Zoning Ordinance

December 2024

Version - TL 08132026

Contents

Article 1 – Purpose and Authority **9**
§ 1.1 Title **10**
§ 1.2 Authority **10**
§ 1.3 Intent **10**
§ 1.4 Purpose **10**
§ 1.5 Severability **10**
§ 1.6 Adequate Public Facilities **10**
§ 1.7 No Use or Sale of Land or Buildings Except in Conformity with Ordinance Provisions **11**
§1.8 Non-Conforming Lots, Structures, and Uses **11**
§ 1.8.1 Intent of Regulations 11
§ 1.8.2 Non-Conforming Lots, Structures, and Uses 11
§ 1.9 Enforcement, Violation, and Penalties **14**
§ 1.9.1 Enforcement of this Ordinance 14
§ 1.9.2 Violation of this Ordinance 14
§ 1.9.3 Penalties for Violation 14
§ 1.9.4 Provisions Concerning Unlawful Demolition 14
§ 1.9.5 Other Lawful Action as Necessary 15
§ 1.10 Amendments to this Ordinance **15**
§ 1.10.1 Who May Initiate 15
§ 1.10.2 Criteria for a Valid Zoning Map Change 15
§ 1.10.3 Town Council Public Hearing and Notice 16
§ 1.11 Relationship to Existing Zoning and Subdivision Ordinances **16**
§ 1.12 Fees **16**
§ 1.12.1 Schedule of Fees 16
§ 1.12.2 No Action until Fees Paid 16
§ 1.13 Reserved **16**
Article 2 – Basic Definitions and Interpretations **17**
§ 2.1 Rules for Defining Terms **18**
§ 2.1.1 Defined Words have Meaning Provided 18
§ 2.1.2 Rules 18
§ 2.2 Terms and Definitions **18**
§ 2.3 Reserved **32**
Article 3 – Administrative Mechanisms **33**
§3.1 Zoning Administrator **34**
§ 3.1.2 Authority 34
§ 3.1.2 Enforcement 34

§ 3.1.3 Administrative Adjustments 34
§ 3.1.4 Appeals 35
§ 3.2 Planning Commission 35
§ 3.2.1 Membership 35
§ 3.2.2 Officers 36
§ 3.2.3 Authority 36
§ 3.2.4 Meetings 36
§ 3.2.5 Appeals 37
§ 3.3 Board of Appeals 37
§ 3.3.1 Membership 37
§ 3.3.2 Officers 37
§ 3.3.3 Authority 37
§ 3.3.4 Meetings 38
§ 3.3.4 Special Procedural Provisions 38
§ 3.4 Historic District Commission 38
§ 3.4.1 Membership 38
§ 3.4.2 Officers 39
§ 3.4.3 Authority 39
§ 3.4.4 Meetings 39
§ 3.4.5 Appeals 39
§ 3.5 Mayor and Town Council 39
§ 3.5.1 General Duties 39
§ 3.6 Reserved 40
§ 3.7 Reserved 40
§ 3.8 Reserved 40
Article 4 – General Permit Procedures 41
§ 4.1 Zoning Permits 42
§ 4.1.1 Zoning Permit Required 42
§ 4.1.2 Expiration of Zoning Permits 42
§ 4.1.3 Demolition Permits 42
§ 4.1.4 Expiration of a Demolition Permit 43
§ 4.1.5 Cecil County Building Permits 43
§ 4.2 Site Plan Processing Procedures 43
§ 4.2.1 Planning Commission to Establish Procedures 43
§ 4.3 Minor Site Plan Application and Procedures 44
§ 4.3.1 Minor Site Plan Procedures 44
§ 4.3.2 Contents of Minor Site Plan Applications 44

§ 4.4 Major Site Plan Application and Procedures 45
§ 4.4.1 Major Site Plan Procedures 45
§ 4.4.2 Concept Stage Procedure 46
§ 4.4.3 Contents of Concept Plan Submittals 46
§ 4.4.4 Preliminary Stage Procedure 48
§ 4.4.5 Impact Studies May be Required 48
§ 4.4.6 Contents of Preliminary Plan Submittals 49
§ 4.4.7 Final Stage Procedure 50
§ 4.4.8 Contents of Final Plan Submittals 51
§ 4.4.8 Project Built to Plan for Occupancy Permit 51
§ 4.5 Amendment of Approved Site Plan or Zoning Permit 51
§ 4.5.1 Major or Minor Amendment 52
§ 4.6 Variance Guidelines – Board of Appeals 52
§ 4.7 Appeals Guidelines – Board of Appeals 54
§ 4.8 Special Exception Guidelines – Board of Appeals 55
§ 4.9 Hearings of the Board of Appeals 57
§ 4.9.1 Hearing Required 57
§4.9.2 Notice of Hearing 57
§ 4.9.3 Evidence and Record of Hearing 58
§ 4.9.4 Modification of Application at Hearing 58
§ 4.9.5 Written Decision 58
Article 5 – Zoning Districts 60
§ 5.1 Zoning Map 61
§ 5.1.1 Zoning Map 61
§ 5.1.2 Zoning of Annexed Lands 62
§ 5.2 Districts and Allowable Uses 62
§ 5.2.1 Town Divided into Zoning Districts 62
§ 5.2.2 Planned Unit Development 63
§ 5.2.3 Land Uses by District – Permitted Uses Table 64
§ 5.2.4 Standards for Conditional and Special Exception Uses 68
§ 5.3 Historic District Area 78
§ 5.3.1 Purpose and Applicability 78
§ 5.3.2 Historic District Commission Permit Required 78
§ 5.3.3 Ordinary Maintenance – Work under a Prior Approval 80
§ 5.3.4 Appeals 80
§ 5.3.5 Architectural Easements 80
Article 6 – Dimensional Requirements 81

§ 6.1 Dimensional Requirements 82
§ 6.1.1 Lot and Bulk Requirements 82
§ 6.1.2 Exceptions to Lot and Bulk Requirements 86
§ 6.1.3 Accessory Building or Structure Requirements 87
§ 6.1.4 Fences and Walls 88
Article 7 – Site and Building Design Standards 90
§7.1 General Environmental Standards for Sensitive Areas 91
§ 7.1.1 Land Suitability 91
§ 7.1.2 Perennial Stream No Disturbance Buffer 91
§ 7.1.3 Intermittent Stream No Disturbance Buffer 92
§ 7.1.4 Non-tidal Wetland Buffer 92
§ 7.1.5 Steep Slopes 93
§ 7.1.6 Habitats of Rare, Threatened and Endangered Species 93
§ 7.1.7 Forest Conservation 93
§ 7.2 Landscaping and Screening 94
§ 7.2.1 General Applicability 94
§ 7.2.2 Purpose and Intent 94
§ 7.2.3 Landscaping Requirements 94
§ 7.2.4 Waiver or Modification 99
§ 7.2.5 Screening, Buffer Yards, and Shading 100
§ 7.3 Parking and Loading 105
§ 7.3.1 Intent and Purposes 105
§ 7.3.2 Off-Street Parking Required 105
§ 7.3.3 Modification of Parking Requirement 111
§ 7.3.4 Minimum Bicycle Parking Requirements by Land Use 112
§ 7.3.5 Off-Street Loading Spaces Required 114
§ 7.3.6 Exterior Lighting 115
§ 7.3.7 Physically Handicapped Parking 117
§ 7.4 Signs 118
§ 7.4.1 Purpose and Applicability 118
§ 7.4.2 Administration 118
§ 7.4.3 Prohibited Signs and Signage 119
§ 7.4.4 Signs Permitted Without Permit 121
§ 7.4.5 General Sign Standards 122
§ 7.4.6 Sign Standards Specific to All Districts, Except TND (all) **and NRR** 123
§ 7.4.7 Sign Standards Specific to the TND (all) and NRR District 125
§ 7.4.8 Sign Standards Specific to Historic District 125

§ 7.4.9 Non-Conforming Signs 126
§ 7.4.10 Administrative Adjustment of Sign Regulations 126
§ 7.4.11 Violations 126
Article 8 – Community Design Standards 129
§ 8.1 Creation of Lots 130
§ 8.1.1 Standards for New Lots 130
§ 8.2 Adequate Public Facilities 132
§ 8.2.1 Basic Requirements 132
§ 8.2.2 Open Space, Parks, and Recreational Requirements 132
§ 8.3 Streets 133
§ 8.3.1 Street Classification and Typical Sections 133
§ 8.3.2 Street Layout 137
§ 8.4 Administrative Provisions for New Developments 140
§ 8.4.1 Dedication and Acceptance of Streets and Facilities 140
§ 8.4.2 Bonding and Guarantee of Public Improvements 140
§ 8.5 Properties Out of Town Limits Desiring Access to Town Water and Sewer 141
Article 9 - Critical Area Regulations – 2022 142
§ 9.1 Critical Area Program Purpose and Goals 142
§ 9.1.1 The Chesapeake City Critical Area Program 142
§ 9.1.2 Goals and Implementation 143
§ 9.1.3 Regulated Activities and Applicability 143
§ 9.1.4 Critical Area Overlay District Map 143
§ 9.1.5 Notification of project approval 143
§ 9.1.6 General Requirements 145
§ 9.2 Districts 147
§ 9.2.1 Intensely Developed Areas 147
§ 9.2.2 Limited Development Areas 148
§ 9.2.3 Resource Conservation Areas 150
§ 9.3 Land Use and Density 151
§ 9.3.1 Permitted Uses 151
§ 9.3.2 Supplemental Use Standards 153
§ 9.4 Growth Allocation 158
§ 9.4.1 Acreage and Designation 158
§ 9.4.2 Standards for Designation 158
§ 9.5 Administration and Enforcement 160
§ 9.5.1 Grandfathering 160
§ 9.5.2 Variances 161

§ 9.5.3 Lot Consolidation and Reconfiguration 163
§ 9.5.4 Amendments 164
§ 9.5.5 Enforcement 164
§ 9.6 The Buffer 167
§ 9.6.1 Applicability and Delineation 167
§ 9.6.2 Permitted activities 168
§ 9.6.3 Modified Buffer Area (MBA) Provisions 172
§ 9.7 Other Habitat Protection Areas 174
§ 9.7.1 Identification 174
§ 9.7.2 Standards 175
§ 9.8 Water Dependent Facilities 175
§ 9.8.1 Applicability and Identification 175
§ 9.8.2 Standards 175
§ 9.9 Critical Area Definitions 179
APPENDIX A: GUIDE FOR LANDSCAPING 190
APPENDIX B: BUFFER YARD REQUIREMENTS 203
RECOMMENDED PLANTS FOR CHESAPEAKE CITY 211

Article 1 – Purpose and Authority

§ 1.1 Title

These regulations shall be known as the Town of Chesapeake City Zoning Ordinance. They may be referred to herein as the "Zoning Ordinance", or this "Ordinance".

§ 1.2 Authority

The Mayor and Town Council have the authority to adopt this Ordinance pursuant to the Land Use Article of the Annotated Code of Maryland.

§ 1.3 Intent

This Ordinance is intended to promote the orderly development of the Town of Chesapeake City, Maryland, in accordance with the Chesapeake City Comprehensive Plan or any of the component parts thereof and in compliance with the Land Use Article of the Annotated Code of Maryland. It is also the intent of this Ordinance that the extent of its applicability shall be automatically changed in accordance with the provisions hereof or with any provision of State Law which may hereinafter affect the applicability of this Ordinance.

§ 1.4 Purpose

The purpose of this Zoning Ordinance is to implement the Comprehensive Plan for the Town of Chesapeake City, Maryland in order to promote the health, safety, order, convenience and general welfare of the citizens of the Town in accordance with present and future needs as expressed in the Comprehensive Plan. Further, to provide for economic and efficient land development, encourage the most appropriate use of land, provide convenient and safe movement of people and goods, control the distribution and density of population to areas where necessary public service can be provided, protect historic and environmental areas, encourage good civic design, and provide for adequate public utilities, facilities, and services.

§ 1.5 Severability

The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any such part is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining parts of this Ordinance.

§ 1.6 Adequate Public Facilities

No concept or plan for a subdivision or other major development shall be approved unless the Town of Chesapeake City first determines that adequate facilities are available to support and service the proposed subdivision or major development.

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

§ 1.7 No Use or Sale of Land or Buildings Except in Conformity with Ordinance Provisions

Subject to all applicable provisions of this Ordinance, no person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under his or her control.

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

§1.8 Non-Conforming Lots, Structures, and Uses

§ 1.8.1 Intent of Regulations

A. Purpose and Intent

1. It is the intent of this Ordinance not to encourage the survival of non-conformities. Such uses are incompatible with permitted uses in the zoning districts involved.
2. It is further the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same zone.

B. Extension of Non-Conformities Prohibited

A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of a structure and land shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises, or by the addition of other uses of a nature which would be prohibited in the zone involved.

C. Impact on Ongoing Lawful Construction

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction, defined in Article 2 of this Ordinance, was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently carried on.

§ 1.8.2 Non-Conforming Lots, Structures, and Uses

A. Non-Conforming Lots of Record

1. In any zone in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance. Such a lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such a lot fails to meet the

requirements for area, or width, or both, that are generally applicable in the zone, provided that yard dimensions shall conform to the regulations for the zone in which such a lot is located. Any variance of yard requirements shall be obtained only through the action of the Board of Appeals.

2. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements for lot width and area as established by this Ordinance, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used or sold which does not meet lot width or area requirements established by this Ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this Ordinance.

B. Non-Conforming Uses of Land

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

1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;

2. No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.

3. If any such non-conforming use of land ceases for any reason for a period of more than 90 days, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the zone in which such land is located.

C. Non-conforming Structures

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued subject to §2.4.2E, so long as it remains otherwise lawful, subject to the following provisions:

1. No such structure may be enlarged or altered in a way that increases its non-conformity.

2. Should such a structure be destroyed by any means to an extent of more than 25 percent of its replacement cost at time of destruction as determined by the Zoning Administrator, it shall not be reconstructed as a non-conforming use.

3. Should such a structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zone in which it is located after it is moved.

D. Non-Conforming Uses of Structures

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

zoning district under the terms of this Ordinance, the lawful use may be continued subject to §1.8.2E of this Ordinance, so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this Ordinance in the zone in which it is located, except dwellings, shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the zone in which it is located.
2. Any non-conforming use may be extended throughout any parts of a building that were manifestly arranged or designed for use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
3. If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use, provided that the Zoning Administrator shall find that the proposed use is equally appropriate or more appropriate to the zone than the existing non-conforming use. In permitting such change, the Zoning Administrator may require appropriate conditions and safeguards in accord with the provisions of this Ordinance.
4. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the zone in which such structure is located, and the non-conforming use may not thereafter be resumed.
5. When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for nine consecutive months or for 15 months during any three-year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the zone in which it is located.
6. Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structures shall eliminate the non-conforming status of the land.

E. Repairs and Maintenance of Non-Conforming Structure

1. Any structure lawfully constructed before the approval of these regulations may be maintained in the same size, material, manner, location, and construction. Routine repairs to replace damaged or worn-out portions may be performed without requiring a town Zoning permit. Any changes to material, size, dimension, manner, construction, or location require a town zoning permit as new construction. Repair/replacement of existing structures does not shield the owner from encroachments on adjacent properties, or requirements for any state or county permits.
2. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

§ 1.9 Enforcement, Violation, and Penalties

§ 1.9.1 Enforcement of this Ordinance

It shall be the duty of the Zoning Administrator to ensure compliance with all applicable provisions of this Ordinance.

§ 1.9.2 Violation of this Ordinance

If the Zoning Administrator finds that this Ordinance is being violated, he/she shall notify the person responsible for such violations, indicate the nature of the violation and order action necessary to correct it. The Zoning Administrator shall:

1. Order the discontinuation of the illegal use of land, buildings, or structures.
2. Order removal of illegal buildings, structures, or additions, alterations, or structural changes thereto.
3. Order discontinuance of any illegal work being done.
4. Take any other action authorized to ensure compliance or to prevent violation.

§ 1.9.3 Penalties for Violation

A. The violation of any provision of this Ordinance or failure to comply with any requirements shall constitute a municipal infraction, subject to a fine of one hundred dollars ($100) for the first violation. The fine for each subsequent violation shall be two hundred dollars ($200). Each day such violation continues shall be considered a separate offense.

B. The owner or tenant of any building, structure, premises, or part thereof, and any architect, engineer, builder, contractor, agent, or other person, who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

§ 1.9.4 Provisions Concerning Unlawful Demolition

In addition to the penalties and remedies provided in this Ordinance, any site or structure demolished without an approved demolition permit shall be ineligible for any use and/or zoning certificates and/or building permits for the erection or rebuilding of the building or structure for a period of no less than 6 months to no more than one year from the date of such demolition. For any structure located within the Historic District that is unlawfully removed or demolished, the owner shall be subject to a civil sanction of no less than 15% of the building valuation of the subject structure at the time of demolition, up to a $100,000.00 fine. Upon expiration of the one-year period and confirmation of payment, the owner may make application for a zoning permit in accordance with the procedures set forth in this Ordinance. The removal or demolition of any structure outside of the Historic District without an approved permit may result in a civil sanction of up to $25,000.00.

In determining the amount of such fine, the following considerations shall be taken into account:

- Whether the property owner was the first party to call the violation to the Town's attention;
- The amount of staff time used to find and/or cause the correction of the violation;
- The nature of the violation, i.e., whether deliberate or inadvertent;
- Efforts made by the property owner to correct the violation;
- The impact of the violation on the neighborhood and/or community;
- The property owner's good faith efforts to comply;
- Such other and further matters as the Planning Commission may consider relevant.

§ 1.9.5 Other Lawful Action as Necessary

Nothing herein contained shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violation. The Town may enforce this Ordinance by civil action for declaratory judgment and/or injunction, in addition or as an alternative to citing the violator for a municipal infraction. In the case of a civil action for declaratory judgment and/or injunction, the Town may recover its legal fees and court costs from the violator.

§ 1.10 Amendments to this Ordinance

§ 1.10.1 Who May Initiate

Proposals for amendment, supplement, change, modification, or repeal may be initiated by the Town Council on its own motion, by the Planning Commission, or by petition of one or more owners of property to be affected by the proposed amendment, subject to the following provisions:

1. Proposals originated by the Town Council. The Town Council shall refer every proposal originated by the Town Council to the Planning Commission. Within 60 days of the submission, the Planning Commission shall submit to the Town Council a report containing the Planning Commission's recommendations, including any additions or modifications to the original proposal.
2. Proposals originated by the Planning Commission. The Planning Commission may at any time transmit to the Town Council a proposal.
3. Proposals originated by a citizen's petition. Each petition by one or more owners of property to be affected by a proposal for amendment, supplement, change, or modification shall be submitted on forms provided therefore to the Zoning Administrator. On receipt of said petition, the Zoning Administrator shall transmit a copy of the petition to the Planning Commission.
4. All amendments shall be the subject of a public hearing conducted by the Planning Commission. The Planning Commission shall conduct the hearing within 60 days of submission of proposed amendment and then within 45 days following a public hearing, the Commission shall submit a report to the Town Council containing the Commission's recommendations, including any additions or modifications of the original proposal. Failure to submit a report within 45 days shall be deemed approval of the petition by the Planning Commission. The Town Council shall defer action on a petition until the recommendations of the Planning Commission are received and reviewed or until 45 days have elapsed, whichever may occur first.

§ 1.10.2 Criteria for a Valid Zoning Map Change

Except as part of a comprehensive rezoning of the Town of Chesapeake City, the Town Council shall approve no amendment to the Official Zoning Map unless it first finds upon a preponderance of evidence that either of the following criteria to have been met:

1. There was a mistake in the preparation of the Official Zoning Map.
2. Since the adoption of the current Comprehensive Plan, there has been a substantial change in the character of the neighborhood where the map amendment is proposed.

§ 1.10.3 Town Council Public Hearing and Notice

1. No such amendment, supplement, change, modification, or repeal shall become effective, until after a public hearing by the Town Council in relation thereto.
2. When such hearing concerns a zoning map change, the Town shall post in a conspicuous place on the property involved a notice of pending action; such posting to take place at least 15 days prior to the date fixed for public hearing.
3. When such hearing concerns a zoning map change, the Town shall give written notice of the time and place of such hearing, sent by registered mail to the applicant and to the owners of property contiguous to or opposite the property affected.

§ 1.11 Relationship to Existing Zoning and Subdivision Ordinances

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

§ 1.12 Fees

§ 1.12.1 Schedule of Fees

1. The Mayor and Town Council shall establish a schedule of fees, fees-in-lieu, charges, and expenses, and a collection procedure, for zoning permits, use and occupancy permits, appeals, variances, special exceptions, amendments, site plan and subdivision plat reviews, building and demolition permits, annexation petitions, and other matters pertaining to this Ordinance.
2. The schedule of fees shall be posted in the offices of the Zoning Administrator and may be altered or amended only by the Mayor and Town Council, upon recommendation of the Planning Commission.

§ 1.12.2 No Action until Fees Paid

No certificate, permit, special exception, or variance shall be issued unless or until such costs, charges, fees, or expenses, have been paid in full, nor shall any action be taken on proceedings before the Board of Appeals unless or until charges and fees have been paid in full.

§ 1.13 Reserved

Article 2 – Basic Definitions and Interpretations

§ 2.1 Rules for Defining Terms

§ 2.1.1 Defined Words have Meaning Provided

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

§ 2.1.2 Rules

- Words used in the present tense shall include the future tense; words used in the singular number shall include the plural number, and the plural number shall include the singular number, unless the obvious construction of the wording indicates otherwise.
- The word "shall" is mandatory and not discretionary.
- The word "may" is permissive.
- The word "lot" shall include the words "piece", "parcel" and "plots"; the word "building" includes all other structures of every kind regardless of similarity to buildings; and the phrase "used for" shall include the phrase "arranged for" and "occupied for".
- All "measured distances" shall be to the nearest "integral foot". If a fraction has a value of one-half foot or greater, the "integral foot" next above shall be taken.

§ 2.2 Terms and Definitions

Accessory Apartment- a separate complete housekeeping unit that is substantially contained within the structure of a single-family unit or a commercial structure but can be isolated from it.

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

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

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

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

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

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

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

Antenna- equipment designed to transmit or receive electronic signals.

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

Apartment House- same as "Dwelling, Multifamily".

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

Arterial Road- a highway, road, or street designated as an arterial or minor arterial in the Town's adopted Comprehensive Plan.

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

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

Bed and Breakfast/Country Inn- a small lodging facility in which bedrooms/rooms are rented to tourists or travelers and in which breakfast or other meals may be provided and included in the room rate.

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

Block- a tract of land bounded by streets, or by a combination of streets, alleys, public parks, cemeteries, shorelines or boundary lines of the Town.

Board- the Board of Appeals of the Town of Chesapeake City which is authorized with certain powers by this Ordinance including granting special exceptions and variances and to hear appeals from administrative decisions.

Boarder-a person who is given lodging with or without food by someone in exchange for a fee.

Boarding House- an owner-occupied single-family dwelling where, for compensation and by prearrangement for definite periods, lodging, meals, or lodging and meals are provided for three or more boarders but containing no more than four guest rooms or rental units.

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

Building, Accessory- See "Accessory Building".

Building, detached- a building surrounded by open space on the same lot.

Building, floor area of -the total number of square feet area in a building, excluding cellars, uncovered steps, and uncovered porches, but including the total floor area of accessory buildings on the same lot.

Building height- the vertical distance measured from the average elevation of the finished grades along the front of the building to the highest point of the roof. For the purposes of determining building height, at no point must the finished grade be higher than the pre-development grade and building height shall be measured in this way irrespective of compliance with the floodplain ordinance.

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

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

Building Permit- a permit issued by the Zoning Administrator or other officially authorized representative of the Town of Chesapeake City.

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

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

Certify- whenever this Ordinance requires that some agency certify the existence of some fact or circumstance to the Town, the Town may require that such certification be made in any manner that provides reasonable assurance of the accuracy of the certification. This may include a certified letter, or if the Town agrees, facsimile, electronic mail, or other similar manner that will produce a "hard copy" of said certification.

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

Civic (lot type)- pertaining to governmental and/or community related activities and uses including institutional uses and activities.

Clinic- an office building or a group of offices for one or more physicians, surgeons, or dentists, engaged in treatment of the sick or injured but not including rooms for overnight patients.

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

Collector- a highway, road, or street designated as a major collector or minor collector in the Town's adopted Comprehensive Plan.

Commission- the Planning Commission of the Town of Chesapeake City.

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

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

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

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

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

Construction, Actual- includes the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

Council- Mayor and Town Council of Chesapeake City, Maryland.

Nursing Care Institutions- a building where regular nursing care is provided for more than one person, not a member of the family, who resides on the premises.

Covenant- a written undertaking by an owner which is required by this Ordinance or imposed by the Planning Commission in accordance with authorization contained in this Ordinance.

Covenanter- a person who owns legal or equitable title to any land which is affected in any manner by a covenant and includes a person who holds any mortgage, deed of trust or other lien or encumbrance on any such land.

Court- an unoccupied open space, other than a yard, on the same lot with a building, which is bounded on two or more sides by the walls of such building.

Coverage, building- the percentage of the lot covered by buildings and structures.

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

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

b. All land and water areas within 1,000 feet beyond the landward boundaries of State or private wetlands and the heads of tides designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland.

c. Modifications to these areas through inclusions or exclusions proposed by local jurisdictions and approved by the Critical Areas Commission as specified in Section 8-1807 of the Natural Resources Article, Annotated Code of Maryland.

Day Care Center or Day Nursery- a child boarding home, day camp, summer camp, foster home, or other place for the reception, board, or care for compensation of children under fourteen years of age. This definition shall not include public or private schools organized, operated, or approved under Maryland laws, custody of children fixed by a court of competent jurisdiction, children related by blood or marriage within the third degree to the custodial person, or to churches or other religious or public institutions caring for children within the institutional building while their parents or legal guardians are attending services, activities, or meetings.

Day Care, Home- a facility operated in a residence by the owner of the residence limited to seven people, excluding residents, where care is given to children under the age of 18, or persons with physical handicaps, or persons in need of oversight because of advanced age, or developmental disabilities or other disability, and which routinely involves care and housing for less than 18 hours per day per person.

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

Deed Restriction- a private legal restriction and/or covenant on the use of land, contained within a deed of property or otherwise formally recorded in the Land Records of Cecil County, Maryland. These restrictions or covenants are designed to control the use of specific property and enforcement

of these is through private civil action. Deed restrictions are not enforced by the Town of Chesapeake City, unless it is Chesapeake City, Maryland that records said deed restrictions.

Density- the number of principal dwelling units allowed per acre of gross area of a development.

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

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

District- any section of the Town of Chesapeake City within which the zoning regulations are uniform.

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

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

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

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

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

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

Dwelling, Two-Family- a building designed for or occupied exclusively by 2 families living independently of each other.

Dwelling Unit- a room or group of rooms occupied or intended to be occupied as separate living quarters by a single family or other group of persons living together as a household or by a person living alone.

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

Earth Satellite Antenna (also called "satellite dish" or "dish")- a parabolic dish antenna or other device or equipment of whatever nature or kind, including its structural supports, the primary use of which is to receive television, radio, microwave, or other electronic signals from space satellites.

Essential Public Facilities and Services- any utility facility needed to provide basic services such as water, sewer, telephone, and cable television to the individual users.

Family- any number of individuals residing together on the premises as a single housekeeping unit.

Farmers Market- a retail market selling predominantly locally produced fruits, vegetables, crafts, and meats.

Fence or Wall- any structure regardless of composition, except a living fence, that is erected or maintained for the purpose of marking a boundary, enclosing an area, providing screening or privacy, restricting access or egress, or dividing a piece of land into distinct portions.

Fence Height - the distance measured from the existing grade to the top of the fence at its highest point.

Floor Area:

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

b. Residential buildings: the sum of the gross horizontal areas of the several floors of a dwelling measured from the exterior faces of the exterior walls.

Formula Business- Except for a service establishment (such as a professional office, insurance agent, bank, drive-in bank, financial institution, barber shop, beauty shop, dry cleaning/laundry, laundromat, plumbing, mechanical contractor, repair and paining, animal services and automotive service shop), a class of retail or wholesales sales establishment including, but not limited to, a convenience store, drive-in establishment, retail store, wholesale store, restaurant (standard, fast food, fast food cafeteria, fast food carry-out, drive-in or drive-thru), bar, pub, dance hall, nightclub, cocktail lounge, or tavern that along with 50 or more other establishments regardless of location in the United States is required by contractual or other business arrangements to maintain any two or more of the following substantially identical features:

a. Standardized menu or standardized array of merchandise with 50% or more of in stock merchandise from a single distributor bearing uniform markings.

b. Trademark or service mark, defined as a word, phrase, symbol or designs that identifies and distinguishes the source of the goods from one party from those of others, on products or as part of store design.

c. Standardized interior décor including, but not limited to, style of furniture, wallcoverings, displays or permanent fixtures.

d. Standardized color scheme used throughout the interior or exterior of the establishment.

e. Standardized uniform, including but not limited to, aprons, pants, shorts, shirts, smocks or dresses, hat and pins (other than name tags) or;

f. Standardized building façade, floor area design or layout.

Frontage:

a. Street frontage: all of the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.

b. Lot frontage: the distance for which the front boundary line of the lot and the street line are coincident.

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

Garage, service- a building, or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, or storing motor-driven vehicles.

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

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

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

Group Home- a residential structure that is licensed as a residential care facility or child foster care facility under Maryland law to provide room, board, and supervised and/or medical care, for no more than five residents.

Halfway House- a residential structure limited to five persons that is authorized to be a facility where persons are aided in readjusting to society following a period of imprisonment, hospitalization, or institutionalized treatment.

Home Occupation- any occupation or activity, which is clearly incidental and secondary to use of the premises for dwelling and, which is carried on wholly within a main building by a member of a family residing on the premises. When within the above requirements, a home occupation includes, but is not limited to the following: (a) art studio; (b) dressmaking; (c) professional office of a physician, dentist, lawyer, engineer, architect, accountant, sales-person, real estate agent, insurance agent, or other similar occupation; (d) teaching, with musical instruction limited to 1 or 2 pupils at a time; however, a home occupation shall not be interpreted to include tourist homes, animal hospitals, child or day care centers, tea rooms, or restaurants.

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

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

Impervious Surface- any surface installed on a lot that is resistant to the penetration of water.

Intermediate Care Institutions- an institutional facility licensed by Maryland law providing accommodations for more than seven persons needing medical care at a level lower than provided at nursing care institutions.

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

Kennel/Cattery- any establishment for the commercial breeding, boarding, grooming, sale or training of dogs and/or cats for which a fee is charged and more than 6 dogs or cats are kept on the premises.

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

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

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

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

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

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

Lot, Reversed Frontage- a lot in which the frontage is at right angles to the general pattern in the area involved. A reversed frontage lot may also be a corner lot or an interior lot.

Lot Line- the boundary line of a lot.

Lot, through- an interior lot having frontage on 2 streets.

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

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

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

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

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

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

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

Nightclub- a commercial establishment maintained for general patronage where food and drink are served or dispensed and where either of the following is allowed (1) live, recorded or televised entertainment, and (2) dancing.

Non-Tidal Wetlands- an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation, and is determined according to the Corps of Engineers Wetland Delineation Manual, 1987, as amended.

Occupancy Permit- the permit signed by the Zoning Administrator and issued by the Cecil County Permits and Inspections Division which permits the use of a building in accordance with approved plans and specifications, and which certifies compliance with the provisions of the law for the use and occupancy of the building as specified in the Cecil County Building Code and this Ordinance.

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

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

Open Space, Useable- that area within the boundaries of a lot that is intended to provide light and air and is designed for either scenic or recreational purposes. Open space shall, in general, be available for entry and use by the residents or occupants of the development but may include a limited proportion of space so located and treated as to enhance the amenity of the development by providing landscaping features, screening for the benefit of the occupants or those in neighboring areas, or a general appearance of openness. Open space may include, but not be limited to, buffers and buffer yards, lawns, decorative planting, walkways, active and passive recreation areas, children's playgrounds, fountains, swimming pools, wooded areas, and watercourses. Open space shall not include driveways, parking lots or other vehicular surfaces, any area occupied by a building, nor areas so located or so small or so circumscribed by buildings, driveways, parking lots, or drainage areas, as to have no substantial value for the purpose stated in this definition.

Ordinary Maintenance- The following items are ordinary maintenance and shall be treated as such by every enforcing agency except in the Historic District. No permits for inspections of or notice to the enforcing agency of ordinary maintenance shall be required. This is not an all-inclusive listing of ordinary maintenance. Ordinary maintenance includes:

a. Exterior painting.
b. The replacement of glass in any window or door. However, the replacement glass shall be of a type and quality that complies with the minimum requirements of the Cecil County Building Code.
c. The installation and replacement of any window or door of like kind, including garage doors, in the same opening without altering the dimensions or framing of the original opening. This shall include storm windows and storm doors. The installation and replacement of means of egress and emergency escape windows and doors may be made in the same opening without altering the dimensions or framing of the original opening, and shall not reduce the required height, width or net clear opening of the previous window or door assembly
d. The repair or replacement of existing roofing material with like material.
e. The repair or replacement of existing siding with like material.
f. The repair or replacement of any part of a porch stoop, which does not structurally support the roof above.
g. The replacement or installation of screens.
h. Replacement of exterior rainwater gutters and leaders.

Outbuilding- a separate accessory building or structure not physically connected to the principal building.

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

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

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

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

Parking Space, Off-street- an all-weather surfaced area not in a street or alley exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by an all-weather surfaced driveway which affords satisfactory ingress and egress for automobiles. At a minimum each parking space shall comprise 180 square feet.

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

Permitted Use- a use which may be lawfully established in a particular district, or districts provided it conforms to all regulations, requirements, and standards of such district.

Person- an individual, trustee, executor, other fiduciary, corporation, firm, partnership, association, organization, or other entity acting as a unit.

Place- an open, unoccupied space other than a street or alley, permanently established or dedicated as the principal means of access to property abutting thereon.

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

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

Principal Use - a use listed in the Table of Permissible Uses.

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

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

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

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

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

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

Redevelopment- the process of developing land that is or has been developed.

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

Residence, Multi-Family- a residential use consisting of a building containing three or more dwelling units. For purposes of this definition, a building includes all dwelling units that are enclosed within that building or attached to it by a common floor or wall (even the wall of an attached garage or porch) (e.g. townhouses and apartments).

Residence, Primary with Accessory Apartment- a residential use having the external appearance of a single-family residence but in which there is located a second dwelling unit that comprises not more than 25 percent of the gross floor area of the building nor more than a total of 750 square feet.

Resort- a building or group of buildings containing guest rooms on a site, a large portion of which is devoted to recreational activities such as tennis, horseback riding, swimming, golf. A resort may furnish services customarily furnished by a hotel including restaurants, taverns, and convention facilities.

Restaurants:

a. Restaurant, standard-A food serving establishment whose principal business is the sale of food, and the principal method of operation is its service when ordered from a menu to seated customers at a table, booth or counter inside the establishment. A snack bar or refreshment stand at a public or nonprofit community swimming pool, playground or park, operated solely for the convenience of its patrons, shall not be considered a restaurant.

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

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

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

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

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

Seat- for the purpose of determining the number of off-street parking spaces for certain uses, the number of seats is the number of seating units installed or indicated, or each 24 lineal inches of benches, pews, or space for loose chairs.

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

Shed- a portable, non-permanent structure, installed without footers, used for the storage of items such as gardening equipment or home repair tools and supplies.

Sight Visibility Triangle- a triangular space provided across all property corners created by either the intersections of two streets or the intersection of a driveway and a street. It is determined by

drawing a diagonal line across the corner of the lot measured from two points drawn twenty-five feet back from the street or driveway intersection with the street.

Sign- a structure or device, in whole or part, which uses symbolic representations to direct attention to, identify or advertise any activity, person, group of people or thing.

Sign Height, maximum- the distance from the top of the sign to the unfinished grade of the ground at the base of the sign. For freestanding (monument signs), the height includes the base of the sign.

Sign, Internally lighted- a sign that produces light within itself and includes signs that consist of, in whole or in part, exposed glass tubing containing either neon, argon, or other material, regardless of whether the exposed glass material is located inside the window of the use or outside the use to which it refers.

Sign, Temporary- any sign which has for its purpose the advertising, announcement or display of information pertaining to an event, condition or situation that is intended to be limited in scope, duration, or time, including, but not limited to, commercial sales events, concerts, plays, on-premise real estate advertisement, on-premise advertisement of contractor lawfully engaged at site, and other commercial or cultural events.

Sign, Portable- a sign that is easily and conveniently transported or capable of being carried or move about.

Site Plan- a drawing or plat which describes and locates required improvements of a development tract.

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

Special Exception- permission by the Board of Appeals to establish a specific use that would not be appropriate generally or without restriction throughout a zoning district but which if controlled as to number, area, location, or relation to the neighborhood, would comply with the purpose and intent of this Ordinance.

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

Steep Slopes-any slope with a grade of 15 percent or more.

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

Stormwater Management- for quantitative control, a system of vegetative and structural measures that control the increased volume and rate of surface runoff caused by man-made changes to the land; and for qualitative control, a system of vegetative, structural, and other measures that reduce or eliminated pollutants that might otherwise be carried by surface runoff.

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

Story, Half- a space under a sloping roof at the top of the building, the floor of which is not more than 2 feet below the plate, shall be counted as a half-story when not more than 60 percent of said floor area is used for rooms, baths, or toilets. A half-story containing an independent apartment or living quarters shall be counted as a full story.

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

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

Structure- anything, other than a fence or retaining wall 6 feet or less in height, constructed or erected which requires location on the ground or attached to something having a location on the ground, including but not limited to signs, mobile homes, and prefabricated homes. Prefabricated homes include factory preassembly of standardized building parts, or the shipment of component building sections for permanent installation on a site. Prefabricated homes do not include mobile homes in which mobility, or the ready means of reactivating mobility, remains an integral feature of the trailer.

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

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

Subdivision, Major- any subdivision other than a minor subdivision.

Subdivision, Minor- a subdivision that does not involve any of the following: (a) the creation of more than a total of four lots; (b) the creation of any new public streets, (c) the extension of public water or sewer systems, or (d) the installation of drainage improvements through one or more lots to serve one or more other lots.

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

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

Temporary Structure Incidental to Construction- a structure (a) located on the same lot as a residence made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by such disaster, or (b) located on the same lot as a residence that is under construction and occupied by the persons intending to live in such permanent residence when the work is completed, or (c) located on a nonresidential construction site and occupied by persons having construction or security responsibilities over such construction site. These residences shall be removed from the site within one month of resolution of the situation which prompted their need.

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

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

Tourist Home- a private, owner-occupied home in which bedrooms are rented to tourists or travelers.

Tower- any structure whose principal function is to support an antenna.

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

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

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

Use- the purpose or activity for which land or any building thereon is designed, arranged or intended, or for which it is occupied or maintained.

Utility Facilities-Community or Regional- all utility facilities other than neighborhood facilities.

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

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

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

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

Yard- an open space other than a court, on a lot unoccupied and unobstructed from the ground upward except as otherwise provided for in this Ordinance.

Yard, Front- a yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the street line and the main building or any projection thereof, other than the terraces, or uncovered porches.

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

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

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

Zoning Administrator- the zoning administrative officer or an authorized representative designated by the Town Council to carry out duties as specified in this Ordinance. In the absence of an appointed Zoning Administrator, these duties are assumed to be the responsibility of the Town Manager.

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

§ 2.3 Reserved

Article 3 – Administrative Mechanisms

§3.1 Zoning Administrator

§ 3.1.2 Authority

1. Review and decide on all Level 1 - Minor Site Plan Applications, regardless of value, as well as Level 2 – Minor Site Plan Applications for which the project value does not exceed seven thousand, five-hundred dollars ($7,500.00).

   a. Level 1 - Minor Site Plan Applications shall be defined as projects having a minimal zoning impact and shall include, but not be limited to: Fence, Wall, Siding, Windows, Roof, Steps, Stairs, Solar Panels, Sign, Paver Patio, Driveway, Water and/or Sewer Service Change, Change of Use, and Demolition.

   b. Level 2 - Minor Site Plan Applications shall be defined as projects having a minor zoning impact and shall include, but not be limited to: Additions, New Structure or Building, Accessory Structure, Renovation, Pool, Deck, Porch, or Parking Lot.

2. Review and decide on Administrative Adjustments as provided for in §3.1.3 of the Ordinance.

3. Conduct other activities and duties as set forth in this Ordinance, or as requested by the Mayor and Council, or as provided for by the Land Use Article of the Maryland Annotated Code.

§ 3.1.2 Enforcement

It shall be the duty of the Zoning Administrator to administer and enforce this Ordinance and to take all actions that are required by § 1.8 Enforcement, Violations, and Penalties of this Ordinance.

§ 3.1.3 Administrative Adjustments

The Zoning Administrator is authorized to make certain administrative adjustments that are in harmony with the general purpose and intent of this Ordinance, in the specific instances set forth herein, where the Zoning Administrator makes findings of fact in accordance with the standards prescribed and finds that there are practical difficulties in carrying out these regulations.

A. ***Procedures***

1. The Zoning Administrator is authorized to approve administrative adjustments, after having determined that the submission is complete and finding that the request meets the requirements for granting an administrative adjustment.

2. The Zoning Administrator's decision shall be based on findings of fact and may impose such conditions or restrictions upon the premises as may be necessary to comply with the standards and purposes established in this Ordinance.

3. The Zoning Administrator shall transmit a copy of the decision to the applicant and all other persons previously receiving notice of the application.

4. The Zoning Administrator shall notify the Planning Commission at the nearest scheduled Planning Commission Meeting.

B. ***Permitted Administrative Adjustments***

Administrative adjustments may be granted only for the following:

1. Setbacks. To permit setbacks of up to ten percent (10%) less than required by applicable regulations.
2. Lot Coverage. To permit lot coverage of up to ten percent (10%) more than the maximum permitted by applicable regulations, except within the Critical Area.
3. Building Height. To permit a building height of up to five percent (5%) more than required by applicable regulations.
4. Signs. As provided in §6.5.9 of this Ordinance.

C. *Review Criteria*

The Zoning Administrator shall not grant an administrative adjustment unless he/she makes findings based upon the evidence presented in each specific case that:

1. Practical Difficulties. The particular physical surroundings shape or topographical conditions of the subject property result in practical difficulties for the owner, which have not been created by any persons having an interest in the property.
2. Unique Conditions. The conditions upon which an application for an adjustment is based are unique to the subject property and are not applicable, generally, to other property within the same zoning classification.
3. Public Safety and Welfare. The granting of the adjustment will not be detrimental to the public safety or welfare or injurious to other property or improvements in the neighborhood in which the property is located.

§ 3.1.4 Appeals

Any person or agency aggrieved or affected by a decision of the Zoning Administrator may appeal such a decision to the Board of Appeals.

§ 3.2 Planning Commission

§ 3.2.1 Membership

1. The Planning Commission shall consist of five members, who are residents or property owners in the Town. Should there be more than five members at the adoption of this Ordinance, the requirement of 5 members shall be gained through natural attrition. All members shall be appointed by the Town Council.
2. One member shall be a member of the Town Council, who shall serve in an ex-officio capacity, and shall be a voting member. The term of this member shall correspond to the member's official term as a member of the Town Council. The term on the Planning Commission of the member of the Town Council shall cease at such time the member's current term on the Town Council ends. The Town Council may re-appoint the Councilmember to the Planning Commission in the event the Councilmember is re-elected to a subsequent term on the Town Council.
3. Members, other than the member of the Town Council serving in an ex-officio capacity, shall be appointed for five-year terms and terms of appointment shall be staggered. Notwithstanding the above, the term of a Planning Commission member who is elected to the Town Council during that member's term shall end upon the members swearing in as a member of the Town Council.

4. Vacancy in membership for an unexpired term shall be filled for the unexpired term by appointment by the Town Council. The Town Council shall consider a recommendation from the Planning Commission if one is provided.

§ 3.2.2 Officers

1. The Commission shall elect from its membership a chairperson and vice-chairperson, annually.
2. The terms of the officers shall be one year, with eligibility for re-election.

§ 3.2.3 Authority

The Planning Commission shall have the authority to:

1. Prepare and recommend a comprehensive plan for the Town of Chesapeake City and review and update, as needed, the plan at least once every ten (10) years.
2. Advise the Mayor and Council on all matters relating to the orderly planning and growth of the Town.
3. Prepare and recommend amendments to this Ordinance, including the Official Zoning Map.
4. Review and make recommendations to the Board of Appeals based on findings of fact.
5. Adopt written rules necessary to conduct of its affairs. Such rules and procedures shall be consistent with state law.
6. Review proposed public facilities for consistency with the comprehensive plan and, prior to the Town's adoption or amendment, review and make a recommendation on the Capital Improvements Plan.
7. Review and decide on Major Site Plans as provided for in §4.4.1 of this Ordinance.
8. Review and decide on requests for certain modifications to site plan requirements including parking, landscaping, and building design modification.
9. Review and decide on subdivision plats.
10. Prepare, adopt, and distribute an annual report, as required by state law.
11. The Planning Commission may, upon the review of an application, modify certain provisions upon its finding that such modification is the minimum necessary to faithfully implement the purposes of this Ordinance and implement the adopted Comprehensive Plan. This authority is distinctly different from the authority to grant a variance as provided in §4.6, which authority rests solely with the Board of Appeals.
12. Conduct other activities and duties as set forth in this Ordinance, or as requested by the Mayor and Council, or as provided for by State Law.

§ 3.2.4 Meetings

1. The Planning Commission shall establish a regular meeting schedule and shall meet frequently enough so that it can take action on all complete applications in an expeditious manner, but the Commission shall meet quarterly at a minimum.
2. Special meeting of the Commission may be called by the chairman.
3. All Commission meetings shall be open to the public.

4. A quorum for the Planning Commission shall consist of a majority of the membership (excluding vacant seats).
5. No action of the Commission shall be valid unless authorized by a majority vote of those present and voting.
6. The Chairperson and Vice-Chairperson may take part in all deliberations and vote on all items.
7. The Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record. Recorded Meetings do not require minutes.

§ 3.2.5 Appeals

Any person aggrieved by a decision of the Planning Commission may appeal such decision by filing a petition for judicial review through the Circuit Court of Cecil County.

§ 3.3 Board of Appeals

§ 3.3.1 Membership

1. The Board shall consist of five members who are residents or property owners in the Town. The Town Council shall appoint the members.
2. Members shall be appointed by the Mayor and Council for terms of three years each. Vacancies shall be filled by appointment for the unexpired term.
3. The Town Council shall designate one alternate member for the Board of Appeals who may be empowered to sit with the Board in the absence of any member of the Board, and when the alternate is absent the Town Council may designate a temporary alternate.

§ 3.3.2 Officers

1. The Board shall elect from its membership a chairperson and vice-chairperson, annually.
2. The terms of the officers shall be one year, with eligibility for re-election.

§ 3.3.3 Authority

The Board of Appeals shall have the authority to:

1. The Board shall adopt the rules necessary to conduct its affairs.
2. Hear and decide appeals from any order, requirement, decision, action, or determination made by the Zoning Administrator as authorized under § 4.7 of this Ordinance. The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have the powers of the Zoning Administrator from whom the appeal is taken. The Board of Appeals is only authorized to hear and decide on appeals of the Zoning Administer and no other agency or body.
3. Hear and decide Special Exceptions that have first obtained a favorable recommendation from the Planning Commission as authorized under §4.8 of this Ordinance.

4. Authorize a variance from the terms of the Ordinance as provided for in §4.6 of this Ordinance.

§ 3.3.4 Meetings

1. The Chairperson, or in his/her absence, the Acting Chairperson, shall preside over the meeting, may administer oaths and compel the attendance of witnesses.
2. All meetings shall be open to the public.
3. A quorum for the Board of Appeals shall consist of a majority of the membership (excluding vacant seats) and a majority vote of the members present shall control the action of the Board.
4. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record.
5. Decisions Based on Findings of Fact. All decisions of the Board, whether favorable or unfavorable to the applicant, shall be based on and supported by written findings of fact pertaining to the case under review. No decision of the Board shall be final until the written decision of the Board is signed and filed.

§ 3.3.4 Special Procedural Provisions

1. The concurring vote of the majority of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in the application of this Ordinance.
2. If any application or request is disapproved by the Board, thereafter the Board shall not accept application for substantially the same proposal on the same property for a period of one year from the date of such disapproval.
3. If an appeal to the Board is filed and the public hearing date set and public notice given, and thereafter the applicant withdraws the appeal, the applicant shall not file another application for substantially the same proposal on the same property for a period of one year from the date of withdrawal.

§ 3.4 Historic District Commission

§ 3.4.1 Membership

1. The Commission shall consist of five members, all of whom, insofar as is possible, are qualified by special interest, knowledge or training in such fields as history, architecture, preservation or urban design. Should there be more than five members at the adoption of this Ordinance, the requirement of 5 members shall be gained through natural attrition.
2. All of the Commission members shall be residents or property owners in the Town. At least three of the members shall be residents of the Historic District Area. One member shall be a sitting member of the Town Council.
3. Members of the Commission shall be appointed by the Mayor and Council for a three (3) year term. Any vacancy on the Historic District Commission shall be filled by the Mayor and Town Council for the unexpired term.

§ 3.4.2 Officers

1. The Commission shall elect from its membership a chairperson and vice-chairperson, annually.
2. The terms of the officers shall be one year, with eligibility for re-election.

§ 3.4.3 Authority

The Historic District Commission shall have the authority to:

1. Hear applications for development activities within the Historic District and to adopt and file with the Planning Commission certificates of approval or rejection on same.

§ 3.4.4 Meetings

1. The Commission shall adopt rules of procedure as needed to conduct its affairs and in keeping with the provisions of this Ordinance. Meetings shall be held at the call of the Chairman.
2. Meetings shall be open to the public.
3. Any interested person is entitled to appear and to be heard by the Commission before it reaches a decision on any matter.
4. The Historic District Commission shall keep an open record of its resolutions, proceedings, and actions, which shall be kept available for public inspection during reasonable business hours.
5. A quorum for the Historic District Commission shall consist of a majority of the membership (excluding vacant seats) and a majority vote of the members present shall control the action of the Commission.
6. All decisions of the Commission, whether favorable or unfavorable to the applicant, shall be based on findings of fact pertaining to the case under review. No decision of the Commission shall be final until the written decision of the Commission is signed and filed.

§ 3.4.5 Appeals

Any person aggrieved by a decision of the Historic District Commission has the right of appeal there-from, to the Circuit Court which will review the Commission's decision based on the record of the proceedings before the Historic District Commission.

§ 3.5 Mayor and Town Council

§ 3.5.1 General Duties

The duties of the Mayor and Town Council in connection with this Ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise.

Under this Ordinance, the Mayor and Town Council shall have the following duties:

1. To consider and decide on proposed amendments or the repeal of this Ordinance, as provided by law.
2. To consider and decide on annexation petitions upon receiving a recommendation from the Planning Commission per §5.1.2 of this Ordinance.

3. To enter into Public Works Agreements and other development agreements as necessary and allowed by law to implement this Ordinance.
4. To establish a schedule of fees, fees-in-lieu, and charges.
5. To appoint qualifying members of commissions and boards.
6. To remove any member of a commission or board established by this Ordinance for inefficiency, neglect of duty, or malfeasance in office after providing written notice of charges and conducting a public hearing.

§ 3.6 Reserved

§ 3.7 Reserved

§ 3.8 Reserved

Article 4 – General Permit Procedures

§ 4.1 Zoning Permits

§ 4.1.1 Zoning Permit Required

1. Any structure lawfully constructed before the approval of these regulations may be maintained in the same size, material, manner, location, and construction. Routine repairs to replace damaged or worn-out portions may be performed without requiring a Town Zoning Permit. Any changes to material, size, dimension, manner, construction, or location shall require a Town Zoning Permit. Repair/replacement of existing structures does not indemnify the owner from encroachments on adjacent properties, or requirements for any State or County permits.
2. A zoning permit certifies that an application complies with this Ordinance. Before an individual does any of the following, he or she must obtain a zoning permit: erect a building or structure, or enlarge, move, add to, alter, or structurally alter a building, or excavate for a building or structure, or initiate any development activities pursuant to an approved site plan or subdivision plat.
3. The Planning Commission shall issue zoning permits for approved Major Site Plans (plans for commercial, multi-family residential and institutional developments, for example) and major subdivision plats.
4. The Planning Commission and/or the Zoning Administrator shall issue zoning permits for approved Minor Site Plans (plans for single family homes and additions, for example) and minor subdivision plats as outlined in §4.3 of this Ordinance.

§ 4.1.2 Expiration of Zoning Permits

1. A zoning permit shall automatically expire one year from the date of its issuance if no work described in the permit has begun. The Zoning Administrator shall cancel the permit.
2. If work described in any zoning permit has not been substantially completed within two years of the date of issuance, unless work is satisfactorily proceeding thereon, the Zoning Administrator shall cancel the permit.
3. If work described in any zoning permit has not been substantially completed within one (1) year, due to just cause, the Town's Zoning Administrator is authorized to grant in writing one extension for a time period of not more than one (1) year, subject to payment of the zoning application fee. An extension shall be requested in writing with justifiable cause demonstrated.
4. No work on a cancelled permit may proceed until a new zoning permit and a zoning permit fee has been issued.

§ 4.1.3 Demolition Permits

1. Before any activities to demolish or remove in whole or part, any building or structure, an applicant must first obtain a demolition permit from the Zoning Administrator and Cecil County Government. Demolition Permits may be subject to an applicable fee set forth in the Town's Schedule of Fees.
2. The Zoning Administrator may place conditions on the issuance of a demolition permit.
3. Prior to issuing a demolition permit in the Historic District, the Zoning Administrator shall first forward the application to the Historic District Commission for review.

§ 4.1.4 Expiration of a Demolition Permit

Demolition permits issued shall become null and void if the work authorized by such permit has not commenced within one (1) year after its issuance or if the work authorized by such permit is suspended or abandoned for a period of one (1) year after the work is commenced. The Town's Zoning Administrator is authorized to grant in writing one or more extensions of time for periods of not more than one (1) year each subject to payment of an applicable fee for each such extension which fee amount shall be set forth in the Town's Schedule of Fees. The extension shall be requested in writing with justifiable cause demonstrated.

§ 4.1.5 Cecil County Building Permits

A building permit certifies that an application complies with the Cecil County Building Code as may be supplemented, amended, and revised from time to time.

Building Permit Required

1. Before any of the following can take place, an applicant must obtain a Cecil County building permit: erect a building or structure, or enlarge, move, add to, or structurally alter a building without the requisite reviews and approvals, or excavate for a building or structure, initiate any construction activities pursuant to an approved development site plan or subdivision plat. Nothing in this section shall be construed to allow any changes in use, including a change in use to a formula business, as defined in § 2.2 of this ordinance, regardless of the need for, or lack of any deviations or physical changes proposed for an existing building or proposed development, without obtaining the necessary approvals from the Town.
2. If required, before the Zoning Administrator can issue a zoning permit, the Cecil County Permits and Inspections Division shall have reviewed and approved the required plans and issued a County Building Permit.

§ 4.2 Site Plan Processing Procedures

General site plan procedures for Minor Site Plans are set forth in §4.3 and Major Site Plans are set forth in §4.4.

§ 4.2.1 Planning Commission to Establish Procedures

1. The Planning Commission may establish written procedures, checklists and application forms necessary to ensure the timely and proper review and processing of site plans and other plans consistent with this Ordinance. The Commission may establish the number and acceptable format for the various types of plans submitted for review under this Ordinance.
2. In establishing its procedures, the Planning Commission may delegate to the Zoning Administrator project review and approval authority.
3. Procedures and application forms shall be made available at the offices of the Zoning Administrator.
4. The Planning Commission may modify such procedures, checklists, and application forms from time to time.
5. The Planning Commission may prescribe specific conditions on its approval determined necessary to minimize effects of use on neighboring properties given identification of concerns specific to a particular site.

§ 4.3 Minor Site Plan Application and Procedures

§ 4.3.1 Minor Site Plan Procedures

Minor Site Plans, both Level 1 and 2, are for projects with relatively minor impact, which require less information and can be reviewed and approved in a shorter time. In administrative plan review, the Planning Commission is the approving authority unless it has delegated such authority to the Zoning Administrator in §3.1 of this Ordinance or through establishment of its project review and approval procedures.

All site plans, residential, commercial and industrial, must comply with the Chesapeake City, Maryland Architectural Design Standards, adopted by Resolution of the Town in 2006, as may be amended and revised from time to time.

Level 1 and Level 2 minor site plan projects shall include but are not limited to:

Level 1 - Minor Site Plans shall be defined as projects having a minimal zoning impact and shall include, but not be limited to:

1. Fence or Wall
2. Siding, Windows, or Roof
3. Steps or Stairs
4. Solar Panels or Sign
5. Paver Patio or Driveway
6. Water and/or Service Change
7. Change of Use or Demolition
8. Minor Subdivision, Lot Line Adjustments, or Lot Consolidation

Level 2 - Minor Site Plans shall be defined as projects having a minor zoning impact and shall include, but not be limited to:

1. New Structure or Building
2. Accessory Structure
3. Addition or Renovation,
4. Pool
5. Deck or Porch
6. Parking Lot

§ 4.3.2 Contents of Minor Site Plan Applications

All Minor Site Plan Applications for zoning permits shall be accompanied by such plans and information as the Town of Chesapeake City deems to be necessary to determine compliance and provide for enforcement of this Zoning Ordinance. These items may include:

1. **Site or Plot Plan** of full property showing the following:
    a. All existing property lines with dimensions
    b. All existing structures, driveways, and walkways with dimensions, total square footage, and setbacks
    c. Proposed structure or accessory structure with dimensions, total square footage, and setbacks, if applicable
    d. Proposed deck, porch, pool, patio, driveway, or similar with dimensions, total square footage, and setbacks, if applicable
    e. Proposed fence/wall with setbacks, if applicable
    f. Proposed signs with setbacks, if applicable

g. For a change of use and/or addition, interior layout with dimensions to include existing and proposed uses.
h. If converting an existing deeded lot into a new parcel, old lot lines with dimensions and numbers shall be shown.
i. If site plan includes a proposed minor subdivision or lot line adjustment, proposed lot lines with dimensions shall be shown.

*Other information which may be required by the Zoning Administrator or Town Engineer to adequately review the site or plot plan, could include, but shall not be limited to:

- Sanitary sewer, public water, and storm drain locations, including the location of all lines and ties-ins, if applicable
- All existing and proposed easements and rights-of-way, if applicable

2. **Plan, Section, and/or Elevation Drawing(s)** with all dimensions of proposed structures, accessory structures, additions, decks, porches, signs, or similar, if applicable.
3. **Specification Sheet(s)** for proposed fences, walls, siding, windows, roofs, solar panels, signs, or similar, if applicable.

Upon determination by the Planning Commission, or upon recommendation by the Zoning Administrator, in those cases where a field inspection indicates that the scope of the proposed building, addition, or accessory use is of such a nature that the provisions for the handling of natural and stormwater, sediment control, off-street parking, set-backs, water and sewerage, and other requirements cannot be adequately addressed with a minor site plan, a major site plan shall be required.

§ 4.4 Major Site Plan Application and Procedures

§ 4.4.1 Major Site Plan Procedures

Major site plans are required to assure good arrangement and appearance of new development; ensure harmony with existing structures; assure consistency with the Town's building and site design standards, and the Comprehensive Plan; to provide an understanding of the impacts of proposed uses and development on public facilities and services and ensure the availability and adequacy of the same; and to otherwise meet the purposes of this Ordinance.

All site plans, residential, commercial and industrial, must comply with the Chesapeake City, Maryland Architectural Design Standards, adopted by Resolution of the Town in 2006, as may be amended and revised from time to time.

Site plans for the following major uses, including new construction or the relocation of a building shall be subject to review by the Planning Commission and shall be called Major Site Plans:

1. All commercial or industrial buildings, complexes, and uses.
2. All institutional buildings and uses including educational, governmental, recreational and religious.
3. All multiple-family dwellings, buildings, and complexes, and townhouses.
4. All mixed-use buildings and sites.

There are three primary stages in the major site plan application process: Concept, Preliminary, and Final.

§ 4.4.2 Concept Stage Procedure

The purpose of the concept stage is to provide the Planning Commission with the opportunity to informally review a development proposal prior to the substantial commitment of time and expense on the part of the applicant in preparing a site plan.

1. No application for a major site plan approval shall be accepted by the Town until:
    a. A concept site plan package as provided for in §4.4.3 is submitted for review by the Zoning Administrator.
    b. Any required concept plan review fees have been paid.
2. The Zoning Administrator shall review the concept site plan package for completeness and shall refer it to the appropriate individuals or agencies for review, comment, and/or approval prior to submitting it to the Planning Commission.
3. The applicant for a major site plan approval shall attend a meeting with the Zoning Administrator prior to submitting the concept plan to the Planning Commission. Consistent with the purpose of site plan review, the purpose of the meeting shall be to provide the Town with an opportunity to address issues or concerns with the concept plan, identify any impact studies that may be required, and provide direction to the applicant on the scope of such studies.
4. The Planning Commission shall hold one meeting on the concept plan to receive an informational briefing on the plan and the anticipated issues and impacts related thereto. The Planning Commission shall take no action to approve or disapprove of a concept plan. Should the Planning Commission determine that the development project represented by the concept plan may have substantial impact on the physical, economic, or social environment; the Planning Commission may hold more than one meeting on the concept plan.
5. For all Major Site Plans submitted for review, the Zoning Administrator shall:
    a. **Submit verifiable notice to the applicant at least seven days before the day of the meeting to discuss the concept site plan, and**
    b. **Submit verifiable notice to all owners of property adjoining and immediately across the street from the subject property. Such written notice shall state the date, time, place, and subject matter of the meeting to discuss the concept site plan, and the name of the applicant. Such notice shall be sent not less than seven days before the day of the meeting.**
    c. The Planning Commission may provide for expanded public notification of its deliberations of site plans at its discretion.
6. The review and approval of stormwater management plans by Cecil County is required prior to final plan review. The applicant for the Town's site plan approval shall be responsible for coordinating the County's review and approval of stormwater management plans.

§ 4.4.3 Contents of Concept Plan Submittals

The concept site plan package shall meet the requirements as to content and organization as may be established by the Planning Commission and at minimum shall include the following:

A. Project Concept Plan

A scaled drawing showing the proposed development on a survey of the project boundaries. It shall show the project layout, proposed and existing land uses, open spaces, circulation routes, and points of access to the adjacent street network, and main design features. If phasing is proposed, a master plan for entire project shall be shown. Drawings shall be 24 inches × 36 inches. Scale shall be no less detailed than 1 inch = 100 feet and shall show adjacent streets and adjacent property owners. A vicinity map at a scale no less detailed than 1 inch = 1,000 feet shall be included which shows the location with respect to neighborhood streets. Typical architectural elevations shall be included.

B. Project Area Schematic

A scaled drawing or GIS aerial photograph showing the main features of the project in relationship within the neighborhood. Included in the drawing shall be existing infrastructure within at least 1,000 feet, including streets, intersections, water, sanitary sewer, and storm drains. Scale shall be no less detailed than 1 feet = 400 feet for large projects and 1 inch = 200 feet for small projects. Drawings shall be no larger than 24 inches x 36 inches.

C. Site Investigation Report

A report providing information and data on the physical and environmental characteristics of the site, the proposed uses and utility demands, anticipated impacts of the proposed development on neighboring properties, area infrastructure and services, recreational resources and other public facilities, compliance with the Town Comprehensive Plan, and the proposed architectural and design character, which shall be in accordance with the Chesapeake City, Maryland Architectural Design Standards, adopted by Resolution of the Town in 2006, as may be amended and revised from time to time. The Site Investigation Report shall follow the format established by the Planning Commission as may be amended from time to time and shall address each of the following.

1. Site Data Summary Chart: Tax map and parcel number, Planning Commission case numbers and prior approvals, Board of Appeals case numbers and prior approvals, zoning classification (including Critical Area designation if applicable), proposed zoning, allowable density, proposed density, total site area, flood zone, wetlands (State and Federal), number of proposed lots, number of proposed units and types, availability of utilities, zoning set back requirements, zoning lot size requirements, maximum building height allowed by zoning, open space required by zoning, and proposed open space, use of open space, parking required by zoning and proposed parking. Provide breakdown for each phase or land use as appropriate.
2. Land Use Overview: Provide narrative of existing site conditions and provide legible copy of Cecil County soil map with outline of property sketched on it. Describe existing context and highlight any issues regarding marginal site conditions including topography, hydric soils, existing drainage patterns, standing water, culverts, ditches, wetlands or sensitive areas.
3. Traffic Access Overview: Provide narrative of existing roads, lanes, width, material, condition, curb, sidewalk, and offsite improvements needed to accommodate the project. If the project is known to require an SHA traffic study, provide summary information and study schedule.
4. Utility Demands and Services Overview: Provide narrative on conditions and capacity of sanitary sewer, public water, gas, and electric, and describe any offsite improvements needed.
5. Storm Water Management Overview: Provide a narrative on types of best management practices to be used, proposed conveyance and management techniques and a summary of any offsite improvements needed.

6. Construction Phasing Overview: Provide narrative of time of construction and estimate the number of anticipated building permits per year.
7. Provide narrative of recreational needs and opportunities if the project is residential.

§ 4.4.4 Preliminary Stage Procedure

The purpose of the preliminary stage is to provide the Planning Commission with the information necessary for it to take action to approve or disapprove a site plan. The Planning Commission shall review and take action to approve or deny all Major Site Plans. Prior to acceptance of a Preliminary Site Plan for review, the applicant shall provide the Zoning Administrator with the formal plan review comments from Cecil County.

1. Preliminary site plans meeting the submittal requirements of §4.4.6 shall be submitted to the Zoning Administrator who shall review the plans for compliance with these regulations and the requirements for preliminary site plans and shall transmit said plans to the Planning Commission with his or her comments for review.
2. The Planning Commission shall examine the proposed development with respect to the traffic and circulation patterns and safety (internal and external), utilities, drainage, community facilities (existing or proposed), surrounding development (existing or future), the preservation of trees and historic sites, protection of natural environmental features and processes, provision for open space, street lighting, recreational needs, safety of residents and neighbors, landscaping, architecture, compatibility with building, site and design standards, and, in general, with the objective of ensuring a durable, harmonious, and appropriate use of the land.
3. The Planning Commission shall take action to approve, approve with conditions, disapprove, or table pending further investigation and/or receipt of certain additional information, but shall take no action until the following has occurred:
    a. The Zoning Administrator has reviewed the site plan and determined that it is complete and submitted its findings in writing to the Planning Commission.
    b. The Applicant has submitted any impact studies that may be required by §4.4.5 this Ordinance and has obtained Town approval of such required studies.
    c. Comments on the site plan from appropriate agencies and individuals have been requested and sufficient time has been provided for such agencies and individuals to provide comments.
    d. The applicant has paid all appropriate preliminary site plan review and application fees to the Town.
4. No public hearing shall be required but may be called at the option of the Planning Commission.

§ 4.4.5 Impact Studies May be Required

A. Impact Studies

To assist the Planning Commission and Zoning Administrator to determine the nature and extent of off-site impacts of a proposed development they are authorized to review, both are authorized to require applicants for development plan or plat approval, or for extensions of approved plans or plats, to prepare studies of the impacts of proposed development on such factors including Town infrastructure such as water and sewer, streets, and highways in the Town and in the vicinity of the development, the Town's fiscal and budget conditions, area environmental conditions including considerations related to light, air, view sheds, and the flow and quality of water.

B. Reasonable Standards

The Planning Commission and Zoning Administrator shall find that such studies meet reasonable professional and technical standards before accepting them for review. The Town may establish written standards and specifications for the scope and detail necessary for any required studies.

C. Studies Submitted Prior to Approval

If impact studies plans are determined to be required, no preliminary site plan or subdivision plat shall be approved nor shall an approved plan be extended, prior to such studies being completed to the satisfaction of the Planning Commission or other approving authority or appropriate official.

§ 4.4.6 Contents of Preliminary Plan Submittals

The applicant is responsible for preparing a preliminary site plan. As directed by Planning Commission guidance, the preliminary site plan shall be submitted as a multiple sheet document with drawings on sheets no larger than 24 inches by 36 inches and at scales no less detailed than 1 inch equal to 100 feet.

A. Order of Plan Sheets

Preliminary site plans submittals shall adhere to the order of plan sheets established by the Planning Commission with any additional required details and plan drawings inserted into the order prescribed by the Town.

B. Contents

The preliminary site plan shall show the North point, scale, date, and the following:

1. The seal and signature of a licensed professional land surveyor and/or the seal and signature of licensed Engineer or Landscape Architect as appropriate.
2 Revision block on each sheet to accurately disclose any drawing revisions made after the first submittal for preliminary plan review.
3. A key and overview plan for multi-stage projects.
4. Geographical location, showing existing zoning district boundaries.
5. Existing zoning classification on the site and adjacent sites.
6. Topographic contours at a minimum of one-half-foot intervals unless waived by the Zoning Administrator as clearly unnecessary to review the project or proposal.
7. The location and nature of all proposed construction, excavation or grading, including but not limited to building, streets and utilities.
8. A grading plan (horizontal) conforming to requirements of Cecil County standards.
9. A Utility Plan (horizontal). It shall show all existing and proposed water and sanitary sewer facilities, indicating all pipe sizes, types and grades, and the location of all connections to the utility system.
10. Where deemed appropriate and necessary by Ceicl County, provisions for the adequate management of natural and storm water.
11. Where deemed appropriate and necessary by the County Department of Public Works, provisions for the adequate control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures that will be implemented during all phases of clearing, grading, and construction.
12. A landscape and lighting plan including location and details of signage.
13. A parking plan, showing all off-street parking, related driveways, loading spaces and walkways, indicating type of surfacing, size, angle of stalls, width of aisles and a

specific schedule showing the number of parking spaces provided and the number required by this Ordinance.

14. Architectural elevations in color including at least one presentation board of no smaller than 24 inches by 36 inches.
15. Preliminary street profiles and cross sections for streets and curbing. All existing and proposed streets and easements including widths.
16. Approximate location of point of ingress and egress to existing public streets and highways; if ingress or egress is onto a state-maintained roadway, an accompanying letter from the Maryland State Highway Administration indicating preliminary approval shall be required.
17. All existing easements of any kind. If easements are to be granted, a separate and preliminary easement plat shall be provided.
18. The number of construction phases proposed, if any, with the site plan showing the approximate boundaries of each phase, and the proposed completion date of each phase.
19. A tabulation of total number of acres in the project gross or net as required in the district regulations, and the percentage thereof proposed to be devoted to the several dwelling types, commercial uses, other nonresidential uses, off-street parking, streets, parks, schools and other reservations.
20. Number of dwelling units to be included by type of housing: apartments of three stories and under; apartments over three stories; single-family dwellings; townhouses; and two-family dwellings. The overall project density in dwelling units per acre, gross or net as required by district regulations.
21. Proposed buildings and structures with dimensions, setbacks and heights designated including floor areas of all non-residential buildings and the proposed use of each.
22. Approximate location and size of nonresidential areas, if any (parking areas, loading areas or other).
23. Approximate location and size of recreational areas and other open spaces.
24. Existing vegetation, proposed removal of vegetation, and proposed replacement of vegetation.
25. Location, type size and height of fencing, retaining walls, and screen planting.
26. Location, orientation, design, and size of signs, if any.
27. The Planning Commission may establish additional requirements for preliminary site plans, and may waive a particular requirement if, in its opinion, the inclusion of that requirement is not essential to a proper decision on the project.

§ 4.4.7 Final Stage Procedure

The purpose of the final stage is to ensure that all submittal requirements of final site plans as set forth in §4.4.8 and that any required design and construction standards are specifically and accurately addressed, to ensure that all conditions of the Planning Commission's approval are specifically and accurately met, and to finalize any and all necessary formal agreements related to the project which may include public works agreements, and easement agreements, among others.

1. Final site plan approval shall be granted prior to the commencement of any development activity.
2. Final site plans shall be submitted to the Zoning Administrator who shall review the plans for compliance with these regulations and the conditions, if any, of Planning Commission approval. If specified conditions or stipulations are met in revised plans, the Zoning Administrator shall approve issuance of building permits in accord with the revision without returning the plans for further Planning Commission review.

3. When all review and approvals have been completed and documentation of such approvals are provided to the Zoning Administrator, he/she and the Chairperson of the Planning Commission shall each sign the site plan to indicate completion of review and approval by the Town and to certify that conditions, if any, of site plan approval have been met. The applicant shall submit all local, county, state and/or federal approvals as may be required. No permit shall be issued until this approval has been given.
4. When a public works agreement is required, final approval shall not be certified until that public works agreement has been executed by the applicant and the Town.

§ 4.4.8 Contents of Final Plan Submittals

The applicant is responsible for preparing the final site plan. The final site plan shall comply with all existing laws, regulations, and ordinances governing the approval of site plans and provide sufficiently accurate dimensions and construction specifications to provide the data necessary for the issuance of building permits.

A. Final Plan Shall be as Required

In addition to meeting the submittal requirements of a preliminary site plan, the final site plan shall meet all specific plan submittal requirements of the Town and Cecil County as appropriate.

B. Final Plan Shall Comply with Conditions of Approval

Submittals shall demonstrate compliance with any conditions of site plan approval and shall include all necessary approvals from any local, county, state, and federal agency.

C. Adding or Waiving Submittal Requirements

As a condition of site plan approval, the Planning Commission may establish additional submittal requirements for a final site plan, and may waive a particular requirement if, in its opinion, the inclusion of that requirement is not essential to a proper decision on the project.

D. Order of Plan Sheets

Final site plans submittals shall adhere to the order of plan sheets established by the Planning Commission with any additional required details and plan drawings inserted into the order prescribed by the Town.

§ 4.4.8 Project Built to Plan for Occupancy Permit

A. The Zoning Administrator shall ensure that the major site plan project is completed in conformance with the approved site plan before certifying the same. Upon such certification, Cecil County will issue a use and occupancy permit.
B. Before issuing an occupancy permit, either all the work must be completed, or in the Town's discretion, all remaining work must be bonded.

§ 4.5 Amendment of Approved Site Plan or Zoning Permit

Amendments to an approved major or minor site plan shall be submitted to the Zoning Administrator with an appropriate application. The Zoning Administrator shall determine at that time the appropriate fee amount, if any, which shall apply.

§ 4.5.1 Major or Minor Amendment

The Zoning Administrator shall determine if the proposed amendment is minor in nature or if it instead constitutes a substantive change. Upon finding that a proposed amendment constitutes a substantive change rather than a minor amendment as provided below, the Zoning Administrator shall return the application to the applicant.

1. A minor amendment is a modification that does not change the intensity of the use or alter the traffic pattern.
2. A major amendment is a modification that modestly changes the intensity of the use or alters the traffic pattern or the demand on area infrastructure or materially, but not substantively, changes the open space, building location, and building and/or site design.
3. Substantive changes to an approved site plan are not amendments under the terms of this Section and shall not be processed as such. An applicant who wishes to move forward with a substantive change to an approved site plan shall be required to prepare and submit a new site plan for review and approval. Substantive changes to an approved site plan include but are not limited to the following:
    a. Proposals for a different type of housing or commercial development than contemplated in the original, approved site plan approval, or in any comparable change which would materially impact the estimated public service costs or tax revenues associated with the approved development to the detriment of the Town.
    b. Substantive changes to the pattern and location of buildings or layout of streets, access points, or utilities and infrastructure.
    c. Any change which would materially detract from the quality of the natural environment, materially intensify the impact to area infrastructure, or materially detract from the economies of providing public services or facilities to the contemplated development.
4. The Planning Commission or Zoning Administrator is under no obligation to approve an amendment to an approved site plan. In reviewing said request, the Planning Commission or Zoning Administrator shall take into consideration changes to and the status of area land use development, infrastructure, and the Town's Comprehensive Plan which may have occurred between the time the site plan was approved and the request for an amendment.

§ 4.6 Variance Guidelines – Board of Appeals

By Authority of the Board of Appeals, a property owner may apply to the Board of Appeals for a variance from the strict application of the terms of this Ordinance in order to avoid unwarranted hardship for the applicant, provided however that this shall be narrowly construed and applied by the Board in order to avoid undermining the purpose, integrity, intent and generally uniform application of this Ordinance

A. Procedures

Applications for a Variance shall be submitted to the Zoning Administrator and shall include written statements addressing the following:

1. The specific provisions from which a variance is sought.
2. The nature and extent of the variance sought.

3. The special conditions of the property which would make a variance necessary.

4. A statement indicating why the variance should be granted.

5. The description of the alleged hardship that is caused by the physical surroundings, shape or topographical conditions of the subject property.

B. Public Hearing Requirements

The Board of Appeals shall process all notices of a variance request in accordance with the provisions of §4.9 of this Ordinance.

C. Burden of Proof

The applicant for a Variance shall have the burden of proof, which shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact that are to be determined by the Board of Appeals.

D. Decision on Variances, Standards

The Board of Appeals shall not grant a variance unless it makes findings of fact in writing based upon the evidence presented to it in each specific case that each of the following standards are met:

1. Because of the particular physical surroundings, shape or topographical conditions of the subject property, a particular hardship to the owner would result as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out. The alleged hardship shall relate to the land not to personal circumstances.

2. The conditions upon which a petition for a variance is based are unique to the property for which the variance is sought, and are not applicable, generally, to other property within the same zoning classification.

3. The alleged hardship has not been created by the present owner or any previous owners of the property.

4. The granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.

5. The variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion of the public streets, increase the danger of fire, endanger the public safety, or alter the essential character of the neighborhood or district in which the property is located.

6. Within the intent and purpose of this Ordinance, the variance, if granted, is the minimum variance necessary to afford relief.

7. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and will be in harmony with the general spirit and intent of the Critical Area Law and the Critical Area Program.

8. No non-conforming use of neighboring lands, structures, or buildings in the same zone, and no permitted use of lands, structures, or buildings in other zones shall be considered grounds for the issuance of a variance.

E. Conditions and Restrictions

1. In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance.

2. In granting a variance, the Board may impose such reasonable conditions as will ensure that the use of the property will be compatible as practical with surrounding properties.

F. Prohibited Variance

Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the zone involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said zone.

G. Property in the Critical Area

If the variance concerns property in the Critical Area:

1. A copy of the application for a variance will be provided to the Critical Area Commission by the Board of Appeals in a timely manner, but no fewer than 14 calendar days prior to the Board's hearing on the matter.

2. The Board will promptly forward a copy of its decision to the Critical Area Commission.

H. Expiration of Approval

1. No decision granting a variance shall be valid for a period longer than one year from the date of the decision, unless the building permit is obtained within that period and the erection or alteration of a building is started or the use is commenced within that period.

2. The Zoning Administrator may, upon a showing of good cause, grant one six month extension of a variance, provided that a written application for extension is filed while the decision is still valid.

§ 4.7 Appeals Guidelines – Board of Appeals

A. Initiation

Any person or agency aggrieved or affected by an action or decision of the Zoning Administrator may appeal such action or decision to the Board of Appeals.

B. Timing for Appeal

An appeal must be taken within a reasonable time of the decision not to exceed 30 days.

C. Processing and Public Hearing Requirements

1. An appeal shall be filed with the Zoning Administrator and the Board of Appeals, specifying the grounds thereof. The Zoning Administrator shall forthwith transmit all papers constituting the record upon which the decision or action appealed was taken.

2. The Board of Appeals shall process all notices of appeal in accordance with the provisions of §4.9 of this Ordinance.

3. The Board shall decide the appeal within 30 days of closing its hearing on the appeal.

D. Scope of Decision of the Board

The Board may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Zoning Administrator from whom the appeal is taken.

E. Stay of Proceedings

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Appeals after the notice of Appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Appeals or by the Circuit Court on application, on notice to the Zoning Administrator from whom the appeal is taken and on due cause shown.

§ 4.8 Special Exception Guidelines – Board of Appeals

A. Purpose and Intent

There are certain uses, which by their nature or design can have an undue impact upon or be incompatible with other uses of land in the same zoning district. These uses may be allowed to locate within given designated zoning districts under the controls, limitations and regulations of a special exception.

B. Authorization

In consideration of an application filed with the Zoning Administrator, the Board of Appeals may authorize the establishment of a special exception listed in a particular district in Table 1 in Article 4 of this Ordinance.

C. Status of Special Exception Uses

1. Once a special exception has been approved, any site plan, subdivision plat, building permit, zoning permit, or occupancy permit hereafter submitted for the development or use of the property in accordance with the special exception shall conform with the approved special exception and no development or use shall be approved by the Zoning Administrator in the absence of such conformance.
2. Once established, the use shall be conducted in strict accordance with any condition or restriction imposed by the Board of Appeals and all other requirements of this Ordinance. No use shall be enlarged, expanded, increased in intensity or relocated and no condition of the special exception or a new special exception shall be modified unless an application is made and approved for an amendment to the special exception or a new special exception is approved.
3. Once a special exception use is approved, the use shall not be considered a non-conforming use, but shall be, without further action, considered a conforming one

D. Standards

The Board of Appeals shall grant a special exception only if it finds, from a preponderance of evidence of record, that any proposed use submitted for a special exception will meet all of the

following general standards as well as any specific standards or conditions listed for the proposed use in §4.2.3.

1. The establishment, maintenance and operation of the special exception will not be detrimental to or endanger the public health, safety, or general welfare.
2. The special exception shall be such that it will be harmonious in character as well as appropriate in appearance with and will not be injurious to the use and enjoyment of other property in the neighborhood for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special exception will not impede the normal and orderly development and improvement of surrounding properties for the uses permitted in the district.
4. Adequate utilities, public water and sewer facilities, access roads, drainage and all necessary facilities have been or are being provided.
5. The special exception shall be such that pedestrian and vehicle traffic associated with such use will not be hazardous to or unduly conflict with the existing and anticipated traffic in the neighborhood.
6. The establishment, maintenance and operation of the special exception are consistent with the Comprehensive Plan.

E. Burden of Proof

The applicant for a special exception shall have the burden of proof, which shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact that are to be determined by the Board of Appeals.

F. Conditions and Restrictions

The Board of Appeals, in approving a special exception, may impose such conditions and restrictions upon the proposed use, as it may deem necessary in the public interest to secure compliance with the provisions of this Ordinance and to promote implementation of the Comprehensive Plan.

G. Application Procedure

1. The Board shall not grant a special exception unless and until a written application is submitted indicating the section of this Ordinance under which the special exception is sought and stating the grounds on which it is requested.
2. Applications for a special exception shall be submitted to the Zoning Administrator. The application shall be completed and shall be accompanied by information which will be necessary to evaluate a given proposed category or use. The Zoning Administrator, upon receipt of a properly completed and documented application, shall refer the application along with pertinent evaluation material to the Board.
3. The Board of Appeals shall not grant a special exception unless and until the Planning Commission has reviewed the application and has first made a favorable recommendation to the Board.
4. An application for a special exception may be made by a property owner, lessee or contract purchaser. A lessee or contract purchaser must file with the application, a copy of the contract or some form of written statement, which indicates endorsement of the application by the property owner.

H. Processing and Public Hearing Requirement

The Board of Appeals shall process all applications for special exception in accordance with the provisions and public hearing requirements provided in §4.9 of this Ordinance.

1. Unless a time limit is specified for a special exception, the same shall be valid for an indefinite period of time, except that, if the use or activity should cease for any reason for a continuous period of one year, the special exception shall automatically terminate without notice. The approval of a new special exception shall be required prior to any subsequent reinstatement of the use.
2. A special exception shall be revocable on the order of the Board of Appeals at any time because of the failure of the owner or operator of the use covered by the exception, to observe all requirements of law with respect to the maintenance and conduct of the use and all conditions in connection with the exception that were designated in issuing the same.

   Before revoking any special exception, however, the Board of Appeals shall give the holder thereof at least ten days written notice of violation. If within ten days, the exception holder so requests, the Board of Appeals shall hold a hearing on the revocation of the exception, giving the applicant advance written notice of the hearing date.
3. The foregoing provisions shall not be deemed to preclude the use of any other remedy prescribed by law or by this Ordinance with respect to violations.

§ 4.9 Hearings of the Board of Appeals

§ 4.9.1 Hearing Required

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

A. Format of Hearing

1. The hearing shall be open to the public and all interested persons shall be given an opportunity to present evidence and arguments and ask questions of persons who testify.
2. The Board of Appeals may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the matter at issue may be heard and decided without undue delay.
3. The Board may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. The Board shall announce the date and hour of continuance of such hearing while in session.

§4.9.2 Notice of Hearing

A. Public Notice to be Given

Public notice shall be given at least 15 days in advance of the hearing in the following ways:

1. Notice shall be posted on the subject property and at the Town Office,

2. Notice shall be published in a newspaper of general circulation in the Town, and

3. Written notice shall be provided to the adjoining property owners.

B. Notice to Interested Parties

Verifiable notice shall be given to the appellant or applicant and any other person who makes a written request for such notice at least 15 days in advance of the hearing.

C. Contents of Notice

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

§ 4.9.3 Evidence and Record of Hearing

A. Sworn Testimony

All persons who intend to present evidence to the board, rather than arguments only, shall be sworn.

B. Evidence

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

C. Record of Hearing

1. An audio recording and recording shall be made of all hearings, and such recordings shall be kept for at least two years. Accurate minutes shall also be kept.

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

§ 4.9.4 Modification of Application at Hearing

A. Applicant May Modify Application

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

B. Board Approval of Modified Application

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

§ 4.9.5 Written Decision

A. Interested Parties to be provided Written Decision

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

B. Findings and Conclusions

In addition to a statement of the Board's ultimate disposition of the case and any other information deemed appropriate, the written decision shall state the Board's findings and conclusions, as well as supporting reasons or facts.

C. Appeal of Board Decision

Recourse from the decisions of the Board of Appeals shall be to the courts as provided by Maryland law.

Article 5 – Zoning Districts

§ 5.1 Zoning Map

This Article establishes the Zoning Districts applied to property within the Town and adopts the Official Zoning Map.

§ 5.1.1 Zoning Map

A. Zoning Map Adopted by Reference

1. An Official Zoning Map which shall be kept on file in the Town offices is hereby incorporated by reference into this Ordinance as if it were included here. It shall be identified by the signature of the Mayor and shall bear the seal of the Town.
2. The Zoning Administrator shall keep the current official Critical Area Overlay District Maps in the Town Office, making such maps available upon the request of any person.

B. Rules for Interpretation of Boundaries

Where uncertainty exists as to the boundaries of zones as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following Town limits shall be construed following Town limits.
4. Boundaries indicated as parallel to, or extensions of features indicated in subsections A through C shall be so construed. The scale of the map shall determine distances not specifically indicated on the Official Zoning Map.
5. Where a lot is divided by one or more zone boundary lines, each of the said divisions of the lot shall be subject to the regulations of the district in which it is located.
6. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 1 through 5 above, the Board of Appeals shall interpret the district boundaries.

C. Replacement of Official Zoning Map

1. In the event that the Official Zoning Map becomes damaged, destroyed, lost or becomes difficult to interpret because of the nature of number of changes and additions, the Town Council may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map.
2. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map and may incorporate validly enacted amendments, but no such correction, shall itself have the effect of amending the original zoning ordinance or any subsequent amendment thereof.
3. The Planning Commission shall certify as to the accuracy of the new Official Zoning Map prior to its adoption by the Town Council.

§ 5.1.2 Zoning of Annexed Lands

Upon adoption of the resolution for annexation, the Town Council may amend this Ordinance to zone the new lands with the effective date of amendment to be that of annexation.

§ 5.2 Districts and Allowable Uses

§ 5.2.1 Town Divided into Zoning Districts

A. Districting to Implement the Comprehensive Plan

The Town of Chesapeake City shall be divided into zoning districts for the purpose of implementing the adopted Comprehensive Plan. The districts shall be shown on the Official Zoning Map.

B. Purposes of Zoning Districts

The purposes of the individual zoning districts and the way they are to be applied are as follows:

1. Traditional Neighborhood Development: The Traditional Neighborhood Development (TND) district has three zones and is applied to both sides of the Town. It is intended to create a walkable neighborhood with a variety of housing, shops, and public spaces. The district regulations are intended to promote and sustain healthy, stable, and harmonious neighborhoods, reflective of the pattern of street and lot layout and development traditional to Chesapeake City.
   - **TND-1** is closest and most like the current Village Center. A very walkable community with smaller width lots, alleys, and village greens for open space. The homes would be closer to the street with front porches. Homes would include multifamily, duplex, and single-family homes. This zone would include sidewalks on both sides of the streets, with streets that are wide enough for on-street parking. The lots will have minimum setbacks for front, side, and rear. The area would be mixed use of residential and small businesses. They might include neighborhood markets; specialty shops; antique, art, and museums; health services; professional services; cafés; inns and boutique hotels.
   - **TND-2** is the middle of the three concentric TND zones. It is intended to also be a walkable community but with larger lot sizes with greater setbacks. Open spaces would be larger parcels designated as parks. Not all parcels would be required to have rear alleys. Sidewalks may be on one or both sides of the street with on-street parking. All lots would be residential but may allow for a home business. Homes would be duplex and single family.
   - **TND-3** is the least dense TND zone with larger lots with the greatest setbacks for the TND zones. Sidewalks or trails as appropriate. Large open space areas for passive recreation such as woodland or trails.
2. Village Center: The Village Center (VC) district is applied to the mixed-use historic center of Chesapeake City and applied to areas intended to be developed with a similar pattern and character. The district regulations are intended to promote consistency in architecture and town design; a broad mixture of compatible land use types arranged in a way that fosters efficient use of land. A walkable community with both commercial and residential uses.
3. General Commercial: The General Commercial district (GC) is applied to areas of the Town to accommodate the expansion of a broad variety of commercial uses that

may benefit from orientation to the highway and to promote an arrangement of such uses that protects the safety and efficiency of MD Route 213.

4. Marine Commercial: The Marine Commercial district (MC) is applied to certain areas of the Town that lie adjacent to the C&D Canal and Back Creek to accommodate the presence and expansion of uses that are related to and that uniquely benefit from location on the water.

5. Natural Resource and Recreation: The Natural Resource and Recreation district (NRR) is applied to areas of the Town that have natural, scenic, or other environmental and open space benefits to the community. District regulations are intended to protect naturally sensitive environmental and scenic areas, and provide locations for the establishment of recreational, cultural, scientific, institutional, and resort uses whose development, and use will have negligible impacts on the environment.

§ 5.2.2 Planned Unit Development

Planned Unit Development (PUD) is a flexible zoning tool used to create agreements between the government and developers on design principles for large, single-site projects. PUDs are developed to solidify an understanding of what might be built over a long period of time thus providing the developer with certainty to attract investment. PUDs also define how community impacts will be managed, and how environmental and social benefits will be maximized.

1. The PUD floating zone is not mapped out in detail at the time of adoption of the most recent comprehensive revision to the Chesapeake City Zoning Ordinance. The purpose of the designated floating zones is to permit the mapping of other residentially zoned areas of the Town, including areas of North Chesapeake City, for development that complies with the development requirements of the PUD Zoning District. The designated floating zone provides a mechanism for the establishment of the district in appropriate areas, limiting the areas to be zoned and setting conditions that must be met by any development proposal seeking such a designation.

2. Planned Unit Development: The intent of the PUD floating zone is to provide for a mixture of residential types with certain provisions for commercial activities to serve primarily a resident population. This zone is particularly pedestrian-oriented and is related to the more intensive uses of a town center, although the commercial activities are of a scale that is less intensive than those permitted in the commercial zones. This less-intense activity is to be achieved through setbacks, height, and lot size requirements that are more restrictive than those in other commercial zones.

3. Design Objectives

- Dwellings, shops and workplaces generally located in close proximity to each other; the scale of which accommodates and promotes pedestrian travel for trips within the Town.
- Modestly sized buildings fronting on, and aligned with, streets in a disciplined manner, uninterrupted by parking lots.
- A generally rectilinear pattern of streets, alleys and blocks reflecting the street network of the existing Town which provides for a balanced mix of pedestrians and automobiles.

- Squares, greens landscaped streets and parks woven into the street and block patterns to provide space for social activity, parks and visual enjoyment.
- Promotion of civic buildings for assembly or other civic purposes.
- A recognizable, functionally diverse, visually unified Town center, focused on a village green or square.
- A development size and scale which accommodates and promotes pedestrian travel rather than vehicle trips within the Town.

§ 5.2.3 Land Uses by District – Permitted Uses Table

Table 1 lists the different land uses and the zoning districts in which they are permitted. If a use is not listed or does not fall within any of the general use categories, it is not a permitted use in any district. If a use is specifically listed in Table 1, it takes precedence over general use listings. The letters in Table 1 correspond to the following:

P: Permitted Use: Uses designated by the letter "P" shall be permitted subject to all applicable regulations.

PC: Conditional Use: Uses designated by the letter "PC" shall be permitted subject to certain conditions. The conditions are listed §5.2.4.

SE: Special Exceptions. The Board of Appeals in accordance with §4.8 may authorize uses requiring a special exception designated by the letter "SE".

SC: Special Exception with Conditions. Uses requiring a special exception designated with the letters "SC" may be authorized by the Board of Appeals in accordance with §4.8 subject to certain conditions listed in §5.2.4.

TABLE 1 (Part 1 of 4) PERMITTED USES BY ZONING DISTRICT	P: Permitted PC: Permitted , subject to conditions SE: Special Exceptions SC: Special Exceptions, subject to conditions							
Land Use	Zoning Districts							Use Regs.
	TND-1	TND-2	TND-3	VC	GC	MC	NRR	
Residential								
Single Family Residences								
Single Family Residential	P	P	P	P			P	
Single Family Residential - Attached (Townhouse)	P	PC		P				Sec. 5.2.4.A1
Two-Family Residences								
Two-Family, Duplex	P	P		P				
Primary Residence with Accessory Apartment	P	P	PC	P				Sec. 5.2.4.A2
Secondary Residential Structure, Auxiliary to existing House	P	P	SC	P				Sec. 5.2.4.A2
Multi-Family Building	P	PC		P				Sec. 5.2.4.A2
Residential Uses Emphasizing Special Services, Treatment, or Supervision								
Group Home	P			P			P	
Halfway House					P			
Intermediate Care Institutions	SE			P			P	
Day Care								
Day Care Home (fewer than 7 people)	P	P	P	P			P	
Day Care Center, Day Nursery (between 7 and 16 people)	PC			PC	PC		PC	Sec. 5.2.4.A3
Day Care Center, Day Nursery (between 17 and 30 people)				PC	P		PC	Sec. 5.2.4.A3
Homeless Shelter[1]				SE	SE			
Bed and Breakfast and Country Inn	P			P	P	P	P	
Home Occupations	PC	PC	PC	P			PC	Sec. 5.2.4.A4

[1]Permitted as an accessory use to "Churches & other buildings for Religious Assembly" in the TND Zones.

TABLE 1 (Part 2 of 4) PERMITTED USES BY ZONING DISTRICT	P: Permitted PC: Permitted , subject to conditions SE: Special Exceptions SC: Special Exceptions, subject to conditions							
Land Use	**Zoning Districts**							**Use Regs.**
	TND-1	**TND-2**	**TND-3**	**VC**	**GC**	**MC**	**NRR**	
Commercial, Office, and Service								
Artist and photographer galleries (retail) and studios, dance /music studios	PC			P	P			5.2.4.B1
Retail Shops, including service/repair such as clock, jewelry	PC			P	P			5.2.4.B2
Convenience, grocery, department, variety, hardware, dry goods stores				P	P			
Pet Shops					P			
Nursery for plants, greenhouses					P		PC	5.2.4B3
Banks, Financial Institutions				P	P			
Personal service shops and services, such as barber, salon, laundromat, health and fitness center, spa				P	P			
Professional office, including finance, insurance, real estate	PC			P	P			5.2.4B4
Medical, dental clinics or physicians/dentist office	PC			P	P			5.2.4B5
Business Services, plumbing shops, contractor shops					P			
Small-scale manufacturing and assembly such as cabinet making, furniture upholstery, printing publishing, warehousing					PC	PC		5.2.4B6
Television, radio, computer repair shops, small appliance repair, similar				P	P			
Building material and supply, boat sales, farm implements storage and sales, feed and grain storage and sales, heavy equipment sales and service					P			
Animal hospital, veterinarian clinic					PC		PC	5.2.4B7
Kennel, Cattery					PC			5.2.4B8
Funeral Parlor					P			
Motor vehicle sales or rental					P			
Marina uses including boat sales and repair, storage, marine-related manufacturing and marine-related business offices					P	P		
Filling stations, service stations					PC	PC		5.2.4B9
Automotive body shop					PC	PC		5.2.4B10
Restaurants, standard				P	P	P		
Restaurants, fast food, drive-in, drive thru, other than Formula				P	P			
Hotels, motels, convention centers, and similar businesses and institutions providing overnight accommodations				P	P	P	SC	5.2.4B11
Resorts					P	P	PC	5.2.4B12
Pubs, bars, dance halls, nightclubs, cocktail lounges				PC	P	P		5.2.4B13
Formula fast food, formula drive-in, formula drive thru restaurants					SC			5.2.4B14
Vape Shop, Dispensary					PC			5.2.4B15
Formula Business – All other					SE			

TABLE 1 (Part 3 of 4) PERMITTED USES BY ZONING DISTRICT	P: Permitted PC: Permitted , subject to conditions SE: Special Exceptions SC: Special Exceptions, subject to conditions							
Land Use	**Zoning Districts**							**Use Regs.**
	TND-1	**TND-2**	**TND-3**	**VC**	**GC**	**MC**	**NRR**	
Institutional								
Schools								
Elementary and Secondary (including pre-school, kindergarten, associated grounds and athletic and other facilities)	PC			PC			PC	5.2.4C1
Trade and Vocational Schools	PC			PC	P	P		5.2.4C1
Colleges, Universities, Community Colleges (including associated facilities such as dormitories, office buildings, athletic fields, etc.)	PC			PC			SE	5.2.4C1
Churches and other buildings for religious assembly (including associated residential structures for religious personnel and associated buildings but not including elementary or secondary school buildings)	P	P		P	P	P	P	
Social and fraternal clubs and lodges, philanthropic institutions					SE			
Intermediate Care Institutions	SE			P	P		P	
Nursery Schools, Day Care Centers (more than 30 children)	SE			P	P		P	
Hospitals, clinics, other medical (including mental health) treatment facilities in excess of 10,000 square feet of floor area					SE			
Nursing Care Institution	SE			SE				
Libraries, other public administrative and cultural buildings	SE			P	P		P	
Museums, art galleries, art centers, and similar uses (including associated educational and instructional activities)	PC			P	P	P	P	5.2.4C1
Art or cultural center	SE			P			P	
Recreation, Amusements, Entertainment								
Activity conducted entirely within building or substantial structure								
Bowling alleys, skating rinks, indoor tennis and squash courts, billiard and pool halls, rifle and pistol ranges, indoor athletic and exercise facilities and similar uses					P			
Cinema, movie theaters					P			
Activity conducted primarily outside enclosed buildings or structures								
Privately owned and operated outdoor recreational facilities such as golf courses and country clubs, swimming or tennis clubs, rifle and pistol ranges, etc. not constructed pursuant to a permit authorizing the construction of some residential development				SE	SE	SE	SE	
Publicly owned and operated outdoor recreational facilities such as athletic fields, golf courses, tennis courts, swimming pools, parks, ect. Not constructed pursuant to a permit authorizing the construction of another use such as a school	P			SE	SE	SE	SE	
Golf Driving Range				P	P		P	
Swimming Pool, Community	SE			SE	SE	SE	P	

TABLE 1 (Part 4 of 4) PERMITTED USES BY ZONING DISTRICT	P: Permitted PC: Permitted , subject to conditions SE: Special Exceptions SC: Special Exceptions, subject to conditions							
Land Use	Zoning Districts							Use Regs.
	TND-1	TND-2	TND-3	VC	GC	MC	NRR	
Emergency Services								
Police Station	SE			PC	P	P		5.2.4D1
Fire Station	SE			PC	P	P		5.2.4D1
Rescue Squad, Ambulance Service	SE			PC	P	P		5.2.4D1
Civil Defense Operation	SE			PC	P	P		5.2.4D1
Miscellaneous Uses								
Utilities								
Neighborhood Service	P	P	P	P	P	P	P	
Water or Sewage Treatment Facilities	P	P	P	P	P	P	P	
Public Utility Buildings and Structures	P	P	P	P	P	P	P	
Public Utility Buildings and Structures with towers or antennas					PC		PC	5.2.4D1
Temporary Structures incidental to construction (non-residential)	PC	PC	PC	PC	PC	PC	PC	5.2.4D2
Christmas Tree Sales				P	P	P	P	
Satellite Parking	PC			PC	PC	PC		5.2.4D3

§ 5.2.4 Standards for Conditional and Special Exception Uses

The following conditions and specific standards apply to land uses designated PC (Conditional) SE (Special Exception) and SC (Special Exception with Conditions) in Table 1 of this Ordinance. The applicable conditions shall be satisfied during the period of the use and occupancy.

A. Residential Uses

1. Single-Family Attached, Townhouses

   Subject to the following conditions, townhouse developments shall be permitted as a Permitted, Subject to Conditions Use (PC) in the TND-2 district:

   a. A minimum of 30 percent of the total tract area shall be maintained as open area and shall not be devoted to service driveways, off-street parking, or loading spaces. It is further provided that 25 percent of the open area shall be suitable for usable recreational space and each recreational space shall be at least 50 feet in the least dimension with a minimum area of 5,000 square feet.

   b. The front yard setback shall be exclusively devoted to landscaping and open area and shall not be occupied by any building, structure, or off-street parking area.

   c. The minimum setback between any two principal buildings on the same lot shall be 25 feet.

   d. The minimum lot area for the development shall be one acre.

2. Multi-family Buildings

Subject to the following conditions, multi-family buildings shall be permitted as a Permitted, Subject to Conditions Use (PC) in the TND-2 district.

a. A minimum of 30 percent of the total tract area shall be maintained as open area and shall not be devoted to service driveways, off-street parking, or loading spaces. It is further provided that 25 percent of the open area is suitable for usable recreational space and each recreational space shall be at least 50 feet in the least dimension with a minimum area of 5,000 square feet.

b. The front yard setback shall be exclusively devoted to landscaping and open area and shall not be occupied by any building, structure, or off-street parking area.

c. The minimum setback between any two principal buildings on the same lot shall be 25 feet.

3. Day Care Centers (Child or Elderly Care Centers)

a. Subject to the following conditions, child or elderly care centers serving between 7 and 16 individuals shall be permitted in the TND-1 District and centers serving between 7 and 30 individuals shall be permitted in the VC, GC and NRR Districts as a Conditional Use (PC):

b. At least 200 square feet of usable outdoor recreational area shall be provided per individual that may use the center at any one time. Recreational areas shall not include the required front yard of the property or any off-street parking areas.

c. All such uses shall be located so as to permit the safe pickup and delivery of all people on this site.

d. The area of the property shall contain no less than 1,000 square feet per individual that may use the center at any one time.

e. The requirements of these sections shall not apply to child or elderly day care facilities or centers that are operated by a non-profit organization in buildings, structures, or on premises owned or leased by a religious organization and which premises are regularly used as a place of worship or are located on premises owned or leased by a religious organization adjacent to premises regularly used as a place of worship, or are used for private parochial educational purposes that are exempted under the provisions of this section for private educational institutions or are located in publicly owned school buildings.

4. Home Occupations

Subject to the following conditions, home occupations shall be permitted in the TND-1, 2, & 3 and NRR districts as a Conditional Use (PC):

a. Not more than one person other than members of the family residing on the premises shall be engaged in such occupation.

b. There shall be no change in the outside appearance of the building or premises, other than one sign. Residential appearance shall be maintained and the proposed development shall be in keeping with the character of the neighborhood.

c. No equipment, process, or occupation shall be used which creates noise, vibration, glare, fumes, odors, or electrical interference detectable outside of the dwelling unit.

d. No more than 25 percent of the floor area of the dwelling, including an attached garage, may be used for the home occupation.

e. No article of commodity shall be offered for sale, except that incidental to services offered, or publicly displayed on the premises.

f. Parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.

g. A private educational institution, boardinghouse, rooming house, or tourist home shall not be deemed a home occupation.

B. Commercial Uses

1. Artist & Photographer Galleries (retail) and Studios, Dance/Music Studios

Subject to the following conditions, artist & photographer galleries (retail) and studios, dance/music studios shall be permitted in the TND-1 district as a Conditional Use (PC), subject to the following conditions:

a. All operations in connection with the use must be conducted indoors.

b. Parking for the owner and one space per customer to be provided off street.

c. Hours of operation between 7 am and 7 pm.

d. Open for business for maximum of 5 days per week

e. No equipment, process, or occupation shall be used which creates noise, vibration, glare, fumes, odors, or electrical interference detectable outside of the unit.

f. There shall be no change in the outside appearance of the building or premises, other than one sign. The proposed development shall be in keeping with the character of the neighborhood.

2. Retail Shops, including Service/Repair, Clocks, Jewelry

Subject to the following conditions, retail shops, including service/repair, clocks, jewelry shall be permitted in the TND-1 district as a Conditional Use (PC), subject to the following conditions:

a. All operations in connection with the use must be conducted indoors.

b. Parking for the owner and one space per customer to be provided off street.

c. Hours of operation between 7 am and 7 pm.

d. Open for business for maximum of 5 days per week

e. No equipment, process, or occupation shall be used which creates noise, vibration, glare, fumes, odors, or electrical interference detectable outside of the unit.

f. There shall be no change in the outside appearance of the building or premises, other than one sign. The proposed development shall be in keeping with the character of the neighborhood.

3. Nursery for Plants, Greenhouses

Subject to the following conditions, nurseries for plants and greenhouses shall be permitted in the NRR district as a Conditional Use (PC):

a. The sale of plants, trees, shrubs, seeds, fertilizers, plant foods, hand tools, hand spraying and watering equipment, and pesticides directly related to residential gardening shall be permitted, provided that such tools and equipment are not displayed outdoors.

b. No such horticultural nursery or commercial greenhouse shall be located on a tract of land containing less than two acres

c. No part of any building thereon shall be less than 50 feet from the nearest property line.

d. Greenhouses shall have a minimum setback of twice the height of the building

e. Storage of all materials which produce odors or attract pests shall be indoors.

4. Personal Service Shops & Services, such as Barber, Salon, Laundromat, Health and Fitness Spa

Subject to the following conditions, personal service shops & services, such as barber, salon, laundromat, health and fitness spas shall be permitted in the TND-1 district as a Conditional Use (PC), subject to the following conditions:

a. All operations in connection with the use must be conducted indoors.

b. Parking for the owner and one space per customer to be provided off street.

c. Hours of operation between 7 am and 7 pm.

d. Open for business for maximum of 5 days per week

e. No equipment, process, or occupation shall be used which creates noise, vibration, glare, fumes, odors, or electrical interference detectable outside of the unit.

f. There shall be no change in the outside appearance of the building or premises, other than one sign. The proposed development shall be in keeping with the character of the neighborhood.

5. Professional Office, including Finance, Insurance, Real Estate

Subject to the following conditions, professional office, including finance, insurance, and real estate shall be permitted in the TND-1 district as a Conditional Use (PC), subject to the following conditions:

a. All operations in connection with the use must be conducted indoors.

b. Parking for the owner and one space per customer to be provided off street.

c. Hours of operation between 7 am and 7 pm.

d. Open for business for maximum of 5 days per week

e. No equipment, process, or occupation shall be used which creates noise, vibration, glare, fumes, odors, or electrical interference detectable outside of the unit.

f. There shall be no change in the outside appearance of the building or premises, other than one sign. The proposed development shall be in keeping with the character of the neighborhood.

6. Small Scale Manufacturing and Assembly

Subject to the following conditions, small scale manufacturing and assembly uses shall be permitted in the GC and MC districts as a Conditional Use (PC):

a. Minimum lot area shall be 10,000 square feet and minimum lot width shall be 150 feet.

b. All manufacturing and assembly shall be conducted within a completely enclosed building with no open storage of raw, in process, or finished material and supplies or waste material. Finished or semi-finished products manufactured or sold on the premises may be stored in the open only if screened by landscaping, fences, or walls.

c. Notwithstanding the yard regulations for the district, no part of any building, accessory structure, or sign shall be located closer than one hundred (100) feet to any dwelling.

d. No parking or storage of material or products shall be permitted in the required front yard.

7. Animal Hospital, Veterinarian Clinic

Subject to the following conditions, animal hospital and veterinarian clinic uses shall be permitted in the GC and NRR districts as a Conditional Use (PC):

a. Minimum lot area shall be 20,000 square feet.

b. All operations in connection with the clinic must be conducted indoors.

c. Screening and vegetative landscaping shall be used along lots lines which adjoin a residential lot in a residential zoning district.

d. No work on large animals (bovine or equine) is to be performed on the premises.

8. Kennel, Cattery

Subject to the following conditions, a kennel and cattery shall be permitted in the GC district as a Conditional Use (PC):

a. A kennel/cattery shall not be a free-standing establishment but instead an ancillary use to an animal hospital or veterinarian clinic and primarily operated in a manner that supports the animal hospital or veterinarian clinic use.

b. The kennel/cattery operator shall follow all applicable regulations of the Cecil County Animal Control Ordinance.

9. Filling Stations, Service Stations

Subject to the following conditions, filling station and service station shall be permitted in the GC and MC districts as a Conditional Use (PC):

a. No fuel pump, oil draining pit, or other vehicle appliance for serving automobiles shall be located within 25 feet from the front property line.

b. Bulk storage of flammable liquids shall be underground.

c. The entrance and exit of any such establishment shall be at least 50 feet from any residential lot.

d. No storage or stockpiling of tires or any trash shall be permitted.

e. All inoperative vehicles shall be completely screened from view of rights-of-way and adjoining properties.

f. An area, enclosed by a wall or fence, screened from view of adjoining properties and rights-of-way shall be established whenever outdoor storage is required.

g. No fuel pumps, structures or buildings shall be erected within 150 feet of any dwelling.

h All lights shall be diverted toward the station and downward on the lot.

10. Automotive Body Shop

Subject to the following conditions, an automotive body shop shall be permitted in the GC and MC district as a Conditional Use (PC), subject to the following conditions:

a. Vegetative screening and buffers shall be provided where the lot abuts residentially used properties or a residential zoning district.

b. No gasoline shall be dispensed.

c. All lights shall be diverted toward the facility or downward on the lot.

d. A low screening wall and/or hedge shall be provided along all rights-of-way, except at points of vehicular access to the lot and except where vehicular sight distance might be compromised.

e. There shall be no bulk storage of flammable liquids on the premises.

f. No storage or stockpiling of tires or any trash shall be permitted.

11. Hotels, Motels, Convention Center, and similar businesses and institutions providing overnight accommodations.

Subject to the following conditions, hotels, motels, convention center, and similar businesses and institutions providing overnight accommodations shall be permitted in the NRR district as a Special Exception, subject to conditions use (SC), subject to the following conditions:

a. Requires Lot Coverage of no more than 30%.

b. Requires clustering of lodging structures and cabins to group together in designated nodes, preserving contiguous natural wildlife corridors and open space.

12. Resorts

Subject to the following conditions, a resort shall be permitted in the NRR district as a Conditional Use (PC), subject to the following conditions:

c. Requires Lot Coverage of no more than 30%.

d. Requires clustering of lodging structures and cabins to group together in designated nodes, preserving contiguous natural wildlife corridors and open space.

13. Pub, Bar, Nightclub, Dance Hall, and Cocktail Lounge

Subject to the following conditions, a pub, bar, nightclub, dance hall, and cocktail lounges shall be permitted in the VC district as a Conditional Use (PC), subject to the following conditions:

a. Hours of operation shall be limited to midnight.

b. Maximum allowed noise levels by time of day shall not exceed levels set forth in the Town's Noise Control Ordinance, as may be supplemented or amended from time to time.

c. Loitering shall not be permitted around the exterior of the establishment.

14. Formula Fast Food, Formula Drive-in, and Formula Drive-Thru Restaurants

Except for those uses and developments reviewed and approved pursuant to an annexation agreement or developer's agreement, the following conditions also apply to Formula Fast Food, Formula Drive-in, and Formula Drive-thru Restaurants permitted by Special Exception, subject to conditions (SC) by the Board of Appeals in the GC Districts

a. The use will not constitute a nuisance because of noise, illumination, fumes, odors, or physical activity in the location proposed.

b. The use at the proposed location will not create a traffic hazard or traffic nuisance because of its location in relation to similar uses, necessity of turning movements in relation to its access to public roads and intersections, or its location in relation to other buildings or proposed building on or near the site and the traffic patterns from such buildings, or cause frequent turning movements across sidewalks and pedestrian ways, thereby disrupting pedestrian circulation within a concentration of retail activity. A traffic impact study shall be required.

c. The use of the proposed location will not pre-empt frontage on any highway or public road in such manner so as to substantially reduce the visibility and accessibility of an interior commercial area zoned or proposed for commercial use that is oriented to the same highway or public road.

d. When such use abuts a residential zone or institution premises the use shall be screened by a solid wall or a substantial, slightly solid fence, not less than 5 feet in height, together with a 3 foot wide planting strip on the outside of such wall or fence, planted in shrubs and evergreens 3 feet high at the time of original planting and which shall be maintained in good condition. Location, maintenance, vehicle sight distance provision, advertising, and

parking areas pertaining to screening shall be as provided for in this ordinance.

e. When such use occupies a corner lot, the ingress or egress driveways shall be located at least 40 feet from the intersection of the front and side street lines of the lot and such driveways shall not exceed 45 feet in width, provided that, in areas where no master plan of highways has been adopted, the street line shall be considered to be at least 60 feet from the centerline of any abutting street or highway.

f. Drive-through lanes shall be marked with distinctive pavement markings and/or special striping and shall not block exit or entry to building or to off-street parking spaces otherwise required on the site.

g. Adequate spaces for stacking (line-up) at drive through facilities shall be provided. Specifically, spaces are 7 per station, 5 of which must be before the ordering stations (intercom).

h. Vehicular access shall not be by means of any street internal to a subdivision for single-family dwellings.

i. Buildings shall be designed so that facades, signs and other appurtenances will have an integrated, harmonious and attractively arranged appearance, and in a size and manner which will not adversely affect the appearance of surrounding developments.

j. In place of the box-type of internally illuminated signs, the Town may require use of Halo-Lit signs and dye-cut metal sign panels with individually-Illuminated letters or logos and may also require alternative materials or sighting solutions and adjustments to the scale of trademark logos and graphics.

k. The Town may require adjustments to the extent, size or scale of the color scheme, trademark, service mark, signage and décor used throughout the interior or exterior of the establishment to mitigate contrasting color schemes and harmonize the color scheme, trademark, service mark, signage and décor with the surrounding neighborhood.

15. Vape Shop, Dispensary

Subject to the following conditions, a vape shop, dispensary shall be permitted in the GC district as a Conditional Use (PC), subject to the following conditions:

a. Shops or dispensaries shall not be located within 1,000 feet of a school, daycare, or park.

b. No individual shop or dispensary shall be located within the same block or building cluster as an existing shop.

C. Educational, Cultural, and Institutional Uses

1. Elementary and secondary schools (including pre-school, kindergarten, associated grounds, and athletic facilities)

Subject to the following conditions elementary and secondary schools are permitted in the TND-1, VC and NRR districts as a Conditional Use (PC).

a. Minimum lot area shall be one acre.

b. In the TND-1, VC districts, off-street parking shall be provided in the side or rear yard.

c. Building coverage shall not exceed 25 percent of the lot.

d. The maximum attendance (number of students physically present) at any one time shall not exceed one student per 1,000 square feet of the lot area devoted to the use.

D. Emergency Services and Miscellaneous Use

1. Public Utility Buildings and Public Utility Structures with Towers or Antennas

Subject to the following conditions, a public utility building or public utility structure not otherwise permitted, including radio and television broadcasting stations and towers (but not including electric power transmission or distribution lines carrying in excess of 69,000 volts) shall be a Permitted, Subject to Conditions use (PC) in the VC, GC, and NRR districts:

a. The proposed building or structure at the location selected is necessary for public convenience and service.

b. The proposed building or structure at the location will not endanger the health and safety of workers and residents in the community and will not substantially impair or prove detrimental to neighboring properties.

c. Public utility buildings in any predominately residential area shall, whenever practicable, have the exterior appearance of residential buildings and shall have suitable landscaping, screen planting, and fencing, wherever deemed necessary by the Planning Commission.

d. Any proposed broadcasting tower shall have a setback of one foot from all property lines for every foot of height of the tower, provided that any broadcasting tower lawfully existing prior to the effective date of this Ordinance shall be exempt from the setback limitations imposed by this subsection and may be continued, structurally altered, reconstructed, or enlarged provided that no structural change, repair, addition, alteration, or reconstruction shall result in increasing the height above the then existing structurally designed height.

e. Examples of public utility buildings and structures for which special exceptions are required under this section are buildings and structures for the occupancy, use, support, or housing of switching equipment, regulators, stationary transformers, and other such devices for supply electric service; telephone offices; railroad, bus, trolley, air, and boat passenger stations; radio or television transmitter towers and stations.

f. In any residential area, overhead electric power and energy transmission and distribution lines carrying in excess of 69,000 volts may be permitted where:

i. The proposed use does not have an unduly adverse effect on the general plan for the physical development of the district as embodied in this Ordinance and in the comprehensive plan or portion thereof;

ii. The proposed use will not adversely affect the health and safety of the residents or workers in the area;

iii. The proposed use will have the least possible detrimental effect to the use of development of adjacent properties or the general neighborhood.

g. In making such findings, the Board shall consider the following factors, and such other factors as the Board may find to be necessary or important to effectuate its review:

i. Points at which the proposed line crosses heavily traveled highways or streets, or other arteries of transportation, either existing or proposed;

ii. Proximity of the line to schools, churches, theaters, clubs, museums, fair grounds, or other places of assembly, existing or proposed;

iii. The amount and probability of low-level flying over the line and nearness of the line to airports and/or heliports, existing or proposed;

iv. Any fire hazard or interference with firefighting equipment due to the location and construction of the proposed line;

v. Proximity of the line to public parks and recreational areas, existing or proposed;

vi. Effect upon property values of those who will not be compensated for a taking under the laws of the State;

vii. The effect upon environmental quality and ecological balance of protected watersheds, planned open space between corridors of development and greenbelt areas surrounding community development; and

viii. Proximity of the line to historic sites and structures.

2. Temporary Structures Incidental to Construction

Subject to the following conditions, Temporary Structures Incidental to Construction shall be permitted in all districts as a Conditional Use (PC):

a. That it is removed when construction is finished.

b. That the structure remains for only a period of one year with extensions totaling one year permitted upon application to and approval of the Zoning Administrator.

3. Satellite Parking

Subject to the following conditions, satellite parking shall be permitted in TND-1, VC, GC, and MC, as a Conditional Use (PC).

a. Additional vegetative screening and buffers shall be provided where the lot abuts an alley, street, or residentially used properties or a residential zoning district.

b. Impacts to existing Town infrastructure shall be resolved or mitigated. Impact studies to be completed and provided to the Town, including but not limited to: Storm Water, Traffic, Etc.

§ 5.3 Historic District Area

§ 5.3.1 Purpose and Applicability

A. Purpose of Regulations and District

1. It is the purpose of this Section to establish regulations and procedures necessary to preserve the historic structures and character of Chesapeake City.
2. The purposes of the Historic Area District are as follows:
    a. To preserve structures of historic and architectural value.
    b. To safeguard the heritage of Chesapeake City by preserving the district therein which reflects elements of the Town's cultural, social, economic, political or architectural history; to stabilize and improve property values in the historic district; to foster civic beauty; to strengthen the local economy; and to promote the use and preservation of the historic district for the education, welfare and pleasure of the residents of both the Town and surrounding region;
3. It is not the intent of this ordinance to discourage contemporary architectural expression, or to encourage the emulation of existing buildings or structures of historical architectural interest in specific detail. Harmony or incompatibility will be evaluated in terms of the appropriateness of materials, scale, size, height, and placement of new buildings in their relationship with existing structures.

B. Applicability

These provisions apply within the Historic Area District as is shown on the Official Zoning Map of Chesapeake City.

C. Historic District Commission

1. The establishment and proceedings of the Historic District Commission shall be as provided for in §3.4 of this Ordinance.
2. Every application considered by the Historic District Commission shall be accepted or rejected by that Commission.
3. No permit may be granted until the Historic District Commission has first acted thereon and submitted its decision to the Planning Commission. Only upon Planning Commission approval shall a permit be issued.

§ 5.3.2 Historic District Commission Permit Required

A. Application Requirements

An application shall include all plans for construction, erection, reconstruction, alteration, excavation and/or changes to the exterior of the building. Additionally, specification sheets for all proposed construction materials shall be submitted.

B. Expiration of Historic Approval

1. A Historic Approval shall automatically expire one year from the date of its issuance if no work described in the project has begun.
2. If work described in any Historic Approval has not been substantially completed within one (1) year, due to just cause, the Town's Zoning Administrator is authorized

to grant in writing one extension for a time period of not more than one (1) year. An extension shall be requested in writing with justifiable cause demonstrated.

3. No work on a cancelled permit may proceed unless and until a new Historic Approval has been issued.

C. Procedures

1. The applicant files a Historic District Application with the Zoning Administrator.
2. After review by the Zoning Administrator to ensure the application conforms to the applicable use regulations, the Zoning Administrator will forward the application to the Historic District Commission.
3. After hearing from the applicant and any other interested persons at the Historic District Commission Meeting, the Commission shall make its decision public through the approval of their meeting minutes.
4. The Historic District Commission shall file with the Planning Commission a copy of its approval, modification or rejection of all applications and plans submitted to it for review.
    a. Work shall not be commenced on any such project until such a permit of approval has been filed by the Commission and further approved by the Planning Commission. The Planning Commission shall not act to approve a project for which the Historic District Commission has filed a permit of rejection.
5. The applicant shall receive a written notification of the Commission's decision. In the event of a denial of a permit, reasons for such denial shall be included with the written notification.
6. In reviewing applications, the Historic District Commission shall state in writing its findings of fact related to:
    a. The historic or architectural value and significance of the structure and its relationship to the historic value of the surrounding area;
    b. The relationship of the exterior architectural features of the structure to the remainder of the structure and to the surrounding area;
    c. The general compatibility of exterior design, scale, proportion, arrangement, texture and materials proposed to be used;
    d. Any other factors, including aesthetic and environmental factors, which the Commission deems pertinent.

D. Standards for Exercising Judgment

1. The Historic District Commission shall be strict in its judgment of plans for those structures deemed to be valuable for historic or architectural reasons and lenient in its judgment of plans for structures of little historic value or for plans involving new construction, unless such plans, would seriously impair the historic or architectural value of surrounding structures in the surrounding area.
2. The Historic District Commission is not required to limit new construction, alteration, or repair to the architectural style of any one period.

E. Applications for Permits for Structures of Unusual Importance

If an application is submitted for reconstruction or alteration affecting the exterior appearance of a structure or for the moving or demolition of a structure, the preservation of which the Historic District Commission deems of unusual importance to the Town or of unusual importance to the State or Nation, the Historic District Commission shall attempt with the owner of the structure to formulate an economically feasible plan for the preservation of the structure.

F. Special Circumstances

In the case of a structure deemed to be valuable for the period of architecture it represents, and it is important to the District, the Commission may approve the proposed reconstruction or alteration despite the fact the changes come within the provisions of paragraph D above, if:

1. The structure is a deterrent to a major improvement program which will be of substantial benefit to the Town of Chesapeake City;
2. Retention of the structure would cause undue financial hardship to the owner; and/or
3. The retention of the structure would not be in the interest of the Town as provided for in the adopted Comprehensive Plan.

§ 5.3.3 Ordinary Maintenance – Work under a Prior Approval

Nothing in this Part of this Ordinance shall be taken or construed to prevent work or repairs on any structure coming under the heading of ordinary maintenance or to complete any work covered by permit or authorization issued prior to the effective date of adoption or amendment of this Ordinance, unless otherwise specified.

Routine repairs to replace damaged or worn-out portions may be performed without requiring a town zoning permit or historic approval. Any changes to material, size, dimension, manner, construction, or location require a town zoning permit and historic approval as new construction. Repair/replacement of existing structures does not indemnify the owner from encroachments on adjacent properties, or requirements for any state or county permits.

§ 5.3.4 Appeals

Any person aggrieved by a decision of the Historic District Commission has the right of appeal there-from, to the Circuit Court which will review the Commission's decision based on the record of the proceedings before the Historic District Commission.

§ 5.3.5 Architectural Easements

The Historic District Commission may purchase architectural easements in connection with structures located within or adjacent to the Historic Area District. Such easement shall grant to the Historic District Commission, the residents of the historic district and the general public the perpetual right to have the exterior appearance of any structure upon which it is applied retained in substantially the same character as when the easement took effect.

Article 6 – Dimensional Requirements

§ 6.1 Dimensional Requirements

§ 6.1.1 Lot and Bulk Requirements

A. General

Article 6 establishes the size of lots, the density of land use development and the location, dimensional and bulk requirements of both principal and accessory buildings.

B. Purpose

The purposes are to ensure:

1. That the use of property does not infringe on the rights or enjoyment of adjacent property owners,
2. That new development is compatible in aesthetic character with the existing patterns of development.
3. That there is adequate light and air for the health and safety of residents, business operators, and patrons.
4. That the environmental quality of the land and waterways are protected and that to the greatest extent practical impervious surfaces are minimized in all new construction.
5. That fire and rescue personnel and equipment will have sufficient access to the side and rear of structures, and that
6. The density and intensity of new development is in keeping with the planning and development of essential public facilities and services.
7. Within the Village Center district, developers and property owners have the flexibility needed to develop and/or redevelop properties in keeping with the purpose of the district.

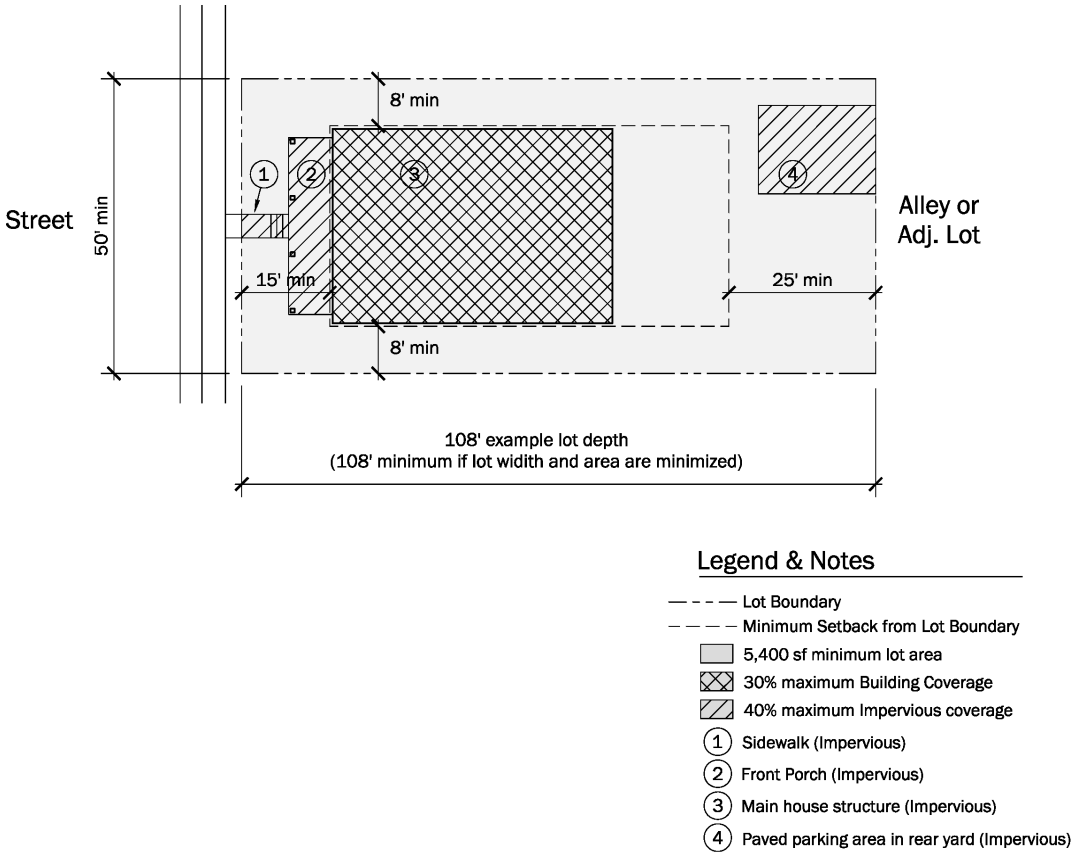
C. Requirements

1. The lot dimensional, density, and bulk requirements set forth in Tables 2 and 3 shall apply to all new construction.
2. In the case of corner lots, a front yard of the required depth shall be provided in accordance with the predominant yard pattern and a second front yard of equal depth shall be provided on the other frontage. In the case of corner lots with more than two frontages, the Zoning Administrator shall determine the requirements for each.
3. Within the Critical Area the Town shall require that impervious surface coverage (surfaces that do not absorb rain, including buildings, streets, driveways, sidewalks, patios, parking areas and any other surfaces that are paved or are otherwise impervious to water) be minimized to the extent possible as a condition of any development approval and to this end may require that pervious surfacing materials be substituted for impervious surfaces or that driveway and other proposed impervious surfaces be the smallest necessary to serve their intended function or impose other comparable restrictions.

D. Illustrative Examples

Illustration 1- Example A shows the application of the key dimensional requirements which are set forth in Table 2 and 3.

Illustration 1 - Example A



Legend & Notes

- Lot Boundary
- Minimum Setback from Lot Boundary
- 5,400 sf minimum lot area
- 30% maximum Building Coverage
- 40% maximum Impervious coverage
- (1) Sidewalk (Impervious)
- (2) Front Porch (Impervious)
- (3) Main house structure (Impervious)
- (4) Paved parking area in rear yard (Impervious)

Table 2: DIMENSIONAL AND DENSITY REQUIREMENTS

Zoning District	Minimum Dimensional Requirements			Maximum Density / Intensity (gross)	
	Lot Area (sf)	Lot Width (ft)	Lot Depth (ft)	Dwelling Units (per acre)	Floor Area Ratio[1]
Traditional Neighborhood Development- 1 (TND-1)					
Single Family, Detached	5,400	50	100	5	n/a
Single Family, Attached [2]	3,000	22	100	10	n/a
Multi Family	1,800	100	100	14	n/a
Civic, Other	5,400	50	100	n/a	0.4
Traditional Neighborhood Development- 2 (TND-2)					
Single Family, Detached	10,000	75	133	3	n/a
Single Family, Attached [2]	4,000	45	133	5	n/a
Multi Family	2,000	120	133	10	n/a
Civic, Other	10,000	75	133	n/a	0.4
Traditional Neighborhood Development- 3 (TND-3)					
Single Family, Detached	15,000	125	120	1.5	n/a
Village Center (VC)					
Single Family, Detached	4,000	40	100	6	n/a
Single Family, Attached [2]	2,000	20	100	6	n/a
Multi Family	1,600	100	100	14	n/a
Commercial	4,000	40	100	n/a	0.65
Civic, Other	4,000	40	100	n/a	0.6
Marine Commercial (MC)					
Commercial, Other	4,000	40	100	n/a	0.55
General Commercial (GC)					
Commercial	20,000	100	200	n/a	0.5
Civic, Other	20,000	100	200	n/a	0.35
Natural Resource and Recreation (NRR)					
Single Family, Detached	15,000	125	120	1.5	n/a
Civic, Other	20,000	100	200	n/a	0.5

[1] Floor Area Ratio (FAR) - The ratio derived by dividing the total floor area of a building by the gross site area.

[2] For attached units, the entire structure shall be considered a single building.

Table 3: YARD AND BULK REQUIREMENTS

Zoning District	Minimum Yard Requirements - Infill Lots			Minimum Yard Requirements - New Lots			Maximum Bulk Standards	
	Front (ft)	Rear (ft)	Side (ft)	Front (ft)	Rear (ft)	Side (ft)	Height [2] (ft)	Lot Coverage (%)
Traditional Neighborhood Development- 1 (TND-1)								
Single Family, Detached	10	18	2 - 8 [1]	15	25	8	35	65%
Single Family, Attached [2]	10	18	2 - 8 [1]	15	25	20	35	65%
Multi Family	10	18	2 - 8 [1]	15	25	25	35	65%
Civic, Other	10	18	2 - 8 [1]	15	25	25	35	65%
Traditional Neighborhood Development- 2 (TND-2)								
Single Family, Detached	15	25	4 - 8 [3]	15	25	8	35	60%
Single Family, Attached [2]	15	25	4 - 8 [3]	15	25	20	35	60%
Multi Family	15	25	4 - 8 [3]	15	25	25	35	60%
Civic, Other	15	25	4 - 8 [3]	15	25	25	35	60%
Traditional Neighborhood Development- 3 (TND-3)								
Single Family, Detached	30	35	15	30	35	15	35	50%
Village Center (V-1) Lot Types								
Single Family, Detached	10	18	2 - 8 [1]	15	25	8	35	75%
Single Family, Attached [2]	10	18	2 - 8 [1]	15	25	20	35	75%
Multi Family	10	18	2 - 8 [1]	15	25	25	35	75%
Commercial	10	18	2 - 8 [1]	15	25	25	35	75%
Civic, Other	10	18	2 - 8 [1]	15	25	25	35	75%
Marine Commercial (MC)								
Commercial, Other	10	18	2 - 8 [1]	15	25	8	35	75%
General Commercial (GC) Lot Types								
Commercial [2]	10	18	20	20	30	20	35	85%
Civic, Other	10	18	20	20	30	20	35	85%
Natural Resource and Recreation (NRR)								
Single Family, Detached	15	25	4 - 8 [3]	30	25	25	35	40%
Civic, Other	15	25	4 - 8 [3]	30	25	25	35	40%

[1] Aggregate of 10 ft, with a minimum of 2 ft on one side.

[2] For attached units, the entire structure shall be considered a single building.

[3] Aggregate of 12 ft, with a minimum of 4 ft on one side.

§ 6.1.2 Exceptions to Lot and Bulk Requirements

A. Exceptions by District

1. In the TND-1 and Village Center districts, the front yard setback may be within 5 feet of the average existing setbacks for buildings of adjoining properties but may be no less than the closest nor more than the farthest.

2. In the Village Center, Marine Commercial, and General Commercial districts, the Planning Commission may grant an extra height allowance, for commercial buildings, of up to ten (10) feet provided that the allowance maintains the character of the surrounding neighborhood or structures.

3. In the Village Center and General Commercial districts, where a side lot line of a commercial use coincides with a side lot line of another commercial use, the side lot line may be reduced to zero provided the following findings are established:

   a. Access of emergency personnel on the site would be adequately provided, and

   b. The Fire Chief submits a favorable recommendation in writing.

4. For properties in the Village Center & all TND districts, the Planning Commission may, but is not required to, approve the redevelopment of properties, including through the teardown and rebuilding of any structure, with quantitatively the same lot dimension and building bulk parameters that existed on the site prior to redevelopment, provided such a structure existed prior to the adoption of this Ordinance. The following procedures shall govern the review:

   a. The Planning Commission may approve a project under the terms of this provision whether or not the property is a non-conforming use or structure, provided the redevelopment project would not result in the expansion of a non-conforming use or structure.

   b. The Planning Commission may establish conditions for its approval of any project approved under the terms of this provision to address any possible adverse effects of the site's adherence to any pre-existing dimension and bulk parameters.

   c. The Planning Commission may condition its approval on there being greater conformance to one or more of the dimensional or bulk requirements of this Ordinance.

   d. An applicant for such approval shall adhere to Historic District plan review procedures if the property is in the Historic District.

B. Allowable Extensions into Yard Areas

The following features may extend into required minimum setback areas but only as qualified below:

1. Cornice, canopies, awnings, eaves, or other similar features which are at least eight feet above grade, may extend no more than four feet into any required yard in any district.

2. Chimneys may extend no more than two feet into any required side yard.

3. Any uncovered and completely unenclosed patio, terrace, or deck, or stairs with a floor no higher than that of the first-floor level of the building may extend six feet into any required yard, but not nearer to any lot line than a distance of four feet.

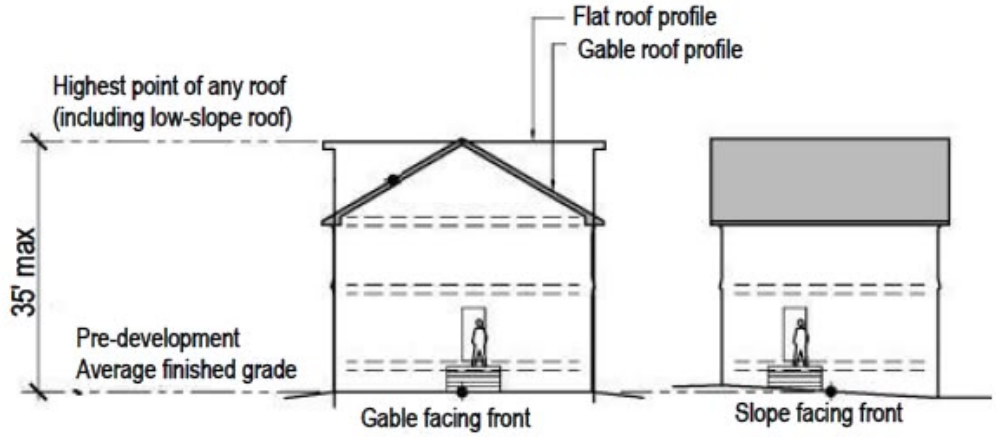
4. A covered porch may extend six feet into the required front yard.

C. Height

1. The height limits of this Ordinance shall not apply to steeples, spires, belfries and cupolas not for human occupancy, water towers, equipment for the operation of a building, chimneys, flag poles, radio towers, masts, aerials and other similar structures. Antennas are allowed in all districts but shall not be higher above the roof than the distance of the building to the nearest property line or prescribed boundary.

2. Building height shall be as defined in Article 2 of this Ordinance. Illustration 2 below shows the application of the height requirement in all TND zones for single-family detached buildings per Table 3.

Illustration 2



§ 6.1.3 Accessory Building or Structure Requirements

A. Location of Accessory Buildings and Structure

The following provisions apply to the location of accessory buildings:

1. Accessory buildings shall be prohibited in any required front yard or street facing side yard.

2. Accessory buildings shall comply with the required side and rear yard restrictions for a principal structure on that lot.

B. Height of Accessory Building or Structure

1. Accessory buildings shall not exceed the maximum height restriction for the zone in which they are located.

2. In any TND District, where the high point of the roof of any accessory building exceeds 15 feet in height, the accessory building shall be set back from the rear lot line an additional two feet for every foot of height exceeding 15 feet.

C. Accessory Swimming Pools

Accessory swimming pools shall occupy a rear or side yard provided they are not located closer than six (6) feet to a rear or side lot line.

1. A walk space at least three feet wide shall be provided between pool walls (edge of pool) and protective fences or barrier walls.
2. All in-ground swimming pools shall be enclosed by a fence at least four (4) feet in height approved by the Zoning Administrator as provided in §6.1.4 of this Ordinance. Above-ground pools shall be permitted without a fence if there is a removable ladder or other means to prohibit unauthorized use.

§ 6.1.4 Fences and Walls

A. Fence Height Limitations

In all districts, no fence shall be more than six (6) feet in height. Any fence that extends 3 feet forward of the rear building line shall be no higher than forty-eight (48) inches in height. Exceptions shall be permitted for industrial, institutional, or utility structures.

B. Location Restrictions

1. A fence may be located on the property line except in the front yard. Any fence erected in a front yard or a side yard bordering a public street shall be placed at least one foot back from the front or side property line or from the edge of a public walkway or street and/or property line except when the fences around two neighboring yards are aligned with each other, then the fence may be placed in line with those fences.
2. All fences or walls must be erected so as not to encroach upon any public rights-of-way or easements unless a waiver is granted by the Town Council of Chesapeake City with the stipulation that the fence be removed or relocated upon request by appropriate town officials.
3. All fences or walls shall be erected so as to not interfere with vehicular or pedestrian traffic or interfere with visibility on corner lots and/or other structures or vehicles, whether stationary or transitory, on public or private property.
4. If a fence has a finished side, such side shall face away from the property upon which the fence is erected, or if the fence is placed on a property line, the finished side shall face away from the property owned or occupied by the owner of the fence. The finished side is defined as the side of the fence without exposed supports or posts.

C. Materials and Composition

1. No fence shall be erected in a front yard or along a public right-of-way in any TND or Village Center District unless the fence is uniformly less than fifty percent (50%) solid.
2. Chain link fences are specifically prohibited in the Town.
3. Split rail fences with PVC coated (14/16 gauge) steel welded wire shall be acceptable. Three-foot split rail fences shall have two (2) rails, and four-foot fences

shall have three (3) rails. All wire shall be fastened to the interior of the fence and No wire shall extend above the top rail. No split rail fence shall be used to enclose a pool.

4. The following fences and fencing materials are specifically prohibited in the Town, except within the Natural Resource and Recreation (NRR) District: barbed wire, pointed fences less than three feet in height, canvas fences, cloth fences, electrically charged fences, poultry fences, turkey wire, wire fences, temporary fences such as snow fences, expandable fences and collapsible fences, except during construction of a building or site.

5. All entrances or gates which border a public right-of-way or are positioned along a property line shall open into the property.

Article 7 – Site and Building Design Standards

§7.1 General Environmental Standards for Sensitive Areas

§ 7.1.1 Land Suitability

A. Unsuitable Land not for Development

No land shall be subdivided for development that is held unsuitable for its proposed use by the Planning Commission for reasons of flooding, being located within the 100-year floodplain, inadequate drainage, excessive slope, sever erosion potential, or any other natural features that may be harmful to the health, safety, and welfare of future residents, property owners or the community at large.

B. Proposed Improvements to Unsuitable Land

All proposed improvements necessary to make land suitable for development shall be in full compliance with any laws and ordinances regulating such improvements and with any conditions as may be required by the Planning Commission to reduce risks to health and safety. The ability to mitigate an environmental health concern through proposed improvements in no way guarantees that the Planning Commission will approve a project on land that is otherwise unsuitable for its proposed use.

C. Deed Restrictions Required

When a subdivider does not intend to develop the plat him or herself and the improvements are necessary to reduce hazards and/or to make land suitable for development, the Planning Commission shall require appropriate deed restrictions to be inserted on every deed and noted on every recorded plat and parcel.

§ 7.1.2 Perennial Stream No Disturbance Buffer

A. Buffer Required

A three hundred (300) foot vegetative buffer from all perennial streams shall be required for all development.

B. Expanded Buffer May be Required

The perennial stream buffer shall be expanded to include contiguous 100-year floodplain and non-tidal wetlands, hydric soils, highly erodible soils, and soils on slopes greater than fifteen percent (15%) that are contiguous with the perennial stream.

C. Modification of Buffer

In the review of a site plan or subdivision plat, the Planning Commission may modify this buffer requirement provided it be not less than one hundred (100) feet, if it establishes written finding of fact that:

1. The design, construction and use of the entire site with less than a 300-foot buffer will provide the same or greater protection of water quality as the 300-foot buffer, and the development proposal provides heightened measures to minimize the runoff

of stormwater from the site and to minimize impervious surfaces and the removal of natural vegetation within 300 feet of the stream; or

2. It is the development of a planned public street that has necessitated an incursion into the buffer and evidence is provided that disturbance will be minimized in so far as possible; or

3. Other public or community facilities are required and evidence is provided that disturbance will be minimized in so far as possible.

§ 7.1.3 Intermittent Stream No Disturbance Buffer

A. Buffer Required

A 50-foot vegetative buffer from all intermittent streams shall be required for all development.

B. Expanded Buffer May be Required

The intermittent stream buffer shall be expanded to include contiguous 100-year floodplain and non-tidal wetlands, hydric soils, highly erodible soils, and soils on slopes greater than 15 percent that are contiguous with the stream.

C. Modification

In the review of a site plan or subdivision plat, the Planning Commission may modify this buffer requirement provided the buffer is not less than 25 feet if it establishes written finding of fact that:

1. The development proposal provides heightened measures to minimize the runoff of stormwater from the site and to minimize impervious surfaces and the removal of natural vegetation within 50 feet of the stream; or

2. It is the development of a planned public street or other infrastructure that has necessitated an incursion into the buffer and evidence is provided that disturbance will be minimized in so far as possible; or

3. It is the development of other necessary public or community facilities that has necessitated an incursion into the buffer and evidence is provided that disturbance will be minimized in so far as possible.

§ 7.1.4 Non-tidal Wetland Buffer

A. Buffer Required

A 50-foot setback from all non-tidal wetlands shall be required for all development around the extent of the delineated non-tidal wetland except as permitted by the U.S. Army Corp of Engineers and the State of Maryland, Department of Natural Resources, Non-tidal Wetland Division.

B. Expanded Buffer May be Required

The wetland buffer shall be expanded to include contiguous 100-year floodplain and non-tidal wetlands, hydric soils, highly erodible soils, and soils on slopes greater than 15 percent that are contiguous with the wetland.

C. Modification

In the review of a site plan or subdivision plat, the Planning Commission may modify this buffer requirement provided the buffer is not less than 25 feet upon establishing written findings of fact that:

1. That the development proposal provides heightened measures to minimize the runoff of stormwater from the site and to minimize impervious surfaces and the removal of natural vegetation within 50 feet of the wetland; or
2. It is the development of a planned public street or other infrastructure that has necessitated an incursion into the buffer and evidence is provided that disturbance will be minimized in so far as possible; or
3. It is the development of other necessary public or community facilities that has necessitated an incursion into the buffer and evidence is provided that disturbance will be minimized in so far as possible.

§ 7.1.5 Steep Slopes

A. No Disturbance of Steep Slope

No structure, impervious surface or other land disturbance shall occur on any slope with a grade of 15 percent or greater unless the Zoning Administrator determines that the structure, impervious surface or land disturbance is necessary for stabilization of the slope.

B. Buffer

A minimum 50-foot buffer shall be established between development and the crest of slopes in excess of 25 percent.

§ 7.1.6 Habitats of Rare, Threatened and Endangered Species

Development shall avoid areas of Habitat of Rare, Threatened and Endangered Species as defined by the Maryland Department of Natural Resources.

§ 7.1.7 Forest Conservation

A. Forest Conservation Ordinance

The forest conservation ordinance of Cecil County shall be complied with in all respects within the boundaries of the Town of Chesapeake City.

B. Landscaping and Tree Requirements in Subdivisions

1. Existing trees shall be preserved whenever possible. The protection of trees six inches or more in diameter (measured at breast height) shall be given high priority in determining the location for open spaces, structures, underground utilities, walks, and paved areas, Areas in which trees are preserved shall remain at original level and shall remain undisturbed wherever possible.
2. Where extensive natural tree cover and vegetation does not exist, landscaping and the planting of native tree species shall be provided to establish a tree canopy, enhance the appearance of the development, aid erosion control and stormwater runoff management, provide protection from wind and sun, screen and shade streets and paved areas, promote energy conservation of buildings, and enhance the privacy of dwelling units.
3. If available, the Town's street tree planting guidelines shall be followed in all subdivisions.

§ 7.2 Landscaping and Screening

§ 7.2.1 General Applicability

The provisions of this section shall apply to all development where site plans are filed in accordance with the provisions of this Ordinance and to all public and private parking facilities. This Section establishes the minimum requirements for site landscaping and screening for projects requiring site plan review. More than the minimum requirements may be required to meet the purposes of this Ordinance.

In the review of Major Site Plans, the Zoning Administrator shall apply standards and conditions on the approval in relation to landscaping and screening in keeping with the purposes of §7.2.2 below.

§ 7.2.2 Purpose and Intent

A. Intent

This section is intended to set forth certain minimal requirements for the use of landscaping and planting in relation to site plan approvals.

B. Purposes

1. To screen or buffer incompatible uses in order to minimize the harmful impact of noise, dust and other debris, artificial light intrusion, and other objectionable activities or impact conducted or created by adjoining or nearby uses; and
2. To reduce the harmful effect of heat and noise, and the glare of motor vehicle lights; and
3. To help preserve underground water reservoirs, to permit the return of precipitation to the ground water strata and otherwise act as a natural drainage system to improve storm water drainage problems, prevent soil erosion and help meet the requirements of state storm water regulations; and
4. To provide shade and to prevent the blighting appearance of unkept parking lots; and
5. To promote compatibility among new and older development, accentuate traditional qualities and patterns of development, and expand the tree canopy in the Town.

§ 7.2.3 Landscaping Requirements

A. Landscape Plan

1. A landscaping plan shall be submitted for approval by the Planning Commission as part of every Major Site Plan. A landscaping plan may be required in certain cases as determined by the planning commission or zoning administrator for Minor Site Plans.
2. If deemed necessary the Planning Commission may require a review of the plan by a professional landscape architect/designer. All fees incurred will be paid for by the applicant.

B. Content of Landscape Plan

A landscaping plan shall include dimensions and distances and clearly delineate all buildings and existing and proposed parking spaces or other vehicle areas, access aisles, driveways,

and the location, size, species, and description of all landscaping materials to be used, preference shall be given to native species as set forth in the Town Planting Guide.

C. Perimeter Parking Lot Landscaping

All off-street parking lots, whether or not located on the same lot as the use, to which it is accessory, containing ten or more parking spaces shall meet the following perimeter landscaping requirements.

1. Property line landscape area between adjacent land uses shall be provided in accordance with the requirements set forth in this article.

2. Any parking lot that is adjacent to a road, public right-of-way, or Residential District shall provide a landscaping area width based upon the following right-of-way width:

   a. 60 feet wide or less: 10-foot minimum landscape area width.
   b. More than 60 feet wide: 15-foot minimum landscape area width.

3. Where the pavement width of the parking lot exceeds 60 feet, the landscape area adjacent to a road or public right-of-way shall be increased by 5 feet for every additional 60 feet of parking lot width perpendicular to the right-of-way as indicated in the following table:

PARKING LOT WIDTH	REQUIRED LANDSCAPE AREA WIDTH
45-60 FT.	10 FT.
61-120 FT.	15 FT.
121-180 FT.	20 FT.
181-240 FT.	25 FT.
241-300 FT.	30 FT.
301-360 FT.	35 FT.
361 OR GREATER	40 FT.

4. Each landscape area adjacent to a street, right-of-way, or Residential District shall contain a minimum of one tree per 40 feet of landscape area parallel to the right-of-way or Residential District or more than one tree per 40 feet when deemed appropriate by the Zoning Authority due to the location, size, configuration, or topographic condition of the lot. In addition, a vegetative screen, landscaped berm, wall, masonry wall, or other methods to reduce the visual impact of the parking area shall be provided. The vegetative screen shall have an average continuous height of 4 feet and be permanent, for example Evergreen.

5. Grass or ground cover shall be planted on all portions of the landscaped area not occupied by other landscape material.

6. Special notes on existing natural vegetation:

   a. In all cases where significant natural vegetation exists, as determined by the Planning Commission, there will be limits of clearing/ grading areas

established to protect and preserve these natural areas. These natural areas will not be disturbed by the installation of any structures, utilities, storm and sanitary sewers, water lines, sediment and erosion control traps, storm water management systems, and signage. Existing landscape material which is proposed to be used to fulfill landscape requirements shall be shown in the required plan.

b. In the case where buffers are created by the application of these standards, no structures will be permitted.

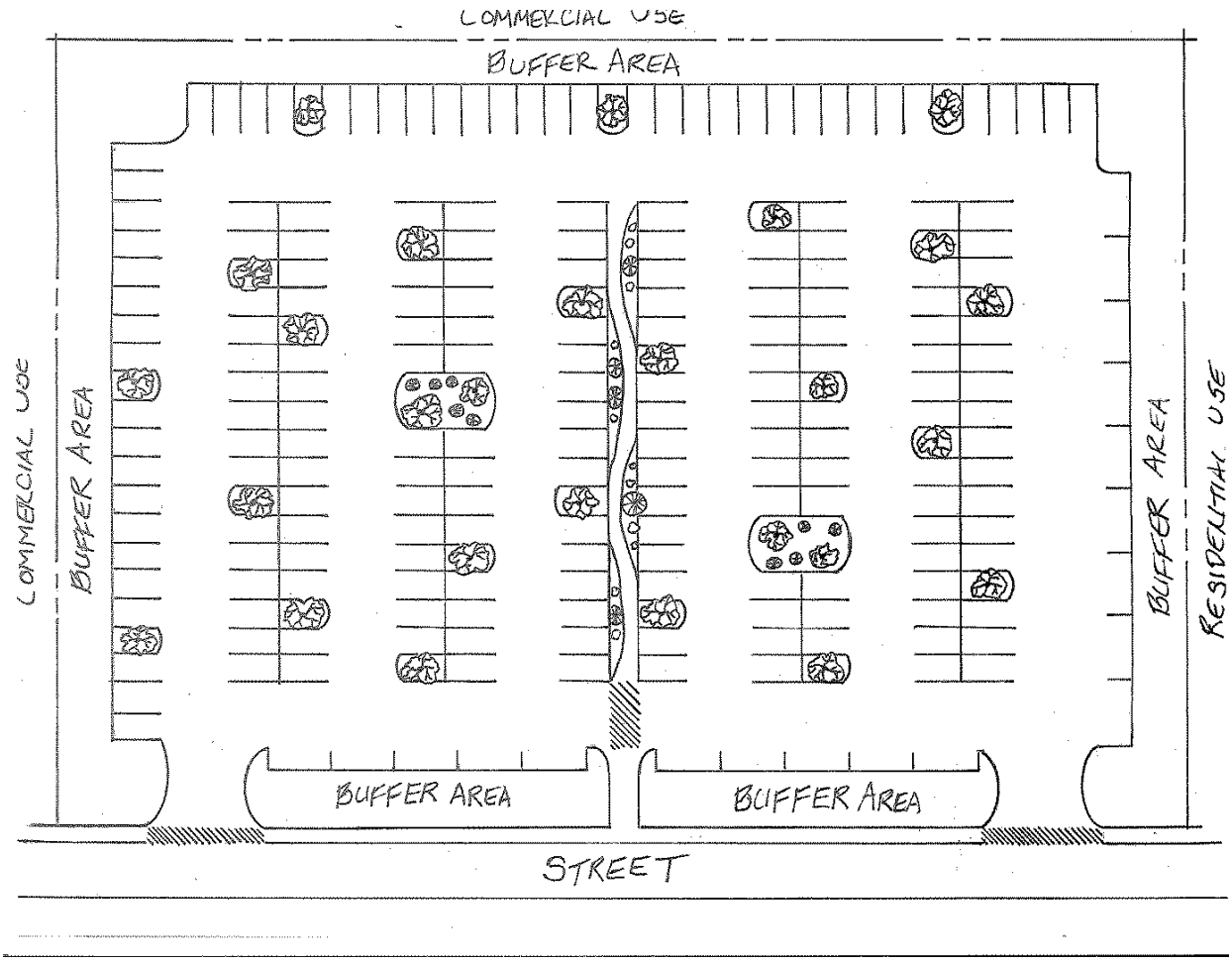
c. Where pedestrian and bike paths are proposed in the landscape area, such paths shall be meandering in order to preserve the existing trees.

7. Trees required as a part of the parking lot, street, or right-of-way landscaping may be placed on the right-of-way adjoining such vehicular use area when approved by the Planning Commission. Such trees shall be in addition to any street trees required by any development and/or subdivision regulations.

8. The required landscape area for parking areas may be combined with a utility or other easement only if all landscape requirements can be met. Otherwise, the landscape area shall be in addition to, and separate from, any easement.

9. In any parking lot perimeter landscaping area all trees shall be set back at least 4 feet from the edge of paving where vehicles overhang.

Illustration 3 – Depicting interior landscaping with staggered trees on parking aisles and pedestrian walkway.



D. Internal Landscaping of Parking Lot

1. For any parking lot containing more than 6,000 square feet of area or 15 or more spaces, interior landscaping shall be provided in addition to the previously required perimeter landscaping. Interior landscaping shall be contained in peninsulas or islands. An interior parking lot landscape island or peninsula is defined as a landscaped area containing a minimum area of 153 square feet having a minimum width of 8.5 feet and a minimum length of 18 feet. There shall be a minimum of 4 feet to all trees from the edge of paving where vehicles overhang. The minimum landscape area permitted shall be 10 percent of the parking area except as required for storm water management, each island or peninsula shall be enclosed by appropriate curbing or a similar device at least 6 inches wide and 6 inches in height above the paving surface.

2. Where a parking area is altered or expanded to increase the size to 3,000 or more square feet of area or 15 or more vehicular parking spaces, interior landscaping for the entire parking area shall be provided and not merely to the extent of its alteration or expansion.

E. Landscape area

For each 100 square feet, or less of vehicular use area, 5 square feet of landscaped area shall be provided. The interior landscaping requirement shall be computed on the basis of the "net parking facility." For the purposes of this Section, "net parking facility shall include parking stalls, access drives, aisles, walkways, dead spaces, and required separations from structures, but shall not include required street setbacks or access driveways or walkways within such setbacks.

1. Landscape islands or peninsulas - number required:
    a. For less than 100 spaces one island or peninsula is required for every 7 parking spaces.
    b. For 100 spaces or more, one island or peninsula is required for every 10 spaces.
    c. Each 10 parking spaces, shall require an interior planting island.
    d. All interior parking aisles shall contain at least 2 landscape islands. Adjoining aisles islands shall be staggered to present a random, natural appearance. Refer to appendix A, illustration #2.
2. In order to encourage the required landscape areas to be properly dispensed, no required landscape area shall be larger than the following:
    a. 350 square feet in parking areas under 30,000 square feet.
    b. 1,500 square feet in parking areas over 30,000 square feet.
3. Landscape areas larger than the above are permitted as long as the additional area is in excess of the required minimum, except that landscape areas larger than the maximum permitted may be allowed as required landscaping areas in those cases where significant natural vegetation exists.
4. A minimum of one large shade tree shall be required for each 250 square feet of required landscape area. The remaining area of the required landscaped area shall be landscaped with shrubs or ground cover not to exceed 2 feet in height, or grass.
5. Alternative parking area landscaping design may be considered by the permitting officials in cases where unique topography and site constraints dictate such alternative. The innovative use of planting design and materials is encouraged and will be evaluated on the intent demonstrated to fulfill the stated objectives of this ordinance.
6. Any parking lot of 25 or more spaces shall be internally landscaped with shade trees. Shade trees shall be planted in planting areas. Planting areas which shall comprise at least ten percent of the internal area of the parking lot and shade trees shall be installed such that no parking space is located more than 60 feet from a parking lot shade tree. Planting areas should be wide enough to allow for the mature growth of the tree chosen.

F. Landscaping for Storm water Management

1. Landscaping in relation to parking lots may be used for storm water management provided the requirements of this section are met.

G. Landscaping for service structures

When located in the general or marine commercial zone, all service structures shall be fully screened, when located within 100 feet of any zone other than general or marine commercial. For the purposes of this article, service structures shall include propane tanks, dumpsters, air

conditioning units and condensers, electrical transformers and other equipment or elements "providing service to a building or a site.

1. A continuous planting, hedge, wall, masonry wall, or earth mound shall enclose any service structure or loading zone on all sides unless such structure must be frequently moved, in which case screening on all but one side is required. The average height of the screening material shall be one foot more than the height of the enclosed structure, but shall not be required to exceed 8 feet in height. Whenever a service structure is located next to a building wall, perimeter landscaping material, or vehicular use area landscaping material, such walls or screening material may fulfill the screening requirement for that side of the-service structure if that wall or screening material is of an average height sufficient to meet the height requirement set out in this section. No interior landscaping shall be required within an area screened for service structures

2. Protection of screening material. Whenever screening material is placed around any trash disposal unit or waste collection unit that is emptied or removed mechanically on a regular basis, a fixed barrier to contain the placement of the container shall be provided within the screening material on those sides where there is such material. The barrier shall be at least 18 inches from the material and shall be of sufficient strength to prevent possible damage to the screening when the container is moved or emptied. The minimum front opening of the screening material shall be 12 feet to allow service vehicles access to the container.

H. Building Wall Yard Planting

A planting area shall be established along any building wall facing an adjacent off-street parking lot or right-of-way. Shade trees, ornamental trees, and shrubs shall be planted in this planting area to aesthetically enhance the appearance of buildings and provide shade according to the following minimum standard: one shade tree for every 40 feet of wall yard length and one ornamental tree for every 30 feet of wall yard length.

I. Required Planting Material

In meeting the requirements of this Ordinance, only those plants listed on the Town's Recommended Plant and Landscape Guidelines which shall be maintained by the Zoning Administrator, shall be used.

J. Maintenance

1. All plant material shall be tended and maintained in a healthy growing condition, replaced when necessary and kept free of refuse and debris. Walls shall be maintained in good repair.

2. The owner shall be responsible for the maintenance, repair and replacement of all landscaping and screening materials as may be required by the provisions of this Section.

3. Failure to maintain required landscaping, or to adhere to an approved landscaping plan, shall constitute a zoning violation subject to the remedies set forth in this Ordinance.

§ 7.2.4 Waiver or Modification

Provided that the Planning Commission establishes findings of fact that a modification will not have any detrimental effect on existing or planned development of adjacent properties, it may approve a waiver or modification of the requirements of this Section. Such waiver or modification may be approved in the following instances: for an interim use of a duration of less than two years; or where deemed appropriate due to the location, size, configuration or

topographic condition of the lot, provided the Planning Commission finds that the purposes of this section will be met.

§ 7.2.5 Screening, Buffer Yards, and Shading

A. Buffers

1. Purpose

   a. One of zoning's most important functions is the division of land uses into districts which have similar character and contain compatible uses. All uses permitted in any district have generally similar nuisance characteristics. Buffer yards will operate to minimize the negative impact of any future use on neighboring uses.

   b. The buffer yard is a combination of setback and a visual buffer or barrier and is a yard or area together with the planting required thereon. Both the amount of land and the type and amount of planting specified for each buffer yard requirement of this Ordinance are specified and are designed to reduce nuisances between adjacent zoning districts to ensure a desired character along public streets and roads. The planting units required of buffer yards have been calculated to ensure that they do, in fact, function as "buffers."

   c. Buffer yards shall be required to separate different zoning districts from each other in order to eliminate or minimize potential nuisances such as dirt, litter, noise, glare of lights, signs, and unsightly buildings or parking areas, or to provide spacing to reduce adverse impacts of noise, odor, or danger from fires or explosions. Mature woodlands are considered the best buffers and should be used whenever possible.

   d. Buffer yards shall be required to minimize the impact of satellite parking on all adjacent properties.

2. Location of Buffer Yards

   a. Buffer yards shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line. Buffer yards shall not be located on any portion of an existing or dedicated public or private street or right-of-way. Buffer yards shall not be located within a yard required in a single family attached (townhouse) development or planned unit development.

3. Determination of Required Buffer yard

   To determine the type of buffer yard required on a parcel or between two parcels or between a parcel and a street, the following procedure shall be used:

   a. Identify whether any portion or property line of the site constitutes a zoning district boundary. If it does, determine the zoning on both sides of the property.

   b. Determine whether the land on the adjoining property is vacant or developed or whether a plat of the subdivision has been approved.

   c. Classify any street adjacent to the proposed use as a local, collector, or arterial street.

   d. Determine the buffer yard required on each boundary (or segment thereof) of the subject parcel by referring to the Tables of Required Buffer yards.

e. Determine if the proposed development is a use which has buffer yards required to separate that use from certain uses. Then determine the buffer yard required between such uses by referring to the Tables of Required Buffer yards.

4. Responsibility for Buffer yards

a. When a proposed use adjoins a vacant parcel for which a buffer yard is required by the presence of a zoning boundary, that use shall at the time of development provide one-half of the buffer which is required by the Tables of Required Buffer yards.

b. The second use to develop shall, at the time it develops, provide all additional plant material and/or land necessary to provide the total buffer yard required between those 2 uses. If the adjoining use had developed without a buffer yard, the second use will be responsible for installing the total buffer yard.

c. Existing plant material and/or land located on the preexisting (first developed) land use which meets the requirements of this Ordinance may be counted as contributing to the total buffer yard required between it and the second (adjacent) land use to develop.

5. Tables of Required Buffer yards:

REQUIRED BUFFERYARD BETWEEN ADJACENT ZONING DISTRICTS					
ZONE	NRR	TND (all)	V1	MC	GC
NRR	A	B	B	C	E
TND (all)	B	C	B	C	E
VC	B	B	B	C	D
MC	D	D	C	B	C
GC	E	E	D	C	A

REQUIRED STREET BUFFERS	FUNCTIONAL CLASSIFICATION		
ZONING DISTRICTS	ARTERIAL	COLLECTOR	LOCAL
TND (all), NRR	D	C	B
VC	B	B	B
MC, GC	C	C	C

6. Buffer yard Requirements

   a. Illustrations graphically indicating the specification of each buffer yard are contained in Appendix B.

7. Buffer yard Use

   a. A buffer yard may be used for passive recreation or storm water management. It may contain pedestrian, bike, or equestrian trails provided that: (a) no plant material is eliminated, (b) the total width of the buffer yard is maintained, and (c) all other regulations of the Ordinance are met. (d) In no event, however, shall swimming pools, tennis courts or other such uses be permitted in buffer yards. The Planning Commission may allow substitution or reduction of the buffer yard if it finds that the required buffer yard will obstruct the view of a driver or that the buffer yard is incompatible with the existing streetscape.

8. Ownership of Buffer yards

   a. Buffer yards may remain in the ownership of the original developer (and assigns) of a land use, or they may be subjected to deed restrictions and subsequently be freely conveyed, or they may be transferred to any consenting grantees, such as adjoining landowners, the Town of Chesapeake City, or a homeowner's association, provided that any such conveyance adequately guarantees the protection of the buffer yards for the purposes of this Ordinance. Final Ownership shall be specified and approved by the Planning Commission.

9. Buffer yards Which Exceed Minimum Requirements

   Where the buffer yard required between a land use and vacant land turns out to be greater than that buffer yard which is required between the first use and the subsequently developed use, the following options apply:

   a. The subsequent use may provide one half of the buffer required by this Section. The existing use may expand its use into the original buffer area, provided that the resulting total buffer yard between the two uses meets the buffer yard requirements of this Section.

   b. The existing use may enter into agreements with abutting landowners to use its existing buffer to provide some or all of the required buffer yard of both land uses. The total buffer shall equal the requirements of this Section. Provided that such an agreement can be negotiated, the initial use may provide the second use some or all of its required buffer yard and/or extra land on which it might develop. The existing use may reduce its excess buffer by transferring part or all of the excess buffer to the adjoining landowner to serve as its buffer. Any remaining excess buffer area may be used by the existing use for expansion of that use or for transfer by it to the adjoining landowner to expand that adjoining use.

10. Contractual Reduction of Buffer yards

   a. When a land use is proposed adjacent to vacant land, and the owner of that vacant land enters into a contractual relationship with the owner of the land that is to be developed first, a reduced buffer may be provided by that first

use, provided that: the contract contains a statement by the owner of the vacant land of an intent to develop at no greater than a specified land use intensity class; and an agreement by the owner of the land that is to be developed first to assume all responsibility for additional buffer, if needed by the subsequent development of a less intense use than had been agreed upon, is transferred to the owner of the vacant (second in time to be developed) land.

B. Shading

1. Town Findings and Declaration of Policy for Shade Trees

   a. The Town finds that:

      i. Trees are proven producers of oxygen, a necessary element for human survival,

      ii. Trees appreciably reduce the ever increasing environmentally dangerous carbon dioxide content of the air and play a vital role in purifying the air we breathe,

      iii. Trees transpire considerable amounts of water each day and thereby purify the air much like the air-washer devices used on commercial air conditioning systems,

      iv. Trees have an important role in neutralizing stormwater passing through the ground from the surface to ground water tables and lower aquifers,

      v. Trees, through their root systems, stabilize the soil and play an important and effective part in soil conservation, erosion control, and flood control,

      vi. Trees are an invaluable physical, aesthetic, and psychological counterpoint to the urban setting, making urban life more comfortable by providing shade and cooling the air and land, reducing noise levels and glare, and breaking the monotony of human developments on the land, particularly parking areas, and

      vii. For the reasons indicated herein, trees have an important impact on the desirability of land and therefore on property values.

   b. Based upon the findings set forth in Subsection 1., the Town declares that it is not only desirable but essential to the health, safety, and welfare of all persons living or working within the Town to protect certain existing trees and, under the circumstances set forth in this article, to require the planting of new trees in certain types of developments.

2. Required Trees along Dedicated Streets

   a. Along both sides of all newly created streets that are constructed in accordance with the Chesapeake City street standards, the developer shall at a minimum either plant or retain sufficient trees so that between the paved portion of the street and a line running parallel to and 50 feet from the centerline of the street, there is for every 50 feet of street frontage at least an average of one deciduous tree that has or will have when fully mature a trunk at least 12 inches in diameter. When trees are planted by the developer

pursuant to this section, the developer shall choose trees that meet the standards set forth in Appendix A.

3. Retention and Protection of Large Trees

   a. Every development shall retain all existing trees 18 inches in diameter or more unless the retention of such trees would unreasonably burden the development.

   b. No excavation or other subsurface disturbance may be undertaken within the drip line of any tree 18 inches in diameter or more, and no impervious surface (including, but not limited to, paving or buildings) may be located within 12 1/2 feet (measured from the center of the trunk) of any tree 18 inches in diameter or more unless compliance with this subsection would unreasonably burden the development. For purposes of this subsection, a drip line is defined as a perimeter formed by the points farthest away from the trunk of a tree where precipitation falling from the branches of that tree lands on the ground.

   c. The retention or protection of trees 18 inches in diameter or more as provided in Subsections 1. and 2. unreasonably burdens a developer if, to accomplish such retention or protection, the desired location of improvements on a lot or the proposed activities on a lot would have to be substantially altered and such alteration would work an unreasonable hardship upon the developer.

   d. If space that would otherwise be devoted to parking cannot be so used because of the requirements of Subsections 1. or 2., and, as a result, the parking requirements set forth in Article 6 cannot be satisfied, the number of required spaces may be reduced by the number of spaces "lost" because of the provisions of Subsections 1. and 2., up to a maximum of 15 percent of the required spaces.

4. Shade Trees in Parking Areas

   a. Vehicle parking areas that are required to be paved must be shaded by deciduous trees (either retained or planted by the developer) that have or will have when fully mature a trunk at least 12 inches in diameter. When trees are planted by the developer to satisfy the requirements of this subsection, the developer shall choose trees that meet the standards set forth in Appendix A.

   b. Each tree of the type described in Subsection 1 shall be presumed to shade a circular area having a radius of 15 feet with the trunk of the tree as the center, and there must be sufficient trees so that, using this standard, 20 percent of the vehicle accommodation area will be shaded.

   c. No paving may be placed within 12 1/2 feet (measured from the center of the trunk) of any tree retained to comply with Subsection 1., and new trees planted to comply with Subsection 1. shall be located so that they are surrounded by at least 200 square feet of unpaved area.

   d. Vehicle accommodation areas shall be laid out and detailed to prevent vehicles from striking trees. Vehicles will be presumed to have a body overhang of four feet.

§ 7.3 Parking and Loading

§ 7.3.1 Intent and Purposes

A. Intent

This section establishes requirements for motor vehicle and bicycle parking, including the minimum number of spaces required by land use.

B. Purposes

1. To ensure that adequate parking spaces are provided in relation to development sites at the time of development so that parking does not overflow onto adjoining streets which may not be designed to handle it.
2. To ensure that accommodation is made for bicycle parking.

C. Definitions

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

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

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

Gross Floor Area (GFA)- The total area of a building measured by taking the outside dimensions of the building, including any attached structures or outside dining areas, at each floor level intended for occupancy or storage.

Loading and Unloading Area- The portion of the vehicle accommodation area used for off-street Loading and Unloading to accommodate the delivery/shipment process and other normal daily operations.

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

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

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

Community Garage- A bank of one-story garages, not more than 6 in number, with a maximum of 280 sq. feet each. Access by a common means accessory to an existing structure to be used for residential storage only.

Satellite Parking- The number of off-street parking spaces required by this ordinance that cannot be provided on the same lot where the principle use associated with these parking spaces are located.

§ 7.3.2 Off-Street Parking Required

A. Schedule of Required Parking

1. In all districts, space for parking vehicles shall be provided in accordance with the Schedule of Minimum Off-Street Parking Requirements by Land Use set forth in Table 4 of this Ordinance.
2. Subject to approval by Planning Commission, off-street parking requirements may be varied or modified within the Historic District and for designated historic sites without adherence to §7.3.3 of this Ordinance.
3. The Town recognizes that the Table of Parking Requirements set forth in Table 4 cannot and does not cover every possible situation that may arise. Therefore, in cases not specifically covered, the zoning authority is authorized to determine the parking requirements using this table as a guide.
4. If minimum parking requirements cannot be met an applicant may request mitigation to obtain a permit for the required number of spaces. The Planning Commission may choose to recommend the applicant pay parking mitigation or provide for other mitigation as the Commission deems appropriate.
5. A parking space for which a fee is required to be paid in order to park may not be used to satisfy the minimum required parking spaces set forth in Table 4.

TABLE 4 (Part 1 of 2): SCHEDULE OF MINIMUM OFF-STREET PARKING REQUIREMENTS BY LAND USE

Use	Minimum Required Parking Spaces
Residential	
Single family residential - detached	2/dwelling unit
Single family residential - attached	2/dwelling unit
Two-family, duplex	2/dwelling unit
Accessory Apartment	1/dwelling unit
Multi-family Dwelling	1.5/dwelling unit
Boarders in Residence	1 per boarder, plus residential requirement
Group Home, Halfway House	1 per staff, plus 1 per 2 residents
Boarding House	1 per unit, plus residential requirement
Intermediate Care Institutions	*
Day Care Home	1 per staff, plus residential requirement
Day Care Center, Day Nursery (30 or fewer people)	3 per classroom
Homeless Shelter	*
Bed and Breakfast, County Inn	1 per unit, plus residential requirement
Home Occupations	1 per employed non-resident, plus residential requirement
Home Occupations, such as physician, dentist	2 per doctor, plus residential requirement
Institutional	
Schools, elementary, secondary, trade, and vocational colleges	*
Studios for instruction in dance, art, music, similar	1 per 5 students

Churches and other buildings for religious assembly	1 per 4 seats in main assembly hall
Monasteries, convents	1 per 6 seats in main assembly hall
Lodges, clubs, fraternal organizations	*
Nursery Schools, Day Care Centers (with more than 30 people)	3 per classroom
Libraries, other public administrative and cultural buildings	*
Cemeteries	*
Hospitals, medical clinics and similar centers in excess of 10,000 sf	*
Nursing care institutions, child care institutions	1 per staff, plus 1 per 5 residents
Public or non-profit park and/or recreational area	**

TABLE 4 (Part 2 of 2): SCHEDULE OF MINIMUM OFF-STREET PARKING REQUIREMENTS BY LAND USE

Use	Minimum Required Parking Spaces
Commercial	
Artist, photographer galleries, studios	1 per 500 sf GFA
Retail Shops, including service/repair such as clock or jewelry repair	1 per 350 sf GFA
Convenience, grocery, department, variety, hardware, dry goods stores	1 per 300 sf GFA
Hotels, motels	1 per unit, plus 1 per staff
Personal service shops, barber, salons, shoe repair, dry cleaning	1 per 250 sf GFA
Personal services such as Health and Fitness Center, Spa	1 per 300 sf GFA
Computer repair shops, small appliance repair, similar	1 per 400 sf GFA
Banks and Financial Institutions	1 per 300 sf GFA
Places of indoor amusement, movie cinema, theater	1 per 4 seats
Professional office	2 per professional
Medical or dental office, clinic or center under 10,000 sf	1 per 250 sf GFA
Business offices, including finance, insurance, real estate	1 per 400 sf GFA
Business services, plumbing shops, contractor shops	1 per staff
Building materials, lumber yards, boat and heavy equipment sales, etc.	*
Restaruants, standard	2 per 200 sf of GFA, plus 1 per 5 seats
Restaruants, fast food, drive-in thru	1 per 250 sf GFA
Pubs, taverns, nightclubs, dance halls	1 per 250 sf GFA
Resorts	**

Shopping Center	**
Small-scale manufacturing and assembly uses, warehousing	1 per staff
Animal hospital, veterinarian clinic	1.5 per exam room
Kennel/Cattery	1 per staff
Funeral Parlor	1 per 4 seats in chapel
Marina	0.5 per boat slip
Nursery for plants, greenhouses	*
Private outdoor amusement/recreational activities	**
Filling station, service stations, automotive repair, full service garage	1 per pump, plus 1 per service bay, plus 1 per staff
Motor vehicle sales, rental, service	1 per 300 sf GFA
Automotive body shop	1 per service bay, plus 1 per staff
Miscellaneous	
Public utility building/facility	*
Temporary buildings incidental to construction	**
Festivals, events of public interest, special events, occasional, outdoor	**

* Minimum parking shall be 1 space per staff plus spaces in number as determined by the Town Approving Authority to serve the visiting/resident public.

**Minimum parking shall be established by the Town Approving Authority upon review and approval of a site plan and/or zoning permit.

B. Parking Space Dimensions

1. Subject to Subsections 2 and 3, each parking space shall contain a rectangular area at least 18 feet long and 10 feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this section.
2. Wherever parking areas consist of spaces set aside for parallel parking, the dimensions of such parking spaces shall be not less than 23 feet by 9 feet. Parallel parking spaces in the Historic Area District may be less than 23 feet by 9 feet.
3. Each handicapped parking space shall meet the requirements of the American Disabilities Act.

C. Minimum Parking Space Area

1. An off-street parking space shall comprise not less than 18 feet long and 10 feet wide per angled parking stall and 23 feet long by 9 feet wide per parallel parking stall plus necessary maneuvering space.
2. Space for maneuvering incidental to parking or un-parking shall not encroach upon any public right-of-way.

D. Required Widths of parking area Aisles and Driveways

1. Parking area aisle widths shall conform to the following table, which varies the width requirement according to the angle of parking.

Parking Angle

Aisle Width	0°	30°	45°	60°	90°
One-Way Traffic	15	15	16	18	24
Two-Way Traffic	22	22	22	23	24

2. Driveways shall be not less than 10 feet or exceed 15 feet in width for one-way traffic and less than 18 feet or exceed 30 feet in width for two-way traffic, except that 10-feet-wide driveways are permissible for two-way traffic when (a) the driveway is no longer than 50 feet, (b) it provides access to not more than 6 spaces, and (c) sufficient turning space is provided so that vehicles need not back into a public street.

E. General Design Requirement

1. Unless no other practicable alternative is available vehicle accommodation areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing onto a public street. This requirement does not apply to parking areas consisting of driveways that serve one or two dwelling units, although backing onto arterial streets is discouraged.

    a. Exits from parking lots shall be configured to avoid being directly across from a residential driveway, residence, or commercial driveway unless necessary.

2. Vehicle accommodation areas of all development shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements.

3. Every vehicle accommodation area shall be designed so that vehicles cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way. Such areas shall also be designed so that vehicles do not extend over sidewalks or tend to bump against or damage any wall, vegetation, or other obstruction.

    a. In order to reduce glare of headlights, parking spaces located along a property line should be positioned to avoid parked vehicles facing directly into a street or residence, by using parallel parking along the adjoining property line.

4. Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.

    a. In parking lots over 50 spaces, landscaped pedestrian walkways are required to provide safe passage through parking lots to an exit or street sidewalk. Such walkways are to be installed from the rear of the parking lot to an exit or street. (Refer to Illustration #3)

5. Any lighting used to illuminate off-street parking areas shall be arranged so as to reflect away from any adjoining residential zone or uses and any public or private right-of-way.

6. A “sight triangle” shall be observed within a triangle formed by the intersection of the street lines and points on the street line 25 feet from the intersection at all street intersection or intersections of driveways with streets.

7. All parking areas shall be drained so as to dispose of all surface water within the parking area without carrying the said water accumulation over a public sidewalk. Piping the water to a suitable outfall may be required.

8. Permanent storm water management shall be provided for all off-street parking areas as required by the Town of Chesapeake City.

9. No required off-street parking space in any residential zone (TND-ALL, VC, NRR) shall be located within any required front yard with the exception of infill lots.

10. Off-street parking facilities may be located within the required front yard of any general or marine commercial zone, but shall not be nearer than 50 feet to any residential district.

11. Special access, surface, and location requirements for garages, parking lots, automobile service stations, and vehicle sales lots:

    a. No building, structure or premises shall be used, erected, or altered which is intended or designed to be used as a community garage, an automobile repair shop, a service station, or a parking lot or structure as the principle use on a property, which has an entrance or exit for vehicles in the same block front and within 200 feet of the property boundary of any school, public playground, church, hospital, public library, convalescent, nursing, or rest home, orphanage, and no such entrance or exit, except for a community garage, shall be located within 20 feet of any residential zone; nor shall any structure used for an automobile repair shop or service station or any part of a parking lot or structure be located within 100 feet of any property boundary line of any of the aforesaid public or institutional uses. "Parking lot" as used herein does not include off-street parking areas as otherwise required for the public or institutional uses listed above.

    b. No gasoline pump or similar appliance for any purpose shall be located within 15 feet of any right-of-way or within 50 feet of a residential zone, except where such a pump or appliance is within a completely enclosed building and is at a distance at least 15 feet from any vehicular entrance or exit of such building. Except for gasoline service stations, no gasoline pumps shall be permitted as an accessory use for another activity unless a site plan is submitted to and approved by the Planning Commission.

12. Parking areas that are required to have more than 50 parking spaces and that are used at least five days per week shall have 1 refuse container per 50 spaces which will be provided by and maintained by the owner of said property.

F. Vehicle Accommodation Area Surfaces

1. Vehicle accommodation areas that (a) include lanes for drive-in windows, (b) provide on premise parking or (c) contain parking areas that are required to have more than 6 parking spaces and that are used regularly at least five days per week, shall be graded and surfaced with asphalt, concrete or other material that will provide equivalent protection against potholes, erosion, and dust as per applicable Town specifications.

2. Vehicle accommodation areas that are not provided with the type of surface specified in Subsection 1 of this section shall be graded and surfaced with crushed stone, gravel or other suitable material to provide a surface that is stable and will help to reduce

dust and erosion. The perimeter of such parking areas shall be defined by bricks, stones, railroad ties – not permanent -, concrete, or other similar devices. In addition, whenever such a vehicle accommodation area abuts a paved street, the driveway leading from such street to such area (or, if there is no driveway, the portion of the vehicle accommodation area that opens onto such streets), shall be paved as provided in Subsection 1 for a distance of 20 feet back from the edge of the paved street. This subsection shall not apply to single-family or two-family residences.

3. Parking spaces in areas surfaced in accordance with Subsection 1 of this section shall be appropriately demarcated with painted lines or other markings. Parking spaces in areas surfaced in accordance with Subsection 2 of this section shall be demarcated whenever practicable.

4. Vehicle accommodation areas shall be properly maintained in all respects. In particular, and without limiting the foregoing, vehicle accommodation area surfaces shall be kept in good condition (free from potholes, weeds, overgrowth, trash, clutter, dust, etc.) and parking space lines or markings shall be kept clearly visible and distinct.

G. Special Provisions for Lots with Existing Buildings

1. Any increase in the intensity of use of any structure such as the addition of dwelling units, gross floor area, seating capacity, or any other unit of measurement used as a basis for determining required parking facilities. When the intensity of use of any structure is increased from the date of this Ordinance parking facilities shall be provided for the increase of use.

2. When the use of any structure or premises is changed to a different use, parking facilities shall be provided for the different use.

§ 7.3.3 Modification of Parking Requirement

A. Due to Site Conditions

Should the configuration of the lot, the placement of existing conforming structures, or a change of use to a conforming but more intensive use, preclude strict adherence §7.3.2, the Planning Commission, in relation to a Major Site Plan, or the Zoning Administrator in relation to a Minor Site Plan, may modify the parking requirements provided there are findings of facts that:

1. Adequate public off-street parking is available within reasonable walking distance, or;

2. On-street parking is available and adequate and that the parking required by the contemplated use will not materially impede the flow of traffic or preempt existing residential parking; or

3. A written agreement is established and made part of any site plan approval, allowing parking required by the use of an adequate off-street parking lot within a reasonable walking distance. Such agreement, as necessary, shall become a deed restriction or easement on the property.

B. Due to Joint Use of Parking

Where joint use of parking by one or more uses is possible, the Planning Commission, in relation to a Major Site Plan, or the Zoning Administrator in relation to a Minor Site Plan, may modify the parking requirements provided there are findings of facts that:

1. Joint use of parking spaces will not reduce the availability of parking spaces below the minimum required number of spaces required by each use during its peak demand.

2. A written agreement is established and made part of any site plan approval providing for the joint use of spaces. Such agreement, as necessary, shall become a deed restriction or easement on the property.

C. Reduction Due to Lack of Demand

Should the applicant demonstrate and the Planning Commission, in relation to a Major Site Plan, or the Zoning Administrator in relation to a Minor Site Plan, find that a sizeable share of site-related traffic would access the site by bicycle and/or walking, then minimum parking requirements may be reduced.

D. Parking in Front Yards in all TND Zones

The use of the required front yard on single-family lots in all TND and VC zones for the parking or storage of motorized and non-motorized vehicles of any kind is prohibited, except where the creation of the lot predates the adoption of this zoning ordinance.

E. Satellite Parking

1. If the number of off-street parking spaces required by this ordinance cannot reasonably be provided on the same lot where the principle use associated with these parking spaces is located, or if the on-site parking for an existing commercial use is otherwise inadequate, then spaces may be provided on adjacent or nearby lots in accordance with the provisions of this section. These off-site spaces are referred to in this section as satellite parking spaces.

2. If the property upon which the satellite parking is to be located is not under the same ownership as the property upon which the principle associated use is located, written authorization of the owner of the property upon which the satellite parking is to be located is required, and evidence of such shall be furnished.

3. All satellite parking spaces shall be located in the same zoning district as the structures or uses served or shall abut the property upon which the principle use is associated, or shall be directly across a street, roadway, or alley from the associated property.

4. Satellite parking spaces shall be used solely for the parking of passenger vehicles. No sign of any kind, other than designating ownership, entrances, exits, and condition of use, shall be maintained on such satellite parking areas.

5. Each new entrance and exit, to and from such parking area shall be at least 20 feet away from any adjacent lot line located in any residential zone.

6. The satellite parking areas shall be subject to all requirements of this ordinance concerning surfacing, lighting, drainage, landscaping, screening, and setbacks.

§ 7.3.4 Minimum Bicycle Parking Requirements by Land Use

A. Schedule of Required Parking

Bicycle parking shall be provided in accordance with the following schedule. In all districts, either space for parking and/or storage of bicycles shall be provided or the applicant shall demonstrate that adequate bicycle parking is provided for.

bed and breakfast, hotels, motels	2, or 1 per 25 employees
retail sales, service operations	2, or 1 per 5,000 s.f. gfa
office buildings	2, or 1 per 5,000 s.f. gfa
museums, libraries, similar	4, or 1 per 3,000 s.f. gfa
churches, similar	1 per 50 members
community centers	1 per 250 s.f. gfa
schools	
a) elementary	1 per 10 students
b) middle and high	1 per 6 students
indoor amusement	4, or 1 per 50 seats
restaurants	4, or 1 per 50 seats
other commercial	2, or 1 per 50 employees

B. Waiver or Modification

The Planning Commission may waive or modify the bike parking requirement in the Village Center District where adequate publicly accessible bike parking is already provided within a reasonable walking distance.

C. Design of Bicycle Parking Spaces

1. Each bicycle parking space shall be sufficient to accommodate a bicycle at least six (6) feet in length and two feet wide, and shall be provided with some form of stable frame permanently anchored to a foundation to which a bicycle frame and both wheels may be conveniently secured using a chain and padlock, locker, or other storage facilities which are convenient for storage and are reasonably secure from theft and vandalism. The separation of the bicycle parking spaces and the amount of corridor space shall be adequate for convenient access to every space when the parking facility is full.
2. When automobile parking spaces are provided in a structure, all required bicycle spaces shall be located inside that structure or shall be located in other areas protected from the weather. Bicycle parking spaces in parking structures shall be clearly marked as such and shall be separated from auto parking by some form of barrier to minimize the possibility of a parked bicycle being hit by a car.
3. Bicycle parking spaces shall be located near the entrance of use being served and within view of pedestrian traffic if possible and shall be sufficiently secure to reasonably reduce the likelihood of bicycle theft.
4. Bicycle parking facilities shall not impede pedestrian or vehicular circulation.
5. Racks must not be placed close enough to a wall or other obstruction so as to make use difficult. There must be sufficient space (at least 24 inches) beside each parked bike that allows access. This access may be shared by adjacent bicycles. An aisle or other space shall be provided to bicycles to enter and leave the facility. This aisle shall have a width of at least six feet to the front or rear of a bike parked in the facility.
6. Paving is not required, but the outside ground surface shall be finished or planted in a way that avoids mud and dust. Bike parking facilities within auto parking areas shall be separated by a physical barrier to protect bicycles from damage by cars, such as curbs, wheel stops, poles or other similar features.

§ 7.3.5 Off-Street Loading Spaces Required

A. Loading Area Required

1. Whenever the normal operation of any development requires that goods, merchandise, or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading and unloading area must be provided in accordance with this section to accommodate the delivery or shipment operations in a safe and convenient manner.

2. The loading and unloading area shall be of sufficient size to accommodate the numbers and types of vehicles that are likely to use this area given the nature of the development in question. The following table indicates the number and size of spaces that, presumptively, satisfy the standard set forth in this subsection. However, the permit-issuing authority may require more or less loading and unloading area if reasonably necessary to satisfy the foregoing standard.

GROSS FLOOR AREA OF A BUILDING	NUMBER OF SPACES*
1,000 – 19,999	1
20,000 – 79,999	2
80,000 – 127,999	3
128,000 – 191,999	4
192,000 – 255,999	5
256,000 – 319,999	6
320,000 – 391,999	7

Plus one (1) space for each additional 72,000 square feet or fraction thereof.

* Minimum dimensions of 12 feet x 55 feet and overhead clearance of 14 feet from street grade required.

3. Loading and unloading areas shall be so located and designed that the vehicles intended to use them can (a) maneuver safely and conveniently to and from a public right-of-way, and (b) complete the loading and unloading operations without

obstructing or interfering with any public right-of-way or any parking space or parking lot aisle.

4. No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking to be used to satisfy the area requirements for loading and unloading-facilities.

5. Whenever (a) there exists a lot with one or more structures on it constructed before the effective date of this ordinance, and (b) a change in use that does not involve any enlargement of a structure is proposed for such lot, and (c) the loading area requirements of this section cannot be satisfied because there is not sufficient area available on the lot that can practicably be used for loading and unloading, then the developer need only comply with this section to the extent reasonably possible.

6. No such space shall be located closer than 50 feet to any other lot in any residential district unless wholly screened within a completely enclosed building or unless enclosed on all sides by a wall or screening fence not less than 6 feet in height.

§ 7.3.6 Exterior Lighting

A. Lighting Plan

1. An exterior Lighting Plan shall be submitted as part of every Major Site Plan and Major Subdivision Plat for approval by the Planning Commission.

2. Where a landscaping plan is required, the Lighting Plan shall be incorporated into or overlaid on the required landscape plan and include locations, dimensions and distances and illumination areas associated with all light fixtures.

3. Light fixtures shall conform to the Town's standards and design specifications.

4. The Lighting Plan shall provide that the illumination area generated from proposed lighting fixtures located on the Lighting Plan will not overlap adjoining properties or rights-of-way.

B. Outdoor Lighting

1. Outdoor lighting facilities shall be required for off-street parking, off-street loading, and ingress and egress thereto for all residential developments and for all business, commercial, personal service, industrial, recreational, institutional, public, and other uses. All proposed intersections with an arterial or collector road, as defined by functional classification shall have streetlights.

2. Lighting plans shall be submitted to the Planning Commission for review and approval with all applications for conditional uses, special exceptions, variances, and subdivision and land development plans. The required lighting plan shall include the following information:

   a. A site plan containing a layout of the proposed fixture locations and type, including, at minimum, a plan displaying a ten-foot by ten-foot grid of all areas on the lot to be affected by lighting if such site plan for lighting does not display the entire parcel; an additional site plan that displays the parcel, structures, and streets must be included, with the area(s) to be affected by lighting displayed on the site plan.

   b. Catalogue cuts and photometrics for each light fixture, the method of energizing each light fixture, a listing of the hours of operation and a plan

showing the photometrics for the entire site, based upon the proposed placement of the light fixtures. A description of glare-reduction devices, lamps, wattage, control devices, mounting heights, pole foundation details, and mounting methods, as appropriate for each fixture, should also be included.

3. The Town reserves the right to conduct a post-installation nighttime inspection to verify compliance with the requirements of this chapter and, if appropriate, to require remedial action at no expense to the Town.

C. Design Standards

1. Outdoor lighting standards in parking areas shall not be located farther than 100 feet apart.

2. No outdoor lighting shall be permitted which shines directly into residential units or results in glare beyond an angle of 35° from a vertical plane.

3. All outdoor lighting shall be effectively shielded and shall be arranged so as to protect street and neighboring properties from direct glare or light radiation which may cause a safety problem or nuisance. Authority for determination shall rest with the Town Engineer.

4. For lighting horizontal tasks such as roadways, pathways and parking areas, fixtures shall meet IESNA standards or equivalent.

5. Floodlights and spotlights shall be so installed and aimed so that they do not project their output into the windows of neighboring residences, businesses, adjacent uses, directly skyward or onto a roadway.

6. Illuminated signs shall have an indirect lighting source or use directional lighting fixtures that shall be top-mounted, so they are aimed downward.

7. The maximum height of a freestanding outdoor light standard which illuminates any portion of a lot in a residential district which is improved with a dwelling shall be eight feet. The maximum height of a free-standing outdoor light standard in all other districts and for all other uses other than dwellings shall be 16 feet. The height of an outdoor lighting fixture shall be defined as the vertical distance from the grade elevation of the surface being illuminated to the top of the lighting fixture.

8. Unless otherwise permitted by the Town (e.g., for safety, security, or all-night operations), lighting shall be controlled by automatic switching devices, such as time clocks or combination motion detectors and photocells, to permit extinguishing offending sources between 11:00 p.m. and dawn to mitigate nuisance glare and sky lighting consequences.

9. All nonessential lighting, including display, aesthetic, parking, and sign lighting, shall be required to be turned off or reduced by 75% after business hours or 11:00 p.m., whichever is earlier, leaving only the necessary lighting for site security. Lighting proposed to remain on after 11:00 p.m. for a specific safety purpose shall be approved by the Town.

10. Directional fixtures used for architectural lighting (e.g., facade, fountain, feature and landscape lighting) shall be aimed so as not to project their output beyond the objects intended to be illuminated and shall be extinguished between the hours of 11:00 p.m. and dawn.

11. When an outdoor lighting installation is being modified, extended, expanded, or added to, the entire lighting installation shall be subject to the requirements of this section.

12. Town approval of an outdoor lighting plan does not relieve the landowner of responsibility should lights, after construction, not conform to the provisions of this section.

D. Installation

The landowner shall install or cause to be installed all lighting fixtures and facilities at their expense. Fixtures and poles shall be in accordance with a utility plan prepared by the applicant and approved by the Planning Commission or Zoning Administrator. If deemed necessary the Planning Commission may require a review of the plan by a lighting design professional. The landowner shall be responsible for all costs involved in the lighting of parking lots, streets, and street intersections.

E. Outdoor Lighting Requirements

Outdoor lighting facilities in all zoning districts to illuminate private walkways, driveways, parking areas, patios, tennis courts, swimming pools, and similar areas shall not exceed 1/10 footcandle at the property lines and shall be shielded from any public right-of-way and from abutting properties.

§ 7.3.7 Physically Handicapped Parking

A. Parking facilities for the Physically Handicapped

1. Parking spaces for the physically handicapped shall be located as close as possible to ramps, walkways, entrances, and elevators. Where feasible, these parking spaces shall be located so that the physically handicapped are not forced to wheel or walk across main traffic lanes or behind parked cars to reach the ramps, and other facilities. The spaces shall be situated in those areas of the parking lots located nearest to each primary building entrance.

2. Each handicapped parking space shall comply with current American Disabilities Act standards.

3. Required Number of Spaces. The following number of parking spaces shall be reserved for the physically handicapped:

TOTAL PARKING SPACES IN LOT	REQUIRED MINIMUM NUMBER
UP TO 25	1
25 TO 50	2
51 TO 75	3
76 TO 100	4
101 TO 150	5
151 TO 200	6

201 TO 300	7
301 TO 400	8
401 TO 500	9
501 TO 1,000	2%
OVER 1,000	20, PLUS 1 FOR EACH 100 OVER 1,000

§ 7.4 Signs

§ 7.4.1 Purpose and Applicability

A. Purpose and Applicability

The regulations established by this Section are intended to appropriately limit the placement, type, size, and number of signs allowed, and to require the proper maintenance of signs. The purposes of these limitations and requirements are to:

1. Ensure that signs safely attract and direct persons to various destinations;
2. Protect public and private property values and investment;
3. Reduce hazards to motorists and pedestrians which result from excessive, confusing, and distracting signs; and
4. Preserve and enhance the aesthetic and historic quality of the community.

B. Applicability

1. Any sign erected, placed, attached, altered, reconstructed, or modified shall conform to this Section.
2. Existing or non-conforming signs shall not be altered or moved unless in compliance with this Section.

§ 7.4.2 Administration

A. Applications

1. No sign shall be installed, constructed, or altered unless a Sign Permit and, or where applicable, a Sign Program, approval is first obtained in compliance with this Section, or the sign is allowed without Sign Permit approval as provided in §6.5.4.
2. An application for a Sign Permit shall be prepared and filed with the Zoning Administrator. The application shall include required application fees, elevations and plans of all proposed signs drawn to scale, with all dimensions noted. The plans submitted shall also show the location of each sign on buildings and/or the site.
3. The Zoning Administrator shall review and approve or deny all Sign Permit applications for signs located outside of the Historic District. Within the Historic District, the Historic District Commission shall review applications for sign permits and adopt and file with the Planning Commission certificates of approval or rejection. The Planning Commission shall consider the Historic District Commission certificate in its review and approval or denial of a permit. The review authority may

require conditions of approval as are reasonably necessary to achieve the purposes of this Section.

4. After approval of a Sign Permit and/or Sign Program, each sign installed and maintained on the subject site shall comply with the Permit and Program.

B. Sign Programs

1. A Sign Program shall be required for any multiple occupancy commercial, professional, industrial, residential, or institutional sites; or separately identifiable building group, such as a medical complex or shopping center; or an individual site of at least one acre in size or with a proposed development exceeding ten thousand (10,000) square feet of total building space.

2. The Purpose of the sign program shall be to establish signage for all tenants and users of a complex, center or development site. An approved Sign Program shall prescribe the standards for all signs within the area coverage by the Program including size, number and types of signage permitted.

3. A Sign Program shall be approved by the Planning Commission. Within the Historic District, prior approval of the Historic District Commission shall be required.

4. A Sign Program shall comply with all provisions of this Section and is not intended to provide special or additional signage.

C. Permit and Program Findings for Approval

The approval of a Sign Permit or Sign Program shall require that the review authority first make all the following findings:

1. The proposed sign(s) do not exceed the standards of this Section, and as applicable, are of the minimum size and height necessary to enable motorists and pedestrians to readily identify the facility or site from a sufficient distance to safely and conveniently access the facility or site;

2. The proposed signs are in substantial conformance with the design criteria as may be maintained by the Town.

D. Approval Period and Expiration

A Sign Permit or Program approval shall expire one (1) year from its date of approval unless the sign or signs have been installed within the period or a later expiration date is stated in writing at the time of approval.

E. Sign Design Guidelines

The Zoning Administrator may maintain guidelines for applicants for Sign Permits and Sign Programs regarding the placement, appearance, design, and construction materials and may use such guidelines to assist applicants in complying with the purpose and provisions of this Section.

§ 7.4.3 Prohibited Signs and Signage

A. In Relation to Location

1. No signs shall be attached to utility poles, traffic signal poles, traffic control posts/signs, rocks, or trees visible from the public right-of-way whether on public or private property.

2. Except for official public way finding signs and official directional, safety or traffic signs, no sign whether temporary or permanent shall be placed within any public rights-of-way within the Town unless specified within this Section.

3. No sign shall be located which will interfere with traffic visibility along the right-of-way of any street or along any private driveway exiting or entering a site or on any slope or drainage easement of a street.

4. No signs shall be attached to the sloped section of a roof structure, except in the General Commercial District.

5. No sign may be painted directly on any wall or roof of a building or on a fence visible from the public right-of-way.

B. In Relation to Sign Character

1. No sign shall project any intermittent, light emitting diode, or flashing illumination except for official public road or street signs intended to promote traffic safety. New electronic message centers (EMCs) and digital electronic signs of any kind are prohibited.

2. No flashing or rotating signs shall be permitted.

3. Pennants, streamers, moving, flashing, windblown and all other fluttering, spinning, or similar type signs which includes strings of light bulbs, balloons or other inflated objects are prohibited, with the exception of Special Events, where you may apply, to the Zoning Administrator, for an exception to this section for the period of the event.

4. Except for official traffic signs, no sign shall be displayed, visible from the public right-of-way, which uses the words “stop” or “danger” or that implies a need for or requirement of stopping or the existence of danger.

5. Signs that are obscene, illegal, hazardous to traffic, imitative of official government signs: (i.e., Stop, Danger, Caution, etc.) or obstructive to public visibility, so as to create a hazard to the public are prohibited.

6. Signs, attached to a parked motor vehicle, exceeding twelve (12) square feet in area or the maximum allowable height for freestanding signs in the zoning district shall be prohibited. Signs attached to a motor vehicle which exceed four (4) square feet but are less than twelve (12) square feet are allowed only under the following conditions:

   a. The vehicle is a registered, tagged, and operable vehicle and is parked in an approved parking space associated with the physical address of the sign applicant

   b. The area of the sign attached to a motor vehicle shall count against the allowable sign area and/or total number of signs for the site on which the vehicle is legally parked.

7. Billboard signs are prohibited.

C. In Relation to Safety, Condition and Neglect

1. No sign shall be permitted which becomes unsafe or endangers the safety of a building, premise, or person. The Zoning Administrator shall order such signs to be made safe, to be repaired, or to be removed and such order shall be complied with

within seven (7) days of the receipt of such order, unless the condition is such that a shorter compliance period is required for public safety considerations.

2. No sign shall be permitted to remain which through damage, disrepair or lack of maintenance has become impaired in its functionality or blighted in its appearance. The Zoning Administrator shall order such sign to be repaired, replaced, or removed and such order shall be complied with within forty-five (45) days of the receipt of such order.

3. Failure to comply with the Zoning Administrator's order provided for in paragraphs 1 and 2 above shall result in the loss of any legal non-conforming status which may exist for the sign and require the sign to be removed and/or to come into compliance with this Code.

4. When a sign structure does not include a sign for a period of ninety (90) consecutive days, such sign structure shall be deemed a violation and shall be removed.

§ 7.4.4 Signs Permitted Without Permit

A. No Permit Required

The following signs are permitted without obtaining a Sign Permit or Sign Program approval subject to conditions set forth below:

1. Official traffic and parking signs provided they are erected by a governmental agency.

2. Temporary signs provided the following conditions are adhered to:

   a. A property shall not display any temporary sign for more than ninety (90) days in a year.

   b. In all districts, the sign is no larger than six (6) square feet in area and four (4) feet in height.

   c. In all districts, no more than two temporary signs shall be permitted at the same time on a given property except on properties displaying at least one legal non-temporary sign. In such a case, the property shall be limited to only one temporary sign at a time.

   d. In all districts, temporary signs shall not be illuminated.

3. Signs accessory to parking lot uses provided the following conditions are adhered to:

   a. Signs designating entrances and exits shall be limited to one (1) sign per entrance and one (1) per exit and neither sign shall exceed two (2) square feet in area.

   b. One (1) additional sign limited to a maximum area of nine (9) square feet is permitted which may be used to set forth conditions of use or identify the ownership of the parking area.

   c. No such sign shall exceed six (6) feet in height.

4. Commemorative plaques

   Signs commemorating a historical building, its name register and/or erection date, when cut into or affixed to a permanent surface and not exceeding four (4) square feet per building.

5. Street number, address, and/or name

   Two (2) such signs for each building not exceeding one (1) square foot each in the TND (all) district and three (3) square feet each in all other zoning districts are allowed without a Sign Permit.

6. Window displays and signs

   Signs erected or suspended in the interior of a structure to be viewed from the outside provided the following conditions are adhered to:

   a. No more than twenty-five (25) percent of the window area is covered in signage.

   b. The area of window signage shall be included in the count of maximum allowable sign area and sign number for the site.

   c. No such sign shall be an internally lighted sign.

B. Non-Permit Signs Not Exempt from Regulations

While the above listed signs are permitted without a Sign Permit, each must still be in compliance with the terms of this Ordinance. Signs installed with or without a permit, in conflict with the terms of this Ordinance are in violation and or subject to the penalties herein.

§ 7.4.5 General Sign Standards

A. Standards are Maximum Allowable

The dimension requirements provided in this Section represent the maximum size or area or distance allowed. Nothing in this Section shall be deemed to imply that these regulations confer a right to the maximum.

B. Computations of Area and Height

1. Area

   a. The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets the requirements of this Ordinance and is clearly incidental to the display itself.

   b. The sign area for a sign with more than one (1) face shall be computed by adding together the area of all sign faces.

2. Height

   The height of a sign shall be computed as the distance from the base of the sign at the average finished grade of the width of the sign, to the top of the highest attached component of the sign.

3. Sight Visibility

a. No sign shall obstruct a clear view to and from traffic along any street right-of-way, entrance, or exit.

b. A sight visibility triangle shall be kept free of obstructions to vision between the heights of two and one-half (2 ½) feet and twelve (12) feet above the street.

C. Illumination/ Lighting of Sign

Except within the General Commercial (GC) and Marine Commercial (MC) Districts, no internally lighted signs shall be permitted within Town. Where illumination of a sign is permitted, it shall be permitted only by indirect means external to the sign face.

D. General Development Opening Signs

1. In General Commercial (GC) and Marine Commercial (MC) districts, one (1) sign associated with the opening of a development provided:

   a. It is no greater than sixty-four (64) square feet in size and no greater than eight (8) feet in height.

   b. It is removed upon the dedication of associated public streets and/or utilities or within one year of its installation. Reinstatement of the sign for up to one one-year period following the expiration shall require an extension of the Sign Permit.

2. In the TND (all), Village Center, and NRR districts, one sign associated with the opening of a development provided:

   a. It is no greater than thirty-two (32) square feet in size and no greater than eight (8) feet in height.

   b. It is removed upon the dedication of associated public streets and/or utilities or within one year of its installation. Reinstatement of the sign for up to one (1) one-year period following the expiration shall require an extension of the Sign Permit.

§ 7.4.6 Sign Standards Specific to All Districts, Except TND (all) and NRR

A. Freestanding Sign

1. One (1) freestanding sign is permitted per site. An approved Sign Program may provide for an additional freestanding sign when a lot exceeds five acres in size or has two (2) public street frontages.

2. Freestanding signs shall not be located within parking lots. The area of freestanding signs shall not exceed thirty (30) square feet. The base of the freestanding sign shall be permanently attached to the ground.

3. The base of all freestanding signs shall be set back a minimum of eight (8) feet from any property line. No part of a freestanding sign shall be located within or overhang into a public or private right-of-way, sidewalk, or adjoining property.

4. Freestanding signs shall not exceed a maximum height of six (6) feet.

B. Projecting Signs

Signs attached to a building shall not project more than thirty-eight (38) inches from the face of the building and shall have a minimum clearance of eight (8) feet above the ground/sidewalk.

C. Window Signs

Signs erected or suspended in the interior of a structure to be viewed from the outside provided the following conditions are adhered to:

1. No more than twenty-five (25) percent of the window area is covered in signage.
2. The area of window signage shall be included in the count of maximum allowable sign area and sign number for the site.

D. Wall/Flat Mounted Signs

1. Wall mounted signs shall be no higher than the second-floor windowsill on a building.
2. No single wall mounted sign shall exceed thirty (30) square feet in area.
3. Notwithstanding the above standard, in no district shall one (1) wall mounted sign exceed seven (7) percent of the total area of the face of the building wall inclusive of windows and door openings.

E. Marquee Signs

1. One (1) marquee sign is permitted provided the sign area for the site does not exceed the maximum allowable sign area in that district.

F. A-Frame Signs (Placard, Easel-Type, Sandwich-Board)

1. Within the General Commercial, Marine Commercial, and Village Center districts, two (2) A-Frame Signs are permitted in public right-of-way per business provided the following conditions are met:
    a. The sign shall not exceed six (6) square feet if one-sided, Twelve (12) square feet if double-sided), and four (4) feet in total height.
    b. The sign shall not impede pedestrian traffic (Minimum of 36” of Clearance) or motor vehicle visibility and if posted along a road with speed limits greater than 35 miles per hour, it shall be placed at least sixty (60) feet from the street right-of-way.
    c. Signs shall be removed at close of business.
    d. A-Frame signs to be located within the Historic District shall require the approval of the Historic District Commission.
    e. Additional A-Frame signs are permitted to be placed within property boundaries, provided they don’t exceed the Maximum Allowable Signage Area.

G. The Maximum Allowable Area

1. The maximum allowable area for all signs on a site shall be computed as two (2) square feet per linear building frontage up to a maximum allowable area of one hundred seventy (170) square feet except as noted below:
    a. Buildings in excess of one hundred (100) feet in length may be permitted an additional One (1) square foot of sign area for each linear foot of building frontage above one hundred (100) feet.

b. Each additional building frontage facing a street or parking area may have up to 0.5 square foot of sign area per linear foot of road frontage, but such additional sign area may only be used on that side of the building frontage.

§ 7.4.7 Sign Standards Specific to the TND (all) and NRR District

Signs permitted in the TND (all) and NRR District shall be limited by the following:

A. For Public, Open Space, Institutional uses, Public Assembly, and Multiple Family Uses

1. One freestanding sign is permitted, per road frontage meeting the following standards.
    a. Maximum sign area is twenty (20) square feet per sign face.
    b. Maximum sign height is six (6) feet.
    c. Minimum distance from any other property line is eight (8) feet
2. One Wall Mounted Sign is permitted at a maximum of twenty (20) square feet.
3. No sign shall project into or over a public right-of-way.

B. Subdivision or Community Entrance Signs

1. One sign not exceeding twenty-four (24) square feet may be located at each street entrance.
2. The maximum sign height allowed for Subdivision or Community Entrance is six (6) feet.

C. Commercial, Office, Service, Home Occupations, Home Day Care, Bed and Breakfast Uses

1. One freestanding sign per lot is permitted, per road frontage meeting the following criteria.
    a. Maximum sign area shall be four (4) square feet.
    b. Maximum freestanding sign height shall be four (4) feet.
    c. Minimum distance from a property line lot shall be eight (8) feet.
2. One wall-mounted plague or nameplate sign is permitted provided it does not exceed two square feet in size and is made to be compatible in appearance with the building.

§ 7.4.8 Sign Standards Specific to Historic District

A. Historic District Commission to Approve

In addition to the requirements of the underlying zoning district, within the Historic District the following specific limitation on signs shall apply:

1. A Permit of Approval from the Historic District Commission is required for all new signs and existing signs that are to be altered in size, shape, and location.
2. Applicants for sign permits in the Historic District should refer to the Historic District Commission's design guidelines for signs.

B. Compliance upon Addition to Historic District

Upon the inclusion of additional areas within the Historic District, all signs shall comply with this section within two years from the date the area is included within the Historic District.

§ 7.4.9 Non-Conforming Signs

A. Zoning Administrator to Enforce

The Zoning Administrator shall order the removal of any sign erected or maintained in violation of the law as it existed prior to the date of the adoption of this Zoning Code. Such a sign does not qualify as a non-conforming sign.

B. Non-Conforming May Continue

Signs existing at the time of the adoption of this Section and not conforming to its provisions, but which did conform to previous laws, shall be regarded as non-conforming signs and these may be continued if properly maintained and repaired as provided in this Section except as provided below.

1. The structure, sign face, or accessories of a non-conforming sign shall not be altered, modified, changed, reconstructed, or moved without bringing the sign in all respects into compliance with this Section, provided, however, that nothing herein shall prohibit the normal maintenance or repair of any non-conforming sign.
2. Under this Section, a sign is inseparable from and intrinsically a part of the land use and activity of the property on which it is located. Therefore, no site plan for any property shall be approved unless it provides that all existing non-conforming signs and new signs are made to conform to the provisions of this Section.

§ 7.4.10 Administrative Adjustment of Sign Regulations

A. Adjustments

The Zoning Administrator may, upon application, administratively adjust the limitations for signs in the specific instances according to the procedures of §3.1.3 of this Ordinance. An adjustment of up to ten percent (10%) to the limitations set forth in this Section with respect to the following dimension criteria is allowed: allowable sign area, height, and distance of permitted projection, setback of sign and/or, distance from other properties.

B. Findings

The Zoning Administrator may only approve an administrative adjustment upon establishing the following findings:

1. The adjustment is needed to resolve a practical difficulty unique to the property.
2. The adjustment is the smallest necessary to grant relief of the practical difficulty.
3. The adjustment shall in all other manners comply with the purposes and requirements of this Section.

§ 7.4.11 Violations

A. Unlawful signs

Any sign placed in public view for which no Sign Permit has been issued, and that is not otherwise exempted from the permit requirement of this Section, is unlawful. No person shall install, place, or maintain an unlawful sign and no person shall allow, or permit the

installation, placement, or maintenance of an unlawful sign on property owned by the person. The Zoning Administrator shall enforce the provisions of this Section.

B. Removal of Unlawful, Temporary or Portable Signs

1. The Zoning Administrator may require the removal of any unlawful, temporary, or portable sign that is constructed, placed, or maintained on private property that is in violation of this Section or other provisions of the Town Code and shall remove any unlawful, temporary, or portable sign constructed, placed, or maintained on publicly owned property.
2. Any violation of Section 7.4 Signs shall be subject to a penalty as prescribed in Section 1.9.2 of this chapter.
3. In addition to the imposition of fines, the Town may file an action for injunctive relief in the District or Circuit Court for the removal of the illegal sign, if such sign is not removed by the property owner, the costs of which shall be reimbursed by the property owner to the Town within thirty (30) days, and if such reimbursement is not made, the aforementioned costs shall be collectable by the town in the same manner as taxes upon the real property.

Zoning District	Sign Types Permitted	# of Signs Permitted	Maximum Signage Area per Sign	Maximum Height	Illumination Permitted	Other Provisions
Traditional Neighborhood Development (TND-all), Natural Resource and Recreation (NRR)	**Freestanding**	*1 per Street Frontage	*20 sq. ft.	*6 ft.	None	*For Public, Open Space, Institutional Uses, Pubilc Assembly, and Multiple Family Uses.
	Freestanding	*1 per Street Frontage	*4 sq. ft.	*4 ft.	None	*For Home Occupations, Home Day Care, Bed and Breakfast Uses.
	Wall Mounted	1	2 sq. ft.		None	*For Home Occupations, Home Day Care, Bed and Breakfast Uses.
	Wall Mounted	1	20 sq. ft.		None	*For Public, Open Space, Institutional Uses, Pubilc Assembly, and Multiple Family Uses. Maximum letter height of 30 inches.
	Subdivision or Community Entrance	1 per Street Entrance	24 sq. ft.	6 ft.	None	

Zoning District	Sign Types Permitted	# of Signs Permitted	Maximum Signage Area per Sign	Maximum Height	Illumination Permitted	Other Provisions
General Commercial (GC), Marine Commercial (MC), Village Center (V-1)	**Freestanding**	*1	^2 sq. ft. per linear building frontage	6 ft.	External	* Sign Program may provide for additional signs when lot exceeds 5 acres or has 2 public street frontages. ^Buildings in excess of 100 feet in length may be permitted an additional 1 sq. ft. of sign area for each linear foot of frontage above 100 feet. Additional building frontages facing a street or parking area may have up to 0.5 sq. ft. of sign area per linear foot of road frontage, but such sign area may only be used on that side of the building. 1. Minimum 8 ft. setback from any property line. No part of sign shall be located within or overhang onto a public or private right-of-way, sidewalk, or adjoining property.

	Projecting	Limited by Signage Area	^2 sq. ft. per linear building frontage		External	^Buildings in excess of 100 feet in length may be permitted an additional 1 sq. ft. of sign area for each linear foot of frontage above 100 feet. Additional building frontages facing a street or parking area may have up to 0.5 sq. ft. of sign area per linear foot of road frontage, but such sign area may only be used on that side of the building. 1. Shall project no more than 38 inches from the face of the building and shall have a minimum clearance of 8 ft above the ground/sidewalk.
	Window	Limited by Signage Area	No more than 25% of the window area may be covered.		External	1. The area of window signs shall be included in the count of maximum allowable sign area and sign number for the site.
	Wall/Flat	Limited by Signage Area	30 sq. ft.	*	External	*Shall be no higher than the second floor window sill on a building. 1. No wall mounted sign shall exceed 7% of the total area of the face of the building wall inclusive of windows and door openings.
	A-Frame	2 per Street Frontage	6 sq. ft. per side	4 ft.	None	1. Sign shall not impede pedestrian traffic or motor vehicle visibility, shall be removed each night, and if posted along a road with speed limits greater than 35 mph, it shall have a set back of 60 ft.
	Marquee	*1			External	*Provided the sign does not exceed the maximum allowable sign area in that district.

Chart is intended for reference only, the body of text in Section 7.5 takes precedence in any conflict with information in chart.
All signs located in the Historic District must obtain a Certificate of Approval from the Historic District Commission.

Article 8 – Community Design Standards

§ 8.1 Creation of Lots

§ 8.1.1 Standards for New Lots

A. Lot Sizes

1. Lots shall be created to conform to the size and dimensions set forth in Table 2 of this Article. In no case may a lot be platted which has less area or width than required by this Ordinance in the zone where it is to be located.

B. Lot Shape

1. Excessive lot depth in relation to lot width should be avoided; with a proportion of 2.5 to 1 considered a desirable maximum. Pointed or irregular lot shapes shall be avoided.

2. Side lot lines should generally be at right angles to straight street centerlines and radial to curved street centerlines. However, this standard is not intended to prohibit the creation of lots at a reasonable angle to the street where the intent is to create a lot orientation to enhance solar-related energy techniques.

3. Corner lots shall be equal non-corner lots in lot width and depth plus shall have added area to comply with minimum front yard setback requirements on each frontage.

4. No subdivision plat shall create remnants of land that would have no apparent use or control.

5. Flag, pipestem, or panhandle lots shall not be permitted.

6. Double frontage and reverse frontage lots shall be strictly avoided except where required to avoid fronting lots onto arterial or other major non-access streets, or to separate residential areas from incompatible non-residential development, or to overcome some specific and unique site-related disadvantages such as topography.

C. Frontage and Access to Streets

1. Except along streets existing prior to January 1, 2011, no residential lot shall be created which does not both front onto a public street and back onto an alley.

2. Minimum street frontage shall be as set forth in Table 2 of Article 6. Street frontage shall be measured at the established minimum setback for the zoning district where located.

3. Upon approval of Cecil County Emergency Services, a street address for each lot shall be as assigned by the Town in order to ensure a separate and distinct address for each lot created.

4. No residential lot shall derive vehicular access exclusively from a collector street as provided in the Comprehensive Plan.

5. No lot, regardless of use, shall derive vehicular access directly from an arterial road, as provided in the Comprehensive Plan, unless alternative access is strictly prevented by topographic and related physical conditions such as site distance requirements and environmental conditions.

6. Where adjoining lots front onto a collector street or arterial road, the Town may require that such lots be served by a combined drive in order to limit possible traffic hazard, reduce the number of driveways connections to the public right-of-way, protect aesthetic character, limit overall impervious surface coverage or otherwise implement the purposes of this Ordinance.

7. Driveways shall be arranged to avoid vehicles backing into traffic on collector and arterial roads.

8. Every lot shall abut an approved public street that is sufficient to afford a reasonable means of ingress and egress for emergency vehicles. The reviewing authority whether it is the Planning Commission or Zoning Administrator, shall have the authority to approve or disapprove any point of ingress or egress to any lot, tract, parcel or development from any street or highway.

§ 8.2 Adequate Public Facilities

§ 8.2.1 Basic Requirements

In addition to the special standards and requirements contained in this Ordinance, the following minimum conditions shall exist prior to approval of any major or minor subdivision, whether such facilities are provided by the developer, a utility, or the Town of Chesapeake City. The Planning Commission may disapprove any subdivision if it finds that any one public utility, facility, or service is not adequately provided in the proposed subdivision, including but not limited to adequate public sewer and water.

A. The following shall be minimum standards for utilities:

1. Every subdivision shall be provided with a proper telephone and electric system.
2. Public Water
    a. Every subdivision shall be provided with a complete public water distribution system adequate to serve the area being developed with pipe lines, valves, fire hydrants and other water facilities as required.
    b. There shall be capacity in the water supply, treatment, and distribution system to serve the subdivision while accounting for the demand created by all existing lots and all approved but as yet unconnected lots.
3. Sewer Services
    a. Every subdivision shall be provided with the sewer disposal system and facilities approved by the Cecil County Health Department, the appropriate State agency, and the Town.
    b. There shall be capacity at the wastewater treatment plan to accommodate the demand of the subdivision while accounting for the demand created by all existing lots and all approved but as yet unconnected lots.
4. Easements for new or for the continuations of existing utilities shall be provided for all subdivisions with the width and other characteristics as required by the Town and appropriate jurisdiction.
5. Every subdivision shall be provided with the satisfactory drainage and management of stormwater which conforms to the local, County, State and or federal requirements. Maintenance of stormwater management structures, ponds, or devices located outside of the public right-of-way shall be the responsibility of the property owners or developer of the subdivision or property unless this requirement is specifically waived by the Town.
6. The Planning Commission shall review each proposed subdivision to determine whether it is served by proper community access streets, sidewalks and bikeways.
7. The Planning Commission shall review each proposed subdivision to determine whether it is served by adequate open space, park, and recreational amenities.

§ 8.2.2 Open Space, Parks, and Recreational Requirements

A. Minimum Recreational Area

All residential developments with 30 or less dwelling units shall provide, at a minimum, recreational areas in an amount equal to 0.01 acres per dwelling unit but not be less than 5,000 square feet.

B. Fee In-Lieu

The Town Council may require payment of a fee in-lieu, dedication, reservation or a combination whenever upon the Planning Commission's finding that the requirement in paragraph A above cannot adequately meet open space and recreation needs of the development or if the development is less than 30 homes or within 1,500 feet from another park or playground. The fee in-lieu shall be on a per-dwelling-unit basis. The fee shall be listed with the annual schedule of fees for the Town. Fees will be collected upon application for a zoning permit. The Town shall deposit fees in a designated account with funds expended only for park and recreation facilities.

C. Enhance Requirements for Large Developments

For developments with over 50 dwelling units, the Planning Commission may require a combination of improved park and recreational land and playgrounds, at the minimum rate of 0.03 acre per dwelling unit.

D. Dedication

When park or recreational facilities approved for dedication are completed and accepted, a deed shall be conveyed to the Town of Chesapeake City, after which the supervision and maintenance shall be the responsibility of the Town. When park or recreational facilities are reserved, the developer shall establish conditions as to ownership, maintenance, and use of such areas as deemed necessary by the Planning Commission to assure preservation of its intended purposes.

E. Flexibility in Administration Authorized

The requirements set forth in this article concerning the size, location, nature, and amount of common open space and the required neighborhood parks within residential developments are established by the Town as standards that presumptively will result in the provision of that amount of recreational facilities and open space that is consistent with officially adopted Town plans. The Town recognizes, however, that due to the particular nature of a tract of land, or the nature of the facilities proposed for installation, or other factors, the underlying objectives of this article may be achieved even though the standards are not adhered to with mathematical precision. Therefore, the Planning Commission may permit minor deviations from these standards whenever it determines that: (1) the objectives underlying these standards can be met without strict adherence to them; and (2) because of peculiarities in the developer's tract of land or the facilities proposed it would be unreasonable to require strict adherence to these standards.

§ 8.3 Streets

§ 8.3.1 Street Classification and Typical Sections

A. Constructed to Town Specifications

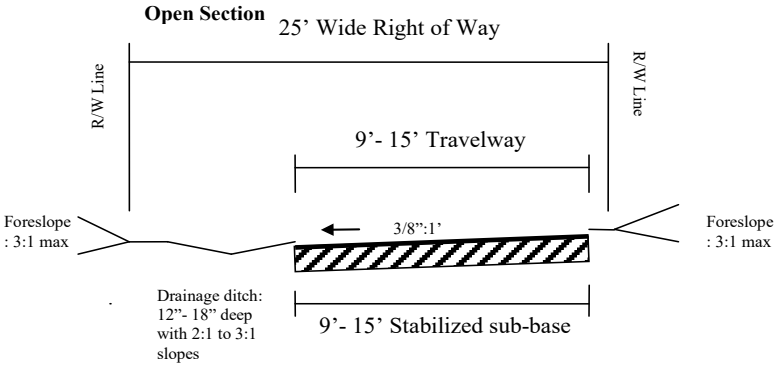
All streets, curbs, sidewalks, trails, bikeways, streetlights, and street trees shall be constructed and/or installed to the design and construction specifications of the Town of Chesapeake City. The developer shall be required to repair damage to any portion of the Town right-of-way or the area to be dedicated to the Town as a result of grading or construction activities in his or her subdivision.

B. Street Typical Sections

In all new subdivisions, streets that are dedicated to the public use shall be classified and designed as provided below in the typical street sections

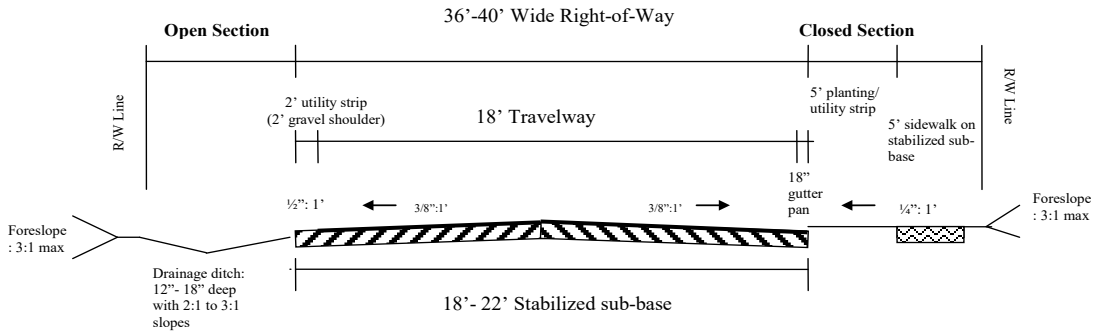
1. Alley: A street whose function it to provide access to the rear of abutting properties. It is intended to serve less than 200 average daily trips.

Alley Typical Section

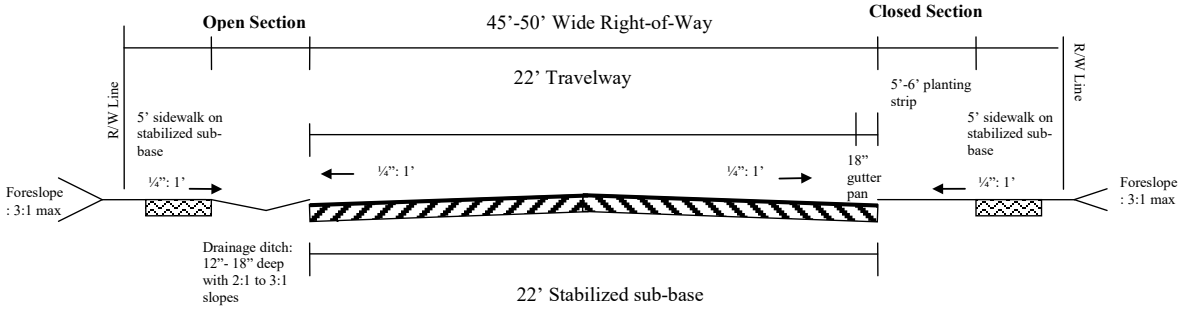


2. Residential Lane: A street whose function is to provide access to abutting properties. It is intended to serve less than 200 average daily trips.

Residential Lane Typical Section

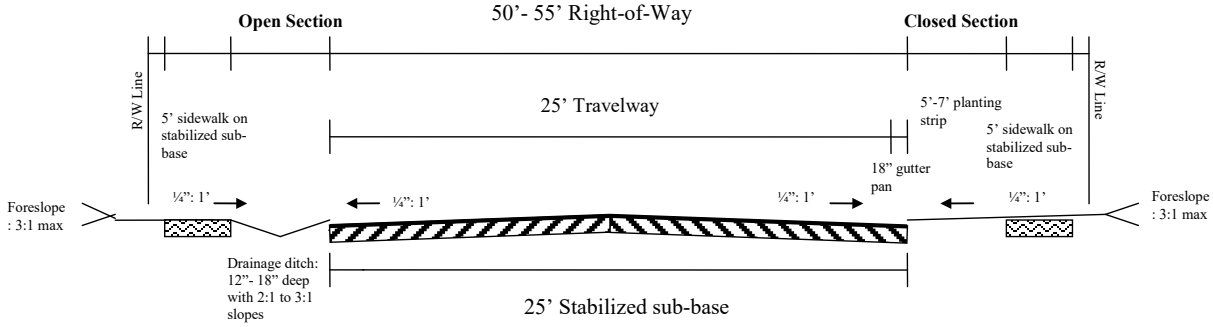


3. Secondary Residential Street: A street whose function is to primarily provide access to abutting property but may connect to other residential streets or lanes. It is intended to serve less than 400 average daily trips.



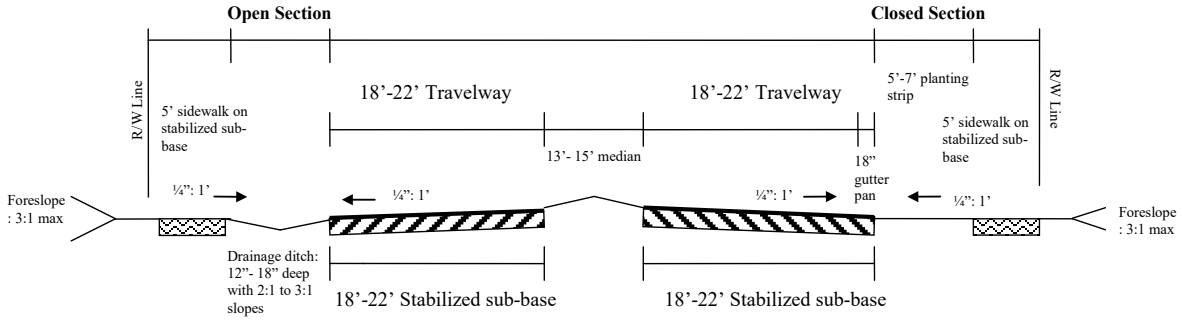
4. Primary Residential Street: A street whose function is to provide access to abutting property and circulation through a neighborhood. It is intended to serve between 400 and 1,500 average daily trips.

Primary Residential Typical Section



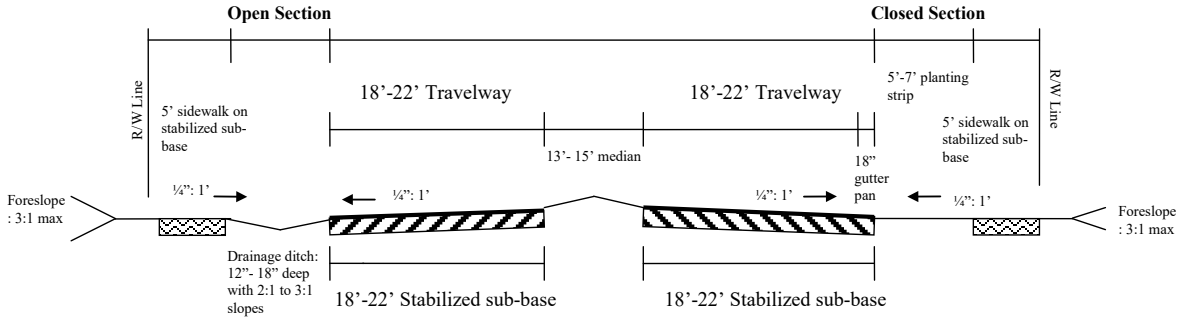
5. Boulevard: A street whose principal function is to carry traffic between collector and residential streets and features a broad landscaped median or to function as a collector. It is intended to serve less than 4,000 average daily trips.

Boulevard Typical Section



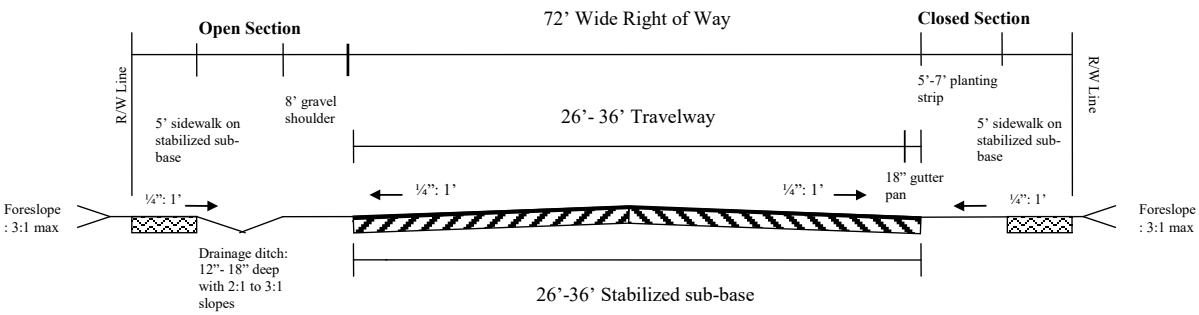
6. Secondary Commercial Street: A street whose function is to access abutting commercial uses. It is intended to serve less than 2,000 average daily trips.

Secondary Commercial Typical Section



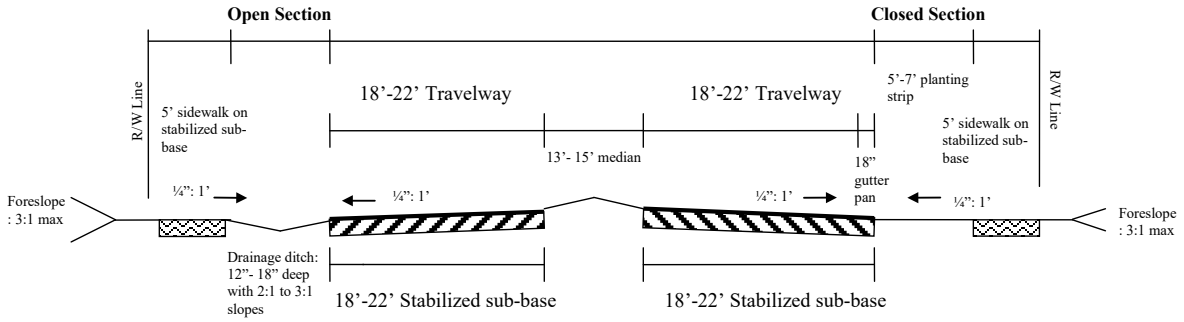
7. Primary Collector Street: A street whose principal function is to collect traffic from development areas and local streets and convey it to/from arterial highways. It is intended to carry more than 2,000 average daily trips.

Primary Collector Typical Section



8. Commercial Street: A street whose function is to provide access to abutting commercial properties and to allow parking on both sides of the street. It is intended to serve more than 2,000 average daily trips.

Commercial Street



B. Modifications May be Required

Wider widths of right-of-way may be required by the Town to address unusual drainage and traffic situations, to promote the development of aesthetically pleasing streets, to accommodate pedestrian and/or bicycle travel, or to otherwise to implement the Town's Comprehensive Plan. Modifications may be required to provide bio-retention practices within the street right-of-way.

C. Modifications May be Approved

Upon request, the Planning Commission may grant minor modifications to the required typical sections upon receiving a favorable recommendation from the Town Engineer and upon establishing written findings that any such change is consistent with the purposes of this Ordinance. The Planning Commission may place reasonable conditions on any such modification so as to protect public health, safety and welfare.

§ 8.3.2 Street Layout

The following provisions shall apply to the layout and arrangement of public streets in developments.

A. Street Arrangement

1. The street system shall be designed to follow existing topography minimizing cut and fill. Streets shall conform as closely as possible to the original topography. The maximum grade of a street shall be six percent however in no case may a street be constructed with grade that, in the professional opinion of the Town Engineer, creates a danger to public safety.
2. The arrangement of streets shall conform to the Comprehensive Plan or Official Map of the Town of Chesapeake City. For streets not shown, the subdivision should provide for the extension of existing streets.
3. Whenever a tract to be subdivided adjoins or encompasses any part of a street, road, trail or other public way, so designated in the Comprehensive Plan, such part of that public way shall be platted and dedicated to the Town.
4. Residential lanes and secondary streets shall be arranged to discourage through traffic.
5. Residential lanes and streets shall be arranged so as to manage the speed and volume of traffic in residential neighborhoods using traffic calming methods that encourage speeds of 25 mph or less. They include chokers, curb extensions, and lane reduces;

islands and medians; traffic circles and roundabouts; texture crosswalks; curving alignments, short blocks, full and partial closures, diverters, and required turns.

6. When a major subdivision plat includes only part of the tract owned by the developer or owner of the tract under review, the layout of the proposed streets if applicable for the entire tract shall be submitted for Planning Commission approval concurrent with subdivision plat review.

B. Block Dimensions

1. No Residential Lane, or Secondary or Primary Residential Street shall exceed 500 feet without intersecting another street or lane except as provided below.

2. The intersections of residential streets and lanes with Collector Streets, as designated in the Comprehensive Plan, shall occur at safe and convenient locations, preferably at Tee intersections, but generally should be spaced at least 1,320 feet apart.

3. No residential block shall be less than 200 feet in length.

C. Street Intersections

1. Streets should intersect as nearly as possible at right angles but variations on this are permitted where turning movements are to be restricted as part of a planned street system. No more than two streets should intersect at any one point unless the Town Engineer certifies that such an intersection can be constructed with no extraordinary danger to public safety.

2. Wherever possible, proposed intersections along one side of a street shall coincide with existing and proposed intersections on the opposite side of such street. In any event, where a center offset (jog) occurs at an intersection, the distance between center lines of the intersection streets shall not be less than 300 feet except where the intersecting streets and the intersected street are secondary residential streets or residential lanes; in such case the distance between center lines of the intersection streets shall not be less 200 feet.

3. Except when no other alternative is practicable or legally possible, no two streets may intersect with any other street on the same side at a distance of less than 400 feet measured from centerline to centerline of the intersecting street. When the intersected street is an arterial, the distance between intersecting streets shall be at least 1,320 feet or otherwise in conformance with the Maryland State Highway Administration criteria. Any site plan or subdivision with proposed access to a State Highway must obtain State Highway Administration access permit approval prior to receiving final approval from the Planning Commission.

4. The maximum grade through an intersection shall be five percent.

D. Circulation

1. The street system shall be designed to permit the safe and orderly movement of traffic, to favor accessibility and mobility of pedestrians over that of motor vehicles, to meet the needs of present and future population served, to respect natural features, prominent views and topography, and to have a logical pattern built largely on a rectilinear grid.

2. Residential streets shall be designed to discourage through traffic except where the residential street may be classified as a Collector Street.

3. The street system of a subdivision shall be coordinated and connected with existing, proposed and anticipated streets outside the subdivision or outside the portion of a single tract that is being divided into lots as provided in this section.

4. Pedestrian Accessibility

    a. Except for lots on streets existing prior to June 1, 2010, every new residential lot created shall be within 600 feet walking distance from a recreational open space.

    b. Except for lots on streets existing prior to June 1, 2010, every new lot shall front onto a sidewalk which shall be a minimum of 5 feet in width and constructed to the construction specifications of the Town. In new subdivisions, sidewalks shall be installed concurrent with street installation.

    c. To the extent practical, any new sidewalk network shall directly connect to the sidewalk network existing and planned at the time the final subdivision plat is submitted for approval.

    d. Whenever the Planning Commission finds a means of pedestrian access is necessary from a subdivision or from any un-subdivided residential development to schools, parks, playgrounds, other streets or pedestrian facilities, or any other center of activity and that such access in not conveniently provided by sidewalks adjacent to the streets, it may require the developer to provide additional sidewalks and/or trails and secure and improve unobstructed easements for pedestrian travel of at minimum of 10 feet in width.

    e. In all un-subdivided developments. Sidewalks shall be provided linking together all dwelling units, offices, stores and other activities centers as applicable including parking lots and recreational areas and facilities.

5. Bikeways shall be provided along all Collector Streets designated in the Comprehensive Plan at time of development. The location and alignment shall be determined upon subdivision concept plat review.

E. Street Names

1. Street names shall be proposed by the developer subject to the approval of the Town and the Cecil County Emergency Services. Proposed streets that are obviously in alignment with existing streets shall be given the same name. Newly created streets shall be given names that neither duplicate nor are phonetically similar to existing streets within the Town and the fire company's jurisdiction, regardless of the use of different suffixes.

2. A variety of suffixes may be approved by the Town such as street, avenue, or boulevard. However, the following street naming suffix criteria shall be followed where they would apply:

    a. Alley, for a street built to the alley typical section provided in this Ordinance.

    b. Circle, for a short street that returns to itself.

    c. Court or place, for a cul-de-sac or dead-end street.

d. Lane, for a street built to the Residential Lane typical section provided in this Ordinance.

e. Loop. For a street that begins at the intersection with one street and circles back to end at another intersection with the same street.

F. Utilities

1. Utilities installed in the Town shall conform to the design and construction specifications of the Town of Chesapeake City.

2. Where topography, maintenance and facilities management considerations, or any other considerations are such as to make it impracticable or unfavorable for the Town to have utilities or drainage facilities within a street right-of-way, perpetual unobstructed easements for such utilities shall be provided across property outside the street right-of-way of at least 10 feet in width. Such easements shall be provided prior to final plan or plat approval.

§ 8.4 Administrative Provisions for New Developments

§ 8.4.1 Dedication and Acceptance of Streets and Facilities

A. Offer of Dedication

Unless the recorded plat of a subdivision clearly shows a street to be private the recording of such plat shall constitute an offer of dedication of such street.

B. Acceptance

The approval of a final subdivision plat shall not be deemed to constitute or imply the acceptance by the Town of any street shown on said plat. Acceptance of streets by the Town occurs only after all public improvement has been completed in accordance with the Chesapeake City design and specification manual and/or any other town specifications. The Town shall inspect all such facilities and improvements.

C. Stormwater Management Facility

Storm water management facilities, open spaces and other amenities not within public rights-of-way or on land planned to be dedicated to the Town will not become the maintenance responsibility of the Town of Chesapeake City. The applicant for development approval shall propose, as part of the site plan or subdivision plat approval, the entity which shall be responsible for ongoing maintenance.

§ 8.4.2 Bonding and Guarantee of Public Improvements

A. Town Bonding Procedures

Bonding procedures and requirements including inspection procedures and surety release procedures shall be as specified by the Town.

B. Protection Against Defects

1. Whenever occupancy, use or sale is allowed before the completion of all facilities or improvements intended for dedication, then the performance bonds or the surety that is posted shall guarantee that any defects is such improvements or facilities that

appear within one year after the dedication of such facilities or improvements is accepted shall be corrected by the developer.

2. Whenever all public facilities or improvements intended for dedication are installed before occupancy, use or sale is authorized then the developer shall post a performance bond or other sufficient surety to guarantee that he will correct all defects in such facilities or improvement that occur within one year after the Town has taken title to or possession of the public facilities and/or improvements.

§ 8.5 Properties Out of Town Limits Desiring Access to Town Water and Sewer

The Town may enter into contractual relationships to provide Water and Sewer Service to properties located outside of the Town Limits, in accordance with the provisions of Resolution No. 5.28.2013, and any future amendments or revisions thereto. Pursuant to that resolution, development of all such properties is subject to the Chesapeake City, Maryland Architectural Design Standards, Adopted by Resolution of the Town in 2006, as may be amended and revised from time to time, in addition to complying with all other relevant provisions of this Comprehensive Development Ordinance as may be amended and revised from time to time.

Article 9 - Critical Area Regulations – 2022

§ 9.1 Critical Area Program Purpose and Goals

§ 9.1.1 The Chesapeake City Critical Area Program

The Chesapeake City Critical Area Program consists of the Chesapeake City Comprehensive Development Ordinance including the Official Critical Area Map.

§ 9.1.2 Goals and Implementation

A. The goals of the Chesapeake City 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. The Town of Chesapeake City Critical Area Program consists of this Ordinance and the Official Critical Area map(s).

§ 9.1.3 Regulated Activities and Applicability

Any applicant for a permit or license to pursue activities within the Critical Area, including but not limited to, development or redevelopment, grading, sediment and erosion control, timber harvesting, shoreline erosion control, installation of a septic system and drain field, operation of a waste collection or disposal facility, operation of a commercial or private marina or other water-related commercial or industrial operation (whether public or private), mining (whether surface or sub-surface) or quarrying, farming or other agriculture-related activities shall have such permits or licenses issued by the Town after review to determine compliance with the Chesapeake City Critical Area Program.

§ 9.1.4 Critical Area Overlay District Map

A. The Official Critical Area Overlay District Map is maintained in force as part of the Official Zoning Map for Chesapeake City. The Official Critical Area Map delineates the extent of the Critical Area Overlay District that shall include:

1. All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide and all state and private wetlands designated under Title 16 of the Environment Article of the Annotated Code of Maryland, and

2. All land and water areas within 1,000 feet beyond the landward boundaries of state or private wetlands and the heads of tides designated under Title 16 of the Environment Article of the Annotated Code of Maryland.

B. Within the designated Critical Area Overlay District, all land shall be assigned one of the following land management and development area classifications:

1. Intensely Developed Area (IDA).

2. Limited Development Area (LDA).

3. Resource Conservation Area (RCA).

C. The Critical Area Overlay District Map may be amended by the Mayor and Council in compliance with amendment provisions in this Article, the Maryland Critical Area Law, the Critical Area Criteria and Critical Area Regulations.

§ 9.1.5 Notification of project approval

The Town of Chesapeake City 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 Critical Area Commission for review and comment.

A. The application shall be accompanied by a completed "Project Notification Application: form downloaded from the Critical Area Commission's website.

B. The Town of Chesapeake City may not process an application, which has been sent to the Critical Area Commission for notification until it has received notice of receipt by the Critical Area Commission.

C. Any action by the Town of Chesapeake City in violation of these procedures shall be void.

Summary of Notification Requirements
Critical Area Commission
(COMAR 27.03.01)

	Requires Notification to the Critical Area Commission		
	Yes/No		
Type of Application	**IDA**	**LDA**	**RCA**
1. Disturbance to a Habitat Protection Area	**Y**	**Y**	**Y**
2. Physical disturbance to the Buffer (see Note 1)	**Y**	**Y**	**Y**
3. Variance from Critical Area provisions	**Y**	**Y**	**Y**
4. Development resulting in less than 5,000 square feet of disturbance	**N**	**N**	**N**
5. Development resulting in between 5,000 and 15,000 square feet of disturbance	**N**	**N**	**Y**

6. Development resulting in greater than 15,000 square feet of disturbance	**Y**	**Y**	**Y**
7. Subdivision of 3 lots or fewer	**N**	**N**	**Y**
8. Subdivision of 4 to 10 lots	**N**	**Y**	**Y**
9. Subdivision of greater than 10 lots	**Y**	**Y**	**Y**
10. Subdivision affecting Growth Allocation	**N/A**	**Y**	**Y**
11. Intrafamily transfer	**N/A**	**N/A**	**Y**
12. Rezoning that would occur wholly or partially within the Critical Area	**Y**	**Y**	**Y**
13. Special exception or conditional use for industrial commercial, institutional, non-residential or multi-family	**N**	**Y**	**Y**
14. Substantial alteration to applications previously submitted to the Critical Area Commission	**Y**	**Y**	**Y**
Note 1:	**Shore erosion control measures and private piers that do not involve disturbance to the Buffer and are not permitted by MDE do not require Critical Area Commission notification.**		

§ 9.1.6 General Requirements

A. Development and redevelopment shall be subject to the Habitat Protection Area requirements prescribed in this Article.

B. Reasonable accommodations for the needs of disabled citizens.

1. An applicant seeking relief from the Critical Area standards contained in this Article in order to accommodate the reasonable needs of disabled citizens shall have the burden of demonstrating by a preponderance of evidence the following:

   a. The alterations will benefit persons with a disability within the meaning of the Americans with Disabilities Act;

   b. Literal enforcement of the provisions of this Article 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;

   c. A reasonable accommodation would reduce or eliminate the discriminatory effect of the provisions of this Article or restore the disabled resident's or user's reasonable use or enjoyment of the property;

   d. The accommodation requested will not substantially impair the purpose, intent, or effect, of the provisions of this Article as applied to the property; and

   e. 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.

2. The Board of Appeals shall determine the nature and scope of any accommodation under this Article 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 Article. The Board may also consider the size, location, and type of accommodation proposed and whether alternatives exist which accommodate the need with less adverse effect.

3. The Board of Appeals may require, as a condition of approval, that upon termination of the need for accommodation, that the property be restored to comply with all applicable provisions of this Article. Appropriate bonds may be collected or liens placed in order to ensure the Town's ability to restore the property should the applicant fail to do so.

C. Development and redevelopment shall be subject to the water-dependent facilities requirements of this Ordinance.

D. Utility transmission facilities

1. Utility transmission facilities, except those necessary to serve permitted uses, or where regional or interstate facilities must cross tidal waters, may be permitted in the Critical Area provided:

   (a) The facilities are located in IDAs; and

   (b) Only after the activity or facility has demonstrated to all appropriate local and State permitting agencies that there will be a net improvement in water quality to the adjacent body of water.

2. These provisions do not include power plants.

E. Roads, bridges, and utilities are prohibited in a HPA unless no feasible alternative exists. If a road, bridge or utility is authorized the design, construction and maintenance shall:

1. Provide maximum erosion protection;
2. Minimize negative impacts on wildlife, aquatic life and their habitats; and
3. Maintain hydrologic processes and water quality.

F. All development activities that must cross or affect streams shall be designed to:

1. Reduce increases in flood frequency and severity that are attributable to development;
2. Retain tree canopy so as to maintain stream water temperature within normal variation;
3. Provide a natural substrate for stream beds; and
4. Minimize adverse water quality and quantity impacts of stormwater.

G. New solid or hazardous waste collection or disposal facilities, or sanitary landfills or rubble fills, including transfer stations, may not be permitted in the Critical Area unless no environmentally preferable alternative exists outside the Critical Area, and these development activities or facilities are needed in order to correct an existing water quality wastewater management problem. Existing permitted facilities shall be subject to the standards and requirements of the Department of the Environment.

§ 9.2 Districts

§ 9.2.1 Intensely Developed Areas

A. The following uses may only be permitted in the IDA only after the activity or facility has demonstrated to all appropriate local and State permitting agencies that there will be a net improvement in water quality to the adjacent body of water. These activities include the following:

1. Nonmaritime heavy industry;
2. Permanent sludge handling, storage, and disposal facilities, other than those associated with wastewater treatment facilities. However, agricultural or horticultural use of sludge under appropriate approvals when applied by an approved method at approved application rates may be permitted in the Critical Area, except in the 100-foot Buffer.

B. Development activities shall be designed and implemented to minimize destruction of forest and woodland vegetation;

C. All development and redevelopment activities shall include stormwater management technologies that reduce pollutant loadings by at least 10 percent (10%) 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.

D. New, expanded or redeveloped industrial or port-related facilities and the replacement of these facilities may be permitted only in those portions of IDAs that have been designated as Modified Buffer Areas (MBAs).

E. Nonwater-Development Project in Intensely Developed Areas

1. The Board of Public Works for the State of Maryland may issue a license to authorize a nonwater-dependent project located on State wetlands that is located in an Intensely Developed Area pursuant to the provisions of §8.2.4(A)(2).

§ 9.2.2 Limited Development Areas

A. If there is a wildlife corridor system identified by the Wildlife Heritage Service on or near the site which can be enhanced by additional plantings, the applicant shall incorporate a wildlife corridor system that connects the largest undeveloped or most vegetative tracts of land within and adjacent to the site in order to provide continuity of existing wildlife and plant habitats with offsite habitats. The wildlife corridor system may include Habitat Protection Areas identified in this Article. Chesapeake City shall ensure the maintenance of the wildlife corridors by requiring the establishment of conservation easements, restrictive covenants, or similar instruments approved by the Town through which the corridor is preserved by public or private groups, including homeowners' associations, nature trusts and other organizations.

B. 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.

C. Except as otherwise provided in this subsection, lot coverage as defined in §8.9 Critical Area Definitions is limited to 15% of a lot or parcel or any portions of a lot or parcel that are designated LDA.

1. If a parcel or lot of one-half acre or less in size existed on or before December 1, 1985, then lot coverage is limited to twenty-five (25%) of the parcel or lot.

2. If a parcel or lot greater than one-half acre and less than one acre in size existed on or before December 1, 1985, then lot coverage is limited to fifteen percent (15%) of the parcel or lot.

3. If an individual lot one acre or less in size is part of a subdivision approved after December 1, 1985, then lot coverage may exceed fifteen percent (15%) of the individual lot; however, the total lot coverage for the entire subdivision may not exceed fifteen percent (15%).

4. Lot coverage limits provided in (a) and (b) above may be exceeded, upon findings by the Chesapeake City Planning Commission or its designee that the following conditions exist:

    a. The lot or parcel is legally nonconforming. A lot or parcel legally developed as of July 1, 2008, may be considered legally nonconforming for the purposes of lot coverage requirements.

    b. Lot coverage associated with new development activities on the property have been minimized;

    c. For a lot or parcel one-half acre or less in size, total lot coverage does not exceed the lot coverage limits in §(a) by more than twenty-five percent (25%) or five hundred square feet (500 square feet), whichever is greater;

    d. For a lot or parcel greater than one-half acre and less than one acre in size, total lot coverage does not exceed the lot coverage limits in §(b) or five thousand, four hundred and forty-five (5,445) square feet, whichever is greater;

The following summarizes the limits set forth in (a) through (d) above:

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

e. If the Chesapeake City Planning Commission or its designee 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 applicant cannot provide appropriate storm water treatment and plantings due to site constraints, then the applicant shall pay a fee to Chesapeake City in lieu of performing the on-site mitigation. The amount of the fee shall be $1.50 per square foot of the required mitigation.

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

1. The total acreage in forest and developed woodlands within the Chesapeake City Critical Area shall be maintained or preferably increased.

2. All forests and developed woodlands that are allowed to be cleared or developed shall be replaced in the Critical Area on not less than an equal area basis.

3. If an applicant is authorized to clear more than 20 percent of a forest or developed woodlands on a lot or parcel, the applicant shall replace the forest or developed woodlands at 1.5 times the areal extent of the forest or developed woodlands cleared, including the first 20 percent of the forest or developed woodlands cleared.

4. An applicant may not clear more than 30 percent of a forest or developed woodlands on a lot or parcel, unless the Board of Appeals grants a variance and the applicant replaces forest or developed woodlands at a rate of three (3) times the areal extent of the forest or developed woodlands cleared.

5. If an applicant is authorized to clear any percentage of forest or developed woodland the remaining percentage shall be maintained through recorded, restrictive covenants or similar instruments approved by the Town.

E. The following are required for forest or developed woodland clearing as required in Section

F above:

1. 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 Chesapeake City shall be posted to assure satisfactory replacement as required in Section F above and plant survival;
2. No clearing is allowed until the Town has issued a permit.
3. Clearing of forests or developed woodlands that exceeds the maximum area allowed in Section F above or prior to the issuance of a permit is a violation, and the forests and developed woodlands which have been cleared shall be replanted at three (3) times the areal extent of the cleared forest and woodland; and
4. If the areal extent of the site limits the application of the reforestation standards in this section the applicant may be allowed to plant offsite or pay a fee in lieu of planting.

F. If no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodland cover of at least 15 percent.

1. The applicant shall designate, subject to Town approval, a new forest area on a part of the site not forested; and
2. The afforested area shall be maintained as forest cover through easements, restrictive covenants or other protective instruments approved by the Town.

§ 9.2.3 Resource Conservation Areas

A. Development Standards

For all development activities and resource utilization in the Resource Conservation Areas, the applicant shall meet all of the following standards:

1. Land use management practices shall be consistent with the policies and criteria for the Habitat Protection Area provisions of this Article.
2. 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. In calculating the 1-in-20 acre density of development that is permitted on a parcel located within the RCA, Town of Chesapeake City:
      (i) Shall count each dwelling unit; and
      (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 (8) 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 Chesapeake City, the Critical Area Commission, and Maryland Department of the Environment.
3. Development activity within the Resource Conservation Areas shall be consistent with the requirements and standards for Limited Development Areas as specified in this Article.

a. For the purposes of calculating limitations on lot coverage, lot coverage is as follows:

(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.

5. Nothing in this section shall limit the ability of a landowner to participate in any agricultural easement program or to convey real property impressed with such an easement to family members provided that no such conveyance will result in a density greater than one dwelling unit per 20 acres.

§ 9.3 Land Use and Density

§ 9.3.1 Permitted Uses

A. Permitted uses in the Critical Area shall be limited to those uses allowed by the underlying zoning districts as modified by both Table 5 and the supplemental use standards in provided in §8.3.2 provided such uses meet all standards established for the Critical Area Overlay District.

TABLE 5: PERMITTED USES IN THE CRITICAL AREA				
	LEGEND: P = Permitted if allowed in the underlying zoning district PC = Permitted with conditions if allowed in the zoning district NP = Not permitted	**Land Use Management Designation**		
Item	***Use Description***	***IDA***	***LDA***	***RCA***
1.00	**RESIDENTIAL**			

1.10	Accessory Dwelling Unit	P	P	PC
2.00	**INSTITUTIONAL**			
2.10	Existing Institutional uses	P	P	PC
2.20	New Institutioanl uses	P	P	NC
2.30	Cemetery	P	P	PC
2.40	Group Home	P	P	PC
2.50	Day Care	P	P	PC
3.00	**COMMERCIAL**			
3.10	Existing Commercial uses	P	P	PC
3.20	New Commercial uses	P	P	NC
3.30	Home Occupation	P	P	PC
3.40	Bed and Breakfast Facility	P	P	PC
4.00	**MARITIME/WATER DEPENDENT**			
4.10	Expansion of Existing Commercial Marinas	P	P	PC
4.20	New Marina, commercial	P	P	NC
4.30	Community Piers and Noncommercial Boat Dockage/Storage	P	P	PC
4.40	Public Beaches/Public Water Recreation/Education Areas	P	P	PC
4.50	Research Areas	P	P	PC
4.60	Fisheries Activities	P	P	P
4.70	Structures on Piers	PC	PC	PC
4.80	Private Pier	P	P	P
5.00	**RECREATION**			
5.10	Golf Course	P	P	PC
6.00	**INDUSTRIAL**			
6.10	Existing Industrial uses	P	P	PC
6.20	New Industrial uses	P	PC	NP
6.30	Non-maritime Heavy Industry	P	NP	NP
7.00	**TRANSPORTATION/PARKING/UTILITIES**			
7.10	Utility Transmission Facilities	PC	PC	PC
8.00	**PUBLIC/QUASI-PUBLIC**			
8.10	Sanitary landfill; rubble fill	PC	PC	PC
8.20	Solid or hazardous waste collection or disposal facility	PC	PC	PC
8.30	Sludge Facilities	PC	PC	PC

B. Maximum Permitted Density

1. The maximum permitted density for properties located in the Chesapeake City Critical Area shall be as follows:

   a. In the Intensely Developed Area, maximum density shall be as permitted by the underlying zoning.

b. In the Limited Development Area, maximum density shall be as permitted by the underlying zoning.

c. In the Resource Conservation Area, maximum density shall be one dwelling unit per 20 acres.

2. Calculation of 1-in-20 acre density of development.

In calculating the 1-in-20 acre density of development that is permitted on a parcel located within the Resource Conservation Area, the Town:

a. Shall count each dwelling unit;

b. May permit the area of any private wetlands located on the property to be included under the following conditions:

1. The density of development on the upland portion of the parcel may not exceed one dwelling unit per eight (8) acres; and

2. The area of private wetlands shall be estimated on the basis of vegetative information as designated on the State wetlands maps or by private survey approved by the Town, the Commission, and the State Department of the Environment.

§ 9.3.2 Supplemental Use Standards

The following supplemental use standards apply to the permitted uses listed in Table 5 above and shall apply when the permitted use is allowed in the underlying zoning district.

A. Accessory Dwelling Unit (1.10)

1. If a permitted use in the underlying zoning district, one additional dwelling unit (accessory dwelling unit) as part of a primary dwelling unit may be permitted in the Resource Conservation Area (RCA) provided that it meets the requirements found in Natural Resources Article 8-1808.1(E)(2).

B. Existing Institutional Uses (2.10)

1. Existing institutional facilities shall be allowed in Resource Conservation Areas.

2. Expansion of existing institutional facilities and uses in the Resource Conservation Area shall be subject to the non-conforming use provisions of this Article and the Grandfathering provisions in §8 and may require growth allocation.

C. New Institutional Uses (2.20)

1. New institutional facilities and uses, except those specifically listed below shall not be permitted in Resource Conservation Areas (RCAs).

2. Certain institutional uses may be permitted in Resource Conservation Areas (RCAs) if allowed in the underlying zoning district and if the use complies with all requirements for such uses in this Article. These institutional uses are limited to:

a. A cemetery that is an accessory use to an existing use; provided manmade lot coverage is limited to 15 percent of the site or 20,000 square feet, whichever is less;

b. A home day care facility as defined in this Ordinance;

c. A group home, halfway house, or intermediate care institution as defined in this Ordinance;

d. Churches and other buildings for religious assembly;

e. Nursing Care Institutions, Child Care Institutions

f. Other similar uses determined by the Town and approved by the Critical Area Commission to be similar to those listed above.

D. Existing Commercial Uses (3.10)

1. Existing commercial facilities and uses, including those that directly support agriculture, forestry, aquaculture or residential development shall be allowed in Resource Conservation Areas.

2. Expansion of existing commercial facilities and uses in the Resource Conservation Area shall be subject to the non-conforming use provisions of this Article and the Grandfathering provisions in §8 and may require growth allocation.

E. New Commercial Uses (3.20)

1. New commercial uses, except those specifically listed, shall not be permitted in Resource Conservation Areas (RCAs).

2. Certain commercial uses may be permitted if allowed in the underlying zoning district and if the use complies with all requirements for such uses in this Article. These commercial uses are limited to:

a. A home occupation as an accessory use on a residential property and as provided for in this Article;

b. A bed and breakfast facility located in an existing residential structure and where meals are prepared only for guests staying at the facility; and

c. Other uses determined by the Chesapeake City and approved by the Critical Area Commission to be similar to those listed above.

F. Golf Course (5.10)

1. A golf course, excluding main buildings and/or structures such as the clubhouse, pro-shop, parking lot, etc., may be permitted in Resource Conservation Areas (RCAs) provided:

a. Such use is a permitted use allowed in the underlying zoning district; and

b. Development is in accordance with the official guidance adopted by the Critical Area Commission on August 3, 2005.

G. Existing Industrial Uses (6.10)

1. Existing industrial facilities and uses, including those that directly support agriculture, forestry, or aquaculture may be permitted in Resource Conservation Areas.

2. Expansion of existing industrial facilities and use in the Resource Conservation Area shall be subject to the non-conforming use provisions of this Article and the Grandfathering provisions in §8.5.1 and may require growth allocation.

H. New Industrial Uses (6.20)

1. New industrial uses shall not be permitted in Resource Conservation Areas

2. New, expanded or redeveloped industrial facilities may only be permitted in Limited Development Areas if permitted uses in the underlying zoning district and provided such facilities meet all requirements for development in the LDA.

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

I. Non-Maritime Heavy Industry (6.3)

1. Non-maritime heavy industry may be permitted if:

   a. The site is located in an Intensely Developed Area; and

   b. The activity or facility has demonstrated to all appropriate local and State permitting agencies that there will be a net improvement in water quality to the adjacent body of water.

J. Utility Transmission Facilities (7.10)

1. Utility transmission facilities, except those necessary to serve permitted uses, or where regional or interstate facilities must cross tidal waters, may be permitted in the Critical Area provided:

   a. The facilities are located in Intensely Developed Areas and

   b. Only after the activity or facility has demonstrated to all appropriate local and State permitting agencies that there will be a net improvement in water quality to the adjacent body of water.

2. These provisions do not include power plants.

K. Sanitary Landfill; Rubble Fill (8.10)

1. Sanitary landfills or rubble fills may not be permitted in the Critical Area unless no environmentally acceptable alternative exists outside the Critical Area, and these development activities or facilities are needed in order to correct an existing water quality or wastewater management problem.

2. Existing, permitted facilities shall be subject to the standards and requirements of the Department of the Environment.

L. Solid or Hazardous Waste Collection or Disposal Facilities (8.20)

1. Solid or hazardous waste collection or disposal facilities, including transfer stations may not be permitted in the Critical Area unless no environmentally acceptable alternative exists outside the Critical Area, and these development activities or facilities are needed in order to correct an existing water quality wastewater management problem.

2. Existing, permitted facilities shall be subject to the standards and requirements of the Department of the Environment.

M. Sludge Facilities (8.40)

1. Permanent sludge handling, storage and disposal facilities, other than those associated with wastewater treatment facilities may be permitted in the Critical Area provided:

   a. The facility or activity is located in an Intensely Developed Areas; and

   b. Only after the activity or facility has demonstrated to all appropriate local and State

permitting agencies that there will be a net improvement in water quality to the adjacent body of water.

2. Agricultural or horticultural use of sludge under appropriate approvals when applied by an approved method at approved application rates may be permitted in the Critical Area, except in the 100 foot-Buffer.

N. Non-Water Dependent Structures on Piers

1. Except as provided in paragraphs (2) and (3) of this subsection and notwithstanding any other provisions of law, the Town of Chesapeake City may not issue a Building Permit or any other approval to authorize a non-water dependent project located on State or private wetlands within the Critical Area.

2. The Town of Chesapeake City may issue a Building Permit or any other approval to authorize a non-water dependent project located on State or private wetlands within the Critical Area if the project:

a. Involves a commercial activity that is permitted as a secondary or accessory use to a permitted primary commercial use;

b. Is not located on a pier that is attached to residentially, institutionally or individually used property;

c. Is located in:

i. An intensely developed area (IDA) and the project is authorized under a program amendment to the Town of Chesapeake City's critical area program approved on or before July 1, 2013, if the approved program amendment includes necessary changes to the Town of Chesapeake City's zoning, subdivision and other ordinances so as to be consistent with or more restrictive than the requirements required under this paragraph; or

ii. An area that has been excluded from a local critical area program if the exclusion has been adapted or approved by the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays;

d. Is approved by the Planning Commission or Zoning Administrator after April 6, 2016.

e. Allows or enhances public access to State wetlands;

f. Does not expand beyond the length, width or channel ward encroachment of the pier on which the project is constructed;

g. Has a height of up to 18 feet unless the project is located at a marina and;

h. Is up to 1,000 square feet in total area;

i. Is located on a pier that was in existence on or before December 31, 2012;

ii. Satisfies all of the requirements under Section (a)i through viii of this paragraph; and

iii. If applicable, has a temporary or permanent roof or covering that is up to 1,000 square feet in total area.

3. The Town of Chesapeake City may issue a building permit or any other approval to authorize a non-water dependent project for a small-scale renewable energy system on a pier located on State wetlands if the project:

   a. Involves the installation or placement of a small-scale renewable energy system that is permitted as a secondary or accessory use on a pier that is authorized under this Title 16 of the Environment Article;

   b. Is approved by the Town's Planning Commission or the Zoning Administrator after April 6, 2016;

   c. A building permit or other approval may include the installation or placement of:

      i. A solar energy system attached to a pier of the device or equipment associated with that system does not extend more than:

         A. 4 feet above or 18 inches below the deck of the pier; or

         B. 1 foot beyond the length or width of the pier;

      ii. A solar energy system attached to a piling if there is only one solar panel per boat slip;

      iii. A solar energy system attached to a boathouse roof if the device or equipment associated with that system does not extend beyond the length, width or height of the boathouse roof;

      iv. A closed-loop geothermal heat exchanger under a pier if the geothermal heat exchanger or any associated devices or equipment do not:

         A. Extend beyond the length, width or channel ward encroachment of the pier;

         B. Deleteriously alter longshore drift; or

         C. Cause significant individual or cumulative thermal impacts to aquatic resources; or

      v. A wind energy system attached to a pier if there is only one wind energy system per pier for which;

         A. The height from the deck of the pier to the blade extended at its highest point is up to 12 feet;

         B. The rotor diameter of the wind turbine is up to 4 feet; and

         C. The setbacks of the wind energy system from the nearest property line and from the channel ward edge of the pier to which that system is attached are at least 1.5 times the total height of the system from its base to the blade extended at its highest point.

      vi. Except as provided in paragraph (2) of the subsection and notwithstanding any other provision of law, the Secretary of the Environment may not issue a permit to authorize a non-water dependent project located on private wetlands.

vii. Except for the public access requirements under paragraph (2)(A)(vi), the Secretary of the Environment for the State of Maryland may issue a permit to authorize a non-water dependent project located on private wetlands if the project satisfies all of the requirements under subsection (2) or (3) of this section.

§ 9.4 Growth Allocation

§ 9.4.1 Acreage and Designation

A. Growth allocation acreage.

Growth allocation available to Chesapeake City includes:

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

B. Purpose

Growth Allocation is available for use in a RCA or in a LDA in the Chesapeake City Critical Area Overlay District. The purpose is to authorize a change in the Critical Area classification to develop at a higher density or use than the current classification allows.

C. Process

An applicant shall submit to Chesapeake City a complete application for Growth Allocation that complies with the submittal and environmental report requirements of COMAR 27.01.02.06-1—.06-2. A Growth Allocation request shall be approved by the Town of Chesapeake City prior to submission to the Critical Area Commission.

§ 9.4.2 Standards for Designation

A. 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. New Intensely Developed Areas shall be at least 20 acres in size unless:
   a. They are contiguous to an existing IDA or LDA; or
4. New Limited Development Areas or Intensely Developed Areas shall be located in a manner that minimizes impacts to Habitat Protection Area as defined herein and in COMAR 27.01.09 and in an area and manner that optimizes benefits to water quality;
5. New Intensely Developed Areas shall only be located where they minimize their impacts to the defined land uses of the Resource Conservation Area (RCA);
6. 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;
7. New Intensely Developed or Limited Development Areas to be located in Resource Conservation Areas shall conform to all criteria of this Article for such areas, shall be so

designated on the Chesapeake City Critical Area Maps and shall constitute an amendment to this Article subject to review by the Chesapeake City Planning Commission and approval by the Mayor and Council and the Critical Area Commission as provided herein.

8. For a growth allocation application for a residential subdivision, comply with the requirements and procedures under Environment Article, §9-206, Annotated Code of Maryland, and Land Use Article, Title 1, Subtitle 5, and §5-104, Annotated Code of Maryland.

B. Additional Factors

In reviewing map amendments or refinements involving the use of growth allocation the Critical Area Commission shall consider the following factors:

1. Consistency with Chesapeake City Comprehensive Plan and whether the growth allocation would implement the goals and objectives of the adopted plan. "Consistency with" means that a standard or factor will further, and not be contrary to the following items in the comprehensive plan:
   a. Policies;
   b. Timing of the implementation of the plan, of development, and of rezoning;
   c. Development patterns;
   d. Land uses; and
   e. Densities or intensities.
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 or septic system using the best available nitrogen removal technology;
   b. To complete an existing subdivision;
   c. To expand existing business; or
   d. To be clustered.
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;
   c. If greater than 20 acres, to be located in a designated Priority Funding Area; and
   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;

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 associated with location in a coastal hazard area or an increased risk of severe flooding attributable to the proposed development and/or sea level rise.

§ 9.5 Administration and Enforcement

§ 9.5.1 Grandfathering

A. Continuation of Existing Uses

1. The continuation, but not necessarily the intensification or expansion, of any use in existence on August 8, 1988, may be permitted, unless the use has been abandoned for more than one year or is otherwise restricted by existing municipal Articles.

2. If any existing use does not conform with the provisions of this Article, its intensification or expansion may be permitted only in accordance with the variance procedures in 9.

B. Residential Density on Grandfathered Lots

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

   a. A legal parcel of land, not being part of a recorded or approved subdivision that was recorded as of December 1, 1985.

   b. Land that received a building permit subsequent to December 1, 1985, but prior to August 8, 1988**.**

   c. Land that was subdivided into recorded, legally buildable lots, where the subdivision received final approval between June 1, 1984, and December 1, 1985.

   d. 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 Article or the area of the land has been counted against the growth allocation permitted under this Article.

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 (3) types of development areas described in this Chapter/Ordinance.

2. Nothing in this Section may be interpreted as altering any requirements of this Article related to water-dependent facilities or Habitat Protection Areas.

§ 9.5.2 Variances

A. Applicability

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

1. In considering an application for a variance, the Board of Appeals shall presume that the specific development activity in the Critical Area, that is subject to the application and for which a variance is required, does not conform with the general purpose and intent of Natural Resources Article, Title 8 Subtitle 18, COMAR Title 27, and the requirements of this Article.
2. Unwarranted hardship means that without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.

B. Standing

In accordance with Natural Resources Article, §8-1808(d)(2), Annotated Code of Maryland, if a person meets the threshold standing requirements under federal law, the person shall have standing to participate as a party in a local administrative proceeding.

C. Standards

The provisions for granting such a variance shall include evidence submitted by the applicant that the following standards are met:

1. Special conditions or circumstances exist that are peculiar to the land or structure involved and that a literal enforcement of provisions and requirements of this Article would result in unwarranted hardship;
2. A literal interpretation of the provisions of this Article will deprive the applicant the use of land or a structure permitted to others in accordance with the provisions of this Critical Area Ordinance;
3. The granting of a variance will not confer upon an applicant any special privilege that would be denied by this Article to other lands or structures in accordance with the provisions of the local Critical Area Program.
4. The variance request is not based upon conditions or circumstances which are the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed, nor does the request arise from any condition relating to land or building use, either permitted or non-conforming on any neighboring property; and
5. The granting of a variance shall not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the Critical Area and the granting of the variance will be in harmony with the general spirit and intent of the Critical Area Law and this Article.

D. Process

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

1. After hearing an application for a Critical Area variance, the Board of Appeals shall make written findings reflecting analysis of each standard.
2. If the variance request is based on conditions or circumstances that are the result of actions by the applicant, the Board of Appeals shall consider that fact.
3. The applicant has the burden of proof and the burden of persuasion to overcome the presumption of nonconformance established in A above.
4. The Board of Appeals shall notify the Critical Area Commission of its findings and decision to grant or deny the variance request.

E. Findings

Based on competent and substantial evidence, the Board of Appeals shall make written findings as to whether the applicant has overcome the presumption of nonconformance as established in A above, and if applicable B above**.** With due regard for the person's technical competence, and specialized knowledge, the written findings may be based on evidence introduced and testimony presented by:

1. The applicant;
2. Town Officials or staff or any other government agency; or
3. Any other person deemed appropriate by the Board of Appeals.

F. Appeals

Appeals from decisions concerning the granting or denial of a variance under these regulations shall be taken in accordance with all applicable laws and procedures for variances. Variance decisions by the Board of Appeals may be appealed to the Circuit Court in accordance with the Maryland Rules of Procedure. Appeals may be taken by any person, firm, corporation or governmental agency aggrieved or adversely affected by any decision made under this Article.

G. Conditions and Mitigation

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

1. Adverse impacts resulting from the granting of the variance shall be mitigated as recommended by the Planning Commission, but not less than by planting on the site at the rate of at least three to one per square foot of the variance granted.
2. New or expanded structures or lot coverage shall be located the greatest possible distance from mean high water, the landward edge of tidal wetlands, tributary streams, nontidal wetlands, or steep slopes.

H. Commission Notification.

Within ten (10) working days after a written decision regarding a variance application is issued, a copy of the decision will be sent to the Critical Area Commission. No permit for the activity that was the subject of the application will be issued until the applicable 30-day appeal period has elapsed.

I. After-the-Fact-Requests

1. A local jurisdiction may not accept an application of a variance to legalize a violation of this subtitle, including an unpermitted structure or other development activity until the local jurisdiction:

    a. Issues a notice of violation; and

    b. Assesses an administrative or civil penalty for the violation.

2. Chesapeake City may not approve an after-the-fact variance unless an applicant has:

    a. Fully paid all administrative, civil and criminal penalties imposed under Natural Resources Article, §8-1808(c)(l)(iii)14-15 and (2)(i), Annotated Code of Maryland;

    b. Prepared a restoration or mitigation plan, approved by the local jurisdiction, to abate impacts to water quality or natural resources as a result of the violation; and

    c. Performed the abatement measures in the approved plan in accordance with the local Critical Area Program.

3. If the Board denies the requested after-the-fact variance, then Chesapeake City shall:

    a. Order removal or relocation of any structure; and

    b. Order restoration of the affected resources.

§ 9.5.3 Lot Consolidation and Reconfiguration

A. Applicability

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

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.

1. Chesapeake City will 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 Planning Commission 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 Planning Commission shall send a copy of the decision or order and a copy of any approved development plan within ten (10) business days by U.S. mail to the Critical Area Commission's business address.

§ 9.5.4 Amendments

A. Amendments

The Mayor and Council may from time to time amend the Critical Area provisions of this Article. Changes may include, but are not limited to amendments, revisions, and modifications to these zoning regulations, Critical Area Maps, implementation procedures, and local policies that affect Chesapeake City's Critical Area. All such amendments, revisions, and modifications shall also be approved by the Critical Area Commission as established in §8-1809 of the Natural Resources Article of the Annotated Code of Maryland. No such amendment shall be implemented without approval of the Critical Area Commission. Standards and procedures for Critical Area Commission approval of proposed amendments are as set forth in the Critical Area Law §8-1809(i) and §8-1809(d), respectively.

B. Zoning Map Amendments

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

1. Are wholly consistent with the land classifications as shown on the adopted Critical Area Overlay Map; or
2. The use of growth allocation in accordance with the growth allocation provisions of this Article is proposed.

C. Process

1. When an amendment is requested, the applicant shall submit the amendment to the Planning Commission for review and research. Upon completing Findings of Fact, these documents shall be forwarded to the Mayor and Council.
2. Mayor and Council shall hold a public hearing at which parties of interest and citizens shall have an opportunity to be heard. At least fourteen (14) days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in Chesapeake City.
3. After the Mayor and Council approve an amendment, they shall forward their decision and applicable resolutions along with the amendment request to the Critical Area Commission for final approval.

§ 9.5.5 Enforcement

A. Consistency

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

B. Violations

1. No person shall violate any provision of this Article. Each violation that occurs and each calendar day that a violation continues shall be a separate offense.
2. Each person who violates a provision of this Article shall be subject to separate administrative civil penalties, abatement and restoration orders, and mitigation for

each offense.

3. Noncompliance with any permit or order issued by the Town related to the Critical Area shall be a violation of this Article and shall be enforced as provided herein.

C. Responsible persons

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

D. Required Enforcement Action

In the case of violations of this Article, the Town shall take enforcement action including:

1. Assess administrative civil penalties as necessary to cover the costs associated with performing inspections, supervising or rendering assistance with identifying and citing the violation, issuing abatement and restoration orders, and reviewing mitigation plans and ensuring compliance with these plans;

2. Issue abatement, restoration, and mitigation orders as necessary to:

   a. Stop unauthorized activity;

   b. Restore and stabilize the site, as appropriate, to its condition prior to the violation or to a condition that provides the same water quality and habitat benefits; and

3. Require the implementation of mitigation measures, in addition to restoration activities, to offset the environmental damage and degradation or loss of environmental benefit resulting from the violation.

E. Right to enter property

Except as otherwise authorized and in accordance with the procedures specified herein, the Mayor and Council or their designee may obtain access to and enter a property in order to identify or verify a suspected violation, restrain a development activity, or issue a citation if the Town has probable cause to believe that a violation of this Article has occurred, is occurring, or will occur. Town officials shall make a reasonable effort to contact a property owner before obtaining access to or enter the property. If entry is denied, the Town may seek an injunction to enter the property to pursue an enforcement action.

F. Administrative civil penalties

In addition to any other penalty applicable under State or Town law, every violation of a provision of Natural Resources Article, Title 8 Subtitle 18 or Critical Area provisions of this Article shall be punishable by a civil penalty of up to $10,000 per calendar day.

1. Before imposing any civil penalty, the person(s) believed to have violated this Article shall receive: written notice of the alleged violation(s) including which, if any, are continuing violations, and an opportunity to be heard. The amount of the civil penalty for each violation, including each continuing violation, shall be determined separately. For each continuing violation, the amount of the civil penalty shall be determined per day. In determining the amount of the civil penalty, the Town shall consider:

   a. The gravity of the violation;

b. The presence or absence of good faith of the violator;

c. Any willfulness or negligence involved in the violation including a history of prior violations;

d. The environmental impact of the violation; and

e. The cost of restoration of the resource affected by the violation and mitigation for damage to that resource, including the cost to Chesapeake City for performing, supervising, or rendering assistance to the restoration and mitigation.

2. Administrative civil penalties for continuing violations shall accrue for each violation, every day each violation continues, with no requirements for additional assessments, notice, or hearings for each separate offense. The total amount payable for continuing violations shall be the amount assessed per day for each violation multiplied by the number of days that each violation has continued.

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

4. Assessment and payment of administrative civil penalties shall be in addition to and not in substitution for recovery by the Town of all damages, costs, and other expenses caused by the violation.

5. Payment of all administrative civil penalties assessed shall be a condition precedent to the issuance of any permit or other approval required by this Article.

G. Cumulative Remedies

The remedies available to the Town under this Article are cumulative and not alternative or exclusive, and the decision to pursue one remedy does not preclude pursuit of others.

H. Injunctive Relief

1. The Town may institute injunctive or other appropriate actions or proceedings to bring about the discontinuance of any violation of this Article, an administrative order, a permit, a decision, or other imposed condition.

2. The pendency of an appeal to the Board of Appeals or subsequent judicial review shall not prevent the Town from seeking injunctive relief to enforce an administrative order, permit, decisions, or other imposed condition, or to restrain a violation pending the outcome of the appeal or judicial review.

I. Variances Pursuant to a Violation

The Town may accept an application for a variance regarding a parcel or lot that is subject to a current violation of this subtitle or any provisions of an order, permit, plan, or this Article in accordance with the variance provisions of this Article. However, the application shall not be reviewed, nor shall a final decision be made until all abatement, restoration, and mitigation measures have been implemented and inspected by the Town.

J. Permits Pursuant to a Violation.

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

1. Fully paid all administrative, civil, or criminal penalties as set forth in §F above;
2. Prepared a restoration or mitigation plan, approved by the Town, to abate impacts to water quality or natural resources as a result of the violation;
3. Performed the abatement measures in the approved plan in accordance with all Town regulations; and
4. Unless an extension of time is approved by the Town because of adverse planting conditions, within 90 days of the issuance of a permit, approval, variance, or special exception for the affected property, any additional mitigation required as a condition of approval for the permit, approval, variance, or special exception shall be completed.

K. Appeals

An appeal to the Board of Appeals may be filed by any person aggrieved by any order, requirement, decision or determination by the Town in connection with the administration and enforcement of this Article.

1. An appeal is taken by filing a written notice of appeal with the Board of Appeals in accordance with the provisions of this Article and accompanied by the appropriate filing fee.
2. An appeal must be filed within thirty (30) days after the date of the decision or order being appealed; and
3. An appeal stays all actions by the Town seeking enforcement or compliance with the order or decisions being appealed, unless the Town certifies to the Board of Appeals that (because of facts stated in the certificate) such stay will cause imminent peril to life or property. In such a case, action by the Town shall not be stayed except by order of a court on application of the party seeking the stay.

§ 9.6 The Buffer

§ 9.6.1 Applicability and Delineation

A. An applicant for a development activity or a change in land use shall apply all of the required standards for a minimum 100-foot Buffer as described in this part. The provisions of this chapter do not apply to an area of the Buffer that is designated as a Modified Buffer Area (MBA) under Section 8.6.3. The minimum 100-foot Buffer shall be delineated in the field and shall be shown on all applications as follows:

1. The minimum 100-foot Buffer is delineated based on existing field conditions landward from:
   a. The mean high water line of tidal water;
   b. The edge of each bank of a tributary stream; and
   c. The upland boundary of a tidal wetland.
2. The Buffer shall be expanded beyond the minimum 100-foot Buffer as described in A(1) above and the minimum 200-foot Buffer as described in A(3) below, 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 as stated in COMAR §26.23.06.01;

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 100-foot Buffer.

3. Applications for a subdivision or for a development activity on land located within the RCA requiring site plan approval after July 1, 2008 shall include:

a. An expanded Buffer in accordance with A(2) above; or

b. A Buffer of at least 200 feet from a tidal waterway or tidal wetlands; and a Buffer of at least 100-feet from a tributary stream, whichever is greater.

4. The provisions of A(3) above do not apply if:

a. The application for subdivision or site plan approval was submitted before July 1, 2008, and legally recorded (subdivisions) or received approval (site plans), by July 1, 2010;

b. The application involves the use of growth allocation.

§ 9.6.2 Permitted activities

A. Buffer Disturbance

If approved by the Town, disturbance to the Buffer is permitted for the following activities, provided mitigation is performed in accordance with an approved Buffer Management as required per Section E of this Part:

1. A new development or redevelopment activity associated with a water-dependent facility; or

2. A shore erosion control activity constructed in accordance with COMAR 26.24.02, COMAR 27.01.04, and this Article;

3. A development or redevelopment activity approved in accordance with the variance provisions of this Article;

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 100-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.

d. A septic system on a lot created before the local program's adoption date, where mitigation is provided at a 1:1 ratio for area of canopy cleared of any forest or developed woodland

e. Riparian access for water access, where mitigation is required at a rate of 2:1.

B. Buffer Establishment in Vegetation

An applicant for a development activity, redevelopment activity or a change in land use that occurs outside the Buffer, but is located on a on a riparian lot or parcel that includes the minimum 100-foot Buffer, shall establish the Buffer in vegetation if the Buffer is not fully forested or fully established in woody or wetland vegetation. A Buffer Management Plan in accordance with the standards of Section E below is required.

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 Ordinance; 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. A local jurisdiction shall require an applicant to establish the Buffer in vegetation in accordance with the table below and Part E of this Ordinance and to provide a Buffer Management Plan under Part F of this Ordinance 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

Development Category	Lot Created Before August 8, 1899	Lot Created After August 8, 1988
Development on a vacant lot	Establish the Buffer based on total square footage of lot coverage outside the Buffer	Fully establish the Buffer
Subdivision	Fully establish the buffer	
New lot with an existing dwelling unit	Establish the Buffer based on total square footage of lot coverage outside the Buffer	
Conversion of a land use on a parcel or lot to another land use	Fully establish the Buffer	
Addition, accessory structure, or redevelopment	Establish the Buffer based on net square footage increase in lot coverage outside the Buffer	
Substantial alteration	Establish the Buffer based on total square footage of lot coverage outside the Buffer	

6. A local jurisdiction 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 local procedures; and

   b. The total area is stabilized.

C. Mitigation for Impacts to the Buffer

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

1. Authorized development activities may include a variance, subdivision, site plan, shore erosion control permit, building permit, grading permit, and special exception.

2. All authorized development activities shall be mitigated according to COMAR 27.01.09.01-2H.

3. All unauthorized development activities in the Buffer shall be mitigated at a ratio of 4:1 for the area of disturbance in the Buffer.

4. Planting for mitigation shall be planted onsite within the Buffer. If mitigation planting cannot be located within the Buffer, the Town 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.

D. Buffer Planting Standards.

1. An applicant that is required to plant the Buffer for Buffer establishment or Buffer mitigation shall apply the planting standards set forth in COMAR 27.01.09.01-2 and 4.

2. A variance to the planting and mitigation standards of this Article is not permitted.

E. 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 as provided in COMAR 27.01.09.01-3 with the application for the specific activity. The provisions of this part do not apply to maintaining an existing grass lawn or an existing garden in the Buffer.

1. A Buffer Management Plan that includes planting for establishment shall be submitted with all other application materials, clearly specify the area to be planted and state if the applicant is:
   a. Fully establishing the Buffer;
   b. Partially establishing an area of the Buffer equal to the net increase in lot coverage, or
   c. Partially establishing an area of the Buffer equal to the total lot coverage.
2. Any permit for development activity or tree and / or shrub clearing that requires Buffer establishment or Buffer mitigation will not be issued until the Town approves a Buffer Management Plan**.**
3. An applicant may not obtain final approval of a subdivision application until the Buffer Management Plan has been reviewed and approved.
4. The Town will not approve a Buffer Management Plan unless:
   a. The plan clearly indicates that all planting standards under §D will be met; and
   b. Appropriate measures are in place for the long-term protection and maintenance of all Buffer areas.
5. 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 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.
6. Concurrent with recordation of a subdivision plat, an applicant shall record a protective easement for the Buffer.
7. If an applicant fails to implement a Buffer Management Plan, that failure shall constitute a violation of this Article.
   a. A permit for development activity will not be issued for a property that has the violation.
8. An applicant shall post the property proposed for subdivision with durable signs prior to final recordation in accordance with COMAR 27.01.09.01-2.

9. Buffer management plans that includes natural regeneration shall follow the provisions of COMAR 27.01.09.01-4

F. Fees-In-Lieu of Buffer Mitigation

A fee in-lieu of mitigation will be collected if the planting requirements of the Buffer Management Plan cannot be fully met onsite in accordance with the following standards:

1. Fee-in-lieu monies shall be collected and held in a special fund, which may not revert to Chesapeake City's general fund;
2. Fee-in-lieu shall be assessed at $1.50 per square foot of required Buffer mitigation;
3. A portion of fee-in-lieu money can be used for management and administrative costs; however, this cannot exceed 20% of the fees collected; and
4. Fee-in-lieu monies shall be used for the following projects:
    a. To establish the Buffer on sites where planting is not a condition of development or redevelopment;
    b. For water quality and habitat enhancement projects as approved by the Critical Area Commission or by agreement between the Town and the Critical Area Commission.

G. Shore Erosion Control Projects

Shore erosion control measures are permitted activities within the Buffer in accordance with the following requirements:

1. An applicant for a shore erosion control project that affects the Buffer in any way, including, but not limited to access, vegetation removal and pruning, or backfilling shall submit a Buffer Management Plan in accordance with the requirements of this section; and
2. Comply fully with all of the policies and criteria for a shore erosion control project stated in COMAR 27.01.04 and COMAR 26.24.06.01.

§ 9.6.3 Modified Buffer Area (MBA) Provisions

A. Applicability

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

B. Development and Redevelopment Standards.

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

1. Development and redevelopment activities have been located as far as possible from mean high tide, the landward edge of tidal wetlands, or the edge of tributary streams.

2. Variances to other local setback requirements have been considered before additional

intrusion into the Buffer.

3. Commercial, industrial, institutional, recreational and multi-family residential development and redevelopment shall meet the following standards:

   a. New development, including accessory structures, shall minimize the extent of intrusion into the Buffer. New development shall not be located closer to the water (or edge of tidal wetlands) than the minimum required setback for the zoning district or 50 feet, whichever is greater. Structures on adjacent properties shall not be used to determine the setback line.

   b. Redevelopment, including accessory structures, shall minimize the extent of intrusion into the Buffer. Redevelopment shall not be located closer to the water (or edge of tidal wetlands) than the minimum setback for the zoning district or 25 feet, whichever is greater. Structures on adjacent properties shall not be used to determine the setback line. A new structure may be constructed on the footprint of an existing structure.

4. Single family residential development and redevelopment shall meet the following standards:

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

   b. Existing principal or accessory structures may be replaced in the same footprint.

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

5. Variances to other local setback requirements shall be considered before additional intrusion into the Buffer is permitted.

6. Development and redevelopment may not impact any Habitat Protection Area (HPA) other than the Buffer, including nontidal wetlands, other State or federal permits notwithstanding.

7. Modified Buffer Area (MBA) designation shall not be used to facilitate the filling of tidal wetlands that are contiguous to the Buffer or to create additional buildable land for new development or redevelopment.

8. No natural vegetation may be removed in the Buffer except that required by the proposed construction.

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

   a. Natural forest vegetation of an area twice the extent of the footprint of the development activity within the 100-foot Buffer shall be planted on site in the

Buffer or at another location approved by the Planning Commission.

b. Applicants who cannot fully comply with the planting requirement in §(a) above, may use offset by removing an equivalent area of existing lot coverage in the Buffer.

c. Applicants who cannot comply with either the planting or offset requirements in §(a) or §(b) above shall pay into a fee-in-lieu program as follows:

i. Applicants shall submit to the Planning Commission two cost estimates from qualified landscape businesses for planting the equivalent of twice the extent of the development within the 100-foot Buffer. The estimate shall include the cost of stock, planting, staking, mulching and a one year survival guarantee.

ii. The Planning Commission shall determine the amount of the fee-in-lieu based on the average of the two estimates.

iii. Any fees-in-lieu collected under these provisions shall be placed in an account that will assure their use only for projects within the Critical Area to enhance wildlife habitat, improve water quality, or otherwise promote the goals of the Chesapeake City's Critical Area Program. The funds cannot be used to accomplish a project or measure that would have been required under existing local, State, or federal laws, regulations, statutes, or permits. The status of these funds must be reported in the jurisdiction's quarterly reports.

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

§ 9.7 Other Habitat Protection Areas

§ 9.7.1 Identification

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

1. Threatened or endangered species or species in need of conservation;
2. Colonial waterbird nesting sites;
3. Historic waterfowl staging and concentration areas in tidal waters, tributary streams or tidal and nontidal wetlands;
4. Existing riparian forests;
5. Forest areas utilized as breeding areas by future interior dwelling birds and other wildlife species;
6. Other plant and wildlife habitats determined to be of local significance;
7. Natural Heritage Areas; and
8. Anadromous fish propagation waters.

§ 9.7.2 Standards

A. An applicant for a development activity proposed for a site within the Critical Area that is in or near a Habitat Protection Area listed above shall request review by the Department of Natural Resources Wildlife and Heritage Service 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.

B. If the presence of a Habitat Protection Area s is confirmed by the Department of Natural Resources, the applicant shall develop a Habitat Protection Plan in coordination with the Department of Natural Resource, and as necessary United States Fish Wildlife Service.

1. If potential Forest Interior Dwelling Species (FIDS) habitat is identified, the proposed development shall conform to the Critical Area Commission's FIDS Guidance Manual, dated June 2000 and as updated.

2. If potential anadromous fish propagation waters are identified, the proposed development shall conform to the policies and criteria listed in COMAR 27.01.09.05.

C. The applicant shall obtain approval of the Habitat Protection Plan from the Planning Commission or the appropriate designated approving authority. The specific protection and conservation measures included in the Plan shall be considered conditions of approval of the project.

§ 9.8 Water Dependent Facilities

§ 9.8.1 Applicability and Identification

A. Applicability

The provisions of this Ordinance 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. An activity is water-dependent if it cannot exist outside the Buffer and is dependent on the water by reason of the intrinsic nature of its operation.

B. Identification

Water-dependent facilities include, but are not limited to, ports, the intake and outfall structures of power plants, water-use industries, marinas, and other boat docking structures, public beaches and other public water-oriented recreation areas, and fisheries activities. Excluded from this regulation are individual private piers installed or maintained by riparian landowners, and which are not part of a subdivision that provides community piers.

§ 9.8.2 Standards

A. Standards

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

1. New or expanded development activities may be permitted in the Buffer in the IDAs and LDAs provided that it can be shown:

a. That they are water-dependent;

b. That the project meets a recognized private right or public need;

c. That adverse effects on water quality, fish, plant, and wildlife habitat are minimized;

d. That, insofar as possible, non-water-dependent structures or operations associated with water-dependent projects or activities are located outside the Buffer; and

e. That the facilities are consistent with an approved local plan as set forth below.

2. New or expanded development activities may not be permitted in those portions of the Buffer which occur in RCAs. Applicants for water-dependent facilities in a RCA, other than those specifically permitted herein, must apply for a portion of the Town's Growth Allocation as set forth in this Ordinance.

B. Evaluating plans for new and expanded water-dependent facilities.

The Municipality shall evaluate on a case-by-case basis all proposals for expansion of existing or new water-dependent facilities. The Town shall work with appropriate State and federal agencies to ensure compliance with applicable regulations. The following factors shall be considered when evaluating proposals for new or expanded water-dependent facilities:

1. That the activities will not significantly alter existing water circulation patterns or salinity regimes;

2. That the water body upon which these activities are proposed has adequate flushing characteristics in the area;

3. That disturbance to wetlands, submerged aquatic plant beds, or other areas of important aquatic habitats will be minimized;

4. That adverse impacts to water quality that may occur as a result of these activities, such as non-point source run-off, sewage discharge from land activities or vessels, or from boat cleaning and maintenance operations, is minimized;

5. That shellfish beds will not be disturbed or be made subject to discharge that will render them unsuitable for harvesting;

6. That dredging shall be conducted in a manner, and using a method which causes the least disturbance to water quality and aquatic and terrestrial habitats in the area immediately surrounding the dredging operation or within the Critical Area, generally;

7. That dredged spoil will not be placed within the Buffer or elsewhere in that portion of the Critical Area which has been designated as a HPA except as necessary for:

   a. Backfill for permitted shore erosion protection measures;

   b. Use in approved vegetated shore erosion projects;

   c. Placement on previously approved channel maintenance spoil disposal areas; and

   d. Beach nourishment.

8. That interference with the natural transport of sand will be minimized; and

9. That disturbance will be avoided to historic areas of waterfowl staging and concentration or other HPAs identified in the HPA section of this Ordinance.

C. Industrial and port-related facilities.

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

D. Marinas and other commercial maritime facilities

New, expanded or redeveloped marinas may be permitted in the Buffer within I D As and LDAs subject to the requirements set forth in this [Chapter/Ordinance]. New marinas or related maritime facilities may not be permitted in the Buffer within RCAs except as provided in this Ordinance. Expansion of existing marinas may be permitted by the Municipality within RCAs provided that it is sufficiently demonstrated that the expansion will not adversely affect water quality, and that it will result in an overall net improvement in water quality at or leaving the site of the marina. New and existing marinas shall meet the sanitary requirements of the Department of the Environment as required in COMAR 26.04.02. New marinas shall establish a means of minimizing the discharge of bottom wash waters into tidal waters.

E. Community piers

New or expanded community marinas and other non-commercial boat-docking and storage facilities may be permitted in the Buffer subject to the requirements in this Chapter of the Ordinance provided that:

1. These facilities may not offer food, fuel, or other goods and services for sale and shall provide adequate and clean sanitary facilities;
2. The facilities are community-owned and established and operated for the benefit of the residents of a platted and recorded riparian subdivision;
3. The facilities are associated with a residential development approved by the Municipality for the Critical Area and consistent with all State requirements and program requirements for the Critical Area;
4. Disturbance to the Buffer is the minimum necessary to provide a single point of access to the facilities; and
5. If community piers, slips, or moorings are provided as part of the new development, private piers in the development are not allowed.

F. Number of slips or piers permitted

The number of slips or piers permitted at the facility shall be the lesser of (1) or (2) below:

1. One (1) slip for each 50 feet of shoreline in the subdivision in the IDAs and LDAs and one slip for each 300 feet of shoreline in the subdivision in the RCA; or
2. A density of slips or piers to platted lots or dwellings within the subdivision in the Critical Area according to the following schedule:

Table F.(2) Number of slips Permitted

Platted Lots or Dwellings in the Critical Area	Slips
up to 15	1 for each lot
16 – 40	15 or 75% whichever is greater
41 – 100	30 or 50% whichever is greater
101 – 300	50 or 25% whichever is greater
over 300	75 or 15% whichever is greater

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

Public beaches or other public water-oriented recreation or education areas including, but not limited to, publicly owned boat launching and docking facilities and fishing piers may be permitted in the Buffer in IDAs. These facilities may be permitted within the Buffer in LDAs and RC As provided that:

1. Adequate sanitary facilities exist;
2. Service facilities are, to the extent possible, located outside the Buffer;
3. Permeable surfaces are used to the extent practicable, if no degradation of groundwater would result;
4. Disturbance to natural vegetation is minimized; and
5. Areas for possible recreation, such as nature study, and hunting and trapping, and for education, may be permitted in the Buffer within RCAs if service facilities for these uses are located outside of the Buffer.

H. Research areas

Water-dependent research facilities or activities operated by State, federal, or local agencies or educational institutions may be permitted in the Buffer, if non-water-dependent structures or facilities associated with these projects are, to the extent possible, located outside of the Buffer.

I. Fisheries activities

Lands and water areas with high aquacultural potential will be identified by the Municipality in cooperation with the State when applications for new or expanded fisheries or aquaculture facilities in these areas are submitted to the Municipality. These areas are encouraged for that use and if so used, should be protected from degradation by other types of land and water use or by adjacent land and water uses. Commercial water-dependent fisheries including, but not limited to structures for crab shedding, fish off-loading docks, shellfish culture operations and shore-based facilities necessary for aquaculture operations and fisheries activities may be permitted in the Buffer in IDAs, LDAs and RCAs.

§ 9.9 Critical Area Definitions

The following words have the following meanings for the purposes of interpreting and implementing only Article 8 of this Ordinance, the Critical Area Program. The singular always includes the plural, and vice versa, except where such construction would be unreasonable:

1. "Abatement" means the act of putting an end to a land alteration or development activity or reducing the degree or intensity of the alteration or activity.
2. "Accessory structure" means a structure that is detached from the principal structure, located on the same lot and clearly incidental and subordinate to a principal structure, or if there is no principal structure on the lot, a structure that is customarily incidental and subordinate to a principal structure.
3. "Addition" means newly constructed area that increases the size of a structure.
4. "Afforestation" means the establishment of a tree crop on an area from which it has always or very long been absent, or the planting of open areas which are not presently in forest cover.
5. "Agriculture" means all methods of production and management of livestock, crops, vegetation, and soil. This includes, but is not limited to, the related activities of tillage, fertilization, pest control, harvesting, and marketing. It also includes, but is not limited to, the activities of feeding, housing, and maintaining of animals such as cattle, dairy cows, sheep, goats, hogs, horses, and poultry and handling their by-products.
6. "Agricultural easement" means a non-possessory interest in land which restricts the conversion of use of the land, preventing non-agricultural uses.
7. "Anadromous fish" means fish that travel upstream (from their primary habitat in the ocean) to freshwater in order to spawn.
8. "Anadromous fish propagation waters" means those streams that are tributary to the Chesapeake Bay and Atlantic Coastal bays in which the spawning of anadromous species of fish (e.g., rockfish, striped bass, yellow perch, white perch, shad, and river herring) occurs or has occurred. The streams are identified by the Department of Natural Resources.
9. "Aquaculture" means: (a) Farming or culturing of finfish, shellfish, other aquatic plants or animals or both, in lakes, streams, inlets, estuaries, and other natural or artificial water bodies or impoundments; (b) Activities include hatching, cultivating, planting, feeding, raising, and harvesting of aquatic plants and animals and the maintenance and construction of necessary equipment, buildings, and growing areas; and (c) Cultivation methods include, but are not limited to, seed or larvae development and grow out facilities, fish ponds, shellfish rafts, rack and longlines, seaweed floats and the culture of clams and oysters on tidelands and subtidal areas. For the purpose of this definition, related activities such as wholesale and retail sales, processing and product storage facilities are not considered aquacultural practices.
10. "Best Management Practices (BMPs)" means conservation practices or systems of practices and management measures that control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxics and sediment. Agricultural BMPs include, but are not limited to, strip cropping, terracing, contour stripping, grass waterways, animal waste structures, ponds, minimal tillage, grass and naturally vegetated filter strips, and proper nutrient application measures.
11. "Buffer" means area that is based on conditions at the time of development is immediately landward from mean high water of tidal waterways, the edge of each bank of a tributary stream, or the landward edge of a tidal wetland; and the area exists in, or is established in, natural vegetation to protect a stream, tidal wetland, tidal waters or terrestrial environments from human disturbance.

The Buffer includes an area of at least 100-feet even if that area was previously disturbed by human activity or is currently developed and also include any expansion for contiguous sensitive areas, such as a steep slope, hydric soil, highly erodible soil, nontidal wetland, or a Nontidal Wetland of Special State Concern as defined in the COMAR 26.23.01.01.

12. "Buffer Management Plan" means a narrative, graphic description, or plan of the Buffer that is necessary when an applicant proposes a development activity that will: affect a portion of the Buffer; alter buffer vegetation; or require the establishment of a portion of the Buffer in vegetation. A Buffer Management Plan includes a major buffer management plan, a minor buffer management plan, and a simplified buffer management plan.
13. "Bufferyard" means an area at least 25 feet wide, located between development activity and tidal waters, tidal wetlands, or a tributary stream, planted with vegetation consisting of native canopy trees, understory trees, shrubs, and perennial herbaceous plants that is used in Modified Buffer Areas to provide water quality and habitat benefits. This area is to be managed and maintained in a manner that optimizes these benefits.
14. "Caliper" means the diameter of a tree measured at two inches above the root collar.
15. "Canopy tree" means a tree that when mature commonly reaches a height of at least 35 feet.
16. "Cluster development" means a residential development in which dwelling units are concentrated in a selected area or selected areas of the development tract so as to provide natural habitat or other open space uses on the remainder.
17. "Colonial nesting water birds" means herons, egrets, terns, and glossy ibis. For the purposes of nesting, these birds congregate (that is "colonize") in relatively few areas, at which time, the regional populations of these species are highly susceptible to local disturbances.
18. "COMAR" means the Code of Maryland Regulations, as from time to time amended, including any successor provisions.
19. "Commission" means the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays.
20. "Community piers" means boat docking facilities associated with subdivisions or similar residential areas, and with condominium, apartment and other multiple family dwelling units. Private piers are excluded from this definition.
21. "Comprehensive or master plan" means a compilation of policy statements, goals, standards, maps and pertinent data relative to the past, present and future trends of the local jurisdiction including, but not limited to, its population, housing, economics, social patterns, land uses, water resources and their use, transportation facilities and public facilities prepared by or for the planning board, agency or office.
22. "Conservation easement" means a non-possessory interest in land which restricts the manner in which the land may be developed in an effort to reserve natural resources for future use.
23. "Consolidation" means a combination of any legal parcel of land or recorded legally buildable lot into fewer lots or parcels than originally existed. An application for consolidation may include a subdivision, lot line abandonment, boundary line adjustment, replatting request, or lot line adjustment.
24. "Critical Area" means all lands and waters defined in §8-1807 of the Natural Resources Article, Annotated Code of Maryland. They include:

    a. All waters of and lands under the Chesapeake Bay and Atlantic Coastal Bays and their tributaries to the head of tide as indicated on State wetland maps;

b. All State and private wetlands designated under Title16 of the Environment Article, Annotated Code of Maryland;

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

d. Modification to these areas through inclusions or exclusions proposed by local jurisdictions and approved by the Commission as specified in §8-1807 of the Natural Resources Article, Annotated Code of Maryland.

25. "Density" means the number of dwelling units per acre within a defined and measurable area.

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

27. "Developer" means a person who undertakes development activity as defined in this Program; or a person who undertakes development activity as defined in the Criteria of the Commission.

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

29. "Development activities" means the construction or substantial alteration of residential, commercial, industrial, institutional or transportation facilities or structures and/or the substantial alternation of the land, including the shoreline and land underwater.

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

31. "Documented breeding bird areas" means forested areas where the occurrence of interior dwelling birds, during the breeding season, has been demonstrated as a result of on-site surveys using standard biological survey techniques.

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

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

34. "Endangered species" means any species of fish, wildlife, or plants that have been designated as endangered by regulation by the Secretary of the Department of Natural Resources. Designation occurs when the continued existence of these species as viable components of the State's resources are determined to be in jeopardy. This includes any species determined to be an "endangered" species pursuant to the Federal Endangered Species Act, 16 U.S.C. §1531 et seq., as amended.

35. "Establishment" means the planting or regeneration of native vegetation throughout the Buffer.

36. "Excess stormwater run-off" means all increases in stormwater resulting from

a. An increase in the imperviousness or lot coverage of the site, including all additions to buildings, roads, and parking lots;

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

c. Alteration of drainage ways, or regrading of slopes;

d. Destruction of forest; or

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

37. "Financial assurance" means a performance bond, letter of credit, cash deposit, insurance policy, or other instrument of security acceptable to the Town of Chesapeake City.

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

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

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

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

42. "Forest Interior Dwelling Bird Habitat" means existing riparian forests, such as relatively mature forests of at least 300 feet in width which occur adjacent to streams, wetlands, or the shoreline of the Chesapeake Bay, the Atlantic Coastal Bays, or their tributaries; Forests utilized as breeding areas by forest interior dwelling birds and other wildlife species, such as relatively mature forests within the Critical Area of 100 acres or more, or forest connected with these breeding areas;

43. "Forest management" means the protection, manipulation, and utilization of the forest to provide multiple benefits, such as timber harvesting, water transpiration, wildlife habitat, etc.

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

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

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

47. “Hazardous Tree” means a tree with a structural defect, such as a crack, canker, weak branch union, decay, dead wood, root damage, or root disease, that decreases the structural integrity of the tree and which, because of its location, is likely to fall and cause personal injury or property damage, including acceleration of soil erosion; or based on its location in the landscape, a healthy tree that, with continued normal growth, will damage an existing permanent structure or significantly increase the likelihood of soil erosion.
48. “Highly erodible soils” means those soils with a slope greater than 15 percent; or those soils with a K value greater than .35 and with slopes greater than 5 percent.
49. “Historic waterfowl staging and concentration area” means an area of open water and adjacent marshes where waterfowl gather during migration and throughout the winter season. These areas are historic in the sense that their location is common knowledge and because these areas have been used regularly during recent times.
50. “Hydric soils” means soils that are wet frequently enough to periodically produce anaerobic conditions, thereby influencing the species composition of growth, or both, of plants on those soils.
51. “Hydrophytic vegetation” means those plants cited in "Vascular Plant Species Occurring in Maryland Wetlands" (Dawson, F. et al., 1985) which are described as growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content (plants typically found in water habitats).
52. “Immediate family” means a father, mother, son, daughter, grandfather, grandmother, grandson, or granddaughter.
53. “In-kind replacement” means the replacement of a structure with another structure that is smaller than or identical to the original structure in footprint area, width, length, and use.
54. “Intensely Developed Area” means an area of at least 20 acres or the entire upland portion of the critical area within a municipal corporation, whichever is less, where: residential, commercial, institutional, or industrial developed land uses predominate; and a relatively small amount of natural habitat occurs. These areas include: an area with a housing density of at least four dwelling units per acre; an area with public water and sewer systems with a housing density of more than three dwelling units per acre.
55. “Invasive species “ means a species that is non-native or alien to the ecosystem under consideration whose introduction causes or is likely to cause economic or environmental harm or harm to human health.
56. “K Value” means the soil erodibility factor in the Universal Soil Loss Equation. It is a quantitative value, that is experimentally determined.
57. “Land clearing” means any activity that removes the vegetative ground cover.
58. “Landward edge” means the limit of a site feature that is farthest away from a tidal water, tidal wetland, or tributary stream.
59. “Large shrub” means a shrub that, when mature, reaches a height of at least six feet.
60. “Legally developed” means all physical improvements to a property that existed before Critical Area Commission approval of a local Program, or were properly permitted in accordance with the provisions of the local Program in effect at the time of construction.
61. “Limit of Disturbance” means the area of a development or redevelopment activity that includes temporary disturbance and permanent disturbance.

62. **“**Limited Development Area” means an area: with a housing density ranging from one dwelling unit per five acres up to four dwelling units per acre; with a public water or sewer system; that is not dominated by agricultural land, wetland, forests, barren land, surface water, or open space; or that is less than 20 acres and otherwise qualifies as an intensely developed area under the definition in this Program.
63. “Living shoreline” means a suite of stabilization and erosion control measures that preserve the natural shoreline and are designed to minimize shoreline erosion, maintain coastal process, and provide aquatic habitat. Measures must include marsh plantings and may include the use of sills, sand containment structures, breakwaters, or other natural components.
64. “Local significance” means development of a minor scale, which causes environmental or economic consequences that are largely confined to the immediate area of the parcel of land on which it is located; does not substantially affect the Critical Area Program of the Town of Chesapeake City; and is not considered to be major development as defined in this Program.
65. “Lot coverage” means the percentage of a total lot or parcel that is: occupied by a structure, accessory structure, parking area, driveway, walkway, or roadway; or covered with pavers, walkway gravel, stone, shell, impermeable decking, permeable pavement, or other any manmade material. Lot coverage includes the ground area covered or occupied by a stairway or impermeable deck, but does not include: a fence or wall that is less than one foot in width that has not been constructed with a footer; a walkway in the Buffer or expanded Buffer, including a stairway, that provides direct access to a community or private pier; a wood mulch pathway; or a deck with gaps to allow water to pass freely.
66. “Marina” means any facility for the mooring, berthing, storing, or securing of watercraft, but not including community piers and other non-commercial boat docking and storage facilities.
67. “Major development” means development of a scale that may cause State-wide, regional, or inter-jurisdictional, environmental or economic effects in the Critical Area, or which may cause substantial impacts on the Critical Area Program of a local jurisdiction. This development includes, but is not limited to, airports, power plants, wastewater treatment plants, highways, regional utility transmission facilities, prisons, hospitals, public housing projects, public beaches, and intensely developed park and recreation facilities.
68. “Mean High Water Line” (MHWL) means the average level of high tides at a given location.
69. “Mitigation” means an action taken to compensate for adverse impacts to the environment resulting from development, development activity, or a change in land use or intensity.
70. Modified Buffer Area (MBA)” means an area officially mapped by the [Municipality] and approved by the Critical Area Commission as a MBA, where it has been sufficiently demonstrated that the existing pattern of residential, industrial, commercial, institutional, or recreational development prevents the Buffer from fulfilling its water quality and habitat functions, and where development in accordance with specific MBA provisions can be permitted in the Buffer without a variance.
71. “Native plant” means a species that is indigenous to the physiographic area in Maryland where the planting is proposed.
72. “Natural features” means components and processes present in or produced by nature, including, but not limited to, soil types, geology, slopes, vegetation, surface water, drainage patterns, aquifers, recharge areas, climate, flood plains, aquatic life, and wildlife.
73. “Natural forest vegetation” means vegetation consisting of canopy trees, understory trees, shrubs, and herbaceous plants that are typically found in riparian areas in the State of Maryland. Areas of

natural forest vegetation planted to meet the mitigation requirements in this ordinance shall resemble the structure and species composition of natural forests.

74. “Natural Heritage Area” means any communities of plants or animals which are considered to be among the best Statewide examples of their kind, and are designated by regulation by the Secretary of the Department of Natural Resources.
75. “Natural regeneration” means the natural establishment of trees and other vegetation with at least 400 free-to-grow seedlings per acre, which are capable of reaching a height of at least 20 feet at maturity.
76. “Natural vegetation” means those plant communities that develop in the absence of human activities.
77. Nature-dominated" means a condition where landforms or biological communities, or both, have developed by natural processes in the absence of human activities.
78. “New development” means that for purposes of implementing specific provisions of this Program, new developments (as opposed to redevelopment) means a development activity that takes place on a property with pre-development imperviousness (in IDA) or lot coverage (LDA and RCA) of less than 15 percent as of December 1, 1985.
79. “Non-point source pollution” means pollution generated by diffuse land use activities rather than from an identifiable or discrete facility. It is conveyed to waterways through natural processes, such as rainfall, storm runoff, or groundwater seepage rather than by deliberate discharge. Non-point source pollution is not generally corrected by "end-of-pipe" treatment, but rather by changes in land management practices.
80. “Non-tidal wetlands” means those areas regulated under Subtitle 9 of the Environment Article that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation. The determination of whether an area is a nontidal wetland shall be made in accordance with the publication known as the “Federal Manual for Identifying and Delineating Jurisdictional Wetlands,” published in 1989 and as may be amended. Nontidal wetlands do not include tidal wetlands regulated under Title 5, Subtitle 9 of the Environment Article of the Annotated Code of Maryland.
81. “Nonwater-Dependent Project” means construction of a temporary or permanent structure, which by reason of its intrinsic nature or operation does not require location in or over State or private tidal wetlands.
82. “Offsets” means structures or actions that compensate for undesirable impacts.
83. “Open space” means land and water areas retained in an essentially undeveloped state.
84. “Palustrine” means all non-tidal wetlands dominated by trees, shrubs, persistent emergent plants, or emergent mosses or lichens and all such wetlands that occur in tidal areas where the salinity due to ocean-derived salts is below one-half part per 1,000 parts of water.
85. “Permanent disturbance” means a material, enduring change in the topography, landscape, or structure that occurs as part of a development or redevelopment activity. “Permanent disturbance” includes:

    (i) Construction or installation of any material that will result in lot coverage;

(ii) Construction of a deck;

(iii) Except under §B (18-2)(b)(iii) of this regulation, grading; and

(iv) Except under §B (18-2)(b)(ii) of this regulation, clearing of a tree, forest, or developed woodland.

"Permanent disturbance" does not include a septic system on a lot created before local program approval if the septic system is located in existing grass or clearing is not required.

86. "Person" means an individual, partnership, corporation, contractor, property owner, or any other person or entity.

87. "Physiographic features" means the soils, topography, land slope and aspect, and local climate that influence the form and species composition of plant communities.

88. "Pier" means any pier, wharf, dock, walkway, bulkhead, breakwater, piles or other similar structure. Pier does not include any structure on pilings or stilts that was originally constructed beyond the landward boundaries of State or private wetlands.

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

90. "Port" means a facility or area established or designated by the State or local jurisdictions for purposes of waterborne commerce.

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

92. "Program amendment" means any change or proposed change to an adopted program that is not determined by the Chairman of the Critical Area Commission to be a Program refinement.

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

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

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

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

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

94. "Project approvals" means the approval of development, other than development by the State or local government, in the Chesapeake Bay Critical Area by the appropriate local approval authority. The term includes approval of subdivision plats and site plans; inclusion of areas within floating zones; issuance of variances, special exceptions, and conditional use permits; and issuance of zoning permits. The term does not include building permits.

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

96. "Public water-oriented recreation" means shore-dependent recreation facilities or activities

provided by public agencies that are available to the general public.

97. “Reclamation” means the reasonable rehabilitation of disturbed land for useful purposes, and the protection of the natural resources of adjacent areas, including water bodies.

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

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

100. “Reforestation” means the establishment of a forest through artificial reproduction or natural regeneration.

101. “Resource Conservation Area” means an area that is characterized by nature dominated environments, such as wetlands, surface water, forests, and open space; and resource–based activities, such as agriculture, forestry, fisheries, or aquaculture. Resource conservation areas include areas with a housing density of less than one dwelling per five acres.

102. “Resource utilization activities” means any and all activities associated with the utilization of natural resources such as agriculture, forestry, surface mining, aquaculture, and fisheries activities.

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

104. “Riparian habitat” means a habitat that is strongly influenced by water and which occurs adjacent to streams, shorelines, and wetlands.

105. “Road” means a public thoroughfare that is under the jurisdiction of the State, a county, a municipal corporation, or any other public body. Road does include a drive aisle or driveway.

106. “Seasonally flooded water regime” means a condition where surface water is present for extended periods, especially early in the growing season, and when surface water is absent, the water table is often near the land surface.

107. “Selection” means the removal of single, scattered, mature trees or other trees from uneven-aged stands by frequent and periodic cutting operations.

108. “Shore erosion protection works” means those structures or measures constructed or installed to prevent or minimize erosion of the shoreline in the Critical Area.

109. “Significantly eroding areas” means areas that erode two feet or more per year.

110. “Small shrub” means a shrub that, when mature, reaches a height no greater than six feet.

111. “Species in need of conservation” means those fish and wildlife whose continued existence as part of the State's resources are in question and which may be designated by regulation by the Secretary of Natural Resources as in need of conservation pursuant to the requirements of Natural Resources Article §§ 10-2A-06 and 4-2A-03, Annotated Code of Maryland.

112. “Steep slopes” means slopes of 15 percent or greater incline.

113. “Structure” means anything constructed or erected on or over land that may or may not result in lot coverage. “Structure” means building or construction materials, or a combination of those materials that are purposely assembled or joined together on or over land or water. “Structure”

includes a temporary or permanent fixed or floating pier, piling, deck, walkway, dwelling, building, boathouse, platform, gazebo, or shelter for the purpose of marine access, navigation, working, eating, sleeping, or recreating.

114. "Substantial alteration" means any repair, reconstruction, or improvement of a principal structure, where the proposed footprint equals or exceeds 50 percent of the existing principal structure.

115. "Supplemental planting plan" means a description and landscape schedule that shows the proposed species type, quantity, and size of plants to be located within a Buffer if natural regeneration does not meet the required stem density.

116. "Temporary disturbance" means a short-term change in the landscape that occurs as part of a development or redevelopment activity.

"Temporary disturbance" includes:

a. Storage of materials that are necessary for the completion of the development or redevelopment activity;

b. Construction of a road or other pathway that is necessary for access to the site of the development or redevelopment activity, if the road or pathway is removed immediately after completion of the development or redevelopment activity and the area is restored to its previous vegetative condition; and

c. Grading of a development site, if the area is restored to its previous vegetative condition immediately after completion of the development or redevelopment activity.

"Temporary disturbance" does not include:

a. A septic system in a forest or developed woodland on a lot created before local program approval, if clearing is required; and

b. A violation

117. "Thinning" means a forest practice used to accelerate tree growth of quality trees in the shortest interval of time.

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

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

120. "Transitional habitat" means a plant community whose species are adapted to the diverse and varying environmental conditions that occur along the boundary that separates aquatic and terrestrial areas.

121. "Transportation facilities" means anything that is built, installed, or established to provide a means of transport from one place to another.

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

123. "Understory" means the layer of forest vegetation typically located underneath the forest

canopy.

124. “Understory tree” means a tree that, when mature, reaches a height between 12 and 35 feet.

125. “Unwarranted hardship” means that without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.”

126. “Upland boundary” means the landward edge of a tidal wetland or nontidal wetland.

127. “Utility transmission facilities” means fixed structures that convey or distribute resources, wastes, or both, including but not limited to electrical lines, water conduits and sewer lines.

128. “Water-based aquaculture” means the raising of fish and shellfish in any natural, open, free-flowing water body.

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

130. “Water-use industry” means an industry that requires location near the shoreline because it utilizes surface waters for cooling or other internal purposes.

131. “Waterfowl” means birds that frequent and often swim in water, nest and raise their young near water, and derive at least part of their food from aquatic plants and animals.

132. “Wildlife corridor” means a strip of land having vegetation that provides habitat and safe passage for wildlife.

133. “Wildlife habitat” means those plant communities and physiographic feature that provide food, water, cover, and nesting areas, as well as foraging and feeding conditions necessary to maintain populations of animals in the Critical Area.

APPENDIX A: GUIDE FOR LANDSCAPING

A-1: Guide for Protecting Existing Trees

Article XVII, Part II provides for the retention and protection of large trees when land is developed. To better ensure the survival of existing trees, the developer should heed the following guidelines (in addition to the mandatory requirements of Article XVII):

(1) Protect trees with fencing and armoring during the entire construction period. The fence should enclose an area 10 feet square with the tree at the center.

(2) Avoid compaction of the soil around existing trees due to heavy equipment. Do not pile dirt or other materials beneath the crown of the tree.

(3) Keep fires or other sources of extreme heat well clear of existing trees.

(4) Repair damaged roots and branches immediately. Exposed roots should be covered with topsoil. Severed limbs and roots should be–sealed. Wherever roots are destroyed a proportional amount of branches must be pruned so the tree doesn't transpire more water than it takes in. Injured trees must be thoroughly watered during the ensuing growing year.

(5) Prune all existing trees that will be surrounded by paving to prevent dehydration.

A-2: Standards for Street and Parking Lot Trees

Trees planted in compliance with the requirements of Section 7.2.5 shall have most or all of the following qualities.

(1) Hardiness

- (a) Resistance to extreme temperatures.
- (b) Resistance to drought.
- (c) Resistance to salt damage.
- (d) Resistance to air pollution.
- (e) Ability to survive physical damage from human activity.

(2) Life Cycle

- (a) Moderate to rapid rate of growth.
- (b) Long life.

(3) Foliage and Branching

- (a) Tendency to branch high above the ground.
- (b) Wide spreading habit.
- (c) Relatively dense foliage for maximum shading.

(4) Maintenance

- (a) Resistance to pests.
- (b) Resistance to plant diseases.
- (c) Little or no pruning requirements.
- (d) No significant litter problems.

A-3: Formula for Calculating 20 Percent Shading of Vehicle Accommodation Areas

The following is an elementary formula for determining the number of shade trees required in and around paved parking lots in order to presumptively satisfy the shading requirements of Section 7.2.

(1) Including parking spaces, driveways, loading areas, sidewalks, and other circulation areas and not including bui1ding area or any area which will remain completely undeveloped, calculate square footage of the vehicle accommodation area:

(2) Multiply

(3) Area to be shaded = Sq. ft.
X .20
Add: Sq. ft.

(4) Area shaded by existing trees to be retained in and around the vehicle accommodation area:* Sq. ft.

(5) Area shaded by required screening trees, if any:* Sq. ft.

(6) Area shaded by required street trees, if any:* Sq. ft
+ Sq. ft

(7) Subtotal=

(If line (7) is greater than line (3), then the shading requirement has been met. If not, go to line (8).)

(8) Enter the difference between line (7) and line (3): Sq. ft.

(9) Divide line (8): / 707
Trees

(10) Total number of shade trees required within the vehicle accommodation area.

*Existing trees retained in compliance with Section 7.2 will be credited according to their actual crown radius. Shaded area may be calculated as follows:

3.14 x (crown radius)^2=shaded area.

Trees planted within the vehicle accommodation area are credited with shading 707 square feet (based on a crown radius of 15 feet). New or existing trees on the perimeter of the parking lot are credited for having only half a crown over the vehicle accommodation area (e.g., new perimeter trees will be credited for shading 354 square feet, based on ½ a crown radius of 15 feet). Generally, all trees planted in compliance with the screening requirements and the street tree requirements of Section 6.2 will be considered perimeter trees. When smaller trees such as Dogwoods are planted the credited shading area will be adjusted downward to 314 square feet for interior trees and 157 square feet for perimeter trees. (Based on a crown radius of 10 feet.)

A-4: Typical Parking Lot Planting Islands

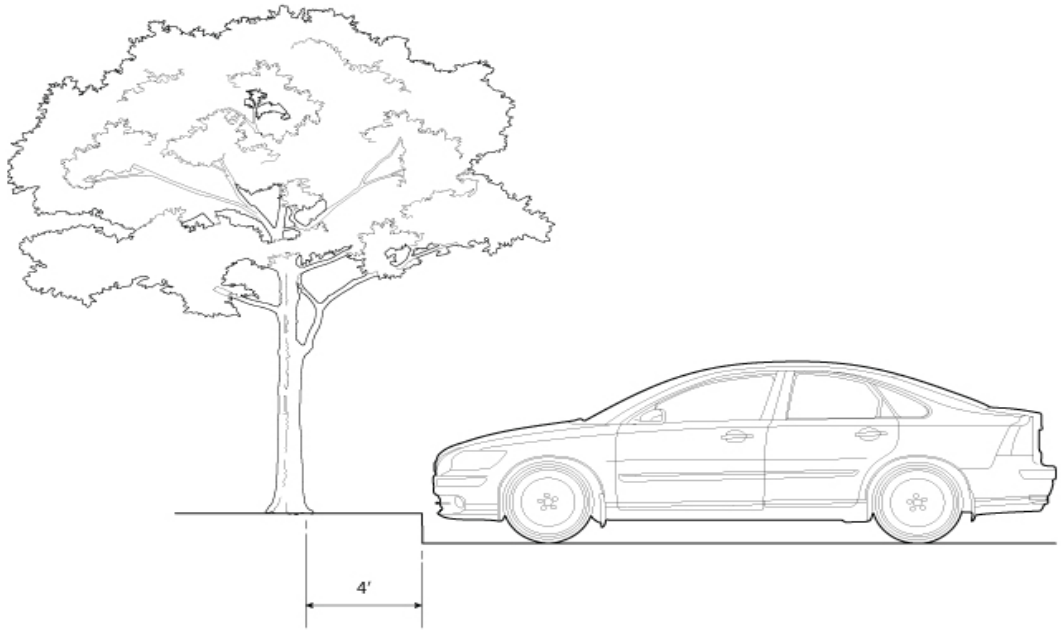


Illustration 1

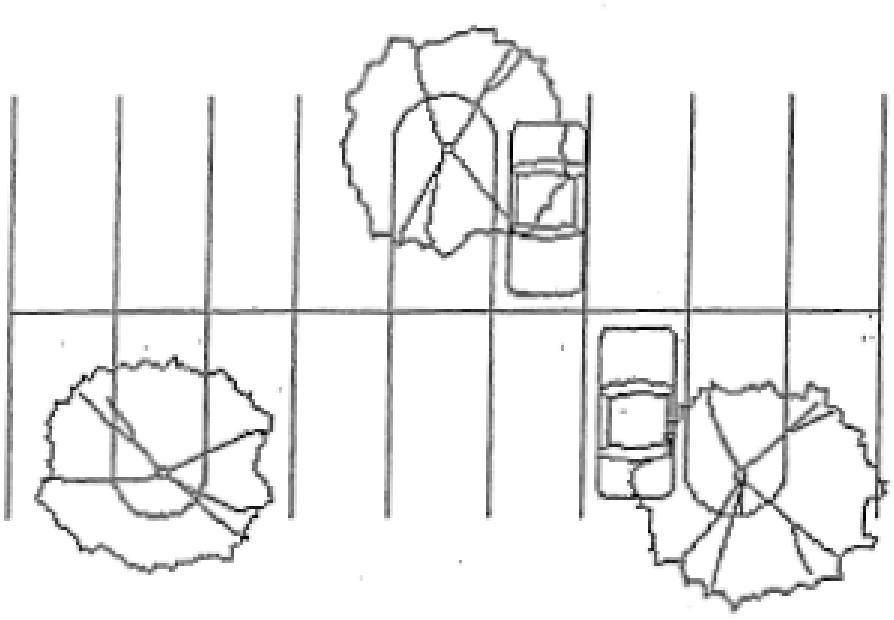


Illustration 2

A-5: Guide for Planting Trees

The trees recommended in Section A-10 have minimal maintenance requirements. However, all trees must receive a certain degree of care, especially during and immediately after planting. To protect an investment in new trees, the developer should ensure that the folio-wing guidelines are followed when planting:

Selection- Select trees well adapted to the microclimates of individual planting sites. A poor tree match dooms the tree from the start no matter how much care is taken in planting.

Planting Times- The best times for planting are early spring and early fall. Trees planted in the summer run the risk of dehydration.

Drainage- Prior to planting, test soil drainage. If water does not drain out of a sample planting hole within a few hours, consider installing drainage in the bottom of the hole to drain away excess water. Also consider raising or berming the planting site, or adding several inches of good quality topsoil in the planting hole and the surrounding area, but do not simply amend the soil in the planting hole - water movement will be detrimentally altered. If none of the above is possible, select a more water tolerant tree species (red maple, sycamore, bald cypress, willow oak river birch, etc. - avoid trees like dogwoods that don't like "wet feet”),

The Planting Hole- The planting hole that is dug should be wide and shallow. A flat, pancake-shaped hole that approximates the shallow, horizontal root growth that the tree will produce is recommended. In average soil, dig the hole only as deep as the root ball, and in heavy clay soil to enhance drainage, dig the hole an inch or two shallow. Loose soil should not be put beneath the root ball in order to avoid having the tree end up planted too deep as the soil beneath it settles or compacts. The exposed top of the ball can be covered with mulch. Whenever possible, hole walls should gradually taper up to grade, rather than being straight, to more closely approximate where root growth will occur.

Soil Additives- Adding water-absorbing polymers (hydrogels, super slupers, etc.) to the backfill soil has not proven beneficial in the majority of the landscape research that has been conducted with regard to tree planting. The same is true to adding organic amendments (peatmoss, compost, etc.). In general the only substitute for backfilling with the existing soil, unamended is backfilling with better quality topsoil.

Planting Near Sidewalks, Driveways, and Other Areas- Plant all trees at least 4 feet from the end of head in parking spaces to prevent damage from car overhangs. When planting near sidewalks, driveways and other areas where tree root surfacing can cause damage or be a maintenance problem. Consider installing one of the physical root redirecting barriers being marketed, or try the herbicide treated landscape fabric now available for this purpose (Biobarrier). No long term research has yet been published on the use of these tree redirecting materials, so their long term effect on trees is not yet known.

Balled and Burlapped Trees- When planting balled and burlapped trees, closely inspect the material used to wrap the root ball. Many synthetic materials (nylons, etc.) are being used as well as burlaps treated to retard their degradation. When in doubt as to whether or not these materials will degrade underground do not leave them intact. Remove the pinning nails or lacing, and roll back the top several inches. Make vertical slits in several places around the ball. You do not want a wrapping material that won't degrade to restrict root growth.

Wire Baskets- Research has shown that the wire baskets used to protect root balls, whether galvanized or not, are degrading only very slowly underground due to low oxygen. No long term root girding or damage has been found, however, so it does not appear that the baskets need to be removed. If the top loops of the wire basket will be at ground level or slightly above, it will be advisable to remove this section to keep equipment form hanging up in the loops.

Ropes- Be sure to remove all ropes whether jute or nylon, that have been tied around the trunk. Again, degradation is slow or nonexistent, resulting in trunks being girded.

Containers- Be sure to remove all plastic containers from the root balls of container-grown or containerized trees, If trees have been grown or potted into fiber pots, break away the top several inches of the fiber pot. Many fiber pots are being coated with extra materials to extend their shelf life, but this can slow degradation below ground and retard root extension.

Root Care in Container Plants- When a container is removed, if roots are found circling around the outside of the root ball, cut them in a few places to remove the possibility of the curling root eventually girding the trunk. Select trees grown in pots with vertical ribs rather than ones with straight walls or horizontal ribs as the vertical ribs help reduce root circling.

Fertilizer- Fertilizer can be added to the backfill if it is a slow release from – Osmocote, Woodace briquettes, tree spikes, etc. The caution in the past against adding fertilizers at planting time was a result of not having slow release fertilizers available - agronomic fertilizers that were and still can be used in landscaping have the potential to burn and should not be added.

Watering- Good follow-up watering is important to help establish a tree's root system. Several water reservoir devices are available, but may be too expensive or cumbersome to justify using.

Mulching- Trees should be mulched but not over mulched, when planted. Two or three inches of organic mulches, such as shredded or chunk pine bark, or inorganic mulches, such as volcanic rock, is adequate. Keep mulches from touching the trunks of trees. With organic mulches, excessive mulch piled against tree trunks can hold too much moisture against the bark and lead to disease problems. It also may become a habitat for rodents that will feed on the bark. With inorganic mulches, if the tree is in a windy location and the trunk moves considerably, the bark may become abrased by the inorganic mulch.

Landscape Fabrics for Weed Control- The use of black plastic beneath mulch around trees is not recommended because air and water exchange is blocked. For added weed control try one of the landscape fabrics that has proven more weed root penetration resistant (Dalen's Weed-x, De Witt's Pro 5, Weed Barrier, etc.) but do not pile too much mulch (not over two inches) atop the fabric or weeds will simply grow in the mulch layer.

Tree Staking- Don't automatically stake all trees, especially small ones. If a tree is in a windy location, or has a crown, stake for a maximum of one year. Try to stake so that the tree has a slight amount of flex rather than being held rigidly in place. Use guying or attaching material that will not damage the bark. If the stakes are to be left in place longer than one year to serve as a barrier against equipment, be sure to remove the guying to prevent trunk girding, A variety of protective devices are available for trunk protection if that is an important consideration.

Tree Wraps. The use of tree wraps and other protection materials that are applied directly to the trunk is currently under investigation. If a material is applied (paper, fabric, burlap, strips, etc.), remove it after one year. If materials are wrapped onto the trunk, wrap from the base of the tree upward so that water is shed off the wrap, not funneled under it.

Tags and Labels- Remove tags and labels from the trees to prevent them from girding the trunk,
Post Planting Care- Conscientious post planting care, especially watering, structural pruning and fertilizing, is a must for street and parking lot trees.

Pruning. Proper site planning should remove all needs for pruning. Evergreens in particular should not be limbed up as it counteracts its natural aerodynamic design and decreases the aesthetics of the area. Limbing trees up to be able to mow beneath evergreens is not a professional practice. Landscape designs are prepared with the intent that evergreens are left untouched. Deciduous trees should be monitored and properly limbed up to avoid damage to people and vehicles.

Landscape Plants and Winter Salt – The easiest way to prevent salt damage is to avoid it. Whenever possible, use coarse sand instead of salt to provide traction and make sidewalks and driveways less slick. If you must use salt, use it judiciously, and erect barriers with plastic fencing, burlap, or snow fencing to protect sensitive plants and minimize their contact with salt spray.

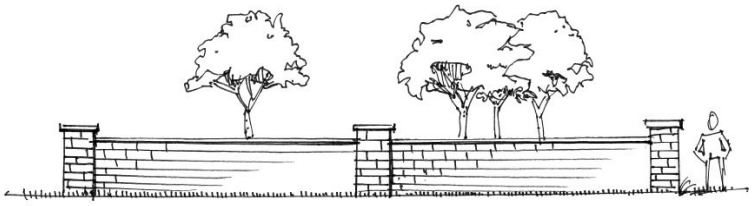
De-icing Alternatives
Coarse Sand
Calcium Chloride Calcium ($CaCl_2$)
Magnesium Acetate (CMA)
Magnesium Chloride ($MgCl_2$)
Potassium Chloride (KCl)

A-6: Typical Opaque Screens

Small trees planted 30 feet on Center. See planting list A-10.

Six-foot high evergreen shrubbery planted four feet on center. See planting list A-10(d)

Large trees planted 40 feet on center. See planting list A-10 (c).

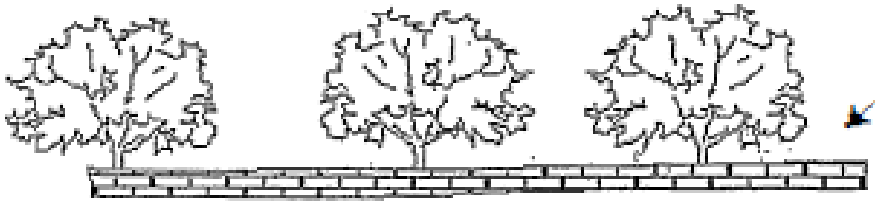


Six-foot high wall

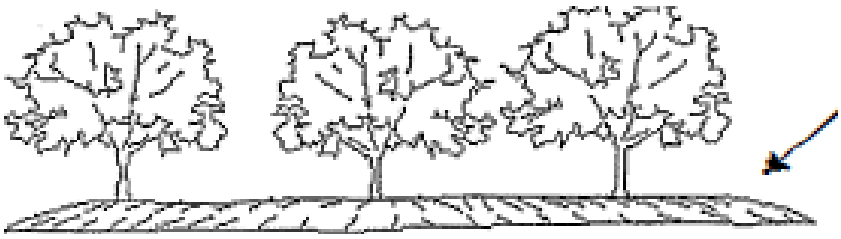
Tall evergreen trees, stagger planted, with branches touching the ground. See planting list A-10 (b)

A-7: Typical Semi-Opaque Screens

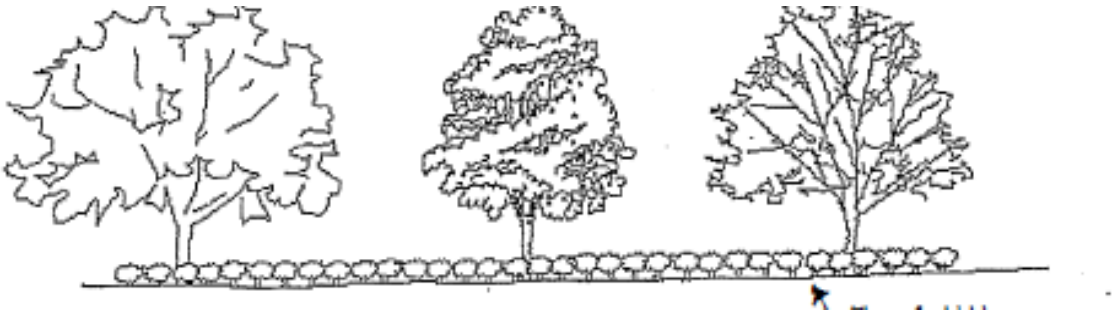
Small trees planted 30 feet on center. See planting list A-10 (a).



Three-foot high stone wall



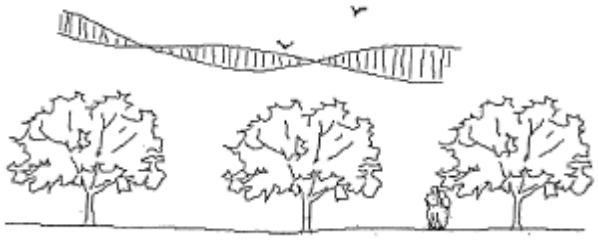
Three-foot high seeded earth berm.



Three-foot high evergreen hedge shrubbery planted three feet on center. See planting list (-10(d).

A-8: Typical Broken Screens

Small trees planted 30 feet on center. See planting list A-10 (a).



Small trees planted 30 feet on center. See planting list A-10 (a).

Small trees planted 30 feet on center. See planting list A-10 (a).

A-9: Typical Broken Screens

Shrubs planted for screening purposes should be given a proper culture and sufficient room in which to grow. Many of the guidelines for tree planting listed in Section A-5 also apply to shrubs. However, because specific requirements vary considerably between shrub types, this appendix does not attempt to generalize the needs of all shrubs. For detailed planting information on individual species, refer to:

Manual of Woody Landscape Plants by Michael Dirr

A-10: Lists of Recommended Trees and Shrubs

The following lists indicate native plantings which will meet the screening and shading requirements of Section 6.2.5 of the Comprehensive Development Ordinance. The lists are by no means comprehensive and are intended merely to suggest the types of flora which would be appropriate for screening and shading purposes. Plants were selected for inclusion on these lists according to four principal criteria; (i) general suitability for the climate and soil conditions of this area, (ii) ease of maintenance, (iii) tolerance of urban conditions, and (iv) availability from area nurseries. When selecting new plantings for a particular site, a developer should first consider the types of plants which are thriving on or near that site.

Sections A-11 through A-16 contain descriptions of some of the trees and shrubs listed here:

(a) Small Native Trees for Partial Screening <30' tall

(1) Carpinus caroliniana - American hornbeam

(2) Magnolia virginiana – sweetbay magnolia

(3) Cercis Canadensis - Eastern Redbud*salt tolerance

(4) Cornus florida - flowering dogwood

(5) Oxydendron arboretum -sourwood

(6) Crataegus phaemopyrum - Washington hawthorn*salt tolerance

(7) Chionanthus virginica – fringetree

(8) Amelanchier canadensis or laevis – serviceberry

(9) Asimina triloba – paw paw

(b) Large Native Evergreen Trees for Screening >30' tall

(1) Magnolia grandiflora - southern magnolia

(2) Juniperus virginiana - eastern red cedar

(3) Ilex opaca – American holly

(4) Pinus strobus – white pine

(c) Large Native Shade Trees >30' tall

(1) Betula nigra - river birch
(2) Acer rubrum - Red Maple
(3) Nyssa sylvatica - blackgum
(4) Gleditsia triacanthos 'Shademaster' (thornless) Honeylocust
(5) Liquidambar styraciflua (male) - sweet gum
(6) Ostrya virginiana – hophornbeam
(7) Platanus occidentalis – sycamore
(8) Tilia Americana – American linden
(9) Quercus rubra – northern red oak
(10) Quercus phellos – willow oak
(11) Quercus alba – white oak
(12) Quercus coccinea – scarlet oak
(13) Quercus bicolor – swamp white oak
(14) Quercus palustris – pin oak
(15) Quercus prinus – chestnut oak
(16) Celtis occidentalis - hackberry
(17) Taxodium distichum – bald cypress

(d) Small Shrubs for Evergreen Screening <5'

(1) Ilex glabra 'Shamrock' or 'Chamzin'	inkberry holly
(2) Juniperus virginiana 'Gray Owl'2'	red cedar
(3) Myrica pensylvanica 'Morton'	bayberry
(4) Leucothoe axillaris	coast fetterbush

(e) Large Shrubs for Evergreen Screening >5'

(1) Magnolia virginiana	sweetbay magnolia
(2) Ilex glabra 'Densa' or other varieties	inkberry holly
(3) Juniperus virginiana 'Burkii' or 'Emerald Sentinel'	eastern red cedar
(4) Myrica pensylvanica	bayberry
(5) Myrica cerifera	southern wax myrtle

(f) Assorted Shrubs for Broken Screens

(1) Leucothoe fontanesiana - drooping leucothoe

(2) Hamamelis mollis or vernalis - common or vernal witch hazel

(3) Diervilla sessifolia – southern bush honeysuckle

(4) Clethra alnifolia – sweet pepperbush

(5) Itea virginica – Virginia

(6) Rhus – sumac* salt tolerance

(7) Ilex verticillata 'Sprite' female. <4' tall - winterberry holly. Need 1 male 'Jim Dandy' /6 females.

(8) Cornus sericea and cultivars – red twig dogwood

Note to avoid the following plants: Leyland Cypress, Callery Pear, Crape Myrtle, knockout roses, and arborvitae (though native, requires extensive spraying maintenance for bag worms).

The following tree information is intended as an example of the information available and for research purposes and not necessarily recommended for the project at hand.

A-11: Small Trees for Partial Screening

The following trees are recommended for use in all types of screens. Though smaller than the trees listed in planting lists A-12 and A-13, each of these trees will reach a height of at least 20 feet.

American Hornbeam (Carpinus carolinia). Height 20-30 feet; Spread: 15-20 feet. This native tree has a natural yet refined appearance. It is slow growing, but at maturity it serves as an excellent small shade tree. Its fluted muscular trunk is an interesting feature. In the wild, the American Hornbeam is common in moist rich soil, yet, when used in landscape design; it is soil tolerant and does not require an unusual amount of water. It has no pests and no special maintenance problems.

A-12: Large Trees for Evergreen Screening

The following trees are ideal for screening large scale areas such as shopping centers and industrial sites. They are also effective in combination with other smaller screening plants. Both are moderate to fast growers. They are not considered to be shade trees.

Southern Magnolia (Magnolia grandiflora). Height 40-60 feet; spread: 25 feet+. Magnolias are striking trees which serve well as screens when their branches are allowed to grow to the ground. Generally, this tree does well in city conditions, but it should be planted in quite rich acidic soils and it requires a lot of moisture. Furthermore, magnolias require ample space for growth. If planted in full sunlight, they will grow rapidly. Because it drops large waxy leaves, seed pods, and flowers, the magnolia may present a litter problem.

A-13: Large Trees for Shading

The following trees may be used for screening, but they are recommended especially for shading streets and parking lots. Unless otherwise noted, they will grow rapidly. Each species will attain a mature spread of at least 30 feet.

Honey locust (Gieditisia triacanthos 'Shademaster' or other thornless variety). Height: 50-75 feet; spread: 25 feet+. It's open, spreading form and feathery leaves may give the Honey locust a frail appearance, but it is fact a quite sturdy tree, notable for its resistance to storm damage. It is a native tree which is drought resistant and adaptable to city conditions. Grass and shrubs thrive beneath a Honey locust because, it casts light shade. This tree is especially useful for its ability to be transplanted at a relatively advanced age. Accordingly, it may be used for immediate effect in a landscape design. The Honey locust has its pests and diseases, but it is fairly hardy. Thornless and fruitless varieties such as "Moraine" are recommended.

River Birch (Betula nigra). Height 40-70 feet; Spread: 40-60 feet. The River Birch is a native tree which usually grows along stream banks. In landscape design, it is adaptable to either high or low locations, but still requires a lot of moisture. This tree has an interesting papery bark and a graceful branching habitat. It has no special pest or maintenance problems. Surface roots keep it from being a good tree for restrictive areas like parking lots.

A-14: Small Shrubs for Evergreen Screening

The following shrubs are recommended for informal (unclipped) hedges or screens. Each species grows to a height of less than six feet; therefore, these shrubs are appropriate for semi-opaque screens.

Inkberry holly (Ilex glabra 'Shamrock'). Height to 3-5' tall by a spread of 3-4' wide. An evergreen little-leafed holly that grows is a slow-growing upright holly that is stoloniferous (spreading but not aggressive easily removed). Easily grown in average, medium to wet soils in full sun to part shade. Adaptable to both light and heavy soils. Tolerates wet soils. Prefers rich, consistently moist, acidic soils in full sun. Good shade tolerance, however. Prune to shape in early spring just before new growth begins. Plants generally need minimal pruning.

A-15: Large Shrubs for Evergreen Screening

The following shrubs are recommended for high hedges or screens. Each species grows to a height of more than six feet; therefore, these shrubs are appropriate for opaque screens.

Emerald Sentinel red cedar (Juniperus virginiana 'Emerald Sentinel'). Height to 30-40' by 8' wide. An evergreen, upright, narrow selection of eastern red cedar with bright green foliage. This is a female, fruiting cultivar that is deemed to have superior disease resistance and is considered one of the toughest plants in the nursery trade. Tolerant of most conditions. Suitable substitution for hedgerows where arborvitae may be inappropriate. Eastern red cedars have exhibited slight tolerance to salt.

A-16: Assorted Shrubs for Broken Screens

The following is a sampling of shrubbery that would be appropriate in a broken screen. Because many of these plants are deciduous, they are not suitable for opaque and semi-opaque screens. (Note; Many of the evergreen shrubs described in planting lists A-14 and A-15 are also suitable for broken screens).

(1) Fringetree (Chioanthus virginicus). Height: 10-30’ by 8-10’ wide. The Fringetree is known for its profusion of beautiful flowers in spring. It is considered to be one of the most striking Native American shrubs. It is relatively difficult to transplant, but once established it does well in cities as it endures heavy smoke and dust. The only drawback is that its leaves appear rather late in spring.

APPENDIX B: BUFFER YARD REQUIREMENTS

B-1: Buffer yard Specifications

The following illustrations graphically indicate the specifications of each buffer yard. Buffer yard requirements are stated in terms of the width of the buffer yard and the number of plant unites required per one hundred (100) linear feet of buffer yard. The recommended buffer yard should be one of the options illustrated. The “plant unit multiplier" is a factor by which the basic number of plant materials required for a given buffer yard is determined, given a change in the width of that yard. The type and quantity of plant materials required by each buffer yard, and each buffer yard option, are specified in this section.

Afforestation and reforestation plantings required under the Forest Conservation requirements contained in the Ordinance may occur in buffer yards provided such plantings meet the minimum requirements for afforestation or reforestation.

The options within any buffer yard are designed to be equivalent in terms of their effectiveness in eliminating the impact of adjoining uses. Cost equivalence between options was attempted where possible. Generally, the plant materials which are identified as acceptable are determined by the type(s) of soil present on the site. Each illustration depicts the total buffer yard located between two uses.

Whenever a wall, fence, or berm is required within a buffer yard, these are shown as “structure required” in the following illustrations, wherein their respective specifications are also shown. All required structures shall be the responsibility of the higher intensity use.

B-2: Plant Material

The following plant material substitutions shall satisfy the requirements of this section.

(1) In buffer yards C and D evergreen canopy or evergreen understory trees may be substituted for deciduous canopy forest trees without limitation.

(2) In buffer yards B evergreen canopy or evergreen understory trees may be substituted as follows:

  (a) In the case of deciduous canopy forest trees, up to a maximum of fifty (50) percent of the total number of the deciduous canopy trees otherwise required.

  (b) In the case of deciduous understory t without limitation.

(3) In all buffer yards, evergreen or conifer shrubs may be substituted for deciduous shrubs without limitation.

(4) In all buffer yards required of public service uses, the public service use may substitute evergreen canopy or evergreen understory plant materials for canopy forest trees and understory plant materials, without limitation.

If the development on the adjoining use is existing, planned, or deed-restricted for solar access, understory trees may be substituted for canopy trees where canopy trees would destroy solar access.

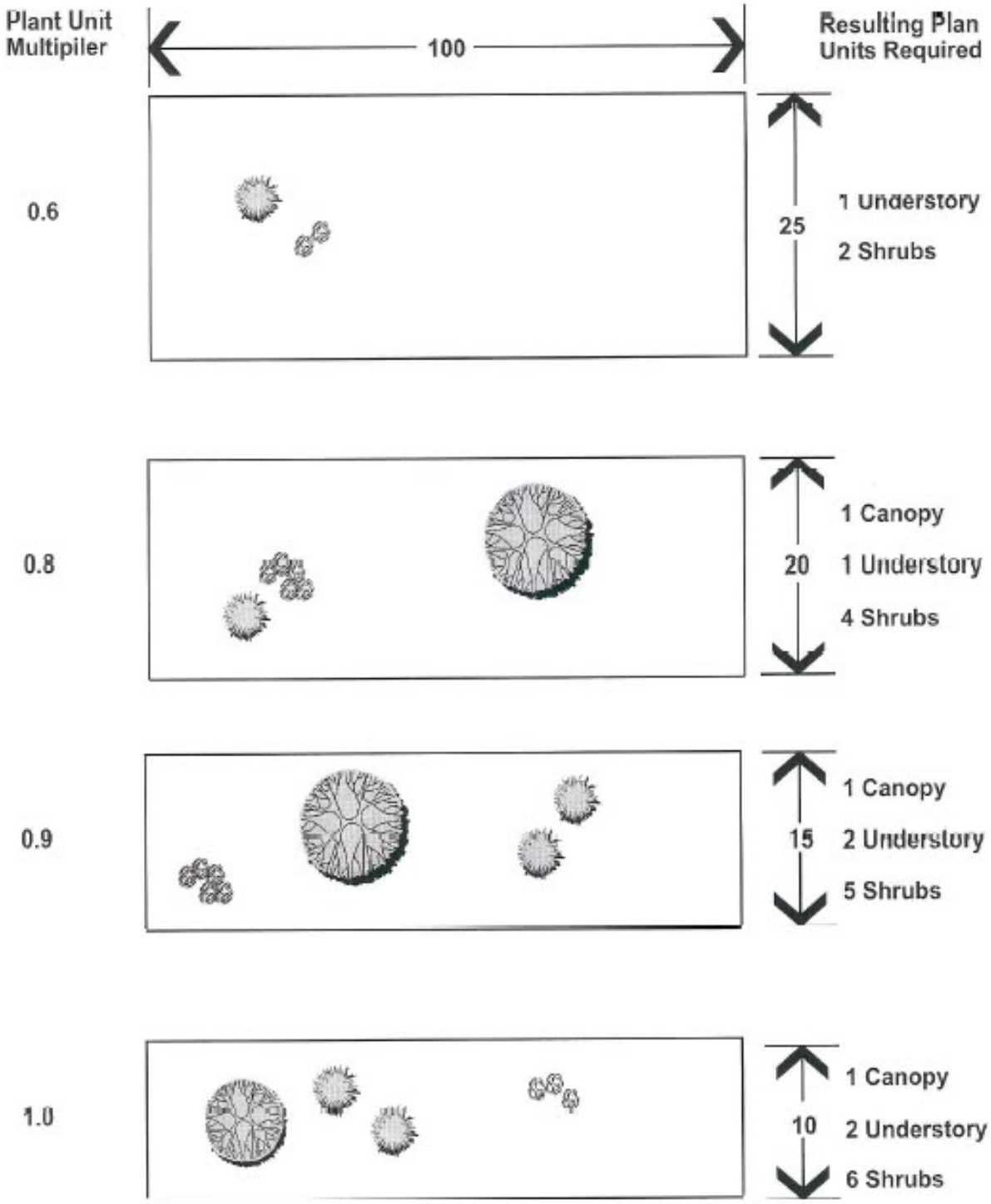
Any existing plant material which otherwise satisfies the requirements of this section may be counted toward satisfying all such requirements.

Although the exact placement of required plants and structures shall be the decision of each user except that the following requirements shall be satisfied:

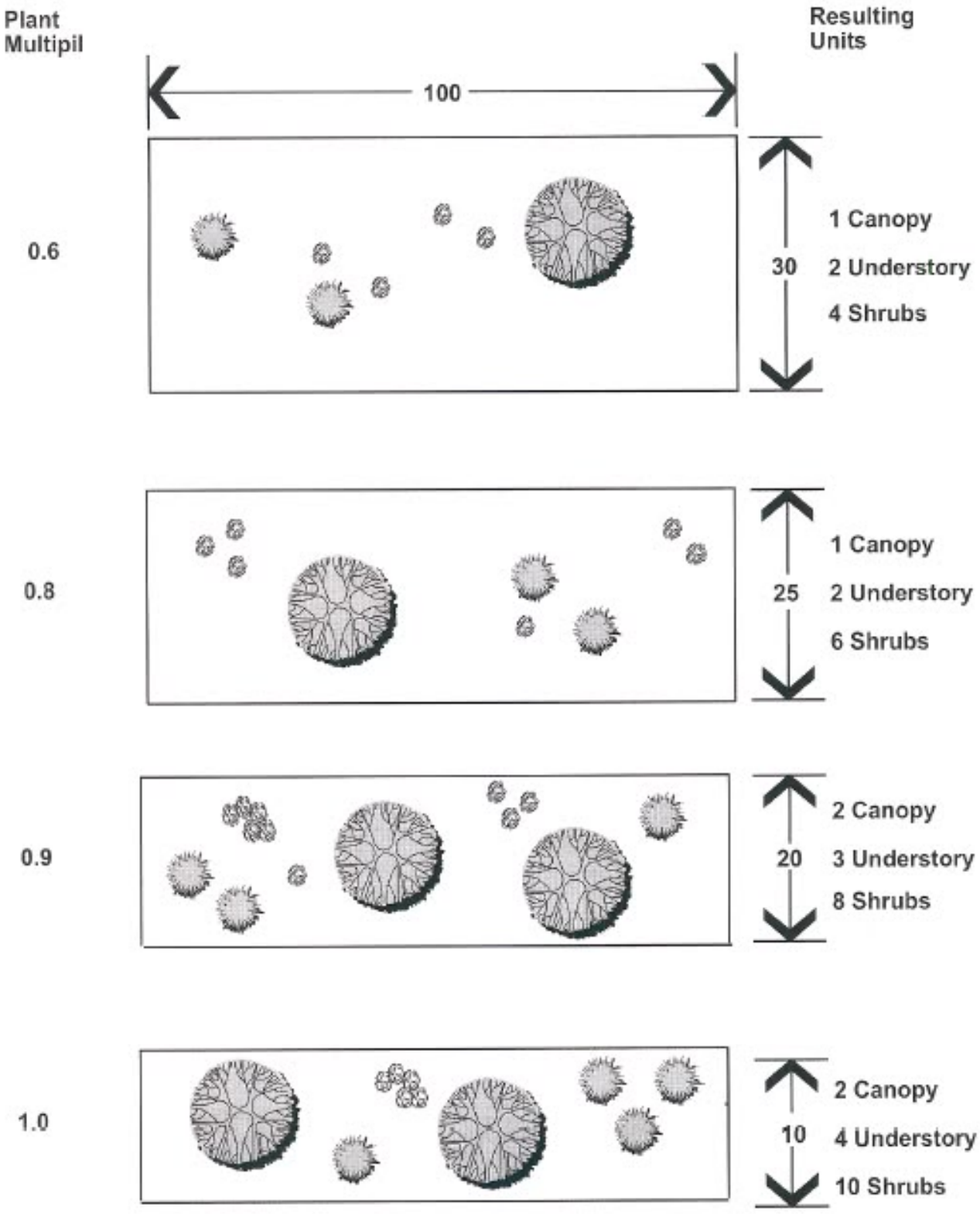
(1) Evergreen (or conifer) class III and IV plant materials shall be planted in clusters rather than singly in order to maximize their chances of survival.

(2) Berms required of Buffer yard D options are intended to buffer more significant nuisances from adjacent uses and, additionally, to break up and absorb noise, which is achieved by the varied heights of plant materials between the masonry wall and the noise source.

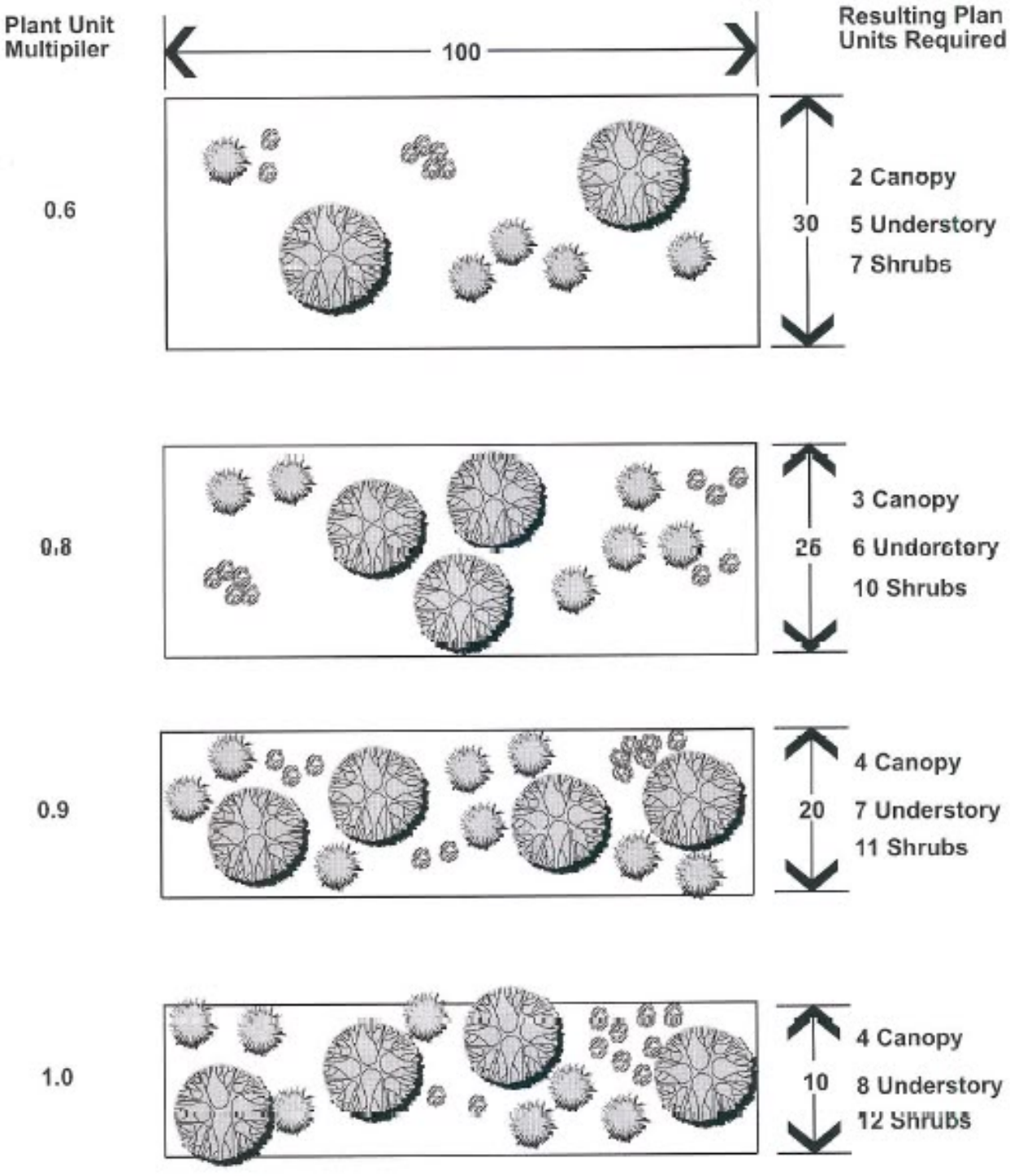
All buffer yard areas shall be seeded with lawn unless ground cover is already established.



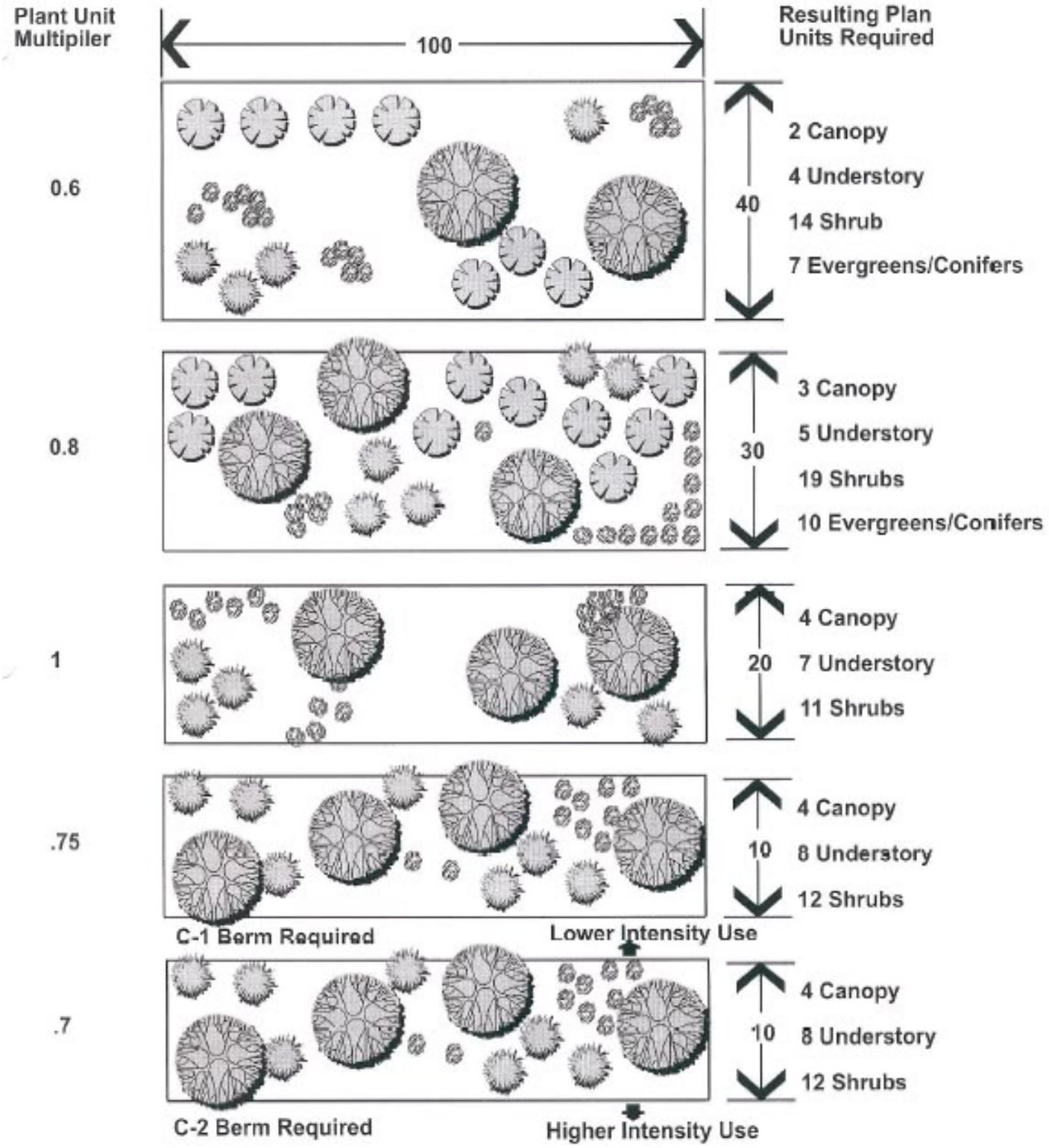
BUFFER YARD A



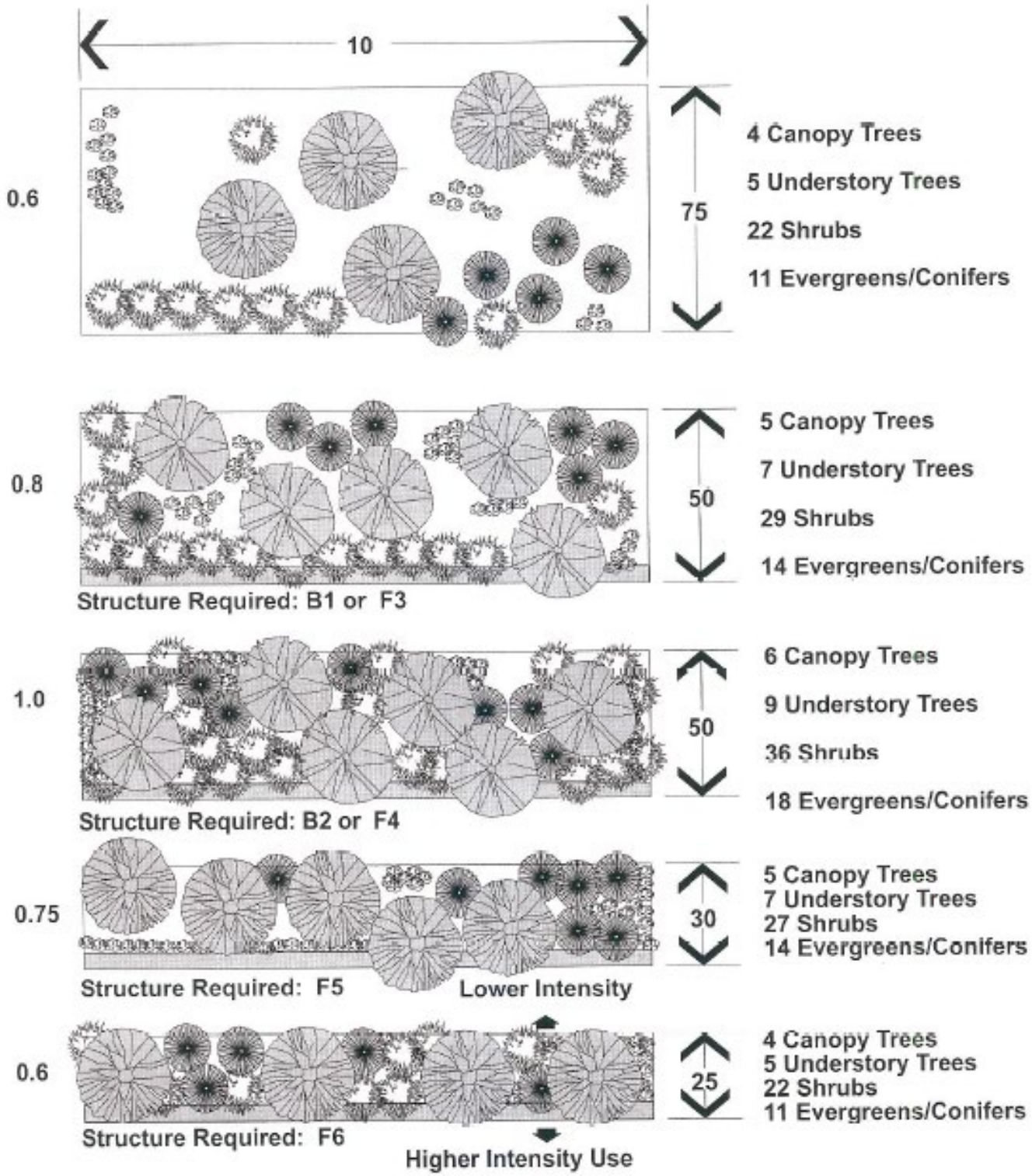
BUFFER YARD B



BUFFER YARD C

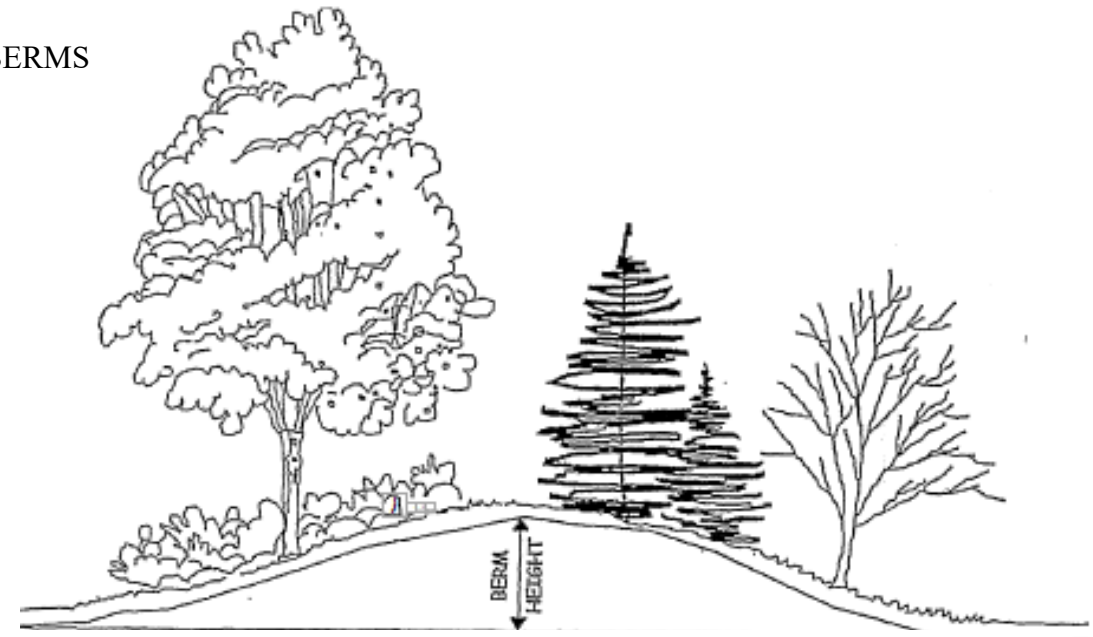


BUFFER YARD D

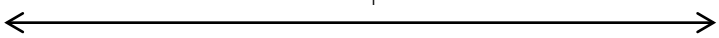


BUFFER YARD E

BERMS



LOWER INTENSITY USE | HIGHER INTENSITY USE



Symbol	Height	Material
B1	4’	Earth
B2	5’	Earth

RECOMMENDED PLANTS FOR CHESAPEAKE CITY

GUIDE FOR LANDSCAPING

This is a partial list of the most commonly used native plants.

Trees and shrubs are difficult to categorize according to size so some may be listed in two categories because they may be on the line. Look at cultivars of plants also (these are the names inside the single quotation marks). These may give you the size you are looking for. For example Ilex verticillata 'Maryland Beauty' grows to 8' tall vs. Ilex verticillata 'Red Sprite' grows to 3-4' tall. The plant lists at the top of this document may be used also for your purposes. Do your research. If you have to prune something it is probably the wrong choice.

A. SMALL DECIDUOUS TREES-Nonflowering

Carpinus caroliniana	Carolina hornbeam

B. SMALL DECIDUOUS TREES-Flowering

Cercis Canadensis	eastern redbud
Cornus florida (and cultivars)	flowering dogwood
Chionanthus virginicus	fringe tree
Amelanchier Canadensis or laevis	shadblow or serviceberry
Magnolia virginiana	sweetbay magnolia
Crataegus phaemopyrum	Washington hawthorn

C. LARGE EVERGREENS for screening

Pinus strobus	white pine
Magnolia grandiflora	southern magnolia
Juniperus virginiana	eastern red cedar
Ilex opaca	American holly
Myrica pensylvanica	bayberry
Myrica cerifera	southern wax myrtle
Rhododendron maximum (or cultivars)	rhododendron
Rhododendron catawbiense (or cultivars)	rhododendron

E. SMALL EVERGREENS for shading

Juniperus virginiana 'Gray Owl'	juniper
Ilex glabra 'Shamrock'	Inkberry Holly
Leucothoe axillaris	Coast Fetterbush

F. MEDIUM-LARGE SHRUBS [Deciduous]

Aronia arbutifolia	chokeberry
Hydrangea quercifolia	oakleaf hydrangea

Clethra alnifolia	summersweet
Viburnum dentatum	arrowwood viburnam
Ilex verticillate 'Maryland Beauty'	winterberry holly
Cornus alternifolia	pagoda dogwood
Itea virginica	Virginia sweetspire
Cornus sericea	red twig dogwood

G. SMALL SHRUBS [Deciduous]

Clethra alnifolia	summersweet
Itea virginica 'Little Henry'	Virginia sweetspire
Hydrangea arborescens	smooth hydrangea
Rhododendron viscosum	coast azalea
Fothergilla gardenia	dwarf fothergilla
Comus sericea (smaller cultivars)	red twig dogwood
Ilex verticillata 'Red Sprite'	winterberry holly

H. LARGE SHADE TREES

Acer rubrum	red maple
Tillia americana	American linden
Quercus phellos	willow oak
Quercus rubra	red oak
Liquidambar styraciflua [male]	sweet gum
Nyssa sylvatica	black gum
Gledis tricanthos (thornless variety)	honey locust
Betula Nigra	river birch
Oxydendron arboretum	sourwood

I. GROUND COVERS – many cultivars of groundcovers available offering differences in size, leaf or flower color.

Phlox subulata	moss pinks or phlox
Juniperus procumbens	shore juniper
Pachysandra procumbens	allegheny spurge
Phlox stolonifera	woodland phlox
Tiarella cordifolia	foam flower
Viola Iabradorica	Labrador violet
Aster (Eurybia) divaricatus	woodland aster
Phlox divaricatus	woodland phlox
Arctostaphylos uva-ursi	bearberry
Polystichum acrostichoides	Christmas fern
Dryopteris marginalis	wood fern
Dennstaedtia punctiloba	hay-scented fern