



**OFFICE OF THE PLANNING AND ZONING COMMISSION**

**PLANNING COMMISSION  
AGENDA  
DECEMBER 13, 2023  
6 PM**

- I. Call to Order & Roll Call**
- II. Approval of the December 13, 2023 Planning Commission Agenda.**
- III. Approval of the minutes of the November 15, 2023 Planning Commission Meeting.**
- IV. Public Comment on any item on the agenda: NOTE: There will be a 2-minute limit on comments received.**
- V. Old Business**
  - 1. State review of Critical Area**
  - 2. Fees-in-Lieu**
  - 3. Review and approval of Rules of Procedure**
- VI. New Business**
  - 1. Fees-in-lieu – Review 290-30 Zoning Code**
  - 2. Signage**
  - 3. Site Approval Plan Process**
- VII. Comments by Commissioners- Note: 1-minute limit on comments**
- VIII. Adjournment**



**PLANNING AND ZONING COMMISSION**

**MINUTES OF THE  
PLANNING COMMISSION MEETING  
NOVEMBER 15, 2023  
6 PM**

I. Commission Chair Kathleen Berault called the meeting to order at 6:00 pm. In attendance were Chair Berault, Vice-Chair Cindy Greengold, Laura Blackwelder, Larry Brown, Kelly Huhn, and Rachel Larsen Weaver, Commission members, Sarah Franklin, Town Planner, and Sharon L. Humm, Commission Clerk. Absent was Jan Ruttkay, Commission member.

II. **Approval of the November 15, 2023 Planning Commission Agenda**

**MOTION:** Commissioner Brown moved to approve the November 15, 2023 Planning Commission agenda. Seconded by Commissioner Blackwelder, all in favor.

III. **Approval of the October 25, 2023 Planning Commission meeting minutes**

**MOTION:** Commissioner Blackwelder moved to approve the October 25, 2023 Planning Commission meeting minutes. Seconded by Vice-Chair Greengold, all in favor.

IV. **Public Comment on any item on the agenda** – None Received.

V. **Old Business**

1. **Critical Area Regulations Final Review** – The Commission was provided with a final draft copy of the Critical Area ordinance dated November 15, 2023. Ms. Franklin stated all changes have been incorporated. She has spoken with the Critical Area Commission and is hoping to have Commission’s approval tonight to submit the document to Critical Area for their comments. Ms. Franklin stated once we receive comments back from the Critical Area Commission, we will have the opportunity to address those comments, make any necessary revisions and then submit the document to the Town Council for their review.

Chair Berault asked if the Commission had any concerns or changes they would like to address. The following amendments were made to the draft:

**Part 1. Implementation of the Critical Area Program Purpose and Goals**

**E. Applications Referred to the Chesapeake Bay Critical Area Commission**

#(3) Change the “fifth” business day to the “tenth” business day in the sentence.

**MOTION:** Commissioner Blackwelder moved to change the word “fifth” to the “tenth.” Seconded by Commissioner Weaver, all in favor.

**Part 2. Development Standards in the Critical Area**

**C. Limited Development Areas (5) (e)**

(iii) **If the Approving Authority finds that** the applicant cannot provide appropriate stormwater treatment and plantings due to site constraints, then the applicant shall pay a fee to the Town of Chesapeake Beach in lieu of performing the on-site mitigation.

**MOTION:** Commissioner Blackwelder moved to add the above highlighted wording to the sentence. Seconded by Commissioner Weaver, all in favor.

### **Part 3. The Buffer**

#### **D. Mitigation for Impacts to the Buffer**

#(6) The installation or cultivation of new lawn or turf in the Buffer is prohibited, **unless for public purposes authorized by the Approving Authority.**

**MOTION:** Vice-Chair Greengold moved to add the highlighted wording above to the sentence. Seconded by Commissioner Weaver. Ayes, Chair Berault, Commissioners Blackwelder, Huhn, Greengold, and Weaver. Opposed, Commissioner Brown. **Motion Passes.**

### **Part 4. Modified Buffer Area**

#### **B. General Development Standards**

#(1) (ii) (g) To permit the development allowed, **as described in letters A through F** above, to be constructed or installed.

**MOTION:** Commissioner Blackwelder moved to add the highlighted wording above to the sentence. Seconded by Vice-Chair Greengold. Ayes, Commissioners Blackwelder, Brown, Greengold, and Huhn. Opposed, Chair Berault and Commissioner Weaver. **Motion Passes.**

The Commission discussed the rates of fees in lieu of planting. Vice-Chair Greengold believes the rates of \$1.25 for private development projects and \$2.50 for public sector development projects are too low.

Ms. Franklin stated she could research other jurisdictions and provide ballpark estimates for the Commission to discuss while Critical Area is reviewing the Critical Area ordinance.

**MOTION:** Commissioner Blackwelder moved to direct the Town Planner to research fees in lieu independently, and with the Critical Area Commission, to provide recommendations in reference to item (x)(b) Fees in lieu of Planting. Seconded by Commissioner Weaver. Ayes, Chair Berault and Commissioners Blackwelder, Huhn, and Weaver. Opposed, Commissioner Brown and Vice-Chair Greengold. **Motion Passes.**

### **Part 5. Other Habitat Protection Areas**

#### **A. Identification**

#2 Maps identifying these specific Habitat Protection Areas are maintained by the Maryland Department of Natural Resources (MD-DNR) Wildlife and Heritage Division, **the Calvert County Government, and the Town of Chesapeake Beach.** These areas include but are not limited to:

- (a) **202.78 Acre Forest Interior Dwelling Species (FIDS) adjacent to Fishing Creek and Richfield Station Subdivision.**
- (b) Randle Cliff Natural Heritage Area
- (c) Forest Conservative Ace Easement Areas:
  - (i) Richfield Station Subdivision
  - (ii) Thomas Parran Jr. property
  - (iii) **Chesapeake Village Subdivision**

- (d) Lynwood T. Kellam Memorial Park
- (e) Any other area meeting the qualifications of A(1) above found on the most recent mapping provided by MD-DNR Wildlife and Heritage Division.

**MOTION:** Commissioner Blackwelder moved to add the highlighted wording above into Part 5, A (2). Seconded by Commissioner Huhn, all in favor.

Hearing no further comments from the Commission, the following motion was offered:

**MOTION:** Commissioner Blackwelder moved to approving the Town Planner to transmit the Critical Area draft ordinance to the Chesapeake Bay Critical Area Commission for their review and comments. Seconded by Commissioner Weaver. Ayes, Chair Berault, Commissioners Blackwelder, Huhn, and Weaver. Opposed, Commissioners Brown and Greengold. **Motion Passes.**

2. **Rules of Procedure** – Commissioner Brown provided the Commission with a draft copy of the Rules of Procedure with highlighted revisions for the Commission to consider.

### **Section 2 - Organization**

**B. Officers** – “The election shall occur annually **at the first meeting of the Planning Commission** every calendar year.”

**MOTION:** Chair Berault moved to strike the above highlighted wording. Seconded by Vice-Chair Greengold, all in favor.

**C. Secretary** – As previously approved, replace “Secretary” with “Commission Clerk.”

### **E. Review of Procedures**

**MOTION:** Commissioner Brown moved to add the following paragraph to E. **Review of Procedures:**

“During the first scheduled meeting in January, the Commission shall annually review its Rules of Procedure and amend them, as necessary. These Rules of Procedure may be amended by an affirmative vote by a minimum of four Commissioners, provided that thirty (30) days prior to the date of amendment, a public notice shall be issued, and a written description be sent to all members of the Planning Commission.” Seconded by Commissioner Blackwelder.

Commissioner Blackwelder recommends changing the word “shall” to “may” and had objections with the Commission having full authority in making its own Rules without Town Council input.

The Commission voted to accept the additional paragraph with the recommendation of the word change “shall” to “may.” Ayes, Chair Berault, Commissioners Brown, Huhn, Greengold, and Weaver. Opposed, Commissioner Blackwelder. **Motion Passes.**

### **Section 3 - Applications**

Commissioner Brown moved to add the following three paragraphs:

“Site Plan applications shall include a detailed list of all sections of the Chesapeake Beach zoning code that the applicant has consulted. Section 290-24B.”

**MOTION:** Commissioner Brown moved to add the above paragraph. Seconded by Commissioner Blackwelder, all in favor.

“The date of the first Planning Commission meeting where the Zoning Administrator presents a complete site plan application shall be the date that the plan is filed with the Commission, and the date from which the requirement for approval or rejection is calculated. Section 290-25A(5)(d).”

The Commission discussed what an accurate “filing date” would be.

**MOTION:** Commissioner Brown moved to add the above paragraph. Seconded by Commissioner Weaver. Ayes, Chair Berault, Commissioners Blackwelder, Brown, Greengold, and Hauhn. Opposed, Commissioner Weaver. **Motion Passes.**

“No Commission decision should be brought to a vote until every Commissioner has received and has had at least two weeks to review the issue or application and all supporting documents, including the Town staff report.”

**MOTION:** Commissioner Brown moved to add the above paragraph. Seconded by Commissioner Blackwelder, all in favor.

#### **Section 5 - Quorum**

Commissioner Brown moved to add the following paragraph:

“Four Commissioners present at a meeting shall constitute a quorum. Section 290-32E(5). No action of the Commission shall be valid unless authorized by a majority (4) vote of the total allowed (7) members of the Commission. Section 290-32E(6). No decision of the Planning Commission shall be final until the written decision of the Commission is signed and filed. Section 290-32G.

**MOTION:** Commissioner Brown moved to add the above paragraph. Seconded by Commissioner Blackwelder, all in favor.

#### **New Section-Advisory Opinion**

Commissioner Brown moved to add this new section to the Rules of Procedure:

“The Board of Appeals may request an advisory opinion from the Planning Commission on applications for special exceptions, variances, and interpretations. If an advisory opinion is requested from the Commission regarding special exceptions, variances, and interpretations, the opinion shall be rendered within thirty (30) days after submission to the Commission. Section 290-32-K.”

**MOTION:** Commissioner Brown moved to add the above new section. Seconded by Commissioner Weaver, all in favor.

#### **Section 9 – Order of Business**

Commissioner Brown moved to add the following sentence at the beginning of the paragraph:

“Consideration of properly submitted and complete Category 1 Site Plan applications shall take precedence over all other Commission business. Section 290-32A(6).”

**MOTION:** Commissioner Brown moved to include the above sentence in Section 9. Seconded by Commissioner Blackwelder. After a lengthy discussion, Commissioner Brown withdrew his motion.

**New Section -Annual Report**

Commissioner Brown moved to add a new section to read as follows:

“The Zoning Administrator shall prepare and present to the Commission an annual report at the beginning of each year for the Commissions’ consideration and approval, in accordance with the provisions of the Land Use Article of the Annotated Code of Maryland. Section 290-31A(9).”

**MOTION:** Commissioner Brown moved to add the above new section “Annual Report.”  
Seconded by Commissioner Blackwelder, all in favor.

Commission Clerk will incorporate the approved revisions to the Rules of Procedure and send them out to the Commission for final review.

**VIII. Adjournment:**

There being no further comments, Vice-Chair Greengold moved to adjourn the meeting at 9:30 PM. Seconded by Commissioner Huhn, all in favor.

Submitted by,

Sharon L. Humm  
Commission Clerk

This meeting can be viewed in its entirety on the Town website on the Planning Commission page [www.chesapeakebeachmd.gov](http://www.chesapeakebeachmd.gov).

# MEMO

To: Town of Chesapeake Beach Planning and Zoning Commission

From: Sarah Franklin, Town Planner

CC: Holly Whal, Town Manager

Date: 11/26/2023

Regarding: Fee-in-lieu & Mitigation fees in Critical Area Regulations

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Fees-in-lieu are fees collected by the Town from a site developer in the case that the property owner is unable to meet the requirements of the Critical Area Ordinance on the development site. While in some areas, fee-in-lieu may be used readily, the Town of Chesapeake Beach has no precedent of agreeing to fees-in-lieu with regard to Critical Area regulations. The Town has actively worked to ensure that on-site stormwater management and plantings are the standard for all development.

While fee-in-lieu has not been used in the past, it is possible it would be necessary in the future. In a case that fee-in-lieu were used after all other avenues were exhausted, the fees would be collected and then applied to offsets on public property. The fee can cover the following expenses:

- Costs directly related to planting, reforestation, afforestation, improvements to stormwater management facilities, and other projects included in an approved forest plan.
- Costs associated with site identification, acquisition and preparation, and project development.
- Costs of the fee-in-lieu program.

Assessment of these expenses is considered in the recommendations regarding appropriate charges for fee-in-lieu mitigation provided herein.

The current rates for fee-in-lieu are:

- \$1.25/sf for private development projects
- \$2.50/sf for public sector development projects

The zoning ordinance recommends a review and recalculation of these fees to ensure they are adequate. Fee-in-lieu can be set at a rate that incentivises innovative stormwater management activities while allowing a solution that benefits the Town when these practices are not possible.

The following table compares fee-in-lieu costs for several other Towns and Cities in the Critical Area for comparison.

<b>Town</b>	<b>Fee</b>
Annapolis*	\$1.50
Chesapeake City	\$1.50
Chestertown	\$1.50
Easton	\$1.50
Havre De Grace	\$2.50
Northeast	\$2.50
Oxford	\$1.50
Salisbury	\$1.50
*This is the minimum, actual fee determined by city council	



This table is from the Calvert County Code and shows the fee structure the County uses for Critical Area fee-in-lieu charges.

<b>Critical Area Mitigation Fees-in-Lieu</b>		
126	Fees-in-Lieu for Clearing within the 100-foot Buffer (1:1 &/or 2:1) Note: this is for authorized activities that do not require a variance	\$3.25/sq. ft.
127	Fees-in-Lieu for Clearing Outside of the 100-foot Buffer < 20% (1:1)	\$2.00/sq. ft.
128	Fees-in-Lieu for Clearing Outside of the 100-foot Buffer 20-30% (1:1.5)	\$3.00/sq. ft.
129	Fees-in-Lieu for Clearing Outside of the 100-foot Buffer > 30% (BOA 3:1)	\$6.00/sq. ft. + variance required
130	Fees-in-Lieu for Clearing within of the 100-foot Buffer > 30% (BOA 3:1)	\$7.50/sq. ft. + variance required
	Note: Fees-in-Lieu for any mitigation not separately called out shall be equivalent to the bond that would have been required	

The following table provides estimates of costs for each element of a program as may be needed in the instance that fee-in-lieu were to be used in the Town of Chesapeake Beach.

<b>Cost</b>	<b>Price/sqft</b>	<b>Notes</b>
Planting	\$0.20	sources range from \$0.04 - \$0.37 <sup>1</sup>
Site Acquisition	\$2.64	average of land currently for sale plus 2%
Administration	\$0.57	20% of planting & site acquisition
Maintenance	\$0.64	20% of planting & site acquisition
TOTAL	\$4.05	

<sup>1</sup>[Defining the Real Cost of Restoring Forests | Trillion Trees](#)

**CHESAPEAKE BEACH PLANNING AND ZONING COMMISSION**  
**RULES OF PROCEDURE**  
(Adopted .....

**SECTION 1 – PURPOSE**

The purpose of these rules is to establish procedures for the conduct of all matters which come before the Chesapeake Beach Planning and Zoning Commission (hereinafter referred to as the “Planning Commission”), by law or custom. These Rules of Procedure are in addition to and supplement any requirements of the Zoning Ordinance for the Town of Chesapeake Beach in Calvert County, Maryland (hereinafter the “Zoning Ordinance”), the Land Use Article of the Annotated Code of Maryland and the State of Maryland Open Meetings Act. The Commission, by resolution, may adopt policies to implement these Rules of Procedure.

**SECTION 2 – ORGANIZATION**

A. Membership

In accordance with Chapter 290 (Zoning), 290-31 (Planning Commission) Subsection (C) The Planning Commission shall consist of seven members, the majority of whom are residents, appointed by the Mayor and confirmed by the Town Council for five-year terms, and terms of appointment shall be staggered. Any vacancy in membership for an unexpired term shall be filled by appointment by the Mayor and approved by the Council.

B. Officers

In accordance with Chapter 290 (Zoning), § 290-31 (Planning Commission), Subsection (D)(1) of the Code of the Town of Chesapeake Beach, the Planning Commission shall elect a Chair from its membership. The election shall occur annually every calendar year. The Chair shall serve a term of one year, or until the Chair ceases to be a member of the Planning Commission, whichever comes first. The Chair shall preside at all hearings and meetings of the Planning Commission. The Chair shall decide all points of order, objections, and procedure, subject to these rules, unless otherwise directed by a majority of the Planning Commission members present. In addition to a Chair, the Planning Commission simultaneously shall elect a Vice-Chair who shall preside over the Planning Commission in the Chair’s absence. The Vice-Chair shall succeed the Chair if that office is vacated before the term is completed and shall serve the unexpired term of the vacated office. A new Vice-Chair shall be elected at the next regularly scheduled meeting after the Vice-Chair assumes the office of the Chair, and at such other time as the office of the chair is vacated.

C. Commission Clerk

The Town Clerk for the Town of Chesapeake Beach shall serve as the Commission Clerk to the Planning Commission. The Commission Clerk to the Planning Commission shall perform official duties assigned by these Rules or the Planning Commission. The Commission Clerk shall prepare the agenda which shall be provided by the Chair. The Commission Clerk is the contact person for all normal communications between Planning Commission members, applicants, staff, and the public.

#### D. Removal of Members

Any appointed member may be removed, after a public hearing, by the Town Council.

#### E. Review of Procedures

During the first scheduled meeting in January, the Commission may annually review its Rules of Procedure and amend them, as necessary. These Rules of Procedure may be amended by an affirmative vote by a minimum of four Commissioners, provided that thirty (30) days prior to the date of amendment, a public notice shall be issued, and a written description be sent to all members of the Planning Commission.

### **SECTION 3 – APPLICATIONS**

All applications shall be filed on forms approved by the Planning Commission and shall be accompanied by the filing fee established by the Town. Applications must be signed by the applicant and contain all requested information, or in the absence of such information an explanation shall be provided as to why the information is not provided. Applications failing to comply with this requirement shall be deemed incomplete, will not be accepted for filing, and will be returned to the applicant with a statement of the required information that is missing or incomplete.

Site plans applications shall include a detailed list of all the sections of the Chesapeake Beach zoning code that the applicant has consulted. Zoning Ordinance Section 290-24B.

The date of the first Planning Commission meeting where the Zoning Administrator presents a complete site plan application shall be the date that the plan is filed with the Commission, and the date from which the requirement for approval or rejection is calculated. Zoning Ordinance Section 290-25A(5)(d).

No Commission decision should be brought to a vote until every Commissioner has received and has had at least two weeks to review the issue or application and all supporting documents, including the Town staff report.

### **SECTION 4 – FILING AND SERVICE**

Applications, notices, statements, exhibits, and other papers (collectively referred to as “documents”) filed with the Planning Commission shall be filed with the Clerk to the Planning Commission. The Applicant shall provide the number of copies required by the Planning Commission. Copies of all exhibits offered or accepted as evidence at any hearing shall be provided to and served upon all other parties. The original of all exhibits shall be given to the Clerk, with a copy to each Planning Commission member and the Planning Commission’s staff. In addition, one copy of each exhibit shall be served upon each party of record.

### **SECTION 5 - NOTICE**

An objective is to inform the public of issues being considered by the Planning Commission by posting on the Town website the future meeting agenda seven (7) days prior to a Planning Commission meeting.

## **SECTION 6 – QUORUM**

Four Commissioners present at a meeting shall constitute a quorum. Zoning Ordinance Section 290-31E(5). No action of the Commission shall be valid unless authorized by a majority (four) vote of the total allowed (seven) members of the Commission. Zoning Ordinance Section 290-31E(6). No decision of the Planning Commission shall be final until the written decision of the Commission is signed and filed. Zoning Ordinance Section 290-31G.

## **SECTION 7 – OPEN MEETINGS**

All hearings and meetings of the Planning Commission shall be open to the public in accordance with the Maryland Open Meetings Act (Md. Code Ann., Gen. Prov. § 3-101, et seq.), as the same is amended from time to time. The Chair will assign a time limit for citizen participation which may be determined by the number of individuals that have signed-up to speak. Individuals representing a group or organization may be allowed more time than an individual, however, only one person may speak on behalf of an organization. The Planning Commission may meet in closed session as authorized by the Maryland Open Meetings Act.

## **SECTION 8 – RECORD OF PROCEEDINGS**

It shall be the duty of the Commission Clerk to keep a true and accurate record of all proceedings at all meetings. Meetings shall be electronically recorded. A video or tape recording may be accepted as the official record. Recordings shall not be transcribed except at the request and expense of the person making the request. A request for a transcript must be in writing, addressed to the Clerk of the Planning Commission and be accompanied by a sufficient deposit as determined by the Town.

## **SECTION 9 – ADVISORY OPINION**

The Board of Appeals may request an advisory opinion from the Planning Commission on applications for special exceptions, variances, and interpretations. If an advisory opinion is requested from the Commission regarding special exceptions, variances, and interpretations, the opinion shall be rendered within thirty (30) days after submission to the Commission. Zoning Ordinance Section 290-32K.

## **SECTION 10 - ORDER OF BUSINESS**

Promptly at the hour set on the day of each meeting, the business of the Planning Commission shall be taken up for consideration and disposition in the following order:

1. Approval of Agenda
2. Approval of Minutes
3. Other Administrative Items
4. Public Comment related to Agenda Items
5. Business Items
6. Commissioner Comment
7. Adjournment

## **SECTION 11 – INFORMATION FROM THE PUBLIC**

A. The Chair may prescribe procedures for registration of speakers and may require that each person come forth and state the following information:

- (1) name;
- (2) address; and
- (3) person or individual he/she represents, or that he/she is speaking as an individual.

The Chair may announce reasonable registration requirements for speakers so that all may have an opportunity to be heard. The Chair shall provide for the orderly conduct of hearings and may request the assistance of appropriate authorities to maintain order.

B. The following guidelines shall be observed for citizen participation:

### **Guidelines for Citizen Participation**

- (1) All statements or questions must be addressed to the Chair.
- (2) Speakers will be called in the order appearing on the sign-up sheet.
- (3) Members of the Planning Commission may address questions to each speaker.
- (4) Persons whose names do not appear on the sign-up sheet when discussion on an item commences may be permitted to add their names during the course of the public hearing at the discretion of the Chair.
- (5) Speakers and members of the audience shall maintain proper decorum. The Chair may request disruptive individuals to leave the hearing or meeting and may have any disruptive individual who continues to interfere with the proceedings removed.

## **SECTION 12 – RULES OF ORDER**

The rules of parliamentary practice and procedure as set forth in the latest published edition of Robert's Rules of Order shall govern the Planning Commission in all cases not otherwise provided for in these Rules of Procedure or the Zoning Ordinance. The conduct of meetings shall conform to these Rules of Procedure and the Charter and Ordinances of the Town.

1. Members of the Planning Commission or staff shall be recognized by the Chair before they have the floor to speak.
2. Members of the Planning Commission or staff shall follow standards of courtesy and decorum during meetings.
3. Discussion should be relevant to the agenda item the Planning Commission is discussing. If discussion has strayed from the agenda topic at hand any member of the Planning Commission may request a "call for orders of the day," and the Chair shall bring the discussion back to the agenda item.

## **SECTION 13 – RESCHEDULED OR CANCELED MEETING**

The Chair, in consultation with other available members of the Planning Commission, may cancel or reschedule a meeting of the Planning Commission due to inclement weather, lack of business of the Planning Commission, lack of a quorum of the Planning Commission, or convenience of the Planning Commission or Town staff.

## **SECTION 14 – MINUTES**

The Planning Commission shall have written minutes prepared to reflect each item that the Planning Commission considered, the action that the Planning Commission took on each item, and each vote that was recorded. If a member is absent or fails to vote, such fact should be recorded as well. Minutes shall be kept by the Commission Clerk and shall also identify the date, time and place of the meeting and contain a record of attendance. Minutes shall be prepared as soon as practicable, but in all cases prior to the next scheduled hearing at which the minutes shall be placed on the Planning Commission's agenda for approval. Once approved, the minutes shall be placed in a record book for filing and shall be considered a matter of public record and shall be made available for inspection during regular business hours.

If the Planning Commission meets in closed session, the minutes for its next open session shall include (i) a statement of the time, place and purpose of the closed session; (ii) a record of the vote of each member as to closing the session; (iii) a citation of the authority under the Maryland Open Meetings Act for closing the session; and (iv) a listing of the topics of discussion, persons present, and each action taken during the session. Any minutes and any tape recording of a closed session shall be sealed and may not be open to public inspection, except as provided for in State law.

## **SECTION 15 – RECORDING OF PUBLIC HEARINGS AND MEETINGS**

Persons desiring to videotape, televise, photograph, broadcast, or record a hearing or meeting of the Planning Commission shall submit a written request to the Commission Clerk to the Planning Commission at least five (5) days prior to the date of the hearing or meeting. Any such activity may be permitted only with the prior written consent of the Planning Commission.

## **SECTION 16 - ANNUAL REPORT**

The Zoning Administrator shall prepare and present to the Commission an annual report at the beginning of each year for the Commission's consideration and approval, in accordance with the provisions of the Land Use Article of the Annotated Code of Maryland. Zoning Ordinance Section 290-31A(9).

## **SECTION 17 – CONFLICT**

In the event that any of the provisions of these Rules of Procedure contradict or conflict with any provision of the Zoning Ordinance, said provisions shall be of no force and effect and the provisions of the Zoning Ordinance shall govern.

**§ 290-30. Violations and penalties. [Amended 2-16-2006 by Ord. No. O-06-1]**

A. Fines and penalties.

- (1) Except for violations of §§ 290-17 and 290-18 of Article IV of this chapter, which relate to the Critical Area, the violation of all provisions of this chapter shall constitute a municipal infraction and the penalties for violating said provisions shall be provided by this section. All citations for violations subject to this section shall be issued by the Zoning Administrator, in accordance with the provisions of Article 23A, § 3, of the Annotated Code of Maryland. A person shall violate the provisions of this chapter if he or she is the owner of a property upon which a condition exists that is in violation of this chapter or if the person participates in acts which violate this chapter (whether as an owner, tenant, contractor, or agent of the owner), but excludes those acting in an official capacity on behalf of the Town.
- (2) The violation of any provision of this chapter for which a penalty is not provided in Subsection A(3) below shall be subject to a fine of \$200.
- (3) Violations of the following provisions shall subject the violator to the following fines:

<b>Section Violated</b>	<b>Fine</b>
§ 290-3D	\$500
§ 290-11	\$400
§ 290-12C(2)	\$400
§ 290-19G	\$300
§ 290-20A(4)	\$500
§ 290-22B	\$500
§ 290-22E	\$500
§ 290-26B(8)	\$1,000
§ 290-28C	\$500

- (4) Whenever a person violates the provisions of this chapter, the Administrator may notify the person in writing of the violation. The Administrator may provide said notice in addition to the citations for a municipal infraction provided for in Subsection A(1) or the Administrator may provide the notice of violation prior to issuing a citation. The notice shall state the nature of the violation, the code section being violated, and state that the failure to commence the correction of the violation or violations may result in legal action, the person being cited for a municipal infraction, or any other form of remedy authorized by this chapter and the laws of Maryland. If the person given notice of a violation under this Subsection A(4) fails to commence the correction or abatement of all violations within 15 days, and/or fails to complete the correction or abatement of the violations within 30 days, then each day that the violation continues thereafter shall constitute a separate offense, punishable by a fine as set forth in Subsection A(2) or (3).

- (5) Nothing in this Subsection A shall be construed as a predicate or condition to the Town exercising the remedies provided for in Subsection B or C. The imposition of fines or the giving of a notice of violation provided by this Subsection A shall not be construed as a replacement of, or waiver of, the right of the Town to exercise or institute actions to seek the remedies provided for in Subsection B or C.
- B. Remedies. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this chapter, the appropriate authorities of the Town of Chesapeake Beach, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct, or abate such violation; to prevent any illegal act, conduct, business, or use in or about such premises. The rights and remedies provided in this chapter are cumulative and are in addition to all other remedies provided by law.
- C. Critical Area fines and penalties. **[Added 5-11-2005 by Ord. No. O-05-5]**
- (1) Except as set forth in Subsection C(2) through (9) hereof, the violation of any provision of § 290-17, Critical Area Overlay District, and § 290-18, Growth Allocation Floating Districts, of Article IV of this chapter shall be a civil code violation and, upon conviction thereof, the offender shall be subject to a fine in the amount of \$100.
- (2) Any person or persons who engage in development within the Buffer without a valid zoning permit, and who is in violation of § 290-17D(1) of this chapter, shall be guilty of a civil code violation. If the person or persons violating § 290-17D(1) undertook acts which demonstrate that the violation was a mistake or unintentional violation, then, upon conviction thereof, the offender shall be subject to a fine in the amount of \$600. If the person or persons violating § 290-17D(1) undertook acts which demonstrate that the violation was an intentional, willful violation, then, upon conviction thereof, the offender shall be subject to a fine in the amount of \$3,000.
- (3) Any person or persons who remove vegetation and/or trees within the Buffer without a valid zoning permit, and who is in violation of § 290-17D(5) of this chapter, shall be guilty of a civil code violation. If the person or persons violating § 290-17D(5) undertook acts which demonstrate that the violation was a mistake or unintentional violation, then, upon conviction thereof, the offender shall be subject to a fine in the amount of \$1,000. If the person or persons violating § 290-17D(5) undertook acts which demonstrate that the violation was an intentional, willful violation, then, upon conviction thereof, the offender shall be subject to a fine in the amount of \$5,000. If the area from which vegetation was removed exceeds 100 square feet, there shall be a rebuttable presumption that the violation was intentional and willful.
- (4) Any person or persons who alter the slope of the land surface within the Buffer, without a valid grading permit and who is in violation of § 290-17D(5) of this



chapter, shall be guilty of a civil code violation. If the person or persons violating § 290-17D(5) undertook acts which demonstrate that the violation was a mistake or unintentional violation, then, upon conviction thereof, the offender shall be subject to a fine in the amount of \$1,000. If the person or persons violating § 290-17D(5) undertook acts which demonstrate that the violation was an intentional, willful violation, then, upon conviction thereof, the offender shall be subject to a fine in the amount of \$5,000. If the area of slope which was altered exceeds 100 square feet, there shall be a rebuttable presumption that the violation was intentional and willful.

- (5) Any person or persons who violate the provisions of § 290-17G(1), Development Standards in Buffer Exemption Area, of this chapter and who does so without a valid zoning permit, shall be guilty of a civil code violation. If the person or persons violating § 290-17G(1) undertook acts which demonstrate that the violation was a mistake or unintentional violation, then, upon conviction thereof, the offender shall be subject to a fine in the amount of \$200. If the person or persons violating § 290-17G(1) undertook acts which demonstrate that the violation was an intentional, willful violation, then, upon conviction thereof, the offender shall be subject to a fine in the amount of \$1,000.
- (6) Any person or persons who cut or clear trees in a forest or developed woodland (as defined in § 290-44) in a Limited Development Area (LDA) in violation of the provisions of § 290-17J(2)(h)[6][b] of this chapter, and does so without a valid grading plan and/or permit, shall be guilty of a civil code violation. If the person or persons violating § 290-17J(2)(h)[6][b] undertook acts which demonstrate that the violation was a mistake or unintentional violation, then, upon conviction thereof, the offender shall be subject to a fine in the amount of \$600. If the person or persons violating § 290-17J(2)(h)[6][b] undertook acts which demonstrate that the violation was an intentional, willful violation, then, upon conviction thereof, the offender shall be subject to a fine in the amount of \$3,000. All fines imposed in this Subsection B(6) are in supplementation of the mitigation requirements of § 290-17J(2)(h)[6][b] and shall not be inferred as a substitute for the mitigation requirements contained therein.
- (7) Any person or persons who engages in development on slopes greater than 15% in a Limited Development Area (LDA) in violation of the provisions of § 290-17J(2)(h)[7] of this chapter, and who does so without a valid grading plan and/or permit, shall be guilty of a civil code violation. If the person or persons violating § 290-17J(2)(h)[7] undertook acts which demonstrate that the violation was a mistake or unintentional violation, then, upon conviction thereof, the offender shall be subject to a fine in the amount of \$600. If the person or persons violating § 290-17J(2)(h)[7] undertook acts which demonstrate that the violation was an intentional, willful violation, then, upon conviction thereof, the offender shall be subject to a fine in the amount of \$3,000. If the area of slope which was altered exceeds 200 square feet, there shall be a rebuttable presumption that the violation was intentional and willful.
- (8) Any person or persons who cut or clear trees in a forest or developed woodland (as defined in § 290-44) in a Resource Conservation Area (RCA) in violation of the

provisions of § 290-17J(3) of this chapter to the extent said section adopts by reference § 290-17J(2)(h)[6][b] as being applicable to RCA Districts, and does so without a valid grading permit, shall be guilty of a civil code violation. If the person or persons violating § 290-17J(3) undertook acts which demonstrate that the violation was a mistake or unintentional violation, then, upon conviction thereof, the offender shall be subject to a fine in the amount of \$1,000. If the person or persons violating § 290-17J(3) undertook acts which demonstrate that the violation was an intentional, willful violation, then, upon conviction thereof, the offender shall be subject to a fine in the amount of \$5,000. All fines imposed in this Subsection B(8) are in supplementation of the mitigation requirements of § 290-17J(2)(h)[6][b] and shall not be inferred as a substitute for the mitigation requirements contained therein.

- (9) Any person or persons who engage in development on slopes greater than 15% in a Resource Conservation Area (RCA) in violation of the provisions of § 290-17J(3) of this chapter to the extent said section adopts by reference § 290-17J(2)(h)[7] as being applicable to the RCA Districts, and does so without a valid grading plan and/or permit, shall be guilty of a civil code violation. If the person or persons violating § 290-17J(3) undertook acts which demonstrate that the violation was a mistake or unintentional violation, then, upon conviction thereof, the offender shall be subject to a fine in the amount of \$1,000. If the person or persons violating § 290-17J(3) undertook acts which demonstrate that the violation was an intentional, willful violation, then, upon conviction thereof, the offender shall be subject to a fine in the amount of \$5,000. If the area of slope which was altered exceeds 200 square feet, there shall be a rebuttable presumption that the violation was intentional and willful.
- (10) Any person or persons who engage in a civil code violation described in Subsection B(1) through (9) above, and said violation(s) occurs after a refusal by the Administrator to issue a permit for the specific actions taken, or which occur in violation of a stop-work order or cease-and-desist order issued by the Administrator, shall, upon conviction thereof, be subject to a fine in the amount of \$10,000, regardless of whether the actions are a mistake, unintentional, intentional or willful.
- (11) The imposition of fines for civil code infractions shall be supplemental to, and not as a substitute for, any and all development requirements imposed by this chapter, including but not limited to any requirements for afforestation, reforestation, mitigation, planting, construction of stormwater management facilities, and site design limitations, including such requirements as are imposed only upon a violation of the provisions of this chapter.
- (12) In addition to the civil penalties set forth in Subsection B(1) through (10), and not as a substitution for said civil penalties, the Administrator may seek the abatement of the conditions which are the basis of the violation. If required, an order of abatement shall require the restoration of the disturbed area to the conditions existing prior to the offending disturbance and may include an order for the removal of any structures within said area. Any abatement shall be undertaken in a manner which is consistent with the critical area requirements of the Natural

Resources Article of the Annotated Code of Maryland, COMAR, and the Town's Local Critical Area Program found in this chapter.

- (3) On the landscaping strip adjacent to a street right-of-way, or to an R-LD, R-MD, R-HD, RV-1, RV-2 or RPC District, a compact evergreen hedge, an ornamental wall, or a wooden fence of not less than four feet in height or greater than six feet in height is required to reduce the visual impact of the parking facility. **[Amended 3-16-2023 by Ord. No. O-23-2]**
- F. Internal landscaping of surface parking facility. Any surface parking facility of 25 or more spaces shall be landscaped with shade trees of not less than 5% of the internal area of the surface parking facility. The internal area of a parking facility is defined by the perimeter of the curbs or edge of paving. The planting area should be wide enough to protect the trees from a vehicle's swinging doors and bumper overhang.
- G. Lighting in parking lots. Any lighting used to illuminate any parking area shall be so arranged as to direct the light away from adjoining premises located in an R-LD, R-MD or RPC Zoning District and from public roads.
- H. Maintenance.
  - (1) All plant material shall be tended and maintained in a healthy growing condition, replaced when necessary and kept free of refuse and debris. Fences and walls shall be maintained in good repair.
  - (2) The owner, or his agent, shall be responsible for the maintenance, repair and replacement of all landscaping and screening materials as may be required by the provisions of this section.
- I. Waiver or modification. The Planning Commission or Zoning Administrator, under the provisions of Article VI, may approve a waiver or modification of the requirements of this section. Such waiver or modification may be approved:
  - (1) For an interim use of a specified duration and/or where deemed appropriate due to the location, size, surrounding area or configuration of the lot; and
  - (2) When such waiver or modification will not have any deleterious effect on the existing or planned development of adjacent properties.

**§ 290-22. Signs.**

- A. As used in this section, the following terms shall have the meanings indicated:

OFF-PREMISES SIGN — A sign which directs attention to a business, commodity, service, entertainment, home occupation, or other activity not conducted, sold, or offered on the same lot.

ON-PREMISES SIGN — A sign which directs attention to a business, commodity, service, entertainment, home occupation, or other activity conducted, sold, or offered on the same lot. A sign advertising exclusively the sale, lease, rental or development relating to the lot on which it is displayed shall be deemed an "on-premises sign."

SIGN — Any structure, part thereof, or device attached thereto or painted or represented thereon, or any material or thing, illuminated or otherwise, which displays or includes any numeral, letter, word, model, banner, emblem, insignia, device, trademark, or other

representation used as, or in the nature of, an announcement, advertisement, direction, or designation of any person, firm, group, organization, place, commodity, product, service, business, profession, enterprise, or industry, which is located upon any land, on any building, in or upon a window, or indoors in such a manner as to attract attention from outside the building.

- B. Intent and exemptions from the terms of this article.
- (1) No sign shall be erected, hung, placed, or painted in any district except as hereinafter provided.
  - (2) Tacking, painting, posting, or otherwise affixing of signs or posters of a miscellaneous character on the walls of buildings, barns, sheds, trees, posts, poles, fences, walls, or other structures, except as provided for in this chapter, is prohibited.
  - (3) No sign erected before the enactment of these regulations shall be altered in any respect or moved, except in compliance with the provisions of this chapter.
  - (4) The residential districts include the R-LD, R-MD, R-HD, RV-1, RV-2, and RPC Districts. The commercial districts include the NC, TC, PC, and MC Districts. **[Amended 3-16-2023 by Ord. No. O-23-2]**
- C. Word interpretation. For the purpose of this section and any other sections relating to signs in this chapter, any of the following words are intended to include any tense or to read with the prefix "re-": affix, alter, attach, display, erect, hang, move, paint, paper, paste, place, post, repair.
- D. Area of sign.
- (1) The area of a sign shall be construed to include all lettering, wording, and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself.
  - (2) The area of a sign painted upon or applied to a building shall be construed to include all lettering, wording, and accompanying designs or symbols, together with any backing associated with the sign.
  - (3) Where the sign consists of individual letters or symbols attached to or painted on a surface, building, wall, or window, the area shall be considered to be that of the smallest rectangle or other shape which encompasses all of the letters and symbols.
  - (4) In computing square foot area of a double-face sign, only one side shall be considered, provided both faces are identical.
- E. Permit requirements for signs. No on-premises sign over four square feet in area and no off-premises sign (except governmental sign) of any size shall be erected, affixed, painted, hung, or otherwise displayed, altered, or repaired, unless a permit therefor has been issued. No permit shall be required for the repainting or repapering of a sign which conforms to the provisions of this chapter. Signs on theaters advertising changes in program shall not require permits except for the initial installation thereof. All signs

of any size must comply with all the regulations contained herein, irrespective of whether a permit is required.

F. Signs permitted in residential districts.

- (1) On-premises signs.
  - (a) Official traffic signs and other official federal, state, county or Town government signs.
  - (b) A sign indicating the name or number of the building or premises or the accessory use of a dwelling for a home occupation, provided that such sign shall not exceed two square feet in area; and that not more than one such sign shall be erected on a property, unless such property fronts on more than one street, in which case one such sign may be erected on each street frontage.
  - (c) A sign, if illuminated, shall be indirectly lit, and no flashing lights or backlit signs shall be permitted.
  - (d) Bulletin or announcement board or identification signs for schools, churches, hospitals, and other principal uses and buildings other than dwellings, provided that the area of any such sign shall not exceed 12 square feet and not more than one such sign shall be placed on property unless such property fronts on more than one street, in which case one such sign may be erected on each street frontage.
  - (e) Signs advertising exclusively the prospective sale or lease of the land or building upon which such signs are displayed, provided that the area of any such signs shall not exceed six square feet and not more than one such sign shall be placed on a property unless such property fronts on more than one street, in which case one such sign may be erected on each street frontage. Such signs shall be removed immediately upon final settlement or renting of a property.
  - (f) A temporary sign advertising the development of the property upon which it stands or the opening of a new subdivision, provided that the area of any such sign shall not exceed 100 square feet, that not more than one such sign may be placed on a property unless such property fronts on more than one street, in which case one such sign may be erected on each street frontage. Such signs shall be removed immediately upon completion of the

development or 18 months after erection of the signs, whichever shall occur first.

- (g) Temporary contractors', architects' or building signs, provided that the area of any such sign shall not exceed 12 square feet. Such signs shall be removed immediately upon completion of the work or 18 months after erection of the signs, whichever shall occur first.
- (h) Traffic control and directional signs not exceeding two square feet in area. Such signs shall not be illuminated, but may be of the beaded reflector type. No advertising matter whatsoever shall be contained on signs of this type.
- (i) Trespassing signs or signs indicating the private nature of a road, driveway, or premises, provided that the area of any such sign shall not exceed two square feet.
- (j) Temporary signs announcing a campaign, drive, or event of a civic, philanthropic, educational, or religious organization. Such signs shall not exceed 12 square feet in area and shall be removed not more than five days after the event. Temporary signs shall not be permitted for more than 60 days per year.

- (2) Off-premises signs: official traffic signs and other federal, state, county, or Town government signs.

G. Signs permitted in the commercial districts.

- (1) On-premises signs.

- (a) All signs permitted in Subsection F at the standards prescribed therein except as otherwise provided in this subsection.

- (b) Signs for permitted nonresidential uses, provided:

- [1] The aggregate area of all signs attached to or printed on a building shall not exceed 10% of the area of the building face to which they are attached and painted or 100 square feet, whichever is less.

- [2] Freestanding signs identifying a single building or its business or a shopping center in accordance with the following schedule:

<b>Total Street Frontage (feet)</b>	<b>Number of Signs Permitted</b>
1 to 1,000	1
Each additional 1,000	1

The area of any freestanding sign shall not exceed one square foot for each lineal foot of street frontage occupied by the use on which or in connection with which the sign is to be erected, but in no case shall the area of a sign exceed 100 square feet.

- (2) Off-premises signs.
  - (a) All signs permitted in Subsection F at the standards prescribed therein.
  - (b) Signs used for directing patrons, members, or audience to service clubs, churches, or other nonprofit organizations, provided the signs shall indicate only the name, emblem, meeting hours, address, and direction of the facility, and shall not exceed four square feet in area.

H. General sign regulations.

- (1) No sign shall project more than three feet above the roof or more than 14 inches out from the wall to which it is attached. Signs not exceeding four square feet in area may be placed perpendicular to a building face if attached to and below a canopy projection from said building.
- (2) No signs shall be located within any street lines except signs permitted in Subsection F(1)(a) and (2).
- (3) Signs shall not exceed the height limit permitted in any district in which they are located. The maximum height for freestanding signs shall be 20 feet.
- (4) Signs shall not obstruct any window, door, fire escape, stairway, or other opening intended to provide light, air, ingress to, or egress from any building or structure.
- (5) No sign shall constitute a public safety and traffic hazard, such as by obstructing traffic signals, road warning signs, street name signs, or the full view of the traffic in all directions. Lighting devices shall be shielded so that they do not shine directly into a public street or highway or into a residential district.
- (6) All signs, except temporary signs, shall be constructed of durable material and kept in good condition and repair. Whenever a sign becomes structurally unsafe or endangers the safety of a building or premises or the public safety, in the opinion of the Public Works/Zoning Administrator, he/she shall order that such sign be made safe or removed. Such order shall be complied with within five days of receipt thereof by the person, firm, or corporation owning or using the sign or the owners of the building or premises on which such unsafe sign is affixed or erected.
- (7) Nonconforming signs, once removed, shall be replaced only with conforming signs; however, nonconforming signs, if not removed, may be repainted or repaired, provided such repainted or repaired sign does not exceed the dimensions of the existing sign, and provided no change is made in the general wording or content of the sign.
- (8) Signs, including portable and temporary signs, directing patrons, members, or audience to temporary exhibits, shows, or events, are permitted subject to the following requirements:
  - (a) No such sign shall exceed 12 square feet in area.
  - (b) Signs shall be removed within five days after the date of the exhibit, show, or event.



- (c) No such sign shall be posted earlier than two weeks before the occurrence of the event to which it relates. Signs shall be permitted for more than 60 days per year.
- (d) Failure to remove such signs within the time prescribed shall result in the Town having the sign removed at the owner's expense.
- (9) Signs shall be removed when the business, enterprise, etc. advertised ceases to exist, or at the expiration date specified in the permit for erection; removal shall be the responsibility of the owner of the property on which the sign is located.
- (10) No sign shall have moving parts or project any intermittent or flashing illumination.
- (11) No sign shall be displayed which uses the words "Stop" or "Danger" or presents or implies the need or requirement of stopping or the existence of danger as part of an advertising sign.
- (12) No sign shall be permitted which contains statements, words, or pictures of an obscene character.
- (13) No signs shall be placed on rocks, tree, or on poles maintained by public utilities.
- (14) All portable signs shall be limited as follows:
  - (a) Hot air balloons and searchlights are allowed for promotions only, not to exceed 72 hours in a year.
  - (b) Pennants and banners (with no words or advertising) are permitted for display periods not to exceed 14 days prior to an event, and not to exceed 30 days per year.
  - (c) One sandwich-type (A-frame) sign is permitted per business on premises, subject to the following:
    - [1] Each sign board face shall not exceed 12 square feet.
    - [2] The total height is not to exceed 36 inches.
    - [3] The sign shall be located so as to not restrict sight distance below that is called for in the Town Road Ordinance.
    - [4] The owner shall obtain a permit for the sign; however, the size of the sign will not count against the total signage allowed under Subsection G(1)(b) of this section.