

**CHAPTER 84 ZONING ORDINANCE
PERRYVILLE, MARYLAND**

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ARTICLE I PURPOSE AND AUTHORITY

Section 1. Short Title

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

Section 2. Authority [Amended 1/3/2017 by Ord No. 2016-21]

This Chapter is enacted under the authority granted by the General Assembly of Maryland, as provided in The Land Use Article of the Annotated Code of Maryland, as amended.

Section 3. Intent [Amended 1/3/2017 by Ord No. 2016-21]

1. This Chapter is intended to promote the orderly development of the Town of Perryville, Maryland in accordance with the *Perryville Comprehensive Plan* or any of the component parts thereof and in compliance with the Land Use Article of the Annotated Code of Maryland, as amended. 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.
2. The purpose of this Zoning Chapter is to promote the health, safety, order, convenience and general welfare of the citizens of the Town in accordance with present and future needs as expressed in the *Perryville Comprehensive Plan* and to implement the recommendations of the *Perryville Comprehensive Plan*. It is the further purpose of this Zoning Chapter to provide for economic and efficient land development, encourage the most appropriate use of land, provide 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, encourage good civic design, and provide for adequate public utilities, facilities, and services.
3. The objective of this Chapter is to implement the "Visions" contained in the Maryland Growth Management, Resource Protection and Economic Development Act, namely:
 - a. Development is concentrated in suitable areas;
 - b. Sensitive areas are protected;
 - c. In rural areas, growth is directed to existing population centers and resource areas are protected;
 - d. Stewardship of the Chesapeake Bay and the land is a universal ethic;
 - e. Conservation of resources, including a reduction in resource consumption, is practiced;
 - f. Economic growth is encouraged and regulatory mechanisms are streamlined;

- g. Adequate public facilities and infrastructure under the control of the Town are available or planned in areas where growth is to occur; and
 - h. Funding mechanisms are addressed to achieve these “Visions.”
- 4. The regulations and provisions contained in this Zoning Chapter were adopted and became effective on January 20, 2005.

Section 4. Jurisdiction

- 1. Except as provided for in Subsection 2 below, this Chapter shall apply to all land, structures and buildings within the corporate limits of the Town of Perryville, including all submerged lands and water areas.
- 2. This Chapter shall not apply to land, structures and buildings owned by or leased solely to the Federal Government, State of Maryland, Cecil County Commissioners, or the Town of Perryville, provided that such land, structure or building is used for the sole purpose of providing a public service or carrying out a legitimate government function.

Section 5. Severability

It is hereby declared to be the intention of the Town Commissioners 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 6. Conformity with Chapter Provisions

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

- 1. No building, structure or land shall hereinafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered externally, unless in conformity with all the regulations herein specified for the zoning district in which it is located.
- 2. No building or other structure shall hereafter be erected or altered to: exceed the height; accommodate or house a greater number of families; occupy a greater percentage of lot area; or have narrower or smaller rear yards, front yards, side yards or other open spaces than herein required, or in any other manner contrary to the provisions of this Chapter.

3. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Chapter shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.
4. No yard or lot existing at the time of passage of this Chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Chapter shall meet at least the minimum requirements established by this Chapter.
5. Roads shall be located to avoid disturbances to Habitat Protection Areas as described in the Town of Perryville Critical Area Program. When no alternative exists and such infrastructure must cross or be located in a Habitat Protection Area, the developer shall demonstrate how impacts to habitats have been minimized and that no feasible alternative location of such infrastructure exists.
6. It is the intent of this Chapter that it be interpreted as excluding any use that is not expressly permitted whether as a permitted, accessory, or special exception use.

Section 7. Fees

1. The Town shall establish a schedule of fees, charges and expenses and a collection procedure for applications for zoning appeal cases, zoning and map amendments, permits, site plans, and other matters pertaining to this Chapter. Such schedule shall be posted at the Town. The Town Commissioners may amend the fee schedule by resolution.
2. These fees may include the cost of the consulting services of an independent engineer, architect, landscape architect, land planner or similar service as may be used to assist the Town in the review of proposed development and improvement plans.
3. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal pertaining to this Chapter.

Section 8. Reserved

ARTICLE II BASIC DEFINITIONS AND INTERPRETATIONS

Part I Definitions

Section 9. Definitions of Basic Terms [Amended 2-18-09 by Ord. No. 2009-1; 5-6-2014 by Ord. No. 2014-02; 1/3/2017 by Ord No. 2016-21, 7/26/23 by Ord. No. 2023-13]

1. 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.
2. To amplify and clarify all provisions of this Chapter, the following rules shall apply:
 - a. 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.
 - b. The word "shall" is mandatory and not discretionary.
 - c. The word "may" is permissive.
 - d. 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".
 - e. All "measured distances" shall be to the nearest "integral foot". If a fraction is one-half foot or less, the "integral foot" next above shall be taken.
 - f. Words and terms not defined herein shall be interpreted in accord with their normal dictionary meaning and customary usage.

Accessory Building - an accessory building is a subordinate building or a portion of the main building, the use of which is clearly incidental to or customarily found in connection with, and (except as otherwise provided in this Chapter) located on the same lot as the main building or principal use of the land.

Accessory Use - an accessory use is one which is clearly incidental to or customarily found in connection with, and (except as otherwise provided in this Chapter) on the same lot as the principal use of the premises. When "accessory" is used in the text, it shall have the same meaning as "Accessory Use".

Acre - a commonly referred to measurement of area, which equals 43,560 square feet.

Acreage - A parcel of land, regardless of area, described by metes and bounds, which is not a numbered lot on any recorded subdivision.

Activity - Any business, industry, trade, occupation, vocation, profession, or other use conducted or carried on either within a building or covered area, or outdoors on any tract or parcel of land. For zoning purposes, an activity shall be considered separately from any building or structure in which such activity may be conducted.

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

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

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.

Alley - a narrow public thoroughfare which provides only a secondary means of access to abutting properties and is not intended for general traffic circulation.

Alteration - Any change in the total floor area, use adaptability or external appearance of an existing structure.

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.

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

Antenna - Equipment designed to transmit or receive electronic signals.

Apartment - A part of a building containing cooking facilities and separate bathroom facilities consisting of a room or group of rooms intended, designed, and used as a residence by an individual or a single family.

Apartment House - same as "Dwelling, Multiple-Family".

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

Area, Gross - all the area within a development plan or plat including area intended for residential use, local access streets or alleys, off-street parking spaces, recreation areas, or floodplains.

Assisted Living - A residential facility-based program licensed by the State of Maryland that provides housing and supportive services, supervision, personalized assistance, health-related services or a combination of these services to meet the needs of the residents who are unable to perform, or who need assistance in performing, the activities of daily living or instrumental activities of daily living, in a way that promotes optimum dignity and independence for the residents.

Automobile Filling Station - Any building, structure or area of land used for the retail sale of automobile fuels, oils, and accessories and where repair service, if any, is incidental.

Banner - Any sign exposed to the weather and which is made from or on cloth or other limp material. National, state, or municipal flags shall not be considered banners.

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 - That portion of a building between the floor and ceiling which is wholly or partly below grade and having more than ½ of its height below grade.

Bed and Breakfast Facility - A building, other than a hotel, motel, rooming house or restaurant, containing a single dwelling unit, in which rooms are offered to the traveling public for temporary occupancy not exceeding 30 days at any one visit and where the breakfast meal is provided as a part of the room rental charge. All such operations shall have a resident family living on the premises and shall be approved for such use by the Cecil County Health Department and Fire Marshal.

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

Billboard (See Sign) - A structure on which portrays information which directs attention to a business commodity, service or entertainment not necessarily related to the other uses permitted on the premises upon which the structure is located, not including painted walls.

Block Face - One side of a street between two consecutive intersections. For example, a block-face can be one side of a town block.

Board - The Board of Appeals of the Town of Perryville which is authorized to grant special exceptions and variances, to hear appeals from administrative decisions and to provide interpretations as provided in this Chapter.

Bona Fide Intra-family Transfer - A transfer to a member of the owner's immediate family of a portion of the owner's property for the purpose of establishing a residence for that family member.

Buffer - An area within a property or site, generally adjacent to and parallel with the property line, either consisting of existing natural vegetation or created by the installation of trees, shrubs, berms, and/or fences, and designed to limit views and sounds from the development tract to adjacent properties and vice versa.

Buffer, Critical Area (spelled with a capital B) - A naturally vegetated area or vegetated area established or managed to protect aquatic, wetland shoreline, and terrestrial environments from man-made disturbances. In the Critical Area Overlay District, the minimum Buffer is a continuous area located

immediately landward of tidal waters (measured from the Mean High Water Line), tributary streams in the Critical Area, and tidal wetlands and has a minimum width of 100 feet.

Buffer Management Plan - A plan designed and intended to describe methods and means used to achieve and enhance the water quality and habitat functions of the Buffer.

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

Building, Accessory - A minor building that is located on the same lot as a principal building and is used incidentally to a principal building or houses a use incidental to the principal use of the premises.

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.

Building, Height of - The vertical distance from the highest point of a structure, excepting chimney or antenna on a building, to the average ground level of the grade where the walls or other structural elements intersect the ground.

Building Line - A line beyond which the foundation wall and/or any porch, vestibule, or other portion of a building shall not project, unless otherwise provided for in this Chapter

Building, Main - any building which is not an accessory building.

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

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.

Casino – A building in which gaming is the predominant activity conducted.

Child Care Center - any place, home, or institution which receives 5 or more children under the age of 14-years, and not of common parentage, for care apart from their natural parents, legal guardians, or custodians, when received for regular periods of time for compensation provided that this definition shall not include public or private schools organized, operated, or approved under Maryland laws, custody of children fixed by a court of competent jurisdiction, children related by blood or marriage within the third degree to the custodial person, or to churches or other religious or public institutions caring for children within the institutional building while their parents or legal guardians are attending services, activities, or meetings. The term includes day nurseries and kindergartens.

Child Care Home - a home for not more than 9 orphaned, abandoned, dependent, abused, or neglected children, together with not more than 2 adults, who supervise such children, all of whom live together as a single housekeeping unit.

Child Care Institution - an institutional facility housing more than 9 orphaned, abandoned, dependent, abused, or neglected children.

Clear-cutting - The removal of the entire stand of trees in one cutting with tree reproduction obtained by natural seeding from adjacent stands or from trees that were cut, from advanced regeneration or stump sprouts, or from planting of seeds or seedlings by man.

Clinic – A freestanding health care facility that is not licensed as a hospital, part of a hospital, or nursing home and is not administratively part of a physician's or osteopath's office, but which has a separate staff functioning under the direction of a clinic administrator or health officer and is organized and operated to provide ambulatory or outpatient health services licensed under Health and Mental Hygiene.

Clinic Services – Preventative, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished by or under the direction of a licensed physician in a clinic.

Club, Private - Buildings and facilities owned or operated by a corporation, association, person, or persons, for social, educational or recreational purpose, but not primarily for profit which accrues to any individual and not primarily to render a service which is customarily carried on in a business.

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

Commercial - A type of activity where goods or services are sold or traded with the expectation of profit or gain.

Commercial Harvesting - a commercial operation that would alter the existing composition or profile, or both, of a forest, including all commercial cutting operations done by companies and private individuals for economic gain.

Commission - the Planning Commission of the Town of Perryville.

Commissioners - Mayor and Commissioners of Perryville, Maryland.

Common Area - Any open space, private road or other land, structure or improvement, which is designed or reserved for the common use or benefit of the owners of two or more lots. "Common area" does not include any public road or other land, structure or improvement owned by the Town or the State of Maryland or any other governmental agency.

Community Piers - Boat docking facilities associated with subdivisions and other similar residential areas, condominiums, and apartments. Private piers are excluded from this definition

Compatibility - Provision of exemplary site design, architectural design and high quality materials that are compatible with, and does not negatively alter the character of, the existing neighborhood.

Comprehensive Plan/The Comprehensive Plan of Perryville, Maryland - A document consisting of written and mapped information, adopted by the Mayor and Town Commissioners, and intended to guide the physical development of Perryville, including all changes and additions to the plan.

Condominium - A form of ownership consisting of an undivided interest in common with other owners in a portion of a parcel of real property, together with separate interest in space in a building, such as a townhouse, apartment or office, established pursuant to Maryland law. A condominium may include, in addition, a separate interest in other portions of such real property.

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

Convenience Store - A one-story, retail establishment containing less than 2,000 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 "Fast Fare," "7-11" and "Pantry" chains.

Country Inn - A building containing not more than fifteen (15) individual rooms or suites of rooms for the purpose of providing overnight lodging facilities not to exceed 30 consecutive days to the general public for compensation which also offers dining facilities for guests.

Coverage - The percentage of the lot covered by the area of all buildings and structures.

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

- a. All waters and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the State Wetlands Maps, and all State and private wetlands designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland;
- b. All land and water areas within 1,000 feet beyond the landward boundaries of State or private wetlands and the heads of tides designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland.
- c. Modifications to these areas through inclusions or exclusions proposed by local jurisdictions and approved by the Critical Areas Commission as specified in Section 8-1807 of the Natural Resources Article, Annotated Code of Maryland.))

Dedication - The transfer of property from private to public ownership as may be required to provide for the public health, safety, or welfare.

Deed Restriction - A private legal restriction and/or covenant on the use of land, contained within a deed of property or otherwise formally recorded in the Land Records of Cecil County, Maryland. These restrictions or covenants are designed to control the use of specific property and enforcement of these is through private civil action. Deed restrictions are not enforced by the Town of Perryville, unless it is Perryville, Maryland that records said deed restrictions.

Density - The number of principal dwelling units allowed per acre of gross area of a development. For purposes of the Chapter, density is determined by dividing the gross site acres by the minimum lot area per family for each zoning district set forth in the Schedule of Zone Regulations (Section 238).

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

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

Development /Development Activities (includes the term "develop") - Any construction, modification, extension or expansion of buildings or structures; placement of fill or dumping; storage of materials; land excavation; land clearing; land improvement; or any combination thereof, including the subdivision of land or action that results in construction, modification, extension or expansion of buildings or structures; placement of fill or dumping; storage of materials; land excavation; land clearing; land improvement; or any combination thereof, including the subdivision of land.

Development Envelope - Developed portion of a parcel or tract of land that encompasses all lots, structures, required buffers exclusive of the tidewater buffer if it is at least 300 feet deep, impervious surfaces, utilities, storm water management measures, on-site sewage disposal measures, any areas subject to human use as active recreation areas, and any additional acreage needed to meet the development requirements of the Perryville Critical Area Program.

District, Zoning - any section of the Town of Perryville within which the zoning regulations are uniform.

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.

Drinking Places, Alcoholic Beverages – Establishments including bars, taverns, and pubs primarily engaged in preparing and serving alcoholic beverages for on-site consumption. These establishments may also provide limited food services.

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 - 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.

Dwelling - Any building or portion thereof, designed or used for residential purposes, except trailers or mobile homes.

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

Dwelling, Multi-Family - A structure arranged or designed to be occupied by 3 or more families on a single parcel or on contiguous parcels under the same ownership.

Dwelling, Single-Family - a building designed for or occupied exclusively by one family.

Dwelling Unit – A dwelling unit is 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 a living quarters for a domestic or other employee or tenant, an in-law or accessory apartment, a guest house, or caretaker residence.

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

Electronic Message – Computer programmable sign capable of displaying words, symbols, figures, or picture images that can be altered or rearranged on site or by remote means without altering the face or surface of the sign.

Emergency Services - Fire, rescue, ambulance and police services including related structures and activities.

Endangered Species - Any species of fish, wildlife, or plants which have been designated as such by regulation by the Secretary of the Department of Natural Resources. Designation occurs when the continued existence of these species as viable components of the State's resources are determined to be in jeopardy. This includes any species determined to be "endangered" species pursuant to the federal Endangered Species Act, 16 USC. §1531 et seq., as amended.

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

Family - One or more persons occupying a single housekeeping unit and using common cooking facilities, provided that unless all members are related by blood or marriage, no such family shall contain over 4 persons.

Farm Markets – A public space where fresh farm products from the local area are sold by the producers who have grown, gathered, raised or caught them.

Farm Products – Fruits, vegetables, mushrooms, herbs, nuts, shell eggs, honey or other bee products, flowers, nursery stock, livestock food products (including meat, milk, cheese, and other dairy products), and fish.

Fence or Wall - A barrier, other than natural vegetation, intended to mark a boundary or to enclose an area to provide screening or privacy.

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

Fishery - A parcel or building where commercial water dependent fishery facilities are located, including structures for the packing, processing, canning, or freezing of finfish, crustaceans, mollusks, amphibians and reptiles, including related activities such as wholesale and retail sales, product storage facilities, crab

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

Flashing – (verb) to give off light suddenly or in transient bursts; to move with great speed.

Floor Area:

- a. *Commercial, business and industrial buildings or buildings containing mixed uses*: the sum of the gross horizontal area of the several floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating 2 buildings but not including (a) space providing headroom of less than 7 feet; (b) basement space not used for retailing; (c) uncovered steps or fire escapes; (d) accessory water towers or cooling towers; (e) accessory off-street parking spaces; and (f) accessory off-street loading berths.
- b. *Residential buildings*: the sum of the gross horizontal areas of the several floors of a dwelling measured from the exterior faces of the exterior walls.

Forest - For purposes of administering provisions of this Chapter that regulate in the Critical Area, forest is defined as biological community dominated by trees and other woody plants covering a land area of one acre or more. This also includes forests that have been cut but not cleared. In all other cases, the definition of “forest” is as specified in Article XVII of this Chapter.

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, 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.

Freestanding Sign – A sign supported by any structure or support placed in or anchored in the ground and not attached to any building or structure.

Frontage:

- a. *Street frontage*: all of the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.
- b. *Lot frontage*: the distance for which the front boundary line of the lot and the street line or mean high water mark are coincident.

Gambling Game – Any game played with cards, dice, equipment or a machine, including any mechanical, electromechanical or electronic device which shall include computers and cashless wagering systems, for money, credit, or any representative of value, any banking or percentage game, or any other game or device approved by the State of Maryland including video lottery terminals, but does not include

games played with cards in private homes or residences in which no person makes money for operating the game, except as a player.

Gambling Operation – The conduct of authorized gambling games in a casino.

Gaming – To deal, operate, carry on, conduct, maintain or expose or offer for play any gambling game or gambling operation.

Gaming Establishment – A casino and buildings, facilities, or rooms functionally or physically connected to a casino, including but not limited to any bar, restaurant, hotel, cocktail lounge, retail establishment, or arena or any other facility located under the control of a casino licensee or affiliated company.

Garage or Yard Sale - A public sale conducted by an individual on his or her own premises for the purpose of selling personal property.

Garden Apartments - Multi-family housing units that may share a common outside access. Ownership is not a factor in this type of unit, which may be either rental or condominium.

General Development Plan – A type of plan that becomes part of the zoning of a property as provided in Section 34.2.C. of this Chapter. The plan depicts site characteristics and redevelopment information to include the location of buildings, uses, roads, easements, parking, landscape, access and provides guidance for site plans.

Golf Course - An area publicly or privately owned, on which the game of golf is played, containing at least 9 holes; together with such necessary and usual accessory uses as a club house, caretakers' dwellings, dining and refreshment facilities, and other such uses, provided that the operation of such facilities is incidental and subordinate to the operation of a golf course.

Grandfathered - The term describes the status accorded certain properties and development activities that are of record prior to the date of adoption of this Chapter or provisions of this Chapter.

Grandfathered Parcel/Lot (Critical Area) - A parcel of land or lot that was subdivided into recorded, legally buildable lots where the subdivision received final approval before December 1, 1985.

Grocery Store/Market – A small retail store containing less than 2500 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, household items, and excludes alcoholic beverages. This type of retail store does not provide for the sale of gasoline or other fuel.

Group Home -A facility providing housing facilities and/or rehabilitation in a single family dwelling for not more than ten (10) persons, including support personnel, for persons who need specialized housing, treatment and/or counseling service because of delinquency or criminal rehabilitation, such as a criminal half-way house, current addiction to or illegal use of a controlled substance, or a type of mental illness that involves behavior related to violent felony crime. Residents are provided service and supervision by licensed operators in accordance with federal, state and local laws, regulations and requirements. Treatment and counseling shall be limited to the residents of the dwelling. The residents of a group home shall not include any person who, during the term of residence at such facility, commits a violent act or causes substantial physical damage to the property of others, and any such person must be removed from such facility.

Growth Allocation:

- a. An area of land calculated as 5 percent of the total Resource Conservation Area (excluding tidal wetlands and federally owned land), that may be converted to more intense management areas to accommodate land development; also
- b. An act of the Town Commissioners, approved by the Critical Area Commission, that provides for conversion of a property or properties located in Resource Conservation Areas (RCAs) and/or Limited Development Areas (LDAs) in the Critical Area District to another land management classification that may allow an increase in the permitted density to the level permitted by the base zoning classification.

Habitat Protection Area (HPA) - The Critical Area Buffer, Threatened and Endangered Species, Plant and Wildlife Habitats, Anadromous Fish Spawning Propagation Waters and Species in Need of Conservation, i.e. colonial nesting waters, historic waterfowl staging and concentration areas, habitat of local significance, as defined in Perryville Critical Area Program.

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

Highly Erodible Soils and Erodible Soils - Soils with a slope greater than 15 percent or soils with a "K" value greater than 0.35 and slopes greater than 5 percent. "K value" means the soil erodibility factor in the Universal Soil Loss Equation. It is a quantitative value that is experimentally determined.

Highway Corridor Unified Development – The coordinated and integrated development or redevelopment of multiple lots in the Highway Corridor Overlay District whose lot widths, when combined, meet or exceed the minimum lot width requirement in the Highway Commercial (C-2) District, but one or more of which, individually, have less than the minimum required lot width.

Historic Waterfowl Staging and Concentration Area - An area of open water and adjacent marshes where waterfowl gather during migration and throughout the winter season. These areas are "historic" in the sense that their location is common knowledge and because these areas have been used regularly during recent times.

Home Occupation - Any occupation or activity, which is clearly incidental and secondary to use of the premises for dwelling and, which is carried on wholly within a main building by a member of a family residing on the premises in connection with which there is no advertising other than an identification sign of not more than 4 square feet in area, fixed flat to a wall of the building and no other display or storage of materials or generation of substantial volumes of vehicular or pedestrian traffic or parking demand or other exterior indication of the home occupation or variation from the residential character of the building; and in connection with which no person outside the resident family is employed and no equipment used which creates offensive noise, vibration, smoke, dust, odor, heat, or glare. When within the above requirements, a home occupation includes, but is not limited to the following: (a) art studio; (b) dressmaking; (c) professional office of a physician, dentist, lawyer, engineer, architect, accountant, salesperson, real estate agent, insurance agent, or other similar occupation; (d) teaching, with musical instruction limited to 1 or 2 pupils at a time; however, a home occupation shall not be interpreted to include tourist homes, animal hospitals, child care centers, tea rooms, or restaurants.

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

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

Hydrophytic Vegetation - Those plants cited in "National List of Plant Species That Occur in Wetlands: Maryland, 1988" which are described as growing in water or on substrate that is at least periodically deficient in oxygen as a result of excessive water (plants typically found in water habitats).

Illumination - Direct artificial lighting or indirect artificial lighting designed to reflect light from light sources erected for the purposes of providing light to a sign or other structure.

Immediate Family Member - Father, mother, son, daughter, grandfather, grandmother, grandson, granddaughter.

Impervious Surface - Any man-made surface that is resistant to the penetration of water. (Note: Additional information concerning what constitutes an impervious surface can be obtained from the Town).

Infill - The development of vacant, abandoned, passed over or underutilized land within built-up areas of Perryville.

Intensely Developed Areas - Areas of at least 20 adjacent acres or the entire upland portion of the Critical Area within the boundary of a municipality, whichever is less, where residential, commercial, institutional, and/or industrial developed land uses predominate, and where relatively little natural habitat occurs. These areas shall have had at least one of the following features as of December 1, 1985:

- a. Housing density equal to or greater than 4 dwelling units per acre;
- b. Industrial, institutional, or commercial uses are concentrated in the area; or
- c. Public sewer and water collection and distribution systems are currently serving the area and housing density is greater than 3 dwelling units per acre.

Intermediate Care Home - a facility maintained for the purpose of providing accommodations for not more than 8 occupants needing medical care and supervision at a lower level than that provided in a nursing care institution but at a higher level than provided in institutions for the handicapped or infirm.

Intermediate Care Institution - an institutional facility maintained for the purpose of providing accommodations for more than 8 persons needing medical care and supervision at a lower level than that provided in a nursing care institution but at a higher level than that provided in institutions for the handicapped or infirm.

Intermittent Stream - A stream in which surface water is absent during part of the year. Intermittent streams may be found on the most recent U.S.G.S. 7.5 Minute Quadrangle published by the United States, the Cecil County Soil Survey, or field located. Intermittent streams shall be identified in the field and accurately drawn on all development plans.

Kennel, Commercial - A commercial operation that (a) provides food and shelter and care of domestic animals for purposes not primarily related to medical care (a kennel may or may not be run by or associated with a veterinarian), or (b) engages in the breeding of domestic animals for sale, or (c) any place where more than two adult domestic animals (over 6 months) are kept for a boarding or other fee, or (d) any place where more than four (e) adult domestic animals are kept for any purpose.

"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.

L.E.D. - Light Emitting Diode – Emits light when a voltage is applied to it and is used especially in electronic devices.

Limited Development Areas (LDA) - Areas which are currently developed in low or moderate intensity uses which contain areas of natural plant and animal habitats, and in which the quality of runoff has not been substantially altered or impaired. These areas shall have had at least one of the following features as of December 1, 1985:

- a. Housing density ranging from one dwelling unit per 5 acres up to 4 dwelling units per acre;
- b. Areas not dominated by agriculture, wetland, forest, barren land, surface water, or open space;
- c. Areas having public sewer or public water, or both.
- d. Areas meeting the definition of Intensely Developed Areas above, less than 20 acres in size.

Loading Space - A space within the main building or on the same lot, providing for the standing, loading or unloading of trucks.

Lot - An area of land separated from other areas of land by separate description in a recorded deed of plat.

Lot, Area - The total horizontal area within the lot lines of the lot.

Lot, Corner - A lot located at the intersection of 2 or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

Lot, Depth of - The mean horizontal distance between the front and rear lot lines.

Lot, Interior - A lot other than a corner lot.

Lot Line - The boundary line of a lot.

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

Lot, Through - An interior lot having frontage on 2 streets.

Lot Width - The distance between the side lot lines measured at the required front yard line.

Major Site Plan - Any site plan which would include the extension of public water or sewer lines, placement of roads or installation of any storm water management device.

Manufactured Home - Manufactured home means a structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary and complies with the standards established under USC Title 42, Chapter 70; and except that such term shall not include any self-propelled recreational vehicle.

Manufactured Home, Double-wide - A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction.

Manufactured Home, Single-wide - A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction but that does not satisfy the criteria necessary to qualify the house as a double-wide manufactured home.

Manufacture, Manufacturing - The process of converting of raw, unfinished materials or products, or either of them, into articles or substances of different character, or for use for different purpose.

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

Marquee - Any hood, canopy, awning or permanent construction that projects from a wall of a building, usually above the entrance.

Master Developer – A developer of a site that requires the coordinated efforts of multiple owners and/or tenants and who is responsible for coordinating the undertakings of zoning, site plan, subdivision, building permits, sign permits, property improvement, management, and maintenance through means of binding agreements with the owners and tenants.

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

Medical Treatment Facilities – Includes the following: Clinic, Clinic Services, and State Licensed Medical Clinic. (See definitions for each.)

Minor Site Plan - A drawing and other documents containing the minimum information required for such plans in Appendix A. A minor site plan must be filed for a single-family dwelling, a two family residence, 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.

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, and (iii) exceeds 40 feet in length and eight feet in width.

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 manufactured home, or a series of panels or room sections transported on a truck and erected or joined together on the site.

Monument Sign – Any ground sign supported totally with a solid base of masonry, brick, or other material, which is of a finished or decorative type construction. A permanent ground sign designed so that the base of the sign face is flush with the supporting base, and the supporting base is flush with the ground and extends the full width of the sign face. Sign shall include a solid, decorative base and may include a decorative frame. The base shall be at least as wide as the sign and/or frame and a minimum of eighteen (18) inches in height. Decorative base and frame materials include stone, brick or stucco. No support post shall be exposed.

Motel, Motor Court, Motor Hotel, Lodge, or Inn - same as "Hotel" except that the building or buildings are designed primarily to serve tourists traveling by automobile and that ingress and egress to rooms need not be through a lobby or offices.

Municipal Infraction – Any violation of this Code, which violation has been specifically declared to be an infraction. For purposes of the Code, an infraction is a civil offense.

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 Vegetation - Plant communities that develop in the absence of human activities.

Neighborhood Essential Services - Any public utility facility needed to provide basic services such as water, sewer, telephone, and cable television to the individual users.

Nonconforming Use and Related Definitions - See Article VIII.

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.

Nonprofit Organization - Any organization engaging primarily in civic or community services including Lions, Kiwanis, Rotary, Optimists and organizations of a similar nature which are not operated for profit and have been granted 501 status by the Internal Revenue Service.

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

Non-tidal Wetlands - Means an area that is 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.

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 to not more than 8 persons.

Nursing Care Institution - An institutional facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to more than eight persons.

Office - A building or part thereof, designed, intended or used for the purpose of a profession, the carrying on of business, the conduct of public administration, or, where not conducted on the site thereof, the administration of an industry, but shall not include a retail commercial use, industrial use, clinic, financial institution, or place of amusement or place of assembly.

Offsets - Structures or actions that compensate for undesirable impacts.

Off-Street Parking Area - Space provided for vehicular parking not on a street or roadway.

Open Space - land and water areas retained in an essentially undeveloped state. Open space may include, but not be limited to, buffers and buffer yards, lawns, decorative planting, walkways, active and passive recreation areas, children's playgrounds, fountains, swimming pools, wooded areas, and watercourses. Open space shall not include driveways, parking lots or other vehicular surfaces, any area occupied by a building, nor areas so located or so small or so circumscribed by buildings, driveways, parking lots, or drainage areas, as to have no substantial value for the purpose stated in this definition.

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

Owner - The person, partnership, corporation, company, or other legal entity holding current legal title to a lot, tract, or parcel of land.

Parapet - The extension of the main walls of a building above the roof.

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

Parking Space, Off-street - An all-weather surfaced area not in a street or alley exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by an all-weather surfaced driveway which affords satisfactory ingress and egress for automobiles. At a minimum each parking space shall measure 9' x 18'.

Pennant - Any lightweight plastic, fabric, or other material, whether or not it contains a message of any kind, suspended from a rope, wire, or string. Usually in series, designed to move in the wind.

Perennial Stream - A stream containing surface water throughout an average rainfall year. Perennial streams may be found on the most recent U.S.G.S. 7.5 Minute Quadrangle published by the United States, the Cecil County Soil Survey, or field locates. Perennial streams shall be identified in the field and accurately drawn on all development plans.

Person - An individual, trustee, executor, other fiduciary, corporation firm, partnership, 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.

Place of Worship - A building or premises where persons regularly assemble for religious worship, and those accessory activities customarily associated therewith; and where the buildings and premises are maintained and controlled by a religious body organized to sustain public worship.

Plot - Parcel of land which may include one or more platted lots occupied or intended for occupancy by a use permitted in this Chapter including one main building together with its accessory buildings; the yard areas and parking spaces required by the Chapter and having its principal frontage upon a street or upon an officially approved place.

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

Premises - A lot, together with all buildings and structures thereon.

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

Private Pier - A privately owned pier that is no more than 6 feet wide.

Producer – Person or entity that raises or produces farm products on land that the person or entity farms and owns, rents, or leases.

Project Approvals - The approval of development and redevelopment, other than development and redevelopment by a State or local government agency, in the Chesapeake Bay Critical Area by the appropriate local approval authority. The term includes approval of subdivision plats, building permits

and site plans; inclusion of areas within floating zones; issuance of variances, special exceptions, and conditional use permits.

Property Lines - The lines bounding a lot as defined herein.

Pub - An establishment used primarily for the serving of liquor by the drink to the general public, and where food is regularly served as part of the fare.

Public Utilities - Uses or structures for the public purpose of power transmission and distribution (but not power generation); fuel transmission and distribution (but not manufacturing or storage); water treatment and distribution; sewage collection and treatment; telephone service facilities (but not utility truck terminal facilities); radio and television facilities (not including broadcasting studios); and rail or highway rights-of-way (not including stations or terminals).

Public Water-Oriented Recreation-Shore - Water dependent recreation facilities or activities provided by public agencies which are available to the general public.

Public Water and Sewerage Systems - A water or sewerage system owned and operated by a municipality or county or an authority or owned and operated by the governing body and permitted by the State of Maryland, and subject to special regulations.

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

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

Recreation Facility - A place designated and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities.

Redevelopment - The process of developing land that is or has been developed. Construction in previously developed areas which may include the demolition of existing structures and building new structures, or the substantial renovation of existing structures. Projects tend to be somewhat larger and more complex than infill projects. The re-use of previously used, non-agricultural land.

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

Regulations - The whole body of regulations, text, charts, tables, diagrams, maps, notations, references, and symbols, contained or referred to in this Chapter.

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

Residence, Commercial Apartment - A multi-family residence located above the principal commercial use.

Residence, Multi-Family - A residential use consisting of a building 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) (e.g. townhouses and apartments).

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 25 percent of the gross floor area of the building nor more than a total of 750 square feet.

Resource Conservation Areas (RCA) - Areas characterized by nature- dominated environments (that is, wetlands, forests, abandoned fields) and resource-utilization activities (that is, agriculture, forestry, fisheries activities, or aquaculture). These areas shall have had at least one of the following features as of December 1, 1985:

- a. Density is less than one dwelling unit per five 5 acres; or
- b. Dominant land use is in agriculture, wetland, forest, barren land, surface water, or open space.

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.
- c. *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.

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.

Right-of-Way - A strip of land designated for the use of a road, highway, driveway, alley or walkway, or for any drainage or public utility purpose or other similar uses.

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

Road - All ways used to provide motor vehicle access to (a) 2 or more lots or 2 or more distinct areas or buildings in unsubdivided developments.

Satellite Dish (Receive-Only Earth Station) - A device or instrument, designed or used for the reception of television or other electronic communications signal broadcast or relayed from an earth satellite, typically up to twelve feet in diameter, in the shape of a shallow dish or parabola.

Scrolling – (verb) to cause text or graphics on display screen to move continuously.

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.

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

Semi-Public - A use owned or operated by a nonprofit, religious or philanthropic institution and providing education, cultural, recreational, religious, or similar types of public programs.

Sensitive Areas - Environmental protection areas identified in the Economic Growth, Resource Protection and Planning Act of 1992 for which special standards, designed to protect these areas from the adverse effects of development, have been included in this Chapter. These areas include the following:

- a. Streams and their buffers;
- b. 100-year floodplain;
- c. Habitats of threatened and endangered species;
- d. Steep slopes; and
- e. Any other areas determined by the Town.

Setback - The minimum required distance between the point where any structure or use on a lot meets the ground surface and any lot line or boundary of a town or State road right-of-way.

Shore Erosion Control Measures - Any number of structural and nonstructural methods or techniques used to control the erosion of shoreline areas.

Sign - (See Article XV for sign and related definitions)

Significant Shoreline Erosion - An annual rate of erosion of 2 feet or greater.

Site Plan - A drawing or plat which describes and locates required improvements of a development tract in accordance with the provisions of Article IV and Appendix A.

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

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

Special Buffer Area - An area officially mapped by the Town and approved by the Critical Area Commission as a Special Buffer Area, where it has been sufficiently demonstrated that the existing pattern of residential, industrial commercial, institutional or recreational development in the Critical Area prevents the Buffer from fulfilling its intended functions for water quality protection and wildlife habitat conservation.

Special Events - Circuses, fairs, carnivals, festivals, or other types of special events that (a) run for longer than one day but not longer than two weeks, (b) are intended to or likely to attract substantial crowds, and (c) are unlike the customary or usual activities generally associated with the property where the special event is to be located.

Special Exception - Permission by the Board of Appeals to establish a specific use that would not be appropriate generally or without restriction throughout a zoning district but which if controlled as to number, area, location, or relation to the neighborhood, would comply with the purpose and intent of this Chapter. Such uses may be approved within a zoning district if specific provision for such a Special Exception is made in this Chapter.

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, 10-2A03 and 4- 2A-03, Annotated Code of Maryland.

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

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

State Licensed Medical Clinic – Includes:

- a. *Freestanding Ambulatory-Care Facility* licensed under Title 19, Subtitle 3B, of the Health-General article of the Annotated Code of Maryland.
- b. *A Detoxification Facility* certified under Title 8, subtitle 4 of the Health-General Article of the Annotated Code of Maryland; or
- c. *An Alcohol Abuse and Drug Abuse Treatment Program* certified under Title 8, Subtitle 4 of the Health-General Article of the Annotated Code of Maryland.

State Tidal Wetland - Any land under the navigable waters of the State below the mean high tide, affected by the regular rise and fall of the tide. Tidal wetlands of this category which have been transferred by the State by a valid lease, patent, or grant confirmed by Article 5 of the Maryland Declaration of Rights are considered "private tidal wetlands" to the extent of the interest transferred.

Steep Slopes - Within the Limited Development Area (LDA) and Resource Conservation Area (RCA) steep slopes shall mean any slope with a grade of 15 percent or more. Within the Intensely Developed Area (IDA) and non-critical area portion of the Town, steep slopes shall mean any land area exceeding forty thousand (40,000) square feet with slope in excess of twenty-five percent (25%).

Storage - The keeping, either indoors (including inside a cargo trailer) or outdoors, of equipment, vehicles, or supplies used in the conduct of a trade, business, or profession. Storage does not include

overnight parking in residential zones of a single vehicle weighing no more than 2.5 tons gross vehicle weight which, although used primarily for business, trade, or professional purposes, also provides daily transportation to and from work.

Storm water 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 eliminated pollutants that might otherwise be carried by surface runoff.

Story - that portion of a building other than a basement, included between the surface of any floor and the surface of the floor next above it' or if there be no floor above it, then the space between such floor and the ceiling next above it.

Street - A public thoroughfare which affords the principal means of access to property abutting thereon.

Street Line - A dividing line between a lot, trace, or parcel of land and a contiguous street.

Structural Alterations - Any change in the supporting members of a building, including but not limited to bearing walls or partitions, columns, beams, girders, or any substantial change in the roof or in the exterior walls.

Structure - Anything, other than a fence or retaining wall, constructed or erected which requires location on the ground or attached to something having a location on the ground, including but not limited to advertising signs, billboards, mobile homes, and pre-fabricated homes. Pre-fabricated homes include factory pre-assembly of standardized building parts, or the shipment of component building sections for permanent installation on a site. Prefabricated homes do not include mobile homes in which mobility, or the ready means of reactivating mobility, remains an integral feature of the trailer.

Substantial Renovation – Improvements to an existing structure involving 500 square feet or more of existing or new floor area.

Tavern - An establishment used primarily for the serving of liquor by the drink to the general public, and where food or packaged liquors may be served or sold only as an accessory to the primary use. Also called a bar or lounge.

Television or Satellite Dish - A device or equipment used for the receiving of television or radio programming which is a subordinate use or structure customarily incidental to and located upon the same lot as the main structure, in either a side or rear yard.

Temporary Emergency, Construction or Repair Residence - A residence (which may be a mobile home) that is (a) 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 (b) 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 (c) located on a nonresidential construction site and occupied by persons having construction or security responsibilities over such construction site. These residences shall be removed from the site within one month of resolution of the situation which prompted their need.

Temporary Structure - Any structure erected for a time of six (6) months or less, consisting of any material with a running edge of twenty-five (25) feet or more. Temporary structures includes tents with any running edge of twenty-five (25) feet or more.

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 which appear likely, within the foreseeable future, to become endangered, including any species of wildlife or plant determined to be "threatened" species pursuant to the federal Endangered Species Act, 16 U.S.C., 1531 et seq., as amended.

Tidal Wetlands - All State and private wetlands, marshes, submerged aquatic vegetation, lands, and open water affected by the daily and periodic rise and fall of the tide within the Chesapeake Bay and its tributaries, the coastal bays adjacent to Maryland's coastal barrier islands, and the Atlantic Ocean to a distance of 3 miles offshore of the low water mark.

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

Town Administrator - The Perryville Town Administrator. Also referred to as "Administrator."

Town House - A single-family dwelling forming one of a series of three or more attached single-family dwellings separated from one another by party walls without doors, windows, or other provisions for human passage or visibility through such walls from basement to roof, and having roofs which may extend from one such dwelling unit to another.

Town Scale Urban Development – Compact development with a mix of uses, that is designed to allow people to park and walk from place to place, where buildings are set close to sidewalks and travel ways and where building facades create interest and access for passers-by.

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.

Travel Trailer - A structure that (a) 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 (b) 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 one or several self-supporting stems or trunks and numerous branches that reach a height of at least 20 feet at maturity.

Tributary Streams - Perennial and intermittent streams in the Critical Area that are so noted on the most recent U.S. Geological Survey 7.5' topographic quadrangle maps (scale 1:24,000) or on more detailed maps or studies at the discretion of the Town.

Usable Open Space - means open space designed for human activities. Usable open space may include, but are not limited to plazas, greens, courtyards, streetscapes that are 20' in width or greater and include such amenities as seating and lighting, and active recreation areas. Usable open spaces shall not include unusable areas, including but not limited to steep slopes, environmentally sensitive areas, forest preservation areas, above grade storm water facilities, landscape buffers and required parking lot landscaped areas.

Use - When used as a noun, the term means the purpose or activity for which land or any building thereon is designed, arranged or intended, or for which it is occupied or maintained.

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, electric lines, water conduits, and sewer lines.

Variance - A modification only of density, bulk or area requirements in the Perryville Zoning Chapter where such modifications will not be contrary to the public interest and where owing to conditions peculiar to the property, and not the results of any action taken by the applicant, a literal enforcement of the Chapter would result in unnecessary hardship.

Video Lottery Facility – A gambling establishment at which players play video lottery terminals as authorized by Subtitle 1A of Title 9 of the State Government Article of the Maryland Annotated Code.

Video Lottery Terminal:

- A. Any machine or other device that, on insertion of a bill, coin, token, voucher, ticket, coupon, or similar item, or on payment of any consideration:
 - (1) Is available to play or simulate the play of any game of chance in which the results, including the options available to the player, are randomly determined by the machine or other device; and
 - (2) By the element of chance, may deliver or entitle the player who operates the machine or device to receive cash, premiums, merchandise, tokens or anything of value, whether the payout is made automatically from the device or in any other manner.
- B. Video Lottery Terminal includes a machine or device:
 - (1) That does not indirectly dispense money, tokens, or anything of value to winning players; and
 - (2) Described under paragraph A. of this definition that uses an electronic credit system making the deposit of bills, coins or token unnecessary.
- C. Video Lottery Terminal does not include an authorized slot machine operated by an eligible organization under Title 12, Subtitle 3 of the Criminal Law Article of the Maryland Annotated Code.

Warehouse - A structure used for the storage and/or the sale of products at wholesale, and where the sale of a product at retail is incidental.

Wash Plant - A facility where sand and gravel is washed during processing.

Water-based Aquaculture - The raising of fish and shellfish in any natural, open, free-flowing water body.

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 which the Town of Perryville has determined require location at or near the shoreline within the Buffer.

Wholesale - The selling of goods in relatively large quantities and usually at lower prices than at retail, especially such selling to retailers for resale to consumers.

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

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.

Yard - an open space other than a court, on a lot unoccupied and unobstructed from the ground upward except as otherwise provided for in this Chapter (See Figure 1).

Yard, Front - A yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the street line or mean high water mark and the main building or any projection thereof, other than the terraces, or uncovered porches. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension. The waterside of waterfront properties shall be considered the front yard in addition to the normal front yard that extends to the street line.

Yard, Rear - A yard extending across the rear of the lot between the side lot lines and measured between the rear lot line and the rear of the main building or any projection other than steps, un-enclosed porches or entrance-ways.

Yard, Side - A yard between the main building and the side line of the lot and extending from the front yard to the rear yard and being the minimum horizontal distance between the side lot line and side of the main buildings or any projections thereof.

Zoning Administrator - The zoning administrative officer or an authorized representative designated by the Town Commissioners to carry out duties as specified in this Chapter. In the absence of an appointed Zoning Administrator, these duties are assumed to be the responsibility of either the Town Administrator or his/her designee.

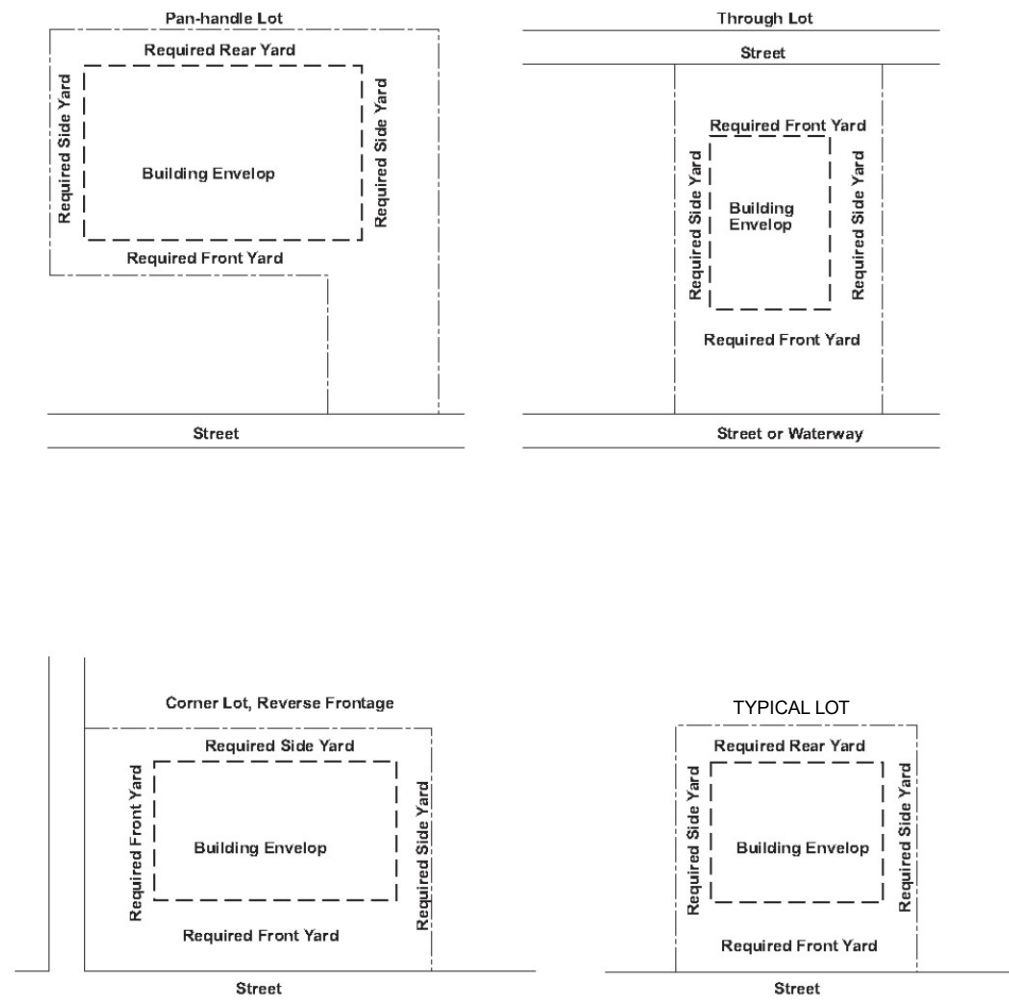
Zoning Certificate - Document that certifies that the Perryville Planning Commission, or its designated representative, has approved a proposed use of property as being consistent with the provision of this Chapter. A zoning certificate may also be referred to as a certificate of approval or zoning permit.

Zoning District - An area within which certain uses of land and structures are permitted and certain others are prohibited; yards and other open spaces are required; minimum lot areas and dimensions and other requirements are established.

Zoning 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, e.g., the Critical Area Overlay District.

Zoning Permit - A written statement issued by the Zoning Administrator or Town Administrator authorizing buildings, structures, or uses consistent with the terms of this Chapter, and for the purpose of carrying out and enforcing its provisions.

Figure 1



Part II Zoning Maps

Section 10. Official Zoning Maps

1. The incorporated areas of the Town are hereby divided into zones (zoning districts), as shown on the Official Zoning Maps which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Chapter.
2. The Official Zoning Maps shall be identified by the signatures of the Town Commissioners attested by the Town Administrator, and bearing the seal of the Town under the following words: "This is to certify that this is the Official Zoning Maps referred to in Article II, Section 10 of the Zoning Chapter of the Town of Perryville, Maryland", together with the date of the adoption of this Chapter.
3. Regardless of the existence of purported copies of the Official Zoning Maps which may from time to time be made or published, the Official Zoning Maps which shall be located in the Town Office, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the Town.
4. Official Critical Area Overlay District Maps
 - a. Official Critical Area Overlay District Maps have been prepared for the Town of Perryville and shall be maintained in force as part of the Official Zoning Maps of Perryville. They shall delineate the extent of the Critical Area Overlay District that shall correspond to the Chesapeake Bay Critical Area.
 - b. The Critical Area Overlay District shall include all lands and waters defined in Section 8-1807 of the Natural Resources Article, Annotated Code of Maryland. They include:
 - (1) All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the State wetlands maps, and all State and private wetlands designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland.
 - (2) All lands and water areas within 1,000 feet beyond the landward boundaries of State or private wetlands and the heads of tides designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland; and
 - (3) Modification to these areas through inclusion or exclusion proposed by the Town of Perryville and approved by the Critical Area Commission as specified in Section 8-1807 of the Natural Resources Article, Annotated Code of Maryland.
 - c. Within the designated Critical Area all land shall be assigned one of the following land use management classifications:

- (1) Intensely Developed Area (IDA)
- (2) Limited Development Area (LDA)
- (3) Resource Conservation Area (RCA)

The land use management classification shall be as designated in the Town of Perryville Critical Area Program, as amended. The Critical Area Overlay District Maps may be amended by the Town Commissioners in compliance with amendment provisions in this Chapter, the Maryland Critical Area Law and Critical Area Criteria.

Section 11. Replacement of Official Zoning Maps

1. In the event that the Official Zoning Maps become damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Town Commissioners may by resolution adopt new Official Zoning Maps which shall supersede the prior Official Zoning Maps.
2. The new Official Zoning Maps may correct drafting or other errors or omissions in the prior Official Zoning Maps, but no such corrections shall have the effect of amending the original zoning Chapter or any subsequent amendment thereof. The Planning Commission shall certify as to the accuracy of the new Official Zoning Maps and the maps shall be identified by the signature of the Town Commissioners attested by the Town Administrator, and bearing the seal of the Town under the following words: "This is to certify that these Official Zoning Maps supersedes and replaces the Official Zoning Maps adopted (date of adoption of maps being replaced) as part of the Zoning Chapter of Perryville, Maryland."

Section 12. Interpretation

1. The regulations set by this Chapter within each district shall be held to be the minimum requirements for the promotion 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.
2. It is not intended by this Zoning 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, provided, however, where this Zoning 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 Zoning Chapter shall control.
3. 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 Zoning 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.

4. To avoid undue hardship, nothing in this Zoning 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 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.
5. Lots Divided by District Lines
 - a. Whenever a single lot two acres 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 two acres 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.

Section 13. Location and Boundaries of Zones

1. The location and boundaries of zones established in the districts shall be as shown on the Official Zoning Maps for the Town of Perryville. 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.
2. Where uncertainty exists as to the boundaries of any of the zone districts established in this Chapter, as shown on the Official Zoning Maps, the following rules shall apply:
 - a. 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;
 - b. 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;

- c. 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;
 - d. In un-subdivided 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.
- 3. Any area annexed to the Town of Perryville 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 Commissioners. The Planning Commission shall recommend to the Town Commissioners appropriate zoning for the annexed area within 6 months after the effective date of such annexation.

Section 14. Reserved

ARTICLE III ADMINISTRATIVE MECHANISMS

Section 15. Appointment and Terms of Planning Commission Members

1. There shall be a Planning Commission consisting of six (6) members and one alternate, 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 six (6) members and the alternate shall be appointed by the Commissioners. The members shall be appointed to represent as many different geographical areas of the Town of Perryville as is possible. Members and the alternate shall be appointed for terms of three (3) years or until their successors are appointed and qualified. The respective terms of the members and alternates shall be on a staggered basis. Vacancies shall be filled by appointment by the Town Commissioners for the unexpired term only. Members and alternates of the Commission shall serve without compensation.
2. One member of the Town Commissioners shall also be an ex-officio, voting member of the Planning Commission and shall be selected by the Commissioners. The term of this member shall correspond to his official term as a member of the Commissioners. The term on the Planning Commission of the member of the Town Commissioners shall cease whenever his or her official tenure as a member of the Commissioners terminates.

Section 16. Meetings of the Planning Commission

1. 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.
2. The Planning Commission need not conduct its meetings strictly in accordance with the quasi-judicial procedures set forth in Articles 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.
3. Minutes shall be kept of all Planning Commission proceedings.
4. All Planning Commission meetings shall be open to the public, and whenever feasible the tentative agenda for each commission meeting shall be made available in advance of the meeting.
5. Whenever the Planning Commission is called upon to make recommendations, on any proposal requiring a public hearing, the Town Administrator shall post on or near the subject property one or more notices that are sufficiently conspicuous in terms of size, location, and content to provide reasonably adequate notice to potentially interested persons of 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.

Section 17. Quorum and Voting

1. A quorum for the Planning Commission shall consist of a majority of the Commission membership (excluding vacant seats). A quorum is necessary for the Commission to take official action.
2. All actions of the Planning Commission shall be taken by majority vote, a quorum being present.
3. A roll call vote shall be taken upon the request of any member.
4. The alternate member shall attend all meetings in order to be fully versed on all applications before the Planning Commission. When required to achieve a quorum, the alternate may vote on actions taken by the Planning Commission if the alternate has been present throughout all deliberations on the application.
5. All advisory members shall have all the privileges of membership except the right to vote.

Section 18. Planning Commission Chairman

1. The Planning Commission shall elect, by the 31st of January each year, a chairman and vice-chairman who shall serve for one year. If the Planning Commission fails to elect a chairman by the 31st of January each year the Commissioners will appoint a chairman.
2. The chairman and vice-chairman may take part in all deliberations and vote on all issues.

Section 19. Powers and Duties of Planning Commission

1. The Planning Commission may:
 - a. Make studies and recommend to the Town Commissioners plans, goals, and objectives relating to the growth, development and redevelopment of the Town.
 - b. Develop and recommend to the Town Commissioners policies, Chapters, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.
 - c. Make recommendations to the Town Commissioners concerning proposed zoning amendment requests.
 - d. Hear and decide applications for land development and approve subdivision plats and site development plans.
 - e. Make recommendations to the Board of Appeals on special exceptions.
2. The Planning Commission may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this Chapter.

3. The Planning Commission may delegate authority for review and approval actions to the Town Administrator as deemed appropriate.

Section 20. Advisory Committees

1. From time to time, the Town Commissioners 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 Commissioners may appoint advisory committees to consider the comprehensive development plan, housing plans, economic development plans, etc.
2. Members of such advisory committees shall sit as non-voting 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 Commissioners shall be made by the Planning Commission.
3. Nothing in this section shall prevent the Town Commissioners from establishing independent advisory groups, committees, or commissions to make recommendations on any issue directly to the Town Commissioners.

Section 21. Appointments and Terms of Board of Appeals

1. There shall be a Board of Appeals consisting of five members to be appointed by the Commissioners. 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. Appointment shall be for staggered terms of 3 years. If a vacancy occurs, by resignation or otherwise, among the members of the Board of Appeals, the Commissioners shall appoint a member for the unexpired term. Members of the Board shall serve without compensation.
2. The Town Commissioners shall designate one alternate member for the Board of Appeals who may be empowered to sit on the Board in the absence of member of the Board. If the alternate is absent, the Commissioners may designate a temporary alternate.

Section 22. Meetings of the Board of Appeals

1. The Board of Appeals shall establish a regular meeting schedule at the direction of the Town Commissioners and shall meet frequently enough so that it can take action on all complete applications in an expeditious manner.
2. The Board shall conduct its meetings in accordance with the quasi-judicial procedures set forth in Articles IV, V, and VI.
3. 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.

4. The Board shall keep transcripts 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 23. Quorum

1. A quorum for the Board of Appeals shall consist of a majority of the regular Board membership (excluding vacant seats) including the alternate. A quorum is necessary for the Board to take official action.
2. A member who has withdrawn from the meeting without being excused as provided in Section 24 shall be counted as present for purposes of determining whether a quorum is present.

Section 24. Voting

1. The concurring vote of the majority of the Board membership (excluding vacant seats) shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, Planning Commission or Town Administrator, as may be the case, or to decide in favor of the applicant any matter upon which it is required to pass under any Chapter or to grant any variance.
2. 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 3. or has been allowed to withdraw from the meeting in accordance with Subsection 4.
3. A member may be excused from voting on a particular issue by majority vote of the remaining members present under the following circumstances:
 - a. If the member has a direct financial interest in the outcome of the matter at issue, or
 - b. If the matter at issue involves the member's own official conduct, or
 - c. If participation in the matter might violate the letter or spirit of a member's code of professional responsibility, or
 - d. 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.
4. 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.
5. 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.
6. A roll call vote shall be taken upon the request of any member.

Section 25. Board of Appeals Officers

1. The Board of Appeals shall annually elect one of its members to serve as chairman by the 31st of January each year, 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. If the Board of Appeals fails to elect a chairman by the 31st of January each year the Commissioners will appoint a chairman.
2. The chairman or any member temporarily acting as chairman may administer oaths to witnesses coming before the Board.
3. The chairman and vice-chairman may take part in all deliberations and vote on all issues.

Section 26. Powers and Duties of Board of Appeals

1. The Board of Appeals shall hear and decide:
 - a. Appeals from any order, decision, requirement, or interpretation made by the Zoning Administrator, Planning Commission or Town Administrator, as provided in Section 62.
 - b. Applications for Special Exception Uses, as provided in Article IV, Part II.
 - c. Applications for variances as provided in Section 63.
 - d. Questions involving interpretations of the zoning map, including disputed district boundary lines and lot lines, as provided in Section 64, and questions involving permitted uses in a zoning district as provided for in Article IX.
 - e. Any other matter the Board is required to act upon by any other Town Chapter.
2. The Board may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this Chapter.

Section 27. Zoning Administrator

There is hereby established the Office of Zoning Administrator. The Zoning Administrator is appointed by the Mayor and confirmed by a majority vote of the Town Commissioners. He may be relieved of his duties for just cause upon written charges by a majority of the Town Commissioners.

Section 28. Powers and Duties of the Zoning Administrator

1. It shall be the duty of the Zoning Administrator to administer and cause the enforcement of the provisions of this Chapter. All departments, officials, and public employees of Perryville which are vested with authority to issue permits or licenses shall conform to the provisions of this Chapter and shall not issue any permit or license for any use, building, structure, or purpose

which would be in conflict with the provisions of this Chapter. Any permit or license, issued in conflict with the provisions of this Chapter, shall be null and void. If the Zoning Administrator finds that any of the provisions of this Chapter are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structure or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done, or shall take any other action authorized by this Chapter to insure compliance with or to prevent violations of its provisions. The Zoning Administrator shall administer this Chapter on a day-to-day basis as directed by the Town Administrator.

2. The Administrator shall also prepare staff comments on such matters as required by this Chapter or when so directed by the Mayor and Town Commissioners, Planning Commission, Town Administrator or Board of Appeals. The Administrator is primarily responsible for insuring that this work is completed on a timely basis.
3. All powers and duties of the Zoning Administrator may be assumed by the Town Administrator or his or her designee in his or her absence.

Section 29. Town Commissioners

The Town Commissioners' primary responsibility relative to this Chapter shall be to make final decisions on zoning amendment petitions, annexations, storm water management waivers 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 Commissioners acts in their legislative capacity and must proceed in accordance with the requirements of Article XVIII.

Section 30. Reserved

ARTICLE IV DEVELOPMENT APPROVAL

Part I Building and Zoning Permits

Section 31. Permits Required

1. No building or other structure shall be erected, moved, added to, or structurally altered, or use of land be changed without a zoning certificate (certificate of approval) therefore, issued by the Zoning Administrator. No zoning certificate shall be issued except in conformity with the provisions of this Chapter, except after written order from the Board of Appeals.
2. 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 Zoning Certificate and a Building Permit.
3. In addition to the building permit and zoning certificate, the following permits may be required by the Town Administrator and/or Zoning Administrator:
 - a. Applications Approved 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 Zoning Chapter.
 - b. Demolition 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 therefore.
 - c. Grading Permits. As provided in the Perryville Sediment and Erosion Control Chapter.
 - d. 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.
 - e. Subdivision Plat. If the permit involves the subdivision of land, an approved subdivision plat shall be required as provided in the Perryville Subdivision Regulations.
 - f. Other Permits. Additional permits, including approvals by other agencies, may be required to enforce the provisions of this Chapter.
4. 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.
5. Physical improvements to land to be subdivided shall not be commenced without a signed, recorded final plat, a Bond, or Letter of Credit and a public works agreement approved by the Mayor and Commissioners of the Town of Perryville.

6. In the discharge of his/her duties, the Zoning Administrator 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. For this purpose a badge of office for the Zoning Administrator may be adopted and 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 the Administrator as required in the performance of his/her duties.
7. The Planning Commission and/or Town Commissioners may require that the expense of development and improvement plan review by the Town, including independent engineering services, be borne by the applicant in addition to any other fees required.

Section 32. Severability

1. Compliance with Other Codes, Statutes, and Regulations. Nothing in this section or other sections of the Zoning Chapter shall be construed to exempt any applicant for a permit from compliance with all local, state, and federal codes, statutes, and regulations.
2. Prior Permits. No building permit which was lawfully issued prior to the original effective date of 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 180 days from the effective date of this Chapter, unless actual construction shall have begun and continued pursuant to the terms of said permit.
3. 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 Certificate has been issued by the Zoning Administrator. Any permit issued in conflict with the provisions of this Chapter shall be null and void.

Section 33. Computation of Time

1. 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.
2. 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 or her and the notice or paper is served by mail, 3 days shall be added to the prescribed period.

Section 34. Permit Application Requirements and Procedures

1. All applications for permits shall be accompanied by such plans and information as the Town of Perryville deems to be necessary to determine compliance and provide for enforcement of this

Zoning Chapter. The application materials listed in Appendix A shall be the minimum. Additional information may be required.

2. Site Plans Required:

- a. Minor Site Plan. A minor site plan shall be filed for a single-family dwelling, a two family residence, 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 above 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 storm water, 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.
- b. 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 plan.
- c. General Development Plan (Master Plan)
 - (1) 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.
 - (2) 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.
- d. Grading Permits. Requirements for grading permits shall be as required by the Cecil County Soil Conservation Service.
- e. Subdivision Plat. If the permit involves the subdivision of land, an approved subdivision plat shall be required as provided in Subdivision Regulations.
- f. Sign Permits. Requirements for sign permits shall be as provided in Article XV.
- g. Transportation Plan

- (1) No building or part of a building shall be permitted to be erected within the lines of highway, street, or pedestrian route shown on the Town's Transportation Plan Map.
 - (2) The owner of the property so affected, however, shall have the right to appeal the refusal of a building permit to the Board of Appeals, and the Board may grant a permit to build if it should find, upon the evidence and arguments presented to it upon such appeal:
 - (a) That the entire property of the appellant of which the area affected by the Transportation Plan forms a part, cannot yield a reasonable return to the owner unless such appeal be granted; and
 - (b) That balancing the interest of the general public in preserving the integrity of the plan and the interest of the owner of the property in the use and benefits of his property, the granting of such permit is required consideration of reasonable justice and equity.
 - (3) Before taking any action, the Board of Appeals shall hold a public hearing at which time the parties in interest shall have an opportunity to be heard. In the event the Board grants a building permit in any such appeal, it shall have the power to specify the exact location, extent, area, height, duration, and other details and conditions to govern the building, structure, or part thereof for which the permit is granted.
- h. Storm water Management Plan. A permit may not be issued for any parcel or lot unless a storm water management plan meeting all the requirements of the Perryville Storm water Management Chapter has been approved.
 - i. Forest Conservation. Projects that ultimately require approval of subdivision, sediment control, site plan approval or grading permits must comply with the requirements of the Perryville Forest Conservation Chapter.
 - j. All walls, including retaining walls, shall have plans sealed by a Maryland licensed architect or engineer. The requirement may be waived by the Planning Commission for walls less than four (4) feet in height.
3. The following additional requirements shall be applicable to site plans required under this section:
 - a. Compliance with applicable established design criteria, construction standards, and specifications for all improvements as may be required by the Planning Commission and this Zoning Chapter. The Planning Commission may require that the proposed development comply with some or all of the applicable design requirements contained in the Perryville Subdivision Regulations.
 - b. The zoning certificate and building permit shall not be issued unless and until the Maryland Department of Transportation has approved the site plan as it relates to access point design details and parking lot circulation layout on a state highway. The zoning

certificate and building permit shall not be issued unless and until the Town has approved the site plan as it relates to access point design details and parking lot circulation layout on a county road.

- c. Other Approvals. If this Zoning Chapter requires approval by another agency of certain site plan features, such approval shall be obtained prior to issuance of a building permit or zoning certificate.
- d. Development Plan as Site Plan. In any case, where the Planning Commission has approved a detailed final development plan showing essentially the same information as required above for the property seeking a zoning certificate and 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.
- e. Any or all of the information required for a minor or major site plan may be waived if the Planning Commission finds that it is not needed to make a determination of zoning compliance.
- f. The basic information required with building permit applications is shown in Appendix A.

Section 35. Certificate of Occupancy

- 1. It shall be unlawful to use or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a zoning occupancy permit shall have been issued therefore by the Zoning Administrator or a designated authority, e.g., the Cecil County Department of Licenses and Inspection, stating that the proposed use or the building or land conforms to the requirements of this Chapter.
- 2. No nonconforming structure or use shall be maintained, renewed, changed or extended until a zoning occupancy permit shall have been issued by the Zoning Administrator. The Zoning Occupancy permit shall state specifically wherein the nonconforming use differs from the provisions of this Chapter, provided upon enactment or amendment of this Chapter, owners or occupants of nonconforming uses or structures shall have three (3) months to apply for zoning occupancy permits. Failure to make such application within three (3) months shall be presumptive evidence that the property was conforming at the time of enactment or amendment of this Chapter.
- 3. No permit for erection, alteration, moving or repairing of any building shall be issued until an application has been made for a zoning occupancy permit; the permit shall be issued in conformity with the provision of this Chapter upon completion of the work.
- 4. A temporary occupancy permit 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, provided such temporary permit may require such conditions and safeguards as will protect the safety of the occupants and the public.

5. The Zoning Administrator shall maintain a record of all zoning occupancy permits and copies shall be furnished upon request of any person.

Section 36. Inspection And Supervision During Installation

1. 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. 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.
2. Inspection during the installation of the off-site improvements shall be made by the department responsible for such improvements as required to certify compliance with the approved site plan and applicable standards.
3. 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 shown to be constructed on approved plans.
4. 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 set of approved plans, profiles, and specifications available at all times when work is being performed.
5. Upon satisfactory completion of the required improvements and after having received verification by the appropriate Town approving authorities, the Town Administrator may recommend the release of any bond which may have been furnished for the guarantee of satisfactory installation of such improvements or parts thereof. This release shall provide for 10 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 Planning Commission. Said retainer shall be for the protection of the Town to cover failures, discrepancies, etc., in the previously approved improvements.
6. 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.
7. The Town Commissioners may require that the expense of independent inspection and supervision services during installation be borne by the applicant.

Section 37. 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, certified by the 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 Town Administrator shall not process the occupancy permit until the appropriate "as built" site plan has

been reviewed and approved by the appropriate agencies. As-built site plan should indicate any deviations from site improvements shown on final approved site plan.

Section 38. No Occupancy, Use, or Sale of Lots Until Requirements Fulfilled

Issuance of a special exception or zoning certificate 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 otherwise provided in this Chapter, 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 complied with.

Section 39. Who May Submit Permit Applications

1. Applications for zoning certificate, 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 vendees).
2. The Zoning Administrator shall require an applicant to submit evidence of his/her authority to submit the application in accordance with Subsection 1. whenever there appears to be a reasonable basis for questioning this authority.

Section 40. Applications To Be Complete

1. All applications for zoning certificate, special exception, sign permits, or other permits must be complete before the permit-issuing authority is required to consider the application.
2. Subject to Sections 31 and 34, 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.
3. In this Chapter, detailed or technical design requirements and construction specifications relating to various types of improvements (e.g., streets, sidewalks, etc.) are set forth in specifications adopted by the Town and/or 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 Planning Commission 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 Town. Failure to observe this requirement may result in permit revocation, denial of final subdivision plat approval, or other penalty as provided in Article VII.

4. The presumption established by this Chapter is that all of the information set forth in the 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. For applications submitted to the Board of Appeals, the applicant may rely in the first instance on the recommendations of the Zoning Administrator as to whether more or less information than that set forth in the Appendix A should be submitted.

Section 41. Staff Consultation Before Formal Application

1. 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 Planning Commission is encouraged or required as provided in this section.
2. Before submitting an application for a zoning certificate authorizing a development that consists of or contains a major subdivision, the developer shall submit to the Planning Commission a pre-application concept plan of such subdivision, drawn approximately to scale (1 inch = 100 feet). The concept plan shall contain the information set forth in Appendix A. The applicant will be placed on the agenda for the next available Planning Commission meeting.

Section 42. Staff Consultation After Application Submitted

1. Upon receipt of a formal application for a zoning certificate, or special exception permit, the Administrator shall review the application and confer with the applicant to ensure that he understands the Town staff's interpretation of the applicable requirements of this Chapter, that he has submitted all of the information that he intends to submit, and that the application represents precisely and completely what he proposes to do.
2. If the application is for a special exception permit, the Administrator shall place the application on the agenda of the appropriate board when the applicant indicates that the application is as complete as he intends to make it. However, if the Administrator believes that the application is incomplete, he shall recommend to the appropriate board that the application be denied on that basis.

Section 43. Authorizing Use or Occupancy Before Completion of Development

1. In cases when, because of weather conditions or other factors beyond the control of the zoning certificate recipient (exclusive of financial hardship), it would be unreasonable to require the zoning certificate 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 (insofar as the requirements of this Chapter are concerned) if the recipient provides a performance bond or other security satisfactory to the Zoning 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 Zoning Administrator.
2. 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 from a local lending source or other security satisfactory to the Town to ensure that all of these requirements will be fulfilled within not more than 12 months after final approval.

Section 44. Completing Developments in Phases

1. As a prerequisite to taking advantage of constructing the development in phases, 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.
2. 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 Planning Commission, no land may be used, no buildings may be occupied, and no subdivision lots may be sold except in accordance with the schedule approved.

Section 45. Expiration Of Permits

1. Zoning certificates, building, sign, and other permits shall expire automatically if, within one (1) year after the issuance of such permits:
 - a. The use authorized by such permits has not commenced, in circumstances where no substantial construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use, or
 - b. 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 44), this requirement shall apply only to the first phase.

2. If, after some physical alteration to land or structures begins to take place, such work is discontinued for a period of 6 months, then the permit authorizing such work shall immediately expire. However, expiration of the permit shall not affect the provisions of Section 44.
3. The Planning Commission may extend for a period up to six (6) months 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 six months upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit.
4. For purposes of this section, the zoning certificate 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 zoning certificate. A permit within the jurisdiction of the Zoning Administrator is issued when the earlier of the following takes place:
 - a. A copy of the fully executed zoning certificate is delivered to the permit recipient, and delivery is accomplished when the zoning certificate is hand-delivered or mailed to the permit applicant; or
 - b. The Zoning Administrator notifies the permit applicant that the applicant has been approved and that all that remains before a fully executed zoning certificate 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.
5. Notwithstanding any of the provisions of Article VIII, this section shall be applicable to permits issued prior to the date this section becomes effective.

Section 46. Effect Of Permit On Successors And Assigns

1. Certificates of approval, 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:
 - a. 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
 - b. 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.

2. Whenever a zoning certificate, special exception, or variance permit is issued to authorize development, nothing authorized by the permit may be done until the record owner of the property signs a written acknowledgment that the permit has been issued so that the permit may be recorded in the Perryville Town Hall and indexed under the record owner's name as grantor.

Section 47. Amendments to and Modifications of Permits

1. Insignificant deviations from the permit (including approved plans) issued by the Board of Appeals or the 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, the environment or those intended to occupy or use the proposed development.
2. Minor design modifications or changes in permits (including approved plans) are permissible with the approval of the Planning Commission. 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 environment, the general public, or those intended to occupy or use the proposed development.
3. 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.
4. The Administrator shall determine whether amendments to and modifications of permits fall within the categories set forth above in Subsections 1., 2., and 3.
5. 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 48. Reconsideration Of Board Action

1. 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 for a period of not less than one year unless the applicant clearly demonstrates that:
 - a. Circumstances affecting the property that is the subject of the application have substantially changed, or
 - b. New information is available that could not 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 Court (see Section 80).

However, such a request does not extend the period within which an appeal must be taken.

2. Notwithstanding Subsection 1., 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 49. Maintenance of Common Areas, and Facilities

The recipient of any zoning certificate, special exception, sign, or other permit, or his successor, 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 require vegetation and trees used for screening, landscaping, or shading must be replaced if they die or are destroyed.

Section 50. Records of Zoning Administrators

The Zoning Administrator shall keep records of all zoning certificates issued under this Chapter; maintain permanent and current records related to the 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 Commissioners on matters pertaining to this Chapter.

Section 51. 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 Town (via the County Building 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 Zoning Chapter.

Part II Special Exception Permits

Section 52. Intent

1. 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.

2. 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.
3. 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 53. 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 54. Application for Special Exception

Such application for special exception shall be filed with the Zoning Administrator or Town Administrator on a form prescribed by the Planning Commission. 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 Planning Commission for recommendation to the Board of Appeals for review within 45 days of receipt of the application by the Zoning Administrator. The Board of Appeals shall, within 60 days of receipt of application from the Zoning Administrator, render a decision on the application.

Section 55. Hearing on Application

1. 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. 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.
2. Notice is required as provided in Article VI.

Section 56. Authorization

For each application for a special exception, the Board of Appeals shall normally, within 90 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 57. Standards

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

1. 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.
2. 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.
3. 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.
4. 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.
5. 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.
6. That the proposed special exception is not contrary to the objectives of the current Comprehensive Plan for the Town of Perryville.
7. 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.
8. 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 XII. 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 58. Effect of Denial of a Special Exception

No application for a special exception (conditional use) which has been denied wholly or in part by the Board of Appeals shall be resubmitted for a period of one year 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 59. Complaints

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

Section 60. Revocation

1. Failure to Comply with Conditions. Whenever the Board shall find, in 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.
2. Abandonment, etc. Whenever the Board shall determine that a special exception appears to have been abandoned, that an approved special exception is not initiated within one 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 Administrator shall notify the board and the Town attorney's office. Upon receipts of notice of such determination by the Board, 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 61. Standards for Specific Special Exceptions

1. 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.
2. Whenever deemed appropriate, the Board of Appeals may require the applicant for a special exception to install a vegetated and/or structural buffer along property lines to protect adjoining properties from the potential impacts of the special exception use and/or to maintain or enhance the general visual character of the property and surrounding area. Buffers standards shall be selected from Appendix B.

ARTICLE V APPEALS, VARIANCES, INTERPRETATIONS

Section 62. Appeals [Amended 1/3/2017 by Ord No. 2016-21]

1. An appeal from any final order or decision of the Zoning Administrator, Planning Commission or Town Administrator 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 therefore. A notice of appeal shall be considered filed with the Administrator and the Board of Appeals when delivered to the Town Administrator, and the date and time of filing shall be entered on the notice by the Zoning Administrator.
2. An appeal must be filed within 30 days after the date of the decision or order appealed from.
3. Whenever an appeal is filed, the Administrator shall forthwith transmit to the Board of Appeals all the papers constituting the record relating to the action appealed from.
4. 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 certificate) 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.
5. The Board of Appeals may reverse or affirm (wholly or partly) or may modify the order, requirement or 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.
6. An appeal from any final order or decision of the Planning Commission or Board of Appeals shall be taken to the Circuit Court in the manner provided by law of Maryland and particularly Titles 4 & 5 of the Land Use Article of the Annotated Code of Maryland. The appeal must be filed within 30 days after the date of the decision or order appealed.

Section 63. Variances

1. 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 office. Applications shall be handled in the same manner as applications for zoning permits and special exceptions in conformity with the provisions of Sections 39, 40, and 41. When the subject property or structure is located in the Critical Area, a copy of the application shall be provided to the Critical Area Commission.
2. A variance may be granted by the Board of Appeals if it concludes that strict enforcement of the Chapter would result in practical difficulties or unnecessary hardships for the applicant and that, by granting the variance, the spirit of the Chapter will be observed, public safety and welfare secured, and substantial justice done. It may reach these conclusions if it finds that:

- a. If the applicant complies strictly with the provisions of the Chapter, he can make no reasonable use of his property,
 - b. 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 of the applicant's own actions, and
 - (5) 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 area.
 - c. 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 or the Critical Area Overlay District.
 - d. 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.
 - e. That greater profitability or lack of knowledge of the restrictions shall not be considered as sufficient cause for a variance.
 - f. That the proposed variance is consistent with the Town of Perryville Comprehensive Plan.
 - g. 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.
 - h. 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.
3. The following provisions shall apply to requests for a variance in the Critical Area Overlay Zone:
- a. The Town shall make findings which demonstrate that the variance request meets the following standards:

- (1) Special conditions or circumstances exist that are peculiar to the land or structure involved and that a literal enforcement of provisions and requirements of the Town's Critical Area Program would result in unwarranted hardship.
 - (2) A literal interpretation of the provisions of the Critical Area Program and related Chapters will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area.
 - (3) The granting of a variance will not confer upon an applicant any special privilege that would be denied by the Town Critical Area Program to other lands or structures within the Critical Area.
 - (4) The variance request is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any condition relating to land or building use, either permitted or non-conforming on any neighboring property.
 - (5) The granting of a variance shall not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the Critical Area and the granting of the variance will be in harmony with the general spirit and intent of the Critical Area Act and the Town Critical Area Program.
- b. Applications for a variance will be made in writing to the Town Board of Appeals with a copy provided to the Critical Area Commission.
 - c. Process. After hearing an application for a Critical Area Program variance, the Board of Appeals shall make findings reflecting analysis of each standard. The Town shall notify the Critical Area Commission of its findings and decision to grant or deny the variance request.
 - d. Conditions and Mitigation. The Board of Appeals may 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 the Critical Area Program is maintained including, but not limited to the following:
 - (1) Impacts resulting from the granting of the variance shall be mitigated by planting on the site per square foot of the variance granted at no less than a three to one basis or as recommended by the Town Administrator.
 - (2) New or expanded structures or impervious surfaces shall be located the greatest possible distance from mean high water, the landward edge of tidal wetlands, tributary streams, nontidal wetlands, or steep slopes.
4. 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 practicable 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 as provided in Article VII.

5. A variance may be issued for an indefinite duration or for a specified duration only.
6. 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 64. Interpretations

1. 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, Planning Commission or Town Administrator, they shall be handled as provided in Section 12.
2. An application for a map interpretation shall be submitted to the Board of Appeals by filing a copy of the application with the Administrator in the Town office. The application shall contain sufficient information to enable the Board to make the necessary interpretation.
3. Interpretations of the location of floodway and floodplain boundary lines may be made by the Administrator as provided in applicable regulations.

Section 65. 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, provide notice in accordance with Article VI, and obtain the necessary information to make sound decisions.

Section 66. Burden of Proof in Appeals and Variances

1. When an appeal is taken to the Board of Appeals in accordance with Section 62, 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.
2. The burden of presenting evidence sufficient to allow the Board of Appeals to reach the conclusions set forth in Subsection 63.2. and 63.3 when located within the Critical Area Overlay District, as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

Section 67. Board Action on Appeals and Variances

1. 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).
2. A motion to deny a variance may be made on the basis that any one or more of the seven criteria set forth in Subsection 63.2., and 63.3 when located within the Critical Area Overlay District, , 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).
3. Postponement of hearings shall be as follows:
 - a. Requests for postponement shall be filed in writing with the Town Administrator not less than 10 days prior to the date of the hearing, and shall be accompanied by a sum of money sufficient to pay the cost of advertising the postponement and the rescheduled hearing. The granting of such requests shall be at the discretion of the Chairman of the Board.
 - b. Requests for postponement filed later than ten (10) days prior to the date of a scheduled hearing, shall, in addition to the other requirements set forth in subsection a. above, be supported by an affidavit of the party making the request or some other creditable person. The granting of such request shall be at the discretion of the Board in cases of extreme hardship or upon good cause shown.
 - c. The Board may, upon its own initiative, postpone a scheduled hearing at any time.
4. The Board may continue a hearing at another time and/or date once such hearing has been started; however, the Board shall announce the date and hour of continuance of such hearing while in session.

ARTICLE VI HEARING PROCEDURES FOR APPEALS AND APPLICATIONS

Section 68. Hearing Required on Appeals and Applications

1. Before making a decision on an appeal or an application for a variance, special exception, or a petition from the Planning Commission or Zoning Administrator to revoke a special exception, the Board of Appeals shall hold a hearing on the appeal or application.
2. Subject to Subsection 3., 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.
3. 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.
4. 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. The Board shall announce the date and hour of continuance of such hearing while in session.

Section 69. Notice of Hearing

The Administrator shall give notice of any hearing required by Section 68 as follows:

1. 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 1 newspaper of general circulation in the jurisdiction once each week for 2 successive weeks, with the first such publication of notice appearing at least 14 days prior to the hearing.
2. 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 before the hearing.
3. 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 70. Evidence

1. The provisions of this section apply to all hearings for which a notice is required by Section 68.
2. All persons who intend to present evidence to the board, rather than arguments only, shall be sworn.

3. 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 whenever 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 71. Modification of Application at Hearing

1. 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.
2. 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 72. Record

1. A tape recording or transcribed record prepared by a legal stenographer shall be made of all hearings required by Section 79, and such recordings shall be kept for at least two years. Accurate minutes shall also be kept of all such proceedings, and a transcript will be made.
2. 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 73. Written Decision

1. Any decision made by the Board of Appeals regarding an appeal or variance or issuance or 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.
2. 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 VII ENFORCEMENT AND REVIEW

Section 74. Limits of Authorization

Zoning certificates of approval, building permits or certificates of occupancy issued on the basis of plans and applications approved by the Planning Commission 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 Zoning Chapter.

Section 75. Complaints Regarding Violations

Whenever the Zoning Administrator receives a written, signed complaint alleging a violation of this Chapter, or a verbal complaint (noted in the record of the alleged violation by the Administrator) 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 76. 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 77. Procedures Upon Discovery of Violations

1. If the Administrator finds that any provision of this Chapter is being violated, he shall immediately (preferably within 30 days) 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.
2. 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 Section 62.
3. 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 Section 78.

Section 78. Penalties and Remedies for Violations [Amended 1/3/2017 by Ord No. 2016-21]

1. It shall be considered a municipal infraction for any person or corporation to violate any provision of this Chapter, or to erect, construct, alter or repair, convert, or maintain any building or structure, sign, or land in violation of any written statement or plan submitted and approved hereunder.
2. It shall be considered a municipal infraction for any owner, tenant, or occupant of a building, structure, sign or land or part thereof, which is in violation of this Chapter, or any architect, builder, contractor, subcontractor, agent, servant, person or corporation, knowingly to assist or further the commission of any violation of this Chapter. There shall be a rebuttable presumption that the defendant was violating the Chapter knowingly.
3. In the event that any person is found to have committed a municipal infraction hereunder, each infraction shall be punishable by a fine of up to \$1,000.00 for each single violation. In addition to said fine, the Town may request during the adjudication of the infraction that the defendant abate the violation, or in the alternative to permit the Town to abate the violation at the defendant's expense. Each day such violation continues shall be a separate offense.
4. The authority for municipal infractions is as provided in Title 6 of the Local Government Article of the Annotated Code of Maryland and enforcement shall be as provided therein. In addition and/or in lieu of pursuing a municipal infraction, the Town may seek injunction relief as a means of enforcing the provisions of this Chapter.

Section 79. Permit Revocation

1. A zoning certificate, 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 board.
2. 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.
 - a. The burden of presenting evidence sufficient to authorize the permit-issuing authority to conclude that a permit should be revoked for any of the reasons set forth in Subsection 1. shall be upon the party advocating that position. The burden of persuasion shall also be upon that party.
 - b. 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.
3. Before a zoning certificate 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 the 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 decision and the reasons therefore.

4. No persons may continue to make use of land or buildings in the manner authorized by any zoning certificate, sign, or conditional-use permit after such permit has been revoked in accordance with this section.

Section 80. Judicial Review

1. Every decision of the Board of Appeals shall be subject to review by the Circuit Court.
2. The petition must be filed with the Court within 30 days after the later of the following occurrences:
 - a. A written copy of the Board's decision (see Section 84) has been filed in the Town office, and
 - b. A written copy of the Board's decision (see Section 84) has been delivered by mail to the applicant or appellant and every other aggrieved party who has filed a written request for such copy at the hearing of the case.

ARTICLE VIII NONCONFORMING SITUATIONS

Section 81. Intent

1. Within the zones established by this chapter or amendments that may later be adopted, there exist lots, structures and uses of land and structures which were lawful before this chapter was passed or amended, but which would be prohibited, regulated or restricted under the terms of this chapter or future amendments.
2. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter and upon which actual building construction has been diligently carried on. 'Actual construction' is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

Section 82. Applicability

1. Uses, lots and structures existing, except nonconforming signs, lawfully prior to the effective date of this Chapter which, by reason of this Chapter, are no longer conforming, shall be considered as legally nonconforming and shall be subject to provision of this Article.
2. Uses, lots and structures existing unlawfully prior to the effective date of this Chapter and which remain unlawful, shall be considered illegal and - unless remedial action is taken (e.g., brought into conformance by an another acceptable zoning device permitted by this Chapter) - shall be prosecuted as a zoning violation in accordance with this Chapter
3. Uses, lots and structures existing lawfully or unlawfully prior to the effective date of this Chapter, which are made lawful as a result of the provisions of this Chapter, shall be considered as conforming.

Section 83. 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.

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.

Effective Date of This Chapter. Whenever this Article refers to the effective date of this Chapter, the reference shall be deemed to include the effective date of any amendments to this Chapter if the amendment, rather than this Chapter as originally adopted, creates a nonconforming situation.

Nonconforming Lot of Record. A lot existing at the effective date of this Chapter (and not created for the purposes of evading the restrictions of 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 is incomplete at the effective date 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 Sign. A sign (see definition) 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 XV.

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 running a bakery in a residentially zoned area is a nonconforming use.)

Nonconforming Situation. A situation that occurs when, on the effective date of this Chapter, an 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 nonconforming situation may arise because a lot does not meet minimum acreage requirements, 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 this article but shall be governed by the provisions of Article XV.

Section 84. Nonconforming Lots of Record

1. An individual lot of land or parcel located within the Town of Perryville Critical Area Overlay District (0) may be improved with a single-family dwelling and related accessory uses in a Resource Conservation Area (RCA) and otherwise developed in accordance with Article ((V)) IX, Part ((IX)) V, in a Limited Development Area (LDA) and an Intensely Developed Area (IDA), provided that they comply with the provisions of Section ((131)), Special Buffer yard requirements, and further, provided that they comply with the following criteria:
 - a. Any legally buildable single lot or parcel of record established in the Town of Perryville prior to May 4, 1988 may be improved or developed with a single-family residence, if one (1) is not already placed there.

- b. Any lot on which development activity has legally progressed to the point of pouring foundation footings or installation of structural members, prior to adoption of the Town of Perryville Critical Area Program, will be permitted to complete construction as per existing development approvals (e.g., building permit).
- c. Development may take place on lots created prior to June 1, 1984, subject to the limitations on permitted uses contained in Article X and subject to the provisions of Section ((131)) 125. However, any development of such lands must comply, insofar as possible, with the Critical Area criteria if the development occurs between December 1, 1985, and the time the local program is approved. Development after May 4, 1988 on land subdivided prior to June 1, 1984, must comply with the use provisions of Article IX and the provisions of Section ((131)) 125.
- d. Development may take place on lots subdivided between June 1, 1984, and December 1, 1985, for which interim findings (Critical Area Law, 8-1813) have been made by the Town of Perryville Planning and Zoning Commission, the Town Board of Appeals or the Town Commissioners.
- e. Development on land subdivided into recorded legally buildable lots and approved by the Planning Commission after December 1, 1985, shall conform to the Critical Area criteria.

Section 85. Nonconforming Uses of Land

Where, at the effective date of adoption or amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued, subject to the provisions of Section 88, so long as it is otherwise lawful.

Section 86. Nonconforming Structures

Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued subject to Section 88, so long as it remains otherwise lawful.

Section 87. Nonconforming Uses of Structures

If a lawful use of a structure or of structure and premises in combination, exists at the effective date of adoption or amendment of this chapter that would not be allowed in the zone under the tenants of this

chapter, the lawful use may be continued subject to Section 88, so long as it remains otherwise lawful, subject to the following provisions:

1. Conformance required. Except as hereinafter specified, no land, building, structure or premises shall hereafter be used, and no building or part thereof or other structure shall be located, erected, reconstructed, extended, enlarged, converted or altered, except in conformity with the regulations herein specified for the district in which it is located.
2. Continuing existing uses. Except as provided in Articles XI and XII, any lawful use, building or structure existing at the time of the enactment of this chapter, including a seasonal use, may be continued, even though such use, building or structure may not conform to the provisions of this chapter for the district in which it is located.
3. Nonconforming uses. No existing building or premises devoted to a use not permitted by this chapter in the district in which such building or premises is located, except when required to do so by law or order, shall be enlarged, extended, substituted or structurally altered unless the use thereof is changed to a use permitted in the district in which such building or premises is located, except as follows:
 - a. Substitution.
 - (1) If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or of a more restricted classification.
 - (2) Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed back to a less restricted use.
 - (3) When authorized by the Board of Appeals according to the provisions of Article III of this chapter, a nonconforming use of land may be changed to another nonconforming use or a nonconforming use of a building may be changed to one of a less restricted classification.
 - b. Discontinuance. No building, structure or premises where a nonconforming use has ceased for one (1) year or more shall again be put to a nonconforming use except by the Board of Appeals, according to Article III of this chapter.
 - c. Extensions.
 - (1) A building devoted to a nonconforming use may be completed or extended, and other buildings may be erected in addition thereto, for uses necessary and incidental to the continuation of the existing use, provided that such additions and extensions are located on the same premises or on adjoining premises that were under the same ownership on the date such building became nonconforming, and provided that the floor areas of all such additions and extensions shall not exceed, in the aggregate, fifty percent (50%) of the floor area of the existing building devoted to a nonconforming use. Any extension of a nonconforming use or structure shall be subject to Board of Appeals' approval as provided in Article III. The extension or completion of a building or the construction of additional buildings as herein provided shall not be deemed to

extend or otherwise affect the date when such nonconforming use or building must be changed or removed, if subject to any of the provisions of this Article.

- (2) Any dwelling lawfully existing at the time of enactment of this chapter, not located on a lot having frontage on a road as required herein, may be continued and may be enlarged, without increasing the number of dwelling units thereon, provided that no such addition shall extend closer to the road than the existing building or the setback line for the district.
 - (3) A nonconforming use may be extended throughout those parts of a building which were manifestly designed or arranged for such use prior to the effective date of this chapter, provided that no structural alterations are made except as required by law.
 - (4) A nonconforming use may be extended throughout those parts of a premises which were manifestly designed or arranged for such use prior to the effective date of this chapter, provided that no increase in the number of dwelling units (permanent or seasonal) occurs thereon, and such extension shall not extend closer to the property lines than existing setback requirements for the district in which such parcel of land is located.
4. Unsafe buildings. Nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by a proper authority.

Section 88. Termination of Certain Nonconformities

Certain nonconformities shall be terminated in accordance with the following provisions:

1. Within not more than two (2) years from the effective date of this chapter or amendment of this chapter by which a use becomes nonconforming, the right to maintain the following nonconformities shall terminate, and such nonconformities shall no longer be operated or maintained and must be removed.
 - a. Any junkyards within the corporate limits of Perryville
2. Within not more than five (5) years from the effective date of this chapter or amendment of this chapter all nonconforming off-site signs shall be removed.
3. Mobile homes. Where a lawful use of a mobile home and premises existed, whether on a single lot or in a mobile home park, at the effective date of adoption of this chapter, the lawful use shall be permitted to continue, subject to the following:
 - a. Nothing shall prevent the replacement of a mobile home on a single lot, provided that all setback regulations for the district in which the replacement unit is to be placed are met.
 - b. Mobile homes or trailers in a mobile home park or trailer court may be replaced, but the number of units within the park or court cannot be increased until the park or court has received its conditional use permit from the Board of Appeals.

Section 89. Restoration of Unsafe Buildings

Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Section 90. Uses Not Considered Nonconforming

Any use for which a conditional use or special exception is permitted as provided in this chapter shall not be deemed a nonconforming use but shall, without further action, be deemed a conforming use in such district, except as granted in Section 87 and Section 88.1 and 88.2.

Section 91. Reserved

ARTICLE IX ZONING DISTRICTS

Part I Zoning Districts

Section 92. Districts Established [Amended 9/21/2020 by Ordinance No. 2020-07]

The incorporated area of the Town of Perryville shall be divided into twelve (12) zoning districts: "R-1", Single Family District; "R-2", Mixed Residential District; "R-3", Multi-Family District; "RM. Residential Marine; "TC", Town Center Mixed-Use District; "CM-1" Maritime Commercial District; "CM-2" Commercial Maritime; "NB" Neighborhood Business District; "C-2" Highway Commercial; "LI-1", Light Industrial District; and the "LI-2" Industrial District and OS – Open Space District. The districts shall be established to regulate the location of residences, 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; to regulate and determine the areas of yards, courts, and other open spaces with and surrounding such buildings; and to implement the recommendations of the Perryville Comprehensive Plan and the Perryville Critical Area Program.

Section 93. Residential Districts

1. R-1: Single Family Residential District

The intent of this district is to provide for low-density single-family detached residences 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 designed to secure for residents a comfortable, healthy, safe, and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in non-residential districts. The Comprehensive Plan should be used to determine the location of this zone. 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 new building lots is only permitted in appropriate locations where additional development or redevelopment is deemed to be consistent with the character of the surrounding neighborhoods.

2. R-2: Mixed Residential District

The intent of this district is to provide for medium-density single-family detached residences, medium density attached residences and supporting uses. This zone is located in areas of the Town where medium-density residential development patterns are generally established or where services and facilities will be adequate to serve the anticipated population. The Comprehensive Plan should be used to determine location of this zone. 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.

In general, re-subdivision of lots in existing subdivisions to create new building lots is only permitted in appropriate locations where additional development or redevelopment is deemed to be consistent with the character of the surrounding neighborhoods.

3. **R-3: Multi-Family Residential District**

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 mixes -- including single-family, two-family, duplexes, townhouses, and apartments -- are encouraged in order to provide for a mix in housing prices, household size, 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 social service facilities for the elderly and handicapped are also encouraged in this zone.

4. **TC: Town Center District**

The intent of the Town Center District is to provide for a mix of land uses including residential, recreational, and commercial uses within the historic town center. It is also the intent of this district to require and promote the integration of uses through shared parking, access drives, tasteful signage, landscaping, etc. Supplementary appearance, landscaping, screening, parking and loading, outdoor storage, and sign regulations apply in this district to ensure an attractive, inviting pedestrian oriented setting.

5. **RM: Residential-Marine District**

The purpose of the Residential Marine district is to provide for waterfront residential uses as adjacent to the Town Center as well as limited commercial marina activities that can be co-located with existing and future residential uses without having an adverse impact on residents in the vicinity. In this residential context commercial marine uses are limited to yacht clubs, public and private marinas, along with accessory marine related sales and services provided all such activities are conducted in a completely enclosed building, and some small scale retail sales and lodging establishments.

Section 94. Commercial/Business Districts

1. **CM-1: Commercial Maritime District**

The purpose of the CM-1 Commercial Maritime District is to encourage commercial uses associated with the Town's waterfront and its basic water oriented location including commercial docking, waterfront sales, storage and repair of small boats, including out-of-water repairs, and for seafood packing and processing establishments, subject to applicable sanitation and pollution laws. District standards have been established to permit a wide array of marine commercial uses but not permitting uses that may have an adverse impact on adjacent residential areas, including structures that would substantially limit views of the Susquehanna River from off-site locations.

2. **CM-2: Commercial Maritime District**

The purpose of the CM-2 Commercial Maritime District is to encourage commercial uses associated with the Town's waterfront and its basic water oriented location including commercial docking, waterfront sales, storage and repair of small boats, including out-of-water repairs, and for seafood packing and processing establishments, subject to applicable sanitation and pollution laws. The CM-2 district is located so that adjacent properties are less likely to be adversely impacted by uses and structures that may block views to the Susquehanna River and thus a broader array of marine uses may be permitted.

3. **NB: Neighborhood Business District**

The purpose of this district is to provide primarily for retail shopping and personal service uses, to be developed either as a unit or in individual parcels, to serve the needs of a relatively small residential area. To enhance the general character of the district and its compatibility with its residential surroundings, signs are limited to those accessory to businesses conducted on the premises, and the number, area and types of signs are limited.

4. **C-2: Highway Commercial District**

The intent of the General Commercial District is to provide for commercial activities that depend on highway traffic for business. These areas are generally retail and service establishments that locate along high volume highways for accessibility and visibility. Although serving an important function in the local economy, these uses will not be permitted to create traffic problems that impair the efficient operation of highways.

Section 95. Industrial Districts

1. **L-1 Limited Industrial District.**

The purpose of this district is to provide sufficient space in appropriate locations for certain types of business and manufacturing, relatively free from offense, in modern landscaped buildings, to make available more attractive locations for these businesses and industries and to provide opportunities for employment closer to places of residence with corresponding reduction of travel time from home to work. Certain commercial uses are permitted, primarily for service to employees in the district. Typical development in the district would be that which is commonly known as an "industrial park." Accessory signs of limited area and application are permitted.

2. **L-2 Light Industrial District.**

The purpose of this district is to provide for a wide variety of light manufacturing, fabricating, processing, wholesale distributing and warehousing uses appropriately located for access by major thoroughfares or railroads. New residential development is excluded.

Section 96. Other Districts [Amended 2-18-2009 by Ord. No. 2009-1]

1. Floating Zone District

- a. Purpose. Floating zones are zones that may be appropriate for the Town but are not mapped out at the time of adoption of the most recent comprehensive revision to the Perryville Zoning Chapter. The purpose of the designated floating zones is to permit the mapping of appropriate areas for land uses that may be required over the next 20 years. The designated floating zone provides a mechanism for the establishment of the district in appropriate areas, limiting the areas to be zoned and setting conditions that must be met by any development proposal seeking such a designation. Further, the procedure is two-stage so that the initial costs are not prohibitive.
- b. Designation of Floating Zones. The following are designated as floating zones:
 - (1) Planned Unit Development - PUD Floating Zone
 - (2) Planned Manufactured Home Community District - PMHC Floating Zone
 - (3) The Mixed-Use Development - MUD Floating Zone
 - (4) The Commercial Entertainment Mixed Use Development – CEMUD Floating Zone.

The Town Commissioners and Planning Commission find that they are not able to locate the PUD and PMHC Floating Zones with precision in advance and that it is desirable to leave specific locations and conditions for future determination as the Town grows and specific needs develop. In the case of the MUD Floating Zone, the eligible areas are designated as such in the Comprehensive Plan. The MUD Floating Zone also may be applied to annexed parcels that meet the criteria in Section 112 below.

2. Overlay Districts

- a. The purpose of a special overlay district is to achieve the preservation or enhancement of a designated geographic area of special and substantial public interest. The overlay district regulations are intended to supplement the regulations of the underlying zoning districts and serve to extend, modify, or alter the regulations imposed by the established zoning classification(s) in said area to accomplish the special public purpose for which the district is established. Such districts established herein may be modified or expanded or new districts may be created, by amendment to this Chapter.
- b. The following are Special Overlay Districts:
 - (1) Critical Area Overlay District
 - (2) Highway Corridor Overlay District

3. **OS – Open Space District** [Amended 9/21/2020 by Ordinance No. 2020-07]
 - a. The purpose of the Open Space (OS) District is to preserve open areas of the Town as areas for active or passive outdoor recreation use; protect existing natural resources and areas of scenic, historic, or cultural value; and provide locations for public recreation use.

Part II Planned Unit Development (PUD) Floating Zone

Section 97. Planned Unit Development in General

1. It is the intent of this zone to control the placement, design, use, and density of well planned, residential developments which will offer a variety of building types and a more efficient overall use of land, and within these limits, permit the optimum amount of freedom and variety in the design and management of such varying types of residential structures including one and two-family units, townhouses and garden apartments. Within the intention of these regulations, the following objectives are sought to provide for the Planned Unit Development:
 - a. To provide a more attractive and varied living environment than would be possible through the strict application of R-1, R-2, and R-3 district requirements.
 - b. To encourage a more intimate, efficient and aesthetic use of open space.
 - c. To encourage developers to use a more creative approach in the development of land.
 - d. To encourage variety in the physical development pattern of residential areas.
2. The Mayor and Commissioners shall follow the procedures set forth in Article XVII for the approval of a floating zone.

Section 98. PUD Requirements

1. Permitted uses. Planned Unit Developments are contemplated to be primarily residential in nature. However, Planned Unit Developments of sufficient size and appropriate character may have commercial development which is incidental to the Planned Unit Development and is intended primarily for the use of the residents of the Planned Unit Development. Specifically permitted uses are as follows:
 - a. Single family detached units.
 - b. Multi-family dwellings, attached or detached, one and two family units, townhouses and garden-type apartments.
 - c. Apartments (limited to no more than 10 percent of all dwelling units).
 - d. An office, temporary or permanent, belonging to the developer and clearly incidental to management and sales operations of the PUD.

- e. Temporary structures incidental to construction.
 - f. In a PUD of over fifty (50) acres or more, a Planned Commercial Center may be permitted. Such commercial center shall be an integral part of the plan for the PUD. The total aggregate area of all the commercial establishments and their parking area shall be established in the approval of the general development plan but in no case shall be more than 10 percent of the gross area of the PUD. Planned commercial centers shall be a group of commercial uses compatible with the residential nature of the PUD and the Town of Perryville. These may include any use listed as Permitted or special exception uses in TC or NB districts. No construction on the planned commercial center shall begin until 30 percent of the total planned residential units are completed.
 - g. 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 Planned Unit Development and the local community.
2. Where Permitted. Planned Unit Developments are permitted in the R-1, R-2, and R-3 districts. In general, a Planned Unit Development is contemplated in residential zones where tracts of suitable location size, and character exist. The uses/structures proposed are to be planned and developed according to the requirements and procedures of this Chapter. Planned Unit Developments shall be approximately located with respect to the general pattern of urban development existing or proposed, and to existing public and private facilities and services.
 3. Computation of Dwelling Units Permitted.
 - a. The total gross density in the Planned Unit Development shall not exceed the following:
 - (1) R-1 - 3 dwelling units per acre
 - (2) R-2 - 5 dwelling units per acre
 - (3) R-3 - 8 dwelling units per acre
 - b. The total permitted dwelling units may be averaged over the entire PUD or clustered in various groupings.
 4. The setback, lot size, lot dimensions, lot coverage, height, and yard requirements in the Planned Unit Development shall be established for each individual project by the Planning Commission. In establishing these requirements the Planning Commission shall consider such factors as the proposed intensity of the project and the existing character of the neighborhood.
 5. Land Coverage. The maximum amount of land that may be built over (covered) by parking lots, roads, sidewalks, or plazas, buildings, or other structures shall be thirty-five (35) percent of the gross land area of the PUD.
 6. Area. The proposed PUD shall in no case contain less than five (5) acres of land.

7. Open Space. Common open space shall comprise not less than twenty-five (25) percent of the gross area. All open space shall be designated for the common use of all occupants of the PUD and at least 50 percent of such space shall be developed as recreational areas.
8. Sanitary Facilities - No PUD plan shall be approved unless the proposed development can be served by public water and sewer disposal systems, which shall be existing at the time the plan receives final approval. Satisfactory evidence must be furnished to the Planning Commission, the Department of Public Works and the Town Commissioners that the existing Town sewer and water system have adequate capacity to handle the increased demand placed upon them by the proposed PUD and meet current health department requirements for standards of operation.
9. Parking. At least two (2) usable off-street parking spaces shall be provided for each dwelling unit, either on the lot it occupies or within one hundred fifty feet of such lot or of an apartment. Additional parking may be required as determined by the Planning Commission.

Section 99. Administrative Procedures

1. Preliminary Application shall be made to the Mayor and Commissioners and referred to the Planning Commission for stage one consideration of the PUD zone and shall include, but not be limited to:
 - a. A general diagram showing the PUD relation to the Town of Perryville and major public access to the PUD (15 copies).
 - b. The General Development Plan setting forth preliminary information as identified in Appendix A (15 copies). In addition to such information, the Planning Commission may include, but not be limited to the following:
 - (1) Elevations and percentages of each building type, number of units and location of buildings.
 - (2) Proposed convenience centers, open spaces, their size, their location, their uses, and their proposed ownership (Town and/or association).
 - (3) General statement concerning provision of utilities (draft terms and provisions of a public works agreement).
 - (4) Statement of expected Town responsibilities.
 - (5) Cost-Revenue ratio of the proposed PUD for the Town.
 - (6) Tentative time table and staging of development. (Schedule of construction)
 - (7) Applicant shall pay an application fee as previously established by the Town.
 - c. After the Planning Commission makes its findings, the application will be forwarded to the Mayor and Commissioners for consideration. If the Mayor and Commissioners find that the proposal has merit, it will be conditionally approved.

2. Preliminary Site Plan. The developer shall submit the following to the Planning Commission for its review after receiving conditional approval from the Mayor and Commissioners.
 - a. The (15) copies of a preliminary site plan shall be filed with the Town. The preliminary site plan shall comply with the requirements of this Article and be accompanied by such other written or graphic material as may be necessary or desirable in aiding the decisions of the Mayor and Commissioners and the Planning Commission.
 - b. The Planning Commission shall review the site plan for compliance with the requirements of this Chapter. In their review of the preliminary site plan the Planning Commission shall consult with such Town officials as may be appropriate, and may offer such comments as may be appropriate.
 - c. Preliminary Site Plan shall include but not be limited to the requirements set forth in Appendix A.
 - d. The preliminary site plan shall be accompanied by a schedule of construction or timetable (acceptable to the Mayor and Commissioners and Planning Commission).
 - e. The developer shall provide a statement detailing the means by which the PUD 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:
 - (1) Sanitary and storm sewers, water mains, culverts, and other underground structures.
 - (2) Streets, alleys, driveways, curb cuts, entrances and exits, parking and loading area, and outdoor lighting systems.
 - (3) Parks, parkways, cycle ways, playgrounds, open spaces, fences, walls, screen planting, and landscaping and signs.
 - h. The Planning Commission and/or Mayor and Commissioners may establish additional requirements for preliminary site plans for the PUD District.
 - i. After review and a public hearing on the proposed zoning, the Planning Commission shall return the site plan, together with comments and recommendations to the Mayor and Commissioners for appropriate action.
3. Final Review and Approval Procedure
 - a. The Mayor and Commissioners shall review the final preliminary site plan and other documents.

- b. The Mayor and Commissioners shall hold a public hearing in the manner required in Article 299 of this Chapter.
 - c. The Mayor and Commissioners may approve or disapprove the proposed PUD zoning. In granting approval, the Mayor and Commissioners shall secure:
 - (1) A surety bond or equivalent to be filed for/or deposited in escrow with the Mayor and Commissioners in an amount sufficient to ensure completion of all requirements established by the Mayor and Commissioners. Such surety to be reviewed annually and adjusted to reflect current costs.
 - (2) A final site plan in the form of 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, County and Town laws, regulations, and Chapters governing the subdivision of land.
 - (3) Permits for building shall be issued in accordance with the schedule for construction approved by the Mayor and Commissioners as part of the final approval.
 - (4) When a PUD is to be developed in stages, each stage shall be processed as a separate development after first submitting and receiving approval of the PUD zone for the entire project.
 - (5) As part of the final approval, the Mayor and Commissioners shall approve dates for initiation and completion of the PUD and/or its phases. Any departure from these dates shall constitute material breach of contract and outstanding bonds can be called in. The Mayor and Commissioners can waive for cause.
4. Conflict with other Articles
- a. Provisions of the PUD zone when found to be in conflict with other provisions of the Perryville Zoning Chapter shall supersede those other provisions with which they conflict.
 - b. Provisions of the PUD zone when found to be in conflict with other provisions of the Perryville Subdivision Chapter shall supersede those other provisions with which they conflict.

Part III Manufactured Home Community District (MHCD) Floating Zone

Section 100. Intent of District

The purpose of this floating zone district is to provide for the development of planned manufactured home parks which are designed to provide an appropriate, safe, sanitary and attractive living environment. The provisions set forth in this floating district, where in conflict with other provisions of the Chapter shall prevail. Where an existing manufactured home park is expanded either at the same time or in stages to

include the addition of one (1) or more manufactured home sites, the expanded area must conform to the provisions of this Part.

Section 101. Administrative Procedures

1. Preliminary Application shall be made to the Mayor and Commissioners and referred to the Planning Commission for stage one consideration of the MHCD zone and shall include, but not be limited to:
 - a. A general diagram showing the MHCD relation to the Town of Perryville and major public access to the MHCD (15 copies).
 - b. The General Development Plan setting forth preliminary information as identified in Appendix A (15 copies). In addition to such information, the Planning Commission may include, but not be limited to the following:
 - (1) Elevations and percentages of each unit type, number of units and location of units.
 - (2) Proposed convenience centers, open spaces, their size, their location, their uses, and their proposed ownership (Town and/or association).
 - (3) General statement concerning provision of utilities (draft terms and provisions of a public works agreement).
 - (4) Tentative time table and staging of development. (Schedule of construction)
 - (5) Applicant shall pay an application fee as previously established by the Town.
 - c. After the Planning Commission makes its findings, the application will be forwarded to the Mayor and Commissioners for consideration. If the Mayor and Commissioners find that the proposal has merit, it will be conditionally approved.
2. Preliminary Site Plan. The developer shall submit the following to the Planning Commission for its review after receiving conditional approval from the Mayor and Commissioners.
 - a. The (15) copies of a preliminary site plan shall be filed with the Town. The preliminary site plan shall comply with the requirements of this Article and be accompanied by such other written or graphic material as may be necessary or desirable in aiding the decisions of the Mayor and Commissioners and the Planning Commission.
 - b. The Planning Commission shall review the site plan for compliance with the requirements of this Chapter. In their review of the preliminary site plan the Planning Commission shall consult with such Town officials as may be appropriate, and may offer such comments as may be appropriate.

- c. Preliminary Site Plan shall include but not be limited to the requirements set forth in Appendix A.
- d. The preliminary site plan shall be accompanied by a schedule of construction or timetable (acceptable to the Mayor and Commissioners and Planning Commission).
- e. The developer shall provide a statement detailing the means by which the MHCD 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:
 - (1) Sanitary and storm sewers, water mains, culverts, and other underground structures.
 - (2) Streets, alleys, driveways, curb cuts, entrances and exits, parking and loading area, and outdoor lighting systems.
 - (3) Parks, parkways, cycle ways, playgrounds, open spaces, fences, walls, screen planting, and landscaping and signs.
- g. The Planning Commission and/or Mayor and Commissioners may establish additional requirements for preliminary site plans for the MHCD District.
- h. After review and a public hearing on the proposed zoning, the Planning Commission shall return the site plan, together with comments and recommendations to the Mayor and Commissioners for appropriate action.

3. Final Review and Approval Procedure

- a. The Mayor and Commissioners shall review the final preliminary site plan and other documents.
- b. The Mayor and Commissioners shall hold a public hearing in the manner required in Article 299 of this Chapter.
- c. The Mayor and Commissioners may approve or disapprove the proposed MHCD zoning. In granting approval, the Mayor and Commissioners shall secure:
 - (1) A surety bond or equivalent to be filed for/or deposited in escrow with the Mayor and Commissioners in an amount sufficient to ensure completion of all requirements established by the Mayor and Commissioners. Such surety to be reviewed annually and adjusted to reflect current costs.
 - (2) A final site plan in the form of 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, County and Town laws, regulations, and Chapters governing the subdivision of land.

- (3) Permits for building shall be issued in accordance with the schedule for construction approved by the Mayor and Commissioners as part of the final approval.
- (4) When a MHCD is to be developed in stages, each stage shall be processed as a separate development after first submitting and receiving approval of the MHCD zone for the entire project.
- (5) As part of the final approval, the Mayor and Commissioners shall approve dates for initiation and completion of the MHCD and/or its phases. Any departure from these dates shall constitute material breach of contract and outstanding bonds can be called in. The Mayor and Commissioners can waive for cause.

4. Conflict with other Articles

- a. Provisions of the MHCD zone when found to be in conflict with other provisions of the Perryville Zoning Chapter shall supersede those other provisions with which they conflict, except those provisions applicable to the Critical Area.
- b. Provisions of the MHCD zone when found to be in conflict with other provisions of the Perryville Subdivision Chapter shall supersede those other provisions with which they conflict, except those provisions applicable to the Critical Area District.

Section 102. Development Standards

1. Generally.

- a. A manufactured home development shall be located only upon property designated for such use by the Town Commissioners in accordance with the provisions for floating zone amendments in Article XIX, section 301.
- b. No part of any park shall be used for nonresidential purposes, except such uses that are required for the direct servicing and well-being of park residents and for the management and maintenance of the park. Nothing contained in this section shall be deemed as prohibiting the sale of a manufactured home located on a manufactured home stand and connected to the pertinent utilities.
- c. Condition of soil, groundwater level, drainage and topography shall not create hazards to the property or to the health or safety of the occupants. The site shall not be exposed to objectionable smoke, dust, noise, odors, or other adverse influences, and no portion subject to predictable sudden flooding or erosion shall be used for any purpose which would expose persons or property to hazards.

2. Site Plan required. No land may be used as a Manufactured home Community until the Planning Commission has granted site plan approval in accordance with the standards set forth in this Chapter.

3. Density; lot size.
 - a. The maximum density of manufactured homes shall be regulated by separation requirements, occupied lot area ratios and recreation area requirements, as set forth in this section. Density will vary considerably in accommodating different sizes of manufactured home units with their accessory structures used in the locality and in the type of layout proposed.
 - b. No manufactured home shall be located closer than 20 feet to any other manufactured home or permanent building within the manufactured home development.
 - c. Manufactured home stands shall not occupy an area in excess of one-third of the respective lot area. The accumulated occupied area of the manufactured home and its accessory structures on a manufactured home lot shall not exceed two-thirds of the respective lot area.
 - d. Minimum lot size for a single, non-expandable manufactured home shall be 4,000 square feet, with a minimum frontage of 40 feet.
4. Recreation area. Not less than five percent of the gross site area shall be devoted to recreational facilities, generally provided in a central location. In larger developments recreational facilities may be decentralized, with at least one area of two-thirds of an acres (for example, large enough for a small softball park). Recreation areas may include space for community buildings and community use facilities, such as indoor recreation areas, swimming pools, hobby and repair shops and service buildings. Where compliance with this provision results in undue hardship or where individual lot areas are substantially above minimum standards and provide for sufficient outdoor recreation, an exemption shall be granted to the extent that an absolute minimum of 100 square feet per lot be considered sufficient for the site of a centralized recreation area; provided that no recreation area shall contain less than 5,000 square feet. The responsibility of developing and maintaining such recreational area shall rest with the developer.
5. Setbacks, buffer strips and screening
 - a. All manufactured homes shall be located at least 25 feet from any park property boundary line abutting upon a public street or highway and at least ten feet from other park property boundary lines.
 - b. Minimum setbacks on all manufactured home sites shall be fifteen (15) feet front and rear and ten (10) feet on each side.
 - c. Manufactured home parks shall be surrounded by buffer yards meeting the Buffer yard D standard as shown in Appendix B of this Chapter.
6. Streets.
 - a. *Generally.* All manufactured home developments shall be provided with safe and convenient vehicular access from abutting public streets or roads to each manufactured home lot. Such access shall be provided by streets, driveways or other means.

- b. *Entrance streets.* Entrances to manufactured home developments shall have direct connections to a public street and shall be designed to allow free movement of traffic on such adjacent public streets. No parking shall be permitted on the entrance street for a distance of 100 feet from its point of beginning.
- c. *Circulation.* The street system should provide convenient circulation by means of minor streets and properly locate collector streets. Dead-end streets shall be limited in length to 200 feet, and their closed end shall be provided with an adequate turn-around of 60 feet in diameter.
- d. *Pavement widths.* Pavements should be of adequate widths to accommodate the contemplated parking and traffic load in accordance with the type of street, with ten-foot minimum moving lanes, and, in all cases, shall meet the following requirements.
 - (1) For collector streets with guest parking allowances, the required width shall be 36 feet.
 - (2) For collector streets and all other streets, except minor streets, without parking allowances, the required width shall be 24 feet. Measurement shall be the full paving width available for traffic and parking.
- e. *Street grades.* Grades of all streets shall be sufficient to ensure adequate surface drainage.
- f. *Intersections.* Street intersections should generally be at right angles. Offsets at intersections and intersections of more than two streets at one point should be avoided.
- g. *Construction standards.* All streets shall be constructed to Town specifications.
- h. *Streetlights.* Streetlights should be provided in accordance with Town standards.
- i. *Adequate site drainage* shall be provided in accordance with the requirements of the Perryville Storm water Management Chapter.

7. Walks

- a. *General requirements.* All manufactured home developments shall be provided with safe convenient all-season pedestrian access of adequate width for the intended use and which shall be durable and convenient to maintain. Sudden changes in alignment and gradient shall be avoided.
- b. *Common walk system.* A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of four feet and shall be parallel to the streets. Where approved by the enforcing agency, sidewalks designed to act as curbs may be poured monolithically with the sidewalk.

- c. Individual walks. All manufactured home stands should be connected to common walks, to streets, to driveways or to parking spaces. Such individual walks shall have a minimum width of two feet.

8. Manufactured home lots.

- a. Generally. The limits of each manufactured home lot should be marked on the ground by suitable means. The locations of lot limits on the ground should be the same as shown on accepted plans.
- b. Manufactured home stands. The manufactured home stand shall be improved to provide adequate support for the placement and tie down of the manufactured home. The stand shall not heave, shift or settle unevenly under the weight of the manufactured home due to frost action, inadequate drainage, vibration or other forces acting on the structure. Anchors or tie downs, if provided, such as cast-in-place concrete dead-men, eyelets imbedded in concrete, or screw augers to arrowhead anchors shall be placed at least at each corner of the manufactured home stand, and each device shall be able to sustain a minimum load of 4,800 pounds.
- c. Driveways. Improved driveways should be provided on lots where necessary for convenient access to manufactured homes. The minimum width shall be ten feet.
- d. Parking spaces. The design criteria for automobile parking shall be based upon two parking spaces for each manufactured home lot. Parking may be in tandem.
- e. Outdoor living area. Each manufactured home lot should be provided with an outdoor living and service area. Such area should be improved as necessary to ensure reasonable privacy and comfort. The minimum area should not be less than 300 square feet, with a least dimension of 15 feet.
- f. Accessory structures. Accessory structures remain, as per definition, dependent upon the manufactured home and shall not be used as complete independent living units with permanent provisions for sleeping, cooking and sanitation. Such structures shall be erected, constructed or occupied on a manufactured home lot as specified in this subsection:
 - (1) Accessory structures shall be designed so as to enhance the appearance of the manufactured home development. Accessory structures may not be located in any required front or side yard and must be setback a minimum of 3 feet from and side lot line and 5 feet from any rear lot line.
 - (2) Accessory structures shall not obstruct required openings for light and ventilation of the manufactured home and shall not prevent the inspection of manufactured home equipment and utility connections.

- (3) Construction and electrical installations, unless otherwise specified, shall comply with this Code or any other Chapter of the Town.
- (4) Electrical circuits supplying the accessory structure shall be independent of the circuit supplying the manufactured home.
- (5) Accessory radio and television antennas, but not including microwave antennas (satellite dishes), are permitted when less than 12 feet above the structure on which they are mounted.
- (6) Accessory mounted microwave antennas (satellite dishes) are permitted as provided by this Chapter.
- (7) Accessory freestanding microwave antennas (satellite dishes) mounted on a single stanchion are permitted when six feet or less in diameter and less than ten feet in height and constructed of expanded aluminum mesh or wire screen.

Section 103. Service buildings and other Community Facilities

The following service facilities and other community facilities may be approved in the planned manufactured home community:

1. Management offices, repair shops and repair areas.
2. Sanitary facilities.
3. Laundry facilities.
4. Indoor recreation areas.
5. Commercial uses supplying essential goods or services for the exclusive use of development occupants.

Section 104. Community maintenance standards - Responsibilities of Management

1. The person to whom a license for a manufactured home community is issued shall provide adequate supervision to maintain the community in compliance with this article and to keep its facilities and equipment in good repair and in a clean and sanitary condition.
2. The management shall notify the community residents of all applicable provisions of this article and inform them of their duties and responsibilities under this article.
3. The management shall supervise the placement of each manufactured home on its manufactured home stand, which shall include securing its stability and installing all utility connections.

4. The management shall maintain a register containing the names of all community residents, identified by lot number or street address. Such register shall be available to any authorized person inspecting the community.

Section 105. Responsibilities of Residents

1. The resident shall comply with all applicable requirements of this article and shall maintain his manufactured home lot and its facilities and equipment in good repair and in clean and sanitary condition.
2. The resident shall be responsible for the proper placement of his manufactured home on its manufactured home stand and the proper installation of all utility connections in accordance with the instructions of the management.
3. Skirtings, porches, awnings and other additions shall be installed only if permitted and approved by the management. When installed, they shall be maintained in good repair. The space immediately underneath a manufactured home shall be used for storage only if permitted by the management. If permitted, the following conditions shall be satisfied.
 - a. The storage area shall be provided with a base of impervious material.
 - b. Stored items shall be so located as not to interfere with inspection underneath the manufactured home.
 - c. The storage area shall be enclosed by skirting.
 - d. The resident shall store and dispose of all his rubbish and garbage in a clean, sanitary and safe manner. The garbage container shall be rodent proof, insect proof and watertight.
 - e. First aid fire extinguishers for class B and C fires shall be kept at the premises and maintained in working condition.

Section 106. Handling of Solid Waste

1. The storage, collection and disposal of refuse in the manufactured home community shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution.
2. The applicant or developer shall be responsible for all refuse collection. All refuse containers shall be screened as required in Article XVII.

Section 107. Fire Protection

1. Manufactured home communities shall be free of litter, rubbish and other flammable materials.
2. Portable fire extinguishers, rated for class B and C, shall be kept in service buildings and at other locations conveniently and readily accessible for use for all occupants, and shall be maintained in good operating condition. Their capacity shall not be less than 2-1/2 pounds.
3. Fires shall be made only in stoves, incinerators and other equipment intended for such purposes.

Part IV Mixed Use Development (MUD) Floating Zone

Section 108. Purpose of the District

The purpose of the district is to allow flexibility in zoning based on a specific development plan for a property designated as appropriate by the Comprehensive Plan. This District shall only be used as a Floating Zone based on a specific development plan submitted to the Planning Commission and Mayor and Commissioners in accordance with the procedures described in Section 116. It is further the intent of the District to provide for well-planned Town-scale mixed use development for areas within the existing Town limits of Perryville or lands adjacent to the Town which are the subject of an annexation petition. Non-residential uses in a Mixed Use District may serve the immediate needs of the residential portion of the District or the broader needs of the Town and the surrounding communities.

Section 109. General Criteria

The Mixed Use District shall:

1. Provide an attractive and varied living environment.
2. Provide a variety of building types and an overall more efficient use of land providing residential, commercial, services, and public uses within a well-planned project.
3. Provide a comprehensive approach to utilities, roads, storm water management, and landscaping.
4. Provide linkages and improvements where possible to adjoining streets and pedestrian systems.
5. Provide for design characteristics that promote integration of the development with downtown Perryville.

Section 110. Procedure

The Mixed Use Development Floating Zone classification may only be granted upon application by the property owner in accordance with the procedures identified in Section 116. When the Mixed Use Floating Zone designation is approved to be applied to a specific area or property, that area shall be so designated on the Official Zoning Map, and such Mixed Use Floating Zone shall be treated as the zone classification for the purpose of establishing and interpreting its boundaries.

Section 111. Criteria

In order to be eligible for consideration for a Mixed Use Development Floating Zone, there must be a finding by the Mayor and Commissioners that:

1. The development or redevelopment plans for the subject property are consistent with the purpose and intent of this floating zone classification and that the subject property has been designated as such in the Town's Comprehensive Plan.
2. The parcel must be at least 20 acres in size.
3. The proposed development and uses are deemed compatible with adjoining uses and will have no adverse impacts on adjacent properties or public facilities.
4. The proposed development will be located where services and facilities are adequate to support the proposed development.
5. The proposed development will not be detrimental to the health, safety and welfare of the inhabitants of the Town.
6. The proposed development will promote the general welfare of the inhabitants of the Town as a whole.

The Mayor and Commissioners may impose appropriate conditions as necessary to ensure that the above standards are met.

Section 112. Additional Conditions for Annexation Areas

In addition to the requirements specified in Section 111 above, parcels requesting the Mixed Use Floating Zone as part of an annexation must meet the following conditions:

1. The parcel must be at least 20 acres in size.
2. Where the mix of non-residential uses is such that the non-residential uses are intended to serve the needs of the residents beyond the immediate area, the non-residential uses shall have access on state highways.

Section 113. Permitted Uses in the Mixed Use Development Floating Zone [Amended 11-4-2008 by Ord. No. 2008-04]

1. In accordance with the purpose and intent of this section, the following uses are permitted in the Mixed Use Development Floating Zone:
 - a. Residential Uses – Single Family Detached, Duplex and Townhouses.

- b. Non-Residential Uses – All permitted uses, uses permitted with conditions, uses permitted by Special Exception and uses permitted by Special Exception with conditions in the NB and C2 Zones.
- 2. Any conditions normally associated with permitted uses or uses permitted by Special Exception in the above-mentioned zones may be waived by the Mayor and Commissioners, provided that the nature of the overall MUD mitigates the reasons for the said conditions.

Section 114. Additional Conditions

- 1. The overall residential density of the MUD shall not exceed two (2) units per gross acre of the entire MUD tract.
- 2. Non-residential uses shall not occupy more than 50% of the gross tract.
- 3. The Mayor and Commissioners shall determine the appropriate mix of residential dwelling types on a case by case basis. In determining the appropriate mix of dwelling types, the Mayor and Commissioners shall consider the purpose, intent and criteria of the MUD Floating Zone as well as the shape of the parcel and other physical conditions such as topography, wetlands and steep slopes.
- 4. Open space, including active and passive recreation areas shall be at least 30% of the gross tract. At least 50% of the required open space shall be developed for active recreational uses. All open space shall be designed and designated for the common use of the occupants of the MUD and, if determined by the Mayor and Commissioners, shall also be dedicated for use by the general public.

Section 115. Area and Bulk Requirements

- 1. For single-family detached and duplexes, the minimum lot, yard and height requirements for the R-2 Zone as contained in the Schedule of Zone Regulations shall apply.
- 2. For townhouses, the minimum lot, yard and height requirements for the R-3 Zone as contained in the Schedule of Zone Regulations as well as the requirements in Section 198.2 shall apply.
- 3. For non-residential uses, the minimum lot, yard and height requirements for the C-2 Zone as contained in the Schedule of Zone Regulations shall apply.

Section 116. Administrative Procedures

The Administrative Procedures as described in Section 99 for the establishment of a Planned Unit Development Floating Zone shall also apply to the MUD Floating Zone.

**Part IV-A. Commercial Entertainment Mixed Use Development (CEMUD) Floating Zone
[Amended 2-18-2009 by Ord. No. 2009-1]**

Section 116-1. Purpose of the Zone

The purpose of the zone is to allow flexibility in zoning based on a specific development plan consistent with the goals and objectives of the Comprehensive Plan. This property shall only be used as a floating zone based on an approved General Development Plan submitted to the Planning Commission and Mayor and Commissioners in accordance with the procedures described in Section 116-7.

Section 116-2. Intent of the CEMUD Floating Zone.

It is the intent of the Commercial Entertainment Mixed Use Development Floating Zone to:

1. Provide for well-planned Town Scale Urban Development for areas within the existing Town limits of Perryville on lands adjacent to the Town which are the subject of an annexation petition;
2. Encourage further economic investment in Perryville in order to promote Perryville as a growth center of Cecil County and enhance the tax base;
3. Ensure that the possible introduction of commercial entertainment and possible gaming land uses result in a significant economic benefit to the Town by both direct and indirect means;
4. Promote high quality clustered commercial growth near highway interchanges and along highways;
5. Provide an attractive, destination style commercial and entertainment development with a mix of other complementary uses that collectively create a vital commercial entertainment destination and attract visitors and tourists to Perryville and that, through the provision of an integrated physical design, encourages multi-purpose trips and extended visits to the site and surrounding area;
6. Provide a well-planned project with coordinated overall development to ensure an efficient use of land, smooth flow of traffic and logical phasing of development;
7. Provide an attractive, high-quality, environment with exemplary site, landscape and architectural design and high quality materials with a coordinated, site wide design character that enhances the current character and identity of the Town of Perryville; and
8. Provide a compact integrated arrangement of uses and site elements that encourage walking between uses and reduce the need to drive from place to place within site.

Section 116-3. CEMUD Floating Zone Approval Process.

The Commercial Entertainment Mixed Use Development Floating Zone classification may only be granted upon application by the property owner or owners in accordance with the procedures identified in Section 116-7. Establishment and approval of a Commercial Entertainment Mixed Use Development Floating Zone shall occur in three steps as defined in Section 116-7. The three steps are as follows:

1. Step One: Designation of the site as a CEMUD Floating Zone and approval of a General Development Plan;
2. Step Two: Preliminary Site Plan approval; and
3. Step Three: Final Site Plan approval in one or more phases.

No building permits may be issued until a Final Site Plan has been approved for all or part of the land shown on the approved General Development Plan for the property.

Section 116-4. CEMUD Floating Zone Designation.

When land is designated as a Commercial Entertainment Mixed Use Development Floating Zone, the area so approved shall be so designated on the Town's Official Zoning Map, and such Commercial Entertainment Mixed Use Development Floating Zone shall be treated as the zone classification for the purpose of establishing and interpreting its boundaries.

Section 116-5. Criteria for Designation.

In order to approve an application for designation of a property or properties as a Commercial Entertainment Mixed Use Development Floating Zone, the Mayor and Commissioners must find that:

1. The General Development Plan for the property or properties is consistent with the purpose and intent of this floating zone classification and with the development standards in Section 116-6;
2. Placement of a CEMUD Floating Zoning on the property or properties is consistent with the Town's Comprehensive Plan;
3. The land to be included in the CEMUD Floating Zoning is at least 140 contiguous acres in size;
4. The land to be included in the CEMUD Floating Zoning has, or will have, access to a highway interchange and frontage on a highway;
5. The proposed development will include a hotel and a gaming establishment or other significant commercial entertainment establishment that will serve as a regional draw;

6. The proposed development will provide a significant economic benefit to the Town and;
7. All land to be designated as a Commercial Entertainment Mixed Use Development Floating Zone, except that which will convey to the Town or other public entity, will remain under a coordinated Master Development and Management Agreement in perpetuity regardless of current or future ownership of the land.

The Mayor and Commissioners may impose appropriate conditions as necessary to ensure that the above criteria are met.

Section 116-6. CEMUD Floating Zone Development Standards.

Development on land that is designated as a Commercial Entertainment Mixed Use Development Floating Zone shall comply with the following standards:

1. The overall non-residential development square footage constructed or to be constructed within the development, excluding square footage included within parking structures, shall not exceed 50% of the gross land area of the entire tract.
2. Commercial entertainment land uses, excluding parking structures, shall represent at least 10% of the total development square footage.
3. The overall density of residential uses, if any, in the development shall not exceed three and one-half (3.5) units per gross acre of the entire tract or occupy not more than 25% of the total development square footage, exclusive of parking structures, in the entire tract. The Mayor and Commissioners shall determine the appropriate mix of residential dwelling types on a case by case basis. In determining the appropriate mix of dwelling types, the Mayor and Commissioners shall consider the purpose, intent and criteria of the CEMUD Floating Zone, as well as the shape of the parcel and its physical conditions such as topography, wetlands, steep slopes and relationships to other land uses on and off the site. Development of residential uses shall not begin prior to commencement of construction of at least 25% of the approved non-residential uses.
4. If the entire development is not to be built in a single phase, the project shall reflect a logical phasing of development that enables interim phases to meet the intent of the CEMUD Floating Zone, and provides for the first phase of the project to include:
 - A. Development of at least 25% of the non-residential square footage;
 - B. At least one hotel with associated conference center facilities;
 - C. A gaming establishment or other significant commercial entertainment establishment, except that the Town may not require a phasing plan that would preclude the gaming establishment or other significant commercial entertainment establishment from receiving approvals, permits and certificates of use and occupancy before any approvals, permits or certificates of use and occupancy are issued for the hotel with associated conference center facilities or any other proposed facilities within phase one other than utilities, roads,

and other improvements necessary to service the gaming or commercial entertainment facility; and

- D. At least 30% of the land area in the development.
- 5. Open space, including active and passive recreation areas, shall comprise at least 30% of the gross tract area. At least 25% of the required open space shall be developed for usable open space. All open space shall be designed and designated for the common use of any residential occupants and of visitors to the development's commercial uses. Specific design standards for usable open spaces and for the landscaping throughout the site shall be established in the project's site design standards to ensure a high quality of design and materials. Open space requirements for residential areas shall be as defined in Article XIII of this Chapter.
 - 6. Requirements for building setbacks, lot sizes, lot dimensions, lot coverage, and yard and buffer and landscaping shall be established for each CEMUD Floating Zone projects as a part of the project's site design standards and may vary significantly by lot. In reviewing these requirements the Planning Commission and Mayor and Commissioners shall consider such factors as the intent of the CEMUD Floating Zone, its development standards, and the goal of a compact mixed use development and appropriate transitions to abutting uses on the perimeter of the site. Unless otherwise defined in the approved site design standards or final site plan, the following area and bulk requirements shall apply:
 - A. For single-family detached and duplex dwellings, the minimum lot, yard and height requirements for the R-2 zone as contained in the Schedule of Zone Regulations shall apply.
 - B. For townhouses, the minimum lot, yard and height requirements for the R-3 zone as contained in the Schedule of Zone Regulations and the requirements in Section 198.2 shall apply.
 - C. For non-residential uses, the minimum lot, yard and height requirements for the C-2 zone as contained in the Schedule of Zone Regulations shall apply.
 - 7. The development shall be served by external access roads, exits, entrances, internal streets and drives of sufficient capacity and design to ensure that traffic congestion does not occur on the roads used for immediate access to the site.
 - 8. Private streets, built to Town standards, may serve to access lots and buildings within the approved CEMUD in lieu of public streets.
 - 9. Public and semi-public services and facilities must be adequate to support the proposed development.
 - 10. The development shall be served by a site wide comprehensive pedestrian network with generously scaled streetscapes and walks. The network shall connect all buildings to walks, streets and private drives so that pedestrians need not walk through parking lots to reach buildings.

11. A coordinated architectural design approach shall be established for the site. Buildings shall be clustered together to create distinct places and walkable districts with attractive, active street side facades. Buildings shall be designed so that facades, signs and other appurtenances are integrated and harmonious, attractively arranged on all sides, and that designs and massing do not adversely affect surrounding on-site uses and off-site developments. Building designs and materials shall draw from the character and indigenous materials of the Town and the region.
12. The development shall be served by underground community sewer, gas, water, and electric facilities.
13. All vehicular circulation areas, parking areas and pedestrian walks shall be paved and properly illuminated when in use after dark in such a manner as to prevent the direct transmission of light into adjacent residential properties.
14. Where possible, physical linkages shall be provided from the development to adjoining off-site streets and pedestrian systems.
15. The development shall reflect a comprehensive site-wide approach to the design and ongoing maintenance of utilities, roads, parking, pedestrian systems, storm water management, open spaces landscaping buildings, lighting and signs.
16. Innovative designs that promote an environmentally sensitive and energy efficient approach to development are encouraged.

Section 116-7. Administrative Procedures.

The administrative procedures for the establishment and approval of a CEMUD Floating Zone shall be as provided in this Section. The Town Staff, Planning and Zoning Commission and Mayor and Commissioners shall process, review and decide without undue delay all proper and complete applications submitted under this Part IV-A. After approval of an application to designate land as a CEMUD Floating Zone, applicants may elect to apply simultaneously for approval of a Preliminary and a Final Site Plan for the first phase of development as defined below in Steps Two and Three.

1. Step One Designation.
 - A. An application shall be made to the Mayor and Commissioners for the designation of land as a Commercial Entertainment Mixed Use Development Floating Zone. Applications shall be made on forms prescribed by the Town, shall be signed by all owners of land within the area proposed to be designated as a CEMUD Floating Zone, and shall be submitted by the project's Master Developer. Town Staff shall review the application to ensure that it includes all of the information and materials required by the application and paragraph B. below, and may accept an application for review only after Staff determines that the application is complete.
 - B. Applications shall include 15 copies of a General Development Plan setting forth preliminary information as identified in Appendix A and the following supplemental items:

- (1) A general diagram showing the relation of the proposed CEMUD Floating Zone to the Town of Perryville and major public access to the site.
- (2) A preliminary development phasing plan stating a tentative time table and staging of development and improvements.
- (3) A cost-revenue ratio analysis of the proposed General Development Plan Development Program demonstrating the anticipated direct and indirect economic benefits and impacts to the Town.
- (4) A statement of expected Town responsibilities.
- (5) A general statement concerning provision of utilities (draft terms and provisions of a public works agreement).
- (6) A preliminary traffic impact study and plan defining the anticipated traffic demand for the site based on the amount and mix of development, demonstrating adequacy of the site access points and adjoining intersections and defining links between key traffic improvements to site access and development phasing if necessary. The study shall include preliminary comments from the State Highway Administration to the extent that the Administration is willing to provide such comments.
- (7) A preliminary market study demonstrating the viability of the development concept and estimating the general rate of absorption of the proposed development program land uses within the stated development time frames. The study should take into consideration assumptions about market changes over the course of the development projected build-out time frame. These assumptions may include estimates of new development and population growth in the surrounding market area in conjunction with the timing of development phases on this site. With approval of the Town, the applicant may rely upon existing studies to satisfy all or part of the requirements of this paragraph.
- (8) Images sufficient to convey the intended site and architectural character of the development including but not limited to prototypical building elevations, sketches, or photographic images of comparable sites and buildings.
- (9) A non-binding illustrative plan of the proposed development.
- (10) An application fee as established by the Town not to exceed the Town's anticipated costs in the Step 1, 2 and 3 review processes.
- (11) A demonstration that the proposed development would comply with any applicable overlay zones.
- (12) A preliminary list of the land uses to be permitted in the development and a statement identifying the conditions that will be met for those uses that are listed in Section 116.9 as permitted with conditions.

- (13) Other written or graphic material as the applicant or the Town may deem necessary or desirable to aid the decisions of the Mayor and Commissioners and the Planning Commission.
- C. The Mayor and Commissioners shall refer a completed application to the Planning Commission for review and recommendation. The Planning Commission shall review the CEMUD Floating Zone designation application for compliance with the purpose, intent and development standards of the CEMUD Floating Zone. The Planning Commission shall consult with such Town officials as may be appropriate, hold a public hearing and forward the Commission's written findings and recommendations to the Mayor and Commissioners for consideration.
- D. After receiving the findings and recommendations of the Planning Commission, the Mayor and Commissioners shall review the CEMUD Floating Zone designation application for compliance with the purpose, intent and development standards of the CEMUD Floating Zone. They shall consult with such Town officials as may be appropriate and hold a public hearing. If the Mayor and Commissioners make a written finding that the application is in compliance, the site shall be designated as a CEMUD Floating Zone and the General Development Plan approved. The Mayor and Commissioners may impose appropriate conditions as necessary to ensure that the criteria for approval are met.

2. Step 2 Preliminary Site Plan.

- A. After receiving designation as a CEMUD Floating Zone and approval of a General Development Plan from the Mayor and Commissioners, applicants shall submit a Preliminary Site Plan application to the Planning Commission for review. Town Staff shall review the Preliminary Site Plan application submittal to ensure that it includes all of the information and materials required by paragraph B. below, and may accept a Preliminary Site Plan for review only after Staff determines that the submittal is complete.
- B. Fifteen (15) copies of a Preliminary Site Plan and related information and materials shall be filed with the Planning Commission. The Preliminary Site Plan shall include preliminary information as identified in Appendix A and as listed below. In addition, such other written or graphic material as may be necessary or desirable in aiding the decisions of the Mayor and Commissioners and the Planning Commission may be required. The Preliminary Site Plan shall include or be accompanied by the following:
 - (1) A preliminary phasing plan that defines, by phase, a schedule of construction or timetable and a detailed tabulation of land uses, building area, open spaces, site amenities, parking, transportation, utilities and other site improvements to be built and dedicated.
 - (2) A final traffic impact study and plan prepared based on scoping instructions from State Highway Administration, county and Town staff, and includes State Highway comments and approval. The study shall define the anticipated amount of traffic generation for the site based on the amount and mix of development and reflecting varied traffic peaks by use, reasonable transit use and onsite capture assumptions, and establishes links between traffic improvements, development phasing if necessary

and defines the maximum trip count needed for total development and each development phase.

- (3) A parking tabulation and plan defining the anticipated parking demand and supply based on the amount and mix of development. The plan shall reflect peak hour patterns of use and demonstrate adequacy of the proposed parking supply assuming reasonable joint parking use to promote parking efficiency. It shall set parking supply requirements for any uses for which parking requirements are not set forth in this Chapter. It may include both on-street and off-street parking to meet requirements and shall include bike parking and transit stops where applicable.
- (4) A final market and visitation study demonstrating the viability and anticipated timing of the proposed development program elements within the stated development time frames, and estimating the anticipated mix of commercial entertainment and complementary non-residential land uses will attract visitors for multi-purpose trips and extended visits to the site and surrounding area. The study should take into consideration assumptions about market changes over the course of the development projected build-out time frame. These assumptions may include estimates of new development and population growth in the surrounding market area in conjunction with the timing of development phases on this site. With approval of the Town, the applicant may rely upon existing studies to satisfy all or part of the requirements of this paragraph.
- (5) Preliminary Master Development control documents that outline the means by which coordinated development and long term management of the overall site will be achieved. These documents may include deed restrictions, covenants, by-laws, cross-access easements, joint use agreements, master lease agreements between the Master Developer and tenants, or other instruments designed to provide for continuing maintenance and control of common areas. The preliminary documents shall outline the proposed plan for coordinated annual maintenance, security and public conveniences either by individual tenants or as the responsibility of the developer. It should include a management statement governing the design, construction, operation, and maintenance of:
 - A. Sanitary and storm sewers, water mains, culverts, and other underground structures.
 - B. Streets, alleys, driveways, curb cuts, entrances and exits, parking joint use parking areas and loading area, and outdoor lighting systems.
 - C. Parks, parkways, bike ways, playgrounds, open spaces, fences, walls, screen planting, and landscaping and signs.
- (6) Preliminary site design standards in a format approved by Town Staff. The site design standards shall include:
 - A. Design standards that define the intended design character of the site's architecture, signage lighting and thematic site landscape elements.

- B. Requirements for building setbacks, lot sizes, lot dimensions, lot coverage, and yard and buffer and landscaping.
 - C. A preliminary Master Sign Plan defining how signs within the proposed development will be managed and controlled as defined in Section 271 of this Chapter.
 - D. Architectural exhibits illustrating the intended architectural design of all major buildings and buildings types shown by front elevations, three dimensional massing sketches, photographs or architectural renderings. Where a variety of designs are proposed, each design shall be shown.
 - E. Master Developer design review procedures for enforcement of these standards in perpetuity.
- (7) A preliminary landscape master plan defining the design for the development's landscape, lighting, furnishings, amenities, circulation areas, usable open spaces, recreational areas, other common open space and pedestrian circulation areas.
- C. The Planning Commission shall review the Preliminary Site Plan application for compliance with the purpose, intent and development standards of the CEMUD Floating Zone. The Planning Commission shall consult with such town officials as may be appropriate, shall hold a public hearing and make written findings and recommendations. The Commission shall forward its written findings and recommendations to the Mayor and Commissioners for consideration. The Planning Commission may recommend additional appropriate conditions as necessary to ensure that the conditions for approval are met.
 - D. The Mayor and Commissioners shall review the Preliminary Site Plan for compliance with the purpose, intent and development standards of the CEMUD Floating Zone. They shall consult with such Town officials as may be appropriate and shall hold a public hearing. If the Mayor and Commissioners make a written finding that the Preliminary Site Plan application is in compliance with the purpose, intent and development standards of the CEMUD Floating Zone, the Mayor and Commissioners shall approve the Preliminary Site Plan. As part of their determination the Mayor and Commissioners may impose additional appropriate conditions as necessary to ensure that the conditions for approval are met.
3. Step 3. Final Site Plan.
- A. An applicant shall submit a Final Site Plan application to the Mayor and Commissioners for review either after receiving approval of a Preliminary Site Plan from the Mayor and Commissioners or at the same time as submitting an application for approval of a Preliminary Site Plan as provided for in Step 2 above. Town staff shall review the Final Site Plan application submittal to ensure that it includes all of the information and materials required by paragraph B. below, and may accept a Final Site Plan application for review only after staff determines that the submittal is complete.
 - B. Final Site Plan applications may be submitted for the entire site or for the land area within one or more of the development phases approved in the Preliminary Site Plan. The first

Final Site Plan, at a minimum, shall address the first phase of development and any overall site wide improvements or commitments established in the Preliminary Site Plan necessary to service the first phase. Subsequent phases of development shall be submitted as separate Final Site Plan applications.

- C. Application submittals for Final Site Plan approval shall include 15 copies of all submittal items and shall include:
- (1) A Final Site Plan in the form of a Final Plat that complies with the specifications set forth in Appendix A, and applicable State, county and Town laws, regulations, and chapters governing the subdivision of land.
 - (2) Final Master Development control documents including deed restrictions, covenants, by-laws or other instruments designed to provide for continuing maintenance and control of common areas, a copy of the master lease between the Master Developer and tenants and the Final site design standards.
 - (3) Final phasing plan reflecting a commitment to final dates for initiation and completion of the development, dedications and improvements shown on the approved Final Site Plan and/or its phases that are acceptable to the Mayor and Commissioners. The applicant may seek an extension of time to complete one or more of the contemplated improvements for that particular phase based upon economic conditions, or unforeseen delays or difficulties beyond the control of the applicant that may adversely impact the timing of the construction or completion of the development in that phase. The Mayor and Commissioners shall not unreasonably deny or delay such a request.
 - (4) A takedown chart in an approved format indicating the amount of development, open space dedications and improvements covered by the proposed and previously approved Final Site Plans, if any, as compared to the development wide totals established by the approved Preliminary Site Plan.
 - (5) Detailed architectural designs of buildings within the Final Site Plan area. These shall be detailed schematic designs with information on floor plans, elevations, roof plans, exterior materials and color ranges sufficient to determine compliance with the final design standards.
 - (6) Final Landscape Master Plan with detailed landscape, lighting, furnishings and amenities designs for the property within the Final Site Plan.
- D. The Mayor and Commissioners shall review the Final Site Plan application for compliance with the approved Preliminary Site Plan. The Mayor and Commissioners shall consult with such Town officials as may be appropriate and may hold a public hearing. The Mayor and Commissioners may approve or disapprove the Final Site Plan based on a finding of compliance or non-compliance with the approved Preliminary Site Plan. As part of their findings the Mayor and Commissioners may impose additional appropriate conditions as necessary to ensure that the conditions for approval are met.

- E. Applications for Final Site Plans that vary significantly from the approved Preliminary Site Plan regarding construction schedule, development program elements or other elements, may require an amendment to the approved Preliminary Site Plan. This determination shall be made by the Mayor and Commissioners.
- F. If the Mayor and Commissioners approve the Final Site Plan:
 - (1) The applicant shall file or deposit in escrow with the Mayor and Commissioners an irrevocable letter of credit in a form satisfactory to the Mayor and Commissioners and in an amount sufficient to ensure completion of all requirements established by the Mayor and Commissioners for completion of all public improvements and dedications applicable to the phase for which a Final Site Plan is under review. The amount of the security shall be reviewed annually by the Mayor and Commissioners and adjusted to reflect current costs and amount of work remaining to be completed.
 - (2) The approved Final Site Plan shall be filed and recorded among the county land records together with signed copies of all relevant covenants and documents, which shall include:
 - (A) Final site design plat;
 - (B) Final master development control documents;
 - (C) Final phasing plan;
 - (D) Final site design standards; and
 - (E) Final landscape master plan.
 - (3) Building and sign permits shall be issued in accordance with the approved Final Site Plan. The Zoning Administrator shall review building permit applications for compliance with the recorded Final Site Plan and related documents as defined in Section 116-7.3.F.(2). All building and sign permit applications shall be accompanied by a signed letter from the Master Developer attesting to its approval of the application, and confirming that the application was approved by an applicable Master Developer internal design review process.
 - (4) In a multi-phase project, building permits for a subsequent phase may not be issued until substantial construction has commenced on all prior phases, except as the Mayor and Commissioners may expressly authorize. Except in the last phase of a project, a use and occupancy certificate may not be issued for the last building constructed in a phase, and the Town may not accept public infrastructure and improvements for that phase, until the applicant has filed a Final Site Plan application and acceptable phasing schedule for the next phase of the project.

Section 116-8. Procedures for Amendments to Approved Preliminary and Final Site Plans and General Development Plan.

1. An application for a Final Site Plan, building permit or sign permit that is inconsistent with the approved relevant Final Site Plan or Preliminary Site Plan, or determined by the Mayor and Commissioners to require an amendment to a previously approved Preliminary Site Plan or Final Site Plan, shall be accompanied by an application for an amendment. An application that is inconsistent with an approved General Development Plan shall require an amendment to the General Development Plan.
2. Amendment application submittals shall include a written request, a rationale for the amendment and amended versions of each of the plans or documents proposed for amendment. The Mayor and Commissioners may either require only a revision to the affected document or, if they deem the modification to be more extensive, they may require a full re-submittal and such other written or graphic material as may be necessary or desirable in aiding their decisions.
3. The Mayor and Commissioners shall review applications for amendments to previously approved Final Site Plans, Preliminary Site Plans and General Development Plans. The Mayor and Commissioners shall consult with such Town officials as may be appropriate and may submit an application to the Planning Commission for review and recommendation. The Mayor and Commissioners, and Planning Commission where a requested amendment has been referred to it, may hold a public hearing for Preliminary Site Plan or General Development Plan amendments. The Planning Commission may recommend where a requested amendment has been referred to it, and the Mayor and Commissioners may approve or disapprove the requested amendment, based on a finding as follows:
 - A. Final Site Plan findings based on compliance or non-compliance with the approved Preliminary Site Plan.
 - B. Preliminary Site Plan findings based on compliance or non-compliance with the approved General Development Plan and the purpose, intent and development standards of the CEMUD Floating Zone.
 - C. General Development Plan findings based on compliance or non-compliance with the purpose, intent and development standards of the CEMUD Floating Zone.
 - D. As part of their findings the Mayor and Commissioners may impose additional appropriate conditions as necessary to ensure that the conditions for approval are met.
4. Amendments to approved Final Site Plans shall be recorded among the county land records.
5. In any particular situation where the Mayor and Commissioners determine that a requested amendment is minor in nature, the Mayor and Commissioners waive or modify any of the submittal or approval process requirements of this section.

Section 116-9. Conflict With Other Provisions.

1. Provisions for development shown on an approved General Development Plan, Preliminary Site Plan and Final Site Plans that conflict with other provisions of this Chapter shall supersede those other provisions with which they conflict.

2. Provisions for development shown on an approved General Development Plan, Preliminary and Final Site Plans that conflict with other provisions of the Subdivision Chapter of the Perryville Town Code shall supersede those other provisions with which they conflict.

Section 116-10. Permitted Uses in the CEMUD Floating Zone.

In accordance with the purpose and intent of CEMUD Floating Zone, the following uses are permitted in the CEMUD Floating Zone:

- A. Any conditions normally associated with uses permitted with conditions or uses permitted by Special Exception, as defined in Article XI, Supplementary Uses, and Article IV, Part II, Special Exceptions, may be waived or altered by the Mayor and Commissioners, provided that such waiver or alteration is reasonably consistent with the purposes and intent of the CEMUD Floating Zone and would not adversely affect surrounding or nearby properties.

Section 116-11 through 19 Reserved.

Part IV-B. Planned Infill and Redevelopment District (PIRD) Floating Zone [Amended 1/3/2017 by Ord No. 2016-21]

Section 116-20. Establishment.

The Planned Infill and Redevelopment District or “PIRD” is a floating zone that may be applied to land through a zoning map amendment adopted by the Mayor and Commissioners in accordance with the provisions of this section for projects that involve compatible new uses created through redevelopment, adaptive re-use, demolition, reconstruction and infill.

Section 116-21. Purpose.

The purpose of the Planned Infill and Redevelopment district (PIRD) is to:

1. Stimulate re-investment and development in order to strengthen the local economy and to stabilize and improve property values of such sites and structures.
2. Facilitate infill and redevelopment of properties through adaptive re-use, demolition, or reconstruction of vacant or underutilized properties.
3. Encourage development which presents an attractive appearance and is compatible with uses in the surrounding area by means of appropriate architecture, siting of buildings, service areas and landscape treatment.

4. Provide developers and property owners flexibility that achieves high quality design and results in infill and redevelopment projects.
5. Locate development on land that is or can be served with public water and sewer facilities and on sites that are clearly suitable for the physical characteristics of development for such lots.
6. Provide a more flexible approach to the comprehensive development of large tracts of land in terms of land use, intensity and design.
7. Implement the Comprehensive Plan, Sustainable Communities Action Plan and other policies in a manner closely compatible with said plans and policies.
8. Assure compatibility of land uses proposed in such a development with uses in the surrounding area of the site by incorporating higher standards of land planning and site design.

Section 116-22. Planned Infill and Redevelopment District Requirements.

A Planned Infill and Redevelopment District shall meet the following requirements:

1. **Ownership.** The entire area proposed for a PIRD shall be owned by the applicant. If the entire area is not wholly owned by one individual or entity, all owners shall join in the application and shall be bound, jointly and severally, by any conditions, amendments, modifications, or changes to the underlying base or overlay zone, the PIRD, and the approved General Development Plan.
2. **Zoning Districts.** The PIRD is a floating zone that may be established in any base zone or with other overlay zones provided the requirements of this section are met.
3. **General Development Plan.** A PIRD shall include a General Development Plan approved by the Mayor and Commissioners as part of the rezoning. The General Development Plan shall include a schedule or timetable for all development and construction that includes beginning, duration, and completion dates.
4. **Uses.** The uses permitted for a particular PIRD shall be the uses permitted in the approved General Development Plan, and, except as modified by the approved General Development Plan, uses permitted in the base zoning district.
5. **Bulk Requirements.** The bulk requirements for a particular PIRD shall be the bulk requirements in the approved General Development Plan.
6. **Density.** The Maximum permitted residential and non-residential densities for a particular PIRD shall be the maximum permitted densities set forth in the approved General Development Plan.
7. **Architectural Requirements.** The architectural requirements for a particular PIRD shall be the architectural requirements set forth in the approved General Development Plan.
8. **Parking.** Off-street parking shall be provided in accordance with Section 274 of this Chapter or as set forth in the approved General Development Plan.

9. Landscaping. Landscaping shall be provided in accordance with Article XVII of this Chapter or as set forth in the approved General Development Plan.
10. Signs. Signage shall be provided in accordance with the provisions of Article XV of this Chapter.
11. Transportation Facilities. Adequate transportation facilities capable of serving the proposed redevelopment must exist or be provide in conjunction with the PIRD.
12. Water and Wastewater Treatment. Adequate water and wastewater facilities capable of serving the proposed redevelopment must exist or be provided in conjunction with the PIRD.

Section 116-23. Standards for Approval.

A proposed Planned Infill and Redevelopment District and General Development Plan may be approved only if the Mayor and Commissioners finds that:

1. It is consistent with the Perryville Comprehensive Plan;
2. It will promote the general welfare of the public;
3. The size and location of a PIRD is appropriate to the surrounding neighborhood;
4. The improvements and reuse or new uses in the General Development Plan are appropriate to the surrounding neighborhood;
5. The proposed building designs, uses, intensity, scale, bulk, and location of structures and uses are appropriate to the surrounding neighborhood. The applicant shall demonstrate how this standard will be achieved by providing:
 - a. Images sufficient to convey the intended site and architectural character of the development including but not limited to prototypical building elevations, sketches, or photographic images of comparable sites and buildings.
 - b. A non-binding illustrative plan of the proposed development.
 - c. A preliminary list of the land uses to be permitted in the development.
6. It includes all or some combination of the following redevelopment tools to substantially improve existing development in the proposed PIRD: enhanced site design and layout; improved public and private infrastructure and amenities, which may include compatible new uses; and adaptive re-use, infill, demolition, reconstruction, expansion, relocation, or replacement of legal nonconforming structures and/or legal nonconforming uses in accordance with the requirements of this section;
7. It preserves appropriate existing development, manage redevelopment, and allow for new development consistent with the standards and requirements of this section;
8. It will promote, and will not interfere with, the adequate and orderly provision of public facilities; and
9. All requirements of this section have been met.

Section 116-24. Applications for Planned Infill and Redevelopment Districts.

Applications for a PIRD shall be filed with the Director of Planning and Zoning (the Director) on such forms as may be required by the Town and shall include the following:

1. A narrative describing the existing conditions on the site and within one hundred feet (100') of all boundaries of the site.
2. A properly prepared plat, signed and sealed by a Maryland registered professional property surveyor and an adequate legal description of the property to be included in the PIRD.
3. Include a proposed General Development Plan that includes all information required pursuant to Section 34 and this section in sufficient detail to permit thorough review of the application.
4. Include all information required to demonstrate that the application meets the standards for approval of the PIRD and General Development Plan.
5. Include all additional or supplemental information as the Director may require from time to time to properly evaluate the application under the standards and requirements of this section.

Section 116-25. Procedure for Approval.

1. A pre-application meeting with the Director is required prior to submission of an application for a PIRD.
2. A PIRD shall be established by a zoning map amendment adopted pursuant to Section 317.

Section 116-26. Mayor and Commissioners Authority.

1. Review authority. As a condition for approval of an application, the Mayor and Commissioners may:
 - a. Modify, amend, or reconfigure the boundaries of a proposed PIRD;
 - b. Impose modified, amended, or different conditions, requirements, or limitations to include height, bulk, location of structures and existing and new uses, architectural appearance, open space, required public facilities, landscaping, parking, timing and phasing of the development, use and other provisions (collectively referred to as "amendments") of a proposed General Development Plan;
 - c. Approve a General Development Plan that amends or changes existing standards of the underlying zone;
 - d. Approve a General Development Plan for a particular PIRD that differs from General Development Plans in other PIRDs; and

- e. Impose additional requirements, conditions, and safeguards as reasonably required to achieve the public purposes for the PIRD or to promote public health, safety, or welfare.
- 2. Applicant Consent. Amendments to a proposed PIRD or to a proposed General Development Plan shall not be effective without the written consent of the applicant, which shall be filed and made part of the record of the proceedings.
- 3. Approval Authority.
 - a. The Mayor and Commissioners may establish a PIRD and approve a proposed General Development Plan only if the Mayor and Commissioners determines that the standards and requirements in this section have been met. The Mayor and Commissioners decision shall include written findings of fact and conclusions of law.
 - b. There is no presumption that a proposed PIRD or General Development Plan meets the standards in this section, or that granting any application will be consistent with the Comprehensive Plan. Compliance with all standards and requirements of this section permits, but does not require, the Mayor and Commissioners to establish a PIRD or approve a proposed General Development Plan.

Section 116-27. Site Plan Approval.

After approval of a PIRD and General Development Plan, the applicant shall apply to the Planning office for site plan approval in accordance with Section 34 to implement the General Development Plan. The Site Plan approval shall be based upon, consistent with, and shall implement the approved General Development Plan.

Section 116-28. Implementation of Approved General Development Plan.

Construction of improvements or implementation of uses authorized by a final General Development Plan shall commence within two (2) years of site plan approval. If construction or implementation does not commence within two (2) years following final site plan approval, the PIRD shall lapse and the zoning of the property shall revert to the former base zoning unless the applicant requests a time extension for good cause shown and the Mayor and Commissioners grant the request.

Section 116-29. Amendments.

An approved General Development Plan and an approved Site Plan in a PIRD may be amended as set forth in this section. Proposed amendments shall be submitted to the Director in writing in the same manner and subject to the same conditions as an original application. Applications for amendments under this paragraph shall be signed by all property owners in the PIRD.

- 1. Consideration of proposed amendments to the boundaries of an approved PIRD shall follow the same process set forth in this section to establish new PIRDs.

2. Proposed amendments to an approved General Development Plan shall be submitted to the Mayor and Commissioners for decision, except that minor amendments may be approved by the Director as set forth below.
3. All requests shall be submitted to the Director with all information, plats, and submittals necessary to evaluate the proposed amendment. The Director shall review the proposed amendment to determine if it constitutes a minor change to the approved General Development Plan. The Planning Officer may approve only minor amendments to final General Development Plans. Minor amendments may not:
 - a. Increase the intensity of the development (e.g. floor area);
 - b. Increase residential density;
 - c. Increase the lot coverage by more than 1,000 square feet;
 - d. Increase area of any building by more than 1,000 square feet or ten percent (10%) of the gross floor area, whichever is less;
 - e. Adversely impact surrounding properties or affect setbacks, landscaping or buffering along the perimeter of the PIRD.
4. The Director, for just cause, may request Mayor and Commissioners review and approval of minor amendments.
5. Other than minor amendments, all other proposed amendments to an approved General Development Plan must be approved by the Mayor and Commissioners in accordance with the process set forth in this section for approval of General Development Plans.
6. Consideration of proposed amendments to an approved site plan in a PIRD shall follow the same processes set forth in this Chapter to obtain site plan approval.

Section 116-30. Construction.

Except as modified by this Section and an approved General Development Plan, the provisions of this Chapter remain in effect in an approved PIRD. This Section shall not be construed or applied to modify, limit, supersede, or repeal any other Chapter of the Town Code.

Section 116-31. Appeals.

1. Any person with standing aggrieved by the floating zone reclassification or approval of a General Development Plan by the Mayor and Commissioners may seek judicial review of the same by the Circuit Court for Cecil County, Maryland.
2. The time for appeal shall be governed by the Maryland Rules of Procedure.

Part V Critical Area District

Section 117. Definitions

As used in this Part V, the following words and terms have the meanings indicated:

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 structure – a structure that is detached from the principal structure, located on the same lot and clearly incidental and subordinate to a principal structure, or if there is no principal structure on the lot, a structure that is customarily incidental and subordinate to a principal structure.

Addition – a newly constructed area that increases the size of a structure.

Anadromous fish propagation waters – those 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.

Buffer – area that based on conditions at the time of development 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; and the area exists in, or is established in, natural vegetation to protect a stream, tidal wetland, tidal waters or terrestrial environments from human disturbance. The buffer includes an area of at least 100-feet even if that area was previously disturbed by human activity or is currently developed and also includes any expansion for contiguous sensitive areas, such as a steep slope, hydric soil, highly erodible soil, nontidal wetland, or a nontidal wetland of special state concern as defined in the Comar 26.23.01.01.

Buffer management plan – a plan required for removing natural vegetation within the Critical Area on properties with development or redevelopment. Natural vegetation includes trees, shrubs, vines, and herbaceous ground cover. Buffer management plan includes the following:

- Major buffer management plan – a plan where the area of buffer establishment or the area of buffer mitigation required is 5,000 square feet or greater.
- Minor buffer management plan – a plan where the area of buffer establishment or the area of buffer mitigation required is less than 5,000 square feet.
- Simplified buffer management plan – a basic plan for a developed property that addresses buffer planting associated with the following specific activities: providing an access path up to three feet wide leading to the shoreline, manually removing invasive or noxious vegetation, or filling to maintain an existing lawn.

Canopy tree – a tree that when mature commonly reaches a height of at least 35 feet.

Comar – the Code of Maryland regulations, as from time to time amended, including any successor provisions.

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 or master plan – a compilation of policy statements, goals, standards, maps and pertinent data relative to the past, present and future trends of the Town including, but not limited to, its population, housing, economics, social patterns, land uses, water resources and their use, transportation facilities and public facilities prepared by or for the planning commission, agency or office.

Conservation easement - a non-possessory interest in land which restricts the manner in which the land may be developed in an effort to reserve natural resources for future use.

Consolidation – a combination of any legal parcel of land or recorded legally buildable lot into fewer lots or parcels than originally existed. An application for consolidation may include a subdivision, lot line abandonment, boundary line adjustment, replatting request, or lot line adjustment.

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

- A. All waters of and lands under the Chesapeake Bay and Atlantic coastal bays and their tributaries to the head of tide;
- B. All state and private wetlands designate under title 16 of the environment article, Annotated Code of Maryland;
- C. 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
- D. Modification to these areas through inclusions or exclusions proposed by local jurisdictions and approved by the Critical Area Commission as specified in §8-1807 of the Natural Resources Article, Annotated Code of Maryland.

Critical Area Commission – the Critical Area Commission for the Chesapeake and Atlantic coastal bays.

Density – the number of dwelling units per acre within a defined and measurable area.

Developed woodlands – an area of trees and natural vegetation that is interspersed with residential,

commercial, industrial or recreational development.

Development activities – the construction or substantial alteration of residential, commercial, industrial, institutional or transportation facilities or structures.

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

Establishment – the planting or regeneration of native vegetation throughout the buffer.

Financial assurance – a performance bond, letter of credit, cash deposit, insurance policy, or other instrument of security acceptable to the Town of Perryville.

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 percent (50%) of those trees having two (2)-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.

Fully established – the buffer contains as much diverse, native vegetation as necessary to support a firm and stable riparian habitat capable of self-sustaining growth and regeneration.

Grandfathered parcel or grandfathered lot - a parcel of land that was created or a lot created through the subdivision process and recorded as a legally buildable lot prior to December 1, 1985.

Growth allocation – the number of acres of land in the Critical Area that the Town of Perryville may use, or the county may allocate to municipal jurisdictions to use, to create new IDA's and new LDA. The growth allocation acreage is five percent (5%) of the total RCA acreage in Perryville at the time the Critical Area Commission approved Perryville's original Critical Area program, not including tidal wetlands, plus additional areas included from the municipality's calculated amount of RCA that existed when the Critical Area Commission approved Cecil County's original Critical Area program.

Habitat protection plan (HPP) – a plan that provides for the protection and conservation of the species and habitats identified as HPA's in the Critical Area. The HPA shall be specific to the site or area where the species or its habitat is located and shall address all aspects of a proposed development activity that may affect the continued presence of the species. These include, but are not limited to, cutting, clearing, alterations of natural hydrology, and increases in lot coverage. In developing the HPA, an applicant shall coordinate with the department of natural resources to ensure that the HPA is adequate to provide for long-term conservation and can be effectively implemented on the specific site.

In-kind replacement – the replacement of a structure with another structure that is smaller than or identical to the original structure in footprint area, width, length, and use.

Intensely developed area (IDA) – an area of at least 20 acres or the entire upland portion of the

Critical Area within a municipal corporation, whichever is less, where residential, commercial, institutional, or industrial developed land uses predominate; and a relatively small amount of natural habitat occurs. These areas include an area with a housing density of at least four (4) dwelling units per acre and/or an area with public water and sewer systems with a housing density of more than three (3) dwelling units per acre.

Limited development area (LDA) - an area with a housing density ranging from one (1) dwelling unit per five (5) acres up to four (4) dwelling units per acre; with a public water or sewer system; that is not dominated by agricultural land, wetland, forests, barren land, surface water, or open space; or that is less than 20 acres and otherwise qualifies as an IDA under the definition in this Article V.

Local significance – development of a minor scale, which causes environmental or economic consequences that are largely confined to the immediate area of the parcel of land on which it is located; does not substantially affect the Critical Area program of the Town of Perryville; and is not considered to be major development as defined in this article v.

Lot coverage – the percentage of a total lot or parcel that is; occupied by a structure, accessory structure, parking area, driveway, walkway, or roadway; or covered with a paver, walkway gravel, stone, shell, impermeable decking, a paver, permeable pavement, or other any manmade material. Lot coverage includes the ground area covered or occupied by a stairway or impermeable deck, but does not include: a fence or wall that is less than one foot in width that has not been constructed with a footer; a walkway in the buffer or expanded buffer, including a stairway, that provides direct access to a community or private pier; a wood mulch pathway; or a deck with gaps to allow water to pass freely.

Major development – development of a scale that may cause state-wide, regional, or inter-jurisdictional, environmental or economic effects in the Critical Area, or which may cause substantial impacts to the Critical Area of a local jurisdiction. This development includes, but is not limited to, airports, powerplants, wastewater treatment plants, highways, regional utility transmission facilities, prisons, hospitals, public housing projects, public beaches, and intensely developed park and recreation facilities.

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.

Modified Buffer Area (MBA) – an area officially mapped by the Town of Perryville and approved by the Critical Area Commission as a MBA, where it has been sufficiently demonstrated that the existing pattern of residential, industrial, commercial, institutional, or recreational development prevents the buffer from fulfilling its water quality and habitat functions, and where development in accordance with specific MBA provisions can be permitted in the buffer without a variance.

Native plant – a species that is indigenous to the physiographic area in Maryland where the planting is proposed.

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.

New development – for purposes of implementing specific provisions of this article, 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 (15%) as of December 1, 1985.

Nontidal wetlands - 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.

Person - an individual, partnership, corporation, contractor, property owner, or any other person or entity.

Pier – 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.

Plant habitat – a community of plants commonly identifiable by the composition of its vegetation and its physiographic characteristics.

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

Property owner – a person holding title to a property or two or more persons holding title to a property under any form of joint ownership.

Public water-oriented recreation - shore-dependent recreation facilities or activities provided by public agencies that are available to the general public.

Reconfiguration – a change of the configuration of an existing lot or parcel line of any legal parcel of land or recorded legally buildable lot. An application for reconfiguration may include a subdivision, a lot line adjustment, a boundary line adjustment, a replatting request, or a revision of acreage to increase density.

Redevelopment – the process of developing land which is or has been developed. For purposes of implementing specific provisions of this article, 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 (15%) or greater.

Resource Conservation Area (RCA) – an area that is characterized by nature dominated environments, such as wetlands, surface water, forests, and open space; and resource-based activities, such as agriculture, forestry, fisheries, or aquaculture. Resource Conservation Areas include areas with a housing density of less than one (1) dwelling per five (5) acres.

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.

Road -

A. A public thoroughfare under the jurisdiction of the state, a county, a municipal corporation, or any other public body.

B. Does not include a drive aisle or driveway.

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 department of natural resources as in need of conservation pursuant to the requirements of Natural Resources Article §§ 10-2a-06 and 4-2a-03, Annotated Code of Maryland.

Steep slopes – slopes of 15 percent (15%) or greater incline.

Structure (Critical Area) – building or construction materials, or a combination of those materials that are purposely assembled or joined together on or over land or water. Structure includes a temporary or permanent fixed or floating pier, piling, deck, walkway, dwelling, building, boathouse, platform, gazebo, or shelter for the purpose of marine access, navigation, working, eating, sleeping, or recreating.

Tributary stream – a perennial stream or intermittent stream within the Critical Area that has been identified by site inspection or in accordance with local ordinance procedures approved by the Critical Area Commission.

Unwarranted hardship – 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.

Water-dependent facilities – those structures or works associated with industrial, maritime, recreational, educational, or fisheries activities that require location at or near the shoreline within the buffer. An activity is water-dependent if it cannot exist outside the buffer and is dependent on the water by reason 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 that 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.

Wildlife habitat – those 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.

SECTION 118. IMPLEMENTATION OF THE CRITICAL AREA PROGRAM PURPOSE AND GOALS

1. Goals.

The goals of the Town's Critical Area program are to accomplish the following:

- A. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or runoff from surrounding lands;
- B. Conserve fish, wildlife, and plant habitat; and
- C. Establish land use policies for development in the Critical Area, which accommodate growth as well as address the environmental impacts that the number, movement, and activities of people may have on the area.

2. Perryville's Critical Area Program.

- A. The Town's Critical Area program is included in this Part V, and the official Critical Area map(s). Related provisions are found in the Town's Subdivision Regulations (Chapter 74).
- B. Notwithstanding any provision in this Part V, or the lack of a provision in this Part V, all of the requirements of Natural Resources Article 8-1801 through 8-1817 and Comar Title 27 shall apply to, and be applied by, the Town as minimum standards.
- C. In the case of conflicting provisions, the stronger provision applies

3. Applicability.

The Zoning Administrator shall review a permit or license for a development or redevelopment

activity in the Critical Area for compliance with all Critical Area regulations prior to issuance of that permit or license.

4. Critical Area overlay district map.

- A. The Town's official Critical Area overlay district map, as most recently approved by the Maryland Critical Area Commission, is hereby adopted and shall be maintained as part of the official Zoning Map for Perryville. 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 boundary of those resources indicated in Paragraph A. of this Subsection 4.
- B. Within the 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).
- C. The Critical Area overlay district map may be amended by the Town Commissioners in compliance with amendment provisions in Section 132 of this Part V, the Maryland Critical Area Law, and Comar title 27.

5. Notification of project approval.

The Town shall send copies of applications for all developments, subdivisions, and site plans for land wholly or partially within the Critical Area as specified in Comar 27.03.01.04 to the Critical Area Commission for review and comment.

- A. The application shall be accompanied by a completed "project notification application" form downloaded from the Critical Area Commission's website.
- B. The Town may not process an application, which has been sent to the Critical Area Commission for notification until the Town has received notice of receipt by the Critical Area Commission or the close of the fifth business day, whichever comes first.
- C. Any action by the Town in violation of these procedures shall be void.

- D. The following table identifies the different types of development applications that require notification to the Critical Area Commission:

**SUMMARY OF NOTIFICATION REQUIREMENTS
CRITICAL AREA COMMISSION
(COMAR 27.03.01)**

REQUIRES NOTIFICATION TO THE CRITICAL AREA COMMISSION			
	YES/NO		
<u>TYPE OF APPLICATION</u>	<u>IDA</u>	<u>LDA</u>	<u>RCA</u>
1. DISTURBANCE TO A HABITAT PROTECTION AREA	Y	Y	Y
2. PHYSICAL DISTURBANCE TO THE BUFFER (SEE NOTE 1)	Y	Y	Y
3. VARIANCE FROM CRITICAL AREA PROVISIONS	Y	Y	Y
4. DEVELOPMENT RESULTING IN LESS THAN 5,000 SQUARE FEET OF DISTURBANCE	N	N	N
5. DEVELOPMENT RESULTING IN BETWEEN 5,000 AND 15,000 SQUARE FEET OF DISTURBANCE	N	N	Y
6. DEVELOPMENT RESULTING IN GREATER THAN 15,000 SQUARE FEET OF DISTURBANCE	Y	Y	Y
7. SUBDIVISION OF 3 LOTS OR FEWER	N	N	Y
8. SUBDIVISION OF 4 TO 10 LOTS	N	Y	Y
9. SUBDIVISION OF GREATER THAN 10 LOTS	Y	Y	Y
10. SUBDIVISION AFFECTING GROWTH ALLOCATION	N/A	Y	Y
11. INTRAFAMILY TRANSFER	N/A	N/A	Y
12. REZONING THAT WOULD OCCUR WHOLLY OR PARTIALLY WITHIN THE CRITICAL AREA	Y	Y	Y
13. SPECIAL EXCEPTION OR CONDITIONAL USE FOR INDUSTRIAL COMMERCIAL, INSTITUTIONAL, NON- RESIDENTIAL OR MULTI-FAMILY	N	Y	Y
14. SUBSTANTIAL ALTERATION TO APPLICATIONS PREVIOUSLY SUBMITTED TO THE CRITICAL AREA COMMISSION	Y	Y	Y
NOTE 1: SHORE EROSION CONTROL MEASURES AND PRIVATE PIERS THAT DO NOT INVOLVE DISTURBANCE TO THE BUFFER AND FOR WHICH PERMITS ARE NOT ISSUED BY MDE DO NOT REQUIRE CRITICAL AREA COMMISSION NOTIFICATION.			

SECTION 119. DEVELOPMENT STANDARDS IN THE CRITICAL AREA.

The following sections specify general and specific development requirements in the Town's Critical Area overlay zones

SECTION 120. GENERAL REQUIREMENTS IN ALL CRITICAL AREA OVERLAY ZONES.

1. New solid or hazardous waste collection or disposal facilities, or sanitary landfills or rubble fills, including transfer stations, are not permitted in the Critical Area unless no environmentally preferable 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. Existing permitted facilities shall be subject to the standards and requirements of the Maryland Department of the Environment.
2. Development and redevelopment shall be subject to the Habitat Protection Area (HPA) requirements prescribed in this Part V.
3. Development and redevelopment shall be subject to the water-dependent facilities requirements of this Part V.
4. Utility Transmission Facilities
 - 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 if:
 - (1) The facilities are located in IDAs; and
 - (2) 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. Subsections 1. And 2. Of this Section 119 do not apply to power plants.
5. 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:
 - A. Provide maximum erosion protection;
 - B. Minimize negative impacts on wildlife, aquatic life and their habitats; and
 - C. Maintain hydrologic processes and water quality.

6. Development activities that cross or affect a stream are prohibited unless there is no feasible alternative. All development activities that must cross or affect streams shall be designed to:
 - A. Reduce increases in flood frequency and severity that are attributable to development;
 - B. Retain tree canopy so as to maintain stream water temperature within normal variation;
 - C. Provide a natural substrate for stream beds; and
 - D. Minimize adverse water quality and quantity impacts of stormwater.
7. Reasonable accommodations for the needs of disabled citizens.
 - A. An applicant seeking relief from the Critical Area standards contained in this Part V 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 V 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 V 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 V 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 this Part V; or would allow only the minimum environmental changes necessary to address the needs resulting from the particular disability of the applicant.
 - B. The Zoning Administrator shall determine the nature and scope of any accommodation under this Part V 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 V. The Zoning Administrator may also consider the size, location, and type of accommodation proposed and whether alternatives exist which accommodate the need with less adverse effect.
 - C. The Zoning Administrator 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 V. 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.

8. Non-water dependent structures on piers

- A. Except as provided in Paragraphs B. and C. of this Subsection 8, and notwithstanding any other provisions of 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 any other approval to authorize a non-water dependent project located on state or private wetlands within the Critical Area if the project:
 - (1) Involves a commercial activity that is permitted as a secondary or accessory use to a permitted primary commercial use;
 - (2) Is not located on a pier that is attached to residentially, institutionally, or industrially used property;
 - (3) Is located in an IDA;
 - (4) Is approved by the Zoning Administrator after the effective date of this Part V;
 - (5) Allows or enhances public access to state wetlands;
 - (6) Does not expand beyond the length, width, or channel-ward encroachment of the pier on which the project is to be constructed;
 - (7) Has a height of up to 18 feet unless the project is located at a marina; and
 - (8) Is up to 1,000 square feet in total area; or
 - I. Is located on a pier that was in existence on or before December 31, 2012;
 - II. Satisfies all of the requirements under items (1)-(7) of this Subsection 8.b.; and
 - III. If applicable, has a temporary or permanent roof structure or covering that is up to 1,000 square feet in total area.
- C. 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:
 - (1) 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;

(2) Is approved by the Town's Zoning Administrator after the effective date of Part V;

(3) A building permit or other approval issued under the requirements in Subsection 8.c. May include the installation or placement of:

- I. A solar energy system attached to a pier if 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;
- II. A solar energy system attached to a piling if there is only one solar panel per boat slip;
- III. 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;
- IV. 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 channel-ward encroachment of the pier;
 - (B) Deleteriously alter longshore drift; or
 - (C) Cause significant individual or cumulative thermal impacts to aquatic resources; or
- V. A wind energy system attached to a pier if there is only one (1) 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 channel-ward 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.

SECTION 121. INTENSELY DEVELOPED AREAS (IDA).

1. The following uses may be permitted in the IDA 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. These activities include the following:
 - A. Nonmaritime heavy industry;
 - B. Permanent sludge handling, storage, and disposal facilities, other than those associated with wastewater treatment facilities. However, agricultural or horticultural use of sludge under appropriate approvals when applied by an approved method at approved application rates may be permitted in the Critical Area, except in the 100-foot buffer.
2. Development activities shall be designed and implemented to minimize destruction of forest and woodland vegetation;
3. Storm water shall be addressed in accordance with the following provisions:
 - A. The Town shall require, at the time of development or redevelopment, that technologies as required by applicable state and local regulations be applied by anyone undertaking development activities in order to minimize adverse impacts to water quality caused by storm water. The technologies shall be developed in accordance with the guidelines published by the Critical Area Commission entitled “Critical Area 10% rule guidance manual”, fall 2003 and as may be amended.
 - B. In the case of redevelopment, if these technologies do not reduce pollutant loadings measured by use of the keystone pollutant method by at least 10 percent below the level of pollution on the site prior to redevelopment, then offsets shall be provided.
 - C. In the case of new development, offsets as determined appropriate by the Town shall be used if they reduce pollutant loadings by at least 10 percent of the pre-development levels. Offset fees-in-lieu shall be set based on the actual cost to achieve the required pollution reduction plus reasonable fees for cost incurred by the Town, including planning, design, and administration of offset measures.
 - D. Offsets may be provided either on or off site, provided that water quality benefits are equivalent, that the benefits are obtained within the same watershed, and that the benefits can be determined through the use of modeling, monitoring or other computation of mitigation measures as specified in the “Critical Area 10% rule guidance manual, fall 2003” and as may be amended.
4. New, expanded or redeveloped industrial or port-related facilities and the replacement of these facilities may be permitted only in those portions of IDAs that have been designated as Modified Buffer Areas (MBAs).

Section 122. Limited Development Areas (LDA)

1. If a wildlife corridor system is identified by the department of natural resources on or near the site the following practices are required:
 - A. 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;
 - B. The Town shall require and approve a conservation easement, restrictive covenant, or similar instrument to ensure maintenance of the wildlife corridor;
 - C. The wildlife corridor shall be preserved by a public or private group.
2. Development on slopes 15 percent (15%) 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 LDAs.
3. Except as otherwise provided in this Subsection, lot coverage is limited to 15 percent (15%) of a lot or parcel, or any portions of a lot or parcel, that are designated LDA.
 - A. If a parcel or lot of one-half (1/2) acre or less in size existed on or before December 1, 1985, then lot coverage is limited to twenty-five percent (25%) of the parcel or lot.
 - B. If a parcel or lot greater than one-half (1/2) acre and less than one (1) acre in size existed on or before December 1, 1985, then lot coverage is limited to fifteen percent (15%) of the parcel or lot.
 - C. If an individual lot one (1) 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%).
 - D. This section does not apply to mobile home parks that were in residential use on or before December 1, 1985.
 - E. Lot coverage limits provided in Subsections 3.a. And 3.b. Of this section may be exceeded, upon findings by the Town planning commission that the following conditions exist:
 - (1) 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.
 - (2) Lot coverage associated with new development activities on the property have been minimized;

- (3) For a lot or parcel one-half (1/2) acre or less in size, total lot coverage does not exceed the lot coverage limits in paragraph 3.a. By more than twenty-five percent (25%) or 500 square feet, whichever is greater;
- (4) For a lot or parcel greater than one-half (1/2) acre and less than one (1) acre in size, total lot coverage does not exceed the lot coverage limits in Subsection 3.b. Or 5,445 square feet, whichever is greater;

The following table summarizes the limits set forth in Subsections 3.e.(1) through (4) above:

TABLE 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

F. If the planning commission makes the findings set forth in paragraph e. Above and authorizes an applicant to use the lot coverage limits set forth in that paragraph, the applicant shall:

- (1) 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
- (2) 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 (2) times the area of the development activity.
- (3) 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.

4. The alteration of forest and developed woodlands shall be restricted and mitigated as follows:

- A. The total acreage in forest and developed woodlands within the Town's Critical Area shall be maintained or, preferably, increased;
- B. 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, except as provided in the remainder of this Subsection 4;
- C. If an applicant is authorized to clear more than 20 percent (20%) 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 entire areal extent of the forest or developed woodlands cleared, including the first 20 percent (20%) of the forest or developed woodlands cleared.

- D. An applicant may not clear more than 30 percent (30%) 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 three (3) times the entire areal extent of the forest or developed woodlands cleared.¹
5. The following are required for forest or developed woodland clearing as required in Subsection 4. Above:
- A. The applicant shall ensure that any plantings that die within (24) months of installation shall be replaced. A performance bond in an amount determined by the Town shall be posted to assure satisfactory replacement as required in Subsection 4. Above and plant survival.
 - B. A Zoning Certificate shall be issued by the Town before forest or developed woodland is cleared. Forests and developed woodlands which have been cleared before obtaining a Zoning Certificate is a violation and shall be replanted at three (3) times the entire areal extent of the cleared forest.
 - C. Clearing of forest or developed woodlands that exceed the maximum area allowed in Subsection 4 shall be replanted at three (3) times the entire areal extent of the cleared forest.
 - D. 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.
6. 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 (15%). The applicant shall designate, subject to the approval of the Town, a new forest area on a part of the site not forested.
7. All forest, including afforested areas, shall be maintained through conservation easements, restricted covenants, or other protective instruments.
8. New, expanded or redeveloped industrial facilities may only be permitted in LDA if such a use is permitted in the underlying zoning district and provided such facilities meet all requirements for development in the LDA.

Section 123. Resource Conservation Areas (RCA)

1. Nothing in this section shall limit the ability of a participant in any agricultural easement program to convey real property encumbered 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.

2. Land use management practices shall be consistent with the policies and criteria for the HPA provisions of this article.
3. Development activity within the rcas shall be consistent with the requirements and standards specified for LDAs.

A. For the purposes of calculating limitations on lot coverage, the following apply:

- (1) When a site is mapped entirely as rca, lot coverage is based on the entire site area; and
- (2) When a portion of a lot or parcel is mapped as RCA, lot coverage is based on the area of the RCA.

4. Density

A. Land within the RCA may be developed for residential uses at a density not to exceed one (1) dwelling unit per 20 acres. The Town may not authorize a variance to the maximum density of 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 RCA, the Town:

- (1) Shall count each dwelling unit; and
- (2) 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 (8) 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 Critical Area Commission, and Maryland department of the environment.

B. One (1) additional dwelling unit (accessory dwelling unit) as part of a primary dwelling unit may be permitted in the RCA provided the additional dwelling unit is served by the same sewage disposal system as the primary dwelling unit and:

- (1) 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
- (2) Is located within the primary dwelling unit and does not increase the amount of lot coverage already attributed to the primary dwelling unit.

C. 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

- D. 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 of this chapter.

5. RCA uses

- A. Existing industrial and commercial facilities, including those that directly support agriculture, forestry, aquaculture, or residential development not exceeding the 1-per-20 acre density, shall be allowed in RCAs.
- B. Expansion of existing industrial facilities and uses in the RCA shall be subject to the non-conforming use and grandfathering provisions of this Part V and may require growth allocation.
- C. New commercial, industrial, and institutional uses shall not be permitted in RCAs, except as provided for in the Town's growth allocation provisions or as listed below. Additional land may not be zoned or used for industrial, commercial, or institutional development, except as provided by the Town's growth allocation provisions.
 - (1) A home occupation as an accessory use on a residential property and as provided for in this Part V;
 - (2) A golf course developed in accordance with the official guidance adopted by the Critical Area Commission on August 3, 2005, excluding main buildings and/or structures such as the clubhouse, pro-shop, parking lot, etc.;
 - (3) A cemetery that is an accessory use to an existing church; provided lot coverage is limited to 15 percent (15%) of the site or 20,000 square feet, whichever is less;
 - (4) A bed and breakfast facility located in an existing residential structure and where meals are prepared only for guests staying at the facility;
 - (5) A gun club or skeet shooting range or similar use, excluding main buildings and/or structures, such as a clubhouse, snack bar, etc;
 - (6) A day care facility in a dwelling where the operators live on the premises and there are no more than eight (8) children;
 - (7) A group home or assisted living facility with no more than eight (8) residents.

Section 124. Intrafamily transfers

1. Definitions. In this section the following words have the meanings indicated:

- A. "bona fide intra-family transfer" means a transfer to a member of the owner's immediate

family of a portion of the owner's property for the purpose of establishing a residence for that family member.

- B. "immediate family" means a father, mother, son, daughter, grandfather, grandmother, grandson or granddaughter.
2. Applicability. The Town shall permit bona fide intra-family transfers to be made only from parcels of land that:
 - A. Were of record on march 1, 1986, and
 - B. Are 7 acres or more and less than 60 acres in size.
 3. Required subdivision. A bona fide intra-family transfer from a parcel of land shall be a subdivision of the parcel of land that is subject to approval under the subdivision regulations of the Town.
 4. Approval of subdivision of parcels. The Town may approve the subdivision of a parcel of land into the number of lots indicated in this Subsection by means of a bona fide intra-family transfer and may not approve any greater subdivision of the parcel of land or any portion of it as follows:
 - A. A parcel that is seven acres or more and less than 12 acres in size may be subdivided into two lots.
 - B. A parcel that is 12 acres or more and less than 60 acres in size may be subdivided into three lots. The lots may be created at different times.
 5. Conditions of approval. As conditions of approval the Town shall require that:
 - A. Any deed for a lot that is created by a bona fide intra-family transfer shall contain a covenant approved by the Town attorney stating that the lot is created subject to the provisions of Natural Resources Article section 8-1808.2, Annotated Code of Maryland; and
 - B. A lot created by a bona fide intra-family transfer may not be conveyed subsequently to any person other than a member of the owner's immediate family, except under provisions set forth in Subsection 6. Of this section.

This Subsection does not prevent the conveyance of the lot to a third party as security for a mortgage or deed of trust.

6. Standards and procedures for subsequent conveyance of lots. The following standards and procedures are established to permit the subsequent conveyance of lots to persons other than immediate family members under certain circumstances. The applicant shall demonstrate to the planning commission that:

- A. The lot was created as part of a bona fide intra-family transfer and not with the intent of subdividing the original parcel of land for purposes of ultimate commercial sale; and
- B. A change in circumstances has occurred since the original transfer was made that is not inconsistent with this Part V and that warrants an exception; or there are other circumstances that are consistent with this program to maintain land areas necessary to support the protective uses of agriculture, forestry, open space and natural habitats in Resource Conservation Areas and thus warrant an exception.

Section 125. The buffer.

1. Applicability and delineation.

An applicant for a development activity or a change in land use in the buffer 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:

- A. A buffer of at least 100 feet is delineated, and expanded as described in Subsection 1.c. Of this section, based on existing field conditions landward from:
 - (1) The mean high-water line of a tidal water;
 - (2) The edge of each bank of a tributary stream; and
 - (3) The upland boundary of a tidal wetland.
- B. 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 Subsections 1.a. And 1.c. Of this section:
 - (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
 - (2) The application involves the use of growth allocation.
- C. The 100-foot buffer shall be expanded beyond 100 feet as described in Subsection 1.a. Of this section, and beyond 200 feet as described in Subsection 1.b. Of this section, to include the following contiguous land features:
 - (1) A steep slope at a rate of four feet for every one percent (1%) 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; and/or
- (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.

2. 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 4. Of this section and an approved buffer management plan is submitted as required per Subsection 6. Of this section:

- A. A new development or redevelopment activity associated with a water-dependent facility as described in Subsection 6. Of this section.
- B. In accordance with Comar 26.24.02, a shore erosion control measure under Comar 26.24.04, and this Part V.
- C. A development or redevelopment activity approved in accordance with the variance provisions of this Part V.
- D. 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 (15%) or is expanded for a hydric soil and the expanded buffer occupies at least 15 percent (15%) 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.
- E. A septic system on a lot created before May 26, 1988, where mitigation is provided at a 1:1 ratio for area of canopy cleared of any forest or developed woodland.
- F. Riparian access for water access, where mitigation is required at a rate of 2:1.

3. Buffer establishment.

- A. 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.
- B. If an applicant for a subdivision of a lot or parcel uses or leases the lot or parcel for an agricultural purpose, the applicant:
 - (1) In accordance with local land recordation requirements, shall record an approved buffer management plan under Subsection 6 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.
- C. The requirements of Subsection 3. Of this section are not applicable to an in-kind replacement of a structure.
- D. The Town shall require an applicant to establish the buffer in vegetation in accordance with the table below and Subsection 5. Of this section and to provide a buffer management plan under Subsection 6 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.
- E. When the buffer is not fully forested or is not fully established in existing, naturally occurring woody or wetland vegetation, an applicant shall establish the buffer to the extent required in the following table:

Table 3.c.(5). Buffer establishment requirements.

Development category	Lot created before May 26, 1988	Lot created after May 26, 1988
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	

F. 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 the Town's program adoption or was allowed by local procedures; and
- (2) The total area is stabilized.

4. 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.

- A. All authorized development activities shall be mitigated based on the ratios noted in the table below, in addition to the area of canopy coverage removed for an individual tree, developed woodland or forest.

Table 3.d.1 buffer mitigation ratios

Activity	Mitigation ratio
Septic on a lot created before local program approval if located in existing grass or if clearing is not required	Not applicable
Septic system in a forest or developed woodland on a lot created before local program approval if clearing is required	1:1
Shore erosion control	1:1
Riparian water access	2:1
Development of a water-dependent facility or activity under Comar 27.01.03	2:1
Variance	3:1
Violation	4:1

- B. For the removal of a dead tree, the affected area shall be stabilized with native groundcover or other native vegetation as necessary.
- C. The removal of a diseased, dying, invasive, or hazardous tree shall be mitigated with one tree of at least $\frac{3}{4}$ -inch caliper for each tree removed or the affected area shall be stabilized in native woody vegetation if a tree cannot be replanted due to space constraints.
- D. Any lot coverage removed from the buffer may be deducted from the total cumulative amount of mitigation required if:
- E. The lot coverage existed before the date of local program adoption or was allowed by local procedures; and
- F. The total area is stabilized.
- G. Planting for mitigation shall be planted onsite within the buffer. If mitigation planting cannot be located within the buffer, then the Town may allow planting in the following order of priority:
 - (1) On-site and adjacent to the buffer; and
 - (2) On-site elsewhere in the Critical Area.
- H. The installation or cultivation of new lawn or turf in the buffer is prohibited.
- I. As applicable to a site, an applicant shall restore any area in the buffer that is temporarily disturbed by a development activity to pre-disturbance conditions.

5. Buffer planting standards.

- A. An applicant that is required to plant the buffer to meet establishment or mitigation requirements shall apply the planting standards set forth in the table below.

Table 3.e.1 landscape stock credit

Vegetation type	Minimum size eligible for credit	Maximum credit allowed (square feet)	Maximum percentage of landscape stock credit
Canopy tree	2-inch caliper	200	Not applicable
Canopy tree	¾-inch caliper	100	Not applicable
Understory tree	¾-inch caliper	75	Not applicable
Large shrub	3 feet high	50	30%
Small shrub	18 inches high	25	20%
Herbaceous perennial	1 quart or based on the area covered by plugs or seed mix	2	10%
Planting cluster a (for less than ½ acre of planting)	1 canopy tree; and 3 large shrubs or 6 small shrubs of size listed above	300	Not applicable
Planting cluster b (for less than ½ acre of planting)	2 understory trees; and 3 large shrubs or 6 small shrubs of size listed above	350	Not applicable

- B. A variance to the planting and mitigation standards of this section is not permitted.

6. 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 Subsection 6. Of this section do not apply to maintaining an existing grass lawn or an existing garden in the buffer.

- A. Any permit for a development activity that requires buffer establishment or buffer mitigation will not be issued until a buffer management plan is approved by the Town.
- B. An applicant may not obtain final approval of a subdivision application until the buffer management plan has been reviewed and approved by the Town.
- C. The Town may not approve a buffer management plan unless:
- (1) The plan clearly indicates that all planting standards under Part V will be met; and
 - (2) Appropriate measures are in place for the long-term protection and maintenance of all buffer areas.
- D. For a buffer management plan that is the result of an authorized disturbance to the buffer, a permit authorizing final use and occupancy shall not be issued until the applicant:

- (1) Completes the implementation of the 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 7.01.09.01-2.
- E. Concurrent with recordation of a subdivision plat, an applicant shall record a protective easement for the buffer in a form directed or approved by the Town.
- F. If an applicant fails to implement a buffer management plan, that failure shall constitute a violation of this section. A permit for development activity shall not be issued for a property that has a violation.
- G. An applicant shall post a subdivision with permanent signs prior to final recordation in accordance with Comar 27.01.09.01-2.
- H. Buffer management plans that include natural regeneration shall follow the provisions of Comar 27.01.09.01-4.

7. Fee-in-lieu of buffer mitigation.

A fee-in-lieu of mitigation will be collected if the planting requirements of Subsection 5. Of this section cannot be fully met onsite, in accordance with the following standards:

- A. Fee-in-lieu monies shall be collected and held in a special fund, which may not revert to the Town's general fund;
- B. Fee-in-lieu shall be assessed at \$1.50 per square foot of required buffer mitigation;
- C. A portion of fee-in-lieu money may be used for management and administrative costs not to exceed 20 percent (20%) of the fees collected; and
- D. 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; and/or
 - (2) For water quality and habitat enhancement projects as described in an agreement between the Town and the Critical Area Commission.

Section 126. Modified Buffer Area (MBA).

1. Applicability.

The following provisions apply to areas designated and mapped by the Town as Modified Buffer Areas (MBA) and shown on maps made available to the public by the Town. All MBA maps and provisions must be approved by the Critical Area Commission.

2. Development and redevelopment standards.

New development or redevelopment activities, including structures, roads, parking areas, other impervious surfaces, and septic systems, will not be permitted in the buffer in a designated MBA unless the applicant can demonstrate that there is no feasible alternative and the Zoning Administrator finds that efforts have been made to minimize buffer impacts, and the development shall comply with the following standards:

- A. Development and redevelopment activities have been located as far as possible from mean high tide, the landward boundary of tidal wetlands, or the edge of each bank of tributary streams.
- B. Variances to other Town setback requirements have been considered before additional intrusion into the buffer is permitted.
- C. Convenience or expense were not factors considered when evaluating the extent of allowable impacts to the buffer.
- D. Commercial, industrial, institutional, recreational and multi-family residential development and redevelopment shall meet the following standards:
 - (1) New development, including accessory structures, shall minimize the extent of intrusion into the buffer. New development shall not be located closer to the water (or edge of tidal wetlands) than the minimum required setback for the zoning district or 25 feet, whichever is greater. Structures on adjacent properties shall not be used to determine the setback line.
 - (2) Redevelopment, including accessory structures, shall minimize the extent of intrusion into the buffer. Redevelopment shall not be located closer to the water (or edge of tidal wetlands) than the Town setback for the zoning district or 50 feet, whichever is greater. Structures on adjacent properties shall not be used to determine the setback line. A new structure may be constructed on the footprint of an existing structure. Opportunities to establish a 50-foot setback should be maximized.
- E. Single-family residential development and redevelopment shall meet the following standards:

- (1) New development or redevelopment shall minimize the shoreward extent of intrusion

into the buffer. New development and redevelopment shall not be located closer to the water (or the edge of tidal wetlands) than principal structures on adjacent properties or the Town setback for the zoning district, whichever is greater. In no case shall new development or redevelopment be located less than 50 feet from the water (or the edge of tidal wetlands).

(2) Existing principal or accessory structures may be replaced in the same footprint.

(3) New accessory structures may be located closer to the water than the setback if the Zoning Administrator has determined there are no other locations for the structures. The area of new accessory structures shall not exceed 500 square feet within 50 feet of the water and 1,000 square feet total in the buffer.

F. Development and redevelopment may not impact any HPA other than the buffer, including nontidal wetlands, other state or federal permits notwithstanding.

G. MODIFIED BUFFER AREA designation shall not be used to facilitate the filling of tidal wetlands that are contiguous to the buffer or to create additional buildable land for new development or redevelopment.

H. No natural vegetation may be removed in the buffer except that required by the proposed construction.

I. Mitigation for development or redevelopment in the MBA approved under the provisions of this section shall be implemented as follows:

(1) Natural forest vegetation of an area twice the extent of the footprint of the development activity within the 100-foot buffer shall be planted on site in the buffer or at another location approved by the Zoning Administrator.

(2) Applicants who cannot fully comply with the planting requirement in item i.(1) of this Subsection 2., may offset the mitigation requirement by removing an equivalent area of existing lot coverage in the buffer.

I. Applicants who cannot comply with either the planting or offset requirements in items i.(1) or (2) of this Subsection 2, shall pay into a fee-in-lieu program at the rate of \$1.50 per square foot of plantings required for the total mitigation for disturbance.

(3) Any fees-in-lieu collected under paragraph i.(3) shall be placed in an account that will assure their use only for projects within the Critical Area to enhance wildlife habitat, improve water quality, or otherwise promote the goals of the Town's Critical Area program. The funds may not be used to accomplish a project or measure that would have been required under existing local, state, or federal laws, regulations, statutes, or permits. The status of these funds must be reported in the Town's quarterly reports.

- (4) Any required mitigation or offset areas shall be protected from future development through an easement, development agreement, plat notes or other instrument directed or approved by the Town and recorded among the land records of the county.

Section 127. Other Habitat Protection Areas (HPA).

1. Identification.

An applicant for a development activity, redevelopment activity or change in land use shall identify all applicable HPAs and follow the standards contained in this section. HPAs includes:

- A. Threatened or endangered species or species in need of conservation;
- B. Colonial waterbird nesting sites;
- C. Historic waterfowl staging and concentration areas in tidal waters, tributary streams or tidal and nontidal wetlands;
- D. Existing riparian forests;
- E. Forest areas utilized as breeding areas by forest interior dwelling birds and other wildlife species;
- F. Other plant and wildlife habitats determined to be of local significance;
- G. Natural heritage areas; and
- H. Anadromous fish propagation waters.
- I. Locally significant HPAs, key wildlife habitats/important features:
 - (1) Frenchtown shore, 57 acres
 - Tidal freshwater marsh and shrubland
 - Intertidal mudflat and sand flat
 - Maryland bur-marigold (*bidens bidentoides*, watchlist)
 - Strap-leaf arrowhead (*sagittaria subulta*, status uncertain)
 - Forest interior dwelling species (fids) habitat
 - (2) Millcreek, 638 acres
 - Piedmont seepage wetland
 - Piedmont stream
 - Coastal plain stream
 - Chesapeake logperch (*percina bimaculata*, threatened)
 - Forest interior dwelling species (fids) habitat
 - (3) Lower Susquehanna, 4.098 acres

- Piedmont river
- Montane-piedmont floodplain
- Shortnose sturgeon (*acipenser brevirostrum*, state-listed as endangered, federally listed as endangered)
- Atlantic sturgeon (*acipenser oxyrinchus*, state-listed as endangered, federally listed as threatened)
- Chesapeake logperch (*percina bimaculata*, state-listed as threatened)
- Northern map turtle (*graptemys geographica*, state-listed as endangered)

J. Maps identifying these specific Habitat Protection Areas are maintained by the department of natural resources wildlife and heritage division. The most recent updated inventory was completed on February 11, 2022, and recommendations contained in the individual WHS reports for each Habitat Protection Area are hereby incorporated into this Part V.

2. Standards.

- A. An applicant for a development activity proposed for a site within the Critical Area that is in or near a HPA listed above; shall request review by the department of natural resources, and, as necessary, United States fish and wildlife service, for comment and technical advice. Based on the department of natural resource'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.
- B. If the presence of any HPA is confirmed by the department of natural resources, the applicant shall follow all recommendations from the department of natural resources, and, as necessary, United States fish and wildlife service.
- (1) If potential forest interior dwelling species (fids) habitat is identified, the proposed development shall conform to the Critical Area Commission's fids guidance manual, dated June 2000 and as updated.
- (2) 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.
- C. The specific protection and conservation measures recommended by the department of natural resources and the United States fish and wildlife service shall be included on the site plan and shall be considered conditions of approval for the project.

Section 128. Water-dependent facilities.

1. Applicability.

- A. The provisions of this section apply to those structures or works associated with industrial, maritime, recreational, education, or fisheries activities that require location at or near the shoreline within the buffer.

B. The provisions of this section are not applicable to:

(1) a private pier that:

(i) is installed or maintained by a riparian landowner; and

(ii) is not part of a residential project that provides a community pier or other community boat-docking or storage facility Subsection 6 of this chapter, or

(2) a nonwater-dependent project covered under Comar 27.01.13.

C. The requirements of Comar 27.01.02 apply to this section.

2. General criteria.

The following standards shall apply to new or expanded development activities associated with water-dependent facilities:

A. In accordance with Natural Resources Article §8-1808.3, Annotated Code of Maryland, permitted development in the buffer is limited to the minimum lot coverage necessary to accommodate each water dependent facility or activity.

B. 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 the facility or activity are water-dependent;
- (2) That the facility or activity meets a recognized private right or public need;
- (3) That adverse effects on water quality, fish, plant and wildlife habitat are first avoided, or if unavoidable, minimized;
- (4) That, insofar as possible, a non-water-dependent project associated with the water-dependent facility or activity is located outside the buffer;
- (5) Impacts to fish, wildlife, or plant habitat are avoided, or if unavoidable, minimized; and
- (6) Mitigation is provided at a minimum ratio of 1:1 based on the square footage of canopy coverage removed.

C. except as otherwise authorized in this section, a water-dependent facility or activity is prohibited in the buffer of the Resource Conservation Area.

D. The placement of dredged material in the buffer or a portion of the Critical Area that has been designated as a Habitat Protection Area is prohibited, except as necessary for:

(1) A beneficial use approved by the board of public works or the department of the environment, such as:

I. Backfill for a shoreline stabilization measure;

- II. Use in a nonstructural shoreline stabilization measure, including a living shoreline;
- III. Beach nourishment;
- IV. Restoration of an island;
- V. The creation, restoration, or enhancement of a wetland, or a fish, wildlife, or plant habitat; or
- VI. Any other approved beneficial use; or

(2) Placement in an area that was approved for the disposal of channel maintenance dredged material before June 11, 1988;

3. General requirements for the location of water-dependent facilities or activities

A. 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 develop a plan for the approval of an area suitable for the location of a new or expanded water-dependent facility or activity.

B. The following factors shall be considered when evaluating proposals for new or expanded water-dependent facilities:

(1) The impact on the water body upon which the water-dependent facility or activity is proposed that would likely result from the approval of that location, including:

- I. Alteration of an existing water circulation pattern or salinity regime;
- II. Adequacy of area flushing characteristics;
- III. Necessity of, and proximity to, a dredging operation; and
- IV. Interference with the natural transport of sand;

(2) Disturbance to:

- I. An oyster harvest area, as defined in Comar 08.02.04.11;
- II. An area covered in a current aquaculture lease, as defined in Natural Resources Article, §4-11a-01, Annotated Code of Maryland;
- III. A harvest reserve area, as designated under Natural Resources Article, §4-1009.1, Annotated Code of Maryland;
- IV. An oyster sanctuary, as established in Comar 08.02.04.15a; and

V. Any other shellfish located in a shellfish area regulated by the department of natural resources;

(3) avoidance of disturbance to water quality and aquatic or terrestrial habitat resulting from the method or manner of dredging; and

(4) the avoidance or, if unavoidable, the minimization of:

I. Disturbance to:

(a) wetland;

(b) submerged aquatic vegetation;

(c) a habitat of threatened or endangered species or species in need of conservation;

(d) in accordance with Comar 26.08.02.04-1, a water body identified by the department of the environment as a tier ii, high quality water body and its watershed; and

(e) a nontidal wetland of special state concern, as set forth in Comar 26.23.01.01 and .04 and Comar 26.23.06.01; and

II. Adverse impact on water quality that would likely result from the facility or activity, such as nonpoint source runoff, sewage discharge, or other pollution related to vessel maintenance.

4. Industrial and port-related facilities.

A. New, expanded, or redeveloped industrial or port-related facilities and the replacement of these facilities may be permitted only in those portions of IDAs that have been designated as MBAs as described in this Part V and are subject to the provisions set forth in this Part V.

5. Commercial marinas and other water-dependent commercial maritime facilities and activities.

A. New, expanded or redeveloped marinas may be permitted in the buffer within IDAs and LDAs subject to the requirements set forth in this Part V.

B. New marinas or related maritime facilities may not be permitted in the buffer within RCAs except as provided in this Part V. Expansion of existing marinas may be permitted by the Town within RCAs provided that it is sufficiently demonstrated that the expansion will not adversely affect water quality, and that it will result in an overall net improvement in water quality at or leaving the site of the marina.

C. New and existing marinas shall meet the sanitary requirements of the department of the

environment as required in comma 26.04.02. New marinas shall establish a means of minimizing the discharge of bottom wash waters into tidal waters.

6. Community piers and other community boat-docking and storage facilities.

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 V provided that:

A. The owner or operator of the pier or facility:

(1) Does not offer food, fuel, or other goods and services for sale and shall provide adequate and clean sanitary facilities;

(2) As applicable, complies with the requirements of Comar 26.24.04.03;

B. The facilities are community-owned and established and operated for the benefit of the residents of a platted and recorded riparian subdivision;

C. The facilities are associated with a residential development approved by the Town for the Critical Area and consistent with all state requirements and program requirements for the Critical Area;

D. Disturbance to the buffer is the minimum necessary to provide a single point of access to the facilities; and

E. If community piers, slips, or moorings are provided as part of the new development, private piers in the development are not allowed.

F. The number of slips or piers permitted at the facility shall be the lesser of items f.(1) or f. (2) of this Subsection 6. Below:

(1) One (1) slip for each 50 feet of shoreline in the subdivision in the IDAs and LDAs and one slip for each 300 feet of shoreline in the subdivision in the RCA; or

(2) A density of slips or piers to platted lots or dwellings within the subdivision in the Critical Area according to the following schedule:

Table h(2). 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

7. Public beaches and other public water-oriented recreation or education areas.

A. In addition to meeting the requirements of Subsections 6.b and 6.c. Of this section, public beaches or other public water-oriented recreation or education areas or activities may be permitted in the buffer of:

(1) An intensely developed area; or

(2) A Limited Development Area or a Resource Conservation Area provided that:

- I. Adequate sanitary facilities exist;
- II. Sanitary and 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 likely result; and
- IV. Disturbance to natural vegetation is first avoided or, if unavoidable, minimized.

B. Areas for public passive outdoor recreation, such as nature study, and hiking, hunting, and trapping, and for education, may be permitted in the buffer within a Limited Development Area or a Resource Conservation Area if sanitary and service facilities for these uses are located outside of the buffer.

8. Research-associated and education-associated water-dependent facilities or activities.

In addition to meeting the requirements of Subsections 6.b. And 6.c. Of this section, a research-associated water-dependent facility or activity or of an education-associated water-dependent facility or activity may be permitted in the buffer of an IDA, LDA, or RCA, if any associated nonwater-dependent project or activity is located outside the buffer.

9. Aquaculture and fishery facilities and activities: water quality restoration.

The following types of aquaculture and fishery facilities and activities may be permitted in the buffer of an IDA, LDA, or RCA:

- A. a shore-based facility or activity necessary for a commercial aquaculture operation;
- B. A commercial water-dependent fishery facility or activity, including a structure for crab shedding, a fish off-loading dock, and a shellfish culture operation; and
- C. A facility or activity that supports water quality restoration in the chesapeake bay, the atlantic coastal bays, or their watersheds.

Section 129. Growth allocation.

1. Growth allocation acreage and deduction.

A. Growth allocation available to the Town includes:

- (1) An area equal to five percent (5%) of the RCA acreage located within the Town; and
- (2) Growth allocation available to the Town as provided for by Cecil County.

B. A local jurisdiction shall deduct acreage from its growth allocation reserves in accordance with Comar 27.01.02.06-4.

2. Purpose.

Growth allocation is available for use in a RCA or in a 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.

3. 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 follow procedures below prior to submission to the Critical Area Commission.

A. The application shall be reviewed by the Zoning Administrator and submitted to the Planning Commission for review.

- B. The applicant shall address the Planning Commissioner's comments and recommendations and may revise the concept plan accordingly. The growth allocation request shall then be forwarded to the Town commissioners with a recommendation for approval or denial from the Planning Commission.
- C. The Town commissioners shall hold a public hearing consistent with the provisions of article xviii of this chapter as it relates to changes within the Critical Area overlay district due to use of growth allocation.
- D. The Town commissioners may establish conditions of approval that are consistent with the intent of the Town's Critical Area program.
- E. Upon approval of the growth allocation request by the Town commissioners, the Town shall send a request to the Cecil County commissioners to award a portion of Cecil County's growth allocation to the applicant. Upon receipt of all local approvals, the Town shall send a letter of request to Critical Area Commission to award a portion of growth allocation to the applicant. The request shall be accompanied by all local approval letters pertinent plans, environmental reports and/or studies. Upon receipt of the request from the Town, the Critical Area Commission shall notify the Town regarding the processing of the request as an amendment or refinement to the Town's Critical Area program. Refinements shall be acted on within 30 days of the commission's notification to the Town of a completed submission. Amendments shall be acted on Within 90 days of the commission's notification to the Town of a completed submission.
- F. Following approval of the growth allocation request by the Critical Area Commission, the Town commissioners may implement the change by ordinance, and the applicant may proceed with the preparation of the final site plan or subdivision plat for recordation. The Town shall also notify the county in writing.

4. Requirements.

When locating new IDAs or LDAs, the following requirements apply:

- A. A new intensely developed area shall be at least 20 acres unless it is adjacent to existing IDA.
- B. An application for a new IDA or LDA shall be:
 - (1) In conformance with the requirements of Comar title 27 subtitle 01; and
 - (2) Designated on the approved Critical Area map that is submitted as part of its application to the commission for growth allocation approval.
- C. As part of a growth allocation approved by the commission, the following shall be enforced:

- (1) A buffer management plan;

(2) A habitat protection plan; and

(3) Other applicable conditions of approval as determined by the commission at the time of project approval.

5. Standards.

When locating new IDAs or LDAs the following standards shall apply:

A. A new IDA shall only be located in a LDA or adjacent to an existing IDA;

B. A new LDA shall only be located adjacent to an existing LDA or an IDA;

C. A new LDA or IDA shall be located in a manner that minimizes impacts to HPAs as defined herein and in Comar 27.01.09 and in an area and manner that optimizes benefits to water quality;

D. New IDAs shall only be located where they minimize their impacts to the defined land uses of the RCA;

E. A new IDA or a LDA in a RCA shall be located at least 300 feet beyond the landward edge of tidal wetlands or tidal waters; and

F. New IDAs or LDAs to be located in RCAs 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 V subject to review and approval by the Town Planning Commission, the Town commissioners and the Critical Area Commission as provided in this section.

6. Additional factors.

In reviewing map amendments or refinements involving the use of growth allocation, the Town shall consider all of the following factors:

A. Consistency with the Town's adopted comprehensive plan and whether the growth allocation would implement the goals and objectives of the adopted plan.

B. For a map amendment or refinement involving a new LDA, whether the development is:

(1) To be served by a public wastewater system or septic system that uses the best available nitrogen removal technology;

(2) A completion of an existing subdivision;

(3) An expansion of an existing business; or

(4) To be clustered.

C. For a map amendment or refinement involving a new IDA, whether the development is:

(1) To be served by a public wastewater system;

(2) To have an allowed average density of at least 3.5 units per acre as calculated under state finance and procurement article, §5-7b-03(h), Annotated Code of Maryland;

(3) If greater than 20 acres, to be located in a designated priority funding area; and

(4) To have a demonstrable economic benefit.

D. The use of existing public infrastructure, where practical.

E. 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.

F. Impacts on a priority preservation area.

G. Environmental impacts associated with wastewater and stormwater management practices and wastewater and stormwater discharges to tidal waters, tidal wetlands, and tributary streams.

H. Environmental impacts associated with location in a coastal hazard area or an increased risk of severe flooding attributable to the proposed development.

Section 130. Grandfathering.

1. Continuation of existing uses.

A. The continuation, but not necessarily the intensification or expansion, of any use in existence on June 1, 1984, may be permitted unless the use has been abandoned for more than one (1) year or is otherwise restricted by existing Town ordinances.

B. If any existing use does not conform with the provisions of this Part V, its intensification or expansion may be permitted only in accordance with the variance procedures in section 130 of this Part V.

2. Residential density on grandfathered lots.

A. 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 chapter:

- (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 June 1, 1984, but prior to December 1, 1985;
- (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 Part V or the area of the land has been counted against the growth allocation permitted under this Part V.

3. Implementation.

- A. 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 (3) types of development areas described in this Part V (IDA, LDA and RCA).
- B. Nothing in this section may be interpreted as altering any requirements of this Part V related to water-dependent facilities or HPAs.

Section 131. Variances.

1. Applicability.

The Town has established provisions where, owing to special features of a site or other circumstances, implementation of this Part V or a literal enforcement of provisions within this Part V would result in unwarranted hardship to an applicant, a Critical Area variance may be obtained.

- A. 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 Part V.
- B. Unwarranted hardship means that without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.

2. 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 proceeding for a variance under this section.

3. Standards.

The provisions for granting a variance shall include written findings based on competent and substantial evidence that the applicant has overcome the presumption established under Subsection 1.a. Above, and that each of the following standards are met:

- A. 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 V would result in unwarranted hardship to the applicant;
- B. A literal interpretation of the provisions of this Part V will deprive the applicant the use of land or a structure permitted to others in accordance with the provisions of this Part V;
- C. The granting of a variance will not confer upon an applicant any special privilege that would be denied by this Part V to other lands or structures in accordance with the provisions of this Part V;
- D. 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;
- E. The request does not arise from any condition relating to land or building use, either permitted or non-conforming, on any neighboring property;
- F. The granting of a variance would not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the Critical Area; and
- G. The granting of the variance will be in harmony with the general spirit and intent of the state Critical Area law, Comar title 27, subtitle 01, and this Part V.

4. Process.

Applications for a variance shall be made in writing to the Town Board of Appeals with a copy provided to the Critical Area Commission. The Town shall follow its established procedures for advertising and notification of affected landowners.

- A. After hearing an application for a Critical Area program variance, the Board of 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) Or any other government agency; or
- (3) Any other person deemed appropriate by the Board of Appeals.

- B. 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 5 below.
- C. The applicant has the burden of proof and the burden of persuasion to overcome the presumption of nonconformance established in Subsection 1.a. Above.
- D. The Town shall notify the Critical Area Commission of the board's findings and decision to grant or deny the variance request.

5. After-the-fact requests.

- A. The Board of Appeals may not accept an application of a variance to legalize a violation of this Part V, 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.

- B. The Board of Appeals may not approve an after-the-fact variance unless an applicant has:

- (1) Fully paid all administrative, civil and criminal penalties imposed under Natural Resources Article, §8-1808(c)(1)(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.

- C. If the board denies the requested after-the-fact variance, then the Town shall:

- (1) Order removal or relocation of any structure; and
- (2) Order restoration of the affected resources.

6. 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 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. The Town may not issue a permit, or any other type of authorization, until the applicable 30-day appeal period has expired.

7. Conditions and mitigation.

The Board of Appeals shall impose conditions on the use or Development of a property which is granted a variance as the board may find reasonable to ensure that the spirit and intent of this Ordinance is maintained including, but not limited to the following:

- A. Adverse impacts resulting from the granting of the variance shall be mitigated as recommended by the Town Planning Commission, but not less than by planting on the site per square foot of the variance granted at no less than a 3:1 basis.
- B. 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.

8. Commission notification.

Within ten (10) working days after a written decision regarding a variance application is issued, a copy of the decision will be sent to the Critical Area Commission.

Section 132. Lot consolidation and reconfiguration.

1. 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:

- A. Those for which a Critical Area variance is sought or has been issued; and
- B. Those located in the RCA and are less than 20 acres in size.

2. 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's Zoning Administrator.

- A. The Zoning Administrator may not approve a proposed parcel or lot consolidation or reconfiguration without making written findings in accordance with Comar 27.01.02.08.f.
- B. The Zoning Administrator 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 Zoning Administrator shall send a copy of the decision or order and a copy of any approved development plan within ten (10) business days by U.S.. mail to the Critical Area Commission's business address.

Section 133. Local development projects

1. Applicability

For all development in the Critical Area resulting from any action by the Town on local or privately owned lands, the Town shall adhere to Comar 27.02.02, Comar 27.02.04 and Comar 27.02.06.

2. Procedures.

- A. If the project meets the provisions of this Part V and is minor development, the Zoning Administrator shall prepare a consistency report and submit a copy of the report with relevant plans and information about the project to the Critical Area Commission per the requirements of Comar 27.02.02.
- B. If the project does not meet the provisions of this Part V, the Zoning Administrator shall seek a conditional approval by the Critical Area Commission per the requirements of Comar 27.02.06.
- C. The Town shall submit information as required in the Critical Area Commission's *local project submittal instructions and application checklist*.

3. Notice requirements.

Notice and posting requirements for projects reviewed and approved by the Critical Area Commission.

- A. Public notice is required for all development projects that qualify under Comar 27.03.01.03. Public notice shall be the responsibility of the Town and evidence that those requirements have been met shall be included as part of the submittal to the Critical Area Commission.

Section 134. Program changes

1. Program changes

The Town may from time to time amend the provisions of this Part V. 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.

- A. 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.
- B. Standards and procedures for Critical Area Commission approval of proposed amendments are as set forth in § 8-1809(i) and § 8-1809(d), respectively, of the Natural Resources Article.

2. Comprehensive review

The Town shall review its entire Critical Area program and propose any necessary amendments to its entire program, including this Part V, at least every six years in accordance with Natural Resources Article, §8-1809(g).

3. Zoning Map amendments.

Except for program amendments or program refinements developed during a six-year comprehensive review, a Zoning Map amendment in the Critical Area may only be granted by the Town commissioners upon proof of a mistake in the existing zoning. This proof of mistake requirement does not apply to proposed changes to a Zoning Map in the Critical Area that meet the following criteria:

- A. The proposed changes are wholly consistent with the land classifications as shown on the adopted Critical Area overlay map; or
- B. The use of growth allocation in accordance with the growth allocation provisions of this Part V is proposed.
- C. Adoption of a program amendment or refinement.

If approved by the Critical Area Commission, the Town commissioners, by ordinance, shall incorporate a program amendment or refinement into its adopted Critical Area program, including any conditions of approval, within 120 days of receiving notice from the chairman of the commission.

Section 135. Enforcement.

1. Consistency.

This Part V supersedes any inconsistent law or plan of the Town. In the case of conflicting provisions, the stricter provisions shall apply.

2. Violations.

- A. No person shall violate any provision of this Part V. Each violation that occurs and each calendar day that a violation continues shall be a separate offense.
- B. Each person who violates a provision of this Part V shall be subject to separate administrative civil penalties, abatement and restoration orders, and mitigation for each offense.
- C. Non-compliance with any permit or order issued by the Town related to the Critical Area shall be a violation of this Part V and shall be enforced as provided herein.
- D. In addition to other penalties provided by this Part V or by §8-1815 of the Natural Resources Article, a violation of this Part V is a municipal infraction subject to the penalties provided for in section 78 of this chapter.

3. Responsible persons.

The following persons may each be held jointly or severally responsible for a violation: (1) developer or any persons who apply for or obtain any permit or approval, (2) contractors, (3) subcontractors, (4) property owners, (5) managing agents, or (6) any person who has committed, assisted, or participated in the violation.

4. Required enforcement action.

In the case of violations of this Part V, the Town, through the Town's Zoning Administrator, shall take enforcement action including:

- A. 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;
- B. 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
- C. 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.

5. Restoration and mitigation

- A. A restoration or mitigation order shall specify the amount of appropriate restoration and mitigation as necessary to offset the adverse impacts to the Critical Area, resulting from the violation, consistent with all other requirements of this ordinance.
- B. For restoration or mitigation that exceeds 1,000 square feet or involves expenses exceeding \$1,000, the Town shall collect a bond or other financial security.
- C. If restoration or mitigation involves planting, a bond or other financial security shall be held for at least 2 years after the date the plantings were installed to ensure plant survival.
- D. A property owner may request the Town to schedule inspections as necessary to ensure compliance and the return of the bond or other financial security.

6. Right to Enter Property

Except as otherwise authorized and in accordance with the Procedures specified herein, the Zoning Administrator or the administrator's 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 Part V has occurred, is Occurring, or will occur. The Zoning Administrator or designee shall make a reasonable effort to contact a property owner before obtaining access to or entering the property. If entry is denied, the Town may seek an injunction to enter the property to pursue an enforcement action.

7. 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 the provisions of this Part V shall be punishable by a civil penalty of up to \$1,000 per calendar day.

- A. Before imposing any civil penalty, the person(s) believed to have violated this Part V 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.

- B. 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.
- C. The person responsible for any continuing violation shall promptly provide the Zoning Administrator or designee with written notice of the date(s) the violation has been or will be brought into compliance and the date(s) for further inspection to verify compliance. Administrative civil penalties for continuing violations continue to accrue as set forth herein until the Zoning Administrator or designee receives such written notice and verifies compliance by inspection or otherwise.
- D. 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.
- E. 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 V.

8. 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.

9. Variances pursuant to a violation.

For any violation that requires a variance to this Part V, the Town shall follow the after-the-fact variance provisions in Subsection 130.5 of this Part V.

10. Permits pursuant to a violation.

The Town may not issue any permit, approval, variance, or special exception, unless the person seeking the permit has:

- A. Fully paid all administrative, civil, or criminal penalties;

- B. Prepared a restoration or mitigation plan, approved by the Zoning Administrator, to abate impacts to water quality or natural resources as a result of the violation;
- C. Performed the abatement measures in the approved plan in accordance with the Town's regulations; and
- D. Unless an extension of time is approved by the Zoning Administrator because of adverse planting conditions, any additional mitigation required as a condition of approval for the permit, approval, variance, or special exception shall be completed within ninety (90) days of the issuance of a permit, approval, variance, or special exception for the affected property,.

11. Appeals.

An appeal to the Town Board of 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 V.

- A. An appeal is taken by filing a written notice of appeal with the Board of Appeals in accordance with the provisions in the Town zoning ordinance and accompanied by the appropriate filing fee.
- B. An appeal must be filed within 30 days after the date of the decision or order being appealed; and
- C. An appeal stays all actions by the Town seeking enforcement or compliance with the order or decisions being appealed, unless the Zoning Administrator certifies to the Board of 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 Appeals or a court upon application of the party seeking the stay.

Section 136. Natural Parks

- 1. Definition. Natural parks are areas of natural habitat that provide opportunities for those recreational activities that are compatible with the maintenance of natural conditions.
- 2. Identification. The Town has identified areas within the Critical Area that are appropriate for natural parks. These areas were not chosen to preserve only natural curiosities, but include coastal ecosystems that are within the jurisdiction, each with its geological and biological resources intact.

3. General policies. The Town shall encourage the creation of opportunities for interaction between people and natural environments without destroying the fragile components of natural habitats. Any plans developed for the use of parks should recognize that all natural terrain has a finite capacity to tolerate human disturbances, and, therefore, attention should be given to limiting the number of park visitors in any park at any one time or in the course of a season.
 - a. Limit park activities to passive recreation such as hiking , picnicking, fishing, bird watching, etc. Consider limited hours or park closure, if necessary, during the breeding season of certain species.
 - b. Limit development in the park to reduce impacts to sensitive resources. Structures should be limited to trails, observation blinds, walkways, rest stops, instructional pavilions, maintenance offices and maintenance equipment storage sheds.
 - c. Limit park use during times when plant or wildlife species may be especially sensitive to disturbance (i.e. after a heavy rain, a flood, during a drought period or at the beginning of the growing season).

Section 137. Habitat Protection

1. Description. The Habitat Protection Sections of the Town of Perryville Critical Area Program addresses protection of the following four habitats:
 - a. The 100-foot Buffer (Buffer)
 - b. Threatened and Endangered Species and Species in Need of Conservation;
 - c. Plant and Wildlife Habitat Protection Areas including non-tidal wetlands; and
 - d. Anadromous Fish Propagation Waters
2. Identification. Maps illustrating the general location, extent and configuration of Habitat Protection Areas in the Town are on file at the Town Hall. They will be used to assist property owners, developers, any person proposing development activity. They will also be used by the Zoning Administrator, Planning Commission and other agents of the Town government when reviewing development plans. While these maps give a general indication of the area, they do not excuse any property owner or operator from establishing to the satisfaction of the Zoning Administrator, whether or not the property or activity will affect the element of habitat to be protected. At the time of development the applicant will be responsible for providing a more detailed site analysis and inventory.

Section 138. The 100-foot Buffer

1. Definition. The Buffer is an existing, naturally vegetated area or an area established in native vegetation and managed to protect aquatic, wetlands, shoreline and terrestrial environments from man-made disturbances.

2. Identification of the Buffer. The establishment of a minimum 100-foot Buffer from the mean high water line of tidal waters, the edge of the bank of tributary streams, and the landward extent of tidal wetlands shall be required on a site by site basis as part of the environmental review and site analysis process.
3. General policies. The Town adopts the following policies with regard to the functions of the Buffer:
 - a. Provide for the removal or reduction of sediments, nutrients and potentially harmful or toxic substances in runoff entering the Bay and its tributaries;
 - b. Minimize the adverse effects of human activities on wetlands, shoreline, stream banks, tidal waters and aquatic resources;
 - c. Maintain an area of transitional habitat between aquatic and upland communities;
 - d. Maintain the natural environment of streams; and
 - e. Protect riparian wildlife habitat.
4. Standards. The following criteria apply to land use activities within the Buffer:
 - a. The Buffer shall be established at a minimum distance of 100 feet landward from the mean high water line of tidal waters, the edge of the bank of tributary streams and the landward edge of tidal wetlands within the Critical Area.
 - b. The Buffer shall be expanded beyond 100 feet to include contiguous areas of steep slopes, hydric soils or highly erodible soils whose development or disturbance may impact streams, wetlands or other aquatic environments. In the case of contiguous slopes of 15 percent or greater the Buffer shall be expanded four feet for every one percent of slope or to the top of the slope, whichever is greater in extent. .
 - c. New development activities including structures, roads, parking areas and other impervious surfaces, mining and related facilities or septic tanks may not be allowed in the Buffer except for those necessarily associated with Water-Dependent Facilities approved under Sections 129 and 130 of this Chapter.
 - d. The Buffer shall be maintained in natural vegetation, but may include planted vegetation where necessary to protect, stabilize, or enhance the shoreline. When lands are proposed to be developed or converted to new uses, the Buffer shall be established. In establishing the Buffer, management measures shall be undertaken to provide forest vegetation that assures the Buffer functions set forth in this section.
 - e. Buffer Protection Standards for Timber Harvests. The buffer shall be managed to achieve the or to enhance the buffer functions set forth in the buffer section of this ordinance. The buffer is measured landward from the mean high water line of tidal waters, from each bank of tributary streams, and from the landward edge of tidal wetlands.

1. Where necessary the buffer can be planted to protect, stabilize or enhance the shoreline.
2. Cutting or clearing of the trees within the buffer is prohibited except for the following: commercial harvesting by selection or clear-cutting of loblolly pine or tulip poplar is permitted to within 50 feet of the landward edge of the mean high water line of tidal rivers, perennial tributary streams or the edge of wetlands, provided that the cutting is conducted in conformity the Habitat Protection Areas provisions of this ordinance and with a Buffer Management Plan that is prepared by a registered professional forester and is approved by the Department of Natural Resources. The plan shall be required for all commercial harvests within the buffer, regardless of the size of the area to be cut, and shall comply with the following requirements:
 - A. Disturbance to stream banks and shorelines shall be avoided;
 - B. Areas disturbed or cut shall be replanted or allowed to regenerate in a manner that assures the availability of cover and breeding sites for wildlife and reestablishes the wildlife corridor function of the buffer;
 - C. The cutting may not involve the creation of logging roads and skid trails within the buffer; and
 - D. Commercial harvesting practices shall be conducted to protect and conserve the Habitat Protection Areas in accordance with Sections 137 through Section 141 of this chapter.
5. Tree cutting in the Buffer. Individual trees may be cut for personal provided the cutting does not impair the water quality or existing habitat value or other functions of the Buffer set forth in this Section. Cutting or clearing of trees within the Buffer shall be prohibited except that:
 - a. Cutting of trees or removal of natural vegetation may be permitted where necessary to provide access to private piers, or to install or construct a shore erosion protection device or measure, or a water-dependent facility, providing the device, measure or facility has received all necessary State and Federal permits.
 - b. Individual trees may be cut for personal use providing that this cutting does not impair the water quality or existing habitat value or other functions of the buffer as set forth in the policies of this plan and provided that the trees are replaced on an equal basis for each tree cut.
 - c. Individual trees may be removed which are in danger of falling and causing damage to dwellings or other structures, or which are in danger of falling and therefore causing the blockage of streams, or resulting in accelerated shore erosion.
 - d. Horticultural practices may be used to maintain the health of individual trees.

- e. Other cutting techniques may be undertaken within the Buffer and under the advice and guidance of the State Departments of Agriculture and Natural Resources, if necessary to preserve the forest from extensive pest or disease infestation or threat from fire.

6. Special Buffer Area Provisions IDA, LDA and RCA.

The following provisions are intended to accommodate limited use of shoreline areas that have been mapped as Special Buffer Areas (SBAs) under the provisions of this Ordinance while protecting water quality and wildlife habitat to the extent possible. This section applies only to new development or redevelopment within 100 feet of tidal waters, tidal wetlands and tributary streams on lots of record as of December 1, 1985. The lots shall have been officially designated by the Town, and approved by the Critical Area Commission, as Special Buffer Areas.

- a. Commercial, Industrial, Institutional, Recreational and Multi-family residential Development and Redevelopment Standards.

New development or redevelopment activities, including structures, roads, parking areas and other impervious surfaces or septic systems will not be permitted in the Buffer unless the applicant can demonstrate that there is no feasible alternative and the Planning Commission finds that efforts have been made to minimize Buffer impacts based on the following standards:

- (1) Development and redevelopment activities have been located as far as possible from mean high tide, the landward edge of tidal wetlands, or the edge of tributary streams.
- (2) Variances to other local setback requirements have been considered before additional intrusion into the Buffer.
- (3) Convenience or expense were not factors considered when evaluating the extent of allowable impacts to the Buffer.
- (4) New development, including accessory structures, shall minimize the extent of intrusion into the Buffer. New development shall not be located closer to the water (or edge of tidal wetlands) than the local setback for the zoning district or 25-feet, whichever is greater. Structures on adjacent properties shall not be used to determine the setback line. The 25-foot setback shall be maintained for all subsequent development or redevelopment of the property.
- (5) Redevelopment, including accessory structures, shall minimize the extent of intrusion into the Buffer. Redevelopment shall not be located closer to the water (or edge of tidal wetlands) than the local setback for the zoning district or 25 feet, whichever is greater. Structures on adjacent properties shall not be used to determine the setback line. Existing structures located within the setback may remain or a new structure may be constructed on the footprint of an existing structure or impervious surface. Opportunities to establish a 25-foot setback should be maximized.

- (6) Development and redevelopment may not impact any Habitat Protection Area (HPA) other than the Buffer, including nontidal wetlands, other State or federal permits notwithstanding.
- (7) Special Buffer Area designation shall not be used to facilitate the filling of tidal wetlands that are contiguous to the Buffer or to create additional build able land for new development or redevelopment.
- (8) No natural vegetation may be removed in the Buffer except that required by the proposed construction.
- (9) Mitigation for development or redevelopment in the in the Special Buffer Area approved under the provisions of this Subsection shall be implemented as follows:
 - (a) A forested or landscaped buffer yard, 25 feet wide, shall be established on the project site between the development and the distance to the water. This buffer yard shall be densely planted with trees and shrubs in accordance with Table 1.
 - (b) Redevelopment sites, where existing structures or those rebuilt on an existing footprint limit the area available for planting, appropriate modifications to the width of the planted buffer yard may be made on a case-by-case basis.

**Table 1
Required Buffer yard Planting**

Area	Quantity and Stocking	Suggested Species
For every 100 linear feet of buffer yard	5 Trees and	White or Red Oak, Pin Oak, Willow Oak, Red Maple, American Holly, Eastern Red Cedar
	10 Understory Trees/Large Shrubs, and	Dogwood, Mountain Laurel, Bayberry, Shadbush, Winterberry
	30 Small Shrubs and	Pepperbush, Chokeberry, Strawberry Bush, Sweetspire
	40 Herbaceous Plants, Grasses, Etc.	Wild Columbine, Butterflyweed, Common Milkweed, Asters

- (10) In addition to establishing a 25-foot buffer yard on site as described above, one of the following mitigation measures shall be implemented based on the following order of preference:
- (a) Natural forest vegetation of an area twice the extent of the footprint of the development activity within the 100-foot Buffer shall be planted on site in the Buffer or at another location approved by the Planning Commission.
 - (b) Applicants who cannot fully comply with the planting requirement in “a” above, may use offsets to meet the mitigation requirement. Offsets include the removal of an equivalent area of existing impervious surfaces in the Buffer, the construction of Best Management Practices for storm water, wetland creation or restoration, or other measures that improve water quality or habitat.
 - (c) Applicants who cannot comply with either the planting or offset requirements in a or b above shall pay into a fee-in-lieu program as follows:
 - (1) Applicants must submit to the Planning Commission two planting proposal cost estimates from qualified landscape businesses for planting the equivalent of twice the extent of the disturbed area within the 100-foot buffer. The estimate shall include the cost of stock, planting staking, mulching and a one-year guarantee.
 - (2) The Planning Commission shall determine the amount of the fee-in-lieu based on the average of the two estimates.
 - (d) Any fees-in-lieu collected under these provisions shall be placed in an account that will assure their use only for projects within the Critical Area for the benefit of wildlife habitat and water quality improvement. The status of these funds must be reported in the jurisdiction’s quarterly reports.
 - (e) Any required mitigation or offset areas shall be protected from future development through an easement, development agreement, plat notes or other instrument and recorded among the land records of the Cecil County.

b. Single Family Detached Residential Development and Redevelopment Standards.

New development or redevelopment activities, including structures, roads, parking areas and other impervious surfaces or septic systems will not be permitted in the Buffer unless the applicant can demonstrate that there is no feasible alternative and the Planning Commission or their designee finds that efforts have been made to minimize Buffer impacts based on the following guidelines:

- (1) New development or redevelopment shall minimize the shoreward extent of intrusion into the Buffer. New development and redevelopment shall not be located closer to the water (or the edge of tidal wetlands) than principal structures on adjacent properties or the local setback for the zoning district, whichever is greater. In no case shall new development or redevelopment be located less than 25 feet from the water (or the edge of tidal wetlands).
- (2) Existing principal or accessory structures in the Buffer may be replaced in the same location. Any increase in impervious area within the Buffer shall comply fully with the requirements of this policy.
- (3) New accessory structures may be permitted in the Buffer in accordance with the following setback requirements:
 - (a) New accessory structures may be located closer to the water or edge of tidal wetlands than the principal dwelling only if it has been determined by the Planning Commission or their designee in consultation with the Critical Area Circuit Rider that there are no other locations for the accessory structures.
 - (b) The area of the accessory structures within the Buffer shall be minimized and the cumulative total area of all new and existing accessory structures on the property shall not exceed 500 square feet within 50-feet of the water and 1,000 square feet total.
- (4) Variances to other local setback requirements shall have been considered before additional intrusion into the buffer.
- (5) Development may not impact any Habitat Protection Areas other than the buffer, including nontidal wetlands, other state or federal permits notwithstanding.
- (6) No natural vegetation may be removed in the buffer except that required by the proposed construction. The applicant will be required to maintain any other existing natural vegetation in the buffer.
- (7) Modified Buffer Area designation shall not be used to facilitate the filling of nontidal wetlands that are contiguous to the buffer to create additional buildable land for new development or redevelopment.
- (8) Mitigation for development or redevelopment in the Modified Buffer Areas approved under this Subsection shall be implemented as follows:
 - A. Natural vegetation of an area twice the extent of the footprint of the development activity within the 100-foot buffer shall be planted on site in the buffer or other location as may be determined by the Planning Commission. If it is not possible to carry out offsets or other mitigation within the Critical Area, any plantings or other habitat/water quality improvements should occur within the affected watershed.

- B. Applicants who cannot comply with the planting requirements may use offsets to meet the mitigation requirements. Offsets may include the removal of an equivalent area of existing impervious surface within the buffer, the construction of Best Management Practices for storm water, wetland creation or restoration, or other measures that improve water quality or habitat.
- C. Applicants who cannot comply with either the planting or offset requirements in A. and B. above shall pay into a fee-in-lieu program as follows:
 - I) Applicants shall submit to the Planning Commission two cost estimates from qualified landscape businesses for planting the equivalent of an area twice the extent of the footprint of the development activity within the 100- foot buffer, the estimate shall include the cost of stock, planting, staking, mulching and a two-year survival guarantee.
 - II) The Planning Commission shall determine the amount of the fee-in-lieu bases on the average of the two estimates.
- D. Any required mitigation or offset areas shall be protected from future development through an easement, development agreement, plat notes, or other instrument and recorded among the land records of Cecil County.

c. Notification Requirements

- (1) All new commercial, industrial, institutional, recreational, multi- family residential development or redevelopment projects shall be submitted to the Critical Area Commission in accordance with COMAR 27.03.01.03. Mitigation plans shall be included as part of the project submission.
- (2) The Planning Commission shall make written findings documenting that all the Criteria in this section are met including that the disturbance to the Buffer is the least intrusion necessary. These findings shall be available to the Commission upon request.

d. Special Buffer Area Mapping Standards

The following standards shall apply for the mapping of new Special Buffer Areas:

- (1) Only lots of record as of December 1, 1985 are eligible for mapping as Special Buffer Areas (SBAs).
- (2) The parcel or lot being considered for SBA status shall contain a Buffer that was significantly impacted by development at the time of program adoption and that prevent the Buffer from fulfilling its functions.

- (3) Developed parcels or lots shall contain a Buffer intrusion by the principal structures (excluding utilities or septic systems).
- (4) Undeveloped or vacant parcels or lots (i.e., infill) may be designated as a SBA if development within the Buffer cannot be avoided based on the size of the parcel or lot, area of the parcel or lot within the Buffer, or the surrounding pattern of development.
- (5) If only part of a parcel or lot meets the criteria for designation as a Special Buffer Area, then only portions of the parcel or lot shall be designated as a Special Buffer Area. The portion of the parcel designated as a Special Buffer Area will be subject to the Special Buffer Area requirements. Portions of the property that are not designated as a Special Buffer Area shall comply fully with the 100-foot Buffer restrictions.
- (6) Any proposal by the Town for designation of an area as a SBA shall include, at a minimum, written findings and supporting reasons which demonstrate the degree to which the proposed SBA does not perform each of the following Buffer functions:
 - (a) Provide for the removal or reduction of sediments, nutrients, and potentially harmful or toxic substances in runoff entering the Bay and its tributaries;
 - (b) Minimize the adverse effects of human activities on wetlands, shorelines, stream banks, and aquatic resources;
 - (c) Maintain an area of transitional habitat between aquatic and upland communities;
 - (d) Maintain the natural environment of streams; and
 - (e) Protect riparian wildlife habitat.

e. Definitions

For the purpose of implementing this Subsection, the following words have the following meanings. (In the case of conflicts with other definitions, the stricter provisions shall apply.):

Accessory Structure means a structure that is detached from the principal structure, located on the same lot and clearly incidental and subordinate to the principal structure; or if there is no principal structure on the lot, a structure that is customarily incidental and subordinate to a principal structure.

Special Buffer Area means an area officially mapped by the Town and approved by the Critical Area Commission as a Special Buffer Area, where it has been sufficiently demonstrated that the existing pattern of residential, industrial commercial, institutional or recreational development in the Critical Area prevents the Buffer from fulfilling its intended functions for water quality protection and wildlife habitat conservation.

Buffer yard means an area, at least 50 feet wide, located between development activity and the water (or edge of wetlands or streams), planted with vegetation consisting of native species and other appropriate plantings. This area shall be maintained primarily for wildlife habitat and water quality and shall not be maintained in a manner that conflicts with these goals such as mowing or applying herbicides.

Grandfathered Parcel/Lot means a parcel of land or lot that was subdivided into recorded, legally buildable lots where the subdivision received final approval before December 1, 1985.

Development Activity means the construction or substantial alteration of residential, commercial, industrial, institutional, recreational or transportation facilities or structures. Development activities include, among other things, structures, roads, parking areas, and other impervious surfaces, mining and related facilities, clearing, grading and septic systems. For purposes of implementing this policy, development activity does not include subdivision.

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

New Development means a development activity that takes place on a property with pre-development imperviousness less than 15 percent as of December 1, 1985.

Principal Structure means, for the purpose of establishing setbacks, the primary or predominant structure on any lot or parcel. For residential parcels or lots, the principal structure is the primary dwelling, excluding utilities and the septic system.

Redevelopment means a development activity that takes place on a property with pre-development imperviousness greater than 15 percent as of December 1, 1985.

Section 139. Threatened and Endangered Species and Species in Need of Conservation

1. Definitions. Areas of threatened and endangered species and areas with species in need of conservation are those areas where these species, as designated by the Secretary of the Department of Natural Resources, are found or have historically been found and their surrounding habitats. In this section, the following words have the meanings indicated:
 - a. "Threatened species" means any species of fish, wildlife, or plants designated as such by regulation by the Secretary of the Department of Natural Resources which 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 USC §1531 et seq., as amended.
 - b. "Endangered species" means any species of fish, wildlife, or plants which have been designated as such by regulation by the Secretary of the Department of Natural Resources. Designation occurs when the continued existence of these species as viable components of the State's resources are determined to be in jeopardy. This includes any

species determined to be an "endangered" species pursuant to the Federal Endangered Species Act, cited above.

- c. "Species in need of conservation" means those fish and wildlife whose continued existence as a part of the State's resources are in question and which may be designated by regulation by the Secretary of the Department of Natural Resources as in need of conservation pursuant to the requirements of Natural Resources Articles, §§10-2A-903 and 4-2A-03, Annotated Code of Maryland.
2. Identification. The approximate location of threatened and endangered species, and species in need of conservation are shown on the Town Critical Area program maps filed in the Town Hall. These maps will be used to assist in the identification of general areas where threatened and endangered species are located.
3. General policies. The Town shall provide protection for threatened and endangered species, those species in need of conservation and their habitats which occur in the Critical Area.
4. Standards. The Town shall provide for the protection of the known habitats of species in need of conservation and threatened and endangered species and also habitats of these species that may be identified in the future. If a development activity is proposed for a site within the Critical Area, then the Town shall review the proposed activities on a case-by-case basis and seek technical advice from the Department of Natural Resources. Based on the Departments' recommendations, additional research and site analysis may be required to identify the location of threatened and endangered species on a site. If any habitats are identified on a project site, the applicant shall coordinate with the Department of Natural Resources the development of a Habitat Protection Plan to protect and conserve the habitats identified. This information concerning habitats will be incorporated into the Town's Resource Inventory Maps for future reference.
5. Standards for bald eagle nests. A three zone protection area of 1/4 mile (1,320') in radius around each Bald Eagle nest shall be established and within the zones the Town shall comply with the following recommended protection measures:
 - a. Zone 1 shall include the area extending from the nest out to a radius of 330 feet from the nest. In this zone timber cutting, land clearing, and development activities are prohibited. Hiking, fishing, and agricultural activities may be permitted from June 16 to December 14. These activities and human activity in general should not be permitted in this zone from December 15 to June 15.
 - b. Zone 2 extends from the outer limit of Zone 1 to a radius of 660 feet from the nest. In this zone, major habitat changes should be avoided including clear-cutting, land clearing, and development activity. Hunting, hiking, fishing, and agricultural activities may be permitted from June 16 to December 14. These activities and human activity in general should not be permitted in this zone from December 15 to June 15. Agricultural activities may be permitted if Department of Natural Resources data indicate that the nesting eagles are tolerant of these activities. From August 16 to November 14, selective thinning and maintenance of timber stands and building and road maintenance may be permitted.
 - c. Zone 3 extends from the outer limit of Zone 2 to a radius of 1,320 feet from the nest. Timber cutting, land clearing, and development activities should be restricted from

December 15 to June 15. Other activities in this zone that are within sight of the eagles on the nest may need to be restricted during this time period in accordance with Department of Natural resources recommendations.

- d. If a Bald Eagle nest has not been used for three successive nesting seasons, then any protective regulations applied to the specific site may be removed after verification by the Department of Natural Resources that the nest has been abandoned.
6. **Implementation.** The owner of any property containing a portion of, or adjacent to, a habitat of a threatened or endangered species or a species in need of conservation, on which a land altering or land development activity, is proposed shall prepare a Habitat Protection Plan, identifying appropriate protection measures, and submit this Plan with other project documents to the Zoning Administrator and Planning Commission prior to approval of the project. The Planning Commission will request review and comments from the Department of Natural Resources. A land altering activity shall include, but is not be limited to, such activities as subdivision, timbering, sand and gravel mining, clearing new farmlands, the construction of homes or commercial structures.
7. **Public notice.** The determination of the existence and extent of these habitats and protection areas shall result from a cooperative effort between the Town and public agencies or private organizations. If the Secretary of the Department of Natural Resources designates additional species by regulation in the future, additional local public hearings, as appropriate, shall be held to consider comments on the protection measures proposed for these species. The protection measures shall be adopted within 12 months of the date of the Secretary's designation.
 - a. The establishment of Habitat Protection Areas shall not be intended to restrict or affect, beyond any existing local, State or Federal laws or regulations or on private land, any private restrictions, such activities as non-commercial passive recreation (for example, hiking and nature photography), educational pursuits, scientific observation, or non-commercial hunting, trapping or fishing.
 - b. Development activities in areas of threatened or endangered species or species in need of conservation may be subject to other provisions and requirements of this program.

Section 140. Plant and Wildlife Habitat and Nontidal Wetlands Protection

1. **Definitions.** In this section, the following words have the meanings indicated:
 - a. "Plant habitat" means a community of plants commonly identifiable by the composition of its vegetation and its physiographic characteristics.
 - b. "Wildlife habitat" means those plant communities and physiographic features that provide food, water and cover, nesting, and foraging or feeding conditions necessary to maintain populations of animals in the Critical Area.
2. **Description.** The following plant and wildlife habitats shall be identified and protected in the Critical Area:

- a. Colonial water bird nesting sites;
 - b. Historic waterfowl staging and concentration areas in tidal waters, tributary streams or tidal and non-tidal wetlands;
 - c. Existing riparian forests (for example: relatively mature forests of at least 300 feet in width which occur adjacent to streams, wetlands, or the bay shoreline and which are documented breeding areas);
 - d. Forest areas utilized as breeding areas by forest interior dwelling birds and other wildlife species (for example: relatively mature forested areas within the Critical Area of 100 acres or more, or forest connected with such areas);
 - e. Other areas which may, in the future, be identified by the State and Federal agencies as important plant and wildlife habitat areas;
 - f. Other plant and wildlife habitats determined to be of local significance;
 - g. Natural Heritage Areas which have been designated; and
 - h. Non-tidal wetlands.
3. General policies. Town policies regarding plant and wildlife habitat in the Critical Area are to:
- a. Conserve wildlife habitat in the Critical Area;
 - b. Protect those wildlife habitats that tend to be least abundant or which may become so in the future if current land-use trends continue;
 - c. Protect those wildlife habitat types which are required to support the continued presence of various species;
 - d. Protect those wildlife habitat types and plant communities which are determined by the Town to be of local significance;
 - e. Protect Natural Heritage Areas; and
 - f. Protect and conserve non-tidal wetlands.
4. Standards. The Town's Critical Area Program and Chapter will serve to accomplish the goals of the Critical Area Program to protect water quality and wildlife habitat. In addition to the standards set forth for the protection of the Buffer, the following standards shall apply to new development or land disturbance in the Critical Area:
- a. Any development or significant land use change of a property located within the Critical Area of Perryville will require the Town review the proposed activities on a case-by-case basis and seek technical advice from the Department of Natural Resources. Based on the Departments' recommendations, additional research and site analysis may be required to identify the location of threatened and endangered species on a site. If any habitats are

identified on a project site, the applicant shall develop a Habitat Protection Plan to protect and conserve the habitats identified. This information concerning habitats will be incorporated into the Town's Resource Inventory Maps for future reference.

- b. The Town may seek additional information and comments from The Department of Natural Resources and other appropriate agencies and adjacent jurisdictions.
- c. Rough areas, e.g., depressions, swales, non-tidal wetlands or other areas unsuitable for development or agriculture shall be conserved as wildlife cover. Using cluster development, the developer shall leave these areas in natural vegetation or where this is not feasible, replant with native vegetation.
- d. For development activities in RCA and LDA, wildlife corridors shall be established and used to connect the area left in forest cover with any large forest tracts which are located outside of the area or property being developed or subdivided. Forest left in its natural state should be adjacent to larger forested areas and not left as an isolated island of trees. Planting required as a mitigation measure should be adjacent to other habitat. Tree planting which serves as visual screening or landscaping should not be considered to meet these requirements.
- e. Buffer areas for colonial water bird (heron, egret, tern, and glossy ibis) nesting sites shall be established (if such birds are found to exist in the Critical Area) so that these sites are protected from the adverse impacts of development activities and from disturbance during the breeding season.
- f. New water-dependent facilities shall be located to prevent disturbance to sites of significance to wildlife such as historic, aquatic staging and concentration areas for waterfowl.
- g. Protection measures, including a buffer area, shall be established where appropriate, for other plant and wildlife habitat sites identified in this Chapter.
- h. Forested areas required to support wildlife species shall be protected and conserved by developing management programs which have as their objective, conserving the wildlife that inhabit or use the areas. Development activities, or the clearing or cutting of trees which might occur in the areas, shall be conducted so as to conserve riparian habitat, forest interior wildlife species and their habitat. Management measures may include incorporating appropriate wildlife protection elements into Forest Management Plans, cluster zoning or other site design criteria which provide for the conservation of wildlife habitat. Measures may also include Soil Conservation Plans which have wildlife habitat protection provisions appropriate to the areas defined above, and incentive programs which use the acquisition of easements and other similar techniques.
- i. When development activities, or the cutting or clearing of trees, occurs in forested areas, corridors of existing forest or woodland vegetation shall be maintained to provide effective connections between wildlife habitat areas.
- j. Plant and wildlife habitats considered to be of local significance by the Town shall be protected. Examples of these are those whose habitat values may not be of statewide

significance, but are of importance locally or regionally because they contain species uncommon or of limited occurrence in the jurisdiction, or because the species are found in unusually high concentrations.

- k. Natural Heritage Areas shall be protected from alterations due to development activities or cutting or clearing so that the structure and species composition of the areas are maintained.
 - (1) Development activities or cutting and clearing in Natural Heritage Areas shall be prohibited unless an analysis is performed and measures proposed to mitigate any adverse impacts of the proposed activities. The analysis and mitigation measures shall be prepared by qualified professionals (e.g., ornithologists, zoologists, environmental engineers and planners) at the expense of the applicant and shall address the expected effects on the natural environment within the Natural Heritage Area.
 - (2) The analysis shall be submitted to the Planning Commission who shall then submit it to the State Department of Natural Resources for review and comment. Upon receiving said comment and, if appropriate, upon seeking the advice of expert consultants, the Planning Commission shall find against or in favor of the activities or may make suggestions for changing the analysis and ask the applicant to resubmit the analysis. The initial analysis review between the Planning Commission and State Department of Natural Resources should be completed within sixty (60) days from submission.
- 5. Standards for non-tidal wetlands. The provisions of COMAR 26.23.01 apply to non-tidal wetlands in the Critical Area. A person conducting a regulated activity within non-tidal wetlands in the Critical Area shall obtain a permit from the Maryland Department of the Environment. Nothing in this regulation may be interpreted as altering any requirements for development activities set out in this subtitle. The following standards shall apply to new development or land disturbance in the Critical Area:
 - a. Maintain at least a 25-foot buffer around identified non-tidal wetlands where development activities or other activities that may disturb the wetlands or the wildlife contained therein, shall be prohibited unless it can be shown that these activities will not adversely affect the wetland. This requirement is not intended to restrict the grazing of livestock in these wetlands.
 - b. Protect the hydrologic regime and water quality of identified non-tidal wetlands by providing that development activities or other land disturbances in the drainage area of the wetlands shall minimize alterations to the surface or subsurface flow of water into and from the wetlands and not cause impairment of the water quality or the plant and wildlife and habitat value of the wetland.
 - c. If an applicant demonstrates that activities or operations that impact non-tidal wetlands are water-dependent or of substantial economic benefit, but will cause unavoidable and necessary impacts to the wetlands, a Mitigation Plan shall be required. The Plan shall specify mitigation measures that will provide water quality benefits and plant and wildlife habitat equivalent to those of the wetland destroyed or altered and shall be accomplished,

to the extent possible, onsite or near the affected wetland. If the Planning Commission finds that the proposed activity is not water-dependent, or of substantial economic benefit, or the wetland impacts are avoidable or unnecessary, then the activity may not be allowed to occur. In evaluating a proposal involving wetland impacts, the Planning Commission shall consider the following:

- (1) Avoidance of the impacts by not taking a certain action or parts of an action;
 - (2) Minimization of the impacts by limiting the degree of magnitude of action and its implementation;
 - (3) Remediating the impact by repairing, rehabilitating, or restoring the affected environments;
 - (4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; and
 - (5) Compensation for the impact by replacing or providing substitute resources or environments.
- d. For all activities or operations proposed that may impact a non-tidal wetland, the proposer shall seek comments and/or required permits from the Maryland Department of the Environment, the local Soil Conservation Districts and the U.S. Fish and Wildlife Service. Upon finding that the plan as proposed, or as may be modified to address the comments of these agencies, provides mitigation sufficient to accomplish the objectives of this section, then the proposer shall implement the plan.
- e. Public Notice. The determination of the existence and extent of these habitats and protection areas shall result from a cooperative effort between the town and public agencies or private organizations. If the Secretary of the Department of Natural Resources designates additional species by regulation in the future, public hearings, as appropriate, shall be held to consider comments on these areas and the protection measures proposed for these species. The protection measures shall be adopted within 12 months of the date of the secretary's designation.
- (1) The establishment of Habitat Protection Areas shall not be intended to restrict or affect, beyond any existing local, state or federal laws or regulations or on private land, any private restrictions, such activities as non-commercial passive recreation (for example, hiking and nature photography), educational pursuits, scientific observation, or non-commercial hunting, trapping or fishing.
 - (2) Development activities in areas of threatened or endangered species in need of conservation may be subject to other provisions and requirements of this program.

Section 141. Anadromous Fish Propagation Waters

1. Definition. Anadromous fish propagation waters are those streams that are tributary to the Chesapeake Bay where spawning of anadromous species (e.g., rockfish or striped bass, yellow perch, white perch, shad and river herring) occurs or has occurred.
2. Identification. The Town has identified and mapped anadromous fish propagation waters as defined in this section, and these maps are available at the Town Hall.
3. General policies. The policies of the Town with regard to anadromous fish propagation waters shall be to:
 - a. Protect the instream and streambank habitat of anadromous fish propagation waters;
 - b. Promote land use policies and practices in the watershed of spawning streams within the Critical Area which will minimize the adverse impacts of development on the water quality of the streams; and
 - c. Provide for the unobstructed movement of spawning and larval forms of anadromous fish in streams.
4. Standards. Within anadromous fish propagation watersheds, the following measures are required:
 - a. The installation or introduction of concrete riprap or other artificial surfaces onto the bottom of natural streams shall be prohibited unless it can be demonstrated that water quality and fisheries habitat can be improved.
 - b. Channelization or other physical alterations which may change the course or circulation of a stream and thereby interfere with the movement of fish, shall be prohibited.
 - c. The Town shall require each development activity that occurs within a watershed draining to anadromous fish propagation waters to fulfill the following objectives:
 - (1) Minimize development activities or land disturbances within the watershed;
 - (2) Maintain, or if practicable, improve water quality in affected streams or other water bodies;
 - (3) Minimize to the extent possible the discharge of sediments into affected streams or other water bodies;
 - (4) Maintain, or if practicable, increase the natural or native vegetation of the watershed and tree canopy over the streams;
 - d. The Town shall ensure coordination and compliance with complementary State laws and regulations:

- (1) Prohibit the construction or placement of dams or other structures that would interfere with or prevent the movement of spawning fish or larval forms in streams or other designated water bodies. If practical, existing structures that block streams or other water bodies shall be removed; and
- (2) Ensure that the construction, repair or maintenance activities associated with bridges, or other stream crossing, or with utilities and roads, which involve disturbance within the Buffer or which occur instream, as described in COMAR 08.05.03.11B(5), shall be prohibited between March 1 and June 15 of each year.

Section 142. Reserved

Section 143. Reserved

Part VI Highway Corridor Overlay District

Section 144. Purpose

1. The purpose of establishing this overlay district is to protect and/or enhance the aesthetic and visual character of the Town of Perryville and to provide for and promote orderly growth of the same. The Highway Corridor Overlay District regulations are intended to supplement the regulations of the underlying zoning districts and to provide for the harmony and compatibility of development along the major highway corridors that serve as gateways to the community. When other provisions of this Chapter are more restrictive, they shall apply. All development within this District shall be subject to the procedures, standards, and guidelines specified in the following sections, in addition to those standards pertaining to the particular base zoning district in which the development occurs. In cases of conflict, the more restrictive standards and/or requirements shall apply. In particular, the purpose of the Special Overlay District is as follows:
 - a. To encourage and better articulate positive visual experiences along the Town's major existing and proposed highways.
 - b. To provide for the continued safe and efficient use of these roadways.
 - c. To maintain natural beauty and scenic, cultural, and positive visual character of the corridor, particularly distinctive views, vistas, and visual continuity.
 - d. Minimize intersection and site access points.

These purposes will be accomplished through evaluation of proposed developments within this overlay zoning district by the Planning Commission which shall review the location, character and appearance of new development in a positive manner. 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.

2. The Highway Corridor Overlay Zoning District shall include all lands within 500 feet of each side of the center line of the following rights-of-way: U.S. 40, I-95, and MD 222. 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 145. Affected Development

1. All development plan applications, including applications for building permits, site plan review and subdivision approval, for development located in the Highway Corridor Overlay District shall be reviewed by the Planning Commission for compliance with this Part. All changes subject to approval by the Commission shall receive such approval before proceeding.

2. In the case of applications for development plan approval on properties already developed, for example an application for a building permit for an addition to an existing building, shall be required to comply with the provisions of this Part, to the extent possible, as determined by the Planning Commission. For the purposes of this Part, the term “to the extent possible” shall not preclude the Planning Commission from requiring existing pavement be removed to enable establishment of visual enhancement buffer yards, that entrances/exits and site traffic circulation be modified to improve channelization of traffic and reduction and/or consolidation of entrances/exits on major highways, or removal and/or replacement of existing signs and associated lighting.
3. Development Activity Permitted Within The District.
 - a. Any alteration of existing conditions of the land, uses or structures within the Highway Corridor Overlay District requiring a permit from the Town from the date of enactment of this section shall henceforth be done as provided for by this section or by other sections of this Article.
 - b. The overlay district regulations are supplementary to the permitted uses and requirements for the appropriate underlying zoning district as contained in Article X of this Chapter.
4. Development activity prohibited within the district. Uses prohibited in the underlying zoning district are also prohibited in the overlay district.

Section 146. Tree Protection

The following regulations supplement, but do not supersede the Forest Conservation Chapter adopted by the Town of Perryville on (date adopted) and as amended.

1. Development of land for different uses and intensity of uses will often times 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.
2. 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, 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. Trunk diameter is measured 4.5 feet above the ground, and is referred to as "diameter at breast height (dbh)".
3. No person shall cut or clear land of trees for the sole purpose of offering land for sale.
4. 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.
5. 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.

Section 147. Retention of and/or Creation of a Minimum Visual Buffer along Highway Corridor Right-of-Ways

1. 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 spill-over light from on-site lighting. The buffer shall be continuous, except as set forth in 2. below, and be no less than the requirements for Buffer yard B (see attached sketch of Buffer yard B) contained in Article XVII and Appendix B depth across the existing right-of-way line or from the new right-of-way line should the application under consideration be required to or voluntarily provide a dedication of or easement for proposed roadway purposes. 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-thrus.

To determine the average depth of the minimum visual buffer, measurements shall be taken at intervals not greater than ten (10) feet perpendicular to the property line. Side buffer areas required by other sections of this Chapter and deep, narrow land areas 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 shall be required to augment the screening effect.

2. 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 herein, 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 1 above. In order to maintain the screening effect, existing vegetation shall not be limbed-up from the ground more than five (5) 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 146 above. Minimum height of new shrubs used to create the minimum visual buffer shall be three feet. These plantings shall be shown on a master landscape plan meeting the requirements of Section 299.
3. The buffer management requirements of Part III of the Article shall apply to the minimum visual buffer on properties located in the Critical Area.

Section 148. Exemptions From Buffer Requirements

Exemptions, whether partial or total, from the buffer yard provisions may be granted by the Planning Commission if it can be sufficiently demonstrated that such buffer yard will have a deleterious visual effect upon an existing situation or that through the preservation of existing trees and/or other unique

natural vegetative resource, particular effort on the part of a developer in protecting the existing natural environment warrants the relaxation of buffer yard requirements. The following outlines those anticipated situations where the buffer yard requirement may be relaxed or removed.

1. 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:
 - a. 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.
 - b. 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.
 - c. 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.
 - d. 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.
2. 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:
 - a. 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, establishes a particular identifying element for the locale.
 - b. 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.
3. Retention of existing natural attributes of the site. In this case, significant steps must be taken by a developer to preserve significant tree stands, 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.
4. 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 149. Permitted Activity in Minimum Visual Buffer

1. No existing vegetation of any type, size, or origin shall be altered or removed unless it satisfies the tree protection requirements of Section 146.
2. Within the minimum visual buffer there shall be no development, clearing, grading, or construction activity, except for the following:
 - a. 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.
 - b. 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.
 - c. Pedestrian and bicycle paths designed to provide continuous connection along the road corridor, provided that they can be constructed without materially reducing the screening and visual softening capacity of the vegetation buffer.
 - d. 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.
 - e. Signs in accordance with the sign regulations in Article XV reasonable effort should be made to locate all signage outside of the buffer.
 - f. 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.

Section 150. Architectural Review

1. Guidelines. The compatible relationship of architecture along highway corridors 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 Planning Commission shall use the following guidelines in reviewing proposed structures, site improvements, signs, and streetscape improvements:
 - a. 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.
 - b. 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.

- c. 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) Mobile 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.
 - (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.
- d. 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.
- e. 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.
- f. To the extent that they relate to aesthetic considerations, 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.
- g. 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 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 highway corridors.
 - (3) External changes to streetscape improvements and existing structures and sites subject to review by the Planning Commission 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.
- h. Signs, permanent.
 - (1) Applicants for new or replacement signs in the Highway Corridor Overlay District shall apply to the Planning Commission for review at the time of full development review or as a separate application.

- (2) The Planning Commission is hereby authorized to approve or disapprove the appearance of features of such proposed signs and the Administrator's approval shall be given only after the Commission's approval is granted.
 - (3) All signs shall meet all requirements of Article XV.
 - (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 XV, color, size, and subject matter are reviewed under Subsection (1).
 - (5) An integrated sign system design shall be required for all new Planned Developments (PDs), 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 nor 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.
- i. 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 XV and shall be reviewed for such compliance by a committee of staff members including the Zoning Administrator.
 - (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 XV.
 - (3) Temporary signs within the corridor shall not be lighted.

2. 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 Commission.

Section 151. Waivers of Corridor Requirements

The Planning Commission may waive one or more of the specific requirements of the Special 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 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 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 to the Board of Appeals.

Section 152. Planning Commission Review

1. **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 Planning Commission. 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 private architectural review committee (ARB), the Planning Commission shall receive such (ARB)'s written notice of action prior to review.
2. **Requirement of Complete Application; Minimum Items for Review.** All applications for this 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 for review shall be reviewed until the minimum items of submission required by this article have been submitted in a format acceptable to the Zoning Administrator.
3. **Application Content.** Applications submitted for review 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 special overlay district review including:
 - a. tree survey and protection as described in section 146.
 - b. the boundaries of the Highway Corridor Overlay Zoning District.
 - c. required Buffer yard according to Section 147.
 - d. signage.
 - e. building elevations.

- f. proposed streetscape drawings.
 - g. any additional information for consideration of performance criteria.
 - h. comments from the Cecil County Technical Advisory Committee, as appropriate.
- 4. Filing fee.
- 5. Prior to review, written notice of action by the applicable private (ARB) shall be submitted to the Administrator.

Section 153. Plan Review Procedures of Application for Corridor Review

All applications for special Highway Corridor District review shall be submitted and reviewed according to the procedures set forth in this section.

- 1. Complete applications shall be submitted not less than 21 days before the Commission meeting at which the applicant wishes to be reviewed.
- 2. The Commission shall act on an application within 60 days of its being found complete by the Zoning Administrator.
- 3. Applicants shall be informed in writing of the outcome of their review. The Commission shall direct its determination and findings to the Zoning Administrator and the applicant in writing not more than ten (10) working days after taking action.
- 4. Upon review of a project within the jurisdiction of a private (ARB), the Commission may accept, modify, or deny the (ARB's) action.
- 5. 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 Commission'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.

ARTICLE X PERMISSIBLE USES

Section 154. Use of the Designations P, PC, SE and SC in the Table of Permissible Uses [Amended 1/3/2017 by Ord No. 2016-21]

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 Zoning Administrator. When used in connection with a particular use in the Table of Permissible Uses, the letter "PC" means that the use is permissible in the indicated zone with a zoning permit issued by the Zoning Administrator provided the conditions stipulated in Article XI are met. The letters "SC" mean the conditions of approval stipulated in Article XII for the proposed use must be met and a special exception permit must be obtained from the Board of Appeals. The letters "SE" mean a special exception permit must be obtained from the Board of Appeals.

Section 155. Unclassified Uses

In the event an applicant wishes to use property for a use which is not specifically identified as a principal permitted use or a special exception use and where such use is not specifically prohibited from the district, the following provisions shall apply:

1. The Zoning Administrator shall submit to the Board of Appeals a written request for a determination of the unclassified use.
2. The Board of Appeals shall review the request as submitted and determine if the proposed use is of a similar character to the district in which it is proposed.
3. If the Board of Appeals determines that the use is of a similar character and meets the intent of the principal permitted uses within the district, then it shall instruct the Zoning Administrator to issue a Zoning Certificate.
4. In the event that the Board of Appeals determines that the proposed use in the district is consistent with the character and intent of the uses permitted by special exception within the district, then the applicant shall apply for a special exception in the normal manner.
5. In no event shall the provisions of this section be used to allow an incompatible use or a use specifically prohibited by this Chapter within a certain district.
6. This section shall not apply to the residential districts.
7. Once a use has been allowed or disallowed by the Board, it shall then be considered classified under the appropriate category in the district.
8. The Board of Zoning Appeals may use the *1997 North American Industrial Classification System* published by the U.S. Office of Management and Budget as a guide to determining the appropriate classification of a proposed use.

Section 156. Board of Appeals Jurisdiction

Notwithstanding any other provisions of this article, whenever the Table of Permissible Uses (interpreted in the light of the applicable provisions contained in this article) provides that a use in a nonresidential zone or a nonconforming use in a residential zone is permissible with a zoning permit, a special-exception permit shall nevertheless be required if the Planning Commission finds that the proposed use would have an extraordinary impact on neighboring properties or the general public. In making this determination, the Planning Commission shall consider, among other factors, whether the use is proposed for an undeveloped or previously developed lot, whether the proposed use constitutes a change from one principal use classification to another, whether the use is proposed for a site that poses peculiar traffic or other hazards or difficulties, and whether the proposed use is substantially unique or is likely to have impacts that differ substantially from those presented by other uses that are permissible in the zoning district in question.

Section 157. Permissible Uses and Specific Exclusions

1. The presumption established by this zoning 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.
2. Notwithstanding Subsection 1., all uses that are not listed in the Table of Permissible Uses, even given the liberal interpretation mandated by Subsection 1., 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 other zoning districts.
3. 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:
 - a. Uses lawfully existing on the effective date of this Chapter.
 - b. Special exceptions, recommended by the Planning Commission and approved by the Board of Appeals, in accordance with the provisions of Article IV, Part II of this Chapter.
4. Uses lawfully existing on the effective date of this Chapter and rendered non-conforming by the provisions thereof shall be subject to the regulations of Article VIII of this Chapter.
5. The following uses are specifically prohibited in all districts:
 - a. Any use that involves the manufacture, handling, sale, distribution, or storage of any highly combustible or explosive materials.
 - b. Stockyards, slaughterhouses, rendering plants.
 - c. Use of a travel trailer or accessory building as a temporary or permanent residence.

- c. 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 158. No More Than One Principal Structure on a Lot

1. Every structure hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a lot of record and in no case shall there be more than one (1) principal structure on a lot unless as provided in 2 below.
2. More than one principal structure may be located upon a lot in the following instances subject to the lot, yard and density requirements and other provisions of this Ordinance:
 - a. Institutional buildings.
 - b. Public or semi-public buildings.
 - c. Multiple family dwellings.
 - d. Commercial or industrial buildings.
 - e. Manufactured Home Parks.
 - f. Campgrounds.
 - g. Additional principal structures in permitted mixed-use projects with the prior approval of the Zoning Administrator.
 - h. Condominiums.

Section 159. Accessory Uses

1. 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 (a) constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or (b) 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.
2. The following activities, so long as they satisfy the general criteria set forth above, are specifically regarded as accessory to residential principal uses:
 - a. 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.
 - b. Hobbies or recreational activities of a noncommercial nature.

- c. 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.
- 3. The following activities shall not be regarded as accessory to a residential principal use and are prohibited in residential districts.
 - a. Storage outside of a substantially enclosed structure of any motor vehicle that is neither licensed nor operational.
 - b. Storage of more than one (1) recreation vehicle and/or boat and boat trailer on a residential lot, except as may be permitted by the Board of Appeals as provided herein.
- 4. Except as herein provided, no accessory building shall project beyond a required yard line along any street.
 - a. Filling station pumps and pump islands, where permitted, shall not occupy the required yards.
 - b. An ornamental fence or wall not more than three and one-half (3½) feet in height may project into or enclose any required front or side yard to a depth from the street line equal to the required depth of the front yard. Ornamental fences or walls may project into or enclose other required yards, provided that such fences and walls do not exceed a height of six (6) feet.
 - c. Accessory swimming pools, open and unenclosed, may occupy a required rear or side yard, provided that they are not located closer than six (6) feet to a rear lot line or ten (10) feet to an interior side lot line. A walk space at least three (3) feet wide shall be provided between pool walls and protective fences or barrier walls. Every swimming pool shall be protected by a safety fence or barrier approved by the Administrator.
 - e. Permitted accessory storage of a boat, boat trailer or camp trailer shall not be conducted in a front yard.
 - f. Accessory buildings which are not a part of the main building, although they may be connected by an open breezeway, may be constructed in a rear yard, provided that such accessory building does not occupy more than thirty percent (30%) of the area of the required rear yard and provided that it is not located closer than five (5) feet to the rear lot line, nor closer than five (5) feet to a side lot line.
 - g. Accessory buildings of one hundred fifty (150) square feet or less, attached or detached, may be constructed in a side yard, provided that the accessory building is not located closer than five (5) feet to the lot lines.

Section 160. Permissible Uses Not Requiring Permits

Notwithstanding any other provisions of this Chapter, no zoning or special-exception permit is necessary for the following uses:

1. Streets.
2. 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 161. Permissible Uses Tables

1. 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.
2. Table of Permissible Uses (see separate document).

ARTICLE XI SUPPLEMENTARY USE REGULATIONS

This Article contains regulations to specific uses that supplement the requirements found in other articles of this Chapter. The following specific supplementary use regulations are applicable to both specific uses permitted by right and to uses permitted by special exception as indicated in Article X and in the Table of Permissible Uses.

Section 162. Accessory Uses [Amended 1/3/2017 by Ord No. 2016-21]

1. Accessory uses shall be permitted in the R-1, R-2, R-3, PUD, TC, and NB districts as follows:
 - a. Accessory utility buildings of one hundred fifty (150) square feet or less as accessory structures may be located in the side or rear yards.
 - b. Private garage.
 - c. The keeping of small animals, insects, reptiles, fish or birds (not poultry), but only for personal enjoyment or household use and not as a business. Farm type animals such as horses, goats, sheep, pigs, chickens, roosters and similar types of animals are not permitted in any residential district.
 - d. Swimming pools and game courts, lighted or unlighted, for use of occupants and their guests.
 - e. Accessory off-street parking, open or enclosed space, for one (1) commercial vehicle of not more than 15,000 pounds gross vehicle weight and used by the occupant of a dwelling shall be permitted as an accessory use.
2. Storage of recreational vehicles, detached caps, boats, and boat trailers not part of an approved commercial use subject to the following limitations:
 - a. No more than one (1) recreational vehicle may be stored on a lot. No more than one (1) boat and/or boat trailer may be stored on a lot. The Board of Appeals may permit storage of one (1) additional recreational vehicle or up to two (2) boats and/or boat trailers as a Special Exception on lots of one (1) acres or more.
 - b. The vehicle or boat shall not be used for living quarters nor shall any business be conducted therefrom.
 - c. These vehicle may not be stored in front yards. They may be stored in rear or side yards provided that they are at least three (3) feet from the property line and in the case of side yard storage, provided that they are at least three (3) feet from the property line and are situated at least ten (10) feet to the rear of a lateral projection of the front foundation of the building. Such vehicle may be stored in any completely enclosed garage.
 - d. Such vehicle may be stored on a specially marked parking area of a multi-family rental or condominium unit for residents only. Such areas must be screened from adjacent off-site uses as required by the Zoning Administrator.

- e. A recreational vehicle may be parked on any portion of a residential or mixed commercial property for a period not more than 24 hours during loading or unloading only.

Section 163. Adult Bookstore, Adult Entertainment Center, Massage and Conversation/Relaxation Parlor

Adult bookstores and/or entertainment center may be permitted by the Board of Appeals as a special exception in the C-2 District provided:

1. That no such establishment shall be nearer than 1,500 feet to any church, school, hospital, or similar institution for human care;
2. No adult store, center, or studio shall be nearer than 1,000 feet to another adult store, center or studio; and
3. These establishments, as state above, shall not be permitted in any other zone.

Section 164. Animal Boarding Places, Kennel and Veterinary Hospitals

A veterinary hospital, kennel or animal boarding place may be permitted by the Board of Appeals as a special exception in the C-2 District and shall be permitted in the L-1 and L-2 Districts provided that:

1. Such animal boarding place shall be located only on a lot having an area of two (2) acres or more; and
2. No part of any building or area used for such purposes shall be located within 100 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 am 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.
3. The Board of 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 165. Antenna or Tower Greater Than 50 Feet in Height and Associated Substation [Amended 1/3/2017 by Ord No. 2016-21]

An antenna or tower greater than 50 feet in height and associated substations (radio, television, microwave broadcasting, etc.) may be permitted as a special exception by the Board of Appeals in any district provided:

1. All structures shall be located at least 200 feet from an existing dwelling.

2. A minimum 10-foot landscape strip shall be required and maintained around all property lines exterior to any fence or wall.
3. 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.
4. The applicant shall demonstrate that a diligent effort has been made to locate the proposed communication facility on an existing structure or in a non-residential zoning district, and that due to valid considerations, including physical constraints and economic or technical feasibility, no other appropriate location is available. An alternative analysis prepared by the applicant shall address the following:
 - a. All reasonably feasible alternative locations or facilities that would provide the proposed communication service;
 - b. An analysis indicating whether an existing facility can be structurally modified to accommodate the applicant's proposed use and coverage;
 - c. The potential for co-location at an existing or a new site and the potential to locate facilities as close as possible to the intended service area;
 - d. The rationale for the selection of the proposed site in view of relative merits of any feasible alternatives;
 - e. A system design plan that shall include:
 - 1) Radio frequency parameters;
 - 2) Tower height;
 - 3) Number of antennas that the proposed tower can accommodate at capacity;
 - 4) Radio frequency output; and
 - 5) Effective radiated power and azimuth antenna type.
 - f. Demonstration of a good faith effort to co-locate with other carriers including a survey of all existing structures that may be reasonable for co-location and contacts with other service providers in the county.

Section 166. Antique Shops

An antique shop shall be permitted in TC, C-2, and NB Districts 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 XV.

Section 167. Art or Cultural Centers [Amended 1/3/2017 by Ord No. 2016-21]

An art or cultural center shall be permitted with conditions in the TC, RM, CEMUD and C-2 Districts upon a finding that the proposed use will not constitute a nuisance because of traffic, noise, number of persons, or physical activity. Such use may consist of one or more buildings or structures to be devoted entirely to the furtherance of the arts or culture, including, but not limited to, a theater, museum, classrooms, or any combination thereof, and may provide for a restaurant or snack bar designed solely for service of food or refreshments to people using the facilities of the proposed center.

Section 168. Assisted Living Facilities

The Board of Appeals may permit an assisted living facility as a special exception in the R-1, R-2, R-3 and TC districts provided:

1. The maximum number of residents/client is limited to no more than ten (10).
2. The facility is licensed by the State of Maryland and complies with and continues to comply will all applicable Federal, State and local laws and regulations.
3. The facility shall comply with following minimum requirements unless Federal, State or County laws or regulations require a higher standard:
 - a. a minimum of 80 square feet of functional space shall be provided for single occupancy and 120 square feet for double occupancy rooms;
 - b. no more than two residents may share a room;
 - c. facilities previously licensed as domiciliary care homes must provide a minimum of 70 and 120 square feet for single and double occupancy, respectively;
 - d. buildings must provide at least one toilet for every four occupants and larger buildings must also have at least one toilet on each floor;
 - e. showers/baths must be available for every eight (8) occupants;
 - f. residents/clients shall be provided adequate indoor common areas were social and recreation activities may occur, including access to television; and
 - g. where smoking is only permitted or required outside of the building(s), the applicant shall provide a designated smoking area that is protected from the elements, e.g., overhead protection from rain.

4. Facilities not complying with current State laws and regulations shall be found to be in violation of the terms of the special exception and shall cease to operate.

Section 169. Automobile Filling Stations and Emission Testing Facilities

1. An automobile filling station or emission testing facility shall be permitted in the C-2 and L-2 districts, upon a finding, that:
 - a. The use will not constitute a nuisance because of noise, fumes, odors, or physical activity in the location proposed.
 - b. 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.
 - c. The use at the proposed location will not adversely affect nor retard 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.
2. In addition, the following requirements shall be complied with:
 - a. Signs, product displays, parked vehicles, and other obstructions that adversely affect visibility at intersections or to station driveways shall be prohibited.
 - b. Lighting, including permitted illuminated signs, shall be arranged so as not to reflect or cause glare into any residential zone.
 - c. 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 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.
 - d. 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.
 - e. 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.
 - f. Vehicles shall not be parked so as to overhang the public right-of-way.

- g. Adequate vehicle stacking is provided so as not to impair access from the street or pedestrian traffic in the area.

Section 170. Automobile, Motorcycle, and Motor Vehicle Repair and Maintenance, not Including Body Work

A motor vehicle repair and maintenance shop is limited to the sale, installation, repair, replacement, modification, adjustment, or servicing of the power plant or drive-train of a vehicle may be permitted as a special exception by the Board of Appeals in the C-2 District and L-2 districts subject to the following standards:

1. The minimum lot size shall be 20,000 square feet.
2. All activity and storage of parts with the permitted use shall occur entirely within a completely enclosed building. Any vehicle storage shall be temporary, in side or rear yards, and screened from adjacent properties.
3. No building or structure shall be located in any required yard or setback.
4. Wall openings in structures are permitted in those walls directly facing an existing Commercial or Industrial zoning district. Wall openings necessary for ventilation, fire exits, and light, pursuant to the standards of the Building Code and the Fire Safety Code, shall be permitted.
5. The maximum permitted total floor area shall not exceed twenty-five (25) percent of total lot area.
6. A minimum ten (10) foot wide landscape strip shall be provided adjacent to and completely across all property lines. Curb cuts shall be minimized.
7. No outdoor display of merchandise sold, serviced, or rented is permitted.
8. Vehicles shall not be parked so as to overhang the public right-of-way.
9. Lubrication Equipment and Outdoor Storage and Refuse Areas. Hydraulic racks and service pits shall be located within the main structure. Any outdoor storage or refuse area shall be fenced or screened from view and must be approved as to location and design. The site plan shall indicate the disposal methods to be used for all waste material including recycling of waste oil generated by the operation.
10. No maintenance or repair work on motorized vehicles or equipment shall be performed after the hour of 9:00 PM within any residential zone.
11. Any use of an acetylene torch comprising of welding, cutting or burning shall require a permit from the Zoning Administrator.

Section 171. Automobile Painting and Body Work

An automotive painting and body shop limited to the painting, repair, or alteration of the auto body may be permitted as special exception by the Board of Appeals in the C-2 and L-2 districts subject to the following standards:

1. Minimum lot size shall be 20,000 square feet.
2. All activity and storage associated with the permitted use shall occur entirely within a completely enclosed building. Vehicles may be temporarily stored in side or rear yards if completely screened from adjacent properties.
3. No building or structure shall be located in any required yard or setback.
4. Wall openings in structures are permitted in those walls directly facing an existing Commercial or Industrial zoning district. Wall openings necessary for ventilation, fire exits, and light, pursuant to the standards of the Building Code and the Fire Safety Code, shall be permitted.
5. The maximum permitted total floor area shall not exceed twenty-five (25) percent of total lot area.
6. The minimum ten (10) foot wide landscape strip shall be provided adjacent to and completely across all property lines. Curb cuts shall be minimized.
7. No outdoor display of merchandise sold, serviced, or rented is permitted.
8. Vehicles shall not be parked so as to overhang the public right-of-way.
9. Buffer yards 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. Separation from adjacent properties shall be adequate to address any impact from noxious fumes or odors.
10. Automobile painting and body workshops shall be separated from each other or similar uses such a distance as to eliminate the combined effects of odors or concentration of fumes.

Section 172. Automobile and Light Truck Storage Lots

An automobile and light truck storage lot may be permitted in the C-2 and L-2 District for use in connection with a towing operation, but not for the storage of junked cars.

Section 173. Automobile, Truck, and Trailer Rentals, Outdoors

1. 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 permitted as a special exception by the Board of Appeals in the C-2 and L-2 Districts upon a finding that:
 - a. The use will not constitute a nuisance because of noise, fumes or odors, or physical activity in the location proposed.
 - b. The use at the proposed location will not create a traffic hazard to 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, hospital, or other public use or place of public assembly.
 - c. The use at the proposed location will neither adversely affect nor retard 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.
2. In addition, the following requirements shall be complied with:
 - a. 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.
 - b. Vehicles shall be stored or parked only on a surface area constructed of material that will assure a surface resistant to erosion and adequately treated to prevent dust emission, surround 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 Commercial zone, the entire lot shall be on or near grade with the most traveled abutting street or highway.
 - c. 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.
 - d. 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 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.
 - e. Signs, product displays, parked vehicles, and other obstructions that would adversely affect visibility at intersection or to driveways shall be prohibited.

- f. Lighting shall be low level and so arranged as not to reflect or to cause glare into any residential zone.
- g. When such use abuts a residential zone or institutional premises and is not effectively screened by a natural terrain feature, the use shall be screened by a solid wall or a slightly, substantial 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.

Section 174. Bed and Breakfasts, Country Inns

Bed and breakfasts and country inns may be permitted as a special exception by the Board of Appeals in the R-2, R-3, and TC districts subject to the following standard:

- 1. The use is temporary, for a period of not more than three years, subject to renewal.
- 2. The proposed establishment shall have direct access from a publicly owned and maintained road or street.
- 3. One off-street parking space shall be provided for each guest room and shall be located at the rear of the site. Furthermore parking areas shall be 50 feet from any adjacent residentially zoned property or shall be adequately screened.
- 4. The Board of Appeals may require the establishment be owner/manager occupied and managed
- 5. Accessory commercial activities such as weddings, graduation, and similar parties are allowed only if included as part of the special exception application.
- 6. Facilities for dining shall be in the location customarily used by a single family in the structure.
- 7. No separate kitchen shall be provided.
- 8. All requirements of the Town Building Code shall be met if required.
- 9. The Board of Appeals may permit the bed and breakfast or country inn to include a small retail shop located in the principal building and primarily serving guests of the facility. The floor area dedicated to retail shop use shall be shown on an accompanying floor plan and shall be limited to the area shown and approved by the Board of Appeals. Additional parking shall be provided at the rate of one parking space per 300 square feet of gross floor area dedicated to retail use.

Section 175. Campgrounds and Recreational Vehicle Parks

Campgrounds and recreational vehicle parks may be permitted as a special exception in the C-2 zone provided:

- 1. Such use shall be located only on a lot having an area of two (2) acres or more.

2. The maximum density does not exceed twenty (20) campsites per acre.
3. Each camp shall make available an adequate potable water supply and a sewage disposal system at such locations and of such construction as may be required by the Cecil County Health Department.
4. Each camp shall provide facilities for sanitary and health purposes in accordance with Health Department requirements.
5. A minimum of thirty (30) percent of the total camp area shall be reserved for open space. For campgrounds in the Critical Area, a minimum of sixty (60) percent open space shall be provided. Open space areas shall not include areas required for individual campsites, roads, or service areas.
6. Garbage and trash collection stations shall be provided in such numbers and at such locations so as to provide for the convenient and sanitary storage and collection of garbage and trash. Such facilities shall be screened from view. Screening, fencing and other designed considerations shall be designed so as to contain all trash and garbage in the collection station and prevent littering in the vicinity of the facilities. Servicing of garbage and trash collection facilities shall be the responsibility of the park owner/operator and will not be provided by the Town.
7. Each park shall provide such fire protection equipment as may be required by the County or State Fire Marshall.
8. Interior roadways serving individual campsites in campgrounds shall be a minimum of twenty (20) feet in width and interior collector roads shall be a minimum of forty (40) feet in width. All roads shall be constructed of a durable surface to adequately serve all campsites.
9. All sites shall be setback a minimum of fifty (50) feet from adjacent property lines and State and County roads. All sites shall be set back twenty (20) feet from all interior roads.
10. All campgrounds shall be surrounded by a buffer yard meeting the C standard in Appendix B. Existing natural vegetation, if appropriate, may be utilized to satisfy this requirement.
11. Each site shall contain a stabilized parking pad of shell, marl, paving, or other suitable material. No part of any unit placed on a campground site shall be closer than five (5) feet to a site line. Exposed ground surfaces in all parts of the campground shall be paved, or covered with stone screening or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.
12. There shall be at least three (3) off-street parking spaces designated for each two campground sites. Such parking may be provided in common areas or on individual sites.
13. All campgrounds, including all facilities, roadways, and landscaping thereon shall be maintained in a neat, orderly and attractive appearance.
14. Commercial uses may be permitted subject to site plan review and approval of the building design and location, but shall be limited such uses as grocery stores and laundry establishments to serve the users of the campground. No such commercial establishment shall be larger than five

(5) square feet for each campsite and such establishments shall be shown on the approved site plan.

15. A major site plan shall be submitted to and approved by the Town.
16. Campgrounds may only operate from April 1 through October 31. All camper units and recreation vehicles must be legally licensed and highway ready at all times.

Section 176. Car washes and Automobile Laundries

Car washes and automobile laundries, automatic or otherwise, may be permitted by the Board of Appeals in the C-2 district as a special exception provided reservoir space for not less than ten (10) vehicles for each washing lane of an employee-operated facility is provided.

Section 177. Cargo Trailers and Closed-Body Trucks Used As Storage Structures

Use of cargo trailers and closed-body trucks for temporary storage structures may be permitted by the Board of Appeals as a special exception use in the C-2 District and shall be permitted in the I-1 and I-2 Districts provided:

1. No such vehicle shall be parked in a commercial area for more than two (2) consecutive working days unless a permit is obtained from the Zoning Administrator.
2. This permit shall be valid for a period of not more than six (6) months and may not be extended.

Section 178. Cemeteries

Cemeteries, including a crematorium, may be permitted by the Board of Appeals as a special exception in the C-2 district provided that:

1. The minimum area of the cemetery shall be ten (10) acres, unless associated with a church or limited to use by a family.
2. Arrangements are made satisfactory to the Town Attorney for perpetual maintenance of the cemetery.
3. A crematorium shall be located at least two hundred (200) feet from the boundaries of the cemetery.
4. Cemeteries for pets may be permitted in the C-2 district provided:
 - a. The minimum area of the cemetery shall be five (5) acres.
 - b. Arrangements are made satisfactory to the Town Attorney for perpetual maintenance of the cemetery.

Section 179. Construction Trailers, Temporary Storage Trailers, and Temporary Sales Offices

Temporary storage trailers, construction trailers and temporary sales office trailers may be permitted by the Zoning Administrator in any zoning district for a period of not to exceed six (6) months provided:

1. No trailer is located in the front of a residential structure.
2. All applicable setback requirements for the district are met.
3. The Zoning Administrator may grant a one-time extension of up to six (6) months.

Section 180. Child or Elderly Care Centers and Nursing and Care Facilities

1. Child or elderly care centers serving between seven (7) and thirty (30) children or elderly persons may be permitted as a special exception in the C-2 and child or elderly care centers serving no more than seven (7) persons shall be permitted in R-1, R-2, R-3, NB, and TC districts subject to the following:
 - a. The proposed facilities meet all applicable requirements of County, State and/or federal regulations.
 - b. 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.
 - c. All such uses shall be located so as to permit the safe pickup and delivery of all people on this site.
 - d. Such use shall not constitute a nuisance because of traffic, insufficient parking, number of individuals being cared for, noise, or type of physical activity; and
 - e. The area of the property shall contain no less than 1,000 square feet per client being cared for.
 - f. The Board may prescribe specific conditions determined necessary to minimize effects of use on neighboring properties given identification of concerns specific to a particular site.
 - g. Hours of operation are limited to 6 AM to 7 PM daily.
 - h. The requirements of these sections shall not apply to child or elderly day care facilities or centers that are operated by a non-profit organization in buildings, structures, or on premises owned or leased by a religious organization and which premises are regularly used as a place of worship or are located on premises owned or leased by a religious organization adjacent to premises regularly used as a place of worship, or are used for

private parochial educational purposes that are exempted under the provisions of this section for private educational institutions or are located in publicly owned school buildings.

2. Nursing care home, institutions, intermediate care institutions, handicapped or infirm institutions, child care institutions for more than seven (7) people may be permitted as special exception by the Board of Appeals in the C-2 district provided:
 - a. The proposed facilities meet all applicable requirements of County, State and/or federal regulations and meets the minimum requirements set forth in 1 above.
 - b. The Board finds 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:
 - (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 800 square feet of net lot area in any residential zone.
 - (b) One bed per 600 square feet of net lot area in commercial zones.
 - (3) Minimum lot frontage, as stated in the requirements for the applicable zone.
 - (4) 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:
 - (1) 1.0 feet for each side yard for each bed in a residential zone.
 - (2) 1.0 feet for each side yard for each bed in commercial and planned development zones.
 - (3) In no case shall any minimum side yard be required to be greater than 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 paragraph (b) above, but not less than the minimum required in the applicable zone.
- (5) Minimum screening, as determined by the Board with special attention given to off-street parking and loading areas in accordance with Articles XVII and in no case less than buffer yard 'C' as shown in Appendix B.
- (6) 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 181. Drive-in Banks

Drive-in/ banks may be permitted as a special exception by the Board of Appeals in the TC and NB districts and shall be permitted in the CEMUD, C-2, L-1 and L-2 Districts provided:

1. The use will not constitute a nuisance because of noise, illumination, fumes, odors, or physical activity in the location proposed.
2. 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.
3. 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.
4. When such use abuts a residential zone or institutional premises 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.
5. 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 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.
6. 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.

7. Adequate spaces for stacking (line-up) at drive through facilities shall be provided. Specifically, five for first station plus two for each additional station.
8. Vehicular access shall not be by means of any street internal to a subdivisions for single-family dwellings.

Section 182. Drive-in/Fast Food Restaurants

Drive-in/fast food restaurants shall be permitted in the C-2 District provided:

1. The use will not constitute a nuisance because of noise, illumination, fumes, odors, or physical activity in the location proposed.
2. 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.
3. 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.
4. No buildings shall be located closer than seventy-five (75) feet to any residential dwelling unit.
5. When such use abuts a residential zone or institutional premises the use shall be screened by a solid wall or a substantial, slightly, solid fence, not less than five (5) 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.
6. 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 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.
7. 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.
8. Adequate spaces for stacking (line-up) at drive through facilities shall be provided. Specifically, seven per station, five of which must be before the ordering station (intercom).
9. Vehicular access shall not be by means of any street internal to a subdivisions for single-family dwellings.

Section 183. Dwelling - Manufactured Home - Double-wide

1. Double-wide manufactured homes shall be permitted as a principal structure in the MHCD provided:
 - a. The home has a length not less than 40 feet and a width not less than 24 feet;
 - b. The pitch of the home's roof has a minimum vertical rise of three (3) feet for each twelve (12) feet of horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction with a minimum four (4) inch roof overhang;
 - c. The exterior siding consists of wood, hardboard, or aluminum (vinyl covered or painted, but in no case exceeding the reflectivity of gloss white paint) comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;
 - d. The home is permanently affixed to a continuous, permanent masonry foundation, unpierced except for required ventilation and access, is installed under the home; and
 - e. The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.
2. Double-wide manufactured homes may be permitted as a special exception in the C-2, LI-1 and LI-2 zones as on-site security provided that the unit is not on a permanent foundation.

Section 184. Dwelling - Manufactured Home - Single-wide

A single-wide manufactured home may be permitted by the Board of Appeals as a special exception in the LI-1 and LI-2 zones provided that the manufactured home is for the purposes of providing security for a business or industry conducted on the parcel where the manufactured home is to be located.

Section 185. Education Institutions, Private

Private education institutions may be permitted as a special exception by the Board of Appeals in any residential district and the TC district and shall be permitted in the C-2 district provided:

1. 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
2. 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

3. 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
4. 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:
 - a. Area, frontage, and setback. As shall be specified in a site plan of development approved by the Planning Commission, 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
 - b. Access building coverage and screening. As shall be specified in a site plan of development approved by the Planning Commission; and
 - c. 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:
 - (1) Traffic patterns, including:
 - (a) Impact of increased traffic on residential streets;
 - (b) Existence of arterial highways; and
 - (c) Noise or type of physical activity;
 - (2) Character, percentage, and density of existing development and zoning within the community; and
 - (3) Topography of the land to be used for the special exception, provided that in no event shall a special exception be granted for a density in excess of 87 pupils per acre.
5. 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.
6. Exemptions. The requirements of this section shall not apply to the use of any lot, lots, or tract of land for any private educational institution or parochial school that is located in a building or on premises owned or leased by any church or religious organization, the government of the United States, the State of Maryland, or any agency thereof, Cecil County, or the Town of Perryville.
7. 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 186. Excavation, Borrow Pits, Extraction, Removal of Sand, Gravel or Stone, Stripping of Topsoil

Excavation, borrow pits, extraction, removal of sand, gravel or stone, stripping of topsoil (but not including stripping of sod), other than for construction of spools and foundations for buildings and other than those approved in connection with a street, subdivision or planned residential development may be permitted by the Board of Appeals in the I-2 district as a special exception provided that:

1. The use shall be for a period not to exceed three (3) years.
2. Operations shall be limited in their hours of operation from 6:00 a.m. to 6:00 p.m., Monday through Friday.
3. No material may be brought from off the site for processing, mixing or similar purposes.
4. The excavating or extraction operation shall be controlled to offer reasonable protection to surrounding properties and the neighborhood, particularly as regards use of any residential streets for access to the site.
5. The operation shall be conducted so as not to be ecologically detrimental to the wetlands, streams, rivers and other essential waterways.
6. The location of the excavation or extraction with respect to property lines, the depth of excavation and relation to the water table or flood criteria and the slope of the sides of the excavation shall be controlled to prevent a continuing, unsightly, hazardous or wasteful condition of the land.
7. At the conclusion of the operation, the operator of such use shall be required to reestablish a uniform contour of the ground level and shall provide a suitable ground cover.

Section 187. Festivals, Events of Public Interest or Special Events, Occasional, Outdoor [Amended 1/3/2017 by Ord No. 2016-21]

Occasional outdoor festivals or special events, including, but not limited to horse shows, carnivals, dog shows, arts and crafts shows, music festivals, etc., and seasonal business use may be permitted in any district by the Zoning Administrator provided that fees are paid and licenses obtained as required by the Town of Perryville and further provided:

1. The proposed site shall be of sufficient size to accommodate the use without adversely affecting adjacent land uses.
2. 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.
3. A drawing to scale shall accompany the application and shall accurately depict the standards of this section.
4. Non-recurring festivals or events shall not exceed seven days in any 12 consecutive months.

5. Seasonal business uses shall not exceed a total of 90 days in any 12 consecutive months.
6. 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.
7. Activity areas shall be at least 500 feet from a residential district.
8. Vehicular access shall be derived only from an arterial or major collector highway or street.
9. A minimum of one parking space shall be provided for every 500 square feet of ground area.
10. In cases where it is deemed necessary, the applicant may be required to post a bond to ensure compliance with the conditions of the conditional-use permit.
11. 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. These requirements 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. In addition, the applicant shall be required to maintain adequate liability insurance coverage as may be deemed appropriate.

Section 188. Funeral Parlors, Undertaking Establishments, or Mortuaries

1. The use of a tract or parcel of land or buildings for a funeral parlor or undertaking establishment may be permitted as a special exception by the Board of Appeals in the NB District and shall be permitted in the C-2 District provided that:
 - a. 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, cosmetizing, 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.
 - b. The property and building shall conform to the following:
 - (1) The percentage of the lot covered by buildings shall not exceed 25 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) 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 Planning Commission and/or the Board of Appeals as requisites to the approval.

Section 188.1. Gaming Establishment [Amended 2-18-2009 by Ord. No. 2009-1]

Gaming establishments shall be a permitted use in an approved CEMUD Floating Zone provided that their approval is subject to the design conditions established as part of the approved Preliminary and Final Site Plans.

Section 189. Greenhouses, Commercial Nurseries

A horticultural nursery or commercial greenhouse may be, together with buildings incidental thereto, permitted as a special exception in the NB District and shall be permitted in the C-2, L-1 and L-2 Districts, upon a finding 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 190. Golf Courses and Country Clubs

1. A golf course, country club, private club, or service organization including community buildings, may be permitted as a special exception by the Board of Appeals in the R-1 and R-2 districts 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:

- a. 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.
 - b. 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.
 - c. All outdoor lighting shall be located, shielded, landscaped, or otherwise buffered so that no direct light shall constitute an intrusion into any residential area. A comprehensive lighting plan shall accompany any application for a golf course and/or county club.
 - d. A minimum 100-foot setback for all buildings and parking areas shall be provided adjacent to single-family dwelling districts or uses.
 - e. Vehicular access shall be derived from an arterial street.
 - f. Twenty parking spaces shall be provided per nine holes and one space per 500 square feet of club floor area.
 - g. 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.
 - h. A minimum 25-foot buffer shall be provided adjoining single-family zoning or uses not part of the golf course development.
 - i. Off-street parking and loading areas, tennis courts, golf tees, and maintenance facilities may require additional screening as determined by the Board.
2. A golf course, including miniature golf courses, putting greens, driving ranges and similar activities operated as a business, and including a building for a golf shop, locker room and snack bar as an accessory use to a permitted golf course may be permitted by the Board of Appeals as special exception in the C-2 district provided:
- a. No such building is located closer than one hundred (100) feet to adjoining property lines.
 - b. Practice greens and tees may accompany a standard nine-hole or eighteen-hole golf course occupying at least seventy-five (75) acres.

Section 191. Golf Driving Range

A golf driving range may be permitted as a special exception by the Board of Appeals in the C-2 District, 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 192. Home-Based Business

1. The Town recognizes the desire and/or need of some citizens to use their residence for business activities in order to reduce travel and to provide another economic development tool, but also recognizes the need to protect the surrounding areas from the adverse impacts generated by these business activities. The standards in this section ensure that the home-based business remains subordinate to the residential use, and that the residential character of the dwelling unit is maintained. The standards recognize that many types of jobs can be done in a home with little or no effects on the surrounding neighborhood.
 - a. A type 1 home-based business shall be permitted by the Zoning Administrator in the R-1, R-2, R-3, TC, and NB districts.
 - b. A type 2 home-based business shall be permitted by the Zoning Administrator in the TC and NB districts and may be permitted by the Board of Zoning Appeals as a special exception in the R-1, R-2, and R-3 districts provided that such use shall conform to the following standards which shall be the minimum requirements:
 - a. Description of Type 1 and Type 2 Home-Based Businesses. There are two types of home-based businesses, Type 1 and Type 2. Uses are allowed as home-based businesses only if they comply with all of the requirements of this Chapter.
 - (1) Type 1. A type 1 home-based business is one wherein the residents use their home as a place of work; however, no employees or customers come to the site. Examples include, but are not limited to, artists, crafts people, writers and consultants. Type 1 home-based businesses also provide an opportunity for a home to be used as a business address but not as a place of work.
 - (2) Type 2. A type 2 home-based business is one where either one employee or customers/clients come to the site. Examples are counseling, tutoring, and other such instructional services.
 - (3) Determination of whether or not a proposed home-based business is a type 1 or type 2 home-based business shall be made by the Zoning Administrator.
 - b. Permitted Home-Based Businesses. Examples of permitted home-based businesses include, but are not necessarily limited to, the following:
 - (1) Offices for such professionals as, but not limited to, architects, brokers, counselors, clergy, doctors, draftspersons and cartographers, engineers, land planners, insurance agents, lawyers, real estate agents, accountants, editors, publishers, journalists, psychologists, contract management, graphic design, construction contractors, landscape design, surveyors, cleaning services, salespersons, and manufacturer's representatives, travel agents.
 - (2) Instructional services, including music, dance, art and craft classes.

- (3) Studios for artists, sculptors, photographers and authors.
 - (4) Workrooms for tailors, dressmakers, milliners, and craft persons, including weaving, lapidary, jewelry, making cabinetry, and woodworking.
- c. Prohibited Home-Based Businesses. Prohibited home-based businesses include, but are not necessarily limited to, the following:
 - (1) Kennels, stables, veterinary hospitals, animal grooming
 - (2) Medical and dental clinics, hospitals
 - (3) Restaurants, clubs, drinking establishments
 - (4) Motor vehicle/small engine repair, vehicle body work, and gasoline stations
 - (5) Undertaking and funeral parlors
 - (6) Bed and breakfast and country inn
 - (7) Retail sales of goods not made on the premises
 - (8) Adult uses
 - (9) Group homes
 - (10) Assisted living
 - (11) Private educational institutions,
 - (12) Gift shops, grocery stores,
 - (13) Beauty shops, barbershops, nail salons
- d. Operational Standards
 - (1) Customer/client visits to a Type 2 home-based business are limited to the hours from 8:00 A.M. to 6:00 P.M. Conditions of approval established by the Board of Zoning Appeals shall specify the maximum number of customer/client visits that may occur in any one day and the maximum number of customers/clients that can be present at any one time.
 - (2) A Type 2 home-based business shall have no more than one (1) nonresident employee on the premises at any one time. The number of nonresident employees working at other locations other than the home-based business is not limited.
 - (3) The home-based business shall be limited to the parking/storage of one (1) commercial vehicle on the premises, not exceeding a 15,000 pounds gross

vehicle weight. Such vehicle shall not be parked in any required front yard or in front of any residential structure.

- (4) Type 1 Home Based Businesses are not required to provide any additional parking beyond what is required for the residential use. Type-2 Home Based Businesses shall provide two (2), hard, dust-free parking areas located outside of the front and side yards.
- (5) The equipment used by the home-based business and the operation of the home-based business shall not create any vibration, heat, glare, dust, odor, or smoke discernable at the property lines, generate noise exceeding 60 decibels at the property line from 8:00 A.M. to 6:00 P.M., generate any noise discernable by the human ear at the property lines from 6:00 P.M. to 8:00 A.M., create electrical, magnetic or other interference off the premises, consume utility quantities that negatively impact the delivery of those utilities to surrounding properties, or use/or store hazardous materials in excess of the quantities permitted in a residential structure.

e. Site Related Standards

- (1) Outdoor activities.
 - (a) All activities must be in a completely enclosed structures.
 - (b) Exterior storage or display of goods or equipment is prohibited.
- (2) Appearance of structure and site. The dwelling and site must remain residential in appearance and characteristics. Internal or external changes which will make the dwelling appear less residential in nature or function are prohibited. Examples of such prohibition alterations include construction of parking lots, paving a required setbacks, or adding commercial exterior lighting.
- (3) Signage shall be limited to one sign not exceeding four (4) square feet in area mounted flush with and on the front facade of the dwelling unit.

Section 193. Hospitals, Clinics and Other Medical Treatment Facilities [Amended 1/3/2017 by Ord No. 2016-21]

- 1. Medical clinics of less than 10,000 square feet of gross floor area may be permitted by the Board of Appeals in the TC and NB district and shall be permitted C-2 district subject to the following:

a. Site requirements:

- (1) Minimum lot area, 40,000 square feet.
- (2) Minimum frontage, 200 feet.
- (3) Minimum setback, 40 feet from all property lines.

- (4) Maximum building height, as specified in zone.
 - (5) Location of access on business district street, arterial, or major highways.
 - (6) Located at least 1,000 feet from any structure used as a house of worship or school.
 - (7) Located at least 1,000 feet from any residential district.
 - (8) A narrative shall be provided that describes the method and type of treatment to be administered as well as the clientele proposed to use the facility. The narrative will need to provide a description of the hours of operation, number of clients, drugs to be used and the symptoms, addiction, dependency, and/or illness targeted for treatment, the demonstration of effectiveness in managing other clinics, and plans for addressing medical or other emergencies that may arise.
 - (9) All State permits and licenses required to operate the clinic shall be obtained and copies submitted prior to use and occupancy approval.
- b. Disposal of waste shall be through approved, safe means and shall be separate from regular trash disposal.
 - c. 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:
 - (1) 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.
 - (2) The hours during which these services are provided shall be the same as those during which medical practitioners are receiving patients.
2. Hospitals, clinics of 10,000 square feet or more, and other medical treatment facilities may be permitted as a special exception by the Board of Appeals in the C-2 District subject to the following:
- a. A lot or parcel or tract of land to be used for a hospital or sanitarium building may be allowed, upon a finding by the Board 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, if 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:
 - (1) Total area: five acres minimum.

- (2) Frontage: 200 feet minimum.
- (3) All structures shall be located at least 200 feet from any adjacent residential lot and 50 feet from any other use.
- (4) All parking areas shall be located at least 50 feet from any adjacent residential lot and shall be limited to a minimum of parking in the front yard.
- (5) 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 and their guests.
- (6) A minimum of 40 percent of the gross site area shall be open space. The open space shall be generally continuous, accessible to the patients, and protective of natural features.
- (7) The Board 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 green area.
- (8) Building height limit: as determined by the Board of Appeals but in no case more than 100 feet.
- (9) A resolution approving the establishment by the Health Department shall be filed with the petition for a special exception.
- (10) The applicant shall locate amenities such as lighting, seating, shelter, and landscaping into attractive groupings that provide for safe and unobstructed pedestrian movement.
- (11) Located at least 1,000 feet from any structure used as a house of worship or school.
- (12) Located at least 1,000 feet from any residential district.
- (13) A narrative shall be provided that describes the method and type of treatment to be administered as well as the clientele proposed to use the facility. The narrative will need to provide a description of the hours of operation, number of clients, drugs to be used and the symptoms, addiction, dependency, and/or illness targeted for treatment, the demonstration of effectiveness in managing other clinics, and plans for addressing medical or other emergencies that may arise.
- (14) All State permits and licenses required to operate the clinic shall be obtained and copies submitted prior to use and occupancy approval.

Section 194. Hotels and Motels

A hotel, motel, or inn may be allowed as a special exception by the Board of Appeals in the TC or CM districts and shall be permitted in the C-2 district provided:

1. 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 Board as requisites to the grant of special exception.
2. 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. The Planning Commission may require studies of the market for specific accessory uses as well as the principal use.
3. 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.
4. The applicant shall design the building roof to screen mechanical equipment from public view and to contribute to an attractive streetscape.
5. The applicant shall develop the public streetscape between the street-front building and the street curb as a safe and convenient pedestrian movement.
6. The applicant shall locate amenities such as lighting, seating, shelter, and landscaping into attractive groupings that provide for safe and unobstructed pedestrian movement.
7. The applicant shall design fences and retaining walls that are consistent in materials and quality to that of the building and the adjacent properties.
8. The applicant shall design and locate signs so that their illumination is directed away from adjacent neighbors.
9. The applicant shall integrate ground signs into the design of the site and the streetscape.
10. Vehicular access to the subject property shall not be by means of any street internal to a subdivision for one-family dwellings.

Section 195. Housing for the Elderly or Handicapped [Amended 1/3/2017 by Ord No. 2016-21]

Housing for the elderly and handicapped may be permitted as a special exception by the Board of Appeals in the C-2 and in a Planned Unit Development subject to the following:

1. The proposed facilities meet all applicable requirements of County, State and/or Federal law and regulations, including age-based occupancy restrictions and limitations under Federal or State law that would qualify the housing to be exempt from prohibitions against discriminating against families with children.

2. The minimum site area shall be one and one-half (1.5) acres.
3. Maximum density - One residential unit per each 1,500 square feet of lot area.
4. Maximum coverage: as required in the applicable zone.
5. Parking. There shall be off-street parking as required in Article XVII.
6. The Board shall grant the application only upon a finding that such use will not affect adversely the use or development of the surrounding area and shall require annual permit renewals subject to the compliance with all applicable federal, state, county and town regulations and the requirements of this section.

Section 196. Marinas and Yacht Clubs

Marinas and yacht clubs, including related repair and service activities, may be permitted by the Board of Appeals as a special exception in the RM, CM-1 and CM-2 districts provided that:

1. The marina or yacht club complies with all other codes, regulations, laws and ordinances, including those relating to the establishment of bulkhead lines.
2. The proposed design is satisfactory as regards such safety features as location of fueling points, fuel storage effect on navigation and possibilities for water pollution.
3. The marina or yacht club is properly located with respect to access roads and existing and future developed areas.
4. The necessary approval is obtained from the United States Army Corps of Engineers.
5. In addition to any other applicable criteria, dry stack storage may only be permitted in the RM, CM-1 and CM-2 districts if the Board of Appeals determines that the location and size of any proposed structure maintains adequate public views of the Susquehanna River from adjacent and nearby streets, sidewalks, trails, parks and other similar public spaces.
6. Accessory marine related repairs and service may be permitted in a commercial marina in the RM district provided such uses are conducted within a completely enclosed building and service and repair activities are only conducted during day light hours.
7. Limited on-land storage of watercraft, not including high and dry or dry-stack storage, may be permitted as an accessory use in the RM district provided such storage does not reduce or interfere with the minimum required parking for existing permitted residential or retail uses.

Section 197. Spas and Health Clubs [Amended 1/3/2017 by Ord No. 2016-21]

A place of business with equipment and facilities for exercising and improving physical fitness and similar uses shall be permitted in TC, CEMUD and C-2 districts.

Section 198. Reserved

Section 199. Mini-warehouses

A mini-warehouse may be permitted as a special exception by the Board of Appeals in the C-2, and L-2 Districts provided:

1. 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.
2. 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.
3. 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.
4. 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.
5. Adjoining properties used or zoned for residential/dwelling purposes:
 - a. 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.
 - b. 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.
6. Adjoining all properties used or zoned for other than residential/dwelling purposes:
 - a. 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.
 - b. Street-facing property lines shall be provided with a minimum 20-foot landscape strip or buffer as specified in Appendices B and C 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.

7. No structure may be located within one-hundred (100) feet of a residential property.

Section 200. Neighborhood Motor Vehicle Service Station or Garage

A motor vehicle service station or garage that is limited in the intensity of use to serve primarily the immediately surrounding neighborhood may be permitted by the Board of Appeals as a special exception in a PUD provided:

1. Such facilities shall be limited to two fuel dispensers serving no greater than four motor vehicles at any one time.
2. No more than two indoor service bays servicing no greater than two motor vehicles at any one time may be permitted.

Section 201. Nurseries in Residential Districts

Nurseries for growing or propagation of plants, trees or shrubs, farms, truck gardens and orchards, including temporary stands for seasonal sales of products raised on the premises, but not including the raising for sale of poultry, birds, bees, rabbits or other animals, fish or other creatures may be permitted in the R-1 district provided that such uses are not objectionable to surrounding residences by reason of odor, dust, noise or other factors, and provided that no retail or wholesale business, office or store is permanently maintained on the premises.

Section 202. Pet Shops

Pet shops shall be allowed in the NB and C-2 Districts and may be permitted as a special exception in the TC district provided that the actual store or premises in which the pet shop is located is at least 75 feet from any lot in any residential zone; that the proposed use shall not be incompatible with, or detrimental to, any existing uses on abutting lots in a NB, TC or C-2 zone; that no animals may be kept for boarding; that no animals may be kept for breeding; that only animals for retail sale shall be maintained or kept on the premises; that all animal pens shall have glass enclosed fronts and each pen or cage shall be connected to any outside ventilating system or other appropriate air filtration system. The provision shall not apply to birds that may be maintained in bird cages. There shall be no space on the exterior of that building for the maintaining or for the use of the animals, and all animals shall be maintained within the pet shop.

Section 203. Public Utility Buildings and Public Utility Structures

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 8 hereunder may be permitted as a special exception by the Board of Appeals provided:

1. The proposed building or structure at the location selected is necessary for public convenience and service.
2. 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.
3. 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.
4. Signs in connection with a public utility building or structure shall be governed by the provision of this Chapter.
6. 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.
7. 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.
8. In any residential zone, overhead electric power and energy transmission and distribution lines carrying in excess of 69,000 volts may be permitted where the Board finds:
 - a. 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 Commissioners;
 - b. The proposed use will not adversely affect the health and safety of the residents or workers in the area;
 - c. There is a public necessity for the proposed building, structure, or facility at the location selected; and
 - d. The proposed use will have the least possible detrimental effect to the use of development of adjacent properties or the general neighborhood.

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:

- e. Points at which the proposed line crosses heavily traveled highways or streets, or other arteries of transportation, either existing or proposed;

- f. Proximity of the line to schools, churches, theaters, clubs, museums, fair grounds, or other places of assembly, either existing or proposed;
 - g. 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;
 - h. Any fire hazard or interference with firefighting equipment due to the location and construction of the proposed line;
 - i. Proximity of the line to public parks and recreational areas, either existing or proposed;
 - j. Effect upon property values of those who will not be compensated for a taking under the laws of the state;
 - k. 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
 - l. Proximity of the line to historic sites and structures.
9. In addition to the authority granted by this section, the Board may attach to any grant of a special exception under this section other conditions that it may deem necessary to protect the public health, safety, or general welfare.
10. Petitions for special exception under this section may be filed on project basis. A petitioner under this section shall be considered an interested person for purposes of filing a request for a special exception if he states in writing under oath that he has made a bona fide effort to obtain a contractual interest in the subject property for a valid consideration without success and that he intends to continue negotiations to obtain the required interest or, in the alternative, to file condemnation proceedings should the special exceptions be granted.

Section 204. Recreational Uses

Recreational uses, such as follows, may be permitted by the Board of Appeals as special exception in the R-1, R-2, R-3 and TC districts provided:

- 1. Swimming, tennis and athletic clubs shall be limited to those for games and uses such as swimming, shuffleboard, croquet or tennis. Activity areas and buildings shall not be located closer than fifty (50) feet to any lot line. All such facilities must be located on a site having a minimum of two (2) acres.
- 2. Recreational uses such as tennis courts, swimming pools, and other similar activities operated exclusively for the use of private membership and not for commercial purposes, provided that no such use, structure or accessory use is located closer than fifty (50) feet to any adjoining property line unless such property line fronts a public street or waterway with rights-of-way not less than thirty (30) feet, in which instance the required setback need not exceed thirty (30) feet and provided, further, that all such facilities must be located on a site having a minimum of two (2) acres.

Section 205. Residential Structures - Single-Family Attached and Multiple Units [Amended 9-2-2008 by Ord. No. 2008-2; 11-4-2008 by Ord. No. 2008-04; 1/3/2017 by Ord No. 2016-21]

1. Two-family dwellings shall be permitted in R-2, R-3 and PUD districts and may be permitted by the Board of Appeals as a special exception in the TC district provided:
 - a. Each dwelling unit of a two-family dwelling must comply with the minimum lot area per dwelling unit specified in the Section 238, Schedule of Zone Regulations .
 - b. The dwelling units and individual lots of a two-family dwelling may be sold separately if separate utilities systems are provided and if separate lots for all dwelling units in a building are created at the same time and in conformance with the subdivision regulations. In addition, all two-family townhouse units offered for sale shall have party walls of at least eight (8) inches of masonry construction extending from the footings to the roof of the structure.
2. Townhouses shall be permitted in the R-3 District and shall be permitted by Special Exception in the TC and RM Districts provided:
 - a. The townhouse building shall comply with minimum lot requirements contained in the Section 238, Schedule of Zone Regulations, but each dwelling unit of a townhouse need not be located on a lot complying with minimum lot-area-per-family requirements in the table, provided that the average for all dwelling units in the building equals or exceeds the minimum requirements and provided that no lot is created with lot area less than eighteen hundred (1,800) square feet.
 - b. Both sides of rear yards may be screened with a privacy type fence or hedge of six (6) feet maximum height approved by the Planning Commission and extending not less than fifteen (15) feet from the rear building wall and in the case of interior end units, shall not extend three (3) feet forward of the rear building wall.
 - c. A minimum of twenty (20) percent of the site shall be maintained in common open space areas exclusive of front, side, or rear yards in a location approved by the Planning Commission. Provision satisfactory to the Planning Commission and approved by the Town Attorney shall be made to assure that nonpublic areas for the common use and enjoyment of occupants of townhouses, but not in individual ownership by such occupants, shall be maintained in a satisfactory manner without expense to the general public.
 - d. 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.
 - e. 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.
 - f. Building requirements and relationship.

- (1) Dwelling units per townhouse structure and length of structure. No more than eight (8) dwelling units shall be contained in a single townhouse structure without a setback between structures as specified below.
 - (2) For the purpose of the side yard regulations, a townhouse building shall be considered as one (1) building on one (1) lot, with side yards required for end units only, in accordance with Section 238, Schedule of Zone Regulations. Any side yard adjacent to the line of a lot occupied by a detached single-family dwelling or a lot in a single-family residential district shall not be less than twenty-five (25) feet.
 - (3) Setback between buildings. The minimum distance between any two unattached townhouse structures shall be twenty-five (25) feet. Setback between buildings in Townhouse projects designed in a courtyard fashion may be approved on a case-by-case basis.
 - (4) 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.
 - (5) Code requirements. All structures shall comply with all Town, County and State Codes.
 - (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 public way intended for pedestrian circulation and fire protection shall be provided between abutting rear lot lines.
 - (8) Off-street parking shall be provided in accordance with the provisions of Article XVII of this Chapter.
 - (9) No detached garage or carport or other detached accessory building over one hundred twenty (120) square feet shall be permitted on a lot occupied by a townhouse.
 - (10) The front and rear facades of dwelling units in a townhouse shall be varied by changed yards of not less than three (3) feet and variation in materials or design so that no more than three (3) abutting units will have the same front yard depth and the same or essentially the same architectural treatment of facades and rooflines.
 - (11) Required off-street parking shall be provided on the lot or within one hundred fifty (150) feet of the lot.
3. Apartments and other multi-family development residential units shall be permitted in the R-3, RM and PUD district, with conditions, and may be permitted as a special exception in the TC district provided:

- a. Maximum density. The density shall not exceed the maximum permitted density for the Zoning District as averaged for the total area.
- b. 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, or loading spaces. 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. Code requirements. All structures will comply with all Town, County and State codes.
- d. Setbacks.
 - (1) R-3 District - All buildings and structures shall be set back a minimum of fifty (50) 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.
 - (2) PUD District - All buildings and structures shall be set back according to approved site plans.
 - (3) TC District - Buildings and structures shall have a minimum front set back according to the prevailing front yard characteristics in the areas, as determined by the Planning Commission.
 - (4) PUD District - 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 in PUDs of twenty-five acres or more..
 - (5) The minimum setback between any two principal buildings on the same lot shall be twenty-five (25) feet.
 - (6) RM District – The minimum lot and yard requirements are set forth in Section 238, Schedule of Zone Regulations.
- e. Area to be landscaped. All lot area not occupied by principal and accessory structures, required off-street parking and loading, access and circulation facilities, or other required areas shall be landscaped by lawns, trees, shrubs, ground cover, and other appropriate materials. Within the required setback areas, there shall be a landscaped buffer yard meeting Buffer yard Standard C in Appendix B.
- f. Building height. The building height requirements are set forth in Section 238, Schedule of Zone Regulations. When a building height exceeds 35 feet the setback between buildings on the same lot shall increase one foot for every foot of height over thirty-five (35) feet. Accessory structures. No accessory structure shall exceed twenty (20) feet in height.
- g. Signs. Signs shall be permitted in accordance with the provisions of Article XVI.

- h. Off-street parking. Off-street parking shall be required for each use in accordance with the provisions of Article XVII.
- 4. Commercial apartments may be permitted in a commercial structure in the NB, TC, and C-2 Districts provided:
 - a. No apartment is situated at the street level in the NB and TC districts.
 - b. All apartment units meet applicable building and livability codes.

Section 206. Restaurants, Standard and Carry-out/Delivery [Amended 1/3/2017 by Ord No. 2016-21]

Standard Restaurants shall be permitted in the TC, RM, CM, NB and C-2 districts provided:

- 1. When such use abuts a residential zone or institutional premises the use shall be screened by a buffer yard meeting the C standard in Appendix B.
- 2. Vehicular access shall not be by means of any street internal to a subdivision for single-family dwellings.
- 3. In the TC district approval shall be conditioned on meeting the special design standards applicable to this district.
- 4. Standard restaurants are permitted in the RM and CM districts only as an accessory use in a marina.

Section 207. Restaurant Accessory Uses [Amended 1/3/2017 by Ord No. 2016-21]

Restaurants as permitted in Section 206 may apply for approval and renewal of a permit for the following accessory use each year:

- 1. Sidewalk Café – An outdoor food service area situated on a public sidewalk, operated adjacent to and in conjunction with a restaurant, where food and beverages sold by the restaurant are served for public consumption.
 - a. An application for a Sidewalk Café must include a scaled drawing depicting the sidewalk abutting the business, locations of proposed tables and chairs, and unobstructed accessible passageways for pedestrians.
 - b. A Sidewalk Café approval shall specify the authorized location of tables and chairs and whether they must be removed at the close of business each day, and approved unobstructed accessible passageways for pedestrians.
 - c. A Sidewalk Café shall be operated in accordance with its approval and other provisions of this Section.

- d. A Sidewalk Café may not encroach upon any part of the sidewalk frontage of adjacent properties, or of a right-of-way or alley.
- e. Each Sidewalk Café shall comply with all building, health, safety, fire, zoning and environmental standards as applicable to such uses.
- f. Alcoholic beverages may not be sold or consumed in a Sidewalk Café except as authorized by the Cecil County Board of Liquor License Commissioners. No alcoholic beverages may be removed from the Sidewalk Café, except to the interior of the restaurant.
- g. A Sidewalk Café shall not be detrimental to the health, safety and/or general welfare of persons residing, working or otherwise in the vicinity.
- h. A Sidewalk Café shall not obstruct any fire exit, fire escape, fire hydrant, building sprinkler systems, fire receptacle or any other required ways or means of ingress and egress.
- i. The operation of, or placement of tables, chairs and equipment for a Sidewalk Café may not obstruct access to any bus stop, crosswalk, mailbox, curb cut or other public property, and shall not obstruct the clear view of any traffic signal, regulatory sign or street sign.
- j. The entity operating the restaurant and Sidewalk Café shall fully insure, indemnify, defend and hold harmless the Town of Perryville and its officers, agents, and employees, from and against any and all claims and damages in any way arising out of or through the acts or omissions of the permit holder or its employees in the construction, operation, maintenance, use, placement or condition of the Sidewalk Café. The applicant for a Sidewalk Café shall provide proof of such insurance before a permit may be issued or renewed.
- k. The following are prohibited in the area of the Sidewalk Café: cooking of food; unshielded trash or refuse storage; advertisements exclusive of menus intended to be read by the patrons in the Café; and outdoor entertainment, music speakers, or public address systems.
- l. A Sidewalk Café permit may be suspended or revoked by the Town, after notice to the owner and operator of the restaurant and a hearing, for a violations of the permit or for a violation of any Federal or State law or regulations, and/or local Ordinance or regulation, related to the operation of the Sidewalk Café and the sale and consumption of alcoholic beverages.
- m. The issuance of a Sidewalk Café permit and the initiation of a Sidewalk Café use does not grant any vested right to the continuation of such use if the Town eliminates authorization for the operation of Sidewalk Cafes.

Section 208. Taverns, Bar, Places Serving Alcoholic Beverages [Amended 1/3/2017 by Ord No. 2016-21]

Service of alcoholic beverages shall be permitted in the CEMUD and C-2 districts and may be permitted as a special exception in the TC, RM, CM and NB districts provided:

- 1. No such establishment is located nearer than 1,000 feet to any principal structure used as a hospital, church, or school.

2. In all districts the service of alcoholic beverages in a restaurant is permitted only as an accessory use to a standard restaurant provided all required approvals and licenses are obtained for the service of alcoholic beverages from Cecil County Board of Liquor License Commissioners.
3. In the TC district approval shall be conditioned on meeting the special design standards applicable to this district.
4. An establishment that possesses a State of Maryland Class 6 Pub-Brewery License or a Class 7 Micro-Brewery License is permitted as an accessory use to a standard restaurant in all districts.

Section 209. Retail Establishments in a Group of Multiple-family Dwellings

Retail sales and personal service establishments in a group of multi-family dwellings may be permitted as a special exception by the Board of Appeals in the R-3 district subject to the following requirements:

1. Only the following types of establishments shall be permitted:
 - a. Banks or saving and loan offices
 - b. Barber and beauty shops
 - c. Book stores
 - d. Drug stores
 - e. Dry-cleaning and laundry pick-up stations
 - f. Florists
 - g. Food and beverage stores
 - h. Gift shops
 - i. Jewelry stores
 - j. Laundromats
 - k. Newsstands
 - l. Office, banking
 - m. Restaurants
 - n. Variety and dry goods stores
2. 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.
3. 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.
4. The establishments shall be located and constructed as to protect tenants of the building from noise, traffic, odors, and interference with privacy.

Section 210. Retail Establishments in an Office Building

Retail sales and personal service establishments in an office building shall be permitted in the TC and C-2 Districts subject to the following requirements:

1. 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.
2. Such establishments shall occupy not more than 30 percent of the total floor area of the building or group of buildings.
3. The establishments shall be so located and constructed as to protect tenants of the building from noise, traffic, odors, and interference with privacy.

Section 211. Satellite Dish Antennas or Receive-only Earth Stations

1. A satellite dish may be located in a residential district provided it complies with the following conditions:
 - a. It is not located in a front yard or side yard, said yard to be measured from any portion of the principal building to the front or exterior side of the property line.
 - b. It complies with the setback requirements of the underlying zone for accessory structures.
 - c. It does not exceed fifteen (15) feet in height above the existing grade if ground mounted.
 - d. 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.
 - e. Only one satellite dish shall be permitted per dwelling unit located on the lot.
 - f. It shall not be located on the front facade of any building.
 - g. A Zoning Certificate shall be required.
2. All satellite dish antennas in all zones shall comply with the following:
 - a. Under no circumstances shall a satellite dish be utilized as a sign in any zone.
 - b. Satellite dish antennas and their appurtenances shall be neutral in color or painted such a color as to blend in with the surrounding environment.
 - c. Satellite dish antennas, appurtenances, landscaping and screening shall be kept and maintained in good condition.
 - d. The antennas shall be permanently mounted. No antenna shall be installed on a portable or movable structure, such as a recreational vehicle.
 - e. 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.

- f. 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 212. Shopping Centers and Malls

Shopping centers shall be permitted in the C-2 District provided:

1. The shopping center shall be constructed according to an approved Comprehensive Site Plan. The Plan shall make adequate provisions for access, utilities, and adequate protection of the surrounding properties, subject to approval by the Planning Commission. As a minimum, the Comprehensive Site Plan shall contain the following information in addition to the information required in Appendix A. All site plans or plan elements shall be clearly titled, and numbered.
 - a. A Site Plan Element is required indicating the proposed location of all buildings, parking areas, open space, signage, vehicular and pedestrian access, and landscaping and their relationship to natural features of the site.
 - b. The Site Plan Element is required which includes the proposed location and dimensions of all structures, and related areas, setbacks from property lines and other buildings, utility right-of-ways, streets, curbs, gutters, sidewalks, lighting, and fire protection measures. The Plan shall contain a tabular summary indicating:
 - (1) total area of the site;
 - (2) land area devoted to open space;
 - (3) land area devoted to buildings;
 - (4) land area devoted to parking - and total spaces;
 - (5) number of stores by use and square footage.
 - c. A copy of proposed deed restrictions, covenants, by-laws or other instruments designed to provide for continuing maintenance and control of common areas.
 - d. The architectural design of buildings shall be shown by front elevations, photographs or architectural renderings. Where a variety of designs are proposed, each design shall be shown.
 - e. If in the opinion of the Planning Commission, Zoning Administrator, or any Town department head, additional information is required to aid in the review of the project, additional elements shall be prepared.
2. General Design Standards
 - a. Buildings shall be designed so that facades, signs and other appurtenances will have an integrated and harmonious and attractively arranged, and in a manner which will not adversely affect the appearance of surrounding developments.

- b. Shopping centers shall be located where traffic congestion does not then exist on roads used for immediate access to the center, and where congestion is not likely to be created by the proposed center; or where such congestion will be alleviated by currently scheduled improvements to access roads, by demonstrable provision for proper exits and entrances, and by internal provision for parking and traffic circulation.
- c. Shopping centers shall be served by underground community sewer, gas, water, and electric facilities.
- d. Passenger parking areas and freight loading areas shall be separately located and safety provisions must be made for the protection of pedestrians, including appropriate location of roadways, parking areas, sidewalks, islands, entrances, exists, crossovers and underpasses which are provided with drainage, lighting, directional signs, and supervision as may be required.
- e. Copies of any master lease between the shopping center developers and prospective tenants must be provided. Provisions of the lease must make adequate provision for annual maintenance, security and public conveniences either with individual tenants or as the responsibility of the developer.
- f. All roadways, parking areas and pedestrian walks shall be paved with concrete or blacktop which shall be maintained in good condition at all times and shall be properly illuminated when in use after dark in such a manner as to prevent the direct transmission of light into adjacent residential properties.
- g. Whenever a shopping center is located adjacent to a residential development or zone district, a permanent solid fence or planted area with trees or shrubs meeting the standard of Buffer yard E in Appendix B shall be provided on the side or sides adjacent to such residential area sufficient to act as a buffer to the transmission of light and sound from the center. (See Article XVIII, Part I)
- h. All signs within the center shall be controlled by written agreement between the owners and tenants of the center, so as to avoid excessive advertising and insure attractive and harmonious appearance throughout the center. Signs should be uniform in appearance and shown on the Site Plan.

Section 213. Social, Fraternal Clubs and Lodges, Philanthropic Institutions

Social, fraternal clubs and lodges, philanthropic institutions may be permitted as a special exception by the Board of Appeals in the NB, TC or C-2 Districts upon a finding 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 lot area, frontage, and setback requirements:

- 1. Total lot area: 25,000 square feet minimum
- 2. Frontage: 150 feet minimum
- 3. Setback: 25 feet from all property lines.

Section 214. Development Standards in the TC District

1 Purpose

It is the intent of the standards established for the TC Town Center District to:

- a. Accommodate growth in the Town of Perryville by encouraging and facilitating new development on vacant, bypassed and underutilized land where such development is found to be compatible with the existing neighborhood.
- b. Encourage efficient use of land and public services in the context of existing communities.
- c. Stimulate economic investment and development in older established neighborhoods.
- d. Provide developers and property owners flexibility so that they can achieve high quality design and develop infill and redevelopment projects that strengthen existing neighborhoods.
- e. Create a high quality neighborhood compatible with the community environment.
- f. Implement the goals, objectives, and policies of the *Perryville Comprehensive Plan* and the *Lower Susquehanna Heritage Greenway Management Plan*.
- g. Improve approval certainty for infill and redevelopment by providing clear development standards.
- h. Encourage compact development that is pedestrian-scaled and, if applicable, transit-oriented.

These standards are not intended to restrict imagination or variety but rather to assist in focusing on design principles that can result in creative solutions that will develop a satisfactory visual appearance within the Town. The district standards encourage appropriate development of underutilized properties and consolidation of developable land where it will achieve a more efficient land use and improved site design. Design standards promote compatible infill and redevelopment by, among other things, allowing development on sites that may not meet minimum land area and dimension requirements.

2. Applicability

The development standards contained in this section shall apply to all development in the TC Town Center District. Where the proposed development is other than a detached single family dwelling or two-family dwelling, or the applicant has requested relief from any of the basic standards for the district contained in Section 238, the Planning Commission or Board of Appeals shall not grant approval except as provided in Section 5.k .

3. General Requirements

Development plans shall incorporate the following elements to enhance compatibility with the surrounding community:

- a. Sidewalks that connect to the adjacent sidewalk system;

- b. Public streets that connect to the adjacent street pattern;
- c. Preservation of architecturally significant structures whenever feasible;
- d. Inclusion of, or relationship to, civic spaces;
- e. Street furniture, lighting and landscaping that is primarily oriented to pedestrian use; and
- f. Building types, setbacks, building envelopes, use and parking compatible with the surrounding community.

All new buildings (except accessory structures) shall have the primary entrance oriented to the street or public walkway, with direct, barrier-free and convenient pedestrian connections.

4. Permitted Uses

- a. Permitted uses, permitted uses with conditions and special exception uses shall be as provided in Section 161.

5. Development standards

- a. General: Density, design, materials, use and scale should reflect local style, climate, heritage and materials unique to the Town of Perryville.
- b. Flexible development standards to reduce lot areas, widths and yards and to increase building heights may be permitted for infill or redevelopment at the discretion of the Planning Commission, subject to proof of good cause and benefit to the development and the community and to address difficult sites which incorporate infill and redevelopment or rehabilitation. Building height and coverage may vary so long as the project average is consistent with the neighborhood scale and architectural rhythm and does not constitute a disruptive condition in the identity of the area (See Section g).
- c. Density: Density may exceed the underlying zone for the purpose of creating a neighborhood having a variety of housing types.
 - (1) Total number of dwelling units as well as location to be established at the time of preliminary plan approval.
 - (2) Lot Size. Lot areas established in the preliminary plan shall be dependent on proposed densities, floor area, setbacks, building heights and community compatibility.
- d. Building Height:
 - (1) Buildings restricted to the height limit established for the district, or the average of adjacent buildings along the block face.
 - (2) If the average of adjacent buildings is greater than the maximum height allowed in the district, the proposed building or structure must meet the following criteria for community compatibility:

- (a) Neighborhood scale
 - (b) Privacy
 - (c) Light and shadow
 - (d) Views
 - (e) Architectural compatibility
- e. Building Setback.
 - (1) For each block in the overlay zone, the Planning Commission may designate a build-to line based on the average established front yard setback along the block face. The build-to line shall establish the front yard setback for the lots on the block. Infill and redevelopment structures shall be located within two (2) feet either side of the build-to line, except that no structure shall be located closer than five (5) feet to street or public right-of-way.
 - (2) The Planning Commission may relax side yard requirements to facilitate interesting and innovative design solutions, provided that the encroachment into the setback does not adversely affect storm drainage, privacy, sunlight or views of the adjacent property, nor restrain the potential of the adjacent property for future development.
- f. Bulk and Scale. Building bulk and scale shall be similar to and consistent with the surrounding neighborhood as evaluated by the bulk of buildings adjacent, abutting and surrounding the proposed development. Larger buildings should be designed to adhere to the existing architectural pattern of the surrounding neighborhood.
- g. Compatibility standards
 - (1) General: Provides exemplary site design, architectural design and high quality materials that are compatible with, and does not negatively alter the character of, the existing neighborhood.
 - (2) All permitted uses conform to the purposes of the Ordinance and are compatible with existing uses in the general vicinity of the proposed development. The following requirements shall apply:
 - (a) Building Size, Height, Bulk, Mass, Scale. Buildings should be similar in height and size or be designed in such way that they appear similar in height and size, creating an overall mass that is consistent with the prevalent mass of other structures in the area, e.g., by dividing walls into units of similar proportions to adjacent structures.
 - (b) Building Orientation. Primary facades and entries face the adjacent street with a connecting walkway that does not require pedestrians to walk through parking lots or across driveways and that maintains the integrity of the existing streetscape.
 - (c) Privacy. Optimize privacy of residents and minimize infringement on the privacy of adjoining land uses by considering appropriate buffer yards, the placement of windows and door entrances. Create opportunities for interactions among neighbors in common pedestrian circulation areas of the project.

- (d) Building Materials shall be similar to materials of the surrounding neighborhood or use other characteristics such as scale, form, architectural detailing, etc., to establish compatibility.
- (3) All planned uses, building types, and landscaping will be included on the preliminary plan and will demonstrate the relationships of the proposed development with existing off-site development in the context of the adjacent community. Compliance with these requirements shall in and of itself be deemed to create a presumption of compatibility.
- (4) All planned uses shall comply with the Perryville Critical Area and floodplain regulations.
- h. Open Space and Landscaping - All open space, recreational amenities and landscaped areas shall be shown on the plan.
- i. Public Facilities and Utilities
 - (1) General: Existing and planned public facilities should be shown on development plans.
 - (2) All public streets, walkways and alleyways shall be shown on development plans. All through streets and walkways must be public. The local street and walkway system shall be safe, efficient, convenient, attractive, and shall accommodate use by all segments of the population.
 - (3) The street and walkway system provides multiple, direct and continuous intra- and inter-neighborhood connections between destinations.
 - (4) The street network shall include sidewalks on both sides of the street.
 - (5) Closed street systems are prohibited, but short cul-de-sacs less than 220 feet long that connect to the main grid system are allowed when consistent with the surrounding community.
 - (6) Street widths should be consistent with the surrounding community and sized to promote walkability and multi-modal use i.e., pedestrians, bikes, cars, trucks, buses, etc.).
 - (7) Roads, lighting, sidewalks, street furniture, utilities and other public facilities should enhance pedestrian circulation.
- j. Parking
 - (1) General: Flexibility for the number of parking spaces shall be considered if the project is pedestrian-oriented.
 - (2) Parking for private automobiles is provided based on safety, convenience, pedestrian and vehicular circulation, and proximity of public parking and public transportation.

- (3) The parking plan may provide a combination of off-street and on-street spaces.
- (4) Shared parking is encouraged. Shared drives serving no more than two (2) dwellings may be permitted.
- (5) As is practicable, at-grade off-street parking areas should be provided on the proposed development site. When possible, off-street parking should be located at the rear of the dwelling with alley access. When off-street parking cannot be located to the rear of the dwelling, it should be provided in a manner that is consistent with existing off-street parking patterns along the block face or immediate surrounding area.
- (6) All parking spaces shall be shown on the site plan.
- (7) Bicycle spaces shall be provided for commercial/employment and mixed-use projects.
- (8) A portion of the minimum parking requirements can be waived where ample public parking is available in close proximity within 300 feet of the proposed development site.

k. Findings Required

The Planning Commission or the Board of Appeals shall approve the plan upon finding that:

- (1) The plan accomplishes the purposes, objectives and minimum standards and requirements of the district;
- (2) The plan is in accordance with the *Perryville Comprehensive Plan*;
- (3) The plan is internally and externally compatible and harmonious with existing and planned land uses in the area;
- (4) Existing or planned public facilities are adequate to service the proposed development; and
- (5) The development staging program is adequate in relation to the provision of public facilities and private amenities to service the proposed development.

Section 215. Special Development Standards for the NB Neighborhood Commercial District

1. Food stores limited to no more than five thousand (5,000) square feet shall be permitted.
2. Professional offices limited to no more than five thousand (5,000) square feet shall be permitted.
3. Groups of vending machines shall be contained in a completely enclosed building.
4. Automobile parking lots and garages shall be permitted, but not used car lots or other lots used for automobile sale or storage.

5. Gas pumps shall be permitted so long as bulk storage of flammable liquids is underground.
6. Bakeries occupying more than five thousand (5,000) square feet of floor area shall be permitted.
7. Dry-cleaning and pressing pickup stations or shops occupying not more than two thousand five hundred (2,500) square feet of floor area and using no cleaning fluid whose base is petroleum or one (1) of its derivatives shall be permitted.
8. Shoe-repairing shops occupying not more than two thousand five hundred (2,500) square feet of floor area shall be permitted.
9. Shops for the sale, service or repair of home appliances, office machines, electrical equipment and television and radio equipment, and occupying not more than two thousand five hundred (2,500) square feet of floor area shall be permitted.
10. Wholesale establishments with not more than two thousand five hundred (2,500) square feet of accessory storage per establishment shall be permitted.

Section 216. Special Development Standards in the C-2 Commercial District [Amended 1/3/2017 by Ord No. 2016-21]

1. Amusement places and theaters, including open-air drive-in theaters shall be permitted.
2. Automobile and truck sales, service and repair, but not auto salvage or junk, shall be permitted provided that any major repair or storage of equipment, materials or damaged vehicles shall be inside a completely enclosed building or enclosed by a masonry wall, screening fence or hedge, not less than six (6) feet in height and subject to approval by the Planning Commission.
3. Bakeries occupying not more than five thousand (5,000) square feet of floor area shall be permitted.
4. Bottling works, dyeing and cleaning works or laundries, plumbing and heating shops, painting shops, upholstering shops not involving furniture manufacture, tinsmithing shops, tire sales and service (including vulcanizing and recapping but no manufacturing), appliance repairs and general service and repair establishments similar in character to those listed in this subsection shall be permitted provided there is no outside storage of materials and permitted uses in this item shall occupy more than six thousand (6,000) square feet of floor area.
5. Boat and boat trailer sales and storage, but not marinas, shall be permitted.
6. Farm implement sales, service, rental and repair, but not salvage or junk, shall be permitted provided that major repair or storage of materials or damaged or unusable implements or vehicles shall be inside a completely enclosed building.
7. Material storage yards in connection with a permitted use shall be permitted where storage is incidental to the approved occupancy of the building, provided that all products and materials used or stored are in a completely enclosed building or enclosed by a masonry wall, screening, fence or hedge not less than six (6) feet in height and subject to the approval of the Commission. Storage of all materials and equipment shall not exceed the height of the wall. Storage of cars and trucks used in connection with the permitted trade or business is permitted within the walls or

screen. Storage of heavy equipment, such as road-building or excavating equipment, shall not be permitted.

8. Monument sales establishments with incidental processing to order shall be permitted, but not including the shaping of headstones.
9. Radio and television stations and studios and recording studios shall be permitted, but not towers more than one hundred fifty (150) feet in height.
10. New and used car sales and storage shall be permitted subject to state regulations.
11. Wholesale establishments with not more than two thousand five hundred (2,500) square feet of accessory storage per establishment shall be permitted.
12. Automatic ice-distribution stations or other drive-in automatic vending machine stations shall be permitted. Groups of vending machines shall be contained in a completely enclosed building.
13. Banks, drive-in or otherwise, shall be permitted so long as driveway space shall be provided off the street for at least five (5) vehicles waiting for drive-in service.
14. Bakeries occupying no more than two thousand five hundred (2,500) square feet of floor area shall be permitted provided that all products produced on the premises shall be sold at retail on the premises.
15. Dry-cleaning and pressing pickup stations or shops occupying not more than two thousand five hundred (2,500) square feet of floor area and using no cleaning fluid whose base is petroleum or one (1) of its derivatives shall be permitted.
16. Filling stations shall be permitted so long as bulk storage of flammable liquids is underground.
17. Green houses incidental permitted flower shops shall be permitted.
18. Frozen-food lockers for individual or family use shall be permitted.
19. Laundries occupying not more than two thousand five hundred (2,500) square feet of floor area shall be permitted.
20. Laundry and dry-cleaning establishments (combined operation) occupying not more than five thousand (5,000) square feet of floor area and using no cleaning fluid whose base is petroleum or one (1) of its derivatives shall be permitted.
21. Shoe-repair shops occupying not more than two thousand five hundred (2,500) square feet of floor area shall be permitted.
22. Shops for the sale, service or repair of home appliances, office machines, electrical equipment and television and radio equipment and occupying not more than two thousand five hundred (2,500) square feet of floor area shall be permitted.
23. Storage of office supplies or merchandise normally carried in stock in connection with a permitted office, business or commercial use shall be subject to applicable district regulations.

24. Apartments within a principal commercial, office or business buildings limited to three (3) units per lot, as an accessory to a permitted use shall be permitted provided there shall be a minimum of three thousand four hundred (3,400) square feet of land area per apartment unit.

Section 217. Special Development Standards in the L-1 Limited Industrial District

Generally those light manufacturing uses similar to those listed in the Table of Permitted Uses which do not create any more danger to health and safety in surrounding areas and which do not create any more offensive noise, vibration, smoke, dust, odor, heat or glare, than that which is generally associated with light industries may be permitted in this district. The uses permitted in the I-1 Limited Industrial District shall be subject to the following special conditions:

1. All uses shall be conducted within a completely enclosed building with no open storage of raw, in-process or finished material and supplies or waste material. Finished or semi-finished products manufactured on the premises may be stored in the open or screened from the street by landscaping, fences or walks.
2. Notwithstanding the yard regulations for the district, no part of any building, accessory structure or sign shall be located closer than one hundred (100) feet to any residential district boundary.
3. All main plant buildings shall be of concrete, structural steel or masonry construction and limited to forty (40) feet in height unless otherwise approved by the Board of Appeals.
4. Adequate parking and loading space shall be provided off the street for all employees and traffic to the building, if necessary, in excess of the minimum requirements of Article XVI.
5. Loading operations shall be conducted at the sides or rear of buildings. Service drives or other areas shall be provided for off-street loading in such a way that, in the process of loading or unloading, no truck will block the passage of other vehicles on the service drive or extend into any other public or private drive or street used for traffic circulation.
6. No parking or storage of material or products shall be permitted in the required front yard.
7. All yards shall be landscaped with trees, grass, shrubs or pedestrian walks and maintained in a neat and attractive condition and shall meet the requirements of Article XVII.
8. All fencing shall have a uniform and durable character and shall be property maintained.
9. Beverage blending or bottling, bakery products, candy manufacture, dairy products and ice cream, fruit and vegetable processing and canning, packing and processing of fish, meat and poultry products shall be permitted but not distilling of beverages or slaughtering of poultry or animals, or processing or bulk storage of grain or feeds for animals or poultry.
10. Filling station, located in a district of fifty (50) acres or more and limited in land area to one (1) acre, and not including truck or trailer storage or mechanical servicing of trucks or trailers may be permitted.
11. Laboratories, research, experimental or testing shall be permitted, but not testing combustion engines or explosives.

12. Permitted accessory uses shall be limited to storage of goods used in or produced by permitted commercial and industrial uses or related activities, subject to applicable district regulations.
13. A single-family dwelling accessory to a farm of ten (10) acres or more may be permitted.

Section 218. Special Development Standards in the L-2 Light Industrial District

The uses permitted in the I-2 Light Industrial District shall be subject to the following special conditions:

1. Dwellings for resident watchmen and caretakers employed on the premises shall be permitted.
2. Open or enclosed building materials (cement, lime in bags or containers, sand, gravel, stone, lumber, structural or reinforcing steel, steel fabricating, pipe and the like) storage and sales shall be permitted but not manufacture of steel or junk storage.
3. Fertilizer storage in bags or bulk storage of liquid or dry fertilizer in tanks or in a completely enclosed building shall be permitted but not manufacture or processing.
4. Industrial vocational training schools, including internal-combustion engines, shall be permitted.
5. Blending only of insecticides, fungicides, disinfectants and related industrial and household chemical elements shall be permitted.
6. Experimental research laboratories shall be permitted but not including combustion engine testing.
7. Leather goods manufacture shall be permitted but not including tanning operations.
8. Meat products, packing and processing shall be permitted by not slaughtering.
9. Oleomargarine compounding and packing only shall be permitted.
10. Railroad switching yards, primarily for railroad service in the district, team tracks and spur tracks shall be permitted.
11. Accessory storage of goods or materials shall be limited those used in or produced by permitted industrial uses or related activities, subject to applicable district regulations.
12. A single-family dwelling accessory may be permitted on a farm of ten (10) acres or more.

Section 219. Swimming Pools, Commercial

A commercial swimming pool, including accessory buildings, may be permitted as a special exception by the Board of Appeals in the C-2 District upon a finding that such a use will not constitute a nuisance because of traffic, noise, or physical activity, provided that the following minimum lot area, frontage, and setback requirements shall be complied with:

1. Lot Area: five acres.

2. Frontage: 300 feet.
3. Swimming pools, recreation areas, and buildings shall be at least 200 feet from any residential zone.
4. 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 220. Swimming Pools, Community

A community swimming pool may be permitted as a special exception by the Board of Appeals in any residential zone upon a finding by the Board 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:

1. 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 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 or industrial 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 or industrial 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.
2. A public water supply shall be available and shall be used for the pool. A private supply of water for the pool may be permitted by the Planning Commission if use of a private supply of water will not adversely affect the water supply of the community.
3. 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.
4. 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 221. Temporary Emergency Construction, or Repair of Residence

1. Temporary residences used on construction sites of non-residential premises shall be removed immediately upon the completion of the project.
2. 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 (6) months after the date of

issuance, except that the Administrator may renew such permit for one additional period not to exceed three (3) 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.

3. Under the provisions of this section a single-wide manufactured home may be permitted for purposes of temporary emergency construction or during repair of residence.

Section 222. Highway Corridor Unified Development [Amended May 6, 2014 Ordinance 2014-02]

1. The purpose of Highway Corridor Unified Development is to provide for a comprehensive and coordinated site-wide approach to site and building design and ongoing maintenance for properties in the Highway Corridor Overlay District that desire to develop or redevelop jointly and whose lot widths, when combined, meet or exceed the minimum lot width requirement in the Highway Commercial C2 District, but one or more of which, individually, have less than the minimum required lot width.
2. Highway Corridor Unified Development is allowed as a Special Exception in the Highway Corridor Overlay District of the Highway Commercial C2 Zoning District in accordance with the provisions of this section.
3. An application for a Special Exception shall be filed by the owners of all lots that seek to be developed jointly as a Highway Corridor Unified Development. The application shall comply with the requirements of this section and shall contain sufficient information and documentation to demonstrate to the Board of Appeals that the proposed development will satisfy the requirements of this section.
4. Concurrently with, and as a part of, filing an application for a Special Exception, the applicants also shall file an application for Highway Commercial Overlay District site plan review by the Planning Commission as set forth in Section 152 of this Chapter. The Special Exception and Highway Commercial Overlay District site plan review applications shall include the same lots and treat those lots as one development site.
5. After the Planning Commission has completed its review of the proposed site plan as provided in Section 153 of this Chapter, the Planning Commission shall submit a written report and recommendation to the Board of Appeals. The Planning Commission's report and recommendation shall address:
 - A. Whether the Planning Commission finds that the site plan, either as proposed by the applicants or with conditions as recommended by the Planning Commission, would comply with the requirements for development in the Highway Corridor Overlay District as set forth in Part VI of this Chapter if the Board of Appeals grants the requested Special Exception; and
 - B. Whether the Planning Commission recommends that the Board of Appeals grant, grant with conditions, or deny the requested Special Exception.
6. The Board of Appeals may not grant a Special Exception for Highway Corridor Unified Development unless:

- A. The Planning Commission finds that the proposed site plan, either as proposed or with conditions as recommended by the Planning Commission, would comply with the requirements for development in the Highway Corridor Overlay District as set forth in Part VI of this Chapter if the Special Exception is granted;
 - B. The Board finds that the Special Exception will satisfy the requirements of this Section; and
 - C. The Board finds that the Special Exception will satisfy all of the requirements and conditions of Section 57 of this Chapter.
7. As authorized by Section 57-1.8 of this Chapter, the Board of Appeals may impose conditions when it grants a Special Exception for Highway Corridor Unified Development, except that the Board shall include as part of its grant of a Special Exception all conditions recommended by the Planning Commission necessary for the site plan to comply with the requirements for development in the Highway Corridor Overlay District as set forth in Part VI of this Chapter.
8. Before the Board of Appeals may grant a Special Exception for Highway Corridor Unified Development, the applicants must demonstrate and the Board must find all of the following:
- A. The lots that are proposed for Highway Corridor Unified Development:
 - 1) Are located in the Highway Corridor Overlay District;
 - 2) Are adjacent and contiguous to each other;
 - 3) All have frontage abutting U.S. Route 40;
 - 4) Collectively have a highway frontage that meets the minimum required lot width in the Highway Commercial C2 Zoning District; and
 - 5) Are suitable for Highway Corridor Unified Development taking into consideration the sizes, shapes, dimensions and topography of the lots, other lot or development site features, the availability and suitability of consolidated highway access for the development, and the nature of adjacent properties.
 - B. The proposed Highway Corridor Unified Development and related site plan will be a comprehensive and coordinated site-wide approach to site and building design and ongoing maintenance for the lots included on the site plan. This includes considering and addressing the following on a site-wide basis as part of the site plan and in related development documents:
 - 1) Entrances shall be consolidated or shared by the lots subject to State Highway Administration Access Permit approval;
 - 2) Parking;
 - 3) Vehicular and pedestrian circulation;

- 4) Storm water management and storm drainage;
 - 5) The provision of public water and sewer and other utilities to serve the development;
 - 6) Forestation and reforestation;
 - 7) Building architecture;
 - 8) Building and site signage;
 - 9) Landscaping;
 - 10) Exterior site lighting; and
 - 11) Assurances for perpetual coordinated property maintenance for the development.
- C. The lots that are part of a Highway Corridor Unified Development will be subjected to perpetual easements, cross-easements, covenants, restrictions and similar legal instruments as the Board of Appeals deems necessary to provide for comprehensive and coordinated site-wide treatment of the items described in Subsection 8.B.
9. The Board's granting of a Highway Corridor Unified Development Special Exception shall be subject to the condition, whether or not expressly stated in the Board's decision, that before the Town may issue any permits for the development the applicants shall:
- A. Submit all easements, cross-easements, covenants, restrictions and other legal instruments referred to in Subsection 8.C. to the Town Attorney for review and approval, at the applicant's expense; and
 - B. Record in the County Land Records, at applicant's expense, all such easements, cross-easements, covenants, restrictions and other legal instruments, and provide the Town Attorney with proof of such recording.
10. The grant of a Special Exception for a Highway Corridor Unified Development also includes approval of the site plan submitted with the application, or as may be modified during the application process, subject to any conditions that the Board of Appeals imposes as part of the grant of the Special Exception.
11. Except as expressly provided in Subsection 12 of this Section, the design, development and use of the proposed Highway Corridor Unified Development shall comply with all applicable requirements of this Chapter for development in the Highway Commercial C2 Zoning District and the Highway Corridor Overlay District.
12. Notwithstanding the provisions of this Chapter:
- A. A lot that is developed as part of a Highway Corridor Unified Development need not meet the minimum lot width required in the Highway Commercial C2 Zoning District.

- B. Buffer yards are not required along common lot lines separating lots that are part of a Highway Corridor Unified Development.
- 13. A Highway Corridor Unified Development may include any permitted use or, subject to additional approval by the Board of Appeals, any Special Exception use, allowed in the Highway Commercial C2 Zoning District.
- 14. All owners of the lots included as part of a Highway Corridor Unified Development Special Exception must join in any application to modify the Special Exception or approved site plan.

Section 223. Tattoo Services [Amended 1/3/2017 by Ord No. 2016-21]

Tattoo services as a business establishment in which tattooing is carried out professionally as permitted in CEMUD and C-2 Districts, provided:

- 1. No tattoo services shall be located nearer than 1,000 feet to another entity providing similar service.
- 2. Business entity must be registered with the State of Maryland and provide proof of good standing for Town file.
- 3. All personnel must adhere to rules set by the Occupational Safety and Health Administration (OSHA) and Centers for Disease Control & Prevention (CDC).
- 4. Operations shall be in compliance with all applicable laws, regulations, and ordinances of local and County Governments and the State of Maryland.
- 5. Routine inspections for compliance to hygiene and safety standards shall be completed as required by the local Health Department and copy of reports provided to the Town.

Section 224. Reserved

Section 225. Reserved

Section 226. Reserved

Section 227. Reserved

Section 228. Reserved

Section 229. Reserved

ARTICLE XII DENSITY AND DIMENSIONAL REGULATIONS

Section 230. Minimum Lot Size

1. Subject to the exceptions listed below all lots shall have at least the amount of square footage indicated for the appropriate zone.
2. If the owner of a lot in any district does not own a parcel or tract of land immediately adjacent to such lot, and if the deed or instrument under which such owner acquired title to such lot was of record prior to the application of any zoning regulations and restrictions to the premises, and if such lot does not conform to the requirements of such regulations and restrictions as to width of lots and lot area per family, the provisions of such lot-area-per-family and lot-width regulations and restrictions shall not prevent the owner of such lot from erecting a single-family dwelling or making other improvements on the lot, provided that such improvements conform in all other respects to applicable zoning regulations and restrictions.
3. Requirements for lot area per family do not apply to dormitories, fraternities, sororities and other similar living quarters which are accessory to a permitted use and which have no cooking facilities in individual rooms or apartments.
4. Requirements for lot area per family do not apply to rental units in a hotel, motel, or motor lodge.

Section 231. Residential Density

1. Subject to Subsection 2 and 3, every lot developed for residential purposes shall have the minimum number of square feet of land area per dwelling unit as required by the Schedule of Zone Regulations (Section 238).
2. In determining the number of dwelling units permitted on a tract of land, fractions shall be rounded to the nearest whole number.
3. Exceptions. In the layout of a subdivision, to permit flexibility of design and to encourage the most efficient use of land, up to 50% of the lots may be as much as 50% less than the required minimum lot area; provided, however, that the total area of all lots divided by the total number of lots shall average the minimum lot area required within the district.
4. Unless expressly provided for herein, no more than one principal use or structure shall be permitted per lot.

Section 232. Minimum Lot Widths

1. 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:
 - a. Could be used for purposes that are permissible in that zoning district, and

- b. Could satisfy any applicable setback requirements for that district.
- 2. The Schedule of Zone Regulations (Section 238) indicates minimum lot widths and depths that are recommended and are deemed presumptively to satisfy the standard set forth in Subsection 1.
- 3. 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.
- 4. Lot Shape. Excessive depth in relation to width should be avoided, with a proportion of 2.5 to 1 normally considered a desirable maximum for lot widths of 60 feet or greater with the shorter dimension oriented to the street frontage. Pointed or very irregular-shaped lots shall be avoided where possible. Additional depth of at least 20 feet over the minimum lot depth shall be required on lots that through lots.

Section 233. Building Requirements [Amended 1/3/2017 by Ord No. 2016-21]

- 1. Subject to other provisions of this section, no portion of any building or any freestanding sign may be located on any lot closer to any lot or property line than is authorized in the table set forth in this Section 238.
 - a. If the lot or property line is not readily determinable (by reference to a recorded map, set irons, or other means), the setback shall be measured from the boundary line of any adjacent right-of-way. If the boundary line of the right-of-way is not readily determinable the setback shall be measured from the centerline of the right-of-way and half the width of the right-of-way shall be added to the minimum setback requirement.
 - b. As used in this section, the term "lot boundary line" refers to lot boundaries other than those that abut streets.
 - c. 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 exceeds six feet in height and are substantially opaque.
 - d. Notwithstanding any other provision of this Chapter, a sign may be erected on or affixed to a structure that (1) has a principal function that is something other than the support of the sign (e.g., a fence), but (2) 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.
 - e. Whenever a lot abuts upon a public alley, the alley width may not be considered as a portion of the required yard.

- f. Where these regulations refer to side streets, the Zoning Administrator shall be guided by the pattern of development in the vicinity of the lot in question in determining which of two (2) streets is the side street.
- g. Every part of a required yard shall be open to the sky, except as authorized by this Chapter and except ordinary projections of sills, belt courses, window air-conditioning units, chimneys, cornices and ornamental features which may project to a distance not to exceed twenty-four (24) inches into a required yard.

2. Front Yards.

- a. Averaging setbacks for existing alignment. In any zone, when the average depth of front yard of existing buildings located within 200 feet of each side of a lot in the same block front is less than the least front yard depth prescribed for a building on such lot, then the least front yard of any building or structure on such lot shall not be greater than the average depth of said existing front yards, but shall be at least eight (8) feet. In no event shall any building be constructed closer than any setback established on a plat of record.
- b. Yard on street side of 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.
- c. 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 (5) feet of the otherwise required front yard depth.
- d. The Planning Commission may establish a “build-to line” in existing residential neighborhoods and the PUD District where the majority of existing residences are or will be located close to the street. Where established, the “build-to line shall dictate the placement of a building or structure from the street right-of-way line on which the building fronts. On a corner lot, the build-to line applies to both sides of the lot which have street frontage. The front porch shall be placed on the build-to line. Variations of 25 percent of the distance from the street right-of-way to the build-to line may be permitted to create variety in streetscape. Whenever a building does not front on a right-of-way, the build-to line shall be measured from the edge of the pavement of an access way in front of or on the side of the building.
- e. Where an official line has been established for the future widening or opening of a street or major thoroughfare upon which a lot abuts, then the depth of a front or side yard shall be measured from such official line. Unless otherwise provided, the right-of-way of any arterial street, so designated on the transportation plan, shall be assumed to extend forty (40) feet on each side of the center line of the existing right-of-way for the purpose of measuring front yards required by this Chapter.
- f. On through lots, the required front yard shall be provided on each street.
- g. There shall be a front yard of at least fifteen (15) feet on the side street of a corner lot in any district; provided, however, that the buildable width of a lot of record at the time of passage of this Chapter shall not be reduced to less than twenty-eight (28) feet.

- h. Open, unenclosed porches, platforms or paved terraces, not covered by a roof or canopy and which do not extend above the level of the first floor of the building, may extend or project into the front or side yard not more than six (6) feet.

3. Side Yards

- a. In the case of attached dwelling units, the entire structure shall be considered as a single building with respect to side yard requirements.
- b. Where a building in a commercial district is subject to the height, area and bulk requirements applicable to residential development under Section 238, the side yard requirements for residential development shall be applied only to the lowest floor (and all floors above it) which contains more than twenty-five percent (25%) of its area used for dwelling. All floors shall be subject to side yards required by these regulations for commercial buildings adjacent to residential districts.
- c. For the purpose of the side yard regulations, a group of business or industrial buildings separated by common or party walls shall be considered as one (1) building occupying one (1) lot.
- d. The minimum width of side yards for schools, libraries, churches, community houses and other public and semi-public buildings in residential districts shall be twenty-five (25) feet, except where a side yard is adjacent to a business or industrial district, in which case the width of that yard shall be as required in Section 238, Schedule of Zone Regulations for the district in which the building is located.

4. Rear yards

- a. 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 at all points be within five (5) feet of the otherwise required rear yard depth.
- b. Open or lattice-enclosed fire escapes, outside stairways and balconies opening upon fire towers and the or projections of chimneys and flues, may project into the required rear yard for a distance of not more than five (5) feet, but only where the same are so placed as not to obstruct light and ventilation.

- 5. 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.
- 6. 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.).
- 7. Whenever a private road that serves more than three lots or 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:

- a. 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.
- b. If the lot is also bordered by a public street, then the setback distance on lots used for residential purposes shall be measured from the inside boundary of the traveled portion of the private road.

8. Walls and Fences.

a. Definitions

- (1) *Fence* - Any structure regardless of composition, except a living fence, that is erected or maintained for the purpose of enclosing a piece of land or to divide a piece of land into distinct portions.
- (2) *Fence Height* - The distance measured from the existing grade to the top of the fence.

- b. Approval Required - No fence, wall or other type of construction shall be erected without the approval of the Zoning Administrator.
- c. Application for Permit - Any person or persons, corporation, firm or association intending to erect a fence or wall shall, before any work is commenced, make application for permit. Application shall be accompanied by a plan or sketch showing the proposed location of any fence, the material proposed to be used, which must be in accordance with this Chapter, and be accompanied by an appropriate fee. Upon approval by the Zoning Administrator, a permit shall be issued which will be in effect for a period of one (1) year from the date thereon.
- d. No sign, fence, wall, hedge, planting or other obstruction to vision, extending to a height in excess of three (3) feet above the established street grade, shall be erected, planted or maintained within the area of a corner lot that is included between the lines of the intersecting streets and a straight line connecting them at points twenty (20) feet distant from the intersection of the street lines.
- e. Height Limitations - An ornamental fence or wall not more than three and one-half (3½) feet in height may project into or enclose any required front or side yard to a depth from the street line equal to the required depth of the front yard. Ornamental fences or walls may project into or enclose other required yards, provided that such fences and walls do not exceed a height of six (6) feet.
- f. Location Restrictions - Any fence erected under this Chapter may be located on the property line except in the front yard. Any fence erected in a front yard shall be placed at least one (1) foot back from the front line and/or property line. No front yard fences are allowed in townhouse projects. The Planning Commission or Board of Appeals, as appropriate, may permit fences in excess of the maximums herein established in the CM-1, CM-2, C-2, LI-1, and the LI-2 Districts if determined that a taller fence is necessary for safety, security or screening purposes.
- g. Materials and Composition

- (1) Any fence, wall or similar structure, which may cause a nuisance, a fire hazard or a dangerous condition or an obstruction affecting the public safety is prohibited. Further, no fence shall be erected in a front yard in a residential district or along a public right-of-way unless the fence is uniformly less than fifty percent (50%) solid.
 - (2) The following fences and fencing materials are specifically prohibited:
 - (a) Barbed wire.
 - (b) Pointed fences less than three (3) feet in height.
 - (c) Canvas fences.
 - (d) Cloth fences.
 - (e) Electrically charged fences.
 - (f) Wiring fencing.
 - (g) Temporary fences such as snow fences.
 - (h) Expandable fences and collapsible fences, except during construction of a building.
 - (3) Approvals or permits for wire fences will be at the discretion of the Zoning Administrator. The Zoning Administrator will check for adequacy and safety.
 - (4) All chain link fences erected shall be erected with the closed loop at the top of the fence.
 - (5) All entrances or gates shall open into the property.
 - (6) A permit may be issued for the construction of a security fence for commercial and industrial properties, upon application.
 - (7) All fences or walls must be erected so as not to encroach upon a public right-of-way or easements unless a waiver is granted by the Town Commissioners of Perryville with the stipulation that the fence be removed or relocated upon request by appropriate town officials. All fences or walls must be erected with the property line, and none shall be erected so as to interfere with vehicular or pedestrian traffic or interfere with visibility on corner lots and/or other structures or vehicles, whether stationary or transitory, on public or private property.
- h. Powers and Duties of the Zoning Administrator - The Zoning Administrator shall have the authority to direct, in writing, the removal or modification of any fence, wall, hedge or other structure on private or public property wherever the same shall interfere with adequate visibility of operators of motor vehicles at street intersections or curbs. Any person who shall refuse or neglect to comply with the written direction of the Zoning Administrator shall be guilty of a violation of this Chapter and shall be subject to its penalties.

- i. Violation and Penalties - Any violator of any of this provision of this Chapter shall be guilty of a misdemeanor and shall be punished as provided in the Article VII.
 - j. Appeals - Any change, other than provided in the provision of this Chapter, as to height, area, size, location or materials uses, shall not be allowed unless approved by the Board of Appeals.
9. Projections.

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.

Section 234. Building Height Limitations [Amended 11-16-2007 by Res. No. 2007-17]

1. For purposes of this section:
 - a. 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.
 - b. The "height" of a wall or structure or a part of a building is the vertical distance from the highest point of a structure, excepting chimney or antenna on a building, to the average ground level of the grade where the walls or other structural elements intersect the ground.

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.
 - c. 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.
2. 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.
3. Exceptions to height limits. Notwithstanding other regulations in this Article or the maximum specified for the respective zone, the height limits of this Zoning Chapter shall not apply to the following:
 - a. Church spires, belfries, and cupolas, not for human occupancy; water towers, chimneys, flag poles, radio tower, masts, and aerials.
4. Television antennas are allowed in all zoning districts.
5. Where more than twenty-five percent (25%) of the total floor area of any building in a commercial district is used for dwelling purposes in a building which may also contain nonresidential uses, the minimum height, area and bulk requirements for residential development applicable in the district in which such building is located shall apply, subject to the side yard modification for mixed uses contained section 233.3. Where twenty-five percent (25%) or less of the total floor area of such building is used for dwelling purposes, the building shall be subject to the height, area and bulk requirements applicable to nonresidential buildings in the district. These provisions apply in all districts except the TC Town Center Commercial District.

6. Except within an area defined as an Airport Approach Zone by the Federal Aviation Agency, public and semipublic or public service buildings, hospitals, institutions or schools, when permitted in a district, may be erected to a height not exceeding sixty (60) feet, and churches and temples may be erected to a height not exceeding seventy-five (75) feet when the required adjacent yards are each increased by at least one (1) foot for each one (1) foot of additional building height above the height regulations for the district in which the building is located.
7. Notwithstanding any other provisions of this Chapter, no places of public assembly, including, but without limitation, schools, churches, hospitals, theaters and assembly halls, shall be erected or otherwise located within any area which would be classified as an Airport Approach Zone within a distance of eleven thousand (11,000) feet from the end of any airport runway.
8. Notwithstanding the maximum building height specified in The Schedule of Zone Regulations in Section 238, in the L-2 Light Industrial District, where the average ground level of the lot or parcel of land upon which the building or structure is to be erected is less than one hundred fifty (150) feet above sea level the maximum height of a building or structure may be increased to not more than one hundred twenty (120) feet subject to and in accordance with the following:
 - (a) The required adjacent yards shall be increased by ten (10) feet for each ten (10) feet, or fraction thereof, of building or structure height in excess of seventy-five (75) feet.
 - (b) Not more than thirty percent (30%) of the gross horizontal area of the building or structure measured from the exterior faces of the exterior walls at ground level (the building "footprint") may exceed a height in excess of seventy-five feet.

Section 235. Density on Lots Where Portion Dedicated to the Town

1. Subject to the other provisions of this section, if (1) 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 (2) 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.
2. If the proposed use of the remainder is a single-family detached residential subdivision, then the minimum lot size and minimum setbacks in such subdivision may be reduced, as determined appropriate by the Planning Commission to achieve the development, and the permitted density shall be calculated by regarding the dedicated portion of the original lot as if it were still part of the lot proposed for development.
3. 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.
4. If the portion of the tract that remains after dedication as provided in Subsection 1. 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 2. and 3.

Section 236. Reserved

Section 237. Reserved

Section 238. Schedule of Zone Regulations [Amended 9-2-2008 by Ord. No. 2008-2]

Use	Minimum Lot Requirements				Minimum Yard				Height	
	Total	Per Family	Width (feet)	Depth (feet)	Front (feet)	Side (feet)	Aggregate (feet)	Rear (Feet)	Feet	Stories
RESIDENTIAL										
R-1 Single Family										
- 1 Family	10000	10000	70	100	30	10	20	30	35	21/2
R-2 Single Family										
- 1 Family	7000	7000	50	100	20	8	20	20	35	21/2
- 2 Family	12000	6000	50	100	20	--	20	20	35	21/2
R-3 Multi-Family										
- 1 Family	5000	5000	50	80	15	8	16	--	35	--
- 2 Family	10000	5000	50	80	15	8	16	--	40	--
- Apartments	40000	3400	125	100	25	20	40	--	40	--
- Townhouses	40000	2000	18	100	15	--	--	--	40	--
MIXED-USE										
TC Town Center Mixed-Use										
- Commercial	--		--	--	--	--	--	--	50	4
- 1 Family	5000	5000	40	80	10	5	12	15	35	21/2
- 2 Family	10000	5000	50	80	10	5	12	15	35	21/2
- Townhouse	10000	2000	18	100	15	--	--	--	35	21/2
RM Residential Marine										
- Commercial Marina	--		--	--	--	--	--	--	50	4
- 1 Family	5000	5000	40	80	10	5	12	15	35	21/2
- Townhouse	10000	2000	18	100	15	--	--	--	35	21/2

- Multi-Family Apartments	40,000	3,400	125	100	25	20	40	40	40	--
COMMERCIAL										
NB Neighborhood Business	20000		100	100	25	10	25	12	35	21/2
C-2 Highway Commercial	40000		300	100	20	10	25	12	40	3
CM- 1 Commercial Maritime	20000		100	100	25	10	25	12	40	--
CM- 2 Commercial Maritime	20000		100	100	25	10	25	12	40	--
INDUSTRIAL										
L-1	40000		150	150	50	20	50	50	50	--
L-2	20000		250	250	50	75	200	50	75	--

ARTICLE XIII RECREATIONAL FACILITIES AND OPEN SPACE

Section 239. Neighborhood Parks Required

In order to implement the Open Space and Recreation objectives for Perryville, all residential subdivisions shall provide recreation opportunities according to the following subsections:

1. Subject to Subsection 3., all residential developments in the Town shall provide, at a minimum, recreational areas in the form of neighborhood parks in an amount equal to the standards set forth in Subsection 2.
2. For purposes of this section, neighborhood park areas shall be 0.005 acres per residential unit and shall not be less than 5,000 square feet.
3. The Town Commissioners may permit payment of a fee in-lieu, dedication, reservation or a combination whenever the requirements in Subsections 1. and 2. cannot adequately meet the open space 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 in-lieu shall be on a per-dwelling-unit basis as established by the Town of Perryville. The fee shall be listed with the annual schedule of fees for the Town and may change from time to time. 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.
4. In the case of large proposed developments, which are hereafter defined as any developments over 50 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.
5. When park or recreational facilities approved for dedication are completed and accepted, a deed shall be conveyed to the Town of Perryville, 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 assure preservation of its intended purposes.

Section 240. Neighborhood Parks: Purpose and Standards

1. 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.
2. 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).

3. 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.
4. 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.
5. Each neighborhood park shall be constructed on land that is relatively flat, dry, free of nontidal wetlands, and capable of serving the purposes intended by this article.

Section 241. Provision of Common Open Space

The minimum common open space that shall be provided is as specified in Section 240. Open space (spaces designed and intended for the use and enjoyment of all residents of the development) may contain such complimentary structures, 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:

1. Common open space areas shall:
 - a. Be exclusive of tidal wetlands and road rights-of-ways/parking areas;
 - b. Equal or exceed remaining percentages of the gross site area (maintenance of areas of productive farmland may serve to meet open space requirements);
 - c. No more than 40 percent of the open space required shall consist of those areas designated as nontidal wetlands.
2. 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.
3. Common open space will 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 242. Open Space Requirement - Ownership

1. Private Ownership. If joint use facilities are not dedicated to public use, they shall be protected by legal arrangements, satisfactory to the Planning Commission, 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.

2. 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 County or Town Open Space and Recreation Plan.

Section 243. Management of Common Open Space Property

The developer shall insure 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:

1. 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.
2. The financial and organizational structures, rules of membership, and methods of cost assessment of the organization shall be devised to insure the successful fulfillment of the maintenance, preservation and improvement responsibilities of the organization.
3. The organization responsible for maintenance, preservation, and improvement of common open space lands, and all property owners within the cluster development shall be permitted to participate in such organization.
4. Areas set aside to meet the open space requirements hereof shall be adequately described. Instruments in the form of deed restrictions and/or covenant shall be provided to insure the purpose for which the open space is provided will be achieved. Said instruments shall be approved by the Planning Commission, and Public Works Department prior to recordation among the Land Records of Cecil County.

Section 244. 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, which shall be submitted with the final subdivision plat, as described in the Perryville Subdivision Regulations, which surety shall secure an agreement to construct such required physical improvements as identified in the Proposed Plan of Development.

Section 245. Homeowners Associations

Homeowners associations or similar legal entities that, pursuant to Section 243, are responsible for the maintenance and control of common areas, including recreational facilities and open space, shall be established in such a manner that:

1. Provision for the establishment of the association or similar entity is made before any lot in the development is sold or any building occupied;
2. The association or similar legal entity has clear legal authority to maintain and exercise control over such common areas and facilities;
3. 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; and
4. Each purchaser of a lot or unit is given adequate and specific notice of the homeowner association requirements and the association's authority to compel compliance.

Section 246. Flexibility in Administration Authorized

1. 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, or 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: (a) the objectives underlying these standards can be met without strict adherence to them; and (b) 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.
2. Whenever the permit-issuing board authorizes some deviation from the standards set forth in this article pursuant to Subsection 1., the official record of action taken on the development shall contain a statement of reasons for allowing the deviation.

ARTICLE XIV UTILITIES AND IMPROVEMENTS

Section 247. 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 248. Underground Utilities

1. 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.
2. 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 249. Utilities To Be Consistent With Internal and External Development

1. 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.
2. 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 250. 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:

1. 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.

2. 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 251. Lighting Requirements

1. All entrances and exits in 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.
2. 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 when it substantially interfere with the use or enjoyment of neighboring properties.
3. Street lights shall be decorative and blend with the architectural style of the community.
4. Streets and sites shall provide adequate lighting while minimizing adverse impacts, such as glare and overhead sky glow, on adjacent properties and the public right-of-way. House side shields shall be provided where abutting a residential use.
5. Along all commercial or mixed use streets, parking areas, sidewalks, walkways, courtyards, community greens, and interior open spaces in a planned unit developments, twelve foot high decorative lamp posts shall be provided at regular intervals. Posts shall be spaced at no greater than 80 feet on center on both sides of a commercial or main street. Lighting on residential streets should be confined to intersections and corners. Lighting standards shall be consistent throughout the development.
6. In parking lots, post heights may be extended to a maximum of sixteen feet.
7. Use of minimum wattage metal halide or color corrected sodium light sources is encouraged. Non-color corrected low pressure sodium and mercury vapor light sources are prohibited in residential districts, the CM, NB and TC Districts.
8. Porch light and yard post lighting shall be incorporated into the street lighting design in residential developments.

Section 252. Lighting Standards

1. 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 are 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.
2. 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.

3. 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 Subsection 2. 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 and of this Chapter and the following conditions:
 - a. The outdoor recreational uses specified above shall not exceed a maximum permitted post height of 40 feet.
 - b. The outdoor recreational uses specified above may exceed a total cutoff angle of 90 degrees, provided that the luminaire is shielded in either its orientation or by a landscaped buffer yard to prevent light and glare spill-over to adjacent residential property. The maximum permitted illumination at the interior buffer yard line shall not exceed 2 foot-candles.
4. Additional regulations. Notwithstanding any other provision of this section to the contrary:
 - a. No flickering or flashing lights shall be permitted.
 - b. Light sources or luminaires shall not be located within buffer yard areas except on pedestrian walkways.
5. Exterior lighting plan. At the time any exterior light is installed or substantially modified, and whenever a zoning certificate is sought, an exterior lighting 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 253. Sites For and Screening of Dumpsters

1. 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:
 - a. 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
 - b. Constructed according to specifications established by the Town to allow for collection without damage to the development site or the collection vehicle.
2. All such dumpsters shall be screened if and to the extent that, in the absence of screening, they would be clearly visible to:
 - a. Persons located within any dwelling unit on residential property other than that where the dumpster is located.
 - b. Occupants, customers, or employees located within any building on nonresidential property other than that where the dumpster is located.

- c. Persons traveling on any public street, sidewalk, or other public way.
- 3. 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.

Section 254. Curbs and Gutters

The Planning Commission shall require curbs and gutters on the entire street frontage of any parcel or lot developed as a commercial, industrial or institutional use. Curbs and gutters shall be built to the construction standards and specifications currently in use by the State Highway Administration of Maryland. Curb cuts and driveways shall be built according to the following schedule:

- 1. There shall be a maximum of two (2) curb cuts per parcel or lot per street frontage, unless the parcel or lot has over three hundred (300) feet of width as measured at the street line.
- 2. Curb cuts shall be no less than eighteen (18) feet wide for one-way operation or no less than twenty-four (24) feet wide for a two-way operation; maximum width per curb cut shall be thirty - five (35) feet. In no case shall over sixty percent (60 %) of the street frontage per parcel be allowed as curb cuts for any entrances or exits into commercial, industrial or institutional uses.

ARTICLE XV SIGNS [Amended 7-10-2012 by Ord. No. 2012-3]

Section 255. General Regulations

No sign shall be erected, placed, attached, altered, reconstructed or modified until an application has been filed, and until a permit for such action has been issued, except as otherwise provided in Section 262 and Section 263, and must conform to all State and Federal requirements, if applicable. At a minimum, all applications shall include a scale drawing specifying dimensions, materials, illumination, letter sizes, colors, support system, and location on land or building with all relevant measurements and shall conform to the following regulations:

1. No flashing or rotating signs, or tethered inflatable signs, such as soda cans, merchandise, logos, etc., or signs containing reflective elements which sparkle or twinkle in the sunlight shall be permitted in any district.
2. No sign shall be fastened to, and supported by, or on the roof of a building; and no projecting sign shall extend over or above the roof or a parapet wall of a building.
3. All real estate signs advertising property for sale shall be removed within thirty (30) days following the sale of the property.
4. Public service, civic organization and political signs shall be permitted, provided:
 - a. The signs are unlighted or indirectly lighted;
 - b. The sign area is less than fifteen (15) square feet;
 - c. The signs meet all applicable state and federal regulations;
 - d. Political signs shall be removed not later than fifteen (15) days following the election. No political signs shall exceed 16 square feet of surface area.
 - e. Temporary sale signs are permitted in commercial and industrial zones without obtaining a permit if the business does not exceed the overall maximum sign area allowed for the property under this Chapter. If the property owner seeks to exceed the maximum allowable signage, then the Planning Commission may grant a temporary permit for such use. Sign must be removed fifteen (15) days after the event. If the sign is not removed after 15 days, the Town shall send a notice of violation of the provisions of this subsection to the property owner. If, after twenty-four (24) hours after the service of notice, the sign has not been removed, the property owner shall be liable for penalty under this Chapter.
5. Every sign shall have good scale and proportion in its design and in its visual relationship to buildings and surroundings.
6. Every sign shall be designed as an integral architectural element of the building and site to which it principally relates.
7. The colors, materials, and lighting of every sign shall be restrained and harmonious with the building and site to which it principally relates.

8. 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.
9. Each sign shall be compatible with the signs on adjoining premises and shall not compete for attention.
10. Identification signs of a prototype design and corporation logos shall conform to the criteria for all other signs.
11. Signs may be subject to additional requirements of Article IX, Part VI, Highway Corridor Overlay District.

Section 256. Permitted Signs and Standards for the R-1, R-2, and R-3 Districts

Signs permitted in the Residential Zones R-1, R-2, and R-3 shall be limited to the following:

1. An unlighted real estate signs not exceeding four (4) square feet in area.
2. One on-site, indirectly illuminated sign not to exceed fifteen (15) square feet in area identifying an apartment structure having a minimum of one hundred (100) feet of street frontage. The maximum height of the sign shall be six (6) feet.
3. One on-site indirectly illuminated sign not to exceed thirty-two (32) square feet in area shall be permitted in conjunction with a building of a public or semi-public nature. The maximum height of the sign shall be six (6) feet.
4. One sign, not exceeding sixteen (16) square feet in area is permitted in conjunction with an approved special exception use except where signage is provided for in other sections of this Chapter.
5. Banners and pennants are prohibited except as provided for in Section 211 - Special Event Signs.

Section 257. Permitted Signs and Standards for the NB District

Signs permitted in the Neighborhood Business district (NB) shall be limited to the following:

1. Unlighted real estate signs not to exceed sixteen (16) square feet in area.
2. One on-site free standing sign not to exceed one (1) square foot of area for each one (1) linear foot of street frontage; however, such sign shall not exceed sixty-four (64) square feet in area nor need be smaller than twenty (20) square feet. The maximum height of such sign shall be twenty-five (25) feet.
3. A flat sign, not projecting more than nine (9) inches from the side of the building and not exceeding a maximum of 64 square feet of signage. One flat sign is permitted of sign area per street frontage.

4. Projecting signs extending not more than seventy two (72) inches from the front of the building. Signs may not be larger than 12 square feet, and must be at least 7 feet from the ground. The sign shall advertise only the business conducted in the building to which it is attached.

Section 258. Permitted Signs and Standards for the TC and RM Districts

Signs permitted in the Town Center (TC) and Residential Marine (RM) districts shall be limited to the following:

1. Unlighted real estate sign not to exceed sixteen (16) square feet in area.
2. One indirectly lit freestanding sign not exceeding nine (9) square feet in area or one directly lit projecting sign extending not more than seventy two (72) inches from the front of the building. Signs may not be larger than nine (9) square feet in area and must be at least seven (7) feet from the ground. The sign shall advertise only the business conducted in the building to which it is attached. Corner lots having a minimum of 100 feet of street frontage may install one indirectly lit freestanding sign not exceeding twenty-four (24) square feet in area in lieu of preceding signage. Additionally, freestanding sign must be set back ten (10) feet from the property line.
3. One indirectly lit flat sign, not projecting more than nine (9) inches from the side of a building. The sign area is not to exceed one (1) foot of area per linear foot of street frontage or 64 square feet, whichever is less.
4. Signs for non-residential uses shall comply with the guidelines in Section 214 Development Standards in the TC District. Plastic signs are discouraged unless they are being used under the provisions of Section 171 as a banner or pennant.
5. In addition to the freestanding sign permitted in 2. above, one sandwich board or pedestal sign provided:
 - a. Only one sandwich board or pedestal sign shall be allowed for any single building; provided, however, that where more than one (1) business occupies a building, each business may have a sandwich board or pedestal sign;
 - b. Notwithstanding (5)(a), a minimum separation of twenty (20) feet shall be maintained between sandwich boards or pedestal signs;
 - c. Sandwich boards or pedestal signs on public or private property shall not exceed twenty-four (24) inches in width and thirty-six (36) inches in height; provided, however, that a minimum unobstructed sidewalk width of forty-two (42) inches shall be maintained;
 - d. No sign shall be placed in a manner which obstructs the vision clearance at a street intersection; and
 - e. Sandwich boards or pedestal signs located within a public right-of-way shall be placed within that portion of the public right-of-way which abuts the building containing the business or use, provided an encroachment permit has been secured from the Zoning Administrator.

6. A-Frame Signs. A-frame signs are permitted for retail businesses that 1) primarily sell perishable goods; or 2) are not visible from a public street and have no options available to provide signage visible from a public street. A-frame signs shall meet the following requirements:
 - a. Each business shall not have more than one (1) A-frame sign;
 - b. A-frame signs shall be placed on private property and shall be located on the same parcel as the business which qualifies for said sign;
 - c. A-frame signs shall be removed during non-business hours; and
 - d. The area of an A-frame sign shall not exceed ten (10) square feet.
7. An awning sign may be permitted by the Zoning Administrator under the following conditions:
 - a. No sign shall project from an awning.
 - b. Awning graphics may be painted or affixed flat to the surface of the front or sides, shall indicate only the name and/or address of the enterprise or premises.
 - c. Awning graphics shall be a single line of lettering not exceeding six (6) inches in height, but if over three (3) inches in height, shall be debited against the permitted wall sign surface area.
 - d. No awning sign shall be internally illuminated.
8. Projecting Signs
 - a. A wall-mounted sign perpendicular to the building surface.
 - b. If flat, each face shall not exceed ten (10) sq. ft.
 - c. The total area of a three dimensional sign shall be determined by enclosing the largest cross-section of the sign in an easily recognizable geometric shape and computing its area which shall not exceed nine (9) sq. ft.
 - d. Such sign shall be hung at right angles to the building and shall not project closer than two (2) feet to the curb line.
 - e. The supporting framework shall be in proportion to the size of such sign.
 - f. Signs which overhang a public way (including sidewalks) shall be covered by a public liability insurance policy in an amount specified by the Town and which names the Town as the insured party.
 - g. The top of the sign may be suspended in line with one of the following, whichever is the most successful application of scale, linear continuity, and visibility as determined by the Zoning Administrator:

- (1) suspended between the bottom sills of the second story windows and the top of the doors and windows of the ground floor; or,
 - (2) the lowest point of the roof of a one story building.
- h. Projecting signs shall have a minimum clearance of eight (8) feet above grade when located adjacent to or projecting over a pedestrian way. If projecting over an alley or driveway, the clearance must be at least thirteen (13) feet.

Section 259. Permitted Signs and Standards for the C-2, CM-1 and CM-2 Districts

- 1. Signs permitted in the Highway Commercial Zone (C-2) district shall be limited to the following:
 - a. Unlighted real estate signs, total sign area not to exceed forty (40) square feet.
 - b. One detached on-site sign not to exceed fifteen (15) square feet in area for each twenty (20) linear feet of street frontage; however, such sign shall not exceed eighty (80) square feet in area.
 - c. Flat signs not to exceed fifteen (15) square feet in area for each twenty (20) linear feet of street frontage, however such signs shall not exceed a maximum of thirty (30) square feet or 20 percent of the wall on which it is located.
 - d. Except as otherwise noted where a shopping center building or structure has multiple frontage, the number of signs permitted for single frontage may also be permitted for the additional frontage as determined by the Planning Commission.
- 2. Signs permitted in the CM-1 and CM-2 districts shall be limited to the following:
 - a. Unlighted real estate signs, total sign area not exceeding twenty (20) square feet.
 - b. One detached, on-site sign, not exceeding forty-eight (48) square feet in area and not to exceed six (6) feet in height.
 - c. One flat signs not exceeding forty-eight (48) square feet.

Section 260. Permitted Signs and Standards for the L-1 and L-2 Districts

Signs permitted in the Limited Industrial Zone (L-1) and Light Industrial districts (L-2) shall be limited to the following:

- 1. Unlighted real estate signs not to exceed forty (40) square feet in area.
- 2. A flat sign not to exceed fifteen (15) square feet in area for each twenty (20) linear feet of street frontage; however, such signs shall not exceed a maximum of one hundred (100) square feet or twenty (20) percent of the wall on which it is located.

3. One on-site, detached sign not to exceed fifteen (15) square feet in area for each twenty (20) linear feet of street frontage; however, such signs shall not exceed one hundred (100) square feet in area.

Section 261. Master Signage Plan

1. A master signage plan shall be required for any proposed shopping center, industrial park, or other commercial, business, institutional or industrial development that involves more than one use on a single property or is part of a unified development plan. No permit shall be issued for an individual sign requiring a permit unless and until a Master Signage Plan has been approved by the Planning Commission. Any amendment to an approved Master Signage Plan must be approved by the Planning Commission.
2. Information Required. A Master Signage Plan shall contain the following information:
 - a. An accurate plot plan of the proposed development site, at such scale as the Zoning Administrator may reasonably require;
 - b. Location of buildings, parking lots, driveways, and landscaped areas;
 - c. Computation of the maximum total sign area, the maximum area for individual signs, the height of signs and the number of freestanding signs and banners allowed on the zone lot(s) included in the plan under this Chapter;
 - d. Sign plans and, if requested, photo simulation of the signs in the proposed location; and
 - e. An accurate indication on the plot plan of the proposed location of each present and future sign of any type, whether requiring a permit or not, except that incidental signs need not be shown.
3. Proposed standards for consistency among all signs affected by the Master Signage Plan with regard to:
 - a. Color scheme;
 - b. Lettering or graphic style;
 - c. Lighting;
 - d. Location of each sign on the buildings;
 - e. Material; and
 - f. Sign proportions.
4. No sign permit shall be issued for a sign included in a master signage plan that does not conform to the standards of the master signage plan. A master signage plan may be amended at any time.
5. The following principles shall control the computation of sign area and sign height.
 - a. Computation of Area of Individual Signs. The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass 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 is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.

- b. **Computation of Area of Multi-faced Signs.** The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.
- c. **Computation of Height.** The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of (1) existing grade prior to construction or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zone lot, whichever is lower.

Section 262. Signs Excluded From Regulation

The following signs are exempt from regulation under this Chapter.

- 1. Signs not exceeding four (4) square feet in area that are customarily associated with residential use and that are not of a commercial nature, such as (a) signs giving property identification names or numbers or names of occupants, (b) signs on mailboxes or newspaper tubes, and (c) signs posted on private property relating to private parking or warning the public against trespassing or danger from animals.
- 2. 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.
- 3. Official signs of a noncommercial nature erected by public utilities.
- 4. Flags, pennants, or insignia of any governmental or nonprofit organization when not displayed in connection with a commercial promotion or as an advertising device.
- 5. 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.
- 6. Signs directing and guiding traffic on private property that do not exceed four (4) square feet each and that bear no advertising matter.

7. Church bulletin boards, church identification signs, and church directional signs that do not exceed one (1) per abutting street and sixteen (16) square feet in area and that are not internally illuminated.
8. Signs painted on or otherwise permanently attached to currently licensed motor vehicles that are not primarily used as freestanding signs.
9. Signs proclaiming religious, political, or other noncommercial messages that do not exceed one per abutting street and sixteen (16) square feet in area and that are not internally illuminated.

Section 263. Certain Temporary Signs: Permit Exemptions and Additional Regulations
[Amended 1/3/2017 by Ord No. 2016-21]

1. The following temporary signs are permitted without a zoning, special-use, or sign permit. However, such signs shall conform to the requirements set forth below as well as all other applicable requirement of this Chapter.
 - a. 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 size specifications for each district and shall be removed immediately after sale, lease, or rental. One such sign per street frontage shall be permitted. For lots of five acres or more in area and having a street frontage in excess of 400 (four hundred) feet, a second sign may be erected.
 - b. 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 thirty-two (32) square feet in area in a non-residential zone and twenty (20) square feet in residential zone. Such signs shall not be erected prior to the issuance of a building permit and shall be removed within ten (10) days after the issuance of the final occupancy permit.
 - c. Signs attached temporarily to the interior of a building window or glass door. Such signs, individually or collectively, may not cover more than seventy-five (75) 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.
 - d. Displays, including lighting, erected in connection with the observance of holidays. Such signs shall be removed within ten (10) days following the holidays.
 - e. Signs erected in connection with elections or political campaigns. Such signs shall be removed within fifteen (15) days following the election or conclusion of the campaign. No such sign may exceed 16 square feet in surface area.
 - f. Temporary signs to advertise events. Signs shall measure no larger than eighteen (18) inches by twenty-four (24) inches and must be removed within fifteen (15) days after the event.

Section 264. Sign Illumination and Signs Containing Light

1. Unless otherwise prohibited by this Chapter, signs may be illuminated if such illumination is in accordance with this section.
2. No sign within one hundred fifty (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.
3. 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.
4. Except as herein provided, (a) internally illuminated signs are not permissible in the R-1, R-2, and R-3 zoning district, and (b) 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:
 - a. 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.
 - b. 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.
5. Subject to Subsection 7, illuminated tubings or strings of lights that outline property lines, sales areas, roof lines, doors, windows, or similar areas are prohibited.
6. Subject to Subsection 7, 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.
7. Electronic Message Signs – A computer programmable sign capable of displaying words, symbols, figures, or picture images that can be altered or rearranged on site or by remote means without altering the face or surface of the sign, subject to the following:
 - a. Permitted as part of a freestanding/monument sign in Commercial District (C-2), or non-profit, tax-exempt organization in other districts, with review by the Planning Commission to determine consistency with general provisions, scale, and character of the Town of Perryville;
 - b. All text displayed to be static for a minimum of ten (10) seconds, subject to approval by State and Federal authority;
 - c. The continuous scrolling of text, animated images or images which move, or give the appearance of movement or flashing are prohibited;
 - d. All electronic message signs shall have automatic dimming capabilities that adjust the brightness to the ambient light at all times of day or night;

- e. Electronic message signs shall be programmed to “freeze” or go blank if there is a malfunction, so that flashing or other distracting movement does not result;
- f. All indoor electronic message signs visible from a public right-of-way shall not be larger than two (2) square feet and are subject to all conditions and standards of this Ordinance;
- g. Subject to all size and setback requirements for the Zoning District.

Section 265. Location and Height Requirements

- 1. Freestanding signs shall be setback from streets by at least one-half the distance required for building setbacks set forth in Article XV.
- 2. 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.
- 3. 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. Signs which overhang a public way (including sidewalks) shall be covered by a public liability insurance policy in an amount specified by the Town and which names the Town of Perryville as the insured party.
- 4. No part of a freestanding sign may exceed a height, measured from ground level, of 25 feet in the TC, C-2, L-1, and L-2 districts and 15 feet in all other districts.

Section 266. Miscellaneous Restrictions and Prohibitions

- 1. No off-premises signs may be located in any district except as provided for in Section 270.2.b.
- 2. 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.
- 3. 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 (a) is not a primary design feature of the sign, and (b) is not intended to attract attention to the sign. The restriction of this subsection shall not apply to signs specified in Subdivision 8 or to signs indicating the time, date, or weather conditions.
- 4. 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.

5. 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.
6. No sign shall be placed on or about public property or within any public right-of-way except those installed by the Maryland State Highway Administration and the Town of Perryville for public safety and welfare or pursuant to any Governmental function, law, ordinance, or other regulation.

Section 267. Maintenance of Signs

1. 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.
2. If a sign, other than a billboard, advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating such sign shall be removed within 30 days after such abandonment by the sign owner, owner of the property where the sign is located, or other party having control over such sign.
3. 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 thirty (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 269, which prohibits the replacement of a nonconforming sign. Nor shall this subsection be construed to prevent the changing of the message of a sign.
4. 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 268. 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:

1. 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.
2. 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;

3. In any area where such trees or shrubs are required to remain under a permit issued under this Chapter.

Section 269. Non-conforming Signs

1. 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.
2. A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this Chapter.
3. If a nonconforming sign is destroyed, 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 statue or replacing it with an equivalent sign equals or exceeds the value (tax value if listed for tax purposes) of the sign so damaged.
4. 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).
5. 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, fifty (50) percent of the value (tax value if listed for tax purposes) of such sign.
6. 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.
7. 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:
 - a. It advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted; or
 - b. The advertising message it displays becomes illegible in whole or substantial part.
8. Non-conforming off-site signs shall be subject to the requirements of Article VIII, Section 88.

Section 270. Banners, Pennants and Special Event Signs

1. Special Event Signs

- a. A carnival, fair, circus, festival or similar event as determined by the Town may locate banners, flags and pennants provided:
 - (1) A permit is obtained containing the date of the event.
 - (2) These signs may be displayed no more than one week prior to the event and must be removed no more than five (5) days after the event, except non-profit organizations may display these signs no more than four weeks prior to the event and must remove them no more than five (5) days after the event.
 - (3) These signs must be located on-site.
 - (4) The event occurs no more than once a year.
- b. A carnival, fair, circus, festival or similar event, as determined by the Town may display off-premise signs provided:
 - (1) Written permission is obtained from the property where the sign is to be located and is provided to the town.
 - (2) A permit is obtained stating location, wording and date of event. Sign information must be limited to event name, date, location and sponsor.
 - (3) No more than 4 signs per event may be erected.
 - (4) Signs may not exceed thirty-two (32) square feet in area per sign.
 - (5) They may be erected no more than 4 weeks prior to the event and must be removed no more than 5 days after the event.

2. Grand Opening Signs

- a. A grand opening or grand re-opening is permitted to use banners, pennants or flags provided:
 - (1) They are not displayed more than two (2) weeks.
 - (2) A permit must be obtained which would include number, and type of all banners as well as the date of the event.
 - (3) In the TC District, the “grand opening” banner may only be one provided by the Town. Pennants and flags are not permitted.
- b. A grand opening or grand re-opening is permitted to display two (2) off-premise signs provided:

- (1) Written permission is obtained from the owner of the property where the sign is to be located and is provided to the Town.
- (2) A permit must be obtained stating locations, date of event and wording on sign.
- (3) Signs may only indicate grand-opening or re-opening, name of business, merchandise available, date of event, location of business and owner's name. These signs shall not include prices.
- (4) Signs are not displayed more than 2 weeks prior to the event and must be removed no more than 1 week after the event.
- (5) Signs shall not exceed thirty-two (32) square feet in area.

3. Special Sales Signs

- a. Banners may be used to advertise a sale provided:
 - (1) Not more than 2 banners may be displayed on any lot at any one time.
 - (2) It does not exceed twenty-four (24) sq. ft. in size.
 - (3) They are displayed no more than 2 weeks at a time and 6 times in any one year period.
 - (4) A permit shall be required stating size of banners, date to be displayed, business name and number of banners displayed.
- b. Commercial centers in C-2 areas may use banners to advertise a sale provided:
 - (1) Not more than 4 banners may be displayed on any lot at any one time.
 - (2) It does not exceed twenty-four (24) sq. ft. in size.
 - (3) They are displayed no more than 2 weeks at a time and 6 times in any one year period.
 - (4) A permit shall be required stating size of banners, date to be displayed, business name and number of banners displayed.
 - (5) Banners shall be not located where they will obscure existing signs.

4. Help Wanted Signs

- a. Banners may be used to advertise help wanted provided:
 - (1) Size shall not exceed thirty-two (32) sq. ft. in area in C-2 zones and twenty-four (24) sq. ft. in area in other commercial zones.
 - (2) Comply with Subsection 5 below.
 - (3) State only "Help Wanted".

- (4) Must be located on-site.

5. Additional Regulations for all Banners, Pennants and Flags

- a. Banners and pennants may be indirectly lit during hours of operation only.
- 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. 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.
- d. All signs should be securely attached to the support structure to prevent sagging or dropping of the pennants, banners or flags. Banners should be secured as per the definition.
- e. Such signs shall not be used in the calculation of permitted sign area for each use.

Section 271. Permitted Signs and Standards for CEMUD Floating Zone [Amended 2-18-2009 by Ord. No. 2009-1]

- 5. A Master Sign Plan shall be provided for the CEMUD Floating Zone and submitted for Preliminary approval as part of the Preliminary Site Plan and for Final approval as part of the site design standards as part of the first Final Site Plan approval. All sign applications will be reviewed against these standards, unless otherwise approved in the Master Sign Plan, non-residential signs in the interior of the site shall comply with Section 258 for Town Center, Section 259 shall apply to the site's highway frontage areas, and residential signs shall comply with Section 256.
- 6. Once approved, the Master Sign Plan shall supersede the sign standards stated in Article XV, Signs, to the extent of any conflict. The Master Sign Plan shall comply with the standards set in Section 261 and shall:
 - a. Provide for a coordinated site-wide sign system including both the site-wide signs provided by the Master Developer and those that may be provided by tenants or other occupants. The Master Sign Plan shall cover commercial identification and directional signage in order to reduce visual clutter and harmonize with the architecture, landscape and other design elements of the development.
 - b. Address the location, size, type, height, number, color, mounting, illumination and material of all proposed site and building façade signs by type.
 - c. Provide a site plan element locating all proposed site signs by type.
 - d. Provide prototypical sign design standards that apply to future signs by tenants along with a Master Developer review process for tenant signs.

ARTICLE XVI PARKING

Section 273. 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 section.

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 occupancy or storage.

Loading and Unloading Area. That portion of the vehicle accommodation area used to satisfy the requirements of Section 283.

Vehicle Accommodation Area (Parking Area or Parking Lot). 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.

Section 274. Number of Parking Spaces Required

1. 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.
2. The presumptions established by this article are that: (a) a development must comply with the parking standards set forth in Subsection 274.5. to satisfy the requirement stated in Subsection 1., and (b) 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 275.
3. 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 2 or more non-residential buildings or establishments, the required spaces may be located and maintained as set forth herein.
4. The Town recognizes that the Table of Parking Requirements set forth in Subsection 274.5 cannot and does not cover every possible situation that may arise. Therefore, in cases not

specifically covered, the Planning Commission is authorized to determine the parking requirements using this table as a guide.

5. Table of Minimum Parking Requirements

USE	OFF-STREET PARKING REQUIREMENT
Residential	
Single Family Detached Unit	2.0 spaces
Apartments and other multi-family	2.5 spaces per unit
<u>Townhouse:</u>	
1 Bedroom Units	2.0 spaces
2 Bedroom Units	2.5 spaces
3+ Bedroom Units	3.0 spaces
Non-Residential	
Assembly Hall	1.0 space per every 100 sq. ft. GFA
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, PUB, Tavern	1.0 space per 2 seats, plus 1.0 space per 3 employees
Beauty Parlor	3.0 spaces per operator chair
Bed and Breakfast	1.0 space per guest room plus 2.0 spaces per owner's unit
Bowling Alley	4.0 spaces per alley
Bank	4.0 spaces per every 1,000 sq. ft. GFA
Church/Synagogue	1.0 space per 3 seats
Convenience Store	1.0 spaces per every 250 sq. ft GFA
Day Care Center	1.0 space per 7 children, plus 1.0 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 sq. ft.
Fast Food Restaurant	1.0 space per 4 seats, plus 1.0 spaces per 2 employees on maximum shift.
With or Without Drive-Through Facilities	With drive-through facility, add 8 stacking spaces for the drive-through window
Fiduciary Institutions	1.0 space per 300 sq. ft. GFA
Funeral Homes	1.0 space per 4 permanent seats, or 1.0 space per 30 sq. ft. GFA
Furniture Stores	1.0 space per 500 sq. ft. GFA, plus 1.0 space per employee on maximum shift
Golf Course	6.0 per hole
Group Homes	1.0 space per staff person, plus 1.0 space per 2 occupants

USE	OFF-STREET PARKING REQUIREMENT
Health Club	10 spaces per every 1,000 sq. ft. GFA, plus 1.0 space per every 2 employees.
Hospital	2.0 spaces per bed or 1.0 spaces 150 sq. ft. GFA, whichever is greater
Hotel/Motel	1.0 space per room, plus 1.0 space per employee on maximum work shift, plus 1.0 space per each 200 sq. ft. GFA of commercial floor area contained therein
Laundromat/Dry Cleaners	1.0 per machine, minimum of 5.0 spaces
Library	1.0 space per 300 sq. ft. GFA
Marina	0.5 spaces per slip
Medical Center	1.0 space per 250 sq. ft. GFA
Miniature Golf	1.0 space per hole
Nightclub	1.0 space per 2 seats
Nursing Home	1.0 space per 2 beds
Offices	
Under 49,999 sq. ft. GFA	4.5 spaces per 1,000 sq. ft. GFA
50,000 - 99,999 sq. ft. GFA	4.0 spaces per 1,000 sq. ft. GFA
100,000 + 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 1.0 space per employee
Racquetball Courts	2.0 spaces per court
Research Centers	1.0 space per 1,000 sq. ft. GFA
Restaurant	1.0 space per 3 seats, plus 1 space per employee on the maximum shift
Retail Store	1.0 space per 200 sq. ft. GFA
Schools	
Elementary	2.0 spaces per classroom, but not less than 1.0 per teacher and staff
Intermediate	1.5 spaces per classroom, but not less than 1.0 per teacher and staff
Secondary	5.0 spaces per classroom
Service Station	4.0 spaces per bay and work area
Shopping Center (GLA>200,000 sq. ft.)	4.5 space per 1,000 sq. ft. GFA
Grocery/Food Store (Super Market)	3.0 spaces per 1,000 sq. ft. GFA
Swimming Pool	1.0 space per 4 persons, up to capacity
Veterinary Offices	1.0 space per 400 sq. ft. floor space in office, with a 4 space minimum
VFW, American Legion, Etc.	1.0 space per 2 seats

Table Notes:

GFA = Gross Floor Area

GLA = Gross Leasable Area

- When determination of the number of parking spaces required results in a requirement fractional space, any fraction shall be counted as one parking space
- For the purpose of determining the number of off-street parking spaces for certain uses, the number of seats is the number of seating units installed or indicated, or each 24 lineal inches of benches, pews, or space for loose chairs.

Section 275. Flexibility in Administration Required

1. The Town of Perryville recognizes that, due to the particularities of any given development, the inflexible application of the parking standards set forth in Section 274.5. 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.
2. Without limiting the generality of the foregoing, the Planning Commission may allow deviations from the parking requirements set forth in Subsection 274.5. when it finds that:
 - a. A residential development is irrevocably oriented toward the elderly;
 - b. A business is primarily oriented to walk-in trade.
3. Whenever the Planning Commission allows or requires a deviation from the parking requirements set forth in Subsection 274.5., it shall enter on the face of the permit the parking requirement that it imposes and the reasons for allowing or requiring the deviation.
4. If the Planning Commission concludes, based upon information it receives in the consideration of a specific development proposal, that the presumption established by Section 274.5. for a particular use classification is erroneous, it shall initiate a request for an amendment to the Table of Parking Requirements in accordance with the procedures set forth in Article XIII.

Section 276. Parking Space Dimensions

1. Subject to Subsections 2. and 3., each parking space shall contain a rectangular area at least 18 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.
2. Wherever parking areas consist of spaces set aside for parallel parking, the dimensions of such parking spaces shall be not less than 23 feet by 9 feet.
3. Each handicapped parking space shall meet the requirements of the American Disabilities Act.

Section 277. Required Widths of Parking area Aisles and Driveways

1. Parking area aisle widths shall conform to the following table, which varies the width requirement according to the angle of parking.

Aisle Width	Parking		Angle		
	0°	30°	45°	60°	90°
One-Way Traffic	15	15	16	18	24
Two-Way Traffic	22	22	22	23	24

2. 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-foot-wide driveways are permissible for two-way traffic when (a) the driveway is not longer than 50 feet, (b) it provides access to not more than 6 spaces, and (c) sufficient turning space is provided so that vehicles need not back into a public street.

Section 278. General Design Requirements

1. 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, although backing onto arterial streets is discouraged.
2. Parking 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.
3. Every parking 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.
4. 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.
5. 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.
6. A "sight triangle" shall be observed within a triangle formed by the intersection of the street lines and points on the street line 25 feet from the intersection at all street intersection or intersections of driveways with streets.
7. 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.

8. Permanent storm water retention shall be provided for all off-street parking areas as required by the Town of Perryville.
9. 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 2 spaces is permitted.
10. Additional parking in residential zones: Provided the above parking (Subsection 9) 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:

<u>Zone</u>	<u>Front Yard Setback</u>	Side Street
		<u>Side Yard Setback</u>
R-2, R-3,	15'	6'
R-1	15'	10'
TC	10'	10'

11. The percentage of coverage of permitted parking areas and driveways in any residential zone shall not exceed fifty (50) percent of the total required front yard or side street side yard.
12. Off-street parking facilities may be located within the required front yard of any commercial, office/residential, or industrial zone. But shall not be nearer than fifty (50) feet to any residential district.
13. Special access, surface, and location requirements for garages, parking lots, automobile service stations, and vehicle sales lots:
 - a. No building, structure or premises shall be used, erected, or altered 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 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 or 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.
 - b. 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 Planning Commission.

Section 279. Vehicle Accommodation Area Surfaces

1. Parking areas that (a) include lanes for drive-in windows or (b) 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 as per applicable Town specifications.
2. Parking areas that are not provided with the type of surface specified in Subsection 1. shall be graded and surfaced with crushed stone, gravel, or other suitable material 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 1. 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
3. Parking spaces in areas surfaced in accordance with Subsection 1. shall be appropriately demarcated with painted lines or other markings. Parking spaces in areas surfaced in accordance with Subsection 2. shall be demarcated whenever practicable.
4. 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, weeds, overgrowth, trash, clutter, etc.) and parking space lines or markings shall be kept clearly visible and distinct.

Section 280. Joint Use of Required Parking Spaces

1. 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.
2. 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.
3. If the joint use of the same parking spaces by two or more principal uses involves satellite parking spaces, then the provisions of Section 281 are also applicable.
4. 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:

- a. Retail sales, offices, service establishments, 50 percent
 - b. Restaurants and dining rooms, 75 percent
 - c. Ballrooms, banquet halls, meeting rooms, auditoriums, 80 percent.
- 5. Off-street parking areas required for residential use shall not be included in any joint parking arrangement.

Section 281. Satellite Parking

- 1. 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.
- 2. All such satellite parking spaces (except spaces intended for employee use) must be located within 400 feet of a public entrance of a principal building housing the use associated with such parking, or within 400 feet of the lot on which the use associated with such parking is located if the use not housed within any principal building. Satellite parking spaces intended for employee use may be located within any reasonable distance. No more than 40 percent of the total required spaces are to be located in satellite parking spaces.
- 3. 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.
- 4. 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.
- 5. 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.
- 6. 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.
- 7. The satellite parking areas shall be subject to all requirements of this Chapter concerning surfacing, lighting, drainage, landscaping, screening, and setbacks.

Section 282. Special Provisions For Lots With Existing Buildings

- 1. 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.

2. When the use of any structure or premises is changed to a different use, parking facilities shall be provided for the different use.
3. Notwithstanding any other provisions of this Chapter, whenever (a) there exists a lot with one or more structures on it constructed before the effective date of this Chapter, and (b) a change in use that does not involve any enlargement of a structure is proposed for such lot, and (c) the parking requirements of Section 274 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, then the developer need only comply with the requirements of Section 274 to the extent the (a) parking space is practicably available on the lot where the development is located, and (b) satellite parking space is reasonably available as provided in Section 281. However, if satellite parking subsequently becomes reasonably available, then it shall be a continuing condition of the permit authorizing development on such lot that the developer obtain satellite parking when it does become available.

Section 283. Loading and Unloading Areas

1. Subject to Subsection 5., 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.
2. 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 Planning Commission 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- 19,000	1
20,000- 79,999	2
80,000-127,999	3
128,000-191,000	4
192,000-255,999	5
256,000-319,999	6
320,000-391,999	7

Plus one (1) space for each additional 72,000 square feet or fraction thereof.

*Minimum dimensions of 12 feet x 55 feet and overhead clearance of 14 feet from street grade required.

3. Loading and unloading areas shall be so located and designed that the vehicles intended to use them can (a) maneuver safely and conveniently to and from a public right-of-way, and (b) complete the loading and unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot aisle.
4. 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 be used to satisfy the area requirements for loading and unloading facilities.
5. Whenever (a) there exists a lot with one or more structures on it constructed before the effective date of this Chapter, and (b) a change in use that does not involve any enlargement of a structure is proposed for such lot, and (c) the loading area requirements of this section cannot be satisfied because there is not sufficient area available on the lot that can practicably be used for loading and unloading, then the developer need only comply with this section to the extent reasonably possible.
6. 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 6 feet in height.
7. The Planning Commission may modify any requirement of this section within the TC and CM districts where it determines that compliance would conflict with ingress and egress requirements and standards of the State Highway Administration along a State highway.

Section 284. Parking facilities for the Physically Handicapped

1. 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.
2. Each handicapped parking space shall comply with current American Disabilities Act standards.
3. 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

4. Identification. Parking spaces for the physically handicapped shall be identified by signs, generally located 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 6 feet.
5. Curbs.
 - a. Where a curb exists between a parking lot and a sidewalk, a horizontally scored ramp or curb cut shall be provided for wheelchair access.
 - b. The curb cut shall not be less than 4 feet wide and shall have a grade of not more than one foot in 12 feet.
 - c. 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.
 - d. The curb cuts shall not be more than 150 feet apart.
- . Sidewalks.
 - a. Sidewalks shall be scored or textured to indicate the location of doors to blind persons.
 - b. Exterior sidewalks shall not be obstructed.
 - c. Exterior sidewalks shall have a side slope not greater than one inch in 4 feet. They shall be at least 4 feet wide and have a grade of not more than one foot in 20 feet.
 - d. Wherever sidewalks cross driveways, parking lots, or other sidewalks, they shall blend to a common level.
7. Storm Drains. Storm drain grates and similar devices shall not be located within the required access for the physically handicapped.
8. Grade. The grade of parking spaces for the physically handicapped shall not be more than one foot in 20 feet.

Section 285. Reserved

ARTICLE XVII SCREENING, SHADING, LANDSCAPING and ENVIRONMENTAL STANDARDS

Part I Buffers

Section 286. Purpose

1. 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. Buffer yards will operate to minimize the negative impact of any future use on neighboring uses.
2. The buffer yard 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 buffer yard 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. The planting units required of buffer yards have been calculated to ensure that they do, in fact, function as "buffers."
3. Buffer yards 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 287. Location of Buffer yards

Buffer yards shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line. Buffer yards shall not be located on any portion of an existing or dedicated public or private street or right-of-way. Buffer yards shall not be located within a yard required in a single family attached (townhouse) development or planned unit development.

Section 288. Determination of Required Buffer yard

To determine the type of buffer yard required on a parcel or between two parcels or between a parcel and a street, the following procedure shall be used:

1. 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.
2. Determine whether the land on the adjoining property is vacant or developed or whether a plat of the subdivision has been approved.
3. Classify any street adjacent to the proposed use as a local, collector, or arterial street.

4. Determine the buffer yard required on each boundary (or segment thereof) of the subject parcel by referring to the Tables of Required Buffer yards.
5. Determine if the proposed development is a use which has buffer yards required to separate that use from certain uses. Then determine the buffer yard required between such uses by referring to the Tables of Required Buffer yards.

Section 289. Responsibility for Buffer yards

1. When a proposed use adjoins a vacant parcel for which a buffer yard is required by the presence of a zoning boundary, that use shall at the time of development provide one-half of the buffer which is required by the Tables of Required Buffer yards.
2. The second use to develop shall, at the time it develops, provide all additional plant material and/or land necessary to provide the total buffer yard required between those 2 uses. If the adjoining use had developed without a buffer yard, the second use will be responsible for installing the total buffer yard.
3. 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 buffer yard required between it and the second (adjacent) land use to develop.

Section 290. Tables of Required Buffer yards

REQUIRED BUFFERYARDS BETWEEN ADJACENT ZONING DISTRICTS								
ZONE	R-1	R-2	R-3	RM	T-C	NB	C-2, CM-1, CM-2	L-1 & L-2
R-1	--	A	B	B	C	B	D	E
R-2	A	--	B	B	C	B	D	E
R-3	C	B	--	B	C	B	D	E
T-C	na	na	na	na	na	na	na	na
NB	B	B	B	B	B	--	C	E
CM	B	B	B	--	B	B	C	D
C-2, CM-1, CM-2	D	D	D	B	B	C	--	D
I-1 & I-2	E	E	E	D	D	E	D	--

REQUIRED STREET BUFFERS	FUNCTIONAL CLASSIFICATION		
ZONING DISTRICTS	ARTERIAL	COLLECTOR	LOCAL
R-1, R-2, R-3	D	C	B
NB, CM, C-2, CM-1, CM-2	B	B	B
L-1, L-2	C	C	C

Section 291. Buffer yard Requirements

Illustrations graphically indicating the specification of each buffer yard are contained in Appendix B.

Section 292. Buffer yard Use

A buffer yard may be used for passive recreation or storm water management. It may contain pedestrian, bike, or equestrian trails provided that: (1) no plant material is eliminated, (2) the total width of the buffer yard is maintained, and (3) all other regulations of the Chapter are met. (4) In no event, however, shall swimming pools, tennis courts or other such uses be permitted in buffer yards. The Planning Commission may allow substitution or reduction of the buffer yard if it finds that the required buffer yard will obstruct the view of a driver or that the buffer yard is incompatible with the existing streetscape.

Section 293. Ownership of Buffer yards

Buffer yards may remain in the ownership of the original developer (and assigns) of a land use, or they may be subjected to deed restrictions and subsequently be freely conveyed, or they may be transferred to any consenting grantees, such as adjoining landowners, the Town of Perryville, or a homeowner's association, provided that any such conveyance adequately guarantees the protection of the buffer yards for the purposes of this Chapter. Final Ownership shall be specified and approved by the Planning Commission.

Section 294. Buffer yards Which Exceed Minimum Requirements

Where the buffer yard required between a land use and vacant land turns out to be greater than that buffer yard which is required between the first use and the subsequently developed use, the following options apply:

1. The subsequent use may provide one half of the buffer required by this Section. The existing use may expand its use into the original buffer area, provided that the resulting total buffer yard between the two uses meets the buffer yard requirements of this Section.

2. The existing use may enter into agreements with abutting landowners to use its existing buffer to provide some or all of the required buffer yard 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 buffer yard 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 295. Contractual Reduction of Buffer yards

1. When a land use is proposed adjacent to vacant land, and the owner of that vacant land enters into a contractual relationship 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 contract contains a statement by the owner of the vacant land of an intent to develop at no greater than a specified land use intensity class; and an agreement by that vacant landowner to assume all responsibility for additional buffer, if needed by the subsequent development of a less intense use than had been agreed upon, is transferred to the owner of the vacant (second in time to be developed) land.

Part II Shading

Section 296. Town Findings and Declaration of Policy: Shade Trees

1. The Town finds that:
 - a. Trees are proven producers of oxygen, a necessary element for human survival,
 - b. 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,
 - c. 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,
 - d. Trees have an important role in neutralizing waste water passing through the ground from the surface to ground water tables and lower aquifers,
 - e. Trees, through their root systems, stabilize the ground water tables and play an important and effective part in soil conservation, erosion control, and flood control,
 - f. 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
 - g. For the reasons indicated herein, trees have an important impact on the desirability of land and therefore on property values.

2. Based upon the findings set forth in Subsection 1., 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's planning jurisdiction 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 297. Required Trees Along Dedicated Streets

Along both sides of all newly created streets that are constructed in accordance with the Perryville street standards, 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 fifty (50) feet from the centerline of the street, there is for every fifty (50) 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.

Section 298. Retention and Protection of Large Trees

1. Every development shall retain all existing trees 18 inches in diameter or more unless the retention of such trees would unreasonably burden the development.
2. 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 12½ 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.
3. The retention or protection of trees 18 inches in diameter or more as provided in Subsections 1. and 2. unreasonably burdens a developer 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.
4. If space that would otherwise be devoted to parking cannot be so used because of the requirements of Subsections 1. or 2., and, as a result, the parking requirements set forth in Article XVI cannot be satisfied, the number of required spaces may be reduced by the number of spaces "lost" because of the provisions of Subsections 1. and 2., up to a maximum of 15 percent of the required spaces.

Part III Landscape Standards

Section 299. Plan Requirements for Landscaping and Screening

1. **Applicability.** A master landscaping plan or screening plan meeting the standards of this part is required for any development, except applications involving a detached single family dwelling unit requiring only a zoning certificate and building permit.

2. A master landscape or screening plan shall consist of one (1) or more sheets drawn to scale or combined with a site plan and shall include the following information:
 - a. The location and footprint of all proposed buildings, structures, and facilities on the site and proposed landscaping areas.
 - b. The approximate location of rivers or stream branches or natural, intermittent streams or drainage channels, ponds, wooded areas, or other special natural features on the development site.
 - c. A tabular summary of type of species, height, diameter, and quantity of shrubbery and trees, including street trees, to be planted within landscaped or screening areas.
 - d. The height, length, type and location of fencing and related planting areas to be used for screening purposes.
 - e. Location of underground and overhead utilities.
 - f. The continuity of proposed open space with contiguous and other nearby open spaces, existing or proposed.
3. The plan shall show landscaping proposals for the following areas or facilities where applicable to the type of development proposed.
 - a. Street trees
 - b. Buffer yard plantings
 - c. Foundation plantings
 - d. Screening for dumpster or other solid waste collection areas
 - e. Storm water management retention or detention areas landscaping
 - f. Above ground utility box screening
 - g. Parking lot plantings/screening
 - h. Perimeter plantings
 - i. Recreation facilities landscaping
 - j. Loading and unloading space screening
4. The plan shall be consistent with the specific requirements of a site plan or comprehensive development plan or the specific requirements for the type of development proposed.

Section 300. Landscaping Materials

1. Whenever landscaping is required, it shall consist of, as a minimum, a combination of grass, trees and shrubs including the following species at the sizes specified, arranged in such a manner as to complement the proposed structure or project and its adjacent neighborhood. The total linear amount of property lines or perimeter of the development site and each lot shall be used as a guide to compute the amount of plantings as required. All such materials may be randomly placed on the site except as may be required to meet the Buffer yard requirements of this Chapter. Plantings required in other sections of this Chapter, e.g., buffer, buffer yard, Highway Corridor Overlay Zone, etc., shall count against the requirements of this part.
2. Landscaping shall emphasize native species trees, shrubs, and flowers to reduce maintenance, to help ensure longevity, and to reinforce the natural character of the area. Species should be selected partly on the basis of their visual appeal during different seasons of the year.
3. Any applicant may incorporate and combine the mitigation requirements for meeting the provisions of the Town's Forest Conservation Act, the Chesapeake Bay Critical Area Program, and the State's Non-Tidal Wetlands Act with these provisions. The Planning Commission may approve such mitigation plans as a substitute for compliance with these conditions. Any plan may also use existing trees to count toward the requirements of these guidelines.
4. Whenever screening is required, the following minimum screening materials may be used in any combination to accomplish the purpose and intent for which the screening is required. The intent is to screen by 50% the visibility of adjoining property by the following means. Additional types of landscaping and screening materials or other landscaping amenities may be used, subject to the approval of the Planning Commission, Zoning Administrator, or Board of Appeals but in no case shall landscaping or screening be less than that necessary to accomplish the purpose and intent for which the screening is required.
 - a. Solid wood, metal, brick, concrete, or otherwise architecturally solid fence.
 - b. Chain link fence with slat inserts where view is to be obscured.
 - c. Berms, or berms with fence installed or berms with trees and shrubs planted, or any combination thereof; sufficient to provide a barrier at least six (6) feet in height (measured from the bottom of the berm).
 - d. Whenever a fence is installed as a screen, it shall be located at least three (3) feet from any abutting property line and landscaping shall be provided on both sides of the fence.
 - e. Retention of existing natural vegetation depending on width, density, and type, provided that the Planning Commission or Board of Appeals may require additional, supplemental plantings to obtain the effect intended by the purpose and intent of this requirement.
 - f. Plantings which will have a minimum height of six (6) feet at maturity.
5. The applicant shall be required to post a performance bond with the Town to ensure that any landscape materials that die within eighteen (18) months of planting shall be replaced with the same species and size, and that any landscape material shall be well maintained, specifically

irrigated and fertilized, for a total of twenty-four (24) months from time of planting. If landscape materials are removed, they shall be replaced with material of similar size, shapeliness, function, hardiness, longevity, and appearance.

Section 301. Shade Trees

1. Shade trees, with a height of more than thirty (30) feet at maturity, shall be a minimum 1 inch in caliper and a minimum six (6) feet or more in height at the time of planting and shall be planted in continuous rows along the edges of properties in accordance with the following spacing standards:
 - a. Two-family, multi-family residence or manufactured home park in any district - one per one hundred (100) feet.
 - b. Commercial and Maritime districts - one per fifty (50) feet.
 - c. Industrial district - one per fifty (50) feet.
 - d. All other districts - one per fifty (50) feet.
 - e. Special exceptions - the requirements for the district in which the use is located or an alternate as may be determined by the Planning Commission, Zoning Administrator, or Board of Appeals.
 - f. Maintain a minimum distance of twenty (20) feet from overhead utilities for species that exceed thirty (30) at maturity.
2. Street Trees - Street trees meeting the standards of 1 above shall be planted along internal streets, with at least one tree for every fifty (50) feet of street frontage in residential, commercial, business, institutional and industrial projects.

Section 302. Understory (Decorative) Trees

Understory trees, with a height of less than thirty (30) feet at maturity, shall be one (1) inch in caliper and four (4) feet in height at the time of planting and shall be provided as follows:

1. Two-family, or multi-family residence or manufactured home park in any district - none.
2. Commercial and Maritime districts - one per fifty (50) feet.
3. Industrial district - one per seventy-five (75) feet.
4. All other districts - one per one hundred (100) feet.
5. Special exceptions - the requirements for the district in which the use is located or an alternate as may be determined by the Planning Commission, Zoning Administrator, or Board of Zoning Appeals.

6. Maintain a minimum distance of twenty (20) feet from overhead utilities for species that exceed thirty (30) at maturity.

Section 303. Evergreen Trees

Evergreen trees shall be at a height of three and one-half (3 ½) to four (4) feet or greater at planting and shall be provided as follows:

1. Two-family, or multi-family residence or manufactured home park in any district – none.
2. Commercial and Maritime districts - one per one hundred (100) feet.
3. Industrial district - one per one hundred fifty (150) feet.
4. All other districts - one per one hundred (100) feet.
5. Special exceptions - the requirements for the district in which the use is located or an alternate as may be determined by the Planning and Zoning Commission, Planning Staff, or Board of Zoning Appeals.
6. Maintain a minimum distance of 20' from overhead utilities for species that exceed 30' at maturity

Section 304. Shrubs

Evergreen and deciduous shrubs shall be at a height of 18 inches to 24 inches or greater at the time of planting and shall be provided as measured by the length of the perimeter of the buildings or structures facing any public street or road as follows:

1. Two-family, or multi-family residences or manufactured home park in any district - one per fifteen (15) feet.
2. Commercial and Maritime districts - one per fifteen (15) feet.
3. Industrial district - one per forty (40) feet.
4. All other districts - one per one hundred (100) feet.
5. Special exceptions - the requirements for the district in which the use is located or an alternate as determined by the Planning Commission, Zoning Administrator, or Board of Appeals.

Section 305. Alternatives and Additional Landscape Requirements

As an alternative, an applicant may propose and the Planning Commission or Board of Appeals may approve:

1. The retention of natural growth on the site to meet the requirements of this section, depending on width, density, and type of natural growth, provided that the Board or Commission may require

additional, supplemental plantings to obtain the effect intended by the purpose and intent of these requirements.

2. Landscaping consisting of a combination of the plantings listed in this article and alternate plantings of various species and sizes.
3. Landscaping consisting of a combination of architectural materials, including fountains, special bricks, interlocking paving, decorative features, statues, and other combinations of landscaping features, materials, or plantings, including street trees.
4. Whenever deemed appropriate, the Planning Commission may require installation of a vegetated and/or structural buffer along property lines to protect adjoining residential properties from the potential impacts of a proposed non-residential use and/or to maintain or enhance the general visual character of the property and surrounding area. Buffers standards shall be selected from Appendix B.

Section 306. Complementary Plantings

Dwarf and other species may be used only for complementary plantings and no minimum sizes shall be required.

Part IV Landscaping of Parking Facilities

Section 307. Intent

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. In the case of a property located within the Highway Corridor Overlay Zone, the landscape requirements of that Part shall apply when more restrictive than the requirements contained herein.

Section 308. Sites Affected

1. New sites. No new parking areas shall hereafter be constructed or used unless landscaping is provided as required by the provision of this Article.
2. Existing sites. No parking areas shall be expanded, moved, or removed and/or reconstructed unless the minimum landscaping required by the provision of this Article is provided for the property to the extent of its alteration or expansion, but not for the entire property.
3. Change of use. No use shall be changed to another use for which the Zoning 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.

4. 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 309. Perimeter Landscaping

1. A planting strip shall be provided at least eight (8) feet wide adjacent to the back of any sidewalks or ten (10) foot wide adjacent to the property line where no sidewalk exists. Where the parking lot does not abut a property line or sidewalk, a five (5) foot planting area shall be provided.
2. Except where otherwise specifically required by the Zoning Chapter, a minimum ten (10) foot wide screening area shall be provided along all abutting property lines of a residential district.
3. The following requirements shall apply to the design and construction of all parking lots for fifteen (15) vehicles or more:
 - a. Perimeter Landscaping. an eight (8) foot landscaped area shall be provided adjacent to all driveways leading to the lot and around the outer edges of all parking lots.
 - b. Screening Areas. an ten (10) foot screening area shall be provided abutting all residential districts except where a greater distance is required by the provisions of the zoning district in which the parking lot is located.
4. Each landscape area adjacent to a street right-of-way shall contain a minimum of one 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 3-foot decrease in elevation from the adjoining property to the street right-of-way shall be construed as satisfying the vegetative screen requirement.
5. Grass or ground cover shall be planted on all portions of the landscape area not occupied by other landscape material.
6. Special notes on existing natural vegetation:
 - a. In all cases where significant natural vegetation exists, as determined by the Zoning Official, there will be limits of clearing/grading areas established to protect and preserve these natural area. 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, storm water management systems, signage. Existing landscape material which is proposed to be used to fulfill landscape requirements shall be shown in the required plan.
 - b. In the case where buffers are created by the application of these standards, no structures, utilities, storm and sanitary sewers, water lines, sediment and erosion control traps, storm water management systems, and signage will be permitted.

- c. Where pedestrian and bike paths are proposed in the landscape area, such paths shall be meandering in order to preserve the existing trees.
- 7. Trees required as a part of the parking lot street right-of-way landscaping may be placed on the right-of-way adjoining such parking area when approved by the Planning Commission. Such trees shall be in addition to any street trees required by the subdivision regulations.
- 8. Landscaping in Easements. The required landscape area for parking areas may be combined with a utility or other easement only if all landscape requirements can be met. Otherwise, the landscape area shall be in addition to, and separate from, any easement.
- 9. In any parking lot perimeter landscaping area all trees shall be set back at least 4 feet from the edge of paving where vehicles overhang.

Section 310. Interior Landscaping for Parking Lots

- 1. 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. An interior parking lot landscape island or peninsula is defined as a landscaped area containing a minimum area of 153 square feet having a minimum width of 8.5 feet and a minimum length of 18 feet. There shall be a minimum of 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 6 inches wide and 6 inches in height above the paving surface. For purposes of Subsection 4. below and subject to the limits established in 5. below, up to 4 islands can be combined.
- 2. Where a parking area is altered or expanded to increase the size to 6,000 or more square feet of area or fifteen (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.
- 3. Landscape area. For each 100 square feet, or fraction thereof, of parking lot, 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.
- 4. Landscape islands or peninsulas - number required:
 - a. For less than 100 spaces one island or peninsula is required for every 7 parking spaces.
 - b. For 100 spaces or more, one island or peninsula is required for every 10 spaces.
 - c. Each 10 parking spaces shall require an interior planting island.
 - d. All interior parking aisles shall end in a landscape island.

5. 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:
 - a. 350 square feet in parking areas under 30,000 square feet.
 - b. 1,500 square feet in parking areas over 30,000 square feet.
6. 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.
7. Minimum plant materials. A minimum of one tree for each 250 square feet or fraction thereof of required landscape or for each 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 2 feet in height, or grass.
8. Landscaping for service structures. All service structures shall be fully screened, except when located more than 35 feet above the established grade, and shall not be visible from a public way to the maximum extent possible, as determined by the Zoning Administrator. Service structures in an industrial zone shall be fully screened when located within 100 feet of any zone other than industrial. 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.
 - a. Location of screening. A continuous planting, hedge, fence, wall, or earth mound shall enclose any service structure or loading zone on all sides unless such structure must be frequently moved, in which case screening on all but one side is required. The average height of the screening material shall be one foot more than the height of the enclosed structure. 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.
 - b. 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.
9. Interior landscaping for parking areas shall be installed and continuously maintained by the owner.

10. 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 the Section 299 of this Chapter.
11. Unnecessary paving or irregular paving plans are strongly discouraged and, if incorporated in a site plan, shall be subject to approval by the Zoning Official.
12. 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.
13. Landscape material type and quality shall be as follows:
 - a. Parking lots and areas that are required to be paved 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 B.
 - 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 ½ 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. Parking 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.

Part V Environmental Standards for Sensitive Areas

Section 311. Environmental Standards

The following provisions shall apply to all development activities requiring site plan or subdivision plat approval located outside of the Critical Area. Where a development activity is located within the Critical Area, the provisions of the Critical Area Overlay district shall apply.

1. Perennial Stream no-disturbance buffer
 - a. A one-hundred (100) foot natural buffer from all perennial streams shall be required for all development. Permanent or temporary storm water and/or sediment control devices shall not be permitted in this Buffer.

- b. This buffer requirement may be reduced to no less than seventy-five (75) feet by the Planning Commission for the following:
 - (1) If evidence is provided that the design, construction and use of the site will provide the same or better protection of water quality as the 100' buffer, and if evidence is provided that said development will meet all other applicable requirements, as required.
 - (2) Road crossings, if disturbance is minimized.
 - (3) Other public or community facilities provided disturbance is minimized in so far as possible.

2. Intermittent Stream no-disturbance buffer

- a. A fifty (50) foot buffer from all intermittent streams shall be required for all development. Permanent or temporary storm water management and sediment control devices shall not be permitted in this buffer.
- b. This buffer requirement may be waived by the Planning Commission for the following:
 - (1) Road crossings, if disturbance is minimized.
 - (2) Other public or community facilities provided disturbance is minimized in so far as possible.

3. Sensitive Soil no-disturbance buffer. The one-hundred (100) foot perennial stream buffer shall be expanded to include contiguous 100 year floodplain and nontidal wetlands. In addition, the one-hundred (100) foot perennial stream buffer shall be expanded to include hydric soils, highly erodible soils and soils on slopes greater than fifteen percent (15%) that are contiguous with the perennial stream, any 100 year flood plain adjacent to the stream, or any nontidal wetlands adjacent to the stream to a maximum distance of three hundred (300) feet.

4. Non-tidal Wetland buffer. A twenty-five (25) foot setback from all non-tidal wetlands shall be required for all development around the extent of the delineated nontidal wetland except as permitted by the U.S. Army Corp of Engineers and the State of Maryland, Department of Natural Resources, Non-tidal Wetland Division.

5. Steep Slopes.

The following steep slope provisions shall apply to all development activities located outside of the Critical Area and to all development activities located in an Intensely Developed Area (IDA) with the Perryville Critical Area. Where development activity is located within a Limited Development Area (LDA) or Resource Conservation Area (RCA) the provisions of the Critical Area Overlay district shall apply.

- a. Grading, removal of vegetative cover and trees, and paving are not permitted on any land in excess of twenty-five percent slope for an area of forty thousand (40,000) square feet unless the Planning Commission determines based on a detailed justification provided by the developer that:

- (1) It is necessary for construction of public or private roads, driveways, utilities, trails, pathways, or storm water management facilities which are essential for reasonable development of the property;
 - (2) The design minimizes disturbance;
 - (3) There is no other reasonable alternative; and
 - (4) The cost of an alternative improvement shall not be a factor in deciding whether the criteria in subject (1) above can be met.
 - (5) Reasonable development, for the purpose of this section, does not guarantee maximum possible development under the Perryville Zoning Ordinance. In any zoning district, achieving the maximum possible density is not sufficient justification alone to allow disturbance.
 - (6) If permitted, the grading, removal of vegetative cover and trees, or construction shall only be to the extent required to accommodate the necessary improvements. In these cases, the Planning Commission may require the least damaging designs, as well as planting of the areas where grading or removal of vegetative cover has taken place.
- b. Not more than forty percent (40%) of any land in excess of fifteen percent slope and less than twenty-five percent slope for an area of forty thousand (40,000) square feet shall be cleared of natural ground cover or vegetation in preparation for development unless the Planning Commission is able to make the findings specified in (1) through (4) above.
 - c. Whenever development is proposed on land in excess of fifteen percent slope, the Planning Commission may require that the proposed development be certified by a registered professional engineer. If a geo-technical problem is suspected, a more detailed report may be required, as deemed necessary by the Planning Commission.

ARTICLE XVIII AMENDMENTS

Section 312. Amendments In General

1. The Town Commissioners 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 owner(s) of the property proposed for change.
2. 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 313. Initiation of Amendments

1. 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 Town Administrator in such form and accompanied by such information as may be required by the Planning Commission.
2. Upon determination by the Town Administrator that the application is complete in accordance with the herein requirements, the application shall be promptly submitted for comment and review to appropriate Town, county, and state departments and agencies. Upon 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 314. Planning Commission Consideration of Proposed Amendments [Amended 1/3/2017 by Ord No. 2016-21]

1. The Planning Commission shall consider the application as follows:
 - a. 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 his request.
 - b. The Zoning Administrator and/or Town Administrator may present a staff report representing a review of the application by the Town staff. The staff report shall include, without limitation, 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 Perryville Comprehensive Plan, and a recommendation for approval or denial of the proposed amendment.
 - c. The Planning Commission shall ask such questions of either the applicant, any witnesses, or the staff as may be necessary in deciding its recommendation for approval or denial of the application.

2. Within sixty (60) days from the Planning Commission's meeting on the application, the Planning Commission shall transmit the application to the Town Commissioners together with its recommendation for approval or disapproval. The Planning Commission shall concurrently transmit this information to the applicant.
3. After the Planning Commission makes its formal recommendation on the application, the Town Commissioners shall hold a public hearing on the application.

Section 315. Hearing Required; Notice [Amended 1/3/2017 by Ord No. 2016-21]

Public hearing shall be conducted in accordance with the provision of the Land Use Article of the Annotated Code of Maryland.

Section 316. Mayor and Town Commissioners Action on Amendments

1. 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.
2. The Town Commissioners shall hold a public hearing, as set forth in Section 4-203 of the Land Use Article, within sixty (60) days after receipt of the Planning Commission's recommendation.
3. 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.
4. In reaching a decision on zoning amendments, the Town Commissioners 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 to 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.
5. An application for reclassification shall not be accepted for filing by the Town Administrator if the application is for the reclassification of the whole or any part of land which has been denied by the Town Commissioners until twelve (12) months from the date of denial.
6. 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 Commissioners. The record shall be open to public inspection and shall be maintained in the Town Office. The burden of proof for any zoning change shall be upon the applicant.

Section 317. Amendments for Floating Zones

1. The provisions of this Article regarding the procedures and requirements of public hearings and findings of fact to be made regarding applications 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.
2. Procedures to maintain a floating zone once granted.
 - a. Within two (2) 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. The Mayor and Town Commissioners may grant a one-time extension, not to exceed one (1) year.
 - b. 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.
 - c. 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 Commissioners for an extension.

