



OFFICE OF THE PLANNING AND ZONING COMMISSION

**PLANNING COMMISSION  
AGENDA  
JANUARY 24, 2024  
6 PM**

- I. Call to Order & Roll Call**
- II. Approval of the January 24, 2024 Planning Commission Agenda.**
- III. Approval of the minutes of the December 13, 2023 Planning Commission Meeting.**
- IV. Meeting Dates**
- V. Public Comment on any item on the agenda: NOTE: There will be a 2-minute limit on comments received.**
- VI. Old Business**
  - 1. Rules of Procedure**
  - 2. Review of State's Critical Area comments**
  - 3. Review of Section 290-30 Zoning Code**
  - 4. Signage**
- VII. New Business**
  - 1. Site Approval Plan Process**
- VIII. Comments by Commissioners- Note: 1-minute limit on comments**
- IX. Adjournment**



**PLANNING AND ZONING COMMISSION**

**MINUTES OF THE  
PLANNING COMMISSION MEETING  
DECEMBER 13, 2023**

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

Chair Berault took the opportunity to thank all the Commissioners, as well as the Town Planner, and Commission Clerk for all their work regarding planning and zoning and to wish everyone a blessed and joyful holiday and all good things for the new year, especially good health.

II. **Approval of the December 13, 2023 Planning Commission Agenda**

**MOTION:** Commissioner Brown moved to approve the December 13, 2023 Planning Commission agenda. Seconded by Commissioner Ruttkey.

**MOTION:** Commissioner Brown moved to remove under Old Business, #1- State review of critical area as the Commission has not received comments from the State yet. Seconded by Commissioner Ruttkey. The Commission voted on the amended agenda, all in favor.

III. **Approval of the November 15, 2023 Planning Commission meeting minutes**

**MOTION:** Commissioner Brown moved to approve the November 15, 2023 Planning Commission meeting minutes. Seconded by Commissioner Weaver.

**MOTION:** Commissioner Brown moved to amend the November 15, 2023 meeting minutes to change "Section 5-Quorum" to "Section 6-Quorum" and add "Section 9" to the Advisory Opinion section. Seconded by Commissioner Weaver, all in favor.

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

V. **Old Business**

1. **Fees-in-Lieu** – As per the fee-in-lieu discussion at the November Planning meeting, the Commission recommended Ms. Franklin research and provide the Commission with critical area fee-in-lieu and mitigation fees comparing other jurisdictions to the Town. Ms. Franklin presented a memo comparing critical area fees between other towns and cities, and Calvert County. She also provided an estimation of actual costs of reforestation which was estimated at \$4.05. After a lengthy discussion, it was recommended the fee-in-lieu program remain in place and fees be established with a more realistic cost. With that, the Commission made the following motions:

**MOTION:** Commissioner Weaver moved to direct the Town Planner to draft language to include in the critical area ordinance, that any category 2 site plan

that comes before staff and is determined that fee-in-lieu may be appropriate, that it shall come before the Planning Commission for approval. Seconded by Commissioner Ruttkay. Ayes, Chair Berault, Commissioners Blackwelder, Ruttkay, and Weaver. Opposed, Commissioner Brown. **Motion Passes.**

**MOTION:** Chair Berault moved to direct the Town Planner to draft language to include that the minimum cost for mitigation of planting be \$4.25 and be reflected in the critical area ordinance under the fee-in-lieu section. Seconded by Commissioner Weaver. Ayes, Chair Berault, Commissioners Blackwelder, Ruttkay, and Weaver. Opposed, Commissioner Brown. **Motion Passes.**

**MOTION:** Commissioner Blackwelder moved to direct the Town Planner to draft language that states that in the case of after the fact permits or violations, the fee-in-lieu shall always be applied. Seconded by Commissioner Weaver. Ayes, Chair Berault, Commissioners Blackwelder, Ruttkay, and Weaver. Opposed, Commissioner Brown. **Motion Passes.**

It was noted that all the above amendments will be included under Part 4. Modified Buffer-B.(x) Fees in lieu of planting. Ms. Franklin will incorporate these changes into the Critical Area ordinance and will present at the January 24, 2024 commission meeting for their review and consideration.

- 2. Review and approval of Rules of Procedure** – Commissioner Brown made a statement stemming from a comment made at the November meeting as to why he believes the Town Council need not be involved in approving the Commission’s own Rules of Procedure. The Commission agreed.

**MOTION:** Commissioner Brown moved to approve the Rules of Procedure. Seconded by Commissioner Blackwelder.

**MOTION:** Commissioner Brown moved to amend the Rules of Procedure, Section 9-Advisory Opinion to include the wording “the next meeting of the Commission” to read as “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 the next meeting of the Commission.” Seconded by Commissioner Blackwelder, all in favor.

**MOTION:** Chair Berault moved to adopt the Rules of Procedure as amended, all in favor.

## **VI. New Business**

- 1. Review 290-30 Zoning Code** – This section of the zoning code references violations and penalties. The Commission reviewed section 290-30 noting several concerns.

Commissioner Blackwelder stated she appreciated what the Town Planner provided regarding fees-in-lieu and would like to see something similar in comparing fines outside of the Town to evaluate this section against.

Commissioner Brown had a number of concerns about this section of the code that he would like to see addressed.

- A. Fines and Penalties (1) - Grandfather clause to protect homeowners where a condition exists that is in violation of this chapter.

- A. Fine and Penalties (3) - Reference names of sections violated.
- A. Fines and Penalties (4) - Process for adjudication.
- Who executes these fines and penalties?

Commissioner Brown would like to see the Town Planner prepare a draft of Section 290-30 addressing the concerns noted for the Commission to review.

**MOTION:** Commissioner Blackwelder moved to direct the Town Planner to provide the Commission with contextual information about fines in municipalities and areas outside of the Town and any other recommendations or points of thought that should be considered. Seconded by Commissioner Brown, all in favor.

The Town Planner will prepare a memo and a draft of Section 290-30 for the Commission to review at its January 24, 2024 meeting.

**2. Signage**

Commissioner Ruttkay had concerns with “temporary signs” along the roadways such as real estate signs, open house signs, yard sale signs, the duration of time they can stay up, and who would enforce the removal of those signs.

Chair Berault stated the Commission needs to work to make the code as clear as possible, to be in compliance with the code, and have an enforcement mechanism in place.

Commissioner Blackwelder suggested the Commission recommend to the Town Council that they contract a company to develop design standards for the Town. This would include signs, fixtures, and different elements for what gets built and placed in Town. With the budget cycle around the corner, now would be the perfect time to recommend this. It would give the Town continuity as development grows.

It was recommended that the Commission revisit this at their January 24<sup>th</sup> meeting when Vice-Chair Greengold will be present.

**VII. Adjournment:**

There being no further comments, Commissioner Ruttkay moved to adjourn the meeting at 9:00 PM. Seconded by Commissioner Brown, 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).

**CHESAPEAKE BEACH PLANNING AND ZONING COMMISSION**  
**RULES OF PROCEDURE**  
**(Adopted December 13, 2023)**

**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 (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 over 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. 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. 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. Section 290-32E(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. 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.

## **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 the next meeting of the Commission. 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 generally 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. The Chair shall recognize members of the Planning Commission or staff 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 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 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. Section 290-32A(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.

# MEMO

To: Town of Chesapeake Beach Planning and Zoning Commission

From: Sarah Franklin, Town Planner

CC: Holly Whal, Town Manager

Date: 1/17/2024

Regarding: Critical Area Commission Feedback  
Violations with regard to Critical Area Regulations

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## Critical Area Commission Feedback

Initial Comments and feedback was provided to the Town of Chesapeake Beach. Some of these items have been incorporated in the revised draft (attached). The changes that are statutorily required for the ordinance have been shown in ALL CAPS. Other changes are shown in red through track changes in the document.

There are some additional recommendations that require a larger discussion prior to drafting changes. These recommendations are summarized herein:

1. With regard to the 200-foot buffer, the Critical Area Commission recommends that the Town consider instead, a Coastal Resiliency Overlay. This could cover a larger area than the 200-foot buffer, and it would reduce concerns regarding enforcement and variance requests raised by a 200-foot buffer. The overlay would also allow for pairing fees with development, and those fees could be put back into the community directed by both a fee program and the Coastal Resiliency Plan. Further Discussion is required and there are option for moving forward with the ordinance:
  - a. Send the ordinance as revised with no changes, this would create administrative problems and increase potential for non-permitted development, increasing the need for enforcement.

- b. Send the ordinance with a 100-foot buffer and immediately start an amendment process to add the Coastal Resiliency Overlay.
  - c. Hold the ordinance to incorporate a Coastal Resiliency Overlay, but consider sending the Board of Commissioners a request to make an amendment to the current Critical Area Ordinance increasing mitigation requirements, while moving forward on revisions.
2. The Planning Commission can consider creating a robust fee-in-lieu program in association with the Coastal Resiliency Overlay. This could still be designed to require on-site mitigation as the preferred outcome and limit the fee-in-lieu option to the portion of the mitigation that cannot be done on site. The goal would be to create a system to combine the mitigation expenses from residents in a neighborhood and use those funds to create a more meaningful storm water reduction project for the neighborhood. Planting would still be required, increasing the uptake of water through root systems. The program would fund larger resilience and stormwater projects in the immediate area where the mitigation is required.
  3. The Coastal Resiliency Overlay could also have fees that are not fee-in-lieu but basic development fees for specific items, (ie, building a deck could have a fee of \$500 within the Critical Area). These fees would go to the Coastal Resiliency projects that will protect the community in the face of rising sea levels.

#### Violations with regard to Critical Area Regulations

If the Planning Commission wishes to take this approach it may also wish to consider a different approach to violation fines. I am therefore attaching several examples of the violations of other fine related sections of Critical Area Ordinances. I think it is worth discussion on what the board would like to see moving forward as the examples are quite different from the Town's current approach to violations. I would like your feedback on which structure you would like to move forward with before providing recommended changes to the current ordinance.

The Critical Area Commission does recommend that the Town include the following language in a revision of its violations and enforcement section of the zoning code related to Critical Area: "In addition to any other penalty applicable under this ordinance, every violation of a provision of the Natural Resources Article, Title 8, Subtitle 18, or the Critical Area Provisions of the Ordinance shall be punishable by a civil penalty of up to \$10,000 per calendar day."

DRAFT – NOVEMBER 2023

TOWN OF CHESAPEAKE BEACH

DRAFT – ~~November-January 17-15, 2024~~<sup>3</sup>

CRITICAL AREA ORDINANCE

*Based on the Critical Area Commission's Model Ordinance, 2022 Version. For review only. Not organized into Town of Chesapeake Beach code format. To be drafted as a repeal and replacement of Section 290-17 and 290-18 of the Town of Chesapeake Beach Zoning Ordinance.*

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

A. Goals.

The goals of the Town of Chesapeake Beach (Town) Critical Area Program are to accomplish the following:

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

B. Critical Area Program.

- (1) The Town of Chesapeake Beach adopted its Critical Area Program on December 1, 1985. The Chesapeake Beach Critical Area Program consists of the Chesapeake Beach Zoning Ordinance, the Official Critical Area map(s), and any other related provisions within the Town's ordinances.
- (2) Notwithstanding any provision in this ordinance, or the lack of a provision in this ordinance, all of the requirements of Natural Resources Article 8-1801 through 8-1817 and COMAR Title 27 shall apply to and be applied as minimum standards.
- (3) In the case of conflicting provisions, the stronger provision applies.

C. Responsibilities.

The Town of Chesapeake Beach's Critical Area Program and all applicable provisions of this Ordinance shall be implemented and enforced by the Town Zoning Administrator.

- (1) The Zoning Administrator shall review a permit, license, or other authorization for a development or redevelopment activity in the Critical Area for compliance with this Critical Area Ordinance prior to issuance of that permit or license.
- (2) Should the Critical Area Program be brought to the attention of any Town official, said official shall contact the Zoning Administrator.
- (3) As provided elsewhere in this Ordinance, in the review and approval of plans and applications, the local Approving Authority shall be with either the Zoning Administrator, the Planning Commission, or the Board of Zoning Appeals, depending on the specific petition or application filed with the Town.

D. Critical Area Overlay District Map.

- (1) The Official Critical Area Overlay District Map is maintained as part of the Official Zoning Map for the Town of Chesapeake Beach. The Official Critical Area Map delineates the extent of the Critical Area Overlay District that shall include:
  - (a) All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide [as indicated on the State wetland maps]<sup>1</sup>, and all state and private wetlands designated under Title 16 of the Environment Article of the Annotated Code of Maryland; and
  - (b) All land and water areas within 1,000 feet beyond the landward boundaries of state or private wetlands and the heads of tides designated under Title 16 of the Environment Article of the Annotated Code of Maryland.
- (2) Within the designated Critical Area Overlay District, all land shall be assigned one of the following land classifications, based on land uses and development in existence on December 1, 1985:
  - (a) Intensely Developed Area (IDA).
  - (b) Limited Development Area (LDA).
  - (c) Resource Conservation Area (RCA).
- (3) The Critical Area Overlay District Map may be amended by the Mayor and Town Council in compliance with amendment provisions in this Ordinance the Maryland Critical Area Law, and COMAR Title 27.

E. Applications Referred to the Chesapeake Bay Critical Area Commission (CBCAC)

- (1) The Town of Chesapeake Beach shall send copies of applications for all developments, subdivisions, and site plans wholly or partially within the Critical Area as specified in COMAR 27.03.01.04 to the CBCAC for review

and comment, except the following.

- (a) A single-family dwelling unit or addition thereto
  - (b) Any structure accessory to a single-family dwelling unit
  - (c) Development in which land disturbance does not exceed 15,000 square feet
  - (d) Subdivision resulting in 10 lots or less, or 10 dwelling units or less.
  - (e) Notwithstanding the above, all projects that are in the RCA or have an impact on any preservation area (as identified in Part 5 of this ordinance) shall be sent to the CBCAC for review.
- (2) The copy of the application shall be accompanied by a completed "Project Notification Application" form downloaded from the Commission's website.
  - (3) Chesapeake Beach may not process an application which has been sent to the Commission for notification until it has received notice of receipt by the Commission or the close of the tenth business day, whichever comes first.
  - (4) Any action by the Town of Chesapeake Beach in violation of these procedures shall be void.

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

- A. General Requirements in all Critical Area Overlay Zones.
- (1) Development and redevelopment shall be subject to the Habitat Protection Area requirements prescribed in Parts 3-5 of this Ordinance.
  - (2) Development and redevelopment shall be subject to the water-dependent facilities requirements of Part 6 of this Ordinance;
  - (3) The Town of Chesapeake Beach shall maintain areas of public access to the shoreline, and, if possible, encourage the establishment of additional areas of shoreline access for public use, such as foot paths, scenic drives, and other public recreational facilities.
  - (4) Development shall comply with the following complementary State statutes and regulations, including:
    - (a) For soil erosion and sediment control, management measures shall be consistent with the requirements of Environment Article, §§4-101—4-116, Annotated Code of Maryland, and COMAR 26.17.01;
    - (b) For stormwater runoff, stormwater management measures shall be consistent with the requirements of Environment Article, §§4-201—4-215, Annotated Code of Maryland, and COMAR 26.17.02;
    - (c) For shore erosion, shoreline stabilization measures shall be consistent with the requirements of Environment Article, Title 16, Annotated Code of Maryland, and COMAR 26.24.04; and
    - (d) Any other applicable State statute or regulation.
  - (5) A development activity or facility may not be authorized in the Critical Area if, by its intrinsic nature, the activity or facility has the potential to cause an adverse effect on water quality, wildlife, or fish habitat or plant habitat, unless:
    - (a) For an activity or facility such as nonmaritime heavy industry:
      - (i) It is located within an intensely developed area;
      - (ii) It fully complies with all requirements under Part 6 of this Ordinance of this chapter; and
      - (iii) The owner or operator of the activity or facility demonstrates to all applicable State and local agencies that there will be a net improvement in water quality to the adjacent body of water; or
    - (b) For an activity or facility such as a sanitary landfill or a solid or hazardous waste collection or disposal facility:
      - (i) There is no environmentally acceptable alternative outside the Critical Area; and
      - (ii) The activity or facility is necessary in order to correct a water quality or wastewater management problem.

- (6) A transportation facility or a utility transmission facility or activity may not be authorized in the Critical Area, unless it is:
  - (a) A facility that serves a use identified under this Critical Area program;
  - (b) A linear regional or interstate transportation facility that must cross tidal waters; or
  - (c) A linear regional or interstate utility transmission facility that must cross tidal waters.
- (7) A new permanent sludge handling, storage, or disposal activity or facility may not be authorized in the Critical Area, unless:
  - (a) The activity or facility is associated with a wastewater treatment facility; or
  - (b) In accordance with an approved nutrient management plan under Agriculture Article, Title 8, Subtitle 8, Annotated Code of Maryland, and COMAR 15.20.04 and COMAR 15.20.06 -- .08, sludge is applied on agricultural land that is not in the buffer.
- (8) 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.
- (9) 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 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.
- (10) Reasonable accommodations for the needs of individuals with disabilities.
  - (a) An applicant seeking relief from the Critical Area standards contained in this Ordinance in order to accommodate the reasonable needs of disabled citizens shall have the burden of demonstrating by a preponderance of evidence the following:
    - (i) The alterations will benefit persons with a disability within the meaning of the Americans with Disabilities Act;
    - (ii) Literal enforcement of the provisions of this Ordinance 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;
- (iii) The accommodation would reduce or eliminate the discriminatory effect of the provisions of this Ordinance or restore the disabled resident's or user's reasonable use or enjoyment of the property;
  - (iv) The accommodation requested will not substantially impair the purpose, intent, or effect, of the provisions of this Ordinance as applied to the property; and
  - (v) The accommodation would be environmentally neutral with no greater negative impact on the environment than the literal enforcement of the statute, ordinance, regulation or other requirement; or would allow only the minimum environmental changes necessary to address the needs resulting from the particular disability of the applicant/appellant.
- (b) The Approving Authority shall determine the nature and scope of any accommodation under this Ordinance 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 Ordinance. The ~~Board~~ Approving Authority 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 Approving Authority 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 Ordinance. Appropriate bonds may be collected or liens placed in order to ensure The Town of Chesapeake Beach's ability to restore the property should the applicant fail to do so.

#### B. Intensely Developed Areas.

All development in the Intensely Developed Area shall meet the following standards:

- (1) Intensely Developed Areas (IDA) include areas where residential, commercial, institutional, and/or industrial development uses predominate and where relatively little natural habitat occurs. At the time of the initial mapping, these areas shall have had at least one of the following features:
  - (a) Housing density equal to or greater than four 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 serving the area and housing density greater than three dwelling units per acre;
- (2) In addition, IDAs shall be located in an area of at least 20 adjacent acres unless it is the entirety of the upland area of the Town of Chesapeake Beach, or it is consistent with Part 7;
  - (3) Land use activities within the IDA will be managed in accordance with the land use policies of COMAR 27.01.02.03;
  - (4) Development activities shall be designed and implemented to minimize destruction of forest and woodland vegetation; and
  - (5) All development and redevelopment activities shall include stormwater management technologies that reduce pollutant loadings by at least 10 percent below the level of pollution on the site prior to development or redevelopment as provided in Critical Area 10% Rule Guidance Manual – Fall 2003 and as may be subsequently amended.
  - (6) No use shall be permitted in the IDA that is not permitted in the underlying zoning district.

C. Limited Development Areas.

- (1) Limited Development Areas (LDA) are those areas that are currently developed in low or moderate intensity uses. They also contain areas of natural plant and animal habitats. The quality of runoff from these areas has not been substantially altered or impaired. At the time of the initial mapping, these areas shall have had at least one of the following features:
  - (a) Housing density ranging from one dwelling unit per five acres up to four dwelling units per acre;
  - (b) Areas not dominated by agricultural, wetland, forest, barren land, open water, or open space;
  - (c) Areas meeting the conditions of Intensely Developed Area but compromising less than 20 acres; or
  - (d) Areas having public sewer or public water, or both.
- (2) Land use activities within the LDA will be managed in accordance with the land use policies of COMAR 27.01.02.04.
- (3) 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 of Chesapeake Beach 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.
- (4) Development on slopes 15 percent or greater, as measured before development, shall be prohibited unless the project is the only effective way to maintain or improve the stability of the slope and is consistent with the policies and standards for Limited Development Areas.
- (5) Except as otherwise provided in this subsection, lot coverage is limited to 15% of a lot or parcel or that portion of a lot or parcel that is designated LDA.
  - (a) If a parcel or lot of one-half acre or less in size existed on or before December 1, 1985, then lot coverage is limited to twenty-five (25%) of the parcel or lot.
  - (b) If a parcel or lot greater than one-half acre and less than one acre in size existed on or before December 1, 1985, then lot coverage is limited to fifteen percent (15%) of the parcel or lot.
  - (c) If an individual lot one acre or less in size is part of a subdivision approved after December 1, 1985, then lot coverage may exceed fifteen percent (15%) of the individual lot; however the total lot coverage for the entire subdivision may not exceed fifteen percent (15%).
  - (d) Lot coverage limits provided in §(a) and §(b) above may be exceeded, upon findings by the Planning Commission or its designee that the following conditions exist:
    - (i) 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.
    - (ii) Lot coverage associated with new development activities on the property have been minimized;
    - (iii) For a lot or parcel one-half acre or less in size, total lot coverage does not exceed the lot coverage limits in §(a) by more than twenty-five percent (25%) or five hundred square feet (500 square feet), whichever is greater;
    - (iv) For a lot or parcel greater than one-half acre and less than one acre in size, total lot coverage does not exceed the lot coverage limits in §(b) or five thousand, four hundred and forty-five (5,445) square feet, whichever is greater;
    - (v) The following table summarizes the limits set forth in §(i) through §(iv) above:

Table C.(3)(d). Lot Coverage Limits.

Lot/Parcel Size (Square Feet)	Lot Coverage Limit
0 – 8,000	25% of parcel + 500 SF
8,001 – 21, 780	31.25% of parcel
21,781 – 36,300	5,445 SF
36,301 – 43,560	15% of parcel

- (e) If the Approving Authority makes the findings set forth in §(d) above and authorizes an applicant to use the lot coverage limits set forth in that paragraph, the applicant shall:
  - (i) 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
  - (ii) Provide on-site mitigation in the form of plantings to offset potential adverse water quality impacts from the development activities resulting in new lot coverage. The plantings shall be equal to two times the area of the development activity.
  - (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.
- (f) For the purposes of calculating limitations on lot coverage, is as follows:
  - (i) When a site is mapped entirely as LDA, lot coverage is based on the entire site area; and
  - (ii) When a portion of a lot or parcel is mapped as LDA, lot coverage is based on the area of the LDA.
- (6) 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 of Chesapeake Beach in the 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;
  - (c) If an applicant is authorized to clear more than 20 percent of a forest or developed woodlands on a lot or parcel, the applicant shall replace the forest or developed woodlands at 1.5 times the entire areal extent of the forest or developed woodlands cleared,

including the first 20 percent of the forest or developed woodlands cleared.

- (d) An applicant may not clear more than 30 percent of a forest or developed woodlands on a lot or parcel, unless the Board of Appeals grants a variance, and the applicant replaces forest or developed woodlands at a rate of 3 times the areal extent of the forest or developed woodlands cleared.
- (7) If no forest exists on proposed development sites, these sites shall be planted to provide a forest or developed woodland cover of at least 15 percent. The applicant shall designate, subject to the approval of the Town of Chesapeake Beach, a new forest area on a part of the site not forested.
- (8) If the areal extent of the site limits the application of the reforestation standards in this section, the Town of Chesapeake Beach may allow an applicant to plant offsite within the LDA or RCA within the Town of Chesapeake Beach, or upon finding that offsite planting is not possible, to pay a fee in lieu of planting.
- (9) The applicant shall ensure that any plantings that die within twenty-four (24) months of installation shall be replaced. A performance bond in an amount determined by the Town of Chesapeake Beach shall be posted to assure satisfactory replacement as required in (5) above and plant survival;
- (10) The applicant shall obtain a permit from the Town of Chesapeake Beach before forest or developed woodland is cleared. The clearing of forests and developed woodlands before obtaining a Town of Chesapeake Beach permit is a violation and any area cleared shall be replanted at three times its areal extent;
- (11) Clearing of forest or developed woodlands that exceeds the maximum area allowed in (6) above shall be replanted at three times the areal extent of the cleared forest;
- (12) All forest, including afforested areas, shall be maintained through conservation easements, restricted covenants, or other protective instruments.
- (13) New, expanded or redeveloped industrial facilities may only be permitted in Limited Development Areas (LDA) if such a use is permitted in the underlying zoning district and provided such facilities meet all requirements for development in the LDA.
- (14) No use shall be permitted in the LDA that is not permitted in the underlying zoning district.

#### D. Resource Conservation Areas.

- (1) RCAs are those areas characterized by nature dominated environments (wetlands, forests, abandoned fields) and resource utilization activities

- (agriculture, forestry, fisheries activities, or aquaculture). These areas shall have at least one of the following features: Density is less than one dwelling unit per 5 acres; or Dominant land use is in agriculture, wetland, forest, barren land, surface water, or open space.
- (2) Development activity within the Resource Conservation Areas shall be consistent with the requirements and standards for Limited Development Areas as specified by in COMAR 27.01.02.04 and this Ordinance.
- (a) For the purposes of calculating limitations on lot coverage, the following shall apply:
- (i) When a site is mapped entirely as RCA, lot coverage is based on the entire site area; and
- (ii) When a portion of a lot or parcel is mapped as RCA, lot coverage is based on the area of the RCA.
- (3) Density
- (a) Land within the Resource Conservation Area may be developed for residential uses at a density not to exceed one dwelling unit per 20 acres, except as may be further restricted by the underlying zoning district.
- (b) The Town of Chesapeake Beach 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 Resource Conservation Area, the Town:
- (i) Shall count each dwelling unit;
- (ii) May permit the area of any private wetlands located on the property to be included under the following conditions:
- (A) The density of development on the upland portion of the parcel may not exceed one dwelling unit per eight acres; and
- (B) 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 of Chesapeake Beach, the CBCAC and Maryland Department of the Environment.
- (4) Nothing in this Section shall limit the ability of a participant in any agricultural easement program to convey real property impressed with such an easement to family members provided that no such conveyance and will result in a density greater than one dwelling unit per 20 acres, except as may be further restricted by the underlying zoning district.
- (5) RCA Uses
- (a) Existing industrial and commercial facilities, including those that directly support agriculture, forestry, or aquaculture shall be

allowed in RCAs.

- (b) Expansion of existing industrial facilities and use in the Resource Conservation Area shall be subject to the non-conforming use provisions of this Ordinance and the Grandfathering provisions in Part 8 and may require growth allocation.
- (c) Additional industrial or commercial facilities shall not be located in the RCA.
- (d) Any Institutional, Recreational, and Educational use permitted by right or special exception in the RC District shall be allowed in the RCA.
- (e) New commercial, industrial, and institutional uses shall not be permitted in Resource Conservation Areas, except as provided for in the Town of Chesapeake Beach's growth allocation provisions or as listed below.<sup>40</sup>
  - (i) A home occupation as an accessory use on a residential property and as provided for in the Town of Chesapeake Beach's zoning ordinance; and
  - (ii) Any Institutional, Recreational, and Educational use permitted by right or special exception in this Ordinance's Resource Conservation (RC) zoning district.
- (f) Additional RCA may not be zoned or used for industrial, commercial, or institutional development, except as provided by the Town of Chesapeake Beach's growth allocation provisions.
- ~~(g)~~ No use shall be permitted in the RCA that is not permitted in the underlying zoning district.
- ~~(g)~~(h) Any proposed new use in the RCA or the underlying zoning district requires the review and approval of the CBCAC.

Part 3. The Buffer. (A different approach is recommended to ensuring increase resilience in the face of Climate Change and Sea Level Rise, please see memo from Planner on 1/17/24)

A. Applicability & Delineation.

An applicant for a development activity or a change in land use shall apply all of the required standards as described below. The Buffer shall be delineated in the field and shall be shown on all applications as follows:

- (1) A Buffer of at least 200 feet is delineated, and expanded as described in A(3), based on existing field conditions landward from:
  - (a) The mean high water line of a tidal water;
  - (b) The edge of each bank of a tributary stream; and

- (c) The upland boundary of a tidal wetland.
- (2) 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, tidal wetlands, or a tributary stream.
- (3) The Buffer shall be expanded beyond 200 feet as described in §A(1) above, and beyond 200 feet as described in §A(2) above , to include the following contiguous land features:
  - (a) A steep slope at a rate of four feet for every one percent of slope or the entire steep slope to the top of the slope, whichever is greater;
  - (b) A nontidal wetland to the upland boundary of the nontidal wetland;
  - (c) The 100-foot buffer that is associated with a Nontidal Wetland of Special State Concern, which shall be so designated and included in the list of such wetlands in COMAR §26.23.06.01; [Drafter's Note: As of January 1, 2024, no such wetland exists in Chesapeake Beach.]
  - (d) 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 200-foot Buffer.

**B. Development Activities in the Buffer.**

The Town of Chesapeake Beach may authorize disturbance to the Buffer for the following activities, provided mitigation is performed in accordance with Section D of this Part and an approved Buffer Management Plan is submitted as required per Section F of this Part:

- (1) A new development or redevelopment activity associated with a water-dependent facility as described in Part 6.
- (2) A shoreline stabilization measure, which shall be otherwise authorized by the State in accordance with COMAR 26.24.02, and/or COMAR 26.24.04.
- (3) A development or redevelopment activity approved in accordance with the variance provisions of this Ordinance.
- (4) A new development or redevelopment activity on a lot or parcel that was created before January 1, 2010 where:
  - (a) The Buffer is expanded for highly erodible soil on a slope less than 15 percent or is expanded for a hydric soil and the expanded Buffer occupies at least 75% of the lot or parcel;
  - (b) The development or redevelopment is located in the expanded portion of the Buffer and not within the 200-foot Buffer; and



- (c) Mitigation occurs at a 2:1 ratio based on the lot coverage of the proposed development activity that is in the expanded Buffer.
- (5) Associated with the placement of dredged material: The Town of Chesapeake Beach may approve the placement of dredged material in the buffer, including within any portion of the Critical Area designated as a Habitat Protection Area, for the following:
  - (a) A beneficial use approved by the Maryland Board of Public Works or Department of the Environment, such as the following purposes:
    - (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;
    - ~~(vi) Land form measures to address coastal resiliency; and~~
    - (vii)(vi) Any other approved beneficial use.
  - (b) The placement in an area that was approved for the disposal of channel maintenance dredged material before June 11, 1988.

C. Buffer Establishment.

- (1) The requirements of this regulation are applicable to:
  - (a) 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
  - (b) The approval of a subdivision that includes a buffer to tidal waters, a tidal wetland, or a tributary stream.
- (2) If an applicant for a subdivision of a lot uses or leases the lot for an agricultural purpose, the applicant:
  - (a) In accordance with local land recordation requirements, shall record an approved buffer management plan under Part F of this chapter; and
  - (b) If authorized by the local jurisdiction, may delay implementation of the buffer management plan until the use of the lot is converted to a nonagricultural purpose.
- (3) The requirements of this regulation are not applicable to an in-kind replacement of a structure.
- (4) The Town of Chesapeake Beach shall require an applicant to establish the Buffer in vegetation in accordance with the table below and Part E of this chapter and to provide a Buffer Management Plan under Part F of this

chapter when an applicant applies for:

- (a) Approval of a subdivision;
- (b) Conversion from one land use to another land use on a lot or a parcel; or
- (c) Development on a lot or a parcel created before January 1, 2010.

(5) 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.

<b>Development Category</b>	<b>Lot Created Before December 1, 1985</b>	<b>Lot Created After December 1, 1985</b>
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	

- (6) The Town of Chesapeake Beach may authorize an applicant to deduct from the total establishment requirement an area of lot coverage removed from the buffer if:
- (a) The lot coverage existed before the date of local program adoption or was allowed by the Town of Chesapeake Beach; and
  - (b) The total area is stabilized.

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

An applicant for a development activity that includes disturbance to the Buffer shall mitigate for impacts to the Buffer and shall provide a Buffer Management Plan in accordance with the standards set forth in this Part.

- (1) All authorized development activities shall be mitigated according to COMAR 27.01.09.01-2.

- (2) All unauthorized development activities in the Buffer shall be mitigated at a ratio of 4:1 for the area of disturbance in the Buffer.
- (3) Planting for mitigation shall be planted onsite within the Buffer. If mitigation planting cannot be located within the Buffer, then the Town of Chesapeake Beach may permit planting in the following order of priority:
  - (a) On-site and adjacent to the Buffer; and
  - (b) On-site elsewhere in the Critical Area.
- (4) For the removal of a dead tree, the affected area shall be stabilized with native groundcover or other native vegetation as necessary.
- (5) The removal of a diseased, dying, invasive, or hazardous tree shall be mitigated with one tree of at least ¾-inch caliper for each tree removed or the affected area shall be stabilized in native woody vegetation if a tree cannot be replanted due to space constraints.
- (6) The installation or cultivation of new lawn or turf in the Buffer is prohibited unless for a public purpose authorized by the approving authority.
- (7) The applicant shall restore area in the buffer that is temporarily disturbed by a development activity to pre-disturbance conditions.

E. Buffer Planting Standards.

- (1) An applicant that is required to plant the Buffer to meet establishment or mitigation requirements shall apply the planting standards set forth in COMAR 27.01.09.01-2 and 01-4.
- (2) A variance to the Critical Area planting and mitigation standards of this Ordinance is not permitted.

F. Required Submittal of Buffer Management Plans.

An applicant that is required to plant the Buffer to meet establishment or mitigation requirements shall submit a Buffer Management Plan in accordance with COMAR 27.01.09.01-3. The provisions of this Part do not apply to maintaining an existing grass lawn or an existing garden in the Buffer.

- (1) 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 of Chesapeake Beach.
- (2) An applicant may not obtain final approval of a subdivision application until the Buffer Management Plan has been reviewed and approved by the Town of Chesapeake Beach.
- (3) The Town of Chesapeake Beach may not approve a Buffer Management Plan unless:
  - (a) The plan clearly indicates that all planting standards under Part E of this chapter will be met; and

- (b) Appropriate measures are in place for the long-term protection and maintenance of all Buffer areas.
- (4) For a Buffer Management Plan that is the result of an authorized disturbance to the Buffer, a permit authorizing final use and occupancy will not be issued until the applicant:
  - (a) Completes the implementation of a Buffer Management Plan; or
  - (b) Provides financial assurance to cover the costs for:
    - (i) Materials and installation; and
    - (ii) If the mitigation or establishment requirement is at least 5,000 square feet, long-term survivability requirements as set forth in COMAR 27.01.09.01-2.
- (5) Concurrent with recordation of a subdivision plat, an applicant shall record a protective easement for the Buffer.
- (6) If an applicant fails to implement a Buffer Management Plan, that failure shall constitute a violation of this Ordinance. A permit for development activity will not be issued for a property that has the violation.
- (7) An applicant shall post a subdivision with permanent signs prior to final recordation in accordance with COMAR 27.01.09.01-2.
- (8) Buffer management plans that includes natural regeneration shall follow the provisions of COMAR 27.01.09.01-4.

Part 4. Modified Buffer Area (MBA).

A. Applicability.

The following provisions apply to areas designated and mapped as Modified Buffer Areas (MBA) on the map titled Modified Buffer Area, Town of Chesapeake Beach, which is a supplement to the Town's Critical Area Map.

B. General development standards.

(1) Development standards in the Modified Buffer Area.

- (a) A "Modified Buffer Area" means ~~that area of the Buffer for which the Town has requested and the CBCAC has approved an exemption from the requirements of the Buffer.~~ an area of land:
- (i) Where the pattern of residential, industrial, commercial, or recreation development existed in the 200-foot buffer on December 1, 1985 in the Chesapeake Bay Critical Area or on June 1, 2002 in the Atlantic Coastal Bays Critical Area; and
  - (ii) That, as part of a local program approved by the Commission is shown on a map maintained on file by the local jurisdiction and is subject to modified development provisions.
- (b) Water-polluting activities, including, but not limited to, storage of vehicles, fuel, or chemicals, shall be prohibited in the Modified Buffer Areas.
- (c) All uses shall be subject to the provisions established in other sections of this chapter. Development or redevelopment in a Modified Buffer Area shall be subject to all of the criteria applicable to the underlying zoning district and shall be further subject to all of the criteria applicable to the governing land use classification. Permitted uses shall also be subject to the following:
- (i) Shore erosion protection measures shall be provided in accordance with the criteria set forth in the Town Critical Area Protection Program.
  - (ii) Cutting or clearing of trees or removal of vegetation is allowed in the Modified Buffer Area for the following purposes only: (CAC recommends considering tree replacement plans, will send additional information.)
    - ~~a. For personal use, provided that Buffer functions are not impaired and trees cut are replaced;~~
    - b.a.        To prevent trees from falling and blocking streams, causing damage to dwellings or other structures, or resulting in accelerated erosion of the

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shore or streambank;

~~e-b.~~ In conjunction with horticultural practices used to maintain the health of individual trees;

~~e-c.~~ To provide access to private piers;

~~e-d.~~ To install or construct an approved shore erosion protection device or measure;

~~f-e.~~ To protect trees from extensive pest or disease infestation; and

~~g-f.~~ To permit the development allowed described in letters a. through f. above to be constructed or installed.

- (iii) The expansion or redevelopment of existing structures in the Modified Buffer Area may not increase impervious surfaces shoreward of the existing structure and shall not result in greater than a twenty-five-percent increase in the total site area in impervious surface as existed at the time of adoption of the Town's Critical Area Protection Program. Offsetting of such increased impervious surfaces, as described below, shall be required.
- (iv) When a structure within the Modified Buffer Area is removed or destroyed, it may be replaced, insofar as possible, no closer than 100 feet to the edge of tidal waters, tidal wetlands, or tributary streams. In such cases where a setback line exists as defined by structures on adjacent lots or parcels, the structure may not be replaced shoreward of that line. Any impervious surfaces created greater in extent to the preexisting impervious surfaces within the Modified Buffer Area shall be offset as described below.
- (v) New development in the Modified Buffer Area shall minimize the shoreward extent of impervious surfaces insofar as possible, taking into consideration existing Town yard setback requirements and other such factors. In no case may such impervious surfaces be extended shoreward of any setback line as defined by existing structures on adjacent lots or parcels.
- (vi) Definitions pertaining to implementation of Modified Buffer Area provisions. As used in this Subsection B(1), the following terms shall have the meanings indicated:  
[Amended 12-6-2006 by Ord. No. O-06-14]

#### DEVELOPMENT ACTIVITY

The construction or substantial alteration of residential, commercial, industrial, institutional, recreational or

transportation facilities or structures by the proposed project. 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 these provisions, development activity does not include subdivision.

#### NEW DEVELOPMENT

A development activity that takes place on a property with predevelopment imperviousness less than 15% as of March 15, 2003.

#### REDEVELOPMENT

A development activity that takes place on a property with predevelopment imperviousness greater than 15% as of March 15, 2003.

- (vii) Mitigation for area of disturbance for single-family residential development. [Amended 12-6-2006 by Ord. No. O-06-14]
  - a. Mitigation for the area of disturbance in the Modified Buffer Area shall be provided by planting an area of natural forest vegetation twice the size of the area of disturbance of the single-family residential development activity or redevelopment activity within the Modified Buffer Area. Previously existing and legal development on the property that is not impacted by the proposed development or redevelopment shall not be considered as part of the area of disturbance.
  - b. The mitigation shall be planted on-site in the Buffer or off-site in the Buffer or Modified Buffer Area at another location approved by the Planning and Zoning Commission.
  - c. Table 4.B.1.c.vii.c lists the basis for determining the amount of mitigation required for selected development activities. This chart is for general guidance only and the actual amount of development mitigation required is determined on a case-by-case basis.

<p><b>Table 4.B.1.c.vii.c</b></p> <p><b>Mitigation Requirements for Single-Family Residential Development within the MODIFIED BUFFER AREA (MBA)</b></p>
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<u>Development Activity</u>	<u>Amount of Mitigation Based on</u>
Build a new house, replace a house	Square feet of development activity
Build an addition	Square feet of development activity
Add an additional floor on existing building footprint	NA
Construct a new accessory structure	Square feet of development activity
Replace or build a new deck	Square feet of development activity
Build a new patio, swimming pool	Square feet of development activity
Add an off-street parking space	Square feet of development activity
Construct a fence	NA
Build a retaining wall	Square feet of development activity
Individual tree cutting	2 trees planted for every 1 tree removed
Construct a pathway	Square feet of development activity
Notes:	
Mitigation requirements for single-family residential development within the one-hundred-foot Buffer on non-MBA properties are based on limits of disturbance of development activity and require a variance from the Board of Appeals. Mitigation requirements for single-family residential development within the Critical Area, but not in a <b>MBABEA</b> or one-hundred-foot Buffer, are based upon the extent of the existing forest and developed woodland cover and proposed forest clearing.	

- (viii) Mitigation requirements for all other types of development. All new development or redevelopment other than single-family residential in the Modified Buffer Area shall be required to offset for such development by providing the following two forms of mitigation: planting a buffer yard as specified in Subsection B(1)(c)[viii][a] below and mitigating for the area of disturbance as set forth below in Subsection G(1)(c)[viii][b]:
  - a. Buffer yard.
    - i. On new development sites, a buffer yard 20 feet wide shall be required on the project site



between the development and the water's edge or landward edge of revetment, unless a variance is obtained from the Board of Appeals. On redevelopment sites, a buffer yard 15 feet wide shall be required on the project site between the development activity and the water's edge or landward edge of revetment, unless a variance is obtained from the Board of Appeals. The buffer yard shall be at least 15 feet wide over at least 75% of its length.

- ii. The buffer yard shall be densely planted with native species such that full ground cover is achieved using guidance on plant materials provided by the Town Zoning Administrator.
- iii. The buffer yard shall minimally include, or a similar combination thereof, the following planting requirements per 100 linear feet of buffer planting strip: four native species canopy trees, 10 native species understory trees or large shrubs, 25 native species small shrubs, and a sufficient number of native species herbaceous plants and grasses to provide complete ground cover.
- iv. On redevelopment sites, if existing structures or those rebuilt on an existing footprint limit the area available for planting, then appropriate modifications to the width of the planted buffer yard may be made on a case-by-case basis, but the area of buffer yard which would have been required to be planted under this section shall be included in the area proposed as an offset or for which fees-in-lieu are proposed to be paid.
- v. Reasonable walkway access to the water's edge through the buffer yard shall be permitted.
- vi. For properties in marina use, the fifteen-foot buffer yard is required only along 75% of the shoreline frontage.
- vii. The landscaping requirements of this chapter may be achieved through planting in the buffer yard where such planting reasonably achieves the stated purposes of the landscaping

- requirements.
- viii. On redevelopment sites, a fifteen-foot-wide buffer yard that is established where previously the area was a developed impervious area is eligible to be counted toward meeting the two-to-one mitigation for area of disturbance specified in Subsection G(1)(c)[8][b], as long as the square footage of the buffer yard is at least 450 square feet.
  - ix. A buffer yard is eligible to be counted toward meeting the buffer yard planting mitigation requirements of this subsection even if the buffer yard as proposed converts pervious nonnative planted areas (such as lawns or stone shoreline protection) to the planting requirements of the buffer yard.
  - x. Should the applicant provide a buffer yard meeting required planting specifications but wider than the required 20 feet for new development sites and 15 feet for redevelopment sites, the area of planting exceeding any on-site mitigation requirements shall be eligible for a mitigation credit that may be sold, should the Town adopt an ordinance allowing mitigation banking.
  - xi. The mitigation area shall include informational or educational signage indicating that the area is a protected area for water quality and habitat conservation.
- b. Mitigation for area of disturbance for all other development types.
- i. Mitigation for the area of disturbance in the Modified Buffer Area shall be provided by planting an area of natural forest vegetation twice the size of the area of disturbance of the development activity or redevelopment activity within the Modified Buffer Area. Previously existing and legal development on the property that is not impacted by the proposed development or redevelopment shall not be considered as part of the area of disturbance.
  - ii. The mitigation area shall include informational or educational signage indicating that the area

is a protected area for water quality and habitat conservation.

- iii. The mitigation shall be planted on-site in the Buffer or off-site in the Buffer or Modified Buffer Area at another location approved by the Planning and Zoning Commission.
- iv. Table 4.B.1.c.vii lists the amount of mitigation required for selected development activities. This chart is for general guidance only and the actual amount of development mitigation required is determined on a case-by-case basis.

**Table 4.B.1.c.viii.b**

**Mitigation Requirements for All Other Development Types and Activities within the MODIFIED BUFFER AREA (MBA)**

<u>Development Activity</u>	<u>Amount of Mitigation Based on</u>
Build a new structure, replace a structure	Square feet of development activity
Build an addition	Square feet of development activity
Add an additional floor on existing building footprint	NA
Construct a new accessory structure	Square feet of development activity
Replace or build a new deck	Square feet of development activity
Build a new patio	Square feet of development activity
Expand the parking area	Square feet of development activity
Construct a fence	NA
Build a retaining wall	Square feet of development activity
Individual tree cutting	2 trees planted for every 1 tree removed
Construct a pathway	Square feet of development activity

**Notes:**

All non-single-family development in the MBA must provide a buffer yard in addition to mitigation required by the development activity. An

applicant must obtain a variance when proposing a non-single-family residential development activity that is not within the MBA but within the Critical Area or one-hundred-foot Buffer. The applicant must meet the standards found in § 290-32F of this chapter in order for the Board of Appeals to issue a variance.

- (ix) Offsets. Applicants who cannot fully comply with the planting requirements in Subsection G(1)(a)[7] or [8] above may use offsets to meet a portion of the mitigation requirement. Offsets can include the removal of an equivalent area of existing impervious surfaces in the Buffer or Modified Buffer Area, the construction of best management practices for stormwater in excess of those required, wetland creation or restoration, or other measures that improve water quality or habitat.
- (x) Fees in lieu of planting.
  - a. Applicants who cannot comply with the planting or offset requirements shall pay into a fee-in-lieu program.
  - b. Fees-in-lieu shall be collected at the rate per square foot of required mitigation that cannot be satisfied through planting or offsets shall be \$4.25.:
    - i. ~~For private development projects, the rate shall be \$1.25 per square foot.~~
    - ii. ~~For public sector development projects, the rate shall be \$2.50 per square foot.~~
  - c. ~~Both rates are effective until two years have elapsed from the date of adoption of this amendment, at which time~~ The rates shall be re-evaluated and revised as needed to ensure that funds collected are sufficient to cover the cost of administering the mitigation program but do not exceed the costs of administering the mitigation program. The Town Council, in consultation with the CBCAC, shall reassess the rate every two years thereafter as needed.
  - d. Any Category 2 site plan that is determined to be eligible for fee-in-lieu, shall be brought before the Planning Commission for approval.
  - e. Any after-the-fact permit approval requests that have mitigation affects that cannot comply with the offset requirements must pay the fee-in-lieu in addition to any penalties accessed.

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- (xi) Any required on-site or off-site buffer yard mitigation area, limits of disturbance mitigation area, or offset area or structure must be protected from future development through an easement, development agreement, plat notes or other instrument and recorded among the land records of Calvert County.
- (xii) Alternative provisions for meeting the mitigation requirements may be used, provided the Planning and Zoning Commission and the CBCAC approve them and find that they meet the goals of the Critical Area regulations.

Part 5. Other Habitat Protection Areas.

A. Identification.

An applicant for a development activity, redevelopment activity or change in land use shall identify all applicable Habitat Protection Areas and follow the standards contained in this Ordinance.

- (1) In addition to the Buffer, other Habitat Protection Areas include:
  - (a) Threatened and Endangered Species and Species in Need of Conservation;
  - (b) Plant and Wildlife Habitat Protection Areas; including:
    - (i) Colonial waterbird nesting sites;
    - (ii) Historic waterfowl staging and concentration areas in tidal waters, tributary streams or tidal and nontidal wetlands;
    - (iii) Existing riparian forests;
    - (iv) Forest areas utilized as breeding areas by forest interior dwelling birds and other wildlife species;
    - (v) Other plant and wildlife habitats determined to be of local significance; and
    - (vi) Natural Heritage Areas; and
    - (vii) Anadromous Fish Propagation Waters
- (2) Maps identifying these specific Habitat Protection Areas are maintained by the Maryland Department of Natural Resources (MD-DNR) Wildlife and Heritage Division, The Town of Chesapeake Beach, and the Government of Calvert County. These areas include but are not limited to:
  - (a) 202.7 acre Forest Interior Dwelling Species habitat adjacent to Fishing Creek and Richfield Station Subdivision
  - (b) Randle Cliff Natural Heritage Area
  - (c) Forest Conservation Act Easement Areas;
    - ~~(i)~~ Richfield Station Subdivision
    - ~~(ii)~~ DNR is reviewing these maps at the request of CBCAC on our behalf and will provide a list to us by March.
    - ~~(iii)~~ Thomas Parran Jr. Property
  - (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

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B. Standards.

- (1) An applicant for a development activity proposed for a site within the Critical Area that is in or within 50 feet of a Habitat Protection Area listed

above; shall request review by the Department of Natural Resources Wildlife and Heritage Service (DNR WHS), and as necessary United States Fish and Wildlife Service (USFWS), for comment and technical advice. Based on the Department's recommendations, additional research and site analysis may be required to identify the location of threatened and endangered species and species in need of conservation on a site.

- (2) If the presence of any Habitat Protection Area is confirmed by the Department of Natural Resources, the applicant shall follow the requirements of COMAR 27.01.09.02 through 27.01.09.05, all recommendations from DNR WHS, and as necessary all recommendations from USFWS.
  - (a) If potential FIDS habitat is identified, the proposed development shall conform to the CBCAC's FIDS Guidance Manual, dated June 2000 and as updated.
  - (b) If potential anadromous fish propagation waters are identified, the proposed development shall conform to the policies and criteria listed in COMAR 27.01.09.05
- (3) The specific protection and conservation measures recommended by DNR, WHS and USFWS shall be included on the site plan and shall be considered conditions of approval for the project.

## Part 6. Water Dependent Facilities.

### A. Applicability.

- (1) The provisions of this section apply to those structures or works associated with industrial, maritime, recreational, educational, or fisheries activities that require location at or near the shoreline within the Buffer.
- (2) The provisions of this section are not applicable to:
  - (a) 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. A non-water-dependent project. covered under COMAR 27.01.13.

### B. General Criteria.

- (1) The following standards shall apply to new or expanded development activities associated with water-dependent facilities:
- (2) Development in the Buffer is limited to the minimum lot coverage necessary to accommodate each water dependent facility or activity.
  - (a) New or expanded development activities may be permitted in the Buffer in the Intensely Developed Area provided it is shown:
    - (i) That the facility or activity is water-dependent;
    - (ii) That the facility or activity meets a recognized private right or public need;
    - (iii) That adverse effects on water quality, fish, plant and wildlife habitat are first avoided, or if unavoidable, minimized;
    - (iv) That, insofar as possible, a non-water-dependent project associated with the water-dependent facility or activity is located outside the Buffer;
    - (v) Impacts to fish, wildlife, or plant habitat are avoided, or if unavoidable, minimized; and
    - (vi) Mitigation is provided at a minimum ratio of 1:1 based on the square footage of canopy coverage removed.
- (3) Except as otherwise authorized in this section, a water-dependent facility or activity is prohibited in the Buffer of the Resource Conservation Area.

### C. General Requirements for the Location of Water-Dependent Facilities or Activities.

- (1) The Town of Chesapeake Beach shall evaluate on a case-by-case basis all proposals for expansion of existing or new water-dependent facilities and work with appropriate State and federal agencies to ensure



compliance with applicable regulations.

(2) The following siting factors shall be considered when evaluating proposals for new or expanded water-dependent facilities:

- (a) 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;
- (b) 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.
- (c) Avoidance of disturbance to water quality and aquatic or terrestrial habitat resulting from the method or manner of dredging; and
- (d) The avoidance or, if unavoidable, the minimization of:
  - (i) Disturbance to:
    - a. 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;
    - f. 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.

D. Industrial and port-related facilities.

New, expanded or redeveloped industrial or port-related facilities or activities and the replacement of these facilities or activities may be permitted only in those portions of Intensely Developed Areas that have been designated as Modified Buffer Areas.

E. Commercial Marinas and Other Water-Dependent Commercial Maritime Facilities and Activities.

- (1) A new or expanded commercial marina or related commercial maritime facility or activity may be permitted in the Modified Buffer Area of an IDA;
- (2) The owner and operator of a commercial marina and related commercial maritime facility or activity shall demonstrate to the Approving Authority that the marina or facility has obtained all permits required by COMAR 26.08.04.09
- ~~(2)~~(3) Shall meet all other requirement of Water-Dependent facilities as described in this section.

F. Community Piers and Other Community Boat-Docking and Storage Facilities.

- (1) In addition to meeting the requirements of Part 6.B and 6.C, new or expanded community pier or other community boat-docking and storage facilities may be permitted in the Buffer if:
  - (a) The pier or facility is community-owned and established and operated for the benefit of the residents of a platted and recorded riparian subdivision;
  - (b) The pier or facility is associated with a residential project approved by the Town of Chesapeake Beach for the Critical Area and consistent with all State requirements and program requirements for the Critical Area;
  - (c) The owner or operator of the pier or facility provided:
    - (i) Does not offer food, fuel, or other goods and services for sale in the buffer or on the community pier; and
    - (ii) As applicable, complies with the requirements of COMAR 26.24.04.03;
  - (d) Disturbance to the Buffer is the minimum necessary to provide a single point of access to the pier or facility; and
    - (i) If community piers are provided as part of a new residential project, private piers in the development are not allowed.
- (2) The number of slips authorized at a pier or facility shall be the lesser of (a) or (b) below:
  - (a) One slip for each 50 feet of shoreline in a residential project in

- the Intensely Developed and Limited Development Areas, and one slip for each 300 feet of shoreline in a residential project in the Resource Conservation Area; or
- (b) A density of slips to platted lots or dwellings within a residential project in the Critical Area according to the following schedule:

**Table 6.F.2 Number of Slips Permitted**

<b>Platted Lots or Dwellings in the Critical Area</b>	<b>Slips</b>
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

G. Public Beaches and Other Public Water-Oriented Recreation or Education Areas or Activities including public piers.

- (1) In addition to meeting the requirements of Part 6.B and 6.C, public beaches and piers or other public water-oriented recreation or education areas or activities may be permitted in the Buffer of:
- (a) An Intensely Developed Area; or
  - (b) 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;
  - (c) Permeable surfaces are used to the extent practicable, if no degradation of groundwater would likely result; and
    - (i) Disturbance to natural vegetation is first avoided or, if unavoidable, minimized.
- (2) 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.

H. Research-Associated and Education-Associated Water-Dependent Facilities or Activities.

- (1) In addition to meeting the requirements of Part 6.B and 6.C, a research-associated water-dependent facility or activity or 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 to the extent possible.

I. Aquaculture and Fishery Facilities and Activities: Water Quality Restoration.

- (1) 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.

## Part 7. Growth Allocation.

### A. Definition.

- (1) "Consistent with" means that a standard or factor will further, and not be contrary to, the following items in the comprehensive plan: (i). Policies; (ii) Timing of the implementation of the plan, of development, and of rezoning; (iii). Development patterns;(iv).Land uses; and (v). Densities or intensities.~~45~~

### B. Growth allocation acreage and deduction.

- (1) Growth allocation available to the Town of Chesapeake Beach includes
  - (a) An area equal to five (5) percent of the RCA acreage located within Chesapeake Beach and;
  - (b) Growth allocation available to Chesapeake Beach as provided for by Calvert County.
- (2) The Town of Chesapeake Beach shall deduct acreage from its growth allocation reserves in accordance with COMAR 27.01.02.06-4.

*DRAFTER'S NOTE: The Town maintains a record of growth allocation and as of the date of adoption of this Ordinance \_\_\_\_\_, the growth allocation acreage remaining is 58.37 acres.*

### C. Purpose.

- (1) Growth Allocation is available for use in a Resource Conservation Area (RCA) or in a Limited Development Area (LDA) in the Chesapeake Beach Critical Area Overlay District. The purpose is to authorize a change in the Critical Area classification to develop at a higher density, intensity, or use than the current classification allows.

### D. Process.

- (1) An applicant shall submit to the Zoning Administrator a complete application for growth allocation that complies with the submittal and environmental report requirements of COMAR 27.01.02.06-1—.06-2.
- (2) The application for growth allocation shall be reviewed by the Planning Commission, who shall transmit a recommendation to the Mayor and Town Council.
- (3) The application for growth allocation shall be approved by the Mayor and Town Council prior to submission to the CBCAC.
- (4) The application for growth allocation shall be approved by the CBCAC before any site development plan, subdivision plan, or zoning permit application is submitted to the Planning Commission or Zoning Administrator for review.

E. Requirements.

When locating new Intensely Developed or Limited Development Areas, the following requirements apply:

- (1) A new Intensely Developed Area shall be at least 20 acres unless it is adjacent to existing IDA
- (2) An application for a new IDA or LDA shall be:
  - (a) In conformance with the requirements of COMAR Title 27 Subtitle 01; and
  - (b) Designated on the approved Critical Area map that is submitted as part of its application to the Commission for growth allocation approval.
- (3) As part of a growth allocation approved by the Commission, the following shall be enforced as applicable:
  - (a) A buffer management plan;
  - (b) A habitat protection plan; and
  - (c) Other applicable conditions of approval as determined by the Commission at the time of project approval.

F. Standards.

When locating new Intensely Developed or Limited Development Areas the following standards shall apply:

- (1) A new Intensely Developed Area shall only be located in a Limited Development Area or adjacent to an existing Intensely Developed Area.
- (2) A new Limited Development Area shall only be located adjacent to an existing Limited Development Area or an Intensely Developed Area.
- ~~(3)~~ A new Limited Development Area or Intensely Developed Area shall be located in a manner that minimizes impacts to Habitat Protection Area as defined herein and in COMAR 27.01.09 and in an area and manner that minimizes impacts to water quality;
- ~~(4)~~ A NEW INTENSELY DEVELOPED AREAS SHALL ONLY BE LOCATED WHERE THEY MINIMIZE THEIR IMPACTS TO THE DEFINED LAND USES OF THE RESOURCE CONSERVATION AREA (RCA);
- ~~(4)~~~~(5)~~ A new Intensely Developed Area or a Limited Development Area in a Resource Conservation Area shall be located at least 300 feet beyond the landward edge of tidal wetlands or tidal waters unless Chesapeake Beach proposes, and the CBCAC approves, alternative measures for enhancement of water quality and habitat that provide greater benefits to the resources; and
- ~~(5)~~~~(6)~~ New Intensely Developed or Limited Development Areas to be

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located in Resource Conservation Areas shall conform to all criteria of Chesapeake Beach for such areas, shall be so designated on the Chesapeake Beach Critical Area Maps and shall constitute an amendment to this Ordinance subject to review and approval by the Mayor and Town Council and the CBCAC as provided herein.

G. Additional Factors.

In reviewing map amendments or refinements involving the use of growth allocation, both the Planning Commission and Mayor and Town Council in their respective reviews of an application, shall consider the following factors:

- (1) Consistency with the Town of Chesapeake Beach's adopted comprehensive plan and whether the growth allocation would implement the goals and objectives of the adopted plan.
- (2) For a map amendment or refinement involving a new Limited Development Area, whether the development is:
  - (a) To be served by a public wastewater system
  - (b) A completion of an existing subdivision;
  - (c) An expansion of an existing business; or
  - (d) To be clustered on a portion of the tract so as to preserve land in open space, to the extent possible.
- (3) For a map amendment or refinement involving a new Intensely Developed Area, whether the development is:
  - (a) To be served by a public wastewater system;
  - (b) 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; and
  - ~~(c) If greater than 20 acres, to be located in a designated Priority Funding Area.~~
  - ~~(d) TO HAVE A DEMONSTRABLE ECONOMIC BENEFIT.~~
- (4) The use of existing public infrastructure, where practical;
- (5) 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;
- (6) Impacts on a priority preservation area, if applicable;
- (7) Environmental impacts associated with wastewater and stormwater management practices and wastewater and stormwater discharges to tidal waters, tidal wetlands, and tributary streams; and
- (8) Environmental impacts, including risk of severe flooding, associated with location in a coastal hazard area.

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Part 8. Grandfathering.

A. Continuation of existing uses.

- (1) The continuation, but not necessarily the intensification or expansion, of any use in existence on December 1, 1985 may be permitted, unless the use has been abandoned for more than one year or is otherwise restricted by existing municipal ordinances.
- (2) If any existing use or structure does not conform with the provisions of this Ordinance pertaining to the Critical Area, its intensification or expansion shall be restricted in the same manner provided for in Section 290-~~3228~~, Nonconforming Uses, of this Ordinance except that any allowable intensification or expansion may be permitted only in accordance with the variance procedures in Part 9.

B. Residential density on grandfathered lots

Except as otherwise provided for, or restricted by this Ordinance, the following types of land are permitted to be developed with a single-family dwelling, if a dwelling is not already placed there, notwithstanding that such development may be inconsistent with the density provisions of this Ordinance.

- (1) Any land on which development activity has progressed to the point of pouring of foundation footings or the installation of structural members;
- (2) A legal parcel of land, not being part of a recorded or approved subdivision that was recorded as of December 1, 1985;
- (3) Land that was subdivided into recorded, legally buildable lots, where the subdivision received final approval between June 1, 1984 and December 1, 1985; and
- (4) Land that was subdivided into recorded, legally buildable lots, where the subdivision received the final approval after December 1, 1985 and provided that either development of any such land conforms to the IDA, LDA or RCA requirements in this Ordinance or the area of the land has been counted against the growth allocation permitted under this Ordinance.

**C. IMPLEMENTATION.**

- (1) FOR PURPOSES OF IMPLEMENTING THIS REGULATION, A LOCAL JURISDICTION SHALL HAVE DETERMINED, BASED ON LAND USES AND DEVELOPMENT IN EXISTENCE ON DECEMBER 1, 1985, WHICH LAND AREAS FALL WITHIN THE THREE TYPES OF DEVELOPMENT AREAS DESCRIBED IN THIS CHAPTER.

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(2) NOTHING IN THIS SECTION MAY BE INTERPRETED AS ALTERING ANY REQUIREMENTS OF THIS ORDINANCE RELATED TO WATER-DEPENDENT FACILITIES OR HABITAT PROTECTION AREAS.

## Part 9. Lot Consolidation and Reconfiguration.

### A. Applicability.

The provisions of this part apply to a consolidation or a reconfiguration of any nonconforming legal grandfathered parcel or lot. These provisions do not apply to the reconfiguration or consolidation of parcels or lots which are conforming or meet all Critical Area requirements. Nonconforming parcels or lots include:

- (1) Those for which a Critical Area variance is sought or has been issued; and
- (2) Those located in the Resource Conservation Area and are less than 20 acres in size.

### B. Procedure.

An applicant seeking a parcel or lot consolidation or reconfiguration shall provide the information required in COMAR 27.01.02.08.E to the Town of Chesapeake Beach.

- (1) The Town of Chesapeake Beach may not approve a proposed parcel or lot consolidation or reconfiguration without making written findings in accordance with COMAR 27.01.02.08.F.
- (2) The Town of Chesapeake Beach shall issue a final written decision or order granting or denying an application for a consolidation or reconfiguration.
  - (a) After a final written decision or order is issued, the Town of Chesapeake Beach shall send a copy of the decision or order and a copy of any approved development plan to the Commission within 10 business days.
- (3) The Town of Chesapeake Beach may not issue a permit or approval of any type on a property affected by the final written decision or order until after the expiration of the time within which the Commission may file an appeal or petition for judicial review.

## Part 10. Local Development Projects

### A. Applicability.

For all development in the Critical Area resulting from any action by the Town of Chesapeake Beach on publicly or privately owned lands, the Town of Chesapeake Beach shall adhere to COMAR 27.02.02, COMAR 27.02.04 and COMAR 27.02.06.

### B. Procedures.

- (1) If the project meets the provisions of this Ordinance 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 CBCAC per the requirements of COMAR 27.02.02.
- (2) If the project does not meet the provisions of this Ordinance, The Town of Chesapeake Beach shall seek a conditional approval by the CBCAC per the requirements of COMAR 27.02.06.
- (3) The Town of Chesapeake Beach shall submit information as required in the CBCAC's Local Project Submittal Instructions and Application Checklist.

### C. Notice and posting requirements for projects reviewed and approved by the Chesapeake Bay Critical Area Commission.

- (1) 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 of Chesapeake Beach and evidence that those requirements have been met shall be included as part of the submittal to the Critical Area Commission.

## Part 11. Enforcement.

### A. Consistency.

The Critical Area provisions of this Ordinance, in accordance with the Critical Area Act and Criteria supersede any inconsistent law, Chapter or plan of the Town of Chesapeake beach. In the case of conflicting provisions, the stricter provisions shall apply.

### B. Violations.

- (1) No person shall violate any provision of this zoning ordinance. Each violation that occurs and each calendar day that a violation continues shall be a separate offense subject to separate fines, orders, sanctions, or other penalties.
- (2) Noncompliance with any permit or order issued by the Town of Chesapeake Beach related to the critical area shall be a violation of this Ordinance and shall be enforced as provided herein.

### C. Responsible Persons.

- (1) The following persons may each be held jointly or severally responsible for a violation:
  - (a) any persons who apply for or obtain any permit or approval,
  - (b) contractors,
  - (c) subcontractors,
  - (d) property owners,
  - (e) managing agents, or
  - (f) any person who has committed, assisted, or participated in the violation.

### D. Required Enforcement Action.

When the Town of Chesapeake Beach identifies a violation of this Ordinance, it shall take enforcement action, including:

- (1) Citing the violation;
- (2) Issuing abatement, restoration, and mitigation orders as necessary to:
  - (a) Stop unauthorized activity; and
  - (b) Restore and stabilize the site to its condition prior to the violation or to a condition that provides the same water quality and habitat benefits;
- (3) 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; and
- (4) Assessing an administrative fine or pursuing a civil penalty in accordance with Section 290-30, Violations and Penalties.

E. Restoration and Mitigation

- (1) 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.
- (2) For restoration or mitigation that exceeds 1,000 square feet or involves expenses exceeding \$1,000, the Town of Chesapeake Beach shall collect a performance bond or other financial security.
- (3) If restoration or mitigation involves planting, a performance bond shall be held for at least 2 years after the date the plantings were installed to ensure plant survival.
- (4) A property owner may request the Town of Chesapeake Beach to schedule inspections as necessary to ensure compliance and the return of the bond or other financial security.

**§ 340-158. Definitions.**

Words and phrases used in this article shall have the meanings set forth in this section. All other words and phrases shall be as defined in Article II or will be given their common, ordinary meaning unless the context requires otherwise.

**ABANDONED SIGN** — A sign which has not identified or advertised a current business, service, owner, product, or activity for at least 180 days.

**ADDRESS SIGN** — A sign that designates the street number and/or street name for identification purposes, as designated by the United States Postal Service. (Also known as a "nameplate sign.")

**ANIMATED SIGN** — Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

**BALLOON SIGN** — A lighter-than-air, gas-filled balloon, tethered in a fixed location, which contains an advertisement message on its surface or attached to the balloon in any manner.

**BANNER** — Any sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

**BEACON** — Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also, any light with one or more beams that rotate or move.

**BUILDING SIGN** — Any sign attached to any part of a building, as contrasted to a freestanding sign.

**CANOPY SIGN (also AWNING SIGN)** — Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

**CHANGEABLE COPY SIGN** — A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. The two types of changeable-copy signs are manual changeable copy signs and electronic changeable copy signs, which include: message center signs, digital displays, and tri-vision boards.

**COMMERCIAL MESSAGE** — Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

**DIGITAL DISPLAY** — The portion of a sign's message made up of internally illuminated components capable of changing the message periodically. Digital displays may include but are not limited to LCD, LED, or plasma displays.

**DIRECTIONAL SIGN** — Signs designed to provide direction to pedestrian and vehicular traffic into and out of, or within a site.

**DIRECTORY SIGN** — Wall sign that identifies individual businesses or occupants of the same building or building complex.

**EVENT SIGN** — Temporary sign advertising and/or providing direction to a planned public or social occasion approved as provided in Chapter 250, Public Events, of the Town Code.

**FLAG** — Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity.

**FLASHING SIGN** — A sign whose artificial illumination is not kept constant in intensity at all times when in use and which exhibits changes in light, color, direction, or animation. This definition does not include electronic message center signs or digital displays that meet the requirements set forth herein.

**FREESTANDING SIGN** — A sign supported by structures or supports that are placed on or anchored in the ground, and that is independent and detached from any building or other structure. The following are subtypes of freestanding signs:

- A. **GROUND SIGN** — A sign permanently affixed to the ground at its base, supported entirely by a base structure, and not mounted on a pole or attached to any part of a building. (Also known as a "monument sign.")
- B. **POLE SIGN** — A freestanding sign that is permanently supported in a fixed location by a structure of one or more poles, posts, uprights, or braces from the ground and not supported by a building or a base structure.

**GOVERNMENT/REGULATORY SIGN** — Any sign for the control of traffic or identification purposes, street signs, warning signs, railroad crossing signs, and signs of public service companies indicating danger or construction, which are erected by or at the order of a public officer, employee or agent thereof, in the discharge of official duties.

**HOLIDAY DECORATIONS** — Signs or displays, including lighting, which are a nonpermanent installation celebrating national, state, and local holidays, religious or cultural holidays, or other holiday seasons. (Also known as "seasonal decorations.")

**ILLUMINATED SIGN** — A sign with electrical equipment installed for illumination, either internally illuminated through its sign face by a light source contained inside the sign or externally illuminated by a light source aimed at its surface.

**ILLUMINATION** — A source of any artificial or reflected light, either directly from a source of light incorporated in, or indirectly from an artificial source.

- A. **EXTERNAL ILLUMINATION** — Artificial light, located away from the sign, which lights the sign, the source of which may or may not be visible to persons viewing the sign from any street, sidewalk, or adjacent property.
- B. **INTERNAL ILLUMINATION** — A light source that is concealed or contained within the sign and becomes visible in darkness through a translucent surface. Message center signs, digital displays, and signs incorporating neon lighting shall not be considered internal illumination for this chapter.
- C. **HALO ILLUMINATION** — A sign using a three-dimensional message, logo, etc., lighted in such a way as to produce a halo effect. (Also known as "back-lit illumination.")

**INCIDENTAL SIGN** — A sign that displays general site information, instructions, directives, or restrictions that are primarily oriented to pedestrians and motor vehicle operators who have entered a property from a public street. These signs shall not contain any commercial advertising.

**INCIDENTAL/INFORMATIONAL SIGN** — A sign, generally informational, that has a purpose

secondary to the use of the lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives. No sign with a commercial message legible from a position off the lot on which the sign is located shall be considered incidental.

**INFLATABLE SIGN** — A sign that is an air-inflated object, which may be of various shapes, made of flexible fabric, resting on the ground or structure, and equipped with a portable blower motor that provides a constant flow of air into the device.

**INSTITUTIONAL SIGN** — A sign placed on a property owned by religious or charitable nonprofit organizations, hospitals, schools, fire and rescue, clubs, museums, or similar uses.

**JOINT TENANT SIGNS** — A sign displaying the various tenants of a business complex or shopping center located at or near the entrance(s).

**MARQUEE** — Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to protect from the weather.

**MARQUEE SIGN** — Any sign attached to, in any manner, or made a part of a marquee.

**MENU SIGN** — A permanent sign for displaying the bill of fare available at a restaurant or other use serving food or beverages.

**MURAL (or MURAL SIGN)** — A large picture/image (including, but not limited to, painted art) which is painted, constructed, or affixed directly onto a vertical building wall, which may or may not contain text, logos, and/or symbols.

**NONCONFORMING SIGN** — Any sign that does not conform to the requirements of this chapter.

**OFF-PREMISES SIGN** — An outdoor sign whose message directs attention to a specific business, product, service, event or activity, or other commercial or noncommercial activity, or contains a noncommercial message about something that is not sold, produced, manufactured, furnished, or conducted on the premises upon which the sign is located. (Also known as a "third-party sign," "billboard," or "outdoor advertising.")

**ON-PREMISES SIGN** — A sign whose message and design relate to an individual business, profession, product, service, event, point of view, or other commercial or noncommercial activity sold, offered, or conducted on the same property where the sign is located.

**PENNANT** — Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

**PERSONAL EXPRESSION SIGN** — An on-premises sign that expresses an opinion, interest, position, or another noncommercial message.

**PORTABLE SIGN** — A sign designed to be transported or moved and not permanently attached to the ground, a building, or other structure.

A. **SANDWICH BOARD SIGN** — A type of freestanding, portable, temporary sign consisting of two faces connected and hinged at the top and whose message is targeted to pedestrians, (Also known as an "A-frame sign.")

B. **VEHICULAR SIGN** — A sign affixed to a vehicle in such a manner that the sign is used



primarily as a stationary advertisement for the business on which the vehicle sits or is otherwise not incidental to the vehicle's primary purpose.

**PROJECTING SIGN** — Any sign affixed to a building or wall in such a manner that its leading-edge extends more than six inches beyond the surface of such a building or wall.

**PUBLIC SIGN** — A sign erected or required by government agencies or utilities, including traffic, utility, safety, railroad crossing, and identification signs for public facilities.

**REFLECTIVE SIGN** — A sign containing any material or device which has the effect of intensifying reflected light.

**RESIDENTIAL SIGN** — Any sign located in a district zoned for residential uses that contains no commercial message except advertising for goods or services legally offered on the premises where the sign is located if offering such service at such location conforms with all requirements of the zoning ordinance.

**REVOLVING SIGN** — A sign which revolves in a circular motion rather than remaining stationary on its supporting structure.

**ROOF SIGN** — Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

**SIGN** — Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

**SIGN AREA** — The square footage of the advertising area of a sign calculated by measuring the area of the background, or if there is no background, then the area calculated by measuring the width of the sign from the beginning of the first character to the end of the last character, and by measuring the height of the sign from the bottom of the lowest character to the top of the highest character. The area of said signs to be determined by then multiplying the width times the height of the signs as so determined.

**SIGN STRUCTURE AREA** — The total square footage of the sign structure determined by measuring the width and height of the structure that encompasses the advertising area of the sign.

**SNIPE SIGN** — A sign tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, public benches, streetlights, or other objects, or placed on any public property or in the public right-of-way or on any private property without the permission of the property owner. (Also known as a "bandit sign.")

**SUSPENDED SIGN** — A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

**TEMPORARY SIGN** — A banner, pennant, poster, or advertising display constructed of cloth, canvas, plastic sheet, cardboard, wallboard, plywood, or other like materials that are located on private property and intended to be displayed for no more than is permitted by regulation.

**WALL SIGN** — Any sign attached parallel to but within six inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

**WAYFARING** — A type of sign that allows users to find their way, using the information

provided along the travel path.

**WINDOW SIGN** — Any sign, pictures, symbol, or a combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

**§ 340-159. Purpose and intent.**

Signs perform an important function in identifying and promoting properties, businesses, services, residences, events, and other matters of interest to the public. This article intends to regulate all signs within the Town to ensure that they are appropriate for their respective uses, in keeping with the appearance of the affected property and surrounding environment, and protective of the public health, safety, and general welfare by:

- A. Setting standards and providing uniform controls that permit reasonable use of signs and preserve the character of the Town.
- B. Prohibiting the erection of signs in such numbers, sizes, designs, illumination, and locations as may create a hazard to pedestrians and motorists.
- C. Avoiding excessive conflicts from large or multiple signs, so that permitted signs provide adequate identification and direction while minimizing clutter, unsightliness, and confusion.
- D. Establishing a process for the review and approval of sign permit applications.
- E. Ensuring sign design that builds on the traditional town image and visual environment the Town seeks to promote in the town center and appropriate signage for highway-oriented uses along Talbot Street (MD 33).

**§ 340-160. Permit required.**

- A. Except for exempt signs, no sign shall be erected or placed before the Zoning Inspector issues a sign permit.
- B. Owners of signs for which a permit is not required under this article must nonetheless ensure that the sign is maintained, safe, and meets all required standards of this article.

**§ 340-161. Permitted signs.**

Only those signs as set out herein are permitted, provided that such signs conform to the following provisions, are located on the same lot as said use unless an exception from this requirement is specifically noted, and only after issuance of a sign permit by the Town.

- A. Building signs.
  - (1) Wall signs.
    - (a) All permanent flat signs are to be mounted flat against a wall except in those situations where the structure of the building precludes a wall-mounted permanent sign of allowable dimensions. In those cases, a pent-roof- or mansard-roof-

mounted sign is allowable. No attached sign shall extend above the height of the building to which it is attached.

- (b) Wall signs shall not be mounted higher than the eave line or top of the parapet wall of the building, and no portions of the sign shall extend beyond the ends of the wall to which it is attached.
  - (c) For each business on a separate property, wall-mounted signage for each street frontage is permitted with a maximum advertising area of one square foot of signage per one linear foot of street frontage of the building. However, all buildings, regardless of their street frontage, will be permitted 20 square feet of advertising area. Any single wall sign shall not exceed 30 square feet, and the total area of all wall signs shall not exceed 90 square feet.
  - (d) For buildings that have multiple businesses accessed by separate entrances, each business shall be permitted one building sign for each street frontage. The maximum area of signs shall be one square foot of advertising area per one linear foot of street frontage of the building dedicated to that business.
  - (e) When two or more businesses occupy one building with common entrances (i.e., without separate entrances), they shall be considered one business for sign computation purposes. For wall or building signs, buildings of this nature are limited to one building sign per street frontage plus one directory sign per common entrance.
  - (f) Mounted menu boards. Each business whose primary use is the offering of food and beverage to the public shall be permitted to display their menu by the posting of the same on the wall or window of their business. Such board shall not exceed four square feet in total area.
- (2) Awning or canopy sign. Any portion of an awning containing advertising copy shall be treated as a wall or building sign and shall be included in the overall advertising area calculations for such signs.
- (a) Signs may be attached flat against awnings made of rigid materials and shall not project above the awning. Awnings of non-rigid materials (e.g., canvas) shall have signs only appliquéd or painted on them.
  - (b) There shall be a minimum clearance of at least eight feet between the bottom of the awning and the ground at grade.
- (3) Directory wall signs. Directory signs shall be attached to the building to identify individual businesses or occupants of the same building or building complex, per the following:
- (a) The display board shall be of integrated and uniform design.
  - (b) No more than one sign panel not to exceed two square feet in area is permitted per directory for each tenant business.
  - (c) Directory signs shall be placed nearest the pedestrian entrances.

- (d) The total sign structure area of any directory sign shall not exceed 30 square feet.
  - (e) Directory signs must incorporate its legally assigned street number.
  - (f) Directory signs shall not contain advertising copy.
  - (g) The total area of all directory signs shall not exceed 55 square feet.
- (4) Projecting and suspended signs. Projecting and suspended signs shall be treated as building signs and shall be included in the total advertising area calculations for building signs.
- (a) The two sides of a projecting or suspended sign must be parallel back to back and shall not exceed 12 inches in thickness, and 10 square feet in area.
  - (b) A projecting or suspended sign shall be hung at right angles to the building and shall not extend more than three feet from a building wall.
  - (c) Projecting and suspended signs shall have a minimum clearance of eight feet above grade and shall not project into a vehicular public way.

B. Freestanding sign.

- (1) Freestanding signs shall be limited to one per lot and shall extend above the natural ground level no more than six feet. They shall not exceed a total sign structure size of six square feet in area and, except the circumstances described in off-site signs as set out in this article, shall be set back at least four feet from each property line. Such sign shall contain the name of the owner, trade name, or activity conducted on the premises whereon such sign is located.
- (2) No sign, sign structure or part thereof shall be located to obstruct or conflict with traffic sight lines, or traffic control signs or signals. Except for educational complex signage, no sign shall be internally illuminated.
- (3) Such a sign shall incorporate its legally assigned street number.
- (4) A planting area consisting of shrubs, flowers, and/or ornamental grasses equivalent to the area of each side of a freestanding sign shall be provided when such planting is feasible. The permit holder shall maintain the planting area. This area shall be kept in a neat and clean condition, free of weeds and rubbish.
- (5) In addition to the above, each gasoline/service station or other business selling automotive or marine fuel is permitted one price sign not to exceed eight square feet in area and eight feet in height. Said price sign shall be incorporated into the product identification sign.
- (6) No more than one freestanding sign identifying a subdivision or multifamily project. Such sign shall not exceed a maximum of 24 square feet in total sign area with a maximum height of six feet. The location of such a sign shall be indicated on required site plans or subdivision plats and approved by the Planning Commission.

C. Institutional signs.

- (1) No more than one freestanding sign or bulletin board identifying a place of an institutional use is permitted. Such sign shall not exceed 24 square feet in sign structure area, with a maximum advertising area of 18 square feet and with a maximum height of six feet. It shall be located upon the premises of such institution. These signs may also contain other information customarily incidental to said places or organizations.
- (2) The Planning Commission may modify the standards for institutional signs on a site of five acres or more, with multiple principal structures in accordance with a master signage plan upon a finding that the proposed sign plan represents a reasonable display of signs in the context of use and surrounding properties. In making its findings, the Planning Commission shall consider the location and use of site areas and structure, unique way finding and information requirements, and the degree to which signs are visible from the public way.
- (3) 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 Inspector, may reasonably require;
  - (b) Location of buildings, parking lots, driveways, and landscaped areas;
  - (c) Computation of the proposed maximum total sign area, the maximum area for individual signs, the height of signs and the number of signs by type;
  - (d) Sign plans and 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 a future sign of any type, whether requiring a permit or not, except that incidental signs need not be shown.
- (4) No sign permit shall be issued for a sign that does not conform to the master signage plan. A master signage plan may be amended at any time.

D. Educational complex signage (illuminated).

- (1) In addition to the signage permitted in § 340-161, an educational complex that includes a single or multiple educational facilities school(s) as defined in § 340-11 herein, shall be permitted one on-site internally illuminated sign. Such sign shall not exceed 24 square feet in sign structure size with a maximum of 15 square feet of advertising area. The sign shall not exceed six feet in height and shall not include reflective and/or scrolling advertising devices.
- (2) The sign materials shall be compatible with those reflected in the construction of the primary structures and shall identify the name of the educational facility and street address. The sign may be utilized as a mechanism for providing public announcements concerning activities conducted at the school and those which are community sponsored. A landscaped area equal to the area of the sign shall be provided and maintained by the permit holder.

E. Home occupation signs. Signage shall be limited to one unlighted or indirectly lighted sign per address not exceeding three square feet in area either mounted flush with and on the front

façade of the dwelling unit or hung on an independent post.

- F. Professional offices. Such signs are permitted in any zoning district where such use is permitted either by right or by special exception. Such a sign may be either wall-mounted or freestanding, may not be internally illuminated and shall not exceed three square feet in area for each enterprise occupying the office.
- G. Farm or estate signs. Such a sign shall display the name of the farm or estate and identify the owner and nature of the farm. Such sign shall be limited to one per farm or estate, shall not exceed six square feet in sign structure area, and shall not be illuminated.
- H. Residential development, subdivision, or apartment complex (name only) signage. Such signage shall be limited to 24 square feet of sign structure area and a maximum height of four feet above the ground and shall be setback a minimum of four feet from all property lines.
- I. Office/business park signage.
  - (1) A freestanding sign identifying the several occupants of a business/office park. The sign structure area shall not exceed 55 square feet (per side) in area, the top of which is not more than six feet above ground level. The sign shall contain the physical address of the property, the name of the office/business park, and the names of the several businesses conducted on the premises whereon such sign is located. The area (per side) of the sign face devoted to identifying the physical address and name of the office/business park shall not exceed 10 square feet, not including the sign background. The area (per side) of the sign devoted to identifying the names of the several occupants of the office/business park shall not exceed 18 square feet, including the sign background. The area of the freestanding sign devoted to identifying the occupants of the office/business park shall identify such occupants using common sign shape, background color, lettering color, and lettering font. No sign, sign structure or part thereof shall be located to obstruct or conflict with traffic sight lines or traffic control signs or signals. No sign shall be internally illuminated, flashing, intermittent, rotating, or another animated type, nor may tend to blind or distract motorists, nor may shine directly into any dwelling, nor when visible from navigable waters may resemble an aid to navigation. The location of the sign shall be within the office/business park and indicated on a site plan as required for approval. Each occupant within an office/business park shall be allowed one sign attached to the front of said occupant's unit. Such sign shall not exceed four square feet in area, which shall be of common dimension, shape, background color, and lettering color for each occupant.
  - (2) A landscaping plan shall be submitted for the freestanding sign for approval by the Planning Commission.
- J. Permitted signs in the HR historic redevelopment districts.
  - (1) Building sign. One non-illuminated single-faced sign for each building frontage. Such sign shall not exceed 20 square feet in area and must be mounted on the building occupied by the tenant.
  - (2) Joint tenant sign. The Planning Commission shall approve a master sign plan for one or more joint tenant signs for the properties/tenants located in the HR District subject to

the following:

- (a) All property owners in the HR District are signatures on the application;
  - (b) All signs are located within the HR District;
  - (c) Signs shall be of integrated and uniform design and the area devoted to identifying the occupants of the district shall identify such occupants using common sign shape, background color, lettering color, and lettering font;
  - (d) No more than one sign panel not to exceed two square feet in area is permitted for each tenant business;
  - (e) The Planning Commission must approve signs placement;
  - (f) Signs contain no advertising copy;
  - (g) No sign, sign structure or part thereof shall be located to obstruct or conflict with traffic sight lines or traffic control signs or signals; and
  - (h) Signs may only be indirectly illuminated in a manner approved by the Planning Commission.
- (3) Portable signs as provided in § 340-164.
- (4) Window signs, as provided in Subsection K.

K. Window signs.

- (1) In addition to any other permitted signs, permanent and temporary window signs are permitted in WD, CC, SLC, GC, HR, MC, and MM Districts subject to the following:
- (a) Permanent window signs affixed to or painted on the inside of a window and advertising the business, the service offered by such business and/or logo may occupy no more than 25% of the surface of each windowpane area. Permanent window signs are permitted on the upper floors of multi-story commercial buildings.
  - (b) The total of all temporary window signs may occupy no more than 25% of the window's area. No such temporary window sign shall be in place longer than 30 days.
  - (c) The total area of all temporary and permanent window signs shall be no more than 50% of the total window area.
- (2) Neon window signs, series lighting, or neon tubing used to accentuate or trim windows, architectural features, or to outline borders of windows, signs, or buildings are prohibited.

- L. Community organization master sign. Notwithstanding the prohibition of off-site signs as outlined in this article, one community organization master sign is permitted at, or near, each of the north and south entrances to the Town along Talbot Street.

- (1) A community organization master sign:
  - (a) Shall identify nonprofit, service organizations active in and located in or nearby the Town. Examples of eligible organizations include churches offering regular services and nationally recognized service clubs (e.g., Rotary, Lions, Optimists, Women's and Junior Women's clubs).
  - (b) Shall be freestanding and permanent and compatible in design, size, height, material, and lighting with the existing "Welcome to St. Michaels" sign.
  - (c) May display the Town logo.
  - (d) May include up to eight individual signs, each of the same shape and size not to exceed two square feet. Each sign shall identify one nonprofit community-service organization. It may include organizational logos along with other information visitors would find useful, such as service and meeting times and places, provided it does not become too cluttered for the average motorist who is passing at the posted speed limit, to read easily.
  - (e) With the written consent of the property owner, may be placed on private property.
  - (f) With the written consent of the adjacent property owner, and provided the conditions in Subsection L(2), are met, may be placed within the state highway right-of-way.
- (2) One of the identified organizations shall commit to the Town to be responsible for erecting and maintaining the sign in good condition.

M. Community sponsored event sign. Notwithstanding the prohibition of off-site signs as outlined in this article, one community-sponsored event sign is permitted at, or near, each of the north and south entrances to the Town along Talbot Street.

- (1) A community-sponsored event sign:
  - (a) Shall be freestanding and permanent and compatible in design, size, height, material, and lighting with the existing "Welcome to St. Michaels" sign.
  - (b) Shall display the Town.
  - (c) May include up to three interchangeable signs, each of the same shape and size. Each sign shall identify the name of the event, the location, times and dates, and any other information visitors would find useful, provided it does not become too cluttered for the average motorist who is passing at the posted speed limit, to read easily.
  - (d) Before the placement of the individual event signs, review and approval shall be obtained from the Town Commissioners or their designated assignee.
  - (e) With the written consent of the property owner, may be placed on private property.
  - (f) With the written consent of the adjacent property owner and provided the conditions in Subsection L(2) are met, may be placed within the state highway



right-of-way.

- (2) The Town Commissioners shall approve the identification of the person(s) and or organizations or groups responsible for the erection and maintenance of the sign before the issuance of the required zoning certificate.

N. Attraction/designation directional signs in the MM District.

- (1) Freestanding signs not to exceed three within 75 feet of a public way, which signs identify the various offerings of the museum.
- (2) Each sign may have no more than two planes of any shape and no more than 50 square feet on one side of any plane. The top of the sign shall not be more than eight feet above ground level.
- (3) Sign material shall be consistent with the structures within proximity to the sign.
- (4) The location of the sign(s) shall be within the attraction area, on privately owned property, and indicated on a site plan as required for approval.
- (5) A landscape plan for each sign within 75 feet of a public way is to be submitted as part of the building permit application.

**§ 340-162. Temporary signs.**

Temporary signs are permitted in all districts provided such signs are located on private property unless otherwise allowed in this subsection, displayed for no more than 30 consecutive days at one time, and comply with the following regulations.

A. Special sales signs.

- (1) Be limited to one on-premises sign per event.
- (2) Shall be limited to five events or sales in one calendar year on the same lot.
- (3) May be erected, posted, or displayed seven days before the event or sale.
- (4) Shall be removed within five days after the conclusion of the event or sale.
- (5) Shall not exceed 10 square feet.
- (6) Be limited to six public event signs per the calendar year.
- (7) The maximum length of time for each permitted event shall not exceed 20 days.

B. Public events. Temporary signs for events approved by the Town Commissioners as provided in Chapter 250, Public Events, of the Town Code shall comply with the following:

- (1) Shall accompany any permit applications as provided in Chapter 250, Public Events, of the Town Code.
- (2) No more than three temporary signs are permitted.

- (3) Individual signs cannot exceed four square feet.
- (4) No portion of the sign shall be less than eight feet off the ground.
- (5) Signs may be placed 21 days before the event.
- (6) All signs shall be removed within seven days of the conclusion of the event.
- (7) Signs will not contain advertising. The name of a business can be used, but no advertising for a business is permitted.

C. Commercial banners:

- (1) No more than one banner announcing the grand opening of a new business within the Town. Any such sign must be erected on the day of the official opening of the business and shall be removed within seven days of said opening. Only the words "Grand Opening" shall be permitted to appear on such a banner.
- (2) No more than one banner announcing the closing of a business within the Town. Such signs may be erected up to 30 days before the closing of the business. It shall be removed within 48 hours of the closing of this business. Only the words "Going Out of Business" shall be permitted to appear on such a banner. A going-out-of-business banner may only be erected one time per business.

D. Vertical banners. The Town Commissioners may consider and approve if found appropriate, the placement of vertical banners to display artwork and festival information. Said banners shall not exceed 10 square feet in area, shall not extend more than three feet from the structure on which they are mounted, and have a minimum clearance of eight feet above the grade of the public way.

E. Commercial, public event signs.

- (1) Commercial directional or informational signs advertising events shall:
  - (a) Not exceed 10 square feet in area per side, with a maximum of two sides;
  - (b) Not be displayed more than seven days before the event;
  - (c) Be removed not more than five days after the event;
  - (d) Be limited to one on-premises sign per event; and
  - (e) Be limited to six public event signs per calendar year.
- (2) The maximum length of time for each permitted event shall not exceed 20 days.
- (3) Permit issuance.
  - (a) Before erecting a commercial, public event sign, a permit shall be obtained for each sign.
  - (b) The application fee shall be that set out in the Administrative Fee Schedule<sup>1</sup> approved by the Town Commissioners and amended from time to time.

- (c) The Zoning Inspector shall issue the permit within three days of receiving the application.
- (d) Each day that a sign in violation of this subsection is a violation of this chapter under Article XXI.

F. Noncommercial public information event signs.

- (1) Directional or informational signs advertising events sponsored by bona fide civic, nonprofit, charitable, or fraternal organizations shall:
  - (a) Not exceed 10 square feet in area;
  - (b) Not be displayed more than seven days before the event; and
  - (c) Be removed not more than five days after the event.
- (2) The number of signs shall be limited to three per event.
- (3) Only in the case where an applicant does not have fixed premises from which to operate, a public information event sign may be erected as an off-premises sign on private property with the written permission of the property owner.
- (4) Permit issuance.
  - (a) Before erecting a noncommercial public event sign, a permit shall be obtained for each sign.
  - (b) The application fee shall be that set out in the Administrative Fee Schedule<sup>2</sup> approved by the Town Commissioners and amended from time to time.
  - (c) The Zoning Inspector shall issue the permit within three days of receiving the application.
  - (d) Each day that a sign in violation of this subsection is a violation of this chapter under Article XXI.
- (5) Length of event. The maximum length of time for display by any party or any group of parties of noncommercial public event signs is 120 days in any one year.

G. Festival or community sponsored functions.

- (1) The Town Commissioners recognize that there are functions conducted in the municipality that contribute to the small-time charm and character of the Town that may require signage not specifically outlined in this chapter. Applicants for such functions shall submit a request to the Town Commissioners for their consideration and approval which contains the following information:
  - (a) The type of function.

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1. Editor's Note: The Fee Schedule is on file in the Town offices.  
2. Editor's Note: The Fee Schedule is on file in the Town offices.

- (b) The duration of the function.
  - (c) Those businesses and organizations sponsoring the function.
  - (d) The number, type, and location of the proposed signage.
- (2) A temporary sign permit may be authorized only upon the favorable findings of the Town Commissioners.
- H. Charitable fund-raising activities or special events for which signage is proposed to be located on utility poles.
- (1) The Town Commissioners recognize that there are charitable fund-raising activities or special events conducted in the municipality that support community needs and benefit from signage, not specifically addressed in this chapter. Such events and community-sponsored functions may, but do not necessarily, include fund-raising or other charitable events.
  - (2) The Town Commissioners, to continue their support of these unique fund-raising activities or special events, are requiring the applicants to provide the following for their review:
    - (a) Completed application providing:
      - [1] The applicant's address and contact information. The fund-raising organization must be a nonprofit or be sponsored by a nonprofit or the Town.
      - [2] If applicable, the name, address, and contact information of the sponsor.
      - [3] The name, address, and contact information of individual(s) responsible for posting the signs.
      - [4] The type of activity and purpose.
      - [5] The number, type, and location of the proposed signage. Individual signs cannot exceed four square feet (576 square inches). No portion of the sign shall be less than eight feet off the ground.
      - [6] Acknowledgment that signs will not contain advertising. The name of a business can be used, but no advertising for a business is permitted.
      - [7] Acknowledgment that signs will not contain negative or inflammatory messages.
    - (b) Documentation that the fund-raising organization is a nonprofit or is sponsored by a nonprofit or the Town. Fund-raising, which may include fund-raising for a specific cause, must benefit the local community.
    - (c) The applicant shall acknowledge that he or she and the group or organization that he or she represents shall comply with all applicable laws and regulations, including but not limited to the Maryland Solicitations Act.

(d) Dates on which the signs will be installed and the date of removal. Such signage will only be permitted on utility poles along Talbot Street during September through April, with the following limitations:

- [1] Promotion of a specific event for 21 days before the event with removal 48 hours after the event.
- [2] Fund-raising activities unrelated to a specific event for no more than 30 days or at the discretion of the Town Commissioners.
- [3] Permits may be applied for beginning on December 1 for the next calendar year.

(3) Permit approval will be at the sole discretion of the Town Commissioners.

### **§ 340-163. On-site portable sidewalk signs.**

Freestanding or temporarily affixed wall-mounted portable sidewalk signs are permitted subject to the following:

- A. The sign location complies with the provisions of Chapter 285, Streets, Sidewalks and Alleys, of the Town Code.
- B. Signs may only be displayed during regular business hours.
- C. As appropriate, portable signs shall be weighted, temporarily secured, or strategically placed to avoid being carried away by high winds.
- D. Proof of permit issuance must be affixed to the sign.
- E. Portable signs shall be placed on the privately owned portion of a property and shall not obstruct a public way (sidewalk or roadway) for any reason.
- F. Number: One sign is permitted per business or leasable tenant space, whichever is less.
- G. Area: Each sign shall have a maximum area of six square feet per sign face.
- H. Height: Signs shall have a maximum height of 3.5 feet.
- I. Sign placement.
  - (1) If a sign is located on a public or private sidewalk, a minimum of 4.5 feet of unobstructed sidewalk clearance must be maintained between the sign and any building or other obstruction.
  - (2) The sign must be located on the premises, and within 12 feet of the primary public entrance of the establishment, it advertises. For this subsection, a public entrance includes a vehicular entrance into a parking garage or parking lot.
- J. Commercial messages must advertise only goods and services available on the premises.
- K. Appearance standards.

- (1) Signs must be constructed of materials that present a finished appearance (rough-cut plywood prohibited).
- (2) Sign frames shall be painted or stained wood, composite materials, anodized aluminum, or other metal.
- (3) Windblown devices, including balloons, may not be attached, or otherwise made part of the sign.
- (4) Signs may not be illuminated or have any moving parts.
- (5) Manual changeable copy signs are permitted.

**§ 340-164. Off-premises signs.**

When the property has no direct access to a Town street and is located adjacent to Talbot Street, it shall be permitted an off-premises sign, conditioned upon the following:

- A. The purpose of the sign is to provide notice to the public of the entrance to the lot;
- B. The lot is at least 75 feet in width;
- C. There is an existing vehicular entrance to the lot across the state highway right-of-way, and the sign is to provide notice of that entrance to motor vehicle operators;
- D. The lot boundary that abuts the state highway right-of-way is more than 20 feet from the nearest edge of the existing paved state highway shoulder located in that state highway right-of-way;
- E. The State Highway Administration has granted written permission for the placement of the sign in the state highway right-of-way; and
- F. The sign would benefit public safety and the free flow of traffic on the state highway.
- G. Compliance with all other provisions and restrictions relating to freestanding signs shall apply.

**§ 340-165. Prohibited signs.**

The following signs are unlawful and prohibited:

- A. Abandoned signs.
- B. Snipe signs. Signs shall only be attached to utility poles in conformance with state and utility regulations and the requirements of this chapter.
- C. Vehicular signs. This regulation does not include the use of business logos, identification, or advertising on vehicles primarily and actively used for business purposes and/or personal transportation.
- D. Mechanical movement signs, including revolving signs.
- E. Pennant strings and streamers.

- F. Animated signs, flashing signs, or signs that scroll or flash text or graphics.
- G. Inflatable devices or balloon signs, except balloons used in temporary, noncommercial situations.
- H. Any signs that imitate, resemble, interfere with, or obstruct official traffic lights, signs, or signals.
- I. Signs which prevent free ingress or egress from any door, window, fire escape, or that prevent free access from one part of a roof to any other part. No sign other than a safety sign shall be attached to a standpipe or fire escape.
- J. Signs which emit smoke, visible vapors, particulate matter, sound, odor, or contain open flames.
- K. Reflective signs or signs containing mirrors.
- L. Interactive signs.
- M. Signs incorporating beacon or festoon lighting.
- N. Any banner or sign of any type suspended across a public street.
- O. Roof signs.
- P. Signs erected without the permission of the property owner, except those authorized or required by local, state, or federal government.
- Q. Any sign containing information which states or implies that a property may be used for any purpose not permitted under the provisions of this chapter.
- R. Signs that exhibit statements, words, or pictures of obscene or pornographic subjects as determined by the Town.
- S. Any sign that promotes illegal activity.
- T. Beacons.
- U. Changeable-copy signs other than a manual changeable copy.
- V. Digital displays.
- W. Illuminated sign other than indirectly illuminated signs where permitted and except as may be otherwise allowed in this article.

**§ 340-167. Unsafe signs.**

If the Zoning Inspector determines any sign to be unsafe, insecure, or a menace to the public, he/she shall provide written notice to the sign owner describing the unsafe conditions determined and required remedial actions. The sign owner shall have three days from receipt of the notice to complete required remedial actions. If the unsafe condition of the sign is not corrected within the stated three-day period, the Zoning Inspector is at this moment authorized to remove the unsafe sign at the expense of the owner.

**§ 340-168. Signs exempt from permit requirements.**

The following signs shall be allowed without a sign permit and shall not be included in the determination of the type, number, or area of permanent signs allowed within a zoning district, provided such signs comply with the regulations in this section if any.

- A. Official traffic signs.
- B. Government/regulatory signs, including wayfaring signs.
- C. Signs inside a building, or other enclosed facility, which are not meant to be viewed from the outside and are located greater than three feet from the window.
- D. Holiday and seasonal decorations.
- E. Personal expression signs or small flags of any type, if they do not exceed three square feet in area per side and are noncommercial and not illuminated.
- F. Address signs. Up to two signs stating address, number, and name of occupants of the premises and do not include any commercial advertising or other identification.
  - (1) Residential districts. Signs not to exceed three square feet in area.
  - (2) Nonresidential districts. Signs not to exceed five square feet in area.
- G. Public signs. Signs erected or required by government agencies or utilities, including traffic, utility, safety, railroad crossing, and identification or directional signs for public facilities.
- H. Signs or emblems of a religious, civic, philanthropic, historical, or educational organization that do not exceed four square feet in area.
- I. Private drive signs. Private signs directing vehicular and pedestrian traffic movement onto a premise or within a premise only, not to include advertising, not exceeding two square feet in area for each sign.
- J. Security and warning signs. Non-illuminated signs not to exceed one square foot per sign warning.
- K. Large flags. In addition to national, state, or Town flags, one large flag per lot or permitted commercial operation.
  - (1) Location. Flags and flagpoles shall not be located within any right-of-way.
  - (2) Height. Flags shall have a maximum height of 30 feet.
- L. Legal notices.
- M. Vending machine signs.
- N. Memorial signs, public monument or historical identification sign erected by the Town, including plaque signs up to three square feet.
- O. Signs, which are a permanent architectural feature of a building or structure, existing at the



time of adoption of this chapter.

- P. Incidental signs, including incidental window signs.
- Q. Directional signs provided they do not contain any commercial messaging.
  - (1) Area. No single directional sign shall exceed four square feet.
  - (2) Height. Directional signs shall have a maximum height of five feet.
  - (3) Illumination. Directional signs shall be non-illuminated.
- R. Political signs.
  - (1) May not exceed six square feet in area.
  - (2) May be erected, posted, or displayed two months before the election for which the candidate has filed.
  - (3) Shall be removed within seven days after the election.
  - (4) Shall not be illuminated.
- S. Signage devices which include but are not limited to QR codes, which provide a simple connection between real-life environments, demonstrating the historic significance of the site and the ability to enhance a visitor's experience via rich media on a mobile device. Such signage may be placed within public ways conditioned on receiving approval of such placement or content from the Town Commissioners and that the size of such signage shall not exceed eight inches by eight inches.
- T. Freestanding signs located on the interior of an institutional site used to identify public facilities, on-site traffic direction, hours of operation, and other information.
- U. Real estate signs.
  - (1) One real estate sign may be erected or displayed on the property advertised plus two temporary, off-premises "open/house" real estate signs no more than two square feet in area, offering real estate for sale. Signs may only be in place on the day of the open house.
  - (2) Real estate signs shall not be illuminated.
  - (3) On-premise signs shall be removed within five days after the deed has been recorded for sale or lease signed for the rental of property.
  - (4) On-premise signs shall not exceed the following maximum size areas:
    - (a) Residential uses six square feet in area.
    - (b) Commercial uses 24 square feet in area.

**§ 340-169. Abandoned signs.**

- A. To prevent blight in established communities, diminution of property values, and hazards of personal injury or damage to adjacent properties, the provisions of this subsection shall be construed, to the greatest extent possible, to require the removal of abandoned signs at the earliest possible moment.
- B. A public event sign is considered abandoned on the seventh consecutive day following the conclusion of the event or activity to which it pertains.
- C. An abandoned sign shall be removed by the owner of the premises or the owner of the sign if different from the owner of the premises.
- D. If an abandoned sign is not removed, it shall be considered litter. Any person who shall commit the prohibited act of littering as set forth in Chapter 243, Property Maintenance and Littering, of the Town Code, shall be guilty of a municipal infraction, and subject to the procedures set forth in Chapter 33, Municipal Infractions.

**§ 340-170. Nonconforming signs.**

- A. All nonconforming off-site signs shall be removed.
- B. Signs existing at the time of enactment of this chapter and not conforming to its provisions, but which were constructed in compliance with previous regulations, shall be regarded as nonconforming signs. Nonconforming signs which are structurally altered, relocated, or have materials changed or replaced shall comply immediately with all provisions of this chapter. Repainting the sign to include the same or different colors or content, changing the name of the business, enterprise, service or accommodation, or ordinary maintenance shall be construed as maintenance. It shall not affect the legal nonconforming status of the sign. Any change in the stature or configuration of a sign located in the Historic Area requires the approval of the Historic District Commission.

