(1) One off-street parking space shall be provided for each guest room.

(2) Parking may be provided off-site in a public lot or with certification of permission of off-site owner. Such parking to be located a convenient distance from the boarding house, bed and breakfast or country inn.

(3) The parking area shall not be located within the setbacks of the required yards.

Section 1108. Hotels and motels (Use Group 1.520)

A hotel, motel, or inn may be allowed, provided that all the requirements imposed in the zone are met and provided further that special conditions -- such as for additional fencing and/or planting or other landscaping, additional setback from property lines, location and arrangement of lighting, and other reasonable requirements deemed necessary to safeguard the general community interest and welfare -- may be invoked by the Planning Commission.

(a) Accessory uses may include gift shop, beauty shop, barber shop, restaurant, cocktail lounge/night club, auditorium/meeting facilities, and similar retail stores and commercial establishments. Planning Commission may require studies of the market for specific accessory uses as well as the principal use.

(b) Circulation and parking shall be adequate to fulfill requirements of all proposed uses, principal and accessory. A traffic analysis shall be provided by the applicant demonstrating adequacy of the system to the satisfaction of the Planning Commission.

(c) The applicant shall design building roof to screen mechanical equipment from public view

and to contribute to an attractive streetscape.

(d) The applicant shall develop the public streetscape between the street-front building and the street curb to accommodate safe and convenient pedestrian movement.

(e) The applicant shall locate amenities such as lighting, seating, shelter, and landscaping into attractive groupings that provide for safe and unobstructed pedestrian movement.

(f) The applicant shall design fences and retaining walls that are consistent in materials and quality to that of the building and the adjacent properties.

(g) The applicant shall design and locate signs so that their illumination is directed away from adjacent neighbors.

(h) The applicant shall integrate ground signs into the design of the site and the streetscape.

(i) Vehicular access to the subject property shall not be by means of any street internal to a subdivision for one-family dwellings.

Section 1109. Temporary Emergency Construction, or Repair to Residences (Use Group 1.600)

(a) Temporary residences used on construction sites of non-residential premises shall be removed immediately upon the completion of the project.

(b) Permits for temporary residences to be occupied pending the construction, repair, or renovation of the permanent residential building on a site shall expire within six months after the date of issuance, except that the Zoning Administrator may renew such permit for one additional period not to exceed three months if he determines that such renewal is reasonably necessary to allow the proposed occupants of the permanent residential building to complete the construction, repair, renovation, or restoration work necessary to make such building habitable.

Section 1110. Home occupations (Use Group 1.700)

Home occupations within the context of the definition of home occupations provided in this Chapter are permitted subject to the following:

(a) Not more than one person other than members of the family residing on the premises shall be engaged in such occupation.

(b) The use of the dwelling unit for the home occupation shall be clearly incidental and clearly subordinate to its use as a residence and not more than 25 percent, including an attached garage or 300 square feet of the floor area of the dwelling unit or 300 square feet of the floor area of the accessory building shall be used in the conduct of such occupation.

(c) There shall be no change in the outside appearance of the building or premises, other than one sign as permitted in Article XVI. Residential appearance shall be maintained, and the

proposed development shall be in keeping with the character of the neighborhood.

(d) No equipment or process shall be used which creates noise, vibration, glare, fumes, odors, or electrical interference detectable outside of the dwelling unit.

(e) No article of commodity shall be offered for sale or publicly displayed on the premises except those incidental to services offered.

(f) Parking generated by the conduct of such home occupation shall be met off the street and in a location other than in a required front yard.

(g) Funeral homes, veterinary animal hospitals and grocery stores shall not be permitted as home occupations.

(h) A private educational institution, boardinghouse, rooming house, or tourist home shall not be deemed a home occupation.

(i) Home occupation applications within the TCMX zone are subject to approval by the Board of Appeals, except as provided in subsection (j).

(j) No-impact home occupations. The Zoning Administrator may approve a zoning permit/certificate for a No-Impact Home Occupation in all Districts if:

(i) No customer visits are allowed in connection with the no impact home occupation. For purposes of this section, a "customer visit" means a visit to the home by one automobile transporting one or more clients or customers.

(ii) No employees or persons, other than the person or persons residing in the dwelling unit, are permitted to engage in the home occupation on site.

(iii) No deliveries or storage related to the home occupation are permitted.

(iv) Not more than twenty percent (20%) or three hundred (300) feet of the total floor space of the dwelling is permitted for business purposes, whichever is less.

(v) The applicant completes an application for the home occupancy on a form provided by the Town.

Section 1111. Antique shops (Use Group 2.100)

An antique shop may be allowed in an existing building or part of an existing building provided that the original character of the building be maintained; that such use shall not constitute a nuisance because of traffic, noise, type of physical activity, or any other element that is incompatible with the character of the surrounding neighborhoods; and that signs shall be limited to identification signs -- the location and design of the signs shall be subject to the provisions contained in Article XVI.

Section 1112. Retail establishments in a group of multiple-family dwellings (Use Group 2.110, 3.110)

Retail sales and personal service establishments in a group of multi-family dwellings may be permitted in the TCMX zone subject to the following requirements:

(a) Only the following types of establishments shall be permitted:

Banks or saving and loan offices
Barber and beauty shops
Book stores
Drug stores
Dry-cleaning and laundry pick-up stations
Florists
Food and beverage stores
Gift shops
Jewelry stores
Laundromats
Newsstands
Office, banking
Restaurants
Variety and dry goods stores

(b) The establishments shall be primarily for the service of the residents of the building or complex in which it is located, and no deliveries shall be made except to such residents.

(c) The establishments shall not be located on any floor above the ground-level, except that a restaurant may be located on a top floor or penthouse.

(d) The establishments shall be located and constructed as to protect tenants of the building from noise, traffic, odors, and interference with privacy.

Section 1113. Retail establishments in an office building (Use Group 2.110, 3.100)

Retail sales and personal service establishments in an office building may be permitted subject to the following requirements:

(a) The establishments shall be primarily for the service of the tenants and employees of the building or group of buildings on the same lot or group of contiguous lots in common ownership or control.

(b) Such establishments shall occupy not more than 30 percent of the total floor area of the building or group of buildings.

(c) The establishments shall be so located and constructed as to protect tenants of the building from noise, traffic, odors, and interference with privacy.

Section 1114. Alcoholic Beverage Sales/Liquor Store. (Use Group 2.111.5)

(a) Alcoholic beverage sales and/or liquor stores may be permitted as a Special Exception in the TCMX zone and shall be permitted in the GC zone, provided that no such establishment is located nearer than 1,000 feet to any principal structure used as a hospital, house of worship, or school.

Section 1115. Clinics (Use Group 3.130)

(a) A medical or dental clinic shall be subject to the following specific conditions:

(i) Minimum lot area, 40,000 square feet.

(ii) Minimum frontage, 200 feet.

(iii) Minimum setback, 40 feet from all property lines.

(iv) Maximum building height, as specified in zone.

(v) Maximum building coverage, 15 percent.

(vi) Location of access, on business district street, arterial, or major highways.

(vii) Disposal of waste shall be through approved, safe means and shall be separate from regular trash disposal.

(b) Accessory services, including laboratories and pharmacies for the use of patients visiting medical practitioners in the clinic, shall be permitted as part of the clinic facility, subject to the following specific conditions:

(i) All entrances to parts of the building in which these accessory services are provided shall be from within the building and any direct access from the street is prohibited.

(ii) The hours during which these services are provided shall be the same as those during which medical practitioners are receiving patients.

Section 1116. Smoke (Use Group 4.000)

(a) For the purpose of determining the density of equivalent opacity of smoke, the Ringlemann Chart, as adopted and published by the United States Department of Interior, Bureau of Mines Information Circular 8333, May 1967, shall be used. The Ringlemann number referred to in this Section refers to the number of the area of the Ringlemann Chart that coincides most nearly with the visual density of equivalent opacity of the emission of smoke observed. For example, a reading of Ringlemann No. 1 indicates a 20 percent density of the smoke observed.

(b) All measurements shall be taken at the point of emission of the smoke.

(c) In all zoning districts, no 4.000 use classification use may emit, from a vent, stack, chimney, or combustion process, any smoke that is visible to the naked eye.

(d) In the CG district, no 4.000 use classification use may emit, from a vent, stack, chimney, or combustion process, any smoke that exceeds a density or equivalent capacity of Ringlemann No. 1, except that an emission that does not exceed a density or equivalent capacity of Ringlemann No. 2 is permissible for a duration of not more than four minutes during any eight-hour period if the source of such emission is not located within 250 feet of a residential district.

(e) In the CG district, no 4.000 use classification use may emit, from a vent, stack, chimney, or combustion process, any smoke that exceeds a density or equivalent capacity of Ringlemann No. 2, except that an emission that does not exceed a density or equivalent capacity of Ringlemann No. 3 is permissible for a duration not more than four minutes during any eight-hour period if the source of emission is not located within 500 feet of a residential district.

Section 1117. Noise (Use Group 4.000)

(a) No 4.000 use classification use in any permissible business district may generate noise that tends to have an annoying or disruptive effect upon (i) uses located outside the immediate space occupied by the 4.000 use if that use is one of several located on a lot, or (ii) uses located on adjacent lots.

(b) Except as provided in subsection (f), the table set forth in subsection (e) establishes the maximum permissible noise levels for 4.000 classification use, and, as indicated, the maximum permissible noise levels vary according to the zoning of the lot adjacent to the lot on which the 4.000 classification use is located.

(c) A decibel is a measure of a unit of sound pressure. Since sound waves having the same decibel level "sound" louder or softer to the human ear depending upon the frequency of the sound wave in cycles-per-second (i.e., whether the pitch of the sound is high or low) an A-weighted filter constructed in accordance with the specifications of the American National Standards Institute, which automatically takes account of the varying effect on the human ear of different pitches, shall be used on any sound level meter taking measurements required by this section. And accordingly, all measurements are expressed in dB (A) to reflect the use of his A-weighted filter.

(d) The standards established in the table set forth in subsection (e) are expressed in terms of the Equivalent Sound Level (Leq), which must be calculated by taking 100 instantaneous A-weighted sound levels at 10-second intervals.

(e) Table of Maximum Permitted Sound Levels, dB(A)

Zoning of Adjacent Lot

(re: 0.0002 Microbar)

4.000 Use Located	7 a.m.-7 p.m.	7 p.m.-7 a.m.	Zoning of Lot Where Resident and RM GC	TCMX
GC	50	45	65	55

(f) Impact noises are sounds that occur intermittently rather than continuously. Impact noises generated by sources that do not operate more than one minute in any one-hour period are permissible up to a level of 10 dB (A) in excess of the figures listed in subsection (e), except that this higher level of permissible noise shall not apply from 7 p.m. to 7 a.m. when the adjacent lot is zoned residential. The impact noise shall be measured using the fast response of the sound level meter.

(g) Noise resulting from temporary construction activity that occurs between 7 a.m. and 6 p.m. or between 8 am and 6 pm on Saturdays shall be exempt from the requirements of this section.

(h) Should there be a conflict between Section 1117 and Chapter 93 of the Town Code, then the more restrictive shall apply.

Section 1118. Vibration (Use Group 4.000)

(a) No. 4.000 use classification use in any permissible business district may generate any ground-transmitted vibration that is perceptible to the human sense of touch measured at (i) the outside boundary of the immediate space occupied by the enterprise generating the vibration if the enterprise is one of several located on a lot, or (ii) the lot line if the enterprise is one of several located on a lot, or (iii) the lot if the enterprise generating the vibration is the only enterprise located on a lot.

(b) No. 4.000 classification use in the GC district may generate any ground-transmitted vibration in excess of the limits set forth in subsection (e). Vibration shall be measured at any adjacent lot line or residential district line as indicated in the table set forth in subsection (d).

(c) The instrument used to measure vibrations shall be a three-component measuring system capable of simultaneous measurement of vibration in three mutually perpendicular directions.

(d) The vibration maximums set forth in subsection (e) are stated in terms of particle velocity, which may be measured directly with suitable instrumentation or computed on the basis of displacement and frequency. When computed, the following formula shall be used:

PV=6.28 FxD
Where:

PV=Particle velocity, inches-per-second F=Vibration frequency, cycles-per-second
D=Single amplitude displacement of the vibration, inches.

The maximum velocity shall be the vector sum of the three components recorded.

(e) Table of Maximum Ground-Transmitted Vibration

Particle Velocity, Inches-Per-Second		
Zoning District	Adjacent Lot Line	Residential District
GC	0.20	0.02

(f) The values stated in Subsection (e) may be multiplied by two for impact vibrations, i.e., discrete vibration pulsations not exceeding one second in duration and having a pause of at least one second between pulses.

(g) Vibrations resulting from temporary construction activity that occurs between 7 a.m. and 6 p.m. shall be exempt from the requirements of this Section.

Section 1119. Odors (Use Group 4.000)

(a) For purposes of this section, the "odor threshold" is defined as the minimum concentration in air of a gas, vapor, or particulate matter that can be detected by the olfactory systems of a panel of healthy observers.

(b) No 4.000 classification use in any district may generate any odor that reaches the odor threshold, measured at:

(i) The outside boundary of the immediate space occupied by the enterprise generating the odor.

(ii) The lot line if the enterprise generating the odor is the only enterprise located on a lot.

Section 1120. Air Pollution (Use Group 4.000)

(a) Any 4.000 classification use that emits any "air contaminant" as defined in the State air pollution control law shall comply with applicable State standards concerning air pollution, as set forth in the Annotated Code of Maryland.

(b) No zoning, special-use, or conditional-use permit may be issued with respect to any

development covered by subsection (a) until the Maryland Department of the Environment has certified to the permit-issuing authority that the appropriate State permits have been received by the developer, or that the developer will be eligible to receive such permits and that the development is otherwise in compliance with applicable air pollution laws.

Section 1121. Disposal of Liquid Wastes (Use Group 4.000)

(a) No 4.000 classification use in any district may discharge any waste contrary to the provisions of any law governing discharges of radiological, chemical, or biological wastes into surface or subsurface waters.

(b) No 4.000 classification use in any district may discharge into the Town's sewage treatment facilities any waste that cannot be adequately treated by biological means.

Section 1122. Electrical Disturbance or Interference (Use Group 4.000)

No 4.000 classification use may:

(a) Create any electrical disturbance that adversely affects any operations or equipment other than those of the creator of such disturbance, or

(b) Otherwise cause, create, or contribute to the interference with electronic signals (including television and radio broadcasting transmissions) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.

Section 1123. Education institutions, private (Use Group 5.110, 5.120)

(a) Except where permitted by right, a lot or parcel of land may be allowed to be used for a private educational institution as a special exception upon a finding by the Board:

(i) That such use will not constitute a nuisance because of traffic, number of students, noise, type of physical activity, or any other element that is incompatible with the environment and character of the surrounding neighborhoods; and

(ii) That, except for buildings and additions thereto completed, or for which building permits have been obtained prior to the time of adoption of this Section, such use will be housed in buildings architecturally compatible with other buildings in the surrounding neighborhoods, and, in the event that such building is to be located on a lot, tract, or parcel of land of two acres or less, in either an undeveloped area or an area substantially developed with single-family homes, that the exterior architecture of such building will be of a residential home design and at least comparable to existing residential homes, if any, in the immediate neighborhood; and

(iii) That such use will not, in and of itself or in combination with other existing uses, affect adversely or change the present character or future development of the surrounding residential community; and

(iv) That such use can and will be developed in conformity with the following area, density, building coverage, frontage, setback, access, and screening requirements, where specified:

(1) Area, frontage, and setback. As shall be specified in a site plan of development approved by the Board provided that in no event shall such standards be less than the area regulations for the zone in which the private educational institution is proposed to be located; and

(2) Access building coverage and screening. As shall be specified in a site plan of development approved by the Board; and

(3) Density. Such density, being the allowable number of pupils per acre permitted to occupy the premises at any one time, as shall be specified by the Board upon consideration of the following factors:

(a) Traffic patterns, including:

(i) Impact of increased traffic on residential streets;

(ii) Existence of arterial highways; and

(b) Noise or type of physical activity;

(c) Character, percentage, and density of existing development and zoning within the community; and

(d) Topography of the land to be used.

(b) If the school offers general academic instruction below college level, an outdoor play area (or other outdoor activity area) shall be required that shall have a usable space of at least 100 square feet per student. The area shall be located at least 25 feet from any adjoining lot.

(c) Non-conforming uses. Nothing in this Chapter shall prevent any existing private educational institution that obtained a special exception prior to the effective date of this Chapter from continuing its use to the full extent authorized under the resolution granting the respective special exception.

Section 1124. Art or cultural centers (Use Group 5.300)

Public Art or Cultural Centers are permitted.

Section 1125. Service clubs and philanthropic institutions (Use Group 5.400)

An eleemosynary or philanthropic institution may be allowed upon a finding by the Board that the proposed use will not constitute a nuisance because of noise, traffic, number of people, or type of physical activity, subject to the following minimum area, frontage, and setback requirements:

(a) Total area: 25,000 square feet

(b) Frontage: 150 feet

(c) Setback: 25 feet from all property lines.

Section 1126. Conference Centers (Use Group 5.500)

(a) Conference centers shall be permitted in the TCMX and GC zones provided:

(i) No more than ten (10) percent of the land may be occupied with buildings.

(ii) All building and parking lots shall be set back from all adjoining property lines, including publicly dedicated streets, roads, and highways, not less than 200 feet, and the maximum height of any building shall be as provided in Article XII.

(iii) The land shall have direct access to a public highway of a collector or arterial classification designated on the Official Roadway Classification Map. The major point of vehicular access to and from the lands shall be provided by this collector or arterial road.

(iv) Any retail business conducted on the premises shall be primarily for the use of the guests of the center, and there shall be no entrances directly from the road to such businesses, and no signs or other evidence indicating the existence of such businesses visible from the outside of the building.

(v) If this use is to be located in the Resource Conservation Area (RCA) of the Chesapeake Bay Critical Area, the applicant must apply for and receive Growth Allocation prior to any approvals.

(vi) The conference center and all associated structures and uses, unless proven to be water dependent, shall be located outside of the Critical Area Buffer.

(vii) The conference centers may provide food and beverage (both non-alcoholic and alcoholic) to guests of the center attending functions, meetings, conferences, and other events at the facility. Service of food and beverages shall only be provided to guests of the center and not to the general public.

(viii) All conference center structures in which alcoholic beverages are being served to guests and areas where alcoholic beverages are being consumed by guests shall be located a minimum of 1,000 feet from any structure on an adjoining parcel that is being used as a hospital, church or school or facility that serve youth.

Section 1127. Golf courses and country clubs (Use Group 6.210, 6.220)

(a) The approval authority may authorize a golf course, country club, private club, or service organization, including community buildings, upon a finding that the proposed use will not adversely affect surrounding residential uses because of noise, traffic, number of people, or type of physical activity, providing that the following standards and requirements can be met:

(i) The provision of food, refreshments, and entertainment for club or organization members and their guests may be allowed in connection with such use, provided the availability of such services is not reasonably expected to draw an excessive amount of traffic through local residential streets.

(ii) All buildings shall conform to the height, coverage, and setback regulations of the zone in which they are located, and all facilities shall be so located as to conform to other special exception standards.

(iii) All outdoor lighting shall be located, shielded, landscaped, or otherwise buffered so that no direct light shall constitute an intrusion into any residential area.

(iv) A minimum 100-foot setback for all buildings and parking areas shall be provided adjacent to single-family dwelling districts or uses.

(v) Vehicular access shall be derived from an arterial street.

(vi) Thirty parking spaces shall be provided per nine holes and one space per 500 square feet of club floor area.

(vii) A minimum 50-foot buffer shall be provided adjacent to the clubhouse/office and parking areas when said facilities are located adjacent to single-family dwelling districts or uses.

(viii) A minimum 25-foot buffer shall be provided adjoining single-family zoning or uses not part of the golf course development. Buffers shall be adequate to prevent the escape of golf balls from the course.

(ix) Off-street parking and loading areas, tennis courts, golf tees, and maintenance facilities may require additional screening as determined by the board.

Section 1128. Golf driving range (Use Group 6.210, 6.220)

A golf driving range may be allowed, provided that the surrounding area is predominantly undeveloped. Such a use shall be for a period of not more than two years, subject to renewal.

Section 1129. Swimming pools, commercial (Use Group 6.210)

A commercial swimming pool, including accessory buildings, may be allowed upon a finding by the Board that such a use will not constitute a nuisance because of traffic, noise, or physical activity, provided that the following minimum area, frontage, and setback requirements shall be complied with:

(a) Area: five acres.

(b) Frontage: 300 feet.

(c) Swimming pools, recreation areas, and buildings shall be at least 200 feet from any residential zone.

(d) Setback: 50 feet from the front property line, 35 feet from the rear line, and 25 feet from each side property line in all other zones.

Section 1130. Swimming pools, community (Use Group 6.220)

Where a community swimming pool is allowed, the Board shall determine that such use will not adversely affect the present character or future development of the surrounding residential community and that such use of land will conform to the following minimum requirements:

(a) The swimming pool, including the apron and any buildings, shall not at any point be closer than 75 feet to the nearest property line nor closer than 125 feet to any existing single-family or two-family dwelling, provided that where the lot upon which it is located abuts a railroad right-of-way, publicly owned land, or land in a commercial zone, such pool may be constructed not less than 25 feet at any point from such railroad right- of-way, publicly owned land, or commercial zone. Any buildings erected on the site of any such pool shall comply with the yard requirements of the zone in which the pool is located.

(b) A public water supply shall be available and shall be used for the pool or use of a private supply of water for the pool will not adversely affect the water supply of the community.

(c) When the lot on which any such pool is located abuts the rear or side lot line of, or is across the street from, any land in a residential zone, other than publicly owned land, a wall, fence, or shrubbery shall be erected or planted so as to substantially screen such pool from view from the nearest property of such land in a residential zone.

(d) Special conditions deemed necessary to safeguard the general community interest and welfare, such as provisions for off-street parking, additional fencing or planting or other landscaping, additional setback from property lines, location and arrangement of lighting,

and other reasonable requirements, including a showing of financial responsibility by the applicant, may be required by the Board as a requisite to the grant of a special exception. Financial responsibility shall not be construed to mean a showing of a 100 percent cash position at the time of application, but shall be construed to mean at least 60 percent.

Section 1131. Hospitals (Use Group 7.100)

A lot, parcel, or tract of land to be used for a hospital or sanitarium building may be allowed, upon a finding that such use will not constitute a nuisance because of noise, traffic, or number of people being cared for; that such use will not affect adversely the present character or future development of the surrounding residential community; and that the lot, parcel, or tract of land on which the buildings to be used by such institution are located conforms to the following minimum area, frontage, and setback requirements, off-street parking, green area requirements, and building height limit:

(a) Total area: five acres.

(b) Frontage: 200 feet.

(c) All structures shall be located at least 200 feet from any adjacent residential lot and 50 feet from any other use.

(d) All parking areas shall be located at least 50 feet from any adjacent residential lot and shall be limited to a minimum in the front yard.

(e) Accessory uses may include recreational and educational services, therapy areas, retail stores, personal and professional services, and health services, provided that use of these facilities is limited to on-site patients, residents, and their guests.

(f) A minimum of 50 percent of the gross site area shall be open space. The open space shall be generally continuous, accessible to the residents, and protective of natural features.

(g) The approval authority or the applicant shall request a recommendation from the Planning Commission with respect to a site plan, submitted by the applicant, achieving and conforming to the objectives and requirements of this Section for off-street parking and open space.

(h) Building height limit: 75 feet.

(i) A resolution approving establishment by the State Health Care Cost Review Commission or other applicable State Agency shall be filed with the Town of Indian Head.

Section 1132. Assisted living facility – large (Use Group 7.300)

(a) An assisted living facility may be allowed upon finding:

(i) That such use will not constitute a nuisance because of noise, vehicle traffic or parking, number of residents, or any other type of physical activity;

(ii) That such use will not, when considered in combination with other existing assisted living facilities in the neighborhood, result in an excessive concentration of similar uses in the same general neighborhood of the proposed use;

(iii) That any property to be used for an assisted living facility is of sufficient size to accommodate the proposed number of residents and staff; and

(iv) That the site to be used as an assisted living facility for children provide ample outdoor play space, free from hazard and appropriately equipped for the age and number of children to be cared for.

(b) In order to expedite decisions regarding proposed assisted living facilities, the Board shall give priority consideration in scheduling public hearings and in deciding petitions for such facilities.

(c) Non-conforming use. Where any "child care residence for up to eight children" or "group home for people with intellectual disabilities" has been lawfully established at the same location prior to the effective date of this Chapter, such use shall not be required to obtain a special exception.

(d) Applicant shall meet requirements of the State Department of Health and Mental Hygiene.

(e) The Planning Commission may prescribe specific conditions determined necessary to minimize effects of use on neighboring properties given identification of concerns specific to a particular site.

(f) Parking and loading shall be provided at the rear of the site.

(g) Adequate access to medical services, shopping areas, recreational, and other community services often desired by elderly and handicapped people shall be available to residents or provided on the site for residents.

(h) Business uses that are permitted as accessory uses shall be integrated with the dwelling units and oriented towards the interior of the project. No exterior signs or other evidence of business facilities shall be visible from the periphery of the site.

(i) The project shall be designed to provide a transition near the periphery of the site, either with open space areas and landscaping or by designing the buildings near the periphery to be harmonious in density and type with the surrounding neighborhood.

(j) Open space areas, recreational facilities, and other accessory facilities shall be developed in each phase of development to meet the needs of the residents. The developer shall provide a schedule for the installation of facilities at the time of approval.

Section 1133. Restaurants, Standard. (Use Group 8.100)

(a) Standard restaurants shall be permitted in the TCMX and GC zones provided:

(i) Vehicular access shall not be by means of any street internal to a subdivision of single-family dwellings.

(ii) It shall be located outside of the Critical Area Buffer.

(iii) A bufferyard C meeting the standard of Appendix F is provided between the restaurant, its parking area, and all property lines that abut a residential or public institutionally zoned property.

(iv) All outdoor storage and refuse areas shall be fenced or screened from view; and

(v) Lighting shall be designed and controlled so that any light source, including interior of structure, shall be so shaded, shielded, or directed that the light intensity or brightness shall not adversely affect safe vision of operators of vehicles moving on public or private roads, highways, or parking areas. Such lighting shall not shine into residential or institutional structures.

Section 1134 Drive-in/fast food restaurants, banks (Use Group 8.200, 3.112)

(a) A drive-in restaurant may be allowed upon a finding, in addition to findings required in Article X, that:

(i) The use will not constitute a nuisance because of noise, illumination, fumes, odors, or physical activity in the location proposed.

(ii) The use at the proposed location will not create a traffic hazard or traffic nuisance because of its location in relation to similar uses, necessity of turning movements in relation to its access to public roads and intersections, or its location in relation to other buildings or proposed buildings on or near the site and the traffic patterns from such buildings or cause frequent turning movements across sidewalks and pedestrian ways, thereby disrupting pedestrian circulation within a concentration of retail activity. A traffic impact study shall be required.

(iii) The use of the proposed location will not pre-empt frontage on any highway or public road in such manner so as to substantially reduce the visibility and accessibility of an interior commercial area zoned or proposed for commercial use that is oriented to the same highway or public road.

(iv) When such use abuts a residential zone or institutional premises not recommended for reclassification to commercial zone on an adopted master plan and is not effectively screened by a natural terrain feature, the use shall be screened by a solid wall or a substantial, slightly solid fence, not less than five feet in height, together with a three-foot wide planting strip on the outside of such wall or fence, planted

in shrubs and evergreens three feet high at the time of original planting and which shall be maintained in good condition. Location, maintenance, vehicle sight distance provision, advertising, and parking areas pertaining to screening shall be as provided for in this Chapter.

(v) When such use occupies a corner lot, the ingress or egress driveways shall be located at least 20 feet from the intersection of the front and side street lines of the lot, as defined in Article XII, and such driveways shall not exceed 25 feet in width, provided that, in areas where no master plan of highways has been adopted, the street line shall be considered to be at least 60 feet from the centerline of any abutting street or highway.

(vi) Drive through lanes shall be marked with distinctive pavement markings and/or special striping and shall not block exit or entry to building or to off- street parking spaces otherwise required on the site.

(vii) Adequate spaces for stacking (line-up) at drive through facilities shall be provided. Specifically, bank: five for first station plus two for each additional station; restaurant: seven per station, five of which must be before the ordering station (intercom).

(viii) Vehicular access shall not be by means of any street internal to a subdivision for single-family dwellings.

Section 1135. Taverns, Bar, Drinking Places (Use Group 8.300)

(a) Drinking places shall be permitted in the GC district and may be permitted as a special exception in the TCMX district provided:

(i) No such establishment is located nearer than 1,000 feet to any principle structure used as a hospital, church, or school.

(ii) In the TCMX district it shall be accessory to a standard restaurant located in the TCMX district and must be located outside of the Critical Area Buffer.

Section 1136. Automobile, truck, and trailer rentals, outdoors (use Group 9.100)

(a) A lot for the storage and rental of only the following rental vehicles: automobiles, light trailers of such limited size and capacity so as to be capable of being safely towed by a passenger motor vehicle designed for carrying less than 10 passengers, and light and medium duty trucks may be allowed, upon a finding by the Board that:

(i) The use will not constitute a nuisance because of noise, fumes or odors, or physical activity in the location proposed.

(ii) The use at the proposed location will not create a traffic hazard or traffic nuisance because of its location in relation to similar uses, necessity of turning movements

in relation to its access to public roads or intersections, its location in relation to other buildings or proposed buildings on or near the site, the traffic pattern from such buildings, or by reason of its location near a vehicular or pedestrian entrance or crossing to a public or private school, park, playground, hospital, or other public use or place of public assembly.

(iii) The use at the proposed location will neither adversely affect nor impede the logical development of the general neighborhood or of the commercial zone in which the lot is proposed considering service required, population, character, density, and number of similar uses.

(b) In addition, the following requirements shall be complied with:

(i) Unless the use is accessory to motor vehicle-related fuel sales, gasoline pumps and other service appliances shall not be permitted, except that not more than one gasoline pump shall be permitted, but only for the fueling of rental vehicles. No major repairs, spray paint operation, or body or fender repair shall be permitted.

(ii) Vehicles shall be stored or parked only on a surface area constructed of material that will ensure a surface resistant to erosion and adequately treated to prevent dust emission, surrounded by a raised curb. The curb shall be located so that no vehicle can be parked or stored within 15 feet of any street line, nor within 15 feet of any property line adjoining land in a residential zone, nor with three feet of any property line. In a CG zone, the entire lot shall be on or near grade with the most traveled abutting street or highway.

(iii) There shall be at least 20 feet between access driveways on each street, and all driveways shall be perpendicular to the curb or street line.

(iv) When such a use occupies a corner lot, no access driveway shall be located less than 20 feet from the intersection of the front and side street lines of the lot, as defined in Article XII, and no such driveway shall exceed 45 feet in width. In areas where no master plan of highways has been adopted, the street line shall be considered to be at least 40 feet from the centerline of any abutting street or highway.

(v) Signs, product displays, parked vehicles, and other obstructions that would adversely affect visibility at intersection or to driveways shall be prohibited.

(vi) Lighting shall be low level and so arranged as not to reflect or to cause glare into any residential zone.

(vii) When such use abuts a residential zone or institutional premises not recommended for reclassification to commercial zone on the adopted comprehensive plan, and is not effectively screened by a natural terrain feature, the use shall be screened by a solid wall or a substantial, slightly, solid fence, not less

than five feet in height, together with a three-foot planting strip on the outside of such wall or fence, planted in shrubs and evergreens. The failure of the owner and/or operator to maintain any required planting so that they exist in a flourishing and healthy condition is grounds for revocation of the occupancy permit. Location, maintenance, vehicle sight distance provisions, and advertising pertaining to screening shall be as provided for in Articles XVII and XVIII. Screening shall not be required on street frontage.

Section 1137. Automobile and light truck storage lots (Use Group 9.200, 9.300, 9.400)

An automobile and light truck storage lot may be permitted for use in connection with a towing operation, but not for the storage of junked cars.

Section 1138. Automobile gas sales (Use Group 9.500)

(a) Automobile gas sales may be permitted, upon a finding, that:

(i) The use will not constitute a nuisance because of noise, fumes, odors, or physical activity in the location proposed.

(ii) The use at the proposed location will not create a traffic hazard or traffic nuisance because of its location in relation to similar uses, necessity of turning movements in relation to its access to public roads or intersections or its location in relation to other buildings or proposed buildings on or near the site and the traffic pattern from such buildings, or by reason of its location near a vehicular or pedestrian entrance or crossing to a public or private school, park, playground or hospital, or other public use or place of public assembly.

(iii) The use at the proposed location will not adversely affect nor impede the logical development of the general neighborhood or of the industrial or commercial zone in which the station is proposed, considering service required, population, character, density, and number of similar uses.

(b) In addition, the following requirements shall be complied with:

(i) Signs, product displays, parked vehicles, and other obstructions that adversely affect visibility at intersections or to station driveways shall be prohibited.

(ii) Lighting, including permitted illuminated signs, shall be arranged so as not to reflect or cause glare into any residential zone.

(iii) When such use occupies a corner lot, the ingress or egress driveways shall be located at least 20 feet from the intersection of the front and side street lines of the lot as defined in Article XII, and such driveways shall not exceed 45 feet in width, provided that in areas where no master plan of highways has been adopted the street line shall be considered to be at least 40 feet from the center line of any

abutting street or highway.

(iv) Gasoline pumps or other service appliances shall be located on the lot at least 10 feet behind the building line, and all service storage or similar activities in connection with such use shall be conducted entirely within the building. There shall be at least 20 feet between driveways on each street, and all driveways shall be perpendicular to the curb or street line.

(v) Light automobile repair work may be done at an automobile filling station, provided that no major repairs, spray paint operation, or body or fender repair is permitted.

(vi) Vehicles shall not be parked so as to overhang the public right-of-way.

Section 1139. Parking and Storage Requirements for Major Commercial Vehicles and Recreational Equipment (Use Group 10.100, 10.300)

(a) The parking or storage of major recreational equipment, including but not limited to, travel trailers, utility trailers, pickup campers or coaches, motorized dwellings, tent trailers, boats and boat trailers, amphibious houseboats, or similar equipment normally used for recreational purposes shall be permitted as an accessory use in all residential districts, subject, however, to the following regulations and requirements:

(i) No more than two (2) items of recreational equipment may be parked on a lot for each dwelling unit located thereon, other than in a totally enclosed building.

(ii) Such major recreational equipment shall not exceed 28 feet in length, eight feet in width, and 10 feet in height, exclusive of masts, antennas, vent stacks, windshields or other accessories.

(iii) Such equipment shall not be used for living, sleeping, housekeeping or business purposes, nor shall such major recreational equipment be connected to any utility service, except for temporary periods solely for replenishing supplies or for the servicing or repair of equipment.

(iv) Major recreational equipment shall not be parked or stored in a manner which infringes upon the setback requirements for accessory buildings in the residential district in which the lot is located.

(v) Site plans for residential development which provide common parking areas, such as townhouse or apartment developments, shall show special provisions made for storage and screening of storage areas for major recreational equipment.

(b) The parking or storage of school buses or other buses, commercial tractors or trailers, specialized construction equipment, or any commercial vehicle over two ton capacity is

prohibited, except that school buses may be parked during normal school hours, provided such parking does not obstruct traffic or traffic visibility. Outside parking or storage of more than one commercial vehicle of any type is prohibited in any residential district except when such vehicle is used in conjunction with or is accessory to and parked or stored on the site of a permitted use, including but not limited to farming, a construction site, or a permitted public or semi-public use such as a utility, school, church or other institution.

Section 1140. Mini-warehouses (Use Group 10.210)

A mini-warehouse may be permitted, provided:

(a) At least 75 percent of the total on-site storage space shall be contained in individual enclosed stalls containing no more than 500 square feet each and no greater than 10 feet high.

(b) No activities other than the dead storage or transfer of non-volatile goods or leasing of storage space are permitted. Prohibited uses include, but are not limited to, miscellaneous sales; fabrication or repair of vehicles, equipment, or other goods; transfer- storage business based on site; residential uses (other than the resident manager's apartment), or any use that creates a nuisance due to noise, odor, dust, light, or electrical interference.

(c) An on-site manager or resident manager shall be required and shall be responsible for the operation of the facility in conformance with conditions of approval. A resident manager's apartment shall be included in the use permit.

(d) Adequate access and parking shall be provided. Parking for storage purposes shall be provided via a driving/parking land adjacent to each storage space/stall, with a minimum 30-foot width for one-way routes where accessed on one side of the land and a 45-foot width for a two-way route or where accessed on both sides.

(e) Adjoining properties sued or zoned for residential/dwelling purposes:

(i) Non-street-facing property lines shall be improved with a minimum six-foot high, 100 percent opaque, solid wooden fence or masonry wall along the entire length (except for approved access crossings); said improvements are to be located outside any public right-of-way and interior to a minimum 50-foot natural undisturbed buffer.

(ii) Street-facing property lines shall require a minimum six-foot, 100 percent opaque, wooden fence or masonry wall along the entire length (except for approved access crossings); said improvements are to be located outside any public right-of-way and interior to a minimum 20-foot landscape strip.

(f) Adjoining all properties used or zoned for other than residential/dwelling purposes:

(i) Non-street-facing property lines shall be improved with a minimum six-foot high, 100 percent opaque, solid wooden fence or masonry wall along the entire length, interior to a 10-foot landscape strip.

(ii) Street-facing property lines shall be provided with a minimum 20-foot landscape strip or buffer as specified in Appendices E and F and a minimum six-foot high, 100 percent opaque, wooden fence or masonry wall along the entire length (except for approved access crossings) located outside any public right-of-way and interior to any required landscape strips and/or buffers.

Section 1141. Animal boarding facilities and veterinary hospitals, kennels (Use Group 12.100, 12.200)

A veterinary hospital or animal boarding facility may be allowed, provided that an animal boarding place shall be located only on a lot having an area of two acres or more and that no part of any building or area used for such purposes shall be located within 150 feet of any street or road or the nearest property line, or, in the alternative, that the animals be kept in a sound- proofed building from 8 pm. to 8 a.m. and that it shall be located only on a lot having an area of two acres or more, and that no part of any building or any area used for such purposes shall be located within 50 feet of any street or road or the nearest property line or within 150 feet from any dwelling other than the house of the owner or person in control of the boarding place. The Board of Zoning Appeals is hereby empowered to increase the restrictions herein provided and to add others when it is deemed necessary in order to protect the health and safety of residents and workers on adjoining properties and in the general neighborhood. Such a use shall be for a period of two years, subject to renewal.

Section 1142. Standards for Domesticated Chickens (Use Group 14.100)

(a) Permit required.

(i) An annual permit, signed by the Property Owner, is required for keeping of any domesticated chickens. The annual permit is personal to the permittee and may not be assigned.

(ii) An applicant for a permit to keep chickens must demonstrate compliance with the criteria and standards in this Chapter in order to obtain a permit.

(iii) The application for a permit shall be submitted to the Zoning Administrator or his/her designee.

(iv) Proof of registration with the Maryland Department of Agriculture is required as well as the property owner's signature, along with the Town permit.

(v) The Lot shall be improved with a single family detached dwelling which is occupied as a residence.

(b) Number and type of chickens allowed.

(i) The maximum number of chickens allowed is eight (8) per lot regardless of how many dwelling units are on the lot.

(ii) Only female chickens are allowed. There is no restriction on chicken species.

(c) Non-commercial use only.

(i) Chickens shall be kept for personal use only; no person shall sell eggs or engage in chicken breeding or fertilizer production for commercial purposes.

(d) Enclosures

(i) Chickens must be kept in a maximum of a 32 square foot area, which includes the enclosure and fenced area (chicken pen), at all times during daylight hours. Enclosures must be clean, dry, and odor-free, kept in a neat and sanitary condition at all times, and in a manner that will not disturb the use or enjoyment of neighboring lots due to noise, odor or other adverse impact. The chicken pen must provide adequate sun and shade and must be impermeable to rodents, wild birds, and predators, including dogs and cats. It shall be constructed with sturdy wire fencing buried at least 12" in the ground or securely wrapped on all sides and the bottom. The pen must be covered with wire, aviary netting, or solid-roofing.

(ii) Chickens shall be secured within a henhouse during non-daylight hours. The structure shall be enclosed on all sides and shall have a roof and doors. Access doors must be able to be shut and locked at night. Opening windows and vents must be covered with predator and bird proof wire of less than one (1) inch openings. The use of scrap, waste board, sheet metal, or similar materials is prohibited. The henhouse shall be well-maintained.

(iii) Henhouses, enclosures, and fenced areas shall be kept no less than twenty (20) feet from all property lines. This requirement may be reduced to five (5) feet from a property line with written approval from the neighboring property owner. Such written approval must be granted no greater than thirty (30) days prior to submittal of an application under this Section.

(iv) Henhouses, enclosures, and fenced areas shall only be located in rear yards if a primary residence exists on the property. For a corner lot or other property where no rear yard exists, these facilities shall not be located any closer to a public street than the primary residence. Henhouses are not allowed to be located in any part of a home.

(v) Any enclosure or coup that has not been actively used to house chickens for one (1) year must be dismantled and removed from the property.

(e) Odor and noise impacts.

(i) Odors from chickens, chicken manure, or other chicken-related substances shall not be perceptible at the property boundaries.

(ii) Perceptible noise from chickens shall not be loud enough at the property boundaries to disturb persons of reasonable sensitivity.

(iii) The slaughtering of chickens is prohibited within Town limits.

(f) Lighting.

(i) Only motion-activated lighting may be used to light the exterior of the henhouse.

(g) Predators, rodents, insects, and parasites.

(i) The property owner and/or chicken owner shall take all necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites that may result in unhealthy conditions to human habitation. If unhealthy conditions are found, the chickens may be removed by the Town, through the animal control officer, or any other designee, and the cost shall be borne by the property owner and/or chicken owner.

(h) Feed and water.

(i) Chickens must be provided with access to feed and clean water at all times; such feed and water shall be unavailable to rodents, wild birds and predators.

(i) Waste storage and removal.

(i) Provision must be made for the storage and removal of chicken manure. All stored manure shall be covered by a fully enclosed container or compost bin. No more than one, twenty (20) gallon container of manure shall be stored on any one property housing chickens. All other manure shall be removed. In addition, the henhouse, chicken pen and surrounding area must be kept free from trash and accumulated droppings. Uneaten feed shall be removed in a timely manner.

(j) Removal of chickens.

(i) Any violation of the provisions above shall be grounds for an order from the Town to remove the chickens and the chicken related structures. The Code Enforcement officer may order the removal of the chicken upon a determination that the chickens pose a health risk. If a chicken dies, it must be disposed of promptly in a sanitary manner.

Section 1143. Public utility buildings and public utility structures (Use Group 17.200)

(a) In any zone, a public utility building or public utility structure not otherwise permitted, including radio and television broadcasting stations and towers (but not including electric power transmission or distribution lines carrying in excess of 69,000 volts, which findings shall be controlled only by subsection (e) hereunder), may be allowed, where the Board finds that:

(i) The proposed building or structure at the location selected is necessary for public convenience and service.

(ii) The proposed building or structure at the location will not endanger the health and safety of workers and residents in the community and will not substantially impair or prove detrimental to neighboring properties.

(b) Public utility buildings in any permitted residential zone shall, whenever practicable, have the exterior appearance of residential buildings and shall have suitable landscaping, screen planting, and fencing, wherever deemed necessary by the Board.

(c) Any proposed broadcasting tower shall have a setback of one foot from all property lines for every foot of height of the tower, provided that any broadcasting tower lawfully existing prior to the effective date of this Chapter shall be exempt from the setback limitations imposed by this subsection and may be continued, structurally altered, reconstructed, or enlarged provided that no structural change, repair, addition, alteration, or reconstruction shall result in increasing the height of such tower above the then existing structurally designed height nor result in locating/relocating guy wires further from the tower.

(d) Examples of public utility buildings and structures for which special exceptions are required under this Section are buildings and structures for the occupancy, use, support, or housing of switching equipment, regulators, stationary transformers, and other such devices for supply electric service; telephone offices; railroad, bus, trolley, air, and boat passenger stations; radio or television transmitter towers and stations.

(e) In any zone, overhead electric power and energy transmission and distribution lines carrying in excess of 69,000 volts may be permitted by special exception where:

(i) The proposed use does not have an unduly adverse effect on the general plan for the physical development of the district as embodied in this Chapter and in the comprehensive plan or portion thereof adopted by the Town Council;

(ii) The proposed use will not adversely affect the health and safety of the residents or workers in the area;

(iii) There is a public necessity for the proposed building, structure, or facility at the location selected; and

(iv) The proposed use will have the least possible detrimental effect to the use of development of adjacent properties or the general neighborhood.

(v) In making such findings, the Board shall consider the following factors, and such other factors as the Board may find to be necessary or important to effectuate its review:

(1) Points at which the proposed line crosses heavily traveled highways or streets, or other arteries of transportation, either existing or proposed;

(2) Proximity of the line to schools, churches, theatres, clubs, museums, fair grounds, or other places of assembly, either existing or proposed;

(3) The amount and probability of low-level flying over the line and nearness of the line to airports and/or heliports, either existing or proposed;

(4) Any fire hazard or interference with firefighting equipment due to the location and construction of the proposed line;

(5) Proximity of the line to public parks and recreational areas, either existing or proposed;

(6) Effect upon property values of those who will not be compensated for a taking under the laws of the State;

(7) The effect upon environmental quality and ecological balance of protected watersheds, planned open space between corridors of development and green belt areas surrounding satellite community development; and

(8) Proximity of the line to historic sites and structures.

Section 1144. Antenna or tower greater than 40 feet in height and associated substation (Use Group 18.200)

An antenna or tower greater than 40 feet in height and associated substations (radio, television, microwave broadcasting, etc.) may be permitted, provided:

(a) All structures shall be located at least 200 feet from an existing dwelling.

(b) A minimum 10-foot landscape strip shall be required and maintained around all property lines exterior to any fence or wall.

(c) Any proposed broadcasting tower shall have a setback of one foot from all property lines for every foot of height of the tower, provided that any broadcasting tower lawfully existing prior to the effective date of this Chapter shall be exempt from the setback limitations imposed by this subsection and may be continued, structurally altered, reconstructed, or enlarged provided that no structural change, repair, addition, alteration,

or reconstruction shall result in increasing the height of such tower above the then existing structurally designed height.

Section 1145. Satellite Dish Antennas or Receive-only Earth Stations (Use Group 18.300, 18.400)

(a) A satellite dish may be located in a residential district provided it complies with the following conditions:

(i) Subject to the provisions contained herein, satellite dish antennas in excess of 36 inches shall be located only in the rear yard of any lot. If a useable satellite signal cannot be obtained from such rear yard, the antenna may be located on the side or front of the property if a landscaped evergreen planting screen is provided for any ground mounted satellite dish antenna to screen it from the view of adjacent lots and public view. In the event that a usable satellite signal cannot be obtained by locating the antenna on the rear or side yard of the structure, such antenna may be placed on the roof of the dwelling structure;

(ii) It complies with the setback requirements of the underlying zone for accessory structures.

(iii) It does not exceed twelve (12) feet in height above the existing grade, if ground- mounted.

(iv) It shall be adequately screened from any adjacent residential zone, right-of- way, or private street easements, at horizontal grade level to the satisfaction of the Zoning Administrator, if ground-mounted.

(v) Only one satellite dish shall be permitted per dwelling unit located on the lot.

(vi) It shall not be located on the front façade of any building.

(vii) A zoning certificate shall be required.

(viii) The construction and installation of satellite dish antennas shall conform to all applicable building codes and other regulations and requirements;

(ix) Satellite dish antennas shall not be mounted on chimneys, towers, spires, or trees;

(x) The antennas shall be permanently mounted. No antenna shall be installed on a portable or movable structure, such as a recreational vehicle.

(xi) No ground-mounted antenna shall exceed an overall diameter of six (6) feet or an overall height of fifteen (15) feet above the existing grade.

(xii) Satellite dish antennas shall be of non-combustible and corrosive resistant materials erected in a secure wind resistant manner to protect the safety and welfare of the community.

Section 1146. Building-mounted solar collection systems (Use Group 18.500)

(a) Building-mounted solar collection systems are permitted in any zoning district:

(i) Building-mounted solar collection systems may not exceed twelve (12) inches in height on gabled or hipped roofs or ten (10) feet on flat roofs.

(ii) To the greatest extent possible, the finished material on the panels should be treated to reduce glare.

Section 1147. Ground-mounted solar collection systems (Use Group 18.600)

(a) Ground-mounted solar collection systems are permitted as an accessory use in any zoning district:

(i) In residential and mixed-use zoning districts and for residential uses in any zoning district, Ground-Mounted Solar Collection Systems shall not occupy more than nine hundred (900) square feet of the lot, shall not be taller than ten (10) feet in height, and shall meet all setback requirements for accessory structures.

(ii) In commercial and public-institutional districts, Ground-Mounted Solar Collections Systems shall meet the height and setback requirements for accessory structures in that district.

Section 1148. Small wind energy generator (Use Group 18.700)

(a) General requirements.

(i) Excluding finishes, coatings, or coverings applied by the manufacturer, wind turbines shall be painted a non-reflective, nonobtrusive color. Small wind energy system towers shall maintain a galvanized steel, brushed aluminum, or white finish, unless FAA standards require otherwise.

(ii) Small wind energy systems shall not be used for displaying any advertising except for reasonable identification of the manufacturer and shall not be artificially lighted, except to the extent required by the FAA or other applicable authority.

(iii) A small wind energy system shall be located on a lot or parcel as an accessory use. Only one small wind energy system shall be permitted on a lot or parcel one acre or smaller in size.

(iv) On a lot or parcel one acre (43,560 square feet) or smaller in size, the total height

of a small wind energy system, including the wind turbine, tower, and base, shall not exceed a maximum height of 80 feet. For a lot or parcel greater than one acre in size, the total height shall not exceed the height recommended by the manufacturer or distributor of the system or any limitation imposed by FAA regulations. In no case shall the total height of any small wind energy system exceed 100 feet, and tower loading shall not exceed manufacturer or distributor recommendations.

(v) Each small wind energy system shall be set back a distance equal to its total height plus 20 feet from all property lines, public road rights-of-way, and from any above ground (overhead) public utility lines, such as electric power or telephone communication lines.

(vi) A wind turbine blade tip shall, at its lowest point, have a ground clearance of no less than 15 feet, as measured at the lowest point of the arc of the blades. Wind turbine towers shall not be climbable up to 12 feet, or shall have removable climbing features below 12 feet.

(vii) No small wind energy system shall be erected, constructed, installed or modified as provided in this section without first obtaining a building and electrical permit. All such energy systems shall be constructed and operated in accordance with all local, state, and federal laws.

(viii) To the maximum extent possible, all on-site wiring or power lines necessary to control or transmit power from the wind energy system shall be placed underground or hidden from public view, except where necessary to connect the system with an above-ground power line.

(ix) No small wind energy system shall have a rated maximum output in excess of fifteen (15) kilowatts of electricity. No variance to this electric generating capacity shall be granted by the Board of Zoning Appeals. Guy wires used to support a small wind energy system structure shall be set back at least ten (10) feet from all property lines and shall be secured to stationary anchors properly and securely mounted into the ground, not a tree or other structure on the property. Appropriate, but not excessive, reflective or visible painting or colored objects (such as flags, reflectors, or tapes) shall be placed on all guy wires within ten (10) feet of the ground in sufficient quantities or spacing to make them visible.

(x) All supporting towers for a small wind energy system shall be specifically engineered to support a wind turbine. Steel lattice support towers shall be prohibited in all residential zoning districts. The use or modification of a supporting tower originally designed for a telecommunications antenna as a supporting tower for a small wind energy system shall be prohibited. Supporting towers constructed of aluminum also shall be prohibited.

(xi) The applicant shall document that the proposed small wind energy system shall not generate audible noise levels over 55 dBA at all property boundaries.

(xii) All small wind energy systems shall be designed with braking, governing, or feathering systems to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades, and system components.

(xiii) Appropriate warning notice (i.e. electrical hazards) shall be placed on small wind energy systems. All access doors to wind turbine towers and electrical equipment shall be lockable.

(xiv) Any small wind energy system found to be abandoned or unsafe by the Code Compliance Official shall be repaired or removed by the landowner. A small wind energy system that fails to operate and is out-of-service for a continuous twelve-month period will be deemed to have been abandoned.

(b) Large wind energy systems shall not be permitted in any zoning district within the Town.

(c) Building-mounted wind energy systems shall be permitted as an accessory use to any principal permitted use in any zoning district.

(i) No more than one (1) building-mounted wind energy system with a rated maximum output of not more than fifteen (15) kilowatts of electricity shall be permitted on any individual property. No variance to this electric generating capacity shall be granted by the Board of Zoning Appeals.

(ii) The highest part of the building-mounted wind energy system may not exceed ten (10) feet above the highest point of the roof in all zoning districts.

(iii) Safety and aesthetic standards under subsection (a) of this Article shall also apply to building-mounted wind energy systems.

Section 1149. Roadside Stand (Use Group 19.200)

(a) Roadside stands shall be permitted in zones as specified in Article V provided that:

(i) Roadside stands are limited to 1,000 square feet.

(ii) Off street parking is provided at the ratio of one (1) space per 200 square feet of roadside stand with a minimum of two (2) parking spaces.

(iii) A zoning certificate for the roadside stand is approved by the Zoning Administrator.
(iv) Roadside stands shall be located outside the Critical Area Buffer.

(v) Roadside stands shall be located at least twenty-five (25) feet from the edge of the roadway.

Section 1150. Funeral home (Use Group 20.100)

(a) The use of a tract or parcel of land or buildings for a funeral parlor or undertaking establishment may be allowed upon a finding by the approval authority that:

(i) The use will not constitute a nuisance because of noise, traffic, or type of physical activity. Such use shall be devoted to services usually incident to funeral parlor and undertaking establishment operation including, but not limited to, transportation of human remains to and from the premises; embalming, cosmeticizing, and casketing of remains; visiting of the premises by decedents' families and the general public for the purpose of viewing the remains and conducting business with the establishment; delivery and storage of caskets, including a room or area devoted to display thereof, provided the cremation of remains is expressly prohibited. In any residential zone, the premises shall, and, in any commercial zone may, maintain either as a separate building or a portion of the main building one dwelling unit, which shall be occupied by the owner or an employee of the establishment.

(ii) The property and building shall conform to the following:

(1) The percentage of the lot covered by buildings shall not exceed 15 percent.

(2) Minimum lot area: one acre.

(3) Minimum front yard setback: 75 feet.

(4) Minimum side yard setback: 25 feet each side.

(5) Minimum rear yard setback: 25 feet.

(6) Building height limit: same as specified in the applicable zone.

(7) Minimum frontage at the building line: 100 feet.

(8) Public water and sewer are available and shall be used for the operation of the facilities.

(9) The grounds and exterior of all buildings shall be kept and maintained in conformity with the prevailing standards of the community.

(10) The following additional requirements shall also be met:

(a) Special conditions, such as provisions for additional fencing or planting or other landscaping, additional setback from property lines, location, arrangement of lighting, and other reasonable

requirements deemed necessary to safeguard the general community interest and welfare, as may be invoked by the approval authority.

(b) The method of waste disposal shall meet the standards set by the Town, County, State or Federal governments.

Section 1151. Cemeteries. (Use Group 21.100)

(a) Cemeteries not located on church ground, may be permitted as Special Exception in the Public/Institutional zone provided a buffer meeting Bufferyard standard C in Appendix F is provided between any burial plot and all lot lines.

Section 1152. Crematorium (Use Group 21.200)

(a) Crematoriums may be permitted as a Special Exception in the Public/Institutional zone provided:

(i) Bufferyards shall be required to adequately separate this use from adjacent uses or properties in order to eliminate or minimize potential nuisances such as dirt, litter, noise, glare of lights, signs, and unsightly buildings or parking areas, or to provide spacing to reduce impacts of noise, odor, or danger from fires or explosions.

(ii) This use is only permitted when in conjunction with a funeral home or cemetery.

(iii) Any crematorium shall be located at least two hundred (200) feet from any residential lot line.

(iv) If this use is to be located in the Resource Conservation Area (RCA) of the Chesapeake Bay Critical Area the applicant must apply for, and receive, Growth Allocation prior to any approvals.

Section 1153. Special Events (Use Group 23.200)

(a) In deciding whether a permit for a special event should be denied for any reason specified in Article IV or in deciding what additional conditions to impose under Article IV, the Zoning Administrator shall ensure that, (if the special event is conducted at all):

(i) The hours of operation allowed shall be compatible with the uses adjacent to the activity.

(ii) The amount of noise generated shall not disrupt the activities of adjacent land uses.

(iii) All litter generated by the special event will be removed by the applicant at no

expense to the Town.

(iv) That the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic.

(b) In cases where it is deemed necessary, the Zoning Administrator may require the applicant to post a bond to ensure compliance with the conditions of the conditional- use permit.

(c) If the permit applicant requests the Town to provide extraordinary services or equipment or it is otherwise determined that extraordinary services or equipment should be provided to protect the public health or safety, the applicant shall be required to pay to the Town a fee sufficient to reimburse the Town for the costs of these services. This requirement shall not apply if the event has been anticipated in the budget process and sufficient funds have been included in the budget to cover the costs incurred.

(d) Occasional outdoor festivals or events, including, but not limited to horse shows, carnivals, dog shows, arts and crafts shows, music festivals, etc., and seasonal business use may be allowed, provided:

(i) The proposed site shall be of sufficient size to accommodate the use without adversely affecting adjacent land uses.

(ii) No temporary sanitary facility or trash receptacle may be located within 200 feet of an existing dwelling; no tent shall be located within 250 feet of an existing dwelling.

(iii) A drawing to scale shall accompany the application and shall accurately depict the standards of this Section.

(iv) Non-recurring festivals or events shall not exceed seven days in any 12 consecutive months.

(v) Seasonal business uses shall not exceed a total of 90 days in any 12 consecutive months.

(vi) A maximum continuous sound level of 60 db and a maximum peak sound level of 75 db shall not be exceeded adjacent to land used for residential purposes, and operations shall cease not later than 11:30 pm.

(vii) Activity areas shall be at least 500 feet from a residential district.

(viii) Vehicular access shall be derived only from an arterial or major collector.

(ix) A minimum of one parking space shall be provided for every 500 square feet of ground area.

Section 1154. Greenhouses, commercial nurseries (Use Group 25.100, 25.200)

A horticultural nursery or commercial greenhouse may be allowed, together with buildings incidental thereto, upon a finding by the Board that such use will not constitute a nuisance because of traffic, noise, or other factors. The sale of plants, trees, shrubs, seeds, fertilizers, plant foods, hand tools, hand spraying and watering equipment, and pesticides directly related to residential gardening shall be permitted, provided that such tools and equipment are not displayed outdoors. Nothing herein shall be construed to permit the sale or storage of general hardware or power equipment. No such horticultural nursery or commercial greenhouse shall be located on a tract of land containing less than two acres and no part of any building thereon shall be less than 50 feet from the nearest property line. Greenhouses shall have a minimum setback of twice the height of the building, and storage of all materials which produce odors or attract pests shall be effectively covered.

Section 1155. Food trucks/mobile food vendors (Use Group 2.220)

Food trucks/mobile food vendors, with the purchase of a permit and approval by the Town Manager, are permitted in all zoning designations, including residential. Within the residential zone, food trucks/mobile vendors shall be located in a designated area that does not impede the flow of traffic or restrict access to residential properties.

ARTICLE XII DENSITY, DIMENSIONAL AND DESIGN REGULATIONS

Section 1200. Minimum Lot Size

Subject to the provisions of Sections 1206 and 1208, all lots shall have at least the amount of square footage indicated for the appropriate zone. The total gross floor area in all buildings on the lot shall be considered in determining the adequacy of lot area.

Section 1201. Residential Density

(a) Subject to subsection (b) and the provisions of Section 1206 and Section 1208, every lot developed for residential purposes shall have the number of square feet per dwelling unit indicated in the Schedule of Zone Regulations (Section 1209). In determining the number of dwelling units permissible on a tract of land, fractions shall be rounded to the nearest whole number.

(b) Two-family conversions and primary residences with an accessory apartment shall be allowed only on lots having at least 150 percent of the minimum square footage required for one dwelling unit on a lot in such district. With respect to multi-family conversions into three- or four-dwelling units, the minimum lot size shall be 200 percent and 250 percent respectively of the minimum required for one dwelling unit.

Section 1202. Minimum Lot Widths

(a) No lot may be created that is so narrow or otherwise so irregularly shaped that it would be impracticable to construct on it a building that:

(i) Could be used for purposes that are permissible in that zoning district, and

(ii) Could satisfy any applicable setback requirements for that district.

(b) The Schedule of Zone Regulations (Section 1209) indicates minimum lot widths and depths that are recommended and are deemed presumptively to satisfy the standard set forth in Subsection (a). The lot width shall be measured at the narrowest width within the first 30 feet of lot depth immediately in back of the front yard setback line. The lot depth shall be the mean distance between the front and rear lot line, measured within the lot boundaries.

(c) No lot created after the effective date of this Chapter that is less than the recommended width shall be entitled to a variance from any building setback requirement.

Section 1203. Building Setback Requirements

(a) Subject to Section 1204 and the other provisions of this Article, no portion of any building or any freestanding sign may be located on any lot closer to any lot line or to

the street right-of-way line or centerline than is authorized in the table set forth in this Article.

(i) If the street right-of-way line is readily determinable (by reference to a recorded map, set irons, or other means), the setback shall be measured from such right-of-way line. If the right-of-way line is not so determinable, the setback shall be measured from the street centerline.

(ii) As used in this section, the term "building" includes any substantial structure, which by nature of its size, scale, dimensions, bulk, or use tends to constitute a visual obstruction or generate activity similar to that usually associated with a building. Without limiting the generality of the foregoing, the following structures shall be deemed to fall within this description:

(1) Gas pumps and overhead canopies or roofs.

(2) Fences running along lot boundaries adjacent to public street rights-of- way if such fences exceed six feet in height and are substantially opaque.

(iii) Notwithstanding any other provision of this Chapter, a sign may be erected on or affixed to a structure that (i) has a principal function that is something other than the support of the sign (e.g., a fence), but (ii) does not constitute a building as defined in this Chapter, only if such sign is located so as to comply with the setback requirement applicable to freestanding signs in the district where such sign is located.

(b) Front Yards.

(i) Averaging setbacks for existing alignment. In any zone, when the average depth of front yards of existing buildings located within 100 feet of each side of a lot in the same block front as such lot is less than the minimum front yard depth prescribed for a building on such lot, then the minimum front yard of any building or structure on such lot shall not be greater than the average depth of said existing front yards, and it shall not be required to exceed the average depth of front yards of existing buildings on the two lots immediately adjoining; nor the average of the prescribed minimum depth and the depth of the front yard of an existing building on a lot immediately adjoining such lot; but shall be at least 10 feet. In no event shall any building be constructed closer than any setback established on a plat of record.

(ii) Yard on street side on lot adjoining or facing residence zone. On a lot in any non-residential zone sharing the same block front with a lot in any residential zone, the minimum front yard required shall equal, in depth, the front yard required for that residential zone.

(iii) Front yards not parallel to the building. Where the front wall of a building is

not parallel with the front lot line or is broken or otherwise irregular, the average depth of the front yard shall not be less than the otherwise required front yard; provided, however, that such front wall shall at all points be within

five feet of the otherwise required front yard depth.

(iv) Clear- vision area on corner lots. A clear vision area shall be maintained on the corners of all property at the intersection of two (2) streets.

(1) Such clear-vision area shall consist of a triangular area, two sides of which are lot lines measured from the corner intersection of the street lot lines for a distance of fifteen (15) feet, or where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection and so measured, and the third side of which is a line across the corner of the lot joining the non-intersecting ends of the other two (2) sides.

(2) A clear-vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding two and one-half (2 ½) feet in height, measured from the established street center line grade, except that trees exceeding this height may be located in this area, provided all branches and foliage are removed to a height of eight feet above grade.

(c) Side Yards. Side yard exceptions for attached dwellings. In the case of attached dwelling units, the entire structure shall be considered as a single building with respect to side yard requirements.

(d) Rear yards. Where the rear wall of a building is not parallel with the rear lot line or is broken or otherwise irregular, the average depth of the rear yard shall not be less than the otherwise required rear yard, provided, however, that such rear wall shall not at any point be less than one foot beyond the otherwise required rear yard.

(e) Yard requirements adjoining a more restrictive zone. Where a property adjoins the side or rear yard of a lot in another zone, the side or rear yard in the zone with the less restrictive yard requirements shall equal the adjoining side or rear yard (as appropriate) of the zone with the more restrictive yard requirements.

(f) Setback distances shall be measured from the property line or street right-of-way line to a point on the lot that is directly below the nearest extension of any part of the building that is substantially a part of the building itself and not a mere appendage to it (such as a flagpole, etc.).

(g) Whenever a private road that serves more than three lots, more than three dwelling units, or that serves any nonresidential use tending to generate traffic equivalent to more than three dwelling units is located along a lot boundary, then:

(i) If the lot is not also bordered by a public street, buildings and freestanding signs shall be set back from the centerline of the private road just as if such road were a public street.

(ii) If the lot is also bordered by a public street, then the setback distance on lots used for residential purposes (as set forth above in the Schedule of Zone Regulations, Section 1209) shall be measured from the inside boundary of the traveled portion of the private road.

(h) Walls and Fences.

(i) No barbed wire fences shall be permitted within any residential zone. No barbed wire shall be permitted along any boundary adjoining a residential zone unless such wire is located not less than six feet above ground level. Protective devices using barbed wire may be installed upon walls or fences constructed or used in conjunction with a non-conforming commercial or industrial use in a residential zone. Unless otherwise prohibited by this Section, barbed wire shall be permitted in all business zones.

(ii) A fence or wall not more than six feet in height may be located in any required rear or side yard in any residential or commercial district, other than a required front yard adjacent to a street except as follows:

(1) No fence or wall which creates a solid screen may exceed two and one half (2 1/2) feet in height in any required front or side yard, except fences having a uniform open area of fifty percent (50%) or more may be erected to a maximum height of three (3) feet in such required yards.

(2) Heights shall be measured from the average ground level adjacent to the fence or wall.

(i) Projections.

(i) Covered porches, stairways, terraces or other similar features and the floor level of which is not over three feet above the average finished grade and which do not extend above the level of the first floor of the building, when open and unenclosed, may project into a required front, side or rear yard not more than eight feet, provided that such covered porches, stairways, terraces, or other similar features conform to the provision of paragraphs (ii)-(iv) below.

(ii) Outside stairways more than three feet above average finished grade may extend no more than three feet into any required side yard, nor more than five feet into any required rear yard.

(iii) Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, and the like may extend no more than 24

inches into any required yard.

(iv) Notwithstanding any other provision of this Section, no projection as listed above shall extend into any required side yard more than one-half the width of such yard nor within 10 feet of the front lot line nor five feet of the rear lot line, nor within three feet of any accessory building, provided, however, that such limitations shall not apply to terrace and steps inside yards, or to a loading dock or tailboard in connection with an industrial siding.

Section 1204. Accessory Building Requirements

(a) The following provision shall regulate the location of accessory buildings with respect to required yards:

(i) Accessory buildings shall be prohibited in any required front yard or side street side yard.

(ii) Accessory building shall be distant at least six feet from alley lines and four feet from rear lot boundary lines.

(iii) Where an accessory building is located in a zone requiring a side yard and such building is entirely to the rear of the principal structure, the accessory building shall be at least five (5) feet from any side or rear lot line.

(iv) Where any portion of an accessory building projects between a principal structure and the side lot line, the accessory building shall comply with the required side yard restriction for a principal structure on adjoining lot.

(v) Where a corner lot adjoins in the rear a lot in any residential zone, no part of an accessory building within 25 feet of the common lot line shall extend closer to street than the actual or required (whichever is less) depth of the front yard for the principal structure on adjoining lot.

(b) Accessory buildings shall not exceed the maximum height restriction for the zone in which they are located.

(c) Accessory buildings in residential zones shall not exceed the lot coverage nor the total square footage of the building to which it is accessory.

(d) Where the high point of the roof or any appurtenance of any accessory building exceeds 12 feet in height, the accessory building shall be set back from rear lot boundary lines an additional two feet for every foot of height exceeding 12 feet.

Section 1205. Building Height Limitations

(a) For purposes of this section:

(i) Except as hereinafter provided, no building or structure, or part thereof, shall hereafter be erected or altered to a height greater than the maximum specified for the respective zone.

(ii) The "height" of a wall or structure or a part of a building is the mean vertical distance from the average established grade in front of the lot, or from the average natural grade at the building line, if higher, to the average height of the top of the cornice of flat roofs, roof line, to the deck line of a mansard

roof, to the middle height of the highest gable or dormer in a pitched, or hipped roof, or if there are no gables or dormers, to the middle height of such pitched or hipped roof. Where a lot abuts on two or more streets or alleys, of different average established grades in front of the lot, the higher of such grades shall control.

(iii) A point of access to a roof shall be the top of any parapet wall or the lowest point of a roof's surface, whichever is greater. Roofs with slopes greater than 75 percent are regarded as walls.

(b) Subject to the remaining provisions of this Section, building height limitations in the various zoning districts shall be as indicated in The Schedule of Zone Regulations (Section 1209).

(c) Exceptions to height limits. Notwithstanding other regulations in this Article or the maximum specified for the respective zone, the height limits of this Chapter shall not apply to the following:

(i) Church spires, belfries, and cupolas, not for human occupancy; water towers, chimneys, flag poles, radio towers, masts, and aerials.

(d) Towers and antennas are allowed in all zoning districts to the extent authorized in the Table of Permissible Uses, use classification 18.000.

Section 1206. Cluster Subdivisions

(a) In any TCMX or RM residential zone, a developer may create lots that are smaller than those required by Section 1209 if such developer complies with the provisions of this Section and if the density so created is not greater than as set forth in the Schedule of Zone Regulations (Section 1209).

(b) The intent of this Section is to authorize the developer to decrease lot sizes and leave the land "saved" by doing so as usable open space, thereby lowering development costs and increasing the amenity value of the project without increasing the density beyond what would be permissible if the land were subdivided into the size of lots required by Section 1209.

(c) The amount of usable open space that must be set aside shall be determined by:

(i) Subtracting from the standard square footage requirement set forth in Section 1209 the amount of square footage of each lot that is smaller than that standard;

(ii) Adding together the results obtained in item (i) for each lot.

(d) The provisions of this Section may only be used if the usable open space set aside in a subdivision comprises at least 10,000 square feet of space that satisfies the definition of usable open space set forth in Article XIII and if such usable open space is otherwise in compliance with the provisions of Article XIII.

(e) The setback requirements of Sections 1203 and 1204 shall apply in cluster subdivisions.

Section 1207. Reserved

Section 1208. Density on Lots Where Portion Dedicated to the Town

(a) Subject to the other provisions of this Section, if (i) any portion of a tract lies within an area designated on any officially adopted Town plan as part of a proposed public park, greenway, or bikeway, and (ii) before the tract is developed, the owner of the tract, with the concurrence of the Town, dedicates that portion of the tract so designated, then when the remainder of the tract is developed for residential purposes, the permissible density at which the remainder may be developed shall be calculated in accordance with the provisions of this Section.

(b) If the proposed use of the remainder is a single-family detached residential subdivision, then the lots in such subdivision may be reduced in accordance with the provisions of Sections 1206 except that the developer need not set aside usable open space to the extent that an equivalent amount of land has previously been dedicated to the Town in accordance with subsection (a).

(c) If the proposed use of the remainder is a two-family or multi-family project, then the permissible density at which the remainder may be developed shall be calculated by regarding the dedicated portion of the original lot as if it were still part of the lot proposed for development.

(d) If the portion of the tract that remains after dedication as provided in subsection (a) is divided in such a way that the resultant parcels are intended for future subdivision or development, then each of the resultant parcels shall be entitled to its pro rata share of the "density bonus" provided for in subsections (b) and (c).

Section 1209. Schedule of Zone Regulations.

Schedule of Zone Regulations

Zoning Districts		R-1	R-2	RM				TCMX		GC	Public Institutional	Open Space
		Single-family detached	Single-family detached	Single-family	Duplex	Townhouse	Apartment/Condo	Commercial	Residential Uses	Commercial	Public Institutional	Open Space
Minimum Lot Area	Area (sq)	15,000 (7)	8,000	8,000	6,000	2,000	8,000	8,000	2,000	8,000	n/a	n/a
	Width	75 (7)	75	75	40	20	75	60	(5)	60	n/a	n/a
	Depth	100 (7)	100	100	100	100	100	100	(5)	100	n/a	n/a
Minimum Yard Requirements	Front	30 (7)	25	25	25	25	25	3	(5)	10	5	25
	Side	10 (7)	10	10	10	(4)	10	2	(5)	10	5	10
	Aggregate	25 (7)	25	20	20	n/a	25	5	(5)	25	10	25
	Frontage	50 (7)	40	18	18	20	75	60	(5)	60	60	n/a
	Rear	25 (7)	25	30	30	25	25	15	(5)	15	5	25
Max. Height	Feet	35	35	40	40	40	40	60	60	60	50	60
	Stories	2.5	2.5	3	3	3	3	4	4	4	3	4
Lot Coverage Max % (6)		30 (7)	30	30	30	50	50	50	50 (1)	70	70	30
Density/Intensity Max FAR or du's/acre						8	15	(.70)	20	(.70)	(.70)	n/a
Min. OSR %						30	30		(5)			30
Min. LSR %						15	20	10	(5)	10	10	10
Min. Tract Size		15,000 sf	8,000 sf	8,000 sf	6,000 sf	1 acre	0.5 acre	8,000 sf	0.5 acre	8,000 sf		n/a

Schedule of Zone Regulations: NOTES

(1) Varies by base zoning district (see Article II).
(2) Required side and rear yards shall be increased by at least one foot for each additional foot of building above 40 feet.
(3) May be reduced to 15 feet when the lot does not front on an approved public street.
(4) Shall be increased to 20 feet for end units adjacent to an adjoining property.
(5) Based on the design of the development as approved by the Planning Commission.
(6) Includes both principal and accessory buildings. Also includes parking areas in residential districts.
(7) In cluster subdivisions, as per Section 1200, minimum lot area will be 8,000 square feet. Minimum lot width will be 75 feet; however, maximum density for a cluster subdivision shall be 3 dwelling units per acre.

Definitions

Open Space Ratio (OSR) - The proportion of a site consisting of open space calculated using the base site area.
Landscape Ratio (LSR) - The ratio derived by dividing the area of the landscaped surface by the base site area.
Floor Area Ratio (FAR) - An intensity measured as a ratio derived by dividing the total gross floor area of a building by the base site area.
Aggregate - The combined distance of both side yard setbacks.
Frontage - The dimension of the property fronting on a public street.

ARTICLE XIII RECREATIONAL FACILITIES AND OPEN SPACE

Section 1300. Neighborhood Parks Required

In order to implement the Parks and Recreation Plan for Indian Head, all residential subdivisions shall provide recreation opportunities, pay impact fees, or a combination thereof, according to the following subsections:

(a) Subject to subsection (c), all residential developments in the Town shall provide, at a minimum, (through dedication or reservation; see Sections 1303 and 1304) recreational areas in the form of neighborhood parks (as described in Section 1301) in an amount equal to the standards set forth in subsection (b). Such recreational areas shall be provided in addition to the open space areas required by Section 1302.

(b) For purposes of this Section, land area reserved or dedicated for neighborhood park areas shall be as follows: for one-bedroom dwelling units 0.0025 acres; two-bedroom units 0.005 acres; and units with three or more bedrooms 0.0075 acres.

(c) The Town Council may permit payment of an impact fee, dedication, reservation or a combination as set forth in Chapter 84 of the Town Code establishing a parks and recreation impact fee whenever the requirements in subsections (a) and (b) cannot adequately meet the park and recreation responsibilities of the development or if the development is less than 30 homes or within 1,500 feet from another park or playground. The fee shall be on a per-dwelling-unit basis as established in Chapter 84 of the Town Code. The fee shall be listed with the annual schedule of fees for the Town and may change from time to time due to changes in fiscal impact. Fees will be collected upon application for a building permit. The fee shall be deposited only in a designated account with funds expended only for planned park and recreation facilities.

(d) In the case of large proposed developments, which are hereafter defined as any developments over 100 dwelling units, the Planning Commission may require a combination of improved park and recreational property and playgrounds, at the minimum rate of 0.015 acre per dwelling unit, and an impact fee in order to meet the planned town open space and recreation objectives.

(e) When park or recreational facilities approved for dedication are completed and accepted, a deed shall be conveyed to the Town of Indian Head, after which the supervision and maintenance shall be the responsibility of the Town. When park or recreational facilities are reserved, the developer shall establish conditions as to ownership, maintenance, and use of such areas as deemed necessary by the Planning Commission to ensure preservation of its intended purposes.

Section 1301. Neighborhood Parks: Purpose and Standards

(a) The purpose of the neighborhood park is to provide adequate active recreational

facilities to serve the residents of the immediately surrounding neighborhood within the development. The following are illustrative of the types of facilities that shall be deemed to serve active recreational needs and therefore to count toward satisfaction of the neighborhood park requirements of this article: tennis courts, racquetball courts, swimming pools, sauna and exercise rooms, meeting or activity rooms within clubhouses, basketball courts, swings, slides, and play apparatus.

(b) Each development shall satisfy its neighborhood park requirement by installing the types of recreational facilities that are most likely to be suited to and used by the age bracket of persons likely to reside in that development. However, unless it appears that less than 5 percent of the residents of any development are likely to be children under 12, then at least 15 percent of the neighborhood park must be satisfied by the construction of "tot lots" (i.e., areas equipped with imaginative play apparatus oriented to younger children as well as seating accommodations for parents).

(c) Neighborhood parks shall be attractively landscaped and shall be provided with sufficient natural or man-made screening or buffer areas to minimize any negative impacts upon adjacent residences.

(d) Each neighborhood park shall be centrally located and easily accessible so that it can be conveniently and safely reached and used by those persons in the surrounding neighborhood it is designed to serve.

(e) Each neighborhood park shall be constructed on land that is relatively flat, dry, and capable of serving the purposes intended by this article.

Section 1302. Provision of Common Open Space

(a) Common open space (spaces designed and intended for the use and enjoyment of all residents of the development) may contain such complimentary structures and improvements as are necessary and appropriate for the use, benefit and enjoyment of residents of the development. Common open space areas shall meet the following requirements:

(i) Common open space areas shall:

(1) Be exclusive of tidal wetlands and road rights-of-ways/parking areas;

(2) Equal or exceed remaining percentages of the gross site area (maintenance of areas of productive farmland may serve to meet open space requirements); and

(3) Consist of not more than 60% of those areas designated as non-tidal wetlands.

(ii) Common open space may serve recreational purposes, preserve significant site

features, and preserve open space. The uses authorized shall be appropriate to the purposes intended to be served. Open space designed to serve recreational purposes shall be appropriate to the scale and character of the cluster development, considering its size, density, expected population, and the number and type of dwelling units proposed.

(iii) Common open space shall be suitably improved for its intended use, except that common open space containing natural features worthy of protection may be left unimproved. The buildings, structures, and improvements to be permitted in the common open space must be appropriate to the uses which are authorized for the common space.

Section 1303. Open Space Requirement - Ownership

(a) Private Ownership. If joint use facilities are not dedicated to public use, they shall be protected by legal arrangements, satisfactory to the Planning Commission and Town Attorney, sufficient to assure their maintenance and preservation for whatever purpose they are intended. Covenants or other legal arrangements shall specify ownership of the open space, method of maintenance, maintenance taxes and insurance, compulsory membership and compulsory assessment provisions, and guarantees that any association formed to own and maintain open space will not be dissolved without the consent of the Planning Commission.

(b) Open Space. Unless the Planning Commission finds that the size, location, type of development, or cost of development or maintenance of such open space or the availability of public open space would make public use desirable and necessary, open space shall not be made available for the use of all residents of the Town. The Planning Commission generally will require dedication of all areas indicated for acquisition in the adopted Recreation and Parks Plan.

Section 1304. Management of Common Open Space Property

(a) The developer shall ensure that the common open space and improvements not dedicated and accepted for public ownership are maintained and cared for, and the developer shall provide for and establish an organization for the ownership, maintenance, and preservation of open space, which shall conform to the following standards and procedures:

(b) The organization shall be established by the developer before sale or rental of dwelling units in the development and prior to final approval of the development plan by the Planning Commission.

(i) The financial and organizational structures, rules of membership, and methods of cost assessment of the organization shall be devised to ensure the successful fulfillment of the maintenance, preservation, and improvement responsibilities of the organization.

(ii) All property owners within the cluster development shall be members of the organization responsible for maintenance, preservation, and improvement of common open space lands.

(iii) Areas set aside to meet the open space requirements hereof shall be adequately described. Instruments in the form of deed restrictions and/or covenants shall be provided to ensure the purpose for which the open space is provided will be achieved. The instruments shall be approved by the Town Manager and Town Attorney prior to recordation among the Land Records of Charles County at the expense of the developer.

Section 1305. Bond for Improvements

Prior to the issuance of a building permit, there shall be delivered, by the owner or developer, some form of surety acceptable to the Town in an amount as specified by the Town Manager, which shall be submitted with the site plan, as described in the Indian Head Subdivision Regulations, which surety shall secure an agreement to construct such required physical improvements as identified in the Proposed Plan of Development.

Section 1306. Homeowners Associations

(a) Homeowners associations or similar legal entities that, pursuant to Section 1303 and 1304, are responsible for the maintenance and control of common areas, including recreational facilities and open space, shall be established in such a manner that:

(i) Provision for the establishment of the association or similar entity is made before any lot in the development is sold or any building occupied;

(ii) The association or similar legal entity has clear legal authority to maintain and exercise control over such common areas and facilities; and

(iii) The association or similar legal entity has the power to compel contributions from residents of the development to cover their proportionate shares of the costs associated with the maintenance and upkeep of such common areas and facilities.

Section 1307. Flexibility in Administration Authorized

(a) The requirements set forth in this Article concerning the amount, size, location, and nature of recreational facilities and open space to be provided in connection with residential developments are established by the Town as standards that presumptively will result in the provision of that amount of recreational facilities and open space that is consistent with officially adopted Town plans. The Town recognizes, however, that due to the particular nature of a tract of land, the nature of the facilities proposed for installation, or other factors, the underlying objectives of this Article may be achieved

even though the standards are not adhered to with mathematical precision. Therefore, the permit-issuing body is authorized to permit minor deviations from these standards whenever it determines that: (i) the objectives underlying these standards can be met without strict adherence to them; and (ii) because of peculiarities in the developer's tract of land or the facilities proposed it would be unreasonable to require strict adherence to these standards.

(b) Whenever the permit-issuing board authorizes some deviation from the standards set forth in this Article pursuant to subsection (a), the official record of action taken on the development shall contain a statement of reasons for allowing the deviation.

ARTICLE XIV UTILITIES

Section 1400. Utility Ownership and Easement Rights

In any case in which a developer installs or causes the installation of water, sewer, electrical power, telephone, or cable television facilities and intends that such facilities shall be owned, operated, or maintained by a public utility or any entity other than the developer, the developer shall transfer to such utility or entity the necessary ownership or easement rights to enable the utility or entity to operate and maintain such facilities.

Section 1401. Underground Utilities

(a) All electric power lines (not to include transformers or enclosures containing electrical equipment including, but not limited to, switches, meters, or capacitors which may be pad mounted), telephone, gas distribution, and cable television lines in subdivisions constructed after the effective date of this Chapter shall be placed underground in accordance with the specifications and policies of the respective utility service providers.

(b) Whenever an unsubdivided development is hereafter constructed on a lot that is undeveloped on the effective date of this Chapter, then all electric power, telephone, gas distribution, and cable television lines installed to serve the development that are located on the development site outside of a previously existing public street right-of- way shall be placed underground in accordance with the specifications and policies of the respective utility companies.

Section 1402. Utilities To Be Consistent With Internal and External Development

(a) Whenever it can reasonably be anticipated that utility facilities constructed in one development will be extended to serve other adjacent or nearby developments, such utility facilities (e.g., water or sewer lines) shall be located and constructed so that extensions can be made conveniently and without undue burden or expense or unnecessary duplication of service.

(b) All utility facilities shall be constructed in such a manner as to minimize interference with pedestrian or vehicular traffic and to facilitate maintenance without undue damage to improvements or facilities located within the development.

Section 1403. Electric Service

Every principal use and every lot within a subdivision shall have available to it a source of electric power adequate to accommodate the reasonable needs of such use and every lot within such subdivision. Compliance with this requirement shall be determined as follows:

(a) If the use is not a subdivision and is located on a lot that is served by an existing power line and the use can be served by a simple connection to such power line (as opposed to a more

complex distribution system, such as would be required in an apartment complex or shopping center), then no further certification is needed.

(b) If the use is a subdivision or is not located on a lot served by an existing power line or a substantial internal distribution system will be necessary, then the electric utility service provider must review the proposed plans and certify to the Town that it can provide service that is adequate to meet the needs of the proposed use and every lot within the proposed subdivision.

Section 1404. Lighting Requirements

(a) All entrances and exits into substantial buildings used for nonresidential purposes and in two-family or multi-family residential developments containing more than four dwelling units shall be adequately lighted to ensure the safety of persons and the security of the buildings.

(b) Excessive Illumination. Lighting within any lot that unnecessarily illuminates any other lot and substantially interferes with the use or enjoyment of such other lot is prohibited. Lighting unnecessarily illuminates another lot if it clearly exceeds the standard set forth in Section 1405 or if the standard set forth in Section 1405 could reasonably be achieved in a manner that would not substantially interfere with the use or enjoyment of neighboring properties.

Section 1405. Lighting Standards

(a) Purpose. The purpose of this Section is to regulate the spill-over of light and glare on operators of motor vehicles, pedestrians, and land uses in the proximity of the light source. With respect to motor vehicles in particular, safety considerations from the basis of the regulations contained herein. In other cases, both the nuisance and hazard aspects of glare are regulated. This Section is not intended to apply to public street lighting.

(b) Site lighting shall be of low-intensity from a concealed source, shall be of a clear white light which does not distort colors, and shall not spill over into adjoining properties, buffers, roadways, or in any way interfere with the vision of oncoming motorists.

(c) The following standards are required of all exterior lighting except the outdoor recreational uses specifically exempted below. Many uses have the option of providing a lower light post with a no-cutoff luminaire or a higher pole, up to sixty (60) feet, with a luminaire that totally cuts off light spill-over at a cutoff angle smaller than ninety (90) degrees. The maximum light post height permitted is dependent on the amount of cutoff provided. This is designed as a protection against excessive glare and light spilling over to neighboring properties. The exceptions which are permitted provide adequate protection for neighboring residential property.

(d) Exterior lighting shall meet one (1) of the following standards:

(i) When light source or luminaire has no cutoff:

Standard	Maximum permitted height of luminaire
Residential parking lots	12 feet
Non-residential parking lots	20 feet

(ii) When a luminaire has total cutoff of light at an angle less than ninety (90) degrees and is located so that the bare light bulb, lamp, or light source is completely shielded from the direct view of an observer five (5) feet above the ground at the point where the cutoff angle intersects the ground, then the maximum permitted illumination and the maximum permitted height of the luminaire shall be:

Standard	Maximum permitted height of post
Residential parking areas	20 feet
Non-residential parking areas	30 feet
Street lights	Per requirement of the Town Manager

(iii) Exemption for specified outdoor recreational uses. Because of their unique requirements for nighttime visibility and their limited hours of operation, ball diamonds, playing fields, and tennis courts are exempted from the exterior lighting standards of paragraph (ii) above upon satisfying the Planning Commission during a site plan review that the site plan indicates that these outdoor recreational uses meet all other requirements of this Section, this Chapter, and the following conditions:

(1) The outdoor recreational uses specified above shall not exceed a maximum permitted post height of forty (40) feet.

(2) The outdoor recreational uses specified above may exceed a total cutoff angle of ninety (90) degrees, provided that the luminaire is shielded in either its orientation or by a landscaped bufferyard to prevent light and glare spill-over to adjacent residential property. The maximum permitted illumination at the interior bufferyard line shall not exceed two (2) footcandles.

(e) Additional regulations. Notwithstanding any other provision of this Section to the contrary:

(i) No flickering or flashing lights shall be permitted.

(ii) Light sources or luminaires shall not be located within bufferyard areas except on pedestrian walkways.

(f) Exterior lighting plan. At the time any exterior light is installed or substantially modified, and whenever a zoning certificate is sought, an exterior lighting and photometric plan shall be submitted to the Town in order to determine whether the requirements of this Section have been met and that adjoining property will not be adversely impacted by the proposed lighting.

Section 1406. Sites For and Screening of Dumpsters

(a) Every new development constructed from the effective date of this Chapter that is or will be required to provide one or more dumpsters for solid waste collection shall provide sites for such dumpsters that are:

(i) Located so as to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties, or public rights-of-way, and

(ii) Constructed according to specifications established by the Town to allow for collection without damage to the development site or the collection vehicle.

(b) All such dumpsters shall be screened if and to the extent that, in the absence of screening, they would be clearly visible to:

(i) Persons located within any dwelling unit on residential property other than that where the dumpster is located.

(ii) Occupants, customers, or employees located within any building on nonresidential property other than that where the dumpster is located.

(iii) Persons travelling on any public street, sidewalk, or other public way.

(c) When dumpster screening is required under this Section, such screening shall be constructed, installed, and located to prevent or remedy the conditions requiring the screening.

ARTICLE XV DRAINAGE, EROSION AND SEDIMENT CONTROL AND STORM WATER MANAGEMENT

Section 1500. Reserved

Section 1501. Natural Drainage System Utilized to Extent Feasible

(a) To the extent practicable, all development shall conform to the natural contours of the land, and natural and pre-existing man-made drainage ways shall remain undisturbed.

(b) To the extent practicable, lot boundaries shall be made to coincide with natural and preexisting man-made drainage ways within subdivisions to avoid the creation of lots that can be built upon only by altering such drainage ways.

Section 1502. Developments Must Drain Properly

(a) All developments shall be provided with a drainage system that is adequate to prevent the undue retention of surface water on the development site. Surface water shall not be regarded as unduly retained if:

(i) The retention results from a technique, practice, or device deliberately installed as part of an approved sedimentation or storm water runoff control plan; or

(ii) The retention is not substantially different in location or degree than that experienced by the development site in its pre-development stage, unless such retention presents a danger to health or safety.

(b) No surface water may be channeled or directed into a sanitary sewer.

(c) Whenever practicable, the drainage system of a development shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or streets.

(d) Use of drainage swales rather than curb and gutter and storm sewers in subdivisions is approved by the Town and provides for water quality control consistent with the Town's Storm Water Management Ordinance. Private roads and access ways within unsubdivided developments shall utilize curb and gutter and storm drains to provide adequate drainage if the grade of such roads or access ways is too steep to provide drainage in another manner or if other sufficient reasons exist to require such construction.

Section 1503. Storm Water Management

(a) In addition to the requirements contained in the Town storm water management ordinance, all developments shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of such developments. More specifically:

(i) No development may be constructed or maintained so that such development unreasonably impedes the natural flow of water from higher adjacent properties across such development, thereby unreasonably causing substantial damage to such higher adjacent properties; and

(ii) No development may be constructed or maintained so that surface waters from such development are unreasonably collected and channeled onto lower adjacent properties at such locations or at such volumes as to cause substantial damage to such lower adjacent properties.

Section 1504. Sedimentation and Erosion Control

(a) In addition to the requirements contained in the Town's grading and sediment control ordinance, no zoning permit may be issued and final plat approval for subdivisions may not be given with respect to any development that would cause land disturbing activity subject to the jurisdiction of the Charles County Soil Conservation District, unless the District has certified to the Town, either that:

(i) An erosion control plan has been submitted to and approved by the District; or

(ii) The District has examined the preliminary plans for the development and it reasonably appears that an erosion control plan can be approved upon submission by the developer of more detailed construction or design drawings. However, in this case, construction of the development may not begin (and no building permits may be issued) until the District approves the erosion control plan.

(b) For purposes of this Section, land disturbing activity means any use of the land by any person in residential, industrial, educational, institutional, or commercial development, highway and road construction, and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. Sedimentation occurs whenever solid particulate matter, mineral or organic, is transported by water, air, gravity, or ice from the site of its origin.

Section 1505. Existing Slopes of 25% or greater

(a) Grading or removal of vegetative cover shall not be permitted on land with existing slopes of 25% or greater, except:

(i) When the Planning Commission determines that it is necessary for the extension of roads, streets, trails, pathways or utilities; or

(ii) When the contiguous area of slopes 25% or greater is less than 20,000 square feet and is not adjacent to a floodplain or wetland.

(b) Areas containing existing slopes of 25% or greater should be included as open space, or may instead be included in building lots, provided the lot area is increased by an amount equal to the area containing slopes 25% or greater.

ARTICLE XVI SIGNS

Section 1600. Definitions

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

Sign. Any device that (i) is sufficiently visible to persons not located on the lot where such device is located, and (ii) is designed to attract the attention of such persons or to communicate information to them.

Billboard. An off-premises sign owned by a person, corporation, or other entity that engages in the business of selling the advertising space on that sign.

Effective Date of this Article. The effective date of this Article as originally adopted, or the effective date of an amendment to it if the amendment makes a sign nonconforming.

Freestanding Sign. A sign that is attached to, erected on, or supported by some structure (such as a pole, mast, frame, or other structure) that is not itself an integral part of or attached to a building or other structure whose principal function is something other than the support of a sign. A sign that stands without supporting elements, such as "sandwich sign," is also a free-standing sign. If the message is removed from a structure that was originally designed and used as a freestanding sign, this structure shall still be considered a sign.

Internally Illuminated Signs. Signs where the source of the illumination is inside the sign and light emanates through the message of the sign, rather than being reflected off the surface of the sign from an external source. Without limiting the generality of the foregoing, signs that consist of or contain tubes that (i) are filled with neon or some other gas that glows when an electric current passes through it and (ii) are intended to form or constitute all or part of the message of the sign, rather than merely providing illumination to other parts of the sign that contain the message, shall also be considered internally illuminated signs.

Off-Premises Signs. A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained, or provided at a location other than the premises on which the sign is located. A sign that draws attention to a cause or advocates or proclaims a political, religious, or other noncommercial message shall also be an off-premises sign unless such sign is excluded from regulation under Section 1602 or is subject to regulation under Section 1603.

On-Premises Sign. A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained, or provided on the premises where the sign is located.

Temporary Sign. A sign that (i) is used in connection with a circumstance, situation, or

event that is designed, intended, or expected to take place or to be completed within a reasonably short or definite period after the erection of such sign, or (ii) is intended to remain on the location where it is erected or placed for a period of not more than 15 days. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary.

Section 1601. Permit Required for Signs

(a) Except as otherwise provided in Sections 1602 and 1603, no sign may be constructed, erected, moved, enlarged, illuminated or substantially altered except in accordance with the provisions of this Section. Mere repainting or changing the message of a sign shall not, in and of itself, be considered a substantial alteration.

(b) Signs not exempted under the provisions referenced in subsection (a) may be constructed, erected, moved, enlarged, illuminated or substantially altered only in accordance with a sign permit issued by the Zoning Administrator.

(i) Sign permit applications and sign permits shall be governed by the same provisions of this Chapter applicable to zoning permits.

(ii) In the case of a lot occupied or intended to be occupied by multiple business enterprises (e.g., a shopping center), sign permits shall be issued in the name of the lot owner or his agent rather than in the name of the individual business enterprise requesting a particular sign. The Town may assist the owner by suggesting a formula whereby the maximum square footage of sign area allowed on the lot may be allocated equitably among all tenants, but the Town shall be responsible for enforcing only the provisions of this Chapter and not the provisions of any allocation formula, lease, or other private restriction.

Section 1602. Signs Excluded From Regulation

The following signs are exempt from regulation under this Chapter except for those stated in Sections 1612(b) through (e).

(a) Signs not exceeding three (3) square feet in area that are customarily associated with residential use and that are not of a commercial nature, such as (i) signs giving property identification names or numbers or names of occupants, (ii) signs on mailboxes or newspaper tubes, and (iii) signs posted on private property relating to private parking or warning the public against trespassing or danger from animals.

(b) Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification and informational signs, and traffic, directional, or regulatory signs.

(c) Official signs of a noncommercial nature erected by public utilities.

(d) Flags, pennants, or insignia of any governmental or nonprofit organization when not displayed in connection with a commercial promotion or as an advertising device.

(e) Integral decorative or architectural features of buildings or works of art, so long as such features or works do not contain letters, trademarks, moving parts, or lights.

(f) Signs directing and guiding traffic on private property that do not exceed four square feet each and that bear no advertising matter.

(g) Church bulletin boards, church identification signs, and church directional signs that do not exceed one per abutting street and 16 square feet in area and that are not internally illuminated.

(h) Signs painted on or otherwise permanently attached to currently licensed motor vehicles that are not primarily used as signs.

(i) Signs proclaiming religious, political, or other noncommercial messages (other than those regulated by Subsection 1603(a)(v) that do not exceed one per abutting street and 16 square feet in area and that are not internally illuminated.

Section 1603. Certain Temporary Signs: Permit Exemptions and Additional Regulations

(a) The following temporary signs are permitted without a permit. However, such signs shall conform to the requirements set forth below as well as all other applicable requirements of this Chapter.

(i) Signs containing the message that the real estate on which the sign is located (including buildings) is for sale, lease, or rent, together with information identifying the owner or agent. Such signs may not exceed four (4) square feet in area and shall be removed immediately after sale, lease, or rental. A single sign on each street frontage may be erected except that for lots of five acres or more in area and having a street frontage in excess of 400 feet, a second sign not exceeding four square feet in area may be erected.

(ii) Construction site identification signs. Such signs may identify the project, the owner or developer, architect, engineer, contractor and subcontractors, funding sources, and may contain related information including but not limited to sale or leasing information. Not more than one such sign may be erected per site, and it may not exceed 32 square feet in area. Such signs shall not be erected prior to the issuance of a building permit and shall be removed within 10 days after the issuance of the final occupancy permit.

(iii) Signs attached temporarily to the interior of a building window or glass door. Such signs, individually or collectively, may not cover more than 25 percent of the surface area of the transparent portion of the window or door to which they are attached. Such signs shall be removed within 30 days after placement.

(iv) Displays, including lighting, erected in connection with the observance of holidays. Such signs shall be removed within 10 days following the holidays.

(v) Signs erected in connection with elections or political campaigns. Such signs shall be removed within three days following the election or conclusion of the campaign. No such sign may exceed 16 square feet in surface area.

(vi) Signs indicating that a special event such as a grand opening, fair, carnival, circus, festival, or similar event is to take place on the lot where the sign is located. Such signs may be erected not sooner than two weeks before the event and must be removed not later than three days after the event.

(vii) Yard/garage sale signs, so long as such signs meet the following restrictions:

(1) Not more than one such sign may be located on any lot.

(2) No such sign may exceed (4) four square feet in surface area.

(3) Such sign may not be displayed for longer than three consecutive days.

(4) Such sign or related directional sign may not be located in any public right of way.

(viii) Temporary signs not covered in the foregoing categories, so long as such signs meet the following restrictions:

(1) Not more than one such sign may be located on any lot.

(2) No such sign may exceed (4) four square feet in surface area.

(3) Such sign may not be displayed for more than 10 days out of any 365- day period.

(b) Other temporary signs not listed in subsection (a) shall be regarded and treated in all respects as permanent signs, except that (as provided in Section 1606) temporary signs shall not be included in calculating the total amount of permitted sign area.

Section 1604. Determining the Number of Signs

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

(b) A two-sided or multi-sided sign shall be regarded as one sign so long as:

(i) With respect to a V-type sign, the two sides are at no point separated by a

distance that exceeds five feet; and

(ii) With respect to double faced (back to back) signs, the distance between the backs of each face of the sign does not exceed three feet.

Section 1605. Computation of Sign Area

(a) The surface area of a sign shall be computed by including the entire area within a single, continuous, rectilinear perimeter of not more than eight straight lines, or a circle or an ellipse, enclosing the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it's placed, but not including any supporting framework or bracing that is clearly incidental to the display itself.

(b) If the sign consists of more than one section or module, all of the area, including that between sections or modules, shall be included in the computation of the sign area.

(c) With respect to two-sided, multi-sided, or three-dimensional signs, the sign surface area shall be computed by including the total of all sides designed to attract attention or communicate information that can be seen at any one time by a person from one vantage point. Without otherwise limiting the generality of the foregoing:

(i) The sign surface area of a double faced, back to back sign shall be calculated by using the area of only one side of such sign, so long as the distance between the backs of such signs does not exceed three feet.

(ii) The sign surface area of a double faced sign constructed in the form of a "V" shall be calculated by using the area of only one side of such sign (the larger side if there is a size difference), so long as the angle of the "V" does not exceed 30 degrees and at no point does the distance between the backs of such sides exceed five (5) feet.

Section 1606. Total Building Sign Surface Area

(a) Unless otherwise provided in this Article, the total surface area devoted to all building signs on any lot shall not exceed the limitations set forth in this section and in Sections 1617 and 1618, and all signs including temporary signs shall be included in this calculation.

(b) If a lot has frontage on more than one street, then the total sign surface area permitted on that lot shall be the sum of the sign surface area allotments related to each street on which the lot has frontage. However, the total sign surface area that is oriented toward a particular street may not exceed the portion of the lot's total sign surface area allocation that is derived from frontage on that street.

(c) Whenever a lot is situated such that it has no street frontage on any lot boundary and an applicant desires to install on such a lot a sign that is oriented toward a street, then the total

sign surface area permitted on that lot shall be the sign surface area that would be allowed if the lot boundary closest to the street toward which such sign is to be oriented fronted on such street. The applicant shall be restricted to using only one street and the closest lot boundary to this street for determining the total permitted sign surface area. However, the applicant shall be given the opportunity to determine the one street used in the calculations.

(d) The sign surface area of any sign located on a wall of a structure may not exceed 50 percent of the total surface area of the wall on which the sign is located.

(e) The total sign surface area for any overlay or floating zone shall be as required for the base zone and as specified in Article IX.

Section 1607. Freestanding Sign Surface Area

(a) Unless otherwise provided in this Article, the total surface area devoted to all free-standing signs on any lot shall not exceed the limitations set forth in this Section and in Section 1617 and 1618, and all signs including temporary signs shall be included in this calculation.

(b) For purposes of this Section, a side of a free-standing sign is any plan or flat surface included in the calculation of the total sign surface area as providing Section 1605. For example, wall signs typically have one side. Freestanding signs typically have two sides (back to back), although four-sided and other multi-sided signs are also common. Signage on gas canopies will be computed as part of the allowable free standing sign surface area.

(c) With respect to freestanding signs that have no discernible sides, such as spheres or other shapes not composed of flat planes, no such freestanding sign may exceed the maximum total surface area allowed under subsections (a) or (b) for a single side of a freestanding sign.

(d) To encourage the reduction in height of freestanding signs, an increase of 20 percent of the sign area permitted in the base zone will be allowed if a freestanding sign is no more than seven (7) feet in height.

Section 1608. Number of Freestanding Signs

(a) Except as authorized by this Section, no development may have more than one freestanding sign.

(b) If a development is located on a corner lot that has at least 100 feet of frontage on each of the two intersecting public streets, then the development may have not more than one freestanding sign along each side of the development bordered by such streets.

(c) If a development is located on a lot that is bordered by two public streets that do not intersect at the lot's boundaries (double front lot), then the development may have not more than one freestanding sign on each side of the development bordered by such

streets.

(d) A free-standing sign to be used on a parcel of GC or TCMX zoned property with multiple uses and a name distinct from that of any occupant, such as a shopping center or industrial park, shall be used only to identify the center or park and/or a register to identify the multiple uses. Where such use has over 1,000 feet of total street frontage, the allowable signage may be divided between two (2) free-standing structures.

Section 1609. Subdivision and Multi-Family Entrance Signs

At any entrance to a residential subdivision or multi-family development, there may be not more than two signs identifying such subdivision or development. A single side of any such sign may not exceed 16 square feet, nor may the total surface area of all such signs located at a single entrance exceed 32 square feet.

Section 1610. Location and Height Requirements

(a) Freestanding signs shall observe the setback requirements set forth in Article XII.

(b) No sign may extend above any parapet or be placed upon any roof surface, except that for purposes of this section, roof surfaces constructed at an angle of 75 degrees or more from horizontal shall be regarded as wall space. This subsection shall not apply to displays, including lighting, erected in connection with the observation of holidays on the roofs of residential structures.

(c) No sign attached to a building may project more than 12 inches from the building wall.

(d) No sign or supporting structure may be located in or over the traveled portion of any public right-of-way unless the sign is attached to a structural element of a building and an encroachment permit has been obtained from the Town.

(e) No part of a freestanding sign may exceed a height, measured from ground level (not including artificial berms), of 15 feet in all other districts.

(f) No sign shall obstruct a clear view to and from traffic along any street right-of-way entrance or exit.

Section 1611. Sign Illumination and Signs Containing Lights

(a) Unless otherwise prohibited by this Chapter, signs may be illuminated if such illumination is in accordance with this Section.

(b) No sign within 150 feet of a residential zone may be illuminated between the hours of

midnight and 6 a.m., unless the impact of such lighting beyond the boundaries of the lot where it is located is entirely inconsequential.

(c) Lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into a public right-of-way or residential premises.

(d) Except as herein provided, (i) internally illuminated signs are not permissible in any residential districts, and (ii) where permissible, internally illuminated freestanding signs may not be illuminated during hours that the business or enterprise advertised by such sign is not open for business or in operation. This subsection shall not apply to the following types of signs:

(i) Signs that constitute an integral part of a vending machine, telephone booth, device that indicates the time, date, or weather conditions, or similar device whose principal function is not to convey an advertising message.

(ii) Signs that do not exceed two square feet in area and that convey the message that a business enterprise is open or closed or that a place of lodging does or does not have a vacancy.

(e) Subject to Subsection (g), illuminated tubings or strings of lights that outline property lines, sales areas, roof lines, doors, windows, or similar areas are prohibited unless the lighting is an integral part of the sign design or building design, subject to Zoning Administrator approval.

(f) Subject to subsection (g), no sign may contain or be illuminated by flashing or intermittent lights or lights of changing degrees of intensity, except signs indicating the time, date or weather conditions.

(g) Subsections (e) and (f) do not apply to temporary signs erected in connection with the observance of holidays.

Section 1612. Miscellaneous Restrictions and Prohibitions

(a) Except as may be provided in the Table of Permissible Uses, no off-premises signs (except those exempted from regulation or from permit requirements under Sections 1602 or 1603) may be located in any district.

(b) No sign may be located so that it substantially interferes with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public streets or private roads.

(c) Signs that revolve or are animated or that utilize movement or apparent movement to attract the attention of the public are prohibited. Without limiting the foregoing, banners, streamers, animated display boards, pennants, and propellers are prohibited, but signs that only move occasionally because of wind are not prohibited if their movement (i) is not a

primary design feature of the sign, and (ii) is not intended to attract attention to the sign. The restriction of this subsection shall not apply to signs specified in Section 1602 (d) or Section 1611 (d).

(d) No sign may be erected so that by its location, color, size, shape, nature, or message it would tend to obstruct the view of or be confused with official traffic signs or other signs erected by governmental agencies.

(e) Freestanding signs shall be securely fastened to the ground or to some other substantial supportive structure so that there is virtually no danger that either the sign or the supportive structure may be moved by the wind or other forces of nature and cause injury to persons or property.

(f) Where permitted, projecting signs shall not exceed a maximum of four feet on any side and shall be securely fastened to the building so that there is virtually no danger that either the sign or the supportive structure may be moved by the wind or other forces of nature and cause injury to persons or property.

(g) In addition to the other provisions of this article, all signs in the Town shall be subject to the following additional design standards:

(i) Every sign shall have good scale and proportion in its visual relationship to buildings and surroundings.

(ii) Every sign shall be designed as an integral architectural element of the building and site to which it principally relates.

(iii) The colors, materials, and lighting of every sign shall be restrained and harmonious with the building and site to which it principally relates.

(iv) The number of graphic elements on a sign shall be held to the minimum needed to convey the sign's major message and shall be composed in proportion to the sign face.

(v) Each sign shall be compatible with the signs on adjoining premises and shall not compete for attention.

(vi) Identification signs of a prototype design and corporation logos shall conform to the criteria for all other signs.

(h) The Planning Commission shall determine if proposed new signs meet the performance standards set forth in Subsection (g) if the proposed sign is located within the Highway Overlay District.

Section 1613. Maintenance of Signs

(a) All signs and all components thereof, including without limitation supports, braces, and anchors, shall be kept in a state of good repair. With respect to freestanding signs, components (supporting structures, backs, etc.) not bearing a message shall be constructed of materials that blend with the natural environment or shall be painted a neutral color to blend with the natural environment.

(b) If a sign other than a billboard advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall, within 30 days after such abandonment, be removed by the sign owner, owner of the property where the sign is located, or other party having control over such sign.

(c) If the message portion of a sign is removed, leaving only the supporting "shell" of a sign or the supporting braces, anchors, or similar components, the owner of the sign or the owner of the property where the sign is located or other person having control over such sign shall, within 30 days of the removal of the message portion of the sign, either replace the entire message portion of the sign or remove the remaining components of the sign. This subsection shall not be construed to alter the effect of Section 1615(c), which prohibits the replacement of a nonconforming sign. Nor shall this subsection be construed to prevent the changing of the message of a sign.

(d) The area within 10 feet in all directions of any part of a freestanding sign shall be kept clear of all debris and all undergrowth more than five inches in height.

Section 1614. Unlawful Cutting of Trees or Shrubs

No person may, for the purpose of increasing or enhancing the visibility of any sign, damage, trim, destroy, or remove any trees, shrubs, or other vegetation located:

(a) Within the right-of-way of any public street or road, unless the work is done pursuant to the express written authorization of the Town or other agency having jurisdiction over the street or road.

(b) On property that is not under the ownership or control of the person doing or responsible for such work, unless the work is done pursuant to the express authorization of the person owning the property where such trees or shrubs are located.

(c) In any area where such trees or shrubs are required to remain under a permit issued under this Chapter.

Section 1615. Nonconforming Signs

(a) Subject to the remaining restrictions of this Section, nonconforming signs that were otherwise lawful on the effective date of this Article may be continued.

(b) No person may engage in any activity that causes an increase in the extent of

nonconformity of a nonconforming sign. Without limiting the generality of the foregoing, no nonconforming sign may be enlarged or altered in such a manner as to aggravate the nonconforming condition, nor may illumination be added to any nonconforming sign.

(c) A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this Chapter.

(d) If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all the provisions of this Chapter, and the remnants of the former sign structure shall be cleared from the land. For purposes of this section, a nonconforming sign is "destroyed" if damaged to an extent that the cost of repairing the sign to its former stature or replacing it with an equivalent sign equals or exceeds the value (tax value if listed for tax purposes) of the sign so damaged.

(e) The message of a nonconforming sign may be changed so long as this does not create any new nonconformities (for example, by creating an off-premises sign under circumstances where such a sign would not be allowed).

(f) Subject to the other provisions of this Section, nonconforming signs may be repaired and renovated so long as the cost of such work does not exceed within any 12-month period 50 percent of the value (tax value if listed for tax purposes) of such sign.

(g) If a nonconforming sign, other than a billboard, advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall be removed within 30 days after such abandonment by the sign owner, owner of the property where the sign is located, or other person having control over such sign.

(h) If a nonconforming billboard remains blank for a continuous period of 180 days, that billboard shall be deemed abandoned and shall, within 30 days after such abandonment, be altered to comply with this Article or be removed by the sign owner, owner of the property where the sign is located, or other person having control over such sign. For purposes of this section, a sign is "blank" if:

(i) It advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted; or

(ii) The advertising message it displays becomes illegible in whole or substantial part; or

(iii) The advertising copy paid for by a party other than the sign owner or promoting an interest other than the rental of the sign has been removed.

(i) As soon as reasonably possible after the effective date of this Article, the Zoning Administrator shall make every reasonable effort to identify all the nonconforming signs within the Town. He shall then contact the person responsible for each such sign (as well

as the owner of the property where the nonconforming sign is located, if different from the former) and inform such person (i) that the sign is nonconforming, (ii) how it is nonconforming, (iii) what must be done to correct it and by what date, and (iv) the consequences of failure to make the necessary corrections. The Administrator shall keep complete records of all correspondence, communications, and other actions taken with respect to such nonconforming signs.

Section 1616. Reserved

Section 1617. Maximum Total Sign Area by Zoning District

Total Maximum Sign Area shall not exceed the lesser of the following:

	R-1	R-2	RM	TCMX	GC	Public Institute	OS
Maximum number of total square footage							
Freestanding	3	3	3	32	50	50	32
Building	3	3	3	32	100	100	32
Percentage gross floor area (whichever is less)							
Freestanding	-----	-----	-----	1	2	2	1
Building	-----	-----	-----	2	4	4	2

Section 1618. Permitted Signs by Type and by Zoning District

Sign Type / District:	R–1	R–2	RM	TCMX	GC	Public Institute	OS
Freestanding							
	S*	S*	S*	S	S	S	S
Building							
Banner	N	N	N	S	S	S	S
Building Marker	P	P	P	P	P	P	P
Canopy	N	N	N	S	S	S	S
Identification	P	P	P	P	P	P	P
Marquee	N	N	N	S	S	S	S
Projecting	N	N	N	S	S	S	S
Residential	P	P	P	N/A	N/A	P	N/A
Roof	N	N	N	N	N	N	N
Roof, Integral	N	N	N	S	S	S	S
Suspended	N	N	N	S	S	S	S
Temporary	P	P	P	P	P	P	P
Wall	N	N	N	S	S	S	S

Window	N	N	N	P	P	P	P
Miscellaneous							
Flag	P	P	P	P	P	P	P

Portable	N	N	N	N		N	N

P Allowed without sign permit S Allowed only with sign permit N Not Allowed
*Does not apply to signs described in Section 1602(a)

ARTICLE XVII PARKING AND LANDSCAPING OF PARKING FACILITIES

Part I Parking

Section 1700. Definitions

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

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

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

Gross Floor Area (GFA). The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

Loading and Unloading Area. That portion of the vehicle accommodation area used to satisfy the requirements of Section 1710.

Vehicle Accommodation Area. That portion of a lot that is used by vehicles for access, circulation, parking, and loading and unloading. It comprises the total of circulation areas, loading and unloading areas, and parking areas (spaces and aisles).

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

Parking Space. A portion of the vehicle accommodation area set aside for the parking of one vehicle.

Section 1701. Number of Parking Spaces Required

(a) All developments in all zoning districts shall provide a sufficient number of parking spaces to accommodate the number of vehicles that ordinarily are likely to be attracted to the development in question.

(b) The presumptions established by this Article are that: (i) a development must comply with the parking standards set forth in subsection (e) to satisfy the requirement stated in subsection (a), and any development that does meet these standards is in compliance. However, the Table of Parking Requirements is only intended to establish a presumption and should be flexibly administered, as provided in Section 1702.

(c) All off-street parking spaces required to serve buildings or a use erected or established after the effective date of this Chapter shall be located on the same zoning lot as the building or use

served, except that where an increase in the number of spaces is required by a change or enlargement of a non-residential use or where spaces are provided collectively or used jointly by two (2) or more non-residential buildings or establishments, the required spaces may be located and maintained as set forth in Sections 1702, 1707, and 1708.

(d) The Town recognizes that the Table of Parking Requirements set forth in subsection (e) cannot and does not cover every possible situation that may arise. Therefore, in cases not specifically covered, the Zoning Administrator is authorized to determine the parking requirements using this table as a guide.

Use	Off-Street Parking Requirement
Residential	
Single-Family Detached Residential Unit	2.0 spaces
Accessory Apartments	2.0 spaces
Multi-family 1 Bedroom 2 Bedroom 3 Bedroom	 1.8 spaces 2.0 spaces 2.1 spaces
Townhouse 1 Bedroom 2 Bedroom 3 Bedroom	 2.25 spaces 2.0 spaces* 2.5 spaces 2.25 spaces* 2.75 spaces 2.5 spaces*
Elderly Housing	1.0 space per unit
Room or Boarding House	1.0 space per room
Non-Residential	
Assembly Hall	1.0 space per every 100 sq. ft. GFA
Amusement Park	10 spaces per ride or activity area
Appliance/Hardware store	2.0 spaces per every 1,000 sq. ft. GFA, plus 1.0 space per every 300 sq. ft. GFA over 1,000 sq. ft. GFA
Art gallery	1.0 space per 500 sq. ft. GFA
Auditorium	1.0 space per 6 permanent seats
Bar	1.0 space per 2 seats
Beauty Parlor	3.0 spaces per chair
Bed and Breakfast	1.0 space per guest room plus 2 spaces per owner's unit
Bowling Alley	4.0 spaces per alley
Bank	4.0 spaces per every 1,000 sq. ft. GFA
Car Wash	10 spaces per washing lane
Church/Synagogue	1.0 space per 3 seats
Convenience Store	1.4 spaces per 1,000 sq. ft. GFA
Day Care Center	1.0 space per 7 children, plus 1 space per staff person
Equipment sales/service shop/wholesale	2.0 spaces per every 1,000 sq. ft. GFA, plus 1.0 space per every 300 sq. ft. GFA over 1,000
Express Delivery Service	1.0 space per two employees on maximum shift, plus 1.0 space per each vehicle maintained on the premises
Fast Food Restaurant	1.0 space per 4 seats, plus 1.0 space per 2 employees on maximum shift. With drive-through facility, add 11 stacking spaces for the drive-in window with five such spaces at the ordering station.
Fiduciary Institutions	1.0 space per 300 sq. ft. GFA
Finishing Operations	1.0 space per 800 sq. ft. GFA

Funeral Home	1.0 space per 4 permanent seats, or 1.0 space per 30 sq. ft. GFA
Furniture Store	1.0 space per 500 sq. ft. GFA, plus 1.0 space per employee on maximum shift
Golf Course	4.0 spaces per hole, plus 1.0 space per employee on maximum shift
Group Home	1.0 space per staff person, plus 1 space per 2 occupants
Health Club	10 spaces per 1,000 sq. ft. GFA, plus 1.0 space per every 2 employees, and 1.0 space per each employee on maximum working shift (minimum of 5 spaces)
Hospital	2.0 spaces per bed or 1.0 space per 150 sq. ft. GFA, whichever is greater
Hotel/Motel	1.0 space per room, plus 1.0 space per employee on maximum shift, plus 1.0 space per each 200 sq. ft. GFA of commercial floor area contained therein
Industrial, Light	1.0 space per 800 sq. ft. GFA
Library	1.0 space per 300 sq. ft. GFA
Marina	0.5 spaces per slip total. 0.25 spaces per slip shall be improved for parking with remaining areas open to accommodate peak period needs.
Manufacturing/Warehouse	1.0 space per 800 sq. ft. GFA or 1.5 spaces per each employee in maximum work shift, plus 1.0 space per each truck or vehicle used in connection therewith, whichever is greater
Medical Center	1.0 space per 250 sq. ft. GFA
Miniature Golf	1.5 spaces per hole
Movie Theater	1.0 space per 5 seats
Movie Theater in Shopping Center	1.0 space per 4 seats
Nightclub	1.0 space per 2 seats
Nursing Home	1.0 space per 2 beds
Offices Under 49,999 sq. ft. GFA 50,000 - 99,999 sq. ft. GFA 100,000 + sq. ft. GFA	 4.5 spaces per 1,000 sq. ft. GFA 4.0 spaces per 1,000 sq. ft. GFA 3.5 spaces per 1.000 sq. ft. GFA
Pool or Billiard Hall	4.0 spaces per 1,000 sq. ft. GFA
Post Office	1.0 space per 600 sq. ft. GFA, plus 1 space per employee
Racquetball Courts	2.0 spaces per court
Receiving Centers	1.0 space per 5,000 sq. ft. GFA
Research Centers	1.0 space per 1,000 sq. ft. GFA
Restaurant	1.0 space per 3 seats
Retail Store	1.0 space per 200 sq. ft. GFA
Schools Elementary Intermediate Secondary	 2.0 spaces per classroom, but not less than 1.0 per teacher and staff 1.5 spaces per classroom, but not less than 1.0 per teacher and staff 5.0 spaces per classroom
Service Station	4.0 spaces per bay and work area
Shipping Center	1.0 space per 5,000 sq. ft. GFA
Shopping Center Regional	 4.0 spaces per 1,000 sq. ft. GFA
Community Neighborhood	6.0 spaces per 1,000 sq. ft. GFA 8.0 spaces per 1,000 sq. ft. GFA

Storage Areas	1.0 space per 5,000 sq. ft. GFA
Self-Storage facility	1.0 space per 20 storage stalls
Supermarket	3.0 spaces per 1,000 sq. ft. GFA
Swimming Pool	1.0 space per 4 persons, up to capacity
Veterinary Office	1.0 space per 400 sq. ft. floor space in office, with a 4 space minimum

Table Notes:

GFA = Gross Floor Area

When determination of the number of parking spaces required results in a requirement of a fractional space, any fraction shall be counted as one parking space.

* Parking Bonuses that can be obtained upon negotiation with the Planning Commission relative to on-street, alley or rear parking.

Section 1702. Flexibility in Administration Required

(a) The Town of Indian Head recognizes that, due to the particularities of any given development, the inflexible application of the parking standards set forth in Section 1701(e) may result in a development either with inadequate parking space or parking space far in excess of its needs. Alternative off-street parking standards may be accepted if the applicant can demonstrate that such standards better reflect local conditions and needs.

(b) Without limiting the generality of the foregoing, the Zoning Administrator may allow deviations from the parking requirements set forth in Section 1701(e) when the Zoning Administrator finds that:

(i) A residential development is irrevocably oriented toward the elderly; or

(ii) A business is primarily oriented to walk-in trade.

(c) Whenever the Zoning Administrator allows or requires a deviation from the parking requirements set forth in Section 1701(e), the Zoning Administrator shall enter on the face of the permit the parking requirement that it imposes and the reasons for allowing or requiring the deviation.

(d) If the Zoning Administrator concludes, based upon information the Zoning Administrator receives in the consideration of a specific development proposal, that the presumption established by Section 1701(e) for a particular use classification is erroneous, the Zoning Administrator shall initiate a request for an amendment to the Table of Parking Requirements in accordance with the procedures set forth in Article XX.

Section 1703. Parking Space Dimensions

(a) Subject to subsections (b) and (c), each parking space shall contain a rectangular area at least 19 feet long and 9 feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this section.

(b) In parking areas containing 10 or more parking spaces, up to 20 percent of the parking spaces need contain a rectangular area of only 8 feet in width by 15 feet in length. If such spaces are provided, they shall be conspicuously designated as reserved for small or compact cars only.

(c) Wherever parking areas consist of spaces set aside for parallel parking, the dimensions of such parking spaces shall be not less than 22 feet by 9 feet.

(d) Each handicapped parking space shall be at least 19 feet long and 13 feet wide. (See Section 1711). If only one (1) handicapped parking space is required and provided, that space shall be at least 19 feet long and 16 feet wide for van accessibility.

Section 1704. Required Widths of Parking area Aisles and Driveways

(a) Parking area aisle widths shall conform to the following table, which varies the width requirement according to the angle of parking.

	Parking Angle				
Aisle Width	0°	30°	45°	60°	90°
One-Way Traffic	13	11	15	18	24
Two-Way Traffic	19	20	21	23	24

(b) Driveways shall be not less than 10 feet or exceed 15 feet in width for one-way traffic and less than 18 feet or exceed 30 feet in width for two-way traffic, except that 10- feet-wide driveways are permissible for two-way traffic when (i) the driveway is not longer than 50 feet, (ii) it provides access to not more than 6 spaces, and (iii) sufficient turning space is provided so that vehicles need not back into a public street.

Section 1705. General Design Requirements

(a) Unless no other practicable alternative is available, vehicle accommodation areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing onto a public street. This requirement does not apply to parking areas consisting of driveways that serve one or two dwelling units.

(b) Vehicle accommodation areas for all development shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous

turning movements.

(c) Every vehicle accommodation area shall be designed so that vehicles cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way. Such areas shall also be designed so that vehicles do not extend over sidewalks or tend to bump against or damage any wall, vegetation, or other obstruction.

(d) Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.

(e) Any lighting used to illuminate off-street parking areas shall be arranged so as to reflect away from any adjoining residential zone or uses and any public or private right-of-way.

(f) A "sight triangle" shall be observed within a triangle formed by the intersection of the street right-of-way lines and points on the street right-of-way line fifteen feet from the intersection at all street intersections or intersections of driveways with streets.

(g) All parking areas shall be drained so as to dispose of all surface water within the parking area without carrying the said water accumulation over a public sidewalk. Piping the water to a suitable outfall may be required.

(h) Storm Water Management shall be provided for all off-street parking areas as required in the Town's Storm Water Management Ordinance.

(i) No required off-street parking space in any residential zone shall be located within any required front yard or side street side yard area except that parking in driveways for up to two (2) spaces is permitted.

(j) Additional parking in residential zones: Provided the above parking (subsection (i)) has been met, additional parking shall be permitted in the required front yards or side street side yard, provided the following setback requirements are met:

Zone	Front Yard Set back	Side Yard Set back
R-1	15'	8'
R-2	10'	4'

(k) The percentage of coverage of permitted parking areas and driveways in any residential zone shall not exceed 50 percent of the total required front yard.

(l) Off-street parking facilities may be located within the required front yard of any commercial zone but shall not be nearer than 50 feet to any residential district.

(m) Special access, surface, and location requirements for garages, parking lots, automobile service stations, and vehicle sales lots are as follows:

(i) No building, structure, or premises which is intended or designed to be used as a community garage, an automobile repair shop, a service station, or a parking lot or structure as the principal use on a property (which shall be used, erected< or altered where such a building, structure, or premises has an entrance or exit for vehicles in the same block front and within 200 feet of the property boundary of any school, public playground, church, hospital, public library, convalescent, nursing, or rest home, orphanage, and no such entrance or exit, except for a community garage) shall be located within 20 feet of any residential zone; nor shall any structure used for an automobile repair shop, service station, or any part of a parking lot or structure be located within 100 feet of any property boundary line of any of the aforesaid public or institutional uses. "Parking lot" as used herein does not include off-street parking areas as otherwise required for the public or institutional uses listed above.

(ii) No gasoline pump, oil draining pit, or similar appliance for any purpose shall be located within 15 feet of any right-of-way or within 50 feet of a residential zone, except where such a pump, pit, or appliance is within a completely enclosed building and distant at least 15 feet from any vehicular entrance or exit of such building. Except for gasoline service stations, no gasoline pumps shall be permitted as an accessory use for another activity unless a site plan is submitted to and approved by the Zoning Administrator.

Section 1706. Vehicle Accommodation Area Surfaces

(a) Vehicle accommodation areas that (i) include lanes for drive-in windows, or (ii) include access and parking for the handicapped, or (iii) contain parking areas that are required to have more than 10 parking spaces and that are used regularly at least five days per week, shall be graded and surfaced with asphalt, concrete or other material that will provide equivalent protection against potholes, erosion, and dust. Specifications for surfaces meeting the standard set forth in this subsection are contained in Appendix D.

(b) Vehicle accommodation areas that are not provided with the type of surface specified in subsection (a) shall be graded and surfaced with crushed stone, gravel, or other suitable material (as provided in the specifications set forth in Appendix D) to provide a surface that is stable and will help to reduce dust and erosion. The perimeter of such parking areas shall be defined by bricks, stones, railroad ties, or other similar devices. In addition, whenever such a vehicle accommodation area abuts a paved street, the driveway leading from such street to such area (or, if there is no driveway, the portion of the vehicle accommodation area that opens onto such streets), shall be paved as provided in subsection (a) for a distance of 15 feet back from the edge of the paved street. This subsection shall not apply to single-family or two-family residences or

other uses that are required to have only one or two parking spaces.

(c) Parking spaces in areas surfaced in accordance with subsection (a) shall be appropriately demarcated with painted lines or other markings. Parking spaces in areas surfaced in accordance with subsection (b) shall be demarcated whenever practicable.

(d) Vehicle accommodation areas shall be properly maintained in all respects. In particular, and without limiting the foregoing, vehicle accommodation area surfaces shall be kept in good condition (free from potholes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.

Section 1707. Joint Use of Required Parking Spaces

(a) One parking area may contain required spaces for several different uses, but except as otherwise provided in this Section, the required space assigned to one use may not be credited to any other use.

(b) To the extent that developments that wish to make joint use of the same parking spaces operate at different times, the same spaces may be credited to both uses. For example, if a parking lot is used in connection with an office building on Monday through Friday but is generally 90 percent vacant on weekends, another development that operates only on weekends could be credited with 90 percent of the spaces on that lot. Or, if a church parking lot is generally occupied only to 50 percent of capacity on days other than Sunday, another development could make use of 50 percent of the church lot's spaces on those other days.

(c) If the joint use of the same parking spaces by two or more principal uses involves satellite parking spaces, then the provisions of Section 1708 are also applicable.

(d) In the case of mixed uses (with different parking requirements occupying the same building or premises) or in the case of a joint use of a building or premises by more than one use having the same parking requirements, the parking spaces required shall equal the sum of the requirements of the various uses computed separately, except that parking requirements for permitted accessory retail and service uses in a hotel, motel, or motor lodge that contains 50 or more dwelling units may be reduced by the following percentages:

(i) Retail sales, offices, service establishments, 50 percent;

(ii) Restaurants and dining rooms, 75 percent; and

(iii) Ballrooms, banquet halls, meeting rooms, auditoriums, 80 percent.

(e) Off-street parking areas required for residential use shall not be included in any joint

parking arrangement.

Section 1708. Satellite Parking for Commercial Uses

(a) If the number of off-street parking spaces required by this Chapter cannot reasonably be provided on the same lot where the principal use associated with these parking spaces is located, then spaces may be provided on adjacent or nearby lots in accordance with the provisions of this section. These off-site spaces are referred to in this Section as satellite parking spaces.

(b) All such satellite parking spaces (except spaces intended for employee use) must be located within 1,000 feet of a public entrance of a principal building housing the use associated with such parking, or within 1,000 feet of the lot on which the use associated with such parking is located if the use is not housed within any principal building. Satellite parking spaces intended for employee use may be located within any reasonable distance. No more than 60 percent of the total required spaces are to be located in satellite parking spaces.

(c) The developer wishing to take advantage of the provisions of this Section must present satisfactory written evidence that he has the permission of the owner or other person in charge of the satellite parking spaces to use such spaces. The developer must also sign an acknowledgment that the continuing validity of his permit depends upon his continuing ability to provide the requisite number of parking spaces.

(d) All satellite parking spaces shall be located in the same zoning district as the structures or uses served or shall abut at least 50 feet, either directly or across an alley, from the structure or uses served.

(e) Satellite parking spaces shall be used solely for the parking of passenger automobiles. No commercial repair work or service of any kind shall be conducted, and no charge shall be made for parking. No sign of any kind, other than designating ownership, entrances, exits, and conditions of use, shall be maintained on such satellite parking areas.

(f) Each entrance and exit to and from such parking area shall be at least 20 feet distant from any adjacent lot line located in any residential zone.

(g) The satellite parking areas shall be subject to all requirements of this Chapter concerning surfacing, lighting, drainage, landscaping, screening, and setbacks.

Section 1709. Special provisions For Lots With Existing Buildings

(a) Any increase in the intensity of use of any structure shall mean the addition of dwelling units, employees, gross floor area, seating capacity, or any other unit of measurement used as a basis for determining required parking facilities. When the intensity of use

of any structure is increased by less than 20 percent, parking facilities shall be provided for the increase, but not for any existing deficiency in such facilities. When the intensity is increased by more than 20 percent, including consecutive increases from the date of this Chapter, parking facilities shall be provided for the entire structure on premises.

(b) When the use of any structure or premises is changed to a different use, parking facilities shall be provided for the different use.

Section 1710. Loading and Unloading Areas

(a) Subject to subsection (e), whenever the normal operation of any development requires that goods, merchandise, or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading and unloading area must be provided in accordance with this Section to accommodate the delivery or shipment operations in a safe and convenient manner.

(b) The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles that are likely to use this area, given the nature of the development in question. The following table indicates the number and size of spaces that, presumptively, satisfy the standard set forth in this subsection. However, the permit-issuing authority may require more or less loading and unloading area if reasonably necessary to satisfy the foregoing standard.

Gross Leasable Area of Building	Number of Spaces*
1,000- 19,999	1
20,000- 79,999	2
80,000-127,999	3
128,000-191,999	4
192,000-255,999	5
256,000-319,999	6
320,000-391,999	7

* Minimum dimensions of 12 feet x 55 feet and overhead clearance of 14 feet from street grade required.

(c) Loading and unloading areas shall be so located and designed that the vehicles intended to use them can (i) maneuver safely and conveniently to and from a public right-of-way, and (ii) complete the loading and unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot aisle.

(d) No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking are be used to satisfy the area requirements for loading and unloading facilities.

(e) No such space shall be located closer than 50 feet to any other lot in any residential district

unless wholly within a completely enclosed building or unless enclosed on all sides by a wall or uniformly painted board fence not less than six (6) feet in height.

Section 1711. Parking facilities for the Physically Handicapped

(a) Location. Parking spaces for the physically handicapped shall be located as close as possible to ramps, walkways, entrances, and elevators. Where feasible, these parking spaces shall be located so that the physically handicapped are not forced to wheel or walk across main traffic lanes or behind parked cars to reach the ramps, and other facilities. The spaces shall be situated in those areas of the parking lots located nearest to each primary building entrance.

(b) Each handicapped parking space shall contain a rectangular area of at least 19 feet long and 13 feet wide. If only one (1) handicapped space is provided, it shall be at least 19 feet long and 16 feet wide for van accessibility.

(c) Required Number of Spaces. The following number of parking spaces shall be reserved for the physically handicapped:

Total Parking Spaces in Lot	Required Minimum Number
Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2 % of Total
Over 1,000	20, plus 1 for each 100 over 1,000

(d) Identification. Parking spaces for the physically handicapped shall be identified by signs, generally located eight (8) feet above grade. The signs shall state that the space is reserved by law for the physically handicapped. Where these signs are placed flush against buildings or structures, or in other locations not accessible to vehicular or pedestrian traffic, the height may be reduced to six (6) feet.

(e) Curbs.

(i) Where a curb exists between a parking lot and a sidewalk, a ramp or device shall be provided for wheelchair access with a detectable warning device.

(ii) The curb cut shall not be less than four (4) feet wide and shall have a grade of not more than one (1) foot in 12 feet.

(iii) Curb cuts shall be provided within 30 feet of each accessible entrance to the structure, at all pedestrian walk intersections, and elsewhere to provide reasonably direct circulation within each development.

(iv) The curb cuts shall not be more than 150 feet apart for access purposes.

(f) Sidewalks.

(i) Sidewalks shall be scored or textured to indicate the location of doors to blind persons.

(ii) Exterior sidewalks shall not be obstructed.

(iii) Exterior sidewalks shall have a side slope not greater than one (1) inch in four (4) feet. They shall be at least four (4) feet wide and have a grade of not more than (1) foot in 20 feet.

(iv) Wherever sidewalks cross driveways, parking lots, or other sidewalks, they shall blend to a common level.

(g) Storm Drains. Storm drain grates and similar devices shall be bicycle safe and shall not be located within the required access for the physically handicapped.

(h) Grade. The grade in any direction of parking spaces for the physically handicapped shall not be more than one (1) foot in 50 feet.

(i) Parking for the physically handicapped shall be designed and constructed to meet or exceed the requirements of the Americans with Disability Act (ADA). Should there be any conflict between the ADA accessibility guidelines and this Section, the most stringent requirement will prevail.

Section 1712. Parking Requirements for Bicycles

(a) To encourage the use of bicycles as a means of transportation in Town, parking for bicycles shall be provided at the rate of one (1) bicycle space for every 10 vehicular spaces with a minimum of one (1) bicycle space for all development within the RM, TCMX, GC, and Public/Institutional zoning districts.

(b) Bicycle racks or spaces required by subsection (a) shall conform to the following:

(i) The Planning Commission may reduce the number of required motor vehicle spaces by one (1) space for every five (5) bicycle spaces provided above the minimum number of bicycle spaces required by subsection (a) with a maximum credit of three (3) parking spaces, if the applicant demonstrates the proposed use will not need the required parking.

(ii) Bike racks shall be located not more than fifty (50) feet from the principal entry to a building or structure, or along a walkway that leads directly to the principal entry. Bike racks shall not be located farther than the closest motor vehicle parking space.

(iii) The spaces shall not be located behind any wall, shrubbery, or other visual obstruction lying between the principal structure and the bicycle spaces.

(iv) Bicycle spaces may be provided through spaces or bicycle storage racks.

(v) Bicycle spaces shall be at least 2'6" in width and 6'0" in length with a minimum seven (7) feet of vertical clearance, and shall be separately marked. Bicycle parking spaces shall be on asphaltic concrete, portland cement, brick, or similar hard surface material. An access aisle at least five (5) feet wide shall be provided and maintained beside or between each row of bicycle parking.

(vi) In order to provide security, bicycle parking spaces shall include either a lockable enclosure in which the bicycle can be stored or a stationary rack upon which the bicycle can be locked.

(vii) Bicycle rack design must accommodate both U shaped locks and cables and include, but are not limited to, such shapes as an inverted "U" design or a "ribbon." Bicycle racks shall be securely anchored to a walkway, parking lot, building, or similar permanent structure. Exterior materials for bicycle racks shall use durable finishes that are not damaged by the constant abrasion from the bicycles.

Part II Landscaping of Parking Facilities

Section 1713. Intent

(a) It is intended that the application of the landscape standards set forth below will reduce the visual and environmental impacts of large expanses of parking areas. Breaking up of paved parking areas with plantings will provide improved aesthetics and micro- climatic benefits by reducing heat and glare.

Section 1714. Sites affected

(a) New sites. No new parking areas shall hereafter be constructed or used unless landscaping is provided as required by the provision of this Article.

(b) Existing sites. No parking areas shall be expanded, moved, or removed and/or reconstructed unless the minimum landscaping required by the provisions of this Article is provided for the property to the extent of its alteration or expansion, but not for the entire property.

(c) Change of use. No use shall be changed to another use for which this Chapter requires additional parking over and above that required for the previous use, unless vehicular use area perimeter landscaping as required by this Article is provided for such additional parking. The provisions of this Section shall be effective regardless of whether or not new construction is necessary to meet the parking requirements for the new uses. Where new construction will not be necessary to meet the parking requirements, such additional required parking shall be deemed to be on the perimeter for as much as possible of the existing vehicular use area. Where the previous use had no required parking, perimeter landscaping shall be provided for the entire vehicular use area serving the new use. Interior landscaping shall not be required where only the use of the property is changed and no new construction or reconstruction is proposed.

(d) Change of zone. No use of an existing building, structure, or vehicular use area shall be commenced subsequent to a change in zoning unless property perimeter landscaping as required herein has been provided.

Section 1715. Perimeter Landscaping

(a) Property line landscape buffers between adjacent land uses shall be provided in accordance with the requirements spelled out in Article XVIII, Screening and Shading.

(b) Any parking lot that is adjacent to a road or public right-of-way shall provide a landscaping area width based upon the following right-of-way width:

Right of Way Width	Width of required landscape area
60 feet wide or less:	10 foot minimum landscape area width
More than 60 feet wide:	15 foot minimum landscape area width

(c) The permit-issuing authority may allow deviations from this requirement when it finds that the site in question exhibits irregular, confining, or otherwise unusual characteristics. In no case shall the required landscape area width be less than five (5) feet.

(d) Where the pavement width of the parking lot exceeds 60 feet, the landscape area

adjacent to a road or public right-of-way shall be increased by five (5) feet for every additional 60 feet of parking lot width perpendicular to the right-of-way as indicated in the following table:

Parking Lot Width	Required Landscape Area Width
1-60 ft.	15 ft.
61-120 ft.	20 ft.
121-180 ft.	25 ft.
181-240 ft.	30 ft.
241-300 ft.	35 ft.
301-360 ft.	40 ft.
361-420 ft.	45 ft.

(e) Each landscape area adjacent to a street right-of-way shall contain a minimum of one (1) tree per 40 feet of landscape area parallel to the right-of-way. In addition, a vegetative screen, landscaped berm, fence, wall, or other methods to reduce the visual impact of the parking area shall be provided. The vegetative screen shall have an average continuous height of three (3) feet. A three (3) foot decrease in elevation from the adjoining property to the street right-of-way shall be construed as satisfying the vegetative screen requirement.

(f) Grass or ground cover shall be planted on all portions of the landscape area not occupied by other landscape material.

(g) Special notes on existing natural vegetation:

(i) In all cases where significant natural vegetation exists, as determined by the Zoning Administrator, there will be limits of clearing/grading areas established to protect and preserve these natural areas. These natural areas will not be disturbed by the installation of any structures, utilities, storm and sanitary sewers, water lines, sediment and erosion control traps, stormwater management systems, and signage. Existing landscape material which is proposed to be used to fulfill landscape requirements shall be shown in the required plan.

(ii) Where buffers are created by the application of these standards, no structures, utilities, storm and sanitary sewers, water lines, sediment and erosion control traps, stormwater management systems, and signage will be permitted.

(iii) Where pedestrian and bike paths are proposed in the landscape area, such paths shall be meandering in order to preserve the existing trees.

(h) Trees required as a part of the parking lot street right-of-way landscaping may be placed on the right-of-way adjoining such vehicular use area when approved by the Planning Commission. Such trees shall be in addition to any street trees required by the subdivision regulations.

(i) The required landscape area for parking areas may be combined with a utility or other

easement only when all landscape requirements cannot be met. Otherwise, the landscape area shall be in addition to, and separate from, any easement.

(j) In any parking lot perimeter landscaping area there shall be a four (4) feet minimum setback from all trees to the edge of paving where vehicles overhang.

Section 1716. Interior Landscaping for Parking Lots

(a) For any parking lot containing more than 6,000 square feet of area or 15 or more spaces, interior landscaping shall be provided in addition to the previously required perimeter landscaping. Interior landscaping shall be contained in peninsulas or islands containing a minimum area of 153 square feet and having a minimum width of eight and one-half (8.5) feet and a minimum length of 18 feet. There shall be a minimum distance of four (4) feet to all trees from the edge of paving where vehicles overhang. The minimum landscape area permitted shall be 10 percent of the parking area. Each island or peninsula shall be enclosed by appropriate curbing or a similar device at least six (6) inches wide and six (6) inches in height above the paving surface.

(b) Where a parking area is altered or expanded to increase the size to 6,000 or more square of area or 15 or more vehicular parking spaces, interior landscaping for the entire parking area shall be provided and not merely to the extent of its alteration or expansion.

(c) Landscape area. For each 100 square feet, or fraction thereof, of vehicular use area, five (5) square feet of landscaped area shall be provided. The interior landscaping requirement shall be computed on the basis of the "net parking facility." For the purposes of this Section, "net parking facility" shall include parking stalls, access drives, aisles, walkways, dead spaces, and required separations from structures, but shall not include required street setbacks or access driveways or walkways within such setbacks.

(d) Landscape islands or peninsulas - number required:

(i) For less than 100 spaces one island or peninsula is required for every seven (7) parking spaces.

(ii) For 100 spaces or more, one island or peninsula is required for every 10 spaces.

(iii) Each 10 parking spaces shall require an interior planting island.

(iv) All interior parking aisles shall end in a landscape island.

(e) Maximum contiguous areas for interior parking lot landscaping. In order to encourage the required landscape areas to be properly dispensed, no required landscape area shall be larger than the following:

(i) 350 square feet in parking areas under 30,000 square feet.

(ii) 1,500 square feet in parking areas over 30,000 square feet.

(f) Landscape areas larger than the above are permitted as long as the additional area is in excess of the required minimum, except that landscape areas larger than the maximum permitted may be allowed as required landscaping areas in those cases where significant natural vegetation exists. (See Section 1715(g) above.)

(g) Minimum plant materials. A minimum of one (1) tree for each 250 square feet or fraction thereof of required landscape or for each five (5) spaces of required parking or for each 161 square feet of island or peninsula, whichever is greater, shall be required. The remaining area of the required landscaped area shall be landscaped with shrubs or ground cover not to exceed two (2) feet in height, or grass.

(h) Landscaping for service structures. All service structures shall be fully screened, except when located in a single-family zone or when located more than 35 feet above the established grade. For the purposes of this Article, service structures shall include propane tanks, dumpsters, air conditioning units and condensers, electrical transformers and other equipment or elements providing service to a building or a site.

(i) Location of screening. A continuous planting, hedge, fence, wall, or earth mound shall enclose any service structure on all sides unless such structure must be frequently moved, in which case screening on all but one (1) side is required. The average height of the screening material shall be one (1) foot more than the height of the enclosed structure, but shall not be required to exceed eight (8) feet in height. Whenever a service structure is located next to a building wall, perimeter landscaping material, or vehicular use area landscaping material, such walls or screening material may fulfill the screening requirement for that side of the service structure if that wall or screening material is of an average height sufficient to meet the height requirement set out in this section. Whenever service structures are screened by plant material, such material may count towards the fulfillment of required interior or perimeter landscaping. No interior landscaping shall be required within an area screened for service structures.

(ii) Protection of screening material. Whenever screening material is placed around any trash disposal unit or waste collection unit that is emptied or removed mechanically on a regular basis, a fixed barrier to contain the placement of the container shall be provided within the screening material on those sides where there is such material. The barrier shall be at least 18 inches from the material and shall be of sufficient strength to prevent possible damage to the screening when the container is moved or emptied. The minimum front opening of the screening material shall be 12 feet to allow service vehicles access to the container.

(i) Interior landscaping for parking areas shall be installed and continuously maintained by the owner according to the requirements contained in Article XVIII of this Chapter.

(j) Landscape material type and quality shall be in accordance with the provisions of Article XVIII of this Chapter.

(k) Plan submission and approval. Whenever any property is affected by these parking area landscape requirements, the property owner or developer shall prepare a landscape plan for approval according to the requirements contained in Article XVIII of this Chapter.

(l) Unnecessary paving or irregular paving plans are strongly discouraged and, if incorporated in a site plan, shall be subject to approval by the Zoning Administrator.

(m) Alternative parking area landscaping design may be considered by the permitting officials in cases where unique topography and site constraints dictate such alternative. The innovative use of planting design and materials is encouraged and will be evaluated on the intent demonstrated to fulfill the stated objectives of this Chapter.

ARTICLE XVIII SCREENING & SHADING

Part I Buffers

Section 1801. Purpose

(a) One of zoning's most important functions is the division of land uses into districts which have similar character and contain compatible uses. All uses permitted in any district have generally similar nuisance characteristics. Bufferyards will operate to minimize the negative impact between different zoning districts of any future use on neighboring uses.

(b) The bufferyard is a combination of setback and a visual buffer or barrier and is a yard or area together with the planting required thereon. Both the amount of land and the type and amount of planting specified for each bufferyard requirement of this Chapter are specified and are designed to ameliorate nuisances between adjacent zoning districts to ensure a desired character along public streets and roads.

(c) Bufferyards shall be required to separate different zoning districts from each other in order to eliminate or minimize potential nuisances such as dirt, litter, noise, glare of lights, signs, and unsightly buildings or parking areas, or to provide spacing to reduce adverse impacts of noise, odor, or danger from fires or explosions. Mature woodlands are considered the best buffers and should be used whenever possible.

Section 1802. Location of Bufferyards

Bufferyards shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line. Bufferyards shall not be located on any portion of an existing or dedicated public or private street or right-of-way. Bufferyards shall not be located within a yard required in a single family attached (townhouse) development or planned unit development.

Section 1803. Determination of Required Bufferyard

To determine the type of bufferyard required on a parcel or between two parcels or between a parcel and a street, the following procedure shall be used:

(i) Identify whether any portion or property line of the site constitutes a zoning district boundary. If it does, determine the zoning on both sides of the property.

(ii) Determine whether the land on the adjoining property is vacant or developed or whether a plat of the subdivision has been approved.

(iii) Classify any street adjacent to the proposed use as a local, collector, or arterial street.

(iv) Determine the bufferyard required on each boundary (or segment thereof) of the subject parcel by referring to the Tables of Required Bufferyards (See Section 1805).

(v) Determine if the proposed development is a use which has bufferyards required to separate that use from certain uses. Then determine the bufferyard required between such uses by referring to the Tables of Required Bufferyards (See Section 1805).

Section 1804. Responsibility for Bufferyards

(a) When a proposed use adjoins a vacant parcel for which a bufferyard is required by the presence of a zoning boundary, that use shall at the time of development provide one- half (0.5) of the buffer which is required by the Tables of Required Bufferyards.

(b) The second use to develop shall, at the time it develops, provide all additional plant material and/or land necessary to provide the total bufferyard required between those two (2) uses. If the adjoining use had developed without a bufferyard, the second use will be responsible for installing the total bufferyard.

(c) Existing plant material and/or land located on the preexisting (first developed) land use which meets the requirements of this Chapter may be counted as contributing to the total bufferyard required between it and the second (adjacent) land use to develop.

Section 1805. Tables of Required Bufferyards

Table of Required Bufferyards Between Adjacent Zoning Districts
Table 1805 A

	R-1	R-2	RM	TCMX	Public Institution	OS	GC
R-1	-	B*	C*	D	D	-	D
R-2	B*	-	C*	D	D	-	D
RM	C*	C*	-	C	C	C	D
TCMX	D	D	C	-	C	C	C
Public/ Institutional	D	D	C	C	-	C	C
OS	-	-	-	C	C	-	C
GC	D	D	D	D	D	D	-

* Bufferyards only required between single-family attached and multi-family and single-family detached homes.
- Indicates Bufferyards either not required or not applicable.

Table of Required Street Buffers
Table 1805 B

Zoning Districts	Functional Street Classification		
	Arterial	Collector	Local
R-1, R-2	D	C	B
RM	C	B	B
TCMX, GC	A	A	A
Public/Institutional	C	B	A
OS	D	C	B

Section 1806. Bufferyard Requirements

Illustrations graphically indicating the specification of each bufferyard are contained in Appendix F.

Section 1807. Bufferyard Use

A bufferyard may be used for passive recreation or stormwater management. It may contain pedestrian, bike, or equestrian trails provided that: (a) no plant material is eliminated, (b) the total width of the bufferyard is maintained, and (c) all other regulations of this Chapter are met. In no event, however, shall swimming pools, tennis courts or other such uses be permitted in bufferyards. The Planning Commission may allow substitution or reduction of the bufferyard if it finds that the required bufferyard will obstruct the view of a driver or that the bufferyard is incompatible with the existing streetscape. The bufferyard shall remain in perpetuity.

Section 1808. Reserved

Section 1809. Bufferyards Which Exceed Minimum Requirements

Where the bufferyard required between a land use and vacant land turns out to be greater than that bufferyard which is required between the first use and the subsequently developed use, the following options apply:

(i) The subsequent use may provide one half (0.5) of the buffer required by this Section. The existing use may expand its use into the original buffer area, provided that the resulting total bufferyard between the two uses meets the bufferyard requirements of this Section.

(ii) The existing use may enter into agreements with abutting landowners to use its existing buffer to provide some or all of the required bufferyard of both land uses. The total buffer shall equal the requirements of this Section. Provided that such an agreement can be negotiated, the initial use may provide the second use some or all of its required bufferyard and/or extra land on which it might develop. The existing use may reduce its excess buffer by transferring part or all of the excess buffer to the adjoining landowner to serve as its buffer. Any remaining excess buffer area may be used by the existing use for expansion of that use or for transfer by it to the adjoining landowner to expand that adjoining use.

Section 1810. Contractual Reduction of Bufferyards

When a land use is proposed adjacent to vacant land, and the owner of that vacant land enters into a written agreement with the owner of the land that is to be developed first, a reduced buffer may be provided by that first use, provided that the ownerof the vacant land agrees to develop at no greater than a specified land use intensity class, and that the vacant landowner assumes all responsibility for additional buffer, if needed by the vacant landowner's subsequent development of a less intense use than had been agreed upon.

Part II Shading

Section 1811. Town Findings and Declaration of Policy: Shade trees

(a) The Town finds that:

(i) Trees are proven producers of oxygen, a necessary element for human survival,

(ii) Trees appreciably reduce the ever increasing environmentally dangerous carbon dioxide content of the air and play a vital role in purifying the air we breathe,

(iii) Trees transpire considerable amounts of water each day and thereby purify the air much like the air-washer devices used on commercial air conditioning systems,

(iv) Trees have an important role in neutralizing waste water passing through the ground from the surface to ground water tables and lower aquifers,

(v) Trees, through their root systems play an important and effective part in soil conservation, erosion control, and flood control,

(vi) Trees are an invaluable physical, aesthetic, and psychological counterpoint to the urban setting, making urban life more comfortable by providing shade and cooling the air and land, reducing noise levels and glare, and breaking the monotony of human developments on the land, particularly parking areas, and

(vii) For the reasons indicated in Item (vi), trees have an important impact on the

desirability of land and therefore on property values.

(b) Based upon the findings set forth in subsection (a), the Town declares that it is not only desirable but essential to the health, safety, and welfare of all persons living or working within the Town to protect certain existing trees and, under the circumstances set forth in this Article, to require the planting of new trees in certain types of developments.

Section 1812. Required Trees Along Dedicated Streets

Along both sides of all newly created streets that are constructed in accordance with the public street standards set forth in the Town's subdivision ordinance, the developer shall, at a minimum, either plant or retain sufficient trees so that between the paved portion of the street and a line running parallel to and 50 feet from the centerline of the street, there is for every 35 feet of street frontage at least an average of one deciduous tree that has or will have, when fully mature, a trunk at least 12 inches in diameter. When trees are planted by the developer pursuant to this section, the developer shall choose trees that meet the standards set forth in Appendix E.

Section 1813. Retention and Protection of Large Trees

(a) Every development shall retain all existing trees 15 inches in diameter or more unless the retention of such trees would unreasonably burden the development.

(b) No excavation or other subsurface disturbance may be undertaken within the drip line of any tree 18 inches in diameter or more, and no impervious surface (including, but not limited to paving or buildings) may be located within 12 1/2 feet (measured from the center of the trunk) of any tree 18 inches in diameter or more unless compliance with this subsection would unreasonably burden the development. For purposes of this subsection, a drip line is defined as a perimeter formed by the points farthest away from the trunk of a tree where precipitation falling from the branches of that tree lands on the ground.

(c) The retention or protection of trees 18 inches in diameter or more as provided in subsections (a) and (b) unreasonably burdens a development if, to accomplish such retention or protection, the desired location of improvements on a lot or the proposed activities on a lot would have to be substantially altered and such alteration would work an unreasonable hardship upon the developer.

(d) If space that would otherwise be devoted to parking cannot be so used because of the requirements of subsections (a) or (b), and, as a result, the parking requirements set forth in Article XVII cannot be satisfied, the number of required spaces may be reduced by the number of spaces "lost" because of the provisions of subsections (a) and (b), up to a maximum of 15 percent of the required spaces.

Section 1814. Shade Trees in Parking Areas

(a) Vehicle accommodation areas that are required to be paved by Article XVII must be shaded by deciduous trees (either retained or planted by the developer) that have or will have when fully mature a trunk at least 12 inches in diameter. When trees are planted by the developer to satisfy the requirements of this subsection, the developer shall choose trees that meet the standards set forth in Appendix E.

(b) Each tree of the type described in subsection (a) shall be presumed to shade a circular area having a radius of 15 feet with the trunk of the tree as the center, and there must be sufficient trees so that, using this standard, 20 percent of the vehicle accommodation area will be shaded.

(c) No paving may be placed within 12 1/2 feet (measured from the center of the trunk) of any tree retained to comply with Subsection (a), and new trees planted to comply with subsection (a) shall be located so that they are surrounded by at least 200 square feet of unpaved area.

(d) Vehicle accommodation areas shall be laid out and detailed to prevent vehicles from striking trees. Vehicles will be presumed to have a body overhang of three feet, six inches.

ARTICLE XIX ADEQUATE PUBLIC FACILITIES REQUIREMENTS

Section 1900. Adequate Public Facilities Required

(a) No final plat for a subdivision or final development plan shall be approved unless the Planning Commission first determines that adequate facilities are available to support and service the proposed subdivision or development as set forth in this Article.

(b) The applicant shall submit, with any preliminary subdivision plat or preliminary site plan, sufficient information and data to demonstrate the expected impact on and use of the public facilities by the residents or occupants of the proposed subdivision, planned development, or other development.

(c) Unless otherwise specified herein, this Article does not apply to minor subdivisions and insignificant commercial or industrial development for which only a minor subdivision or minor site plan is required.

Section 1901. Fire Suppression

(a) The proposed development shall be adequately served by fire suppression facilities.

(b) A proposed development shall be considered to be adequately served by fire suppression facilities if the facility is served by:

(i) A water system capable of delivering 500 gpm or more for a period of two hours at a minimum pressure of 20 psi, plus consumption at the maximum daily rate (24 hour period which the highest consumption is recorded in the latest three- year period).

Section 1902. Streets

(a) The proposed development shall be served by roads adequate to accommodate the vehicular traffic projected to be generated by the development.

(b) Access roads shall be considered adequate to accommodate the traffic projected to be generated by the proposed development if:

(i) Existing County, Town, or State roads from the point of first egress from and ingress to the proposed development, the intersection with the first Town, County, or State arterial road in all directions from the development are capable of accommodating existing traffic, traffic projected to be generated from developments for which plats and plans have been approved, and traffic projected to be generated from the proposed development at an established minimum service level, set forth below as defined by the then current edition of the Highway Capacity Manual published by the Transportation Research Board; or

(ii) The Developer has agreed to construct, or the County, State, or Town has

programmed for construction in the respective capital improvements plans or like documents additional roads, or road improvements, necessary in combination with existing roads and intersections to comply with the standards specified in item (i) of this subsection. The programmed improvements must be scheduled to be in place at the time the anticipated development will be ready for occupancy.

(c) The established minimum level of service (LOS) for developments in the Town is LOS C for off-peak hours and LOS D for peak hour. If the existing level of service of the affected road or street is less than the standard above, then the transportation facility will be considered inadequate.

(d) The determination of the rating of a road under subsection (c) of this Section shall consider the effects of existing traffic, traffic projected to be generated from developments for which final plats and plans have been approved, and traffic projected to be generated from the proposed development.

(e) When a developer submits a preliminary plan of a proposed development to the Town, the developer shall indicate the development's anticipated vehicle trip generation rates and shall submit a listing of those existing roads and highways, including intersections, that will be impacted by vehicular traffic to and from the development from the point of first ingress to and egress from the proposed development to and including the intersection with the first County or Town arterial road or State highway in all directions from the proposed development.

(f) When the applicant submits an application for final plan approval, the applicant shall submit a traffic impact study including traffic flow studies of the roads, highways, and intersections identified in the preliminary analysis. The traffic flow studies shall consider, at a minimum, existing traffic, traffic projected to be generated from proposed developments for which final plats have been approved and for which public works agreements are outstanding, and traffic projected to be generated from the proposed development. The Zoning Administrator shall review traffic impact study submitted for compliance with the traffic impact study guidelines set forth in this Section. If the traffic impact study does not comply with the traffic impact study guidelines, the developer shall supplement the study to correct the deficiencies.

Section 1903. Schools

(a) This Section does not apply to:

(i) Development to be exclusively for nonresidential uses; or

(ii) A proposed development, according to federal regulations, restricting occupancy in the dwelling units to elderly persons.

(b) The Zoning Administrator shall submit all preliminary plats and plans to the Charles County Board of Education in order to facilitate the appropriate facility planning and for input to the Town.

(c) The Town Planning Commission will not deny a plat or plan based on inadequate facilities as long as Charles County is collecting an education impact fee, a school construction excise tax or comparable type of fee or tax.

Section 1904. Sewerage

(a) The proposed development shall be served by an adequate sewerage system.

(b) The sewerage system shall be considered adequate if, taking into account demands on the system generated or projected to be generated by existing connections, buildings under construction that will be connected to the system, buildings unconnected but required by law to connect to the system, buildable approved lots for which building permits have not been issued in active developments served by the system, properties using individual sewerage systems that will be required by law to connect to the system on completion of a capital project then under construction for which funding has been authorized, rights-of-way acquisition completed, construction plans completed, other buildable approved lots (adjusted for degree of inactivity), and other proposed developments to be served by the system for which final plats have been approved:

(i) Lateral systems to serve the proposed development are designed to accommodate expected ultimate peak flows from the development;

(ii) Interceptors to serve the proposed development have sufficient available capacity to accommodate ultimate peak gravity flows from the development with adjustment for pump flows where applicable;

(iii) Pumping stations and force mains in the service area have sufficient available capacity to accommodate expected ultimate peak flows from the proposed development; and

(iv) The Indian Head treatment plant has sufficient available capacity to accommodate expected peak flows from the proposed development for the hydraulic system and average daily flows from the proposed development for the treatment process.

(c) The Town's sewerage system is also considered adequate if there is compliance with paragraph (b) (i) of this Section, the Town has awarded a contract for the construction or improvement of the facilities necessary to comply with requirements of subsections (b)(ii), (iii), and (iv) of this Section, and the facilities will be available for use before the issuance of the first building permit for the development.

(d) The calculations required by subsection (b) of this Section shall be based on criteria specified in the most current version of the Charles County Water and Sewer Ordinance and Town Design Manual.

(e) All future developments shall comply with the provisions and intent of the Comprehensive Water and Sewerage Plan of Charles County, the Charles County Standard Specifications for Water and Sewerage Construction, the Town's Design Manual and other applicable regulations of the Town of Indian Head. The owner, developer, or other applicants for a building permit shall present evidence that the proposed method of sewerage disposal is consistent with said plans and directives.

(f) All sewerage systems shall be constructed to established standards as approved by the Maryland Department of the Environment.

Section 1905. Storm drainage

(a) The proposed development shall be served by an adequate storm drainage system.

(b) A storm drainage system shall be considered adequate if:

(i) The on-site drainage system installed by the developer will be capable of conveying, through and from the property, the design flow of storm water runoff originating in the development, as determined in accordance with criteria specified in the Town of Indian Head's Storm Water Management Ordinance and Design Manual, in addition to flows from upstream developments for which plats have been recorded and other approved development and undeveloped land upstream in the natural watershed of the proposed development, without resulting in erosion, sedimentation or flooding of the receiving channel and downstream properties; and

(ii) The off-site downstream drainage systems are capable of conveying, to an acceptable outfall, the design flow of storm water runoff originating in the development, as determined in accordance with criteria specified in Indian Head's Storm Water Management Ordinance and Design Manual, in addition to flows from upstream developments for which plats have been recorded and other approved development and undeveloped land upstream within the natural watershed of the proposed development, without resulting in erosion, sedimentation, or flooding of the receiving channel and downstream properties.

(c) A storm drainage system shall be considered adequate if there is compliance with subsection (b)(i) of this Section, the Town has awarded a contract for the construction or improvement of off-site downstream drainage systems necessary, in combination with existing systems, to comply with the standard specified in subsection (b)(ii) of this Section, and the construction or improvement of the off-site downstream drainage system is expected to be completed before the issuance of the first building permit for the development or the developer agrees to undertake the construction or improvement of the off-site downstream drainage systems.

(d) In determining adequacy of a storm drainage system, storm water runoff flows from land for which a plat has not been recorded shall be calculated as if the land was developed according to its existing zoning classification and storm water management techniques, as

may be required by Storm Water Management Ordinance, have been utilized. Storm water runoff flows from other lands shall be calculated on the basis of whether or not storm water management techniques have been utilized.

Section 1906. Water

(a) The proposed development shall be served by an adequate water supply system.

(b) The Town's water supply system shall be considered adequate if, taking into account demands on the system generated or projected to be generated by existing connections, buildings under construction that will be connected to the system, buildings unconnected but required by law to connect to the system, buildable approved lots for which building permits have not been issued in active developments served by the system, properties using individual water supply systems that will be required by law to connect to the system on completion of a capital project then under construction or for which funding has been authorized, rights-of-way acquisition completed, construction plans completed (adjusted for degree of inactivity), other buildable approved lots (adjusted for degree of inactivity), and other proposed developments to be served by the system for which final plats have been approved:

(i) Source facilities in the service area have sufficient available capacity to provide maximum daily demand to the proposed development in accordance with the Town's hydraulic water supply model. The Town may require the developer to upgrade the model to assure sufficient water supply;

(ii) Storage tanks in the service area have sufficient available capacity to provide peak hour demand in addition to fire flow to the proposed development;

(iii) Local pumping stations to provide water to the proposed developments have sufficient available capacity to provide maximum day demand where storage facilities are available on the discharge side or have sufficient capacity to provide for fire flow where storage facilities are not available on the discharge side; and

(iv) The distribution system is capable of providing normal required pressure and minimum residual pressure to the proposed development under fire flow for the type of development planned.

(c) A public community water supply system shall also be considered adequate if the Town has awarded a contract for the construction or improvement of the facilities necessary to comply with the requirements of subsection (b) of this Section and the facilities will be available for use before the issuance of the first building permit for the development.

(d) The calculations required by subsection (b) of this Section shall be made based on criteria specified in the Charles County Water and Sewer Ordinance and the Town Design Manual.

(e) All future developments shall comply with the provisions and intent of the Comprehensive Water and Sewerage Plan of Charles County, the Charles County Standard Specifications

for Water and Sewerage Construction, the Town Design Manual and the regulations of the Charles County Health Department as approved by the Town. The owner, developer, or other applicants for a building permit shall present evidence that the proposed method of water supply is consistent with said plans and directives.

(f) All central water systems shall be constructed to established standards as approved by the Maryland Department of the Environment.

ARTICLE XX AMENDMENTS

Section 2000. Amendments In General

(a) The Town Council may, from time to time amend, supplement, modify, or repeal the regulations, or district boundaries herein established on its own motion or on petition of the owner(s) or contract purchaser(s) of the property proposed for change.

(b) Any application for a zoning amendment shall contain specific information setting forth the basis for the granting of the request. Any application must disclose the names and addresses of all persons having legal or equitable interest in the property which is the subject of the amendment, including shareholders owning more than five (5) percent of the stock in a corporation that has any interest in land involved in the application, excepting those corporations which are listed and regularly traded on a recognized stock exchange.

Section 2001. Initiation of Amendments

(a) Any owner or contract owner wishing to amend, supplement, modify, or repeal any portion of this Chapter shall file a Zoning Amendment Petition with the Zoning Administrator in such form and accompanied by such information as may be required by the Zoning Administrator.

(b) Upon determination by the Zoning Administrator that the application is complete, the application shall be promptly submitted for comment and review to appropriate Town, County, and State departments and agencies. Upon completion of such administrative review (to be completed within sixty (60) days from submission by the Zoning Administrator), the application shall be submitted to the Planning Commission.

Section 2002. Planning Commission Consideration of Proposed Amendments

(a) The Planning Commission shall consider the application and shall conduct a public hearing regarding the application. The public hearing shall be conducted as follows:

(i) The applicant shall be given ample time to present his case to the Planning Commission. In so doing the applicant may call on expert witnesses to support the request.

(ii) The Zoning Administrator shall present a staff report representing a review of the application by the Zoning Administrator. The staff report shall include, without

limitation, an assessment of the impact of the proposed amendment on the following matters: population change, availability of public facilities, present and future transportation patterns, compatibility with existing and proposed development for the area, the relationship of such proposed amendment to the Town of Indian Head Comprehensive Plan, and a recommendation for approval or denial of the proposed amendment.

(iii) The Planning Commission shall ask such questions of either the applicant, any witnesses, or the staff as may be necessary in deciding its approval or denial of the application.

(iv) The public shall be given an opportunity to testify or ask questions of the applicant, his witnesses, or the planning staff. The Planning Commission may in turn question those testifying and may place a reasonable time limit for such testimony.

(b) Within sixty (60) days from the Planning Commission's final hearing on the application, the Planning Commission shall transmit the application to the Town Council together with its recommendations for approval or disapproval. The Planning Commission shall concurrently transmit this information to the applicant.

(c) After the Planning Commission makes its formal recommendation on the application, the Town Council shall hold a public hearing on the application.

Section 2003. Hearing Required; Notice

(a) All public hearings shall be conducted in accordance with Section 4-203(b) of the Land Use Article of the Annotated Code of Maryland. Specifically, the following procedures shall apply:

(i) The Town shall provide for the manner in which such regulations and restrictions and the boundaries of such districts shall be determined, established, and enforced, and from time to time amended, supplemented, modified or repealed. However, a regulation, restriction, or boundary may not become effective until ten (10) days after at least one (1) public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard.

(ii) Notice of the time and place of the public hearing, together with a summary of the proposed regulation, restriction, or boundary, shall be published in at least one (1) newspaper of general circulation in Indian Head once each week for two (2) successive weeks, with the first such publication of notice appearing at least 14 days prior to the hearing.

Section 2004. Town Council Action on Amendments

(a) Before approving or disapproving any application for amendment, the Town shall hold at least one (1) public hearing in relation to the application, at which parties in interest and citizens shall have an opportunity to be heard.

(b) The Town Council shall hold a public hearing within sixty (60) days after receipt of the Planning Commission's recommendation. Subject to Section 2003(a)(ii), at least fifteen (15) days' notice of the time and place of said hearing shall be published in an official newspaper of general circulation in the Town.

(c) Prior to holding the public hearing, the property in question shall be posted and all property owners within 200 feet of subject property shall be notified by the applicant by registered or certified mail at the last known address as reflected on the tax records.

(d) The Town Council, upon the zoning or rezoning of any land or lands, may impose such additional restrictions, conditions, or limitations as may be deemed appropriate to preserve, improve, or protect the general character and design of the lands and improvements, and may, upon the zoning and rezoning of any land or lands, retain or reserve the power and authority to approve or disapprove the design of buildings, construction, landscaping, or other improvements, alterations, and changes made or to be made on the subject land or lands to assure conformity with the intent and purpose of the Land Use Article of the Annotated Code of Maryland, and the Town of Indian Head Comprehensive Plan and this Chapter.

(e) In reaching a decision on zoning district reclassification amendments, the Town Council shall make findings of fact in each specific case including, but not limited to, the following matters: population change, adequacy of public facilities, present and future transportation patterns, compatibility with existing and proposed development for the area, the recommendations of the Planning Commission, relation to the Comprehensive Plan, fiscal impact upon Town government, and the suitability of the property in question for the uses permitted under the existing and proposed zoning classifications; and may grant the amendment based upon a finding that there was a substantial change in the character of the neighborhood where the property is located or that there was a mistake in the existing zoning classification. It shall be the responsibility of the applicant to delineate the boundaries of the neighborhood and to identify the change in the character of the neighborhood, or to demonstrate the mistake in the existing zoning classification.

(f) An application for reclassification shall not be accepted for filing by the Zoning Administrator if the application is for the reclassification of the whole or any part of land which has been denied by the Town Council until twelve (12) months from the date of denial.

(g) The record in all zoning cases shall include the application, all documents or communications submitted regarding the application, the recorded testimony received at the hearing, any reports or communications to or from any public officials or agency concerning the application, and the final decision of the Town Council. The record shall be open to public inspection and shall be maintained in the Office of the Zoning Administrator. The burden of proof for any zoning change shall be upon the applicant.

Section 2005. Amendments for Floating Zones

(a) The provisions of this Article regarding the procedures and requirements of public hearings and findings of fact to be made regarding applications (see Section 2004(e)) shall also apply to requests for floating zone designation except that it shall not be necessary to prove change in the character of the neighborhood or mistake in the original zoning of the property in order to gain approval. In floating zones the test for approval or denial shall be compatibility with the neighborhood and consistency with the comprehensive plan.

(b) Procedures to maintain a floating zone once granted.

(i) Within one year of the granting of a floating zone, application for building permits must be filed with requisite fees paid; otherwise, such zoning shall revert automatically to its prior district classification without notice and public hearing.

(ii) Within one year of the issuance of a building permit, construction shall be commenced on the land so zoned; otherwise, such zoning shall revert automatically to its prior district classification without notice and public hearing.

(iii) Within three years of the granting of a floating zone, 75 percent of the public improvements devoted to such use or uses as may be permitted in the zoning district shall be completed; otherwise, the zoning shall revert automatically to its prior district classification. The property owners have the ability to petition the Town Council for an extension.

Section 2006. Amendment Procedure within the Critical Area District

Amendment Procedure within the Critical Area District shall be as set forth in Article IX, and with the provisions of Article XX.

APPENDIX A BASIC INFORMATION REQUIRED WITH ZONING AND BUILDING PERMIT APPLICATIONS

NOTE: All plats and plans must be clear and legible. Incomplete plats will be returned to the applicant for completion and re-submission.

		DEVELOPMENT STAGE				
					Major Site Plan	
Item#	DESCRIPTION	Sketch/ Concept Plan	Minor Site Plan	General Develop. Plan	Prelim.	Final
I.	PROJECT-PLAT INFORMATION					
1.	Name, address of owner, applicant, developer and lienholder, date of application.	X	X	X	X	X
2.	Name and address of engineer, land surveyor architect, planner, and/or landscape architect, as applicable, involved in document preparation.	X	X	X	X	X
3.	Date of survey.		X		X	X
4.	Seal, signature and license number of engineer, land surveyor, architect, and/or landscape architect, as applicable involved in document preparation. Each sheet must have a surveyor's seal.		X		X	X
5.	Title block denoting name and type of application, tax map sheet, block and lots, parcel, and street location.	X	X	X	X	X
6.	A vicinity map at a specified scale (no smaller than 1"=200') showing location of the tract with reference to surrounding properties, streets, landmarks, streams, etc. Show all of the property owned according to the Tax Map(s) if only part of the property is to be developed.	X	X	X	X	X
7.	Existing and proposed zoning of tract and adjacent property.	X	X	X	X	X
8.	Adjacent property owners, names, Liber and Folio.	X	X	X	X	X
9.	Title, north arrow and scale (1"=100').		X		X	X
10.	Appropriate signature block for planning director, planning commission chairman, and the health department.		X		X	X
11.	Appropriate certification blocks.		X			X
12.	Certification and dedication by the owner or owners to the effect that the subdivision as shown on the final plat is made with his or her consent and that it is desired to record same.		X			X
13.	Monumentation, location and description.		X			X
14.	Standardized sheets 18"x24" (final - black ink on mylar).		X		X	X
15.	Metes and bounds survey showing dimensions, bearings, curve, data, length of tangents, radii, arc, chords, and central angles for all centerlines and rights-of-way, and centerline curves on streets, datum and benchmark, primary central points approved by the Town Engineer. (Boundary of proposed subdivision can be a deed plot).		X		X	X
16.	Acreage of tract to the nearest thousandth of an acre.	X	X	X	X	X
17.	Date of original and all revisions.	X	X	X	X	X
18.	Size and location of any existing or proposed structures with all setbacks dimensioned (for concept plan, GDP general location but not setbacks). Include storm drains, culverts, retaining walls, fences, stormwater management facilities, sediment and erosion structures.	X	X	X	X	X
19.	Number of dwelling units.	X	X	X	X	X

		DEVELOPMENT STAGE				
					Major Site Plan	
Item#	DESCRIPTION	Sketch/ Concept Plan	Minor Site Plan	General Develop. Plan	Prelim.	Final
20.	Location, dimensions, bearings, names of any existing or proposed roads or streets. The location of pedestrian ways, driveways. Right of way widths. (for GDP, concept plans, general locations).	X	X	X	X	X
21.	All proposed lot lines (width and depth) and area of lots in square feet, number of lots, lot numbers.		X		X	X
22.	Location and type of utilities.		X		X	
23.	Copy and/or delineation of any existing or proposed deed restrictions or covenants.		X		X	
24.	References to protective covenants governing the maintenance of undedicated public spaces or reservations.		X			X
25.	Location and size of proposed Natural Park areas, play grounds and other public areas.	X		X	X	X
26.	Any existing or proposed easement (drainage and utility) or land reserved for or dedicated to public use*. Location, dimensions of proposed reservations, right of ways, open space, buffers, forested areas along with means by which these areas will be permanently maintained.	X	X	X	X	X
27.	Statement of owner dedicating streets, right-of-way, and any sites for public use.		X			X
28.	Development stages or phasing plans (for GDP and concept plans, general phasing). Sections numbered by phase.	X		X		
29.	Total number of off-street parking spaces including ratio and number of units per space.	X	X	X	X	
30.	List of required regulatory approvals/permits.	X	X	X	X	X
31.	List of variances required or requested.	X	X	X	X	X
32.	Requested or obtained design waivers or exceptions.	X	X	X	X	X
33.	Payment of application fees.	X	X	X	X	X
34.	Total area of the site that will be temporarily and/or permanently disturbed.		X		X	
II.	SETTING-ENVIRONMENTAL INFORMATION					
35.	All existing streets, water courses, flood plains wetlands, or other environmentally sensitive areas on or adjacent to the site.	X	X	X	X	
36.	Existing rights-of-way and/or easements on or immediately adjacent to the tract.	X	X	X	X	X
37.	Topographical features of subject property from USGS map or more accurate source at 2'-5' intervals, 50' beyond the boundary, with source stated on maps.	X		X	X	
38.	Field delineated or survey topo.		X			X
39.	General areas of >15% slope shaded and identified as steep slopes.	X	X	X		
40.	Slope analysis of >15% slopes. These areas shall be shaded and identified as steep slopes.				X	X
41.	Forest Stand Delineation (See Forest Resource Ordinance).		X		X	
42.	Existing system of drainage of subject site and adjacent sites and of any larger tract or basin of which it is a part.		X		X	X
43.	A 100 Year Flood Plain based on FEMA maps.	X	X	X	X	X

44.	Tidal and non-tidal wetland delineation based on NWI maps and	X	X	X	X	

		DEVELOPMENT STAGE				
					Major Site Plan	
Item#	DESCRIPTION	Sketch/ Concept Plan	Minor Site Plan	General Develop. Plan	Prelim.	Final
	field review.					
45.	Non-tidal wetlands identification based on field delineation/determination.					X
46.	Location of sensitive areas and their Buffers (Zoning Ordinance).	X	X	X	X	X
47.	Location and width of Bufferyards.	X	X	X	X	X
48.	Soil types based on Charles County Soil Survey.		X		X	
49.	Traffic Impact Study, as required.				X	
50.	Statement of effect on school district and school bus service, as required.				X	
The following additional information items are required in the areas designated Critical Areas						
51.	Location of the Critical Area District boundary and Critical Area designation.	X	X	X	X	X
52.	Number of acres in the Critical Area.	X	X	X	X	
53.	Mean high waterline and landward edge of tidal wetlands.	X	X	X	X	
54.	Location of existing forested areas to be disturbed by construction. Planting plan approved by the Maryland Forest Service (final).	X	X	X	X	
55.	The known locations of HPA's, the habitat of any threatened or endangered species, and the habitat of any Species in Need of Conservation (see Chesapeake City Critical Area Program). Habitat Protection Plan reviewed by the Maryland Fish, Heritage and Wildlife Administration.	X	X	X	X	X
56.	The location of the Critical Area Buffer and the expanded Buffer, as required.	X	X	X	X	X
57.	Hydric and highly erodible soils based on the Charles County Soil Survey.	X	X	X	X	
58.	Natural Park management plan, if applicable.					X
59.	Shore erosion protection plan, Buffer Management Plan, if applicable					X
60.	Environmental assessment.		X	X	X	
61.	Statement of consistency with the Critical Area Program.	X	X	X	X	
III.	PLATS, IMPROVEMENT PLANS, AND CONSTRUCTION INFORMATION					
62.	Subdivision Plat meeting requirements of the Town of Indian Head Subdivision Regulations.		X			X
63.	Grading and drainage plans including roads, drainage ditches, sediment basins, and berms.		X		X	X
64.	Existing and proposed contour intervals as follows:		X		X	X
	Less than 5% slope = 1 foot					
	5 to 15% slopes = 2 feet or less					
	>15% = as required for construction					
65.	Proposed street grades, typical cross sections and profiles, right-of-way widths, pedestrian ways, total area of roads.		X		X	X

66.	Existing and proposed utility infrastructure plans and profiles including sanitary sewer, water, storm drainage and stormwater management, as appropriate in the case of minor subdivisions.		X		X	X

		DEVELOPMENT STAGE				
					Major Site Plan	
Item#	DESCRIPTION	Sketch/ Concept Plan	Minor Site Plan	General Develop. Plan	Prelim.	Final
67.	Grades and sizes of sanitary sewers and waterlines.		X		X	X
68.	Direction and distance to water and sewer if not available on or adjacent to the site with invert and elevation of sewer.		X		X	
69.	Certification from electric and telephone utilities of adequate facilities to serve proposed development.		X		X	
70.	Location of fire hydrants.				X	X
71.	Construction details as required.		X			X
72.	Stormwater Management Plan.		X		X	X
73.	Soil Erosion and Sediment Control Plan.		X		X	X
74.	Lighting plan and details, as required.					X
75.	Landscape plan and details, including required Bufferyards.		X		X	X
76.	Forest Conservation Plan.				X	X
77.	Proposed street names.				X	X
78.	New block and lot numbers.				X	X
79.	Solid waste management plan.				X	X
80.	Preliminary architectural plan and elevations.				X	X
81.	Required County, State, and/or Federal or approvals, e.g., State Highway Administration, County Public Works, Army CORPS of Engineers, DNR Wetlands Permit/License, MDOE Quality Certification, MDOE sanitary construction permit, local Health Department approvals.		X			X
82.	Public works agreement and surety instruments.					X

Notes:
X = item required at indicated development stage

Appendix B Specifications on Driveway Entrances

The Town has incorporated by reference the driveway specifications set forth in the County Road Ordinance.

Appendix C Specifications for Street Design and Construction

The Town incorporates by reference the specifications for street design and construction in the County Road Ordinance.

Appendix D Vehicle Accommodation Area Surfaces

The Town incorporates by reference the specifications for Vehicle Accommodation Area Surfaces in the County Road Ordinance.

APPENDIX E GUIDE FOR LANDSCAPING

E-1: Guide for Protecting Existing Trees

Article XVIII provides for the retention and protection of large trees when land is developed. To better ensure the survival of existing trees, the developer should heed the following guidelines (in addition to the mandatory requirements of Article XVIII):

(a) Protect trees with fencing and armoring during the entire construction period. The fence should enclose an area 10 feet square with the tree at the center.

(b) Avoid compaction of the soil around existing trees due to heavy equipment. Do not pile dirt or other materials beneath the crown of the tree.

(c) Keep fires or other sources of extreme heat well clear of existing trees.

(d) Repair damaged roots and branches immediately. Exposed roots should be covered with topsoil. Severed limbs and roots should be painted. Wherever roots are destroyed, a proportional amount of branches must be pruned so the tree doesn't transpire more water than it takes in. Injured trees must be thoroughly watered during the ensuing growing year.

(e) Prune all existing trees that will be surrounded by paving to prevent dehydration.

E-2: Standards for Street and Parking Lot Trees

Trees planted in compliance with the requirements of Article XVIII shall have most or all of the following qualities. The trees recommended in Section E-10 represent the best combinations of these characteristics.

(a) Hardiness
- (i) Resistance to extreme temperatures.
- (ii) Resistance to drought.
- (iii) Resistance to storm damage.
- (iv) Resistance to air pollution.
- (v) Ability to survive physical damage from human activity.

(b) Life Cycle
- (i) Moderate to rapid rate of growth.
- (ii) Long life.

(c) Foliage and Branching
- (i) Tendency to branch high above the ground.
- (ii) Wide spreading habit.

(iii) Relatively dense foliage for maximum shading.

(d) Maintenance

(i) Resistance to pests.
(ii) Resistance to plant diseases.
(iii) Little or no pruning requirements.
(iv) No significant litter problems.

E-3: Formula for Calculating 20 Percent Shading of Vehicle Accommodation Areas

The following is an elementary formula for determining the number of shade trees required in and around paved parking lots in order to presumptively satisfy the shading requirements of Article XVIII.

Including parking spaces, driveways, loading areas, sidewalks, and other circulation areas and not including building area or any area which will remain completely undeveloped, calculate square footage of the vehicle accommodation area:

			sq.ft.
(1)	Multiply	x.20	
(2)	Area to be shaded =		sq.ft.
Add:			
(3)	Area shaded by existing trees to be retained in and around the vehicle accommodation area:*		sq.ft.
(4)	Area shaded by required screening trees, if any:*		sq.ft.
(5)	Area shaded by required street trees, if any:*		sq.ft.
(6)	Subtotal =		sq.ft.
	(If line (7) is greater than line (3), then the shading requirement has been met. If not, go to line (8).)		
(7)	Enter the difference between line (7) and line (3):		sq.ft.
(8)	Divide line (8):	/707	
(9)	Total number of shade trees required within the vehicle		
(10)	accommodation area =		trees

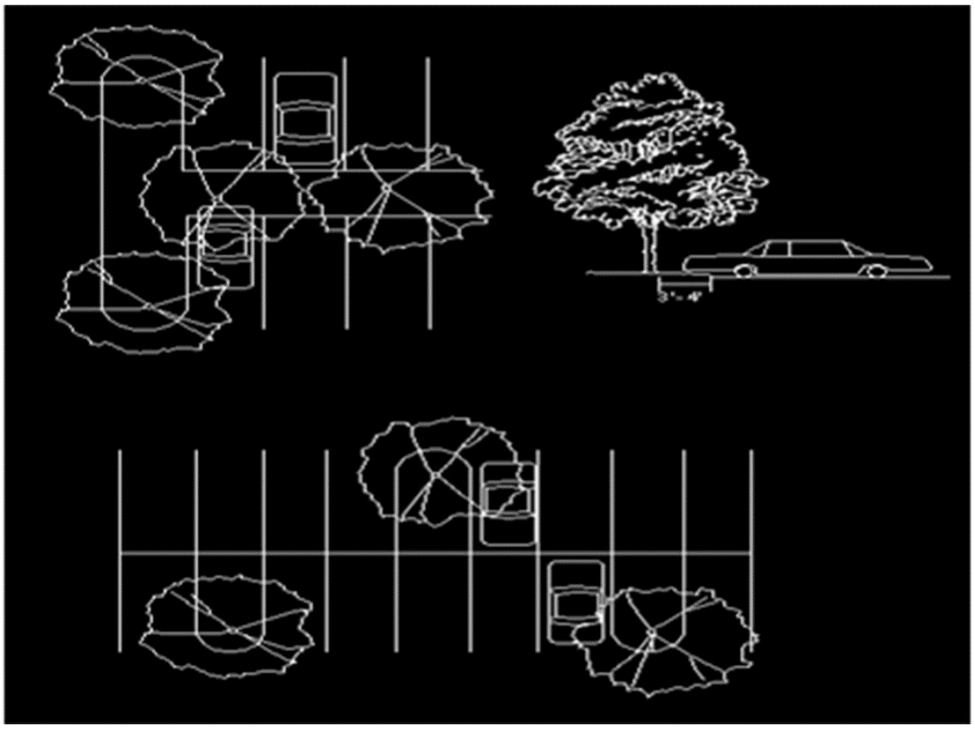
*Existing trees retained in compliance with Article XVIII will be credited according to their actual crown radius. Shaded area may be calculated as follows:

3.14 x (crown radius)^2=shaded area.

Trees planted within the vehicle accommodation area are credited with shading 707

square feet (based on a crown radius of 15 feet). New or existing trees on the perimeter of the parking lot are credited for having only half a crown over the vehicle accommodation area (e.g., new perimeter trees will be credited for shading 354 square feet). Generally, all trees planted in compliance with the screening requirements of Article XVIII, Part I, and the street tree requirements of Article XVIII will be considered perimeter trees. When smaller trees such as Dogwoods are planted, the credited shading area will be adjusted downward to 314 square feet for interior trees and 157 square feet for perimeter trees. (Based on a crown radius of 10 feet.)

E-4: Typical Parking Lot Planting Islands



E-5: Guide for Planting Trees

The trees recommended in Section E-10 have minimal maintenance requirements. However, all trees must receive a certain degree of care, especially during and immediately after planting. To protect an investment in new trees, the developer should ensure that the following guidelines are followed when planting:

Selection. Select trees well adapted to the microclimates of individual planting sites. A poor tree match dooms the tree from the start no matter how much care is taken in planting.

Planting Times. The best times for planting are early spring and early fall. Trees planted

in the summer run the risk of dehydration.

Drainage. Prior to planting, test soil drainage. If water does not drain out of a sample planting hole within a few hours, consider installing drainage in the bottom of the hole to drain away excess water. Also consider raising or berming the planting site, or adding several inches of good quality topsoil in the planting hole and the surrounding area, but do not simply amend the soil in the planting hole - water movement will be detrimentally altered. If none of the above is possible, select a more water tolerant tree species (red maple, sycamore, bald cypress, willow oak river birch, etc. - avoid trees like dogwoods that don't like "wet feet").

The Planting Hole. The planting hole that is dug should be wide and shallow. A flat, pancake-shaped hole that approximates the shallow, horizontal root growth that the tree will produce is recommended. In average soil, dig the hole only as deep as the root ball, and in heavy clay soil, to enhance drainage, dig the hole an inch or two shallow. Loose soil should not be put beneath the root ball in order to avoid having the tree end up plantedtoo deep as the soil beneath it settles or compacts. The exposed top of the ball can be covered with mulch. Whenever possible, hole walls should gradually taper up to grade, rather than being straight, to more closely approximate where root growth will occur.

Soil Additives. Adding water-absorbing polymers (hydrogels, super slupers, etc.) to the backfill soil has not proven beneficial in the majority of the landscape research that has been conducted with regard to tree planting. The same is true to adding organic amendments (peat moss, compost, etc.). In general the only substitute for backfilling with the existing soil, unamended, is backfilling with better quality topsoil.

Planting Near Sidewalks, Driveways, and Other Areas. Plant all trees at least 3 1/2 feet from the end of head-in parking spaces to prevent damage from car overhangs. When planting near sidewalks, driveways and other areas where tree root surfacing can cause damage or be a maintenance problem, consider installing one of the physical root redirecting barriers being marketed, or try the herbicide treated landscape fabric now available for this purpose (Biobarrier). No long term research has yet been published on the use of these tree redirecting materials, so their long term effect on trees is not yet known.

Balled and Burlapped Trees. When planting balled and burlapped trees, closely inspect the material used to wrap the root ball. Many synthetic materials (nylons, etc.) are being used, as well as burlaps treated to retard their degradation. When in doubt as to whether or not these materials will degrade underground, do not leave them intact. Remove the pinning nails or lacing, and roll back the top several inches. Make vertical slits in several places around the ball. You do not want a wrapping material that won't degrade to restrict root growth.

Wire Baskets. Research has shown that the wire baskets used to protect root balls, whether

galvanized or not, are degrading only very slowly underground due to low oxygen. No long term root girding or damage has been found, however, so it does not appear that the baskets need to be removed. If the top loops of the wire basket will be at ground level or slightly above, it will be advisable to remove this section to keep equipment from hanging up in the loops.

Ropes. Be sure to remove all ropes, whether jute or nylon, that have been tied around the trunk. Again, degradation is slow or nonexistent, resulting in trunks being girded.

Containers. Be sure to remove all plastic containers from the root balls of container- grown or containerized trees. If trees have been grown or potted into fiber pots, break away the top several inches of the fiber pot. Many fiber pots are being coated with extra materials to extend their shelf life, but this can slow degradation below ground and retard root extension.

Root Care in Container Plants. When a container is removed, if roots are found circling around the outside of the root ball, cut them in a few places to remove the possibility of the curling root eventually girding the trunk. Select trees grown in pots with vertical ribs rather than ones with straight walls or horizontal ribs as the vertical ribs help reduce root circling.

Fertilizer. Fertilizer can be added to the backfill if it is a slow release form - Osmocote, Woodace briquettes, tree spikes, etc. The caution in the past against adding fertilizers at planting time was a result of not having slow release fertilizers available
- agronomic fertilizers that were and still can be used in landscaping have the potential to burn, and should not be added.

Watering. Good follow-up watering is important to help establish a tree's root system. Several water reservoir devices are available, but may be too expensive or cumbersome to justify using.

Mulching. Trees should be mulched, but not over mulched, when planted. Two or three inches of organic mulches, such as shredded or chunk pine bark, or inorganic mulches, such as volcanic rock, is adequate. Keep mulches from touching the trunks of trees. With organic mulches, excessive mulch piled against tree trunks can hold too much moisture against the bark and lead to disease problems. It also may become a habitat for rodents that will feed on the bark. With inorganic mulches, if the tree is in a windy location and the trunk moves considerably, the bark may become abrased by the inorganic mulch.

Landscape Fabrics for Weed Control. The use of black plastic beneath mulch around trees is not recommended because air and water exchange is blocked. For added weed control try one of the landscape fabrics that has proven more weed root penetration resistant (Dalen's Weed-X, DeWitt's Pro 5, Weed Barrier, etc.) but do not pile too much mulch (not over two inches) atop the fabric or weeds will simply grow in the mulch layer.

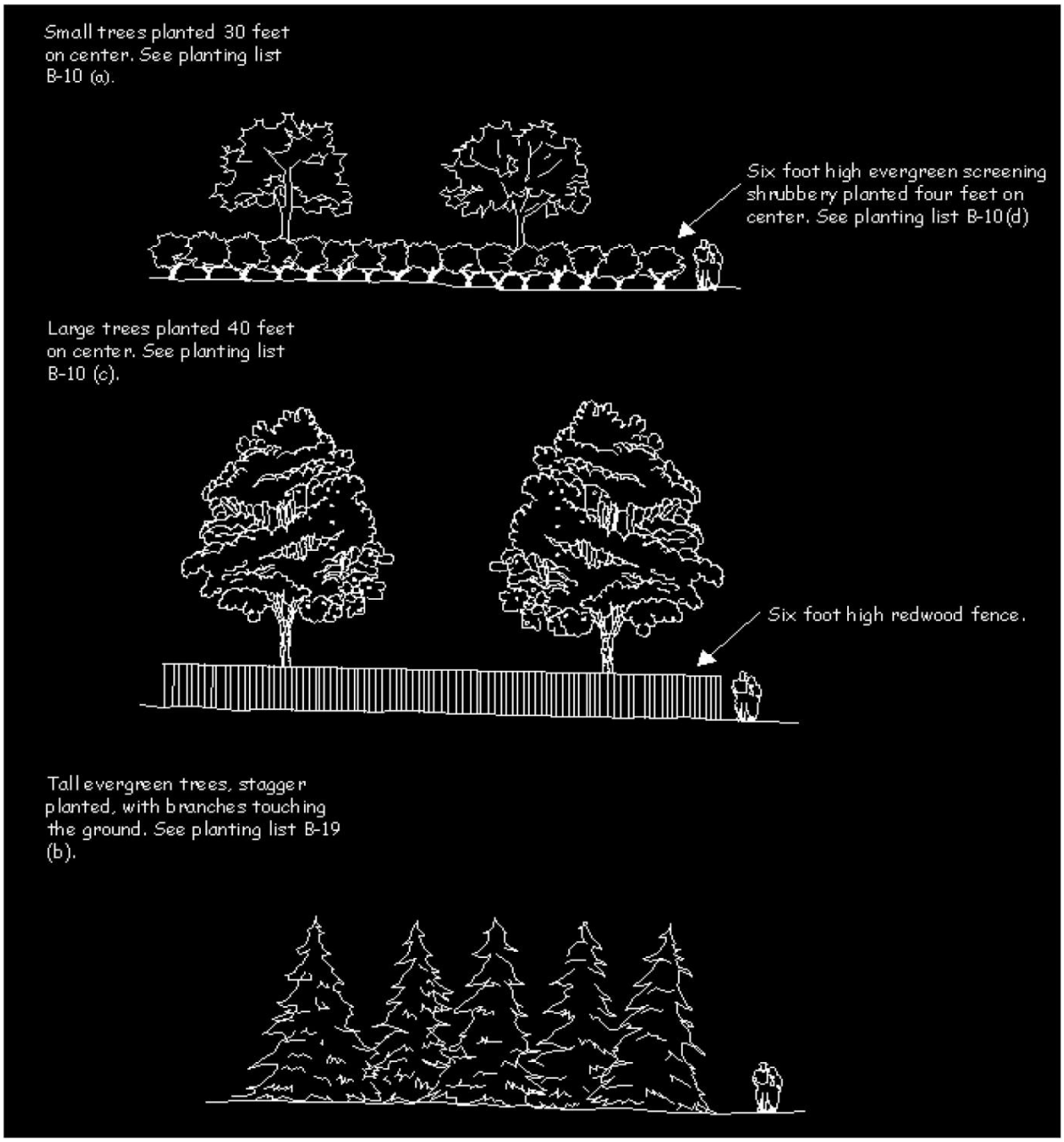
Tree Staking. Don't automatically stake all trees, especially small ones. If a tree is in a windy location, or has a crown, stake for a maximum of one year. Try to stake so that the tree has a slight amount of flex rather than being held rigidly in place. Use guying or attaching material that will not damage the bark. If the stakes are to be left in place longer than one year to serve as a barrier against equipment, be sure to remove the guying to prevent trunk girding. A variety of protective devices are available for trunk protection if that is an important consideration.

Tree Wraps. The use of tree wraps and other protection materials that are applied directly to the trunk is currently under investigation. If a material is applied (paper, fabric, burlap, strips, etc.), remove it after one year. If materials are wrapped onto the trunk, wrap from the base of the tree upward so that water is shed off the wrap, not funneled under it.

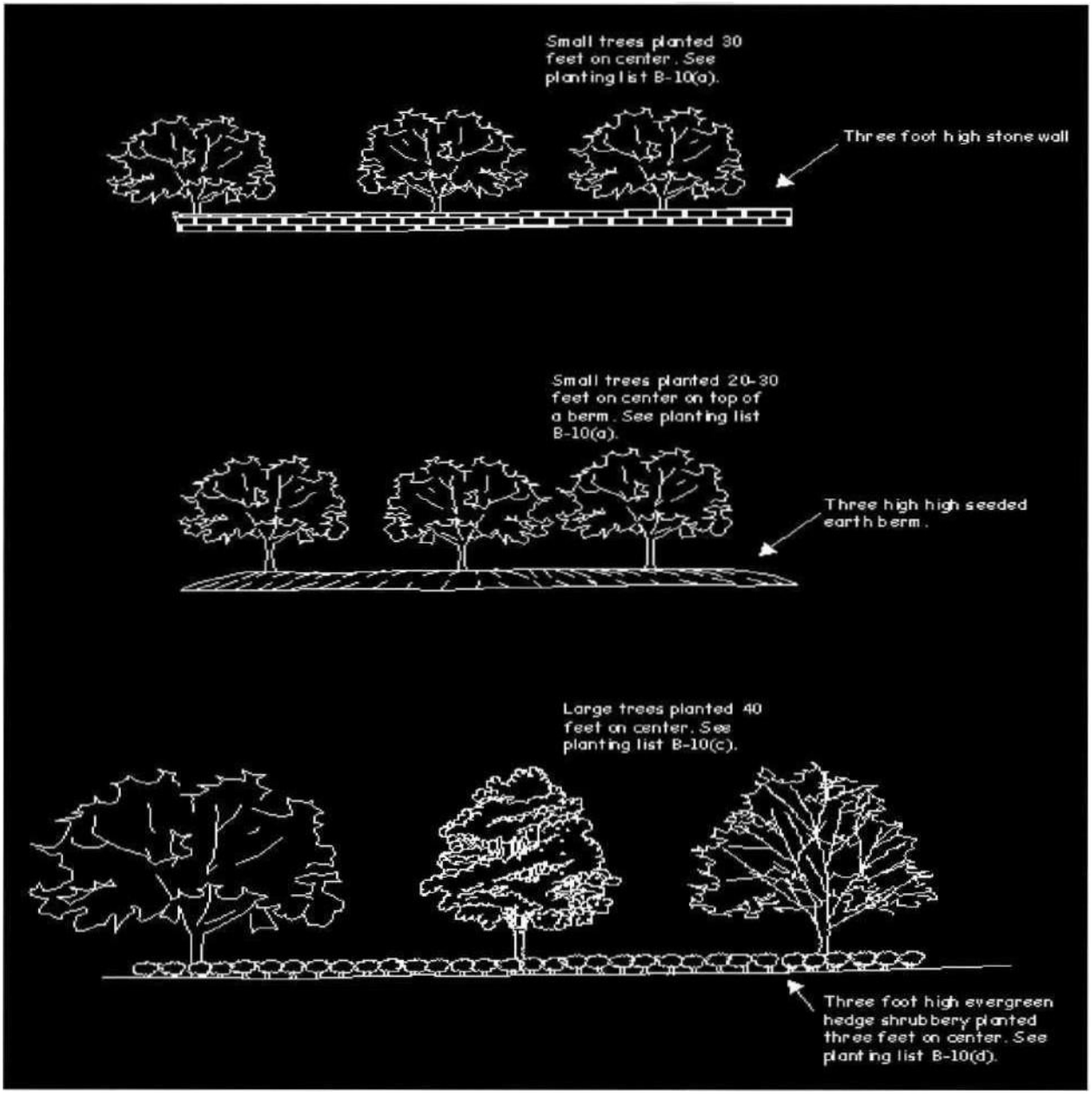
Tags and Labels. Remove tags and labels from the trees to prevent them from girding the trunk.

Post-planting Care. Conscientious post-planting care, especially watering, structural pruning and fertilizing, is a must for street and parking lot trees.

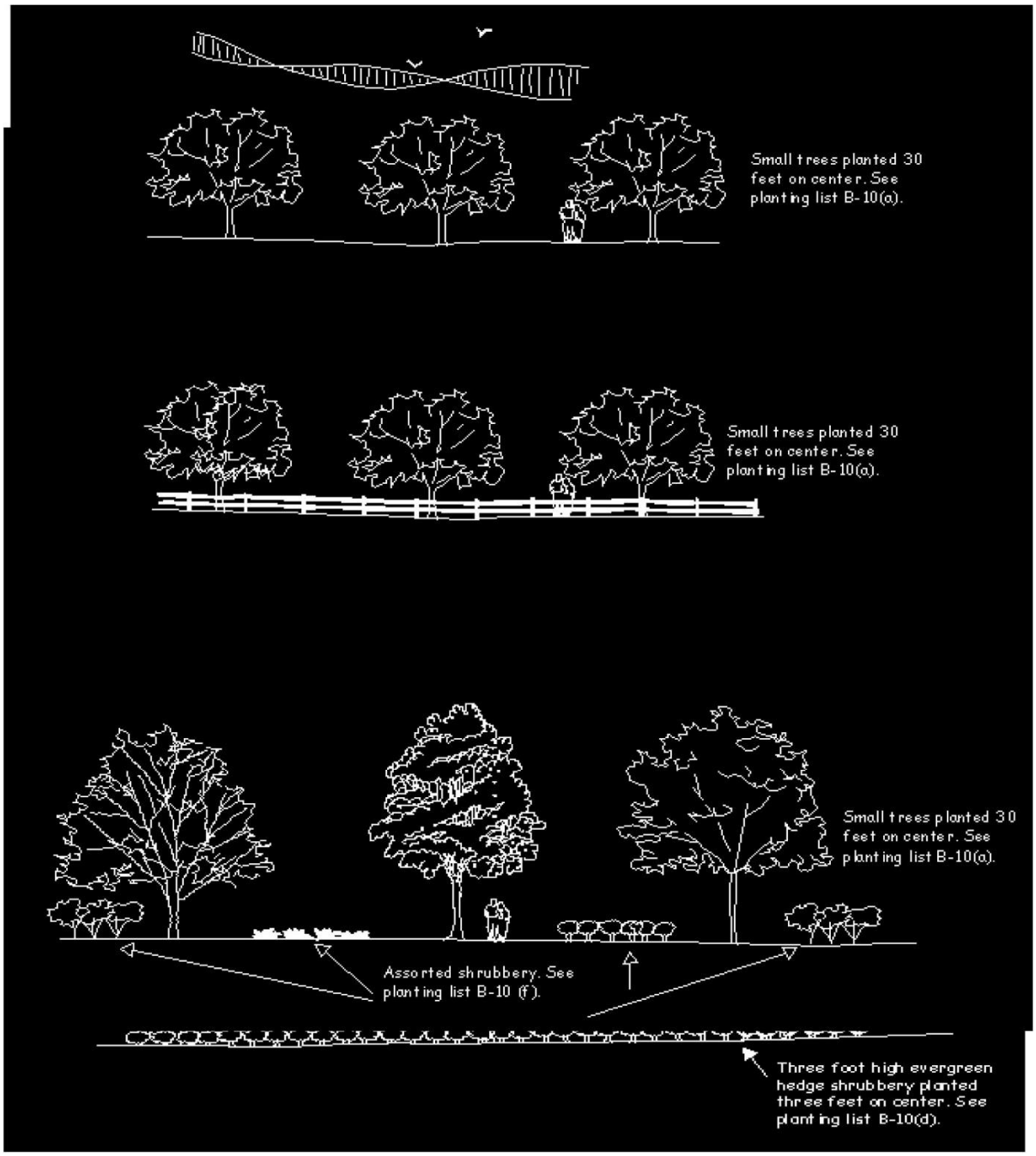
E-6: Typical Opaque Screens



E-7: Typical Semi-Opaque Screens



E-8: Typical Broken Screens



E-9: Guide for Planting Shrubs

Shrubs planted for screening purposes should be given a proper culture and sufficient room in which to grow. Many of the guidelines for tree planting listed in Section E-5 also apply to shrubs. However, because specific requirements vary considerably between shrub types, this appendix does not attempt to generalize the needs of all shrubs. For detailed planting information on individual species, refer to:

Manual of Woody Landscape Plants by Michael Dirr

E-10: Lists of Recommended Trees and Shrubs

The following lists indicate plantings which will meet the screening and shading requirements of Article XVIII of the development ordinance. The lists are by no means comprehensive and are intended merely to suggest the types of flora which would be appropriate for screening and shading purposes. Plants were selected for inclusion on these lists according to four principal criteria; (i) general suitability for the climate and soil conditions of this area, (ii) ease of maintenance, (iii) tolerance of urban conditions, and (iv) availability from area nurseries. When selecting new plantings for a particular site, a developer should first consider the types of plants which are thriving on or near that site. However, if an introduced species has proven highly effective for screening or shading in this area, it too may be a proper selection.

Sections E-11 through E-16 contain descriptions of some of the trees and shrubs listed here.

(a) Small Trees for Partial Screening
    (1) River Birch
    (2) American Hornbeam
    (3) Eastern Redbud
    (4) Flowering Dogwood
    (5) Washington Hawthorne
    (6) Chokeberry
    (7) Mountain Silverbell
    (8) American Holly
    (9) Golden Rain Tree
    (10) Crape Myrtle
    (11) Sourwood
    (12) Caroline Cherry-Laurel
    (13) Serviceberry

(b) Large Trees for Evergreen Screening
    (1) Deodar Cree

(2) Southern Magnolia
(3) Carolina Hemlock

(c) Large Trees for Shading

(1) Littleleaf Linden
(2) Red Maple
(3) Ginkgo
(4) Honeylocust
(5) Sweet Gum
(6) Sycamore
(7) Eastern Red Oak
(8) Willow Oak
(9) Scarlet Oak
(10) Laurel Oak

(d) Small Shrubs for Evergreen Screening

(1) Glossy Abelia
(2) Inkberry
(3) Mountain Laurel
(4) Sheep Laurel
(5) Wax Myrtle
(6) Eastern Teaberry
(7) India Hawthorn
(8) Azaleas/Rhododendrons
(9) Japanese Yew

(e) Large Shrubs for Evergreen Screening

(1) Wax Myrtle
(2) Thorny Elaengus
(3) Burford Holly
(4) Yaupon Holly
(5) Laurel or Sweet Bay
(6) Mountain Laurel
(7) Fortune Tea Olive
(8) Sweetbay Magnolia

(f) Assorted Shrubs for Broken Screens

(1) Spicebush
(2) Fringetree
(3) Winterberry
(4) Vernal Witch Hazel
(5) Common Witch Hazel
(6) Pfitzer Juniper
(7) Drooping Leucothoe
(8) Wax Myrtle
(9) Star Magnolia
(10) Northern Bayberry

E-11: Small Trees for Partial Screening

The following trees are recommended for use in all types of screens. Though smaller than the trees listed in planting lists E-12 and E-13, each of these trees will reach a height of at least 20 feet.

(a) River Birch (Betula nigra). Height 20-40 feet; Spread: 8-16 feet. The River Birch is a native tree which usually grows along stream banks. In landscape design, it is adaptable to either high or low locations, but still requires a lot of moisture. This tree has an interesting papery bark and a graceful branching habitat. It has no special pest or maintenance problems.

(b) American Hornbeam (Carpinus carolinia). Height 20-30 feet; Spread: 15-20 feet. This native tree has a natural yet refined appearance. It is slow growing, but at maturity it serves as an excellent small shade tree. It's fluted muscular trunk is an interesting feature. In the wild, the American Hornbeam is common in moist rich soil, yet, when used in landscape design, it is soil tolerant and does not require an unusual amount of water. It has no pests and no special maintenance problems.

E-12: Large Trees for Evergreen Screening

The following trees are ideal for screening large scale areas such as shopping centers and industrial sites. They are also effective in combination with other smaller screening plants. Both are moderate to fast growers. They are not considered to be shade trees.

(a) Deodar Cedar (Cedrus deodara). Height: 40-150 feet; Spread: 30 feet +. The Deodar Cedar is a useful and attractive evergreen. It should be allowed plenty of room in order to assume it's beautiful natural form. It's pendulous branches should be allowed to touch the ground. It prefers relatively dry soils, grows rapidly, and is easy to maintain. "True Cedars" such as the Deodar are not native to North America, but they have become quite popular in the South as a landscape tree.

(b) Southern Magnolia (Magnolia grandiflora). Height: 40-60 feet; Spread: 25 feet +. Magnolias are striking trees which serve well as screens when their branches are

allowed to grow to the ground. Generally, this tree does well in city conditions, but it should be planted in quite rich acidic soils and it requires a lot of moisture. Furthermore, magnolias require ample space for growth. If planted in full sunlight, they will grow rapidly. Because it drops large waxy leaves, seed pods, and flowers, the magnolia may present a litter problem.

(c) Red Cedar (Juniperus virginiana). Height: 40-50 feet; Spread: 8-20 feet. Red Cedars are excellent wind breakers screeners due to their dense pyramid shape. The tree does well in well in alkaline, loamy, moist, rich, sandy, silty loam, well-drained, and clay soils. This tree should be planted in area of full sunlight and does best in open spaces, but it should not be planted near apple trees. Red cedars can tolerate heat, wind, and salt, and develop deep roots.

E-13: Large Trees for Shading

The following trees may be used for screening, but they are recommended especially for shading streets and parking lots. Unless otherwise noted, they will grow rapidly. Each species will attain a mature spread of at least 30 feet.

(a) Red Maple (Acer rubrum). Height: 40-50 feet; Spread 25 feet +. This tree is an example of a maple which is not recommended where there will be high concentrations of air pollution. However, with its excellent shading characteristics and beautiful colors, it should not be ignored. This tree grows rapidly, but, unlike the Norway Maple, it does not become brittle with age. The Red Maple is a native tree which is usually found in moist, even swampy areas, but it adapts well to a variety of situations. Although subject to maple insects and diseases, it is usually a long-lived tree.

(b) Honeylocust (Gleditisia triacanthos). Height: 50-75 feet; Spread: 25 feet +. It's open, spreading form and feathery leaves may give the Honeylocust a frail appearance, but it is fact a quite sturdy tree, notable for its resistance to storm damage. It is a native tree which is drought resistant and adaptable to city conditions. Grass and shrubs thrive beneath a Honeylocust because it casts light shade. This tree is especially useful for its ability to be transplanted at a relatively advanced age. Accordingly, it may be used for immediate effect in a landscape design. The Honeylocust has its pests and diseases, but it is fairly hardy. Thornless and fruitless varieties such as "Moraine" are recommended.

E-14: Small Shrubs for Evergreen Screening

The following shrubs are recommended for informal (unclipped) hedges or screens. Each species grows to a height of less than six feet; therefore, these shrubs are appropriate for semi- opaque screens.

(a) Glossy Abelia (Abelia grandiflora). Height: 4-6 feet; Spread: 3-5 feet. Abelia is quite common in local nurseries and tends to be less expensive than other shrubs on this list. It bears pale pink flowers throughout the summer. Although it has proven quite popular for informal hedges, it has several drawbacks. Abelia should be pruned and thinned to maintain its best form. It may drop its leaves due to low temperatures, lack of pruning, or starvation.

(b) Inkberry (Ilex glabra). Height: 5-8 feet; Spread: 5-8 feet. The inkberry prefers rich, consistently moist, acidic soils in full sun, but it can tolerate medium to wet soils and part shade. Even though this plant is adaptable to both light and heavy soils, avoid neutral to alkaline soils.

E-15: Large Shrubs for Evergreen Screening

The following shrubs are recommended for high hedges or screens. Each species grows to a height of more than six feet; therefore, these shrubs are appropriate for opaque screens.

(a) Sweetbay Magnolia (Magnolia virginiana). Height: 10-20 feet; Spread: 10-20 feet. This shrub grows at a medium to fast rate in full sun to partial shade. It prefers moist, acidic soils, but it can tolerate periodic flooding. It grows in a columnar or vase shape, and the clusters of fruit and lemon aromatic scent attracts birds.

(b) Thorny Elaengus (Elaengus pungens). Height: 8-10 feet; Spread: 6-10 feet. This shrub tolerates many adverse conditions. It will grow rapidly in relatively infertile, dry soils. Its dense thorny branches form an excellent natural hedge. It is one of the most common evergreen shrubs in the south.

E-16: Assorted Shrubs for Broken Screens

The following is a sampling of shrubbery that would be appropriate in a broken screen. Because many of these plants are deciduous, they are not suitable for opaque and semi-opaque screens. (Note: Many of the evergreen shrubs described in planting lists B-14 and B-15 are also suitable for broken screens).

(a) Spicebush (Lindera benzoin). Height: 6-12 feet; Spread: 6-12 feet. The Spicebush is known for its aromatic flowers and leaves. It likes full sun to part shade and well- drained soils, but it can tolerate full shade and clayey and wet soils. The Spicebush is a low maintenance shrub that attracts birds and butterflies with its beautiful flowers and fall colors.

(b) Fringetree (Chioanthus virginicus). Height: 10-30 feet; Spread: 8-10 feet. The Fringetree is known for its profusion of beautiful flowers. It is considered to be one of the most striking native American shrubs. It is relatively difficult to transplant, but once established it does well in cities as it endures heavy smoke and dust. The mature Fringetree's only drawback is that its leaves appear rather late in spring.

APPENDIX F Bufferyard Requirements

F-1: Bufferyard Specifications

The following illustrations graphically indicate the specification of each bufferyard. Bufferyard requirements are stated in terms of the width of the bufferyard and the number of plant units required per one hundred (100) linear feet of bufferyard. The requirements of a bufferyard may be satisfied by any of the options thereof illustrated. The "plant unit multiplier" is a factor by which the basic number of plant materials required for a given bufferyard is determined given a change in the width of that yard. The type and quantity of plant materials required by each bufferyard option, and each bufferyard option, are specified in this section. Only those plant materials capable of fulfilling the intended function shall satisfy the requirements of this ordinance.

The options within any bufferyard are designed to be equivalent in terms of their effectiveness in eliminating the impact of adjoining uses. Cost equivalence between options was attempted where possible. Generally, the plant materials which are identified as acceptable are determined by the type(s) of soil present on the site. The following instructions have mathematically rounded the number of plant units required for each option within a given bufferyard. In actual practice, mathematical rounding would be applied to the total amount of plant material required by a bufferyard, not to each one hundred (100) foot length of bufferyard. All of the following illustrations are drawn to scale and depict the bufferyard according to the average projected diameter of plant materials at five (5) years after planting.

Whenever a wall, fence, or berm is required within a bufferyard, these are shown as "structure required" in the following illustrations, wherein their respective specifications are also shown. All required structures shall be the responsibility of the higher intensity use. Whenever a wall is required in addition to a berm, the wall shall be located between the berm and the higherintensity use, in order to provide maximum sound absorption.

F-2: Plant Material

The following plant material substitutions shall satisfy the requirements of this section.

(a) In bufferyards C, D, and E evergreen canopy or evergreen understory trees may be substituted for deciduous canopy forest trees without limitation.

(b) In bufferyards A and B evergreen canopy or evergreen understory trees may be substituted as follows:

    (i) In the case of deciduous canopy forest trees, up to a maximum of fifty (50) percent of the total number of deciduous canopy trees otherwise required.

    (ii) In the case of deciduous understory, without limitation.

(c) In all bufferyards, evergreen or conifer shrubs may be substituted for deciduous shrubs without limitation.

(d) In all bufferyards required of public service uses, the public service use may substitute evergreen canopy or evergreen understory plant requirements for canopy forest trees and understory plant materials, without limitation.

If the development on the adjoining use is existing, planned, or deed-restricted for solar access, understory trees may be substituted for canopy trees where canopy trees would destroy solar access.

Any existing plant material which otherwise satisfies the requirements of this section may be counted toward satisfying all such requirements.

The exact placement of required plants and structures shall be the decision of each user except that the following requirements shall be satisfied:

(a) Evergreen (or conifer) class III and IV plant materials shall be planted in clusters rather than singly in order to maximize their chances of survival.

(b) Berms with masonry walls (BW_1, BW_2, and BW_3) required of bufferyard D and E options are intended to buffer more significant nuisances from adjacent uses and, additionally, to break up and absorb noise, which is achieved by the varied heights of plant materials between the masonry wall and the noise source.

(i) When berms with walls are required, the masonry wall shall be closer than the berm to the higher intensity use.

(ii) Within a bufferyard, a planting area at least five (5) feet wide containing fifteen (15) percent of the total plant requirements (based on the multiplier = 1) shall be located between the masonry wall and the higher intensity class use. These plants shall be chosen to provide species and sizes to reduce noise in conjunction with the wall.

All bufferyard areas shall be seeded with lawn unless ground cover is already established.

F-3: Structures

The following structures are equivalent and may be used interchangeably, as long as both structures are specified in the bufferyard illustration in this section.

STUCTURE	EQUIVALENT STRUCTURE
F_3	B_1
F_4	B_2
F_5	B_3
F_6	BW_1
B_1	F_3
B_2	F_4
B_3	F_5
BW_1	F_6