

APPENDIX 1-A

Water and Sewerage Priorities (1.4.13)

APPENDIX 1-A WATER AND SEWERAGE PRIORITIES

The system for presenting the existing and planned sequence for water and sewer construction is a simplified one compared to previous plans. The service categories have been reduced from previous versions of the plan to three service categories.

<u>Service Time Period</u>	<u>Code</u>	<u>Mapped</u>
Existing service or service in less than 1 year	W/S-1	Yes
Service possible in 1 to 10 year time frame	W/S-2	Yes
No Planned Service	None	Yes

Service Areas will be shown on all appropriate maps following the section that they illustrate.

W-1 and S-1: Areas where improvements to or construction of new shared water supply and sewerage facilities are existing, or will be in service within one year from the adoption of this Plan. W-1 shall be referred to for water systems and S-1 for sewerage systems.

W-2 and S-2: Areas where improvement to or construction of new shared water supply and sewerage facilities are permitted by current zoning and may be constructed by individuals or developers at their cost during the next 1 to 10-year time frame. W-2 shall be referred to for water systems and S-2 for sewerage systems.

APPENDIX 1-B

Sewer Allocation Policy (1.4.13)

KENT COUNTY DEPARTMENT OF WATER & WASTEWATER
WATER AND SEWER ALLOCATION POLICY

PURPOSE

Title 9 of the Environment Article of the Annotated Code of Maryland requires that each County adopt a Comprehensive Water and Sewerage Plan that will provide for the orderly expansion and extension of community and shared water and sewerage systems in a manner consistent with all applicable County and local comprehensive plans. In addition, the Code of Maryland Regulation 26.03.03, provides the basis for the establishment of allocation policies for water supply and sewerage services. The Kent County Department of Water and Wastewater has determined that the establishment of such an allocation policy is in the best interest of the County and adopts the sewerage allocation policy presented herein for the following purposes:

1. Provide public knowledge regarding available capacity in public water and wastewater facilities;
2. Establish a procedure for fair and equitable allocation of available water and wastewater capacity in such a manner as to protect the public health, safety, welfare, and water quality in the County;
3. Establish a method by which available capacity is calculated and allocated, so as to assume that adequate capacity is available over time;
4. Establish the priority by which water and wastewater service is determined;
5. To responsibly plan for future growth in Kent County in accordance with the Land Use Ordinance plan and growth management objectives, as established in the Comprehensive Plan and adopted growth management papers; and
6. Provide for the administrative procedures and guidance for the allocation of water and sewer service in a reasonable, fair, and equitable manner.

APPLICABILITY

This policy applies to all water distribution, water treatment plants, and wastewater collection and treatment facilities owned, operated, and maintained by the Kent County Department of Water and Wastewater Services. These include the following systems:

- I. Water Distribution and Treatment Plants
 - a. Worton/Butlertown
 - b. Fairlee/Georgetown
 - c. Kennedyville
 - d. Millington (distribution only)
 - e. Edesville/Wesley Chapel (distribution only)
- II. Wastewater Collection and Treatment Systems
 - a. Worton/Butlertown
 - b. Fairlee/Georgetown/Tolchester
 - c. Kennedyville
 - d. Piney Neck/Skinners Neck/Wesley Chapel/Edesville
 - e. Quaker Neck/Lover's Lane
 - f. Millington/Chesterville Forest
 - g. Spring Cove/Green Lane/Allen's Lane

DEFINITIONS

As used in this policy, the following terms are defined as indicated:

1. **ANNUAL AVERAGE DAILY WATER DEMAND** – The total flow of water through a particular water system divided by the number of days in the year.
2. **ANNUAL AVERAGE DAILY WASTEWATER FLOW** – The total flow of wastewater through a particular wastewater system divided by the numbers of days in the year.
3. **AVERAGE DAILY FLOW** – The average daily flow of water or wastewater for a particular use.
4. **ALLOCATION** – The amount of water and/or wastewater service provided by the County. An allocation is the amount of treatment capacity at a facility, purchased by the developer or user for a particular project. An allocation is not made until the project has received a favorable concept plan review from the Kent County Planning Commission and the allocation fee is paid by the developer or user.
5. **AVAILABLE CAPACITY** – The difference between the permitted or contractual capacity of the water or sewerage treatment facility and the highest monthly average flow, less any allocations granted but not yet used. Portions of a service area may have limited available capacity due to size or condition of collection or distribution system components. It shall be the responsibility of the developer or user to bear the cost of upgrading distribution or collection components to serve their project.
6. **PROJECT** – A development, subdivision, parcel, individual lot or unit, regardless of whether use is residential, commercial, industrial, or institutional/government. Expansion of, or addition to, an existing use shall be considered a new project.
7. **PUBLIC WORKS AGREEMENT** – A written document describing the conditions under which a developer or potential user shall be granted a water and/or sewerage allocation from the Kent County Department of Water and Wastewater.

ALLOCATION OF CAPACITY

An allocation shall be required for any project within a designated Kent County Department of Water and Wastewater service area which requires either water or sewerage service or both. Vacant lots that abut sewerage collection lines or water distribution lines and receive quarterly bills will be considered as having an allocation for a single residence. Owners of vacant lots that have not been paying quarterly fees must apply for an allocation.

The Kent County Department of Water and Wastewater has determined that it is in the best interest of the citizens of Kent County that allocation targets of available capacity be established for each water and sewerage system subject to these regulations. These allocation targets and guidelines are beneficial to the County and ensure that the County does not over-allocate its water or wastewater resources. These allocation targets and guidelines are established as of this policy for all water and wastewater collection, treatment, distribution facilities owned, operated, and maintained by the Department of Water and Wastewater. An allocation may not be approved for a system under moratorium or where the allocation would exceed the available or contractual capacity.

The Kent County Department of Water and Wastewater will review the allocation targets on an annual basis at a minimum. The Department of Water and Wastewater reserves the right to amend the targets during any given year if it feels the amendment benefits and provides continued health, safety, welfare, and comfort to the citizens of Kent County. The allocation targets are meant as a guideline to monitor the overall allocation availability of a particular system. The Department of Water & Wastewater reserves the right to exceed the allocation targets for particular projects at the request of the Planning Commission.

Unless otherwise specified on a system-specific basis, allocations shall be made on a first-come, first-serve basis. The allocation amounts will be determined by the Kent County Department of Water and Wastewater, and shall be consistent the Kent County Comprehensive Plan, the Kent County Comprehensive Water & Sewerage Plan, and adopted growth management policies for specific areas where applicable.

PRIORITY OF ALLOCATION OF AVAILABLE CAPACITY

Subject to maintaining the allocation targets and guidelines as identified in this policy, the Kent County Department of Water and Wastewater will allocate available water and sewerage treatment capacity in the following order of priority:

1. Development of existing recorded lots which abut water and/or sewerage collection lines within designated service areas;
2. Projects that promote economic development or County projects.
3. Projects with favorable concept plan review from the Kent Count Planning Commission for which water and/or sewerage allocations will be required but not yet granted;
4. New projects for which water and/or sewerage allocations will be required but not yet granted.

ALLOCATION PROCESS

An allocation is required for any residential, commercial, industrial, institutional, or governmental project within a designated service area which requires water or sewerage service. Areas available for allocation must be included in the Kent County Comprehensive Water & Sewerage Plan. The Water & Sewerage Plan requires that certain projects be included in the document before an allocation can be granted.

Applications for an allocation must be submitted on forms provided by the Kent County Department of Water and Wastewater. Typically the forms include, but are not limited to, the following information:

1. Location.
2. Specific address, tax map and parcel numbers for the subject property.
3. Name, address, and telephone number of developer, builder, or owner.
4. Type of project.
5. Area of project property.
6. Zoning of project property.
7. Existing conditions onsite.
8. Number of lots or units to be developed, and type of units.
9. Build out rate by phase(s).
10. Projected water demand with basis for projection.
11. Projected sewerage flow with basis for projection.
12. Date of application.
13. Signature of applicant.
14. Action taken (granted, conditioned, denied, amount of allocation, number of limitations, date action taken, signature of acting official, time limitations, time extensions, or other changes).

Projects that require Planning Commission approval must receive favorable concept plan review prior to amending the Comprehensive Water & Sewerage Plan, if required, and prior to requesting allocation. Allocation fees must be paid before final approval is granted by the Kent County Planning Commission.

The allocation fee must be paid on execution of the Public Works Agreement (PWA) for approved lots for all projects regardless of project size. Deferred payment is not an option. Thereafter the developer/owner of the applicable property or project (hereafter the “developer/owner” or the “owner”) will be assessed the minimum quarterly charges for vacant lots established by the Department of Water and Wastewater Services for the respective service area until the earlier of the connection of the project to the District’s water and/or sewer lines or two years after the execution of the (PWA). At this time, the developer/owner shall be charged the full quarterly charges for the improvements on the property, unless additional arrangements are specified in the (PWA).

The Owner will be responsible for the installation of any water or sewer appurtenances necessary for service to the property, for obtaining all necessary permits, and for the payment to the Commissioners of all associated inspection fees.

Owner shall guarantee the construction for a period of one (1) year from final acceptance by the Department.

RECAPTURING ALLOCATIONS

The Kent County Department of Water and Wastewater may issue allocations to a specific project for water and/or sewer service; however, the commitment will remain valid only if the original conditions of the Public Works Agreement remain unchanged. The applicant cannot propose changing the project without risking the loss of allocation(s). Allocations are considered to be granted when a Public Works Agreement has been executed between the Kent County Commissioners and the developer/owner.

The Commissioners reserve the right to review and recapture any allocations that have not been connected to Kent County’s water and/or sewer lines in the event that the Water and/or Wastewater Plant in the service area for which they were approved is within 85% of its design capacity. The Owner acknowledges the Commissioners’ right to recapture any unconnected allocations subject to the conditions stated in this paragraph. The Owner further acknowledges that allocation fees for any recaptured allocation are NON-REFUNDABLE. The failure of the Commissioners to undertake the review and recapture at a time when the Wastewater Plant is within 85% of its design capacity shall not constitute a waiver of the provisions of this paragraph in the event that the Commissioners decide to conduct a review and recapture during a subsequent time when the plant is within 85% of capacity.

APPENDIX 1-C

Department of Health Policy on Wellhead Protection (1.5.3)

Maryland Model Wellhead Protection Ordinance



Martin O'Malley
Governor

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Acting Secretary

Anthony G. Brown
Lieutenant Governor

**Maryland Department of the Environment
Water Management Administration
Water Supply Program**

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Section 1.0 PURPOSE AND INTENT

WHEREAS, the ground water underlying the community water supply wellhead protection areas is a major source of (name of community)'s existing and future water supply; and

WHEREAS, a safe and adequate source of drinking water is of great benefit to the health and well being of the _____; and

WHEREAS, the aquifer systems supplying the community water supply wellhead protection areas, with its ground water supply, is integrally connected with numerous surface waters and streams; and

WHEREAS, accidental spills and discharges of toxic and hazardous materials can threaten the quality of such water supplies, posing public health and safety hazards; and

WHEREAS, unless preventive measures are adopted to control the discharge and storage of toxic and hazardous materials within the community water supply wellhead protection areas, further spills and discharges of such materials will predictably occur, and with greater frequency and degree of hazard by reason of increasing land development, population, and vehicular traffic within the wellhead protection areas; and

WHEREAS, agricultural and residential development can result in increased nitrogen loading to the ground water from septic systems, fertilizer application and livestock wastes; and

WHEREAS, proper siting, installation, operation, and maintenance of septic systems, agricultural operations, feedlots and animal wastes areas are necessary to prevent contamination of the ground water from excessive nitrogen and pathogenic organisms; and

WHEREAS, the purpose of this ordinance is to protect the public health, safety, and welfare through the preservation of the ground water resources of community public water supplies to ensure a future supply of safe and healthful drinking water. The designation of the wellhead protection districts, and careful regulation of development activities within these districts, can reduce the potential for ground and surface water contamination.

Section 2.0

DEFINITIONS

- A. **AQUIFER** means any formation of soil, sand, rock, gravel, limestone, sandstone, or other material, or any crevice from which underground water is or may be produced.
- B. **BEST MANAGEMENT PRACTICES (BMPs)** means a conservation or pollution control practice that manages wastes, agricultural chemicals, or hazardous materials so as to minimize movement into surface or ground waters of the State.
- C. **CONTAINMENT DEVICE** shall be defined as a device that is designed to contain an unauthorized release, retain it for cleanup, and prevent released materials from penetrating into the ground.
- D. **EPA** refers to the United States Environmental Protection Agency.
- E. **EPA STORMWATER NPDES PERMIT** shall be defined as a permit meeting the requirements of the National Pollutant Discharge Elimination System Permit Application Regulations for Storm Water Discharges issued by EPA on November 16, 1990.
- F. **HAZARDOUS MATERIALS** means any substance that: (1) conveys toxic, lethal, or other injurious effects or which causes sublethal alterations to plant, animal, or aquatic life; or (2) may be injurious to human beings. Hazardous materials include any matter identified as a "hazardous waste" by the Environmental Protection Agency or a "controlled hazardous substance" by the Maryland Department of the Environment.
- G. **MDE** refers to the Maryland Department of the Environment.
- H. **NUTRIENT/MANURE MANAGEMENT PLAN** shall be defined as a plan prepared by a certified nutrient management consultant to manage the amount, placement, timing, and application of animal waste, fertilizer, sewage sludge, and other plant nutrients in order to prevent pollution and to maintain productivity of the soil.
- I. **ON-SITE FLOOR DRAINS** shall be defined as drains which are not connected to municipal sewer or stormwater systems and which discharge directly to the ground or septic system.
- J. **OWNER** shall be defined as a property owner or his duly authorized agent or attorney, a purchaser, devisee, fiduciary, and any other person having vested or contingent interest in the property of question.
- K. **PERSON** shall be defined as any natural person, individual, public or private corporation, firm, association, joint venture, partnership, municipality, government agency, political subdivision, public officer, owner, lessee, tenant, or any other entity whatsoever or any combination of such, jointly or severally.

- L. **PESTICIDE** shall be defined as any substance or mixture of substances intended for: (1) preventing, destroying, repelling, or mitigating any pest; (2) use as a plant regulator, defoliant, or desiccant; or (3) use as a spray adjuvant such as a wetting agent or adhesive.
- M. **RULES AND REGULATIONS OF MDE** shall be defined as official publications of MDE with standards and requirements for protection of ground water resources.
- N. **UNDERGROUND INJECTION WELL** shall be defined as a bored, drilled, driven or dug well whose depth is greater than the largest surface dimension, through which fluids enter the subsurface; or, an improved sinkhole; or, a subsurface fluid distribution system.
- O. **UNDERGROUND STORAGE TANK** means an underground storage tank, connected piping, underground ancillary equipment, and containment system, if any.
- P. **WELLHEAD PROTECTION DISTRICT** means that land area overlying the aquifer which contributes water to a public water supply well under the permitted withdrawal rate (average annual) and average annual recharge conditions that can be anticipated based on historical data. It is bounded and may be influenced by the ground water divides which result from pumping the well and by the contact of the aquifer with less permeable geologic boundaries. In all cases, the Wellhead Protection District shall extend upgradient to its point of intersection with prevailing hydrogeologic boundaries (a ground water flow divide, a contact with geologic formations, or a recharge boundary), or be limited by time-of-travel. The Wellhead Protection District shall be reviewed and approved by MDE.
- The Wellhead Protection District may include two (2) zones of protection, with Zone 1 being the most restrictive. Zone 1 is based on a 1 year time of travel, fixed radius or other assessment of an area most closely connected to the water supply. Zone 2 is based on a 10-year¹ time of travel or by hydrogeologic boundaries. The boundary of Zone 3, when delineated, encompasses the total land area that is determined to provide recharge to a public water supply well.
- Q. **YARDING AREAS** shall be defined as a pen or other outdoor area used for the feeding and care of livestock or poultry.

Section 3.0

AUTHORITY

¹ A 20 or 25 year time of travel may be used to mark the edge of Zone 2, if numerical modeling with particle tracking is used to delineation the wellhead protection area.

Section 3.1

Enabling Statute

***** For Use by Jurisdictions Empowered under Article 66B ***
of the Annotated Code of Maryland, as follows:**

1. All non-charter (including code home rule*) counties:

Allegany*	Garrett
Calvert	Kent*
Caroline*	Queen Anne's*
Carroll	St. Mary's
Cecil	Somerset
Charles	Washington
Dorchester	Worcester*
Frederick	
2. Baltimore City.
3. All incorporated municipalities lying outside Montgomery and Prince George's Counties.
4. The incorporated municipalities of Barnesville, Brookeville, Gaithersburg, Laytonsville, Poolesville, Rockville, and Washington Grove in Montgomery County, and the City of Laurel in Prince George's County.

B. **WHEREAS**, the _____ has duly adopted within the Comprehensive Plan, after public notice and hearing, a Sensitive Areas Plan element in accordance with §3.05 of Article 66B of the Annotated Code of Maryland; and

WHEREAS, § 3.05 of Article 66B requires protection of streams and their buffers, 100-year floodplains, habitats of threatened and endangered species (habitat), and steep slopes; and

WHEREAS, § 3.05 (a)(2) of Article 66B authorizes protection of additional types of sensitive areas; and

WHEREAS, the _____ has determined through the Sensitive Areas element of the Comprehensive Plan that, in addition to streams and their buffers, 100-year floodplains, habitats of threatened and endangered species, and steep slopes, wellhead protection areas are in need of special protection; and

WHEREAS, § 4.01 of Article 66B empowers the _____ with the authority to regulate and restrict land use for the purpose of promoting the health, safety and general welfare of the community; and

WHEREAS, Section 1428 of the Federal Safe Drinking Water Act Amendments of 1986 requires that each state develop a wellhead protection program to protect public water supplies from contamination from contamination; and

WHEREAS, the Maryland Department of the Environment (MDE) has developed a wellhead protection program, approved by EPA, which identifies that local governments have responsibility for developing programs, including regulations and management controls, to protect public water supplies from contamination.

***** For Use by Jurisdictions Empowered Under Articles 25A and 28 ***
of the Annotated Code of Maryland, as follows:**

1. Charter Counties delegated by Article 25A:

Anne Arundel	Howard
Baltimore	Talbot
Harford	Wicomico

2. Charter Counties delegated by Article 28:

Montgomery	Prince George's
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3. Incorporated towns within Montgomery and Prince George's Counties.

B. **WHEREAS**, the _____ has duly adopted Zoning Regulations for the purpose of protecting the health, safety, and welfare of its residents; and

WHEREAS, § 3.05(a)(1)(vi) and (viii) of Article 66B requires jurisdictions empowered under Articles 25A and 28 of the Annotated Code of Maryland to require a sensitive area element that contains goals and standards to protect sensitive areas; and

WHEREAS, § 3.05 of Article 66B requires protection of streams and their buffers, 100-year floodplains, habitats of threatened and endangered species (habitat), and steep slopes; and

WHEREAS, § 3.05 of Article 66B authorizes protection of additional types of sensitive areas; and

WHEREAS, the _____ has determined through the Sensitive Areas element of the Comprehensive Plan that, in addition to streams and their buffers, 100-year floodplains, habitats of threatened and endangered species, steep slopes, and wellhead protection areas are in need of special protection; and

WHEREAS, § 4.01 of Article 66B empowers the _____ with the authority to regulate and restrict land use for the purpose of promoting the health, safety and general welfare of the community; and

WHEREAS, Section 1428 of the Federal Safe Drinking Water Act Amendments of 1986 requires that each state develop a wellhead protection program to protect public water supplies from contamination; and

WHEREAS, the Maryland Department of the Environment (MDE) has developed a wellhead protection program, approved by EPA, which identifies that local governments have responsibility for developing programs, including regulations and management controls, to protect public water supplies from contamination.

*** * * For Use by Jurisdictions Empowered under Public * * ***
Local Laws, as follows:

1. LaVale, an unincorporated community in Allegany County.

B. **WHEREAS**, the _____ has duly adopted Zoning Regulations for the purpose of protecting the health, safety, and general welfare of its residents; and

WHEREAS, § 3.05(a)(1)(vi) and (viii) of Article 66B requires a sensitive area element that contains goals and standards to protect sensitive areas; and

WHEREAS, § 3.05 of Article 66B requires protection of streams and their buffers, 100-year floodplains, habitats of threatened and endangered species (habitat), and steep slopes; and

WHEREAS, § 3.05(a)(2) of Article 66B authorizes protection of additional types of sensitive areas; and

WHEREAS, the _____ has determined through the Sensitive Areas element of the Comprehensive Plan that, in addition to streams and their buffers, 100-year floodplains, habitats of threatened and endangered species, and steep slopes, wellhead protection areas are in need of special protection; and

WHEREAS, § 4.01 of Article 66B empowers the _____ with the authority to regulate and restrict land use for the purpose of promoting the health, safety and general welfare of the community; and

WHEREAS, Section 1428 of the Federal Safe Drinking Water Act Amendments of 1986 requires that each state develop a program to protect public water supplies from contamination; and

WHEREAS, the Maryland Department of the Environment (MDE) has developed a wellhead protection program, approved by EPA, which identifies that local governments have responsibility for developing programs, including regulations and management controls, to protect public water supplies from contamination.

Section 3.2 Severability

Should any section, paragraph, sentence, clause, or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remainder of this ordinance shall not be affected and remain in full force.

Section 3.3 Amendments

This ordinance or any part thereof may be amended from time to time in accordance with the procedures as established by law.

Section 4.0 **APPLICABILITY**

- A. This Ordinance applies to all land uses and activities located or proposed within the area delineated as the Wellhead Protection District in _____ on a map available for inspection at the office of the _____ and as defined in the definitions section of the ordinance. The Wellhead Protection District consists of Zone 1, Zone 2, and Zone 3, (select all that apply) described in 5.0 below.
- B. This Ordinance is supplementary to other laws and regulations. Where this Ordinance or any portion thereof imposes a greater restriction than is imposed by other regulations, the provisions of this Ordinance shall control.

Section 5.0 **EXTENT AND DESIGNATIONS**

- A. The Wellhead Protection District includes differing zones of protection as recommended by MDE. Wellhead Protection Districts may include 1, 2, or 3 zones of protection.

For each community this section will need to be customized. The text then needs to describe what each of the zones represent and what method was used to delineate the area. Several possibilities are described below.

If only one zone of protection:

1. The wellhead protection area (WHPA) delineated represents the recharge area for (name of supply source and location) supply. The boundaries of the WHPA are based on ground water flow direction and ground water divides inferred from topography and groundwater discharge areas, changes in formation type, permitted withdrawal rates, linear features (fracture traces) and a calculated down gradient zone of contribution using the average annual withdrawal rate. A detailed explanation and basis for the delineation is described in (title and date of report with author). MDE has indicated its approval of this area as being consistent with the requirements of Section 1428 of the Safe Drinking Water Act by letter dated _____.

If there are two zones of protection:

1. Zone 1 represents the area bounded by a ground water travel time of 1 year to (name of supply source and location) as determined by a modular semi-analytical ground water flow model (such as WHPA Code Version 2.2, Huyakorn and Blandford). All input values and boundary conditions are documented in (title and date of report with author). MDE has indicated its approval of this area as being consistent with the requirements of Section 1428 of the Safe Drinking Water Act by letter dated _____.
2. Zone 2 represents an area bounded by a ground water travel time of 10 years to name of supply source and location as determined by a modular semi-analytical ground water flow model (such as WHPA Code Version 2.2 Huyakorn and Blandford). All input values and boundary conditions are documented in (title and date of report with author). MDE has indicated its approval of this area as being consistent with the requirements of Section 1428 of the Safe Drinking Water Act by letter dated _____.

If there is a third zone of protection:

3. Zone 3 represents that area between the 10-year time of travel boundary and the boundary of the ultimate recharge area to (name of supply source and location). This area was determined by applying a numerical ground water flow model and particle tracking routine (provide model reference). The model grid size, boundary locations, input parameters and calibration results are all described in detail in (title and date of report with author). MDE has indicated its approval of this area as being consistent with the requirements of Section 1428 of the Safe Drinking Water Act by letter dated _____.
- B. The maps delineating the Wellhead Protection District and Zone(s) (1,1&2,or 1,2&3) are entitled (title and date) and are incorporated herein and made a part of this Ordinance.

The maps shall be on file and maintained by _____. Accurate copies of these maps shall be made available for review by the public.

- C. In determining how properties within the Wellhead Protection District depicted on the (title and date of map) are affected by the requirements of this ordinance the following rules shall apply:
1. Properties located wholly within one zone as reflected on (title and date of map) shall be governed by the restrictions applicable to that Zone.
 2. Properties having parts lying within more than one zone as reflected on the (title and date of map) shall be governed by the restrictions applicable in each zone.
 3. Where the boundary line between two zones passes through a building, the entire building shall be considered to be in that zone in which more than fifty (50) percent of the floor space of the building is situated.
- D. The boundary of the Wellhead Protection District or individual zones within the District may be modified should additional information or analysis be provided that shows that the current boundary lines no longer appropriately reflects the criterion which they purport to represent.

Procedures for modification of such boundaries shall be as follows:

1. The applicant wishing a change in boundary shall provide the evidence to the Zoning Commissioner. The applicant shall petition the Zoning Commissioner for a special hearing/District Reclassification and be required to present detailed hydrogeologic and hydrologic information to the Board of Appeals indicating where in fact the new boundary line should be drawn. The applicant shall provide (No. of copies) copies of all reports and maps to the Zoning Commissioner for a technical review of geologic and hydrologic, and any other relevant information. Maps shall be submitted on the same scale or more detailed as the official Wellhead Protection District Maps.
2. The Zoning Commissioner shall seek competent technical advice of such a change request. The (name of community) wellhead protection planning team shall be given a copy of the information given to the zoning commissioner and be granted adequate time to comment on the proposed change.
3. The burden of proof shall be on the applicant to show that the current boundaries do not represent the criterion which they purport to represent.
4. If after receiving written advice from the (name of community) planning team and/or other technical advisors, and the Zoning Commissioner believes that the proposed change has merit, all property owners potentially affected by the changes shall be sent

notices indicating the proposed change. An opportunity for public comment of sixty (60) days after notices are sent shall be provided.

5. After close of the comment period the Zoning Commissioner shall make his decision.
6. Any maps so revised shall be incorporated and made part of this Ordinance and kept on file and available to the public for review by (name of appropriate agency).

Section 6.0

USE REGULATIONS

Section 6.1 Permitted Uses

The following uses shall be permitted:

- A. Conservation of soil, water, plants, and wildlife;
- B. Outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;
- C. Foot, bicycle, and/or horse paths, and bridges;
- D. Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
- E. Maintenance, repair, and enlargement of any existing structure, subject to Section 6.2 prohibited uses;
- F. Residential development, subject to Section 6.2 prohibited uses;
- G. Farming, gardening, nursery, conservation, forestry, harvesting, and grazing, subject to Section 6.2 prohibited uses; and
- H. Construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts, and tunnels.
Underground storage tanks related to these activities are not categorically permitted.

Section 6.2 Prohibited Uses

The following uses are prohibited or conditional within the designated protection zone(s):

	<u>Zone 1</u>	<u>Zone 2</u> ²
A. Bulk Storage of Hazardous Materials, except the following ³ :	X	Cu
1. Materials needed for normal household use, outdoor maintenance, and heating of a structure;		
2. Waste oil retention facilities required by statute, rule, or regulation;		
3. Materials needed for emergency generators; or		
4. Materials used in Water Treatment Plants.		
B. Dry Cleaning Establishments, Coin or Commercial Laundries	X	Cu
C. Garage, Service Station	X	Cu
D. Heavy Manufacturing Uses	X	X
E. Junk Yards	X	X
F. Yarding Area	X	Cu ⁴
G. Manure Piles, Animal Waste Pits, Lagoons, and Sewage Sludge Storage Facilities	X	Cu
H. Metal Plating Establishments	X	X
I. On-site Wastewater Disposal	X	Cu ⁵

² *These prohibitions and conditional uses may also apply to Zone 3 areas. The decision should be based on vulnerability of the specific area to the category of use.*

³ *Secondary containment and release detection standards for inground tanks and above ground tanks found later in this manual apply to the exceptions permitted in Zone 1 of the wellhead protection district.*

⁴ *Counties/municipalities may require nutrient management plans through local regulation or other non-zoning by law/ordinance. Local requirements must be consistent with MD.1/SCD standards.*

⁵ *Counties/municipalities should consider requiring commercial and residential developments within this Zone to be serviced by public sewer. For all lots subdivided which propose on-site wastewater disposal, the intention is to ensure that the nitrate-levels do not exceed 10 mg/l. In some instances on-site systems that maximize nitrogen removal may required.*

J.	Open Burning Sites and Dumps	X	X
K.	Quarries and Mining Operations	X	X
L.	Storage of Deicing Chemicals	X	Cu
M.	Disposal of Fuels or Hazardous Materials	X	X
N.	Sanitary Landfills and Rubble Fills	X	X
O.	Bulk Storage and Mixing of Pesticides and Fertilizers ⁶	X	Cu
P.	Underground Injection Wells	X	Cu ⁷
Q.	Underground Storage Tanks	X	Cu
R.	Uses which involve, as a principal activity, the manufacture, storage, use, transport, or disposal of hazardous materials	X	X
S.	Uses which involve hazardous materials in quantities greater than those associated with normal household use ⁹	X ⁸	Cu
T.	Underground pipelines ¹⁰ carrying hazardous	X	Cu

Process wastewater that contain hazardous materials above drinking water standards or otherwise to harm to the water supply should be prohibited from on-site disposal.

⁶New standards and guidelines adopted by Maryland Department of Agriculture should be referenced as a condition for special exception.

⁷Process wastewater that contain hazardous materials above drinking water standards or otherwise cause harm to the water supply should be prohibited from on-site disposal.

⁸This prohibition does not apply to uses permitted in Section 6.2.1.

⁹Normal household use does not imply that it is acceptable to dispose of hazardous material through the home's plumbing system.

¹⁰ Counties and local governments may be pre-empted from regulating the location of pipelines used in interstate commerce.

materials

- U. Development with greater than 50% impervious surfaces Cu Cu

Key:

- X = Not Allowed
Cu = Conditional Use

Section 6.3 Conditional Uses

Activities that are defined as conditional uses will not be allowed within the Wellhead Protection District unless the property owner can show the use will not harm the ground water and is able to meet the conditions described in 6.3.B and 6.7 of this ordinance.

- A. The landowner or representative shall submit to the _____ an application for a Conditional Use. The application shall include:
1. A list of all hazardous materials which are to be stored, handled, used, or produced in the activity being proposed.
 2. A description of the quantities and containers for the storage, handling, use, or production of hazardous materials by the proposed activity.
 3. A site plan illustrating the location of all operations involving hazardous materials, spill containment structures and showing all points of potential discharge to ground water including dry wells, infiltration ponds, septic tanks and drainfields.
 4. Documentation of approval by MDE of any industrial waste treatment or disposal system or any wastewater treatment system over 5,000 gallons per day (gpd) capacity.
 5. Documentation of MDE permit or approval for any discharge via an underground injection well.
 6. A description and estimate of the average and maximum number of poultry livestock animals that will be yarded within the Wellhead Protection District. Evidence that a nutrient management plan for nitrogen has been completed for all livestock or poultry wastes to be generated by the activity. This plan must incorporate adequate waste holding facilities and show any application sites within the wellhead protection district.
 7. Plans showing secondary containment, for all underground and above ground tanks and lines containing hazardous material.

8. A description of the best management practices which will be followed during the construction of the facility to ensure that hazardous materials are not released to the ground water.
 9. An emergency plan indicating the procedures which will be followed in the event of a spill of a hazardous material to control and collect the spilled material to prevent the substance from reaching the ground water.
 10. A hydrologic assessment for properties with greater than 50% planned impervious surfaces (building footprints, sidewalks, and transportation surfaces) to determine the ground water recharge rate after site development is completed. The assessment will also estimate the ground water recharge rate prior to development.
- B. The _____ shall obtain advice from all appropriate local agencies to assess whether the wellhead protection area will be protected from contaminants which pose an adverse effect on the health or comfort of persons. In making their determination, the _____ shall give consideration to the simplicity, reliability, and feasibility of the control measures proposed and the degree of threat to drinking water quality which would result if the control measures failed. _____ shall then issue a written decision. In order for the area to be approved, it must be shown that the use:
1. Will protect the water supply from contaminants used on the property which pose an adverse effect on the health or comfort of persons;
 2. Will not cause the average ground water quality on the property to violate drinking water standards promulgated by MDE and the EPA; or
 3. Will maintain recharge of water to the water supply aquifer consistent with rates prior to development.¹¹

A request may not be approved until all comments provided by local agencies have been addressed by the applicant to the satisfaction of _____.

- C. _____ may deny the Conditional Use if it is determined that the Conditional Use would not meet the requirements outlined in 6.3.B. above. The _____'s decision shall be made in writing to the applicant.

Section 6.4 Nonconforming Uses

¹¹No more than a 20% drop in recharge rates is recommended as a standard.

Non-conforming uses lawfully in existence within the Wellhead Protection District may continue to exist in the form in which they existed at the time on this Ordinance is adopted. Changes in title or right to possession shall not effect continuation of an existing use.

In the event a non-conforming use poses a direct hazard to the public water supply, _____ may take any action permitted by law to abate the hazard.

Section 6.5 Variances

Variances to the provisions of this ordinance may be granted by _____, following a public hearing, provided that a strict interpretation of the Ordinance deprives such property of privileges or safety enjoyed by other similarly situated property within the Wellhead Protection District. Applications for Variances must be presented to the _____.

Section 6.6 Exemptions

The following activities are exempt from regulation under this ordinance:

1. Transportation of Hazardous Material- The transportation of any Hazardous Material through the Wellhead Protection District shall be exempt from the provisions of this ordinance.
2. Application of Pesticides- The application of pesticides in recreation, agriculture, pest control, and aquatic weed control activities shall be exempt from the provisions of this ordinance provided that:
 - a. The application is in strict conformity with the use requirement as set forth in the substances EPA registries. A pesticide can only be used according to its labeling and according to pertinent federal and state laws.
 - b. The application of pesticides shall be noted in the records of an applicator certified by the Maryland Department of Agriculture. Records shall be kept of the date and amount of these substances applied at each location and said records shall be available for inspection.
3. Underground Storage of Oil(s)- The underground storage of oil(s) used for heating fuel shall be exempt from the provisions of this ordinance if the tank used for storage is located within an enclosed structure (i.e., secondary containment or any currently approvable containment technology) sufficient to contain leakage of oil from the environment and to provide routine access for visual inspection (e.g., cement-floored basement), and sheltered to prevent the intrusion of precipitation. Any tank used for the underground storage of oil that is out of service for more than one year shall be removed. Liquid residue shall be removed and all connecting piping securely capped or plugged.
4. Aboveground Storage of Oil(s)- The aboveground storage of oil(s) used for heating fuel shall be exempt from the provisions of this ordinance provided that the tank used for storage is: 1) located on an impervious pad or container of sufficient volume to capture and contain spills

and leakage of oil from entering the environment, 2) sheltered to prevent the intrusion of precipitation and, 3) located in a manner that allows for routine visual inspection. Aboveground storage of oil shall be located as far away from the public water supply wells as possible.¹²

Section 6.7 Performance Plan Standards

All activities that are designated conditional uses shall meet the following design and operation guidelines.

- A. Containment of hazardous materials. Leak-proof trays under containers, floor curbing, or other containment systems to provide secondary liquid containment shall be installed. The containment shall be of adequate size to handle all spills, leaks, overflows, and precipitation until appropriate action can be taken. The specific design and selection of materials shall be sufficient to contain any hazardous material at the location and prevent escape to the environment. These requirements shall apply to all areas of use, production, and handling, to all storage areas, to loading and off-loading areas, and to aboveground and underground storage areas. Because State and federal governments already regulate hazardous materials nothing in this ordinance shall be applied in a way to prevent a person from complying with State and federal requirements.
- B. All underground tanks(s) and piping systems shall meet the requirements of COMAR 26.10.05.03.C 1-4 for secondary containment, double wall tanks, liners, vaults and underground piping.
- C. Dry cleaning establishments shall not discharge to the ground or subsurface any wastewater that was in contact with the organic solvents used in dry cleaning process.

As specified in A. above, secondary containment is required for areas when dry cleaning solvent is stored, used and transferred.

- D. Infiltration of stormwater runoff that has come in contact with the pavement surfaces shall not be permitted at gasoline service stations. Waste from service stations' work areas is not permitted to be discharged to the ground or subsurface.
- E. All sewage sludge and animal waste holding facilities shall be constructed so as not to allow the waste material to leach into the ground water. All inground facilities shall use low permeability liners constructed to meet one of the standards specified below:
 - a. one foot of clay with a permeability less than 10^{-7} cm/sec, or
 - b. two feet of clay with a permeability less than 10^{-6} cm/sec or
 - c. two feet of compacted soil with a permeability less than 10^{-5} cm/sec, and

¹² ***Homeowners are exempt, consistent with COMAR 26.10, Oil Pollution and Tank Management.***

a manmade liner, 30 mil thick, and permeability less than 10^{-7} cm/sec.

- F. Agricultural operations with yarding areas shall follow nutrient management plans for nitrogen. Waste application rates for all sites within the wellhead protection district are to be designed to not exceed crop requirements and therefore minimize nitrate discharge to ground water.
- G. All facilities with wastewater disposal greater than 5,000 gpd shall have a State discharge permit. All developments with on-site disposal shall be designed so that the average $\text{NO}_3\text{-N}$ concentration of the water recharging the surficial ground water aquifer under the property shall not exceed 10 milligrams per liter.
- H. All de-icing chemicals (salt piles and sand/salt mixes) must be stored under roof and protected from precipitation by a permanent cover. Runoff from mixing and loading areas may not be discharged to the subsurface.
- I. All facilities with bulk storage of pesticides must show evidence of compliance with Maryland Department of Agriculture requirements.
- J. All tanks of liquid fertilizers must have secondary containment of at least 110% of the largest tank within the contained area. All dry fertilizer storage must be under a permanent cover and protected from rainfall.
- K. All facilities with underground injection wells must show evidence of compliance with all applicable MDE permits, consent orders, or other State actions, regarding the underground disposal of wastes.
- L. All underground pipelines carrying hazardous materials shall be equipped with operable secondary release detection equipment and be protected against corrosion.
- M. All excess hazardous materials from the construction of any facility shall not be released to the environment and shall be removed from the property, unless such materials are incorporated into a contained hazardous materials storage area.
- N. At all facilities practicing stormwater infiltration the following design standards shall apply:
 - 1. Stormwater management facilities including drainage swales, detention ponds, and retention ponds shall be designed in a manner to provide optimal protection of the ground water resources. Uses of grass swales, open shoulder roads and grass filter strips shall be considered as first options in plan development.
 - 2. At least four feet of soil material is required between the top of bedrock surface or high water table (whichever is higher) and the bottom of any stormwater infiltration pond or system.

3. Stormwater infiltration shall be prohibited in areas receiving runoff from handling and mixing areas of hazardous materials.
 4. At least 80% of the predevelopment recharge rate shall be preserved following development. The design shall be made to ensure that this rate can be maintained over the life of the facility.
- O. Reporting of Spills. Any spill of a hazardous material shall be reported by the facility owner by telephone to the water supplier, within two (2) hours of discovery of the spill. Clean-up shall commence immediately upon discovery of the spill. A written report detailing the steps taken to contain and clean up the spill and preventing a recurrence shall be submitted to the water supplier within five (5) working days of the spill.
- P. Monitoring for Hazardous Materials in Ground Water. If required by the _____, ground water monitoring well(s) shall be installed at the expense of the facility owner or operator in accordance with an approved ground water monitoring plan. The permittee shall be responsible for developing an approved ground water monitoring system. Samples shall be analyzed by a State-certified laboratory and the results reported to _____.
- Q. Alterations and Expansion. The _____ shall be notified in writing prior to the expansion, alteration, or modification of any activity that is subject to a Conditional Use. Approval by _____ is required before the activity subject to a Conditional Use can begin. The landowner or representative shall submit an explanation of the change in activity and the information as required by this ordinance above.

Section 7.0 ADMINISTRATION REQUIREMENTS

Section 7.1 Subdivision and Land Development Review

All subdivision proposals and other proposed new development plans within the Wellhead Protection District shall be reviewed by _____ for compliance with the provisions of this ordinance. It shall be the responsibility of the _____ to recommend approval, disapproval, or approval with modifications of the proposed subdivision or development plan.

Section 7.2 Notice of Violation

Whenever it is determined that there is a violation of this ordinance, A Notice of Violation shall be issued. The Notice of Violation shall:

1. Specify the violation or violations in writing.
2. Specify the length of time available to correct the violation.
3. Clearly state any penalties associated with the subject violation.
4. Provide a description of any rights of appeal.

Section 7.3 Stop Work Orders

The _____ is authorized to issue cease and desist orders whenever it becomes aware of violations of this ordinance.

Section 7.4 Penalties

All costs incurred by the _____, including engineering and attorney's fees for enforcing this ordinance shall be paid by the owner who violated the provisions of this ordinance.

A penalty of up to \$1,000 may be levied for any violation of this ordinance.

Section 8.0

FEES

Fees Established by Resolution

All fees for review of Subdivision and Land Development Plans shall be established by resolution of the appropriate local governing body. Fees established shall be reviewed annually and adjusted as required. The fees shall include reasonable costs involved with the implementation of this ordinance and may include Administrative and professional staff review costs.

APPENDIX 1-D

Outline for Extension of Municipal Services in Annexation (1.6.4)

ANNEXATION

§ 19. Annexation.

(a) Legislative body authorized to enlarge corporate boundaries.- The legislative body, by whatever name known, of every municipal corporation in this State may enlarge its corporate boundaries as provided in this subheading; but this power shall apply only to land:

- (1) Which is contiguous and adjoining to the existing corporate area; and
- (2) Which does not create any unincorporated area which is bounded on all sides by real property presently within the corporate limits of the municipality, real property proposed to be within the corporate limits of the municipality as a result of the proposed annexation, or any combination of such properties.

(b) Initiation by legislative body.-

- (1) The proposal for change may be initiated by resolution regularly introduced into the legislative body of the municipal corporation, in accordance with the usual requirements and practices applicable to its legislative enactments, and also in conformity with the several requirements contained in subsections (b) and (c) of § 13 of this subtitle, but only after the legislative body has obtained the consent for the proposal from not less than 25 percent of the persons who reside in the area to be annexed and who are registered as voters in county elections and from the owners of not less than 25 percent of the assessed valuation of the real property located in the area to be annexed. The resolution shall describe by a survey of courses and distances, and may also describe by landmarks and

other well-known terms, the exact area proposed to be included in the change, and shall contain complete and detailed provisions as to the conditions and circumstances applicable to the change in boundaries and to the residents and property within the area to be annexed.

- (2) (i) The requirements of paragraph (1) for consent of resident voters and property owners do not apply if on or before January 1, 1983 the property to be annexed is:
 1. Bounded on all sides by real property presently within the corporate limits of the municipality, and the entire area is to be included in the same annexation;
 2. The size of the area does not exceed 1.5 percent of the present area of the municipal corporation; and
 3. The number of residents in the area does not exceed 1 percent of the population of the municipal corporation.
- (ii) A resolution of annexation under this paragraph is not subject to the referendum provisions of subsection (f) of this section.
- (iii) The provisions of this paragraph shall be of no effect and may not be exercised after June 30, 1984.

(c) Initiation by petition.- The proposal for change also may be initiated by a written petition signed by not less than twenty-five per centum (25%) of the persons who reside in the area to be annexed and who are registered

as voters in county elections in the precinct or precincts in which the territory to be annexed is located, and by the owners of not less than twenty-five per centum (25%) of the assessed valuation of the real property located in the area to be annexed. Upon the presentation of a petition to the legislative body of the municipal corporation, the presiding officer thereof shall cause to be made a verification of the signatures thereon and shall ascertain that the persons signing the petition represent at least twenty-five per centum (25%) of the persons who reside in the area to be annexed and who are registered as voters in county elections in the precinct or precincts in which the territory to be annexed is located, and the owners of twenty-five per centum (25%) of the assessed valuation of the real property located in the area to be annexed. Upon verifying that the requirements of this subsection have been complied with, the presiding officer of the legislative body shall promptly cause to be introduced therein a resolution proposing the change of boundaries as requested by the petition. The resolution in form and content shall conform to the requirements of this section.

- (d) Notice and hearing.- After the introduction of the resolution into the legislative body of the municipal corporation, the chief executive and administrative officer of the municipal corporation shall cause a public notice thereof to be published not fewer than four times or, if the total area of the proposed annexation is for 25 acres of land or less, not fewer than two times, at not less than weekly intervals in a newspaper or newspapers of general circulation in the municipal corporation and the area to be annexed, briefly and accurately describing the proposed change and the conditions and circumstances applicable. The public notices shall specify a time and place at which a public hearing will be held by the legislative body on the resolution; the hearing shall be set for not less than 15 days after the fourth publication of the notices or, if the total

area of the proposed annexation is for 25 acres of land or less, not less than 15 days after the second publication of the notices, and shall be held either within the boundaries of the municipal corporation or within the area to be annexed. The public hearing may be continued or rescheduled for a subsequent time not to exceed 30 days from the day for which the meeting was originally scheduled, or the day on which the hearing commenced but was not completed. In the event of a continuation or rescheduling, a single public notice shall be given at least seven days prior to the continued or rescheduled date in a newspaper of general circulation in the municipal corporation and in the area whose annexation is to be discussed, briefly and accurately describing the property whose annexation is to be discussed, and specifying the day, time, and place of the public hearing. Immediately upon the first publication of the public notice, a copy of the public notice shall be provided to the governing body of the county and any regional and State planning agencies having jurisdiction within the county. Each of these agencies and jurisdictions shall have the first right to be heard at the scheduled public hearing, after which the hearing shall be open to the general public.

- (e) Enactment and effective date of resolution.- Following the public hearing, the legislative body may proceed to enact the resolution, in accordance with the usual requirements and practices applicable to its legislative enactments. The resolution shall not become effective until at least forty-five (45) days following its final enactment.
- (f) Petition for referendum by residents of area to be annexed.- At any time within the 45 day period following the final enactment of the resolution, a number of persons equal to not less than 20 percent of the persons who reside in the area to be annexed and who are registered as voters in county elections in the precinct or precincts in which the territory to

be annexed is located may, in writing, petition the chief executive and administrative officer of the municipal corporation for a referendum on the resolution. Upon the presentation of a petition to the officer, he shall cause to be made a verification of the signatures thereon and shall ascertain that the persons signing the petition represent at least 20 percent of the persons who reside in the area to be annexed and who are registered as voters in county elections in the precinct or precincts in which the territory to be annexed is located. Upon verifying that the requirements of this subsection have been complied with, the officer shall by proclamation suspend the effectiveness of the resolution, contingent upon the results of the referendum.

- (g) Petition for referendum by residents of municipality.- At any time within the forty-five (45) day period following the final enactment of the resolution, a number of persons equal to not less than twenty per centum (20%) of the qualified voters of the municipal corporation may, in writing, petition the chief executive and administrative officer of the municipal corporation for a referendum on the resolution. Upon the presentation of a petition to the officer, he shall cause to be made a verification of the signatures thereon and shall ascertain that the persons signing the petition represent at least twenty per centum (20%) of the qualified voters of the municipal corporation. Upon verifying that the requirements of this subsection have been complied with, the officer shall by proclamation suspend the effectiveness of the resolution, contingent upon the results of the referendum.
- (h) Petition for referendum by county governing body.- At any time within the 45-day period following the final enactment of the resolution, the governing body of the county or counties in which the municipality is located, by at least a two-thirds majority vote, may petition in writing the chief executive and

administrative officer of the municipal corporation for a referendum on the resolution. Upon verifying that there has been compliance with the requirements of this subsection, the officer by proclamation shall suspend the effectiveness of the resolution, contingent upon the results of the referendum.

- (i) Time of referendum; notice.- The chief executive and administrative officer of the city, town or village shall set a date for the referendum on the ordinance or resolution, which shall be not less than fifteen (15) days and not more than ninety (90) days from the publication of notices therefor. Such notices shall be published twice at not less than weekly intervals in a newspaper or newspapers of general circulation in the municipal corporation and the area to be annexed. The notices shall specify the time and place or places at which the referendum will be held; the place or places shall be within the limits of the area to be annexed for the referendum within that area, and shall be within the limits of the municipal corporation for the referendum in this latter place.
- (j) Submission of resolution to voters; ballots.- On the date and at the places specified, the resolution proposing a change in the corporate boundaries of the municipal corporation shall be submitted to a referendum election of the qualified voters of the municipal corporation or of the persons who reside in the area to be annexed and who are registered as voters in county elections in the precinct or precincts in which the territory to be annexed is located, or both, depending upon whether a petition for referendum has been presented by the residents of the municipal corporation, or by the residents of the area proposed to be annexed or by both such sets of residents. The petition for referendum presented by the governing body of the county shall be acted upon in the same manner as a petition for referendum presented by the residents of the area proposed to be annexed. The ballots or

the voting machines, as the case may be, shall contain a summary of the resolution, with suitable provision for the voter to indicate a choice for or against it.

- (k) When any property owner may sign petition and participate in election.- For the purposes of this section, in any instance in which there are fewer than twenty persons living in any area proposed to be annexed who are eligible to sign a petition and to participate in a referendum election under the provisions of this section, any person owning real property in the area proposed to be annexed (the word "person" here including an association, the two or more joint owners of jointly-owned property, a firm or corporation) shall have a right equal to that of a natural person to sign a petition or to participate in a referendum election.

- (l) Result of election.- If only one petition for a referendum is filed and if a majority of the persons voting on the question in that referendum shall vote in favor of the proposal for change, the change shall become effective as proposed on the fourteenth day following the referendum. If two petitions for referendum are filed, the votes cast for the two referenda shall be tabulated separately, so as to show individually the tabulation of votes cast in the municipal corporation and in the area to be annexed. If in both tabulations, each being reckoned separately, a majority of the persons voting on the question shall vote in favor of the proposal for change, the change shall become effective as proposed on the fourteenth day following the referendum. In the event there are two referenda, unless there is such a favorable majority in both tabulations, reckoned separately, the

proposal for change shall be void and of no further effect whatsoever.

- (m) Annexation of land in another municipality not authorized.- The provisions of this section shall authorize an increase in the area within any municipal corporation only as to land which is not then within the corporate limits of any other municipal corporation.
- (n) What resolution shall provide.- The resolution to add to the corporate boundaries of a municipal corporation shall provide generally that the persons residing in the area to be annexed, and their property, shall be added to the corporate boundaries, generally subject or not subject, as the case may be, to the provisions of the charter of the municipal corporation; except that for stated periods and under specific conditions provision may be made for special treatment of the residents and property in the area to be annexed, as to rates of municipal taxation and as to municipal services and facilities. No change shall be made in these provisions for special treatment for stated periods and under specific conditions, except by resolution enacted in accordance with the provisions and requirements of this section.
- (o) Outline for extension of services and public facilities.- In addition to, but not as a part of the resolution, the legislative body of the municipal corporation shall provide also a proposed outline for the extension of services and public facilities into the area proposed to be annexed. The outline shall be open to public review and discussion at the public hearing, but amendments to the outline may not be construed in any way as an amendment to the resolution, nor may they serve in any manner to cause a reinitiation of the annexation procedure then in process. A copy of the outline shall be provided to the governing body of the county or counties in

which the municipal corporation is located and any regional and State planning agencies having jurisdictions within the county at least 30 days prior to the holding of the public hearing required by this section. The outline shall contain a description of the land use pattern proposed for the area to be annexed, which may include any county master plan already in effect for the area. It shall be presented so as to demonstrate the available land for public facilities which may be considered reasonably to be necessitated by the proposed use, such as school sites, water or sewerage treatment facilities, libraries, recreation, fire or police. It shall contain also a statement describing the schedule for extending to the area to be annexed each municipal service performed within the municipality at the time of annexation and a statement as to the general methods by which the municipality anticipates to finance the extension of municipal services into the area to be annexed.

(p) Registration of boundaries.- The chief executive and administrative officer of a municipal corporation which has enlarged its corporate boundaries under the provisions of this section shall promptly send the annexation resolution with the new boundaries to the clerk or similar official, to the clerk of the court in the county or counties in which the municipal corporation is located, to the Department of Legislative Services as provided in § 9A of this article, and for those municipalities lying within the regional district, to the Maryland-National Capital Park and Planning Commission. Each such official shall hold the annexation resolution with the new boundaries on record and shall make it available for public inspection during all normal business hours.

(q) Special provision as to Washington County.- Repealed.

(r) Conduct of election; tabulation of results; expenses.- The mayor and council, by whatever name known, of every municipal corporation is hereby authorized and empowered, by ordinance, resolution or regulation, to make proper provision for conducting, and for tabulating the results of any referendum to be held under the provisions of this section. The mayor and council of the municipal corporation shall pay in full for the expenses of any such referendum.

(s) Exercise of planning and zoning jurisdiction in certain areas not authorized.- The powers granted to municipal corporations by Article XI-E of the Constitution, by this article, and by Article 66B of the Code, shall not be deemed to authorize any municipal corporation, either through procedures under this subheading or other changes in its charter, to exercise planning (including subdivision control) and zoning jurisdiction or power within any political subdivision in which such planning and zoning jurisdiction or power, or either, is exercised by any State, regional or county agency or authority. Except that where any area is annexed to a municipality authorized to have and having then a planning and zoning authority, the said municipality shall have exclusive jurisdiction over planning and zoning and subdivision control within the area annexed; provided that nothing in this exception shall be construed or interpreted to grant planning and zoning authority to a municipality not authorized to exercise such authority at the time of such annexation.

[1955, ch. 423; 1957, chs. 196, 197, 526; 1961, ch. 314; 1967, ch. 410, § 1; 1974, ch. 860; 1975, chs. 693, 781, 815; 1976, ch. 628, § 3; 1979, ch. 717; 1981, ch. 218; 1983, ch. 78, § 3; chs. 468, 593; 1994, ch. 661, § 2; 1997, ch. 635, § 9; ch. 636, § 9; 2001, ch. 417; 2003, ch. 383; 2005, ch. 25, § 13.]

APPENDIX 1-E

Intermunicipal Agreements for Sewerage and/or Water Service

APPENDIX 1-F

Glossary

For the purposes of this Plan, the following definitions and terms are adopted:

1. "Advanced waste treatment" means the treatment of wastes or wastewaters to (a) reduce content of specific constituents, such as nitrogen and phosphorus, which are not controlled sufficiently by Best Practicable Control Technology Currently Available (BPCTCA) or by secondary treatment, or to (b) reduce organic oxygen demand beyond the level attainable by BPCTCA or secondary treatment, so as to comply with waste load allocations in water quality limited waters.
2. "Approving Authority" means one or more officials, agents or agencies of local government designated by the local governing body or specified by other provisions of the Environment Title 9, Subtitle 5, Article C of the Code of Maryland to take certain actions as a part of implementing this section.
3. "Aquifer" means any formation of soil, sand gravel, rock, or other material, or any crevice from which underground water is or may be produced.
4. "Average Flow" means an hourly flow in a 24-hour period, including domestic, industrial, and commercial components as well as infiltration and inflow (I and I). "Average Daily Flow"--the total gallongage of water for particular use in one year divided by 365.
5. "Base flow" means the discharge entering stream channels from groundwater or other delayed sources; i.e., stream flow periods not affected by recent precipitation.
6. "Bermed Infiltration Pond" is a means of wastewater disposal by discharge to groundwater through the water-bearing sands of the subsurface soil. This method is used in localities where a conventional sewage disposal system (tile field) is inoperable due to seasonally high groundwater.
7. "Best Practicable Control Technology Currently Available" (BPCTCA) means a feasible process which, as demonstrated by general use, demonstration process, or pilot plants, represents good engineering practice at reasonable cost at the time the State Discharge Permit is issued or thereafter modified or reissued. For discharges from publicly owned treatment works and other sewage treatment facilities, BPCTCA means the secondary treatment levels specified by EPA in the State Discharge Permits.
8. "Biochemical Oxygen Demand" (BOD) is the amount of oxygen required by bacteria while stabilizing decomposable organic matter under aerobic conditions. BOD5 is a standard laboratory test to determine oxygen demand of a sample incubated for a five-day period at 20°C; usually expressed as milligrams per liter (mg/l) or parts per million (ppm).
9. "Community Sewerage System" means any system, whether publicly or privately owned, serving two or more individual lots, for the collection and disposal of sewerage or industrial wastes of a liquid nature, including various devices for the treatment of such sewage and industrial wastes. A community sewerage system having a capacity of less than 5,000 gpd shall, for regulatory purposes, be considered an individual sewerage system.
10. "Community Water Supply System" means any system, whether publicly or privately owned, serving two or more individual lots which provides a source of water and a distribution

- system, including any treatment and storage facility. A community water system having a capacity of less than 5,000 gpd shall, for regulatory purposes, be considered an individual water system.
11. "Cost-effectiveness analysis" means an evaluation of data including economic factors such as capital, operation, maintenance, financing and user costs, environmental effects, implementation capability, public acceptance, and other related factors demonstrating the most efficient and economic alternative over the life of the treatment works being analyzed.
 12. "County Plan" means a Comprehensive Plan for the provision of adequate water supply systems and sewerage systems, whether publicly or privately owned throughout the County and all amendments and revisions thereto.
 13. "Denied Access Line" means a water or wastewater line which was designated and intended to function as part of a distribution and/or collection network. Such lines shall be specifically identified on the official Water & Sewerage Plan Maps. Access will not be permitted except as specified in the policies stated as part of this plan.
 14. "Discharge" means the addition, introduction, leaking, spilling, or emitting any pollutant to waters of the State or the placing of any pollutant in a location where it is likely to pollute.
 15. "Disposal system" means a system for disposing of wastes, either by surface or underground methods, and includes treatment works, disposal wells, and other systems.
 16. "Dissolved Oxygen" (DO) is the amount of oxygen dissolved in liquid. Quantities are usually expressed as milligrams per liter (mg/l) or parts per million (ppm).
 17. "DNR" means the Department of Natural Resources.
 18. "Effluent" means the outflow of waste into the waters of the State, whether treated or untreated, from an industrial process, holding tank, pond, sewer, or other point source.
 19. "Effluent limitations" means any restrictions or prohibitions established under State or Federal Law including, but not limited to, parameters for toxic and nontoxic discharges, standards of performance for new sources, or ocean discharge criteria. The restrictions or prohibitions shall specify quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged into State waters.
 20. "Effluent limited waters" means waters of the State which the WRA has identified as those in which Best Practical Control Technology Currently Available for industrial discharges and secondary treatment for sewage discharges is sufficiently stringent to maintain applicable water quality standards.
 21. "EHA" means the Environmental Health Administration of the Maryland Department of Health and Mental Hygiene. Its successor is the MDE.
 22. "EPA" means the United States Environmental Protection Agency, or its successor.

23. "Estuary" means a semienclosed coastal body of water having a free connection with the open sea and within which the seawater is measurably diluted with fresh water deriving from land drainage.
24. "Evapotranspiration System" is a means of wastewater disposal in localities where site conditions preclude soil absorption due to seasonal high groundwater. This method consists of evaporation (the loss of water vapor from land or water body surfaces to the air) and transpiration (the net movement of soil water through plants to the air).
25. "Existing Service Area" means that area that is currently served.
26. "Facilities Plan" is the initial phase (Step 1) in implementing federally-aided construction of individual or central sewerage collection, treatment and disposal facilities under EPA's Construction Grants Program. A facilities plan study determines the most cost-effective method of providing adequate sewerage facilities in an area for preparation of design plans and specifications (Step 2) and construction (Step 3).
27. "Fecal coliform" means the portion of the coliform group which is present in the gut or the feces of warmblooded animals. It generally includes organisms which are capable of producing gas from lactose broth in a suitable culture medium within 24 hours at 44.5° +/- .5°C.
28. "Federal Water Pollution Control Act, as amended" means the Federal Water Pollution Control Act Amendments of 1972 and 1977, or amendments thereto (codified as Title 33, U.S.C.).
29. "Final Planning Stages" means a work or works of community water supply and community sewerage system for which contract plans and specifications have been completed.
30. "Fish" means aquatic vertebrates which have bony skeletons, are covered by dermal scales, usually have spindle-shaped bodies, and swim by fins and breathe by gills.
31. "Five-Year Period" means that period, depending upon the County's capital improvement program, five years following the date of adoption of the County Plan, its amendment, or revision by the County.
32. "Immediate Priority" means a work or works of community water supply and community sewerage system for which the beginning of construction is scheduled to start within two years following the date of adoption of the County Plan, its amendment, or revision by the County.
33. "Individual Sewerage System" means a single system of sewers and piping, treatment tanks, or other facilities serving only a single lot and disposing of sewage or individual wastes of a liquid nature, in whole or in part, on or in the soil of the property, into any waters of this State, or by other methods.
34. "Individual Water Supply System" means a single system of piping, pumps, tanks, or other facilities utilizing a source of ground or surface water to supply only a single lot.

- 35. "Industrial waste" means any liquid, gaseous, solid or other waste substance or combination thereof resulting from any process of industry, manufacturing, trade or business, or from the development of any natural resource including agriculture.
- 36. "Infiltration" is the water entering a sewer system and service connections from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections, or manhole walls. Infiltration does not include, and is distinguished from, inflow.
- 37. "Inflow" is the water discharged into a sewer system, including service connections, from such sources as (but not limited to) roof leaders; cellar, yard, and area drains; foundation drains; cooling water discharges; drains from springs and swampy areas; manhole covers; cross connections from storm sewers and combined sewers; catch basins; storm waters; surface run-off; street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration.
- 38. "Infiltration/Inflow (I and I)" is the total quantity of water from both infiltration and inflow without distinguishing the source.
- 39. "Lot" (synonymous with parcel) means the area contained within the boundary lines of a plat as recognized by the Maryland Department of Assessments and Taxation as property lines defining one lot.
- 40. "Marina Facility" means a dock, wharf, or basin providing mooring for boats which may contain on-board toilet facilities, operated under public or private ownership, either free or on a fee basis, for the convenience of the public or club membership.
- 41. "Maximum (or Max) Flow" means the greatest hourly flow that would normally occur. "Maximum Daily Flow"--Two times average daily flow.
- 42. "MDE" means the Maryland Department of the Environment.
- 43. "Multiuse Sewerage System" means a single system serving a single lot (whether owned or operated by an individual or group of individuals) under private or collective ownership and serving a group of users for the collection and disposal of sewage or industrial wastes of a liquid nature, including various devices for the treatment of such sewage and industrial wastes having a treatment capacity of 5,000 gpd or more. A multiuse sewerage system having a capacity of less than 5,000 gpd shall, for regulatory purposes, be considered an individual sewerage system.
- 44. "Multiuse Water Supply System" means facilities utilizing a source of ground or surface water to supply a group of individuals on a single lot and having a capacity of 5,000 gpd or more. A multiuse water supply system having a capacity of less than 5,000 gpd shall, for regulatory purposes, be considered an individual water supply system.
- 45. "National Pollutant Discharge Elimination System" (NPDES) means the national system for the issuance of permits as designated by the 1972 amendments to the Federal Water Pollution Control Act.

46. "NPDES application" means the uniform national forms (including subsequent additions, revisions, or modifications duly promulgated by the Environmental Protection Agency pursuant to the Federal Water Pollution Control Act, as amended) for application for an NPDES permit.
47. "NPDES permit" means the permit issued under the Federal Water Pollution Control Act, as amended.
48. "NPDES reporting form" means the uniform national forms (including subsequent additions, revisions, or modifications duly promulgated by the Environmental Protection Agency pursuant to the Federal Water Pollution Control Act, as amended) for reporting data and information pursuant to monitoring and other conditions of the NPDES permit.
49. "Natural" or "naturally occurring values" means the following values applicable to all the waters of the State:
- a. those water quality values which exist unaffected by, or unaffected as a consequence of, any water use by any person;
 - b. those water quality values which exist unaffected by the discharge, or indirect deposit of, any solid, liquid or gaseous substance by any person; or
 - c. (c) any other water quality values which represent conditions which the MDE by its rules and regulations defines as natural. For the purposes of this definition the following conditions shall be considered as natural: infestations of water milfoil, *Myriophyllum spicatum*; infestations of water chestnut, *Trapanatans*; the presence of sea lettuce, *ulva lactuca*; and the presence of sea nettles, *Aurelia* sp.
50. "New source" means any source, the construction of which is commenced after the publication of proposed regulations by the EPA prescribing a standard of performance which will be applicable to such source if such standard is thereafter promulgated.
51. "Non-Point Source" means pollution originating from land run off where no specific outfall or "point source" can be identified.
52. "Offshore facility" means any installation of any kind located in, on, or under any of the navigable waters within the State other than a vessel.
53. "Onshore facility" means any installation (including, but not limited to terminals, motor vehicles and rolling stock) of any kind located in, on, or under any land within the State.
54. "Operator" means that person or persons with responsibility for the management and performance of each facility.
55. "Other aquatic life" means all organisms, other than fish, which grow in, live in, or frequent water.

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56. "Other waste" means garbage, refuse, wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal, oil, tar, dyestuffs, acids, chemical, and all discarded substances other than sewage or industrial waste.
57. "Peak Flow" means a rate of flow over sufficient length of time to adversely affect the detention time of treatment units or the flow characteristics of conduits (Maryland Design Manual). "Peak Daily Flow"--3.5 times average daily flow.
58. "Permeability" (of an aquifer) means the volume of water at the prevailing kinematic viscosity that will move in unit time under a unit hydraulic gradient through a unit area measured at right angles to the direction of flow.
59. "Point of discharge" means that location in or adjacent to a body of water at which any liquid, solid or gaseous substances are discharged or deposited.
60. "Point source" means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be, discharged.
61. "Pollutant" means any wastes or wastewaters discharged from any publicly owned treatment works or industrial source and all other liquid, gaseous, solid or other substances which pollute any waters of this State.
62. "Pollution" means every contamination or other alteration of the physical, chemical, or biological properties of any waters of the State, including change in temperature, taste, color, turbidity, or odor of the waters; or the discharge or deposit of any organic matter, harmful organism, liquid, gaseous, solid, radioactive, or other substance into any waters of the State as will render the waters harmful, detrimental, or injurious to public health, safety, or welfare, domestic, commercial, industrial, agricultural, recreational, other legitimate beneficial uses, or livestock, wild animals, birds, fish or other aquatic life.
63. "Public Works Agreement" (PWA) means the written document describing the conditions under which a developer or potential user shall be granted water and/or sewerage allocation from the Kent County Department of Water & Wastewater Services.
64. "Publicly owned treatment works" means any facility for the treatment of pollutants owned by the State or any political subdivision thereof, municipality, or other public entity.
65. "Receiving water" means surface waters of the State into which wastes or wastewaters are, or may be, discharged.
66. "Remodel" means the complete reconstructing or relocation of a whole plumbing system to another part of a building, per the Maryland Water Conservation Plumbing Fixtures Act.
67. "Sanitary District"--Division of an area or geographical unit for the purpose of providing water and/or sewer service. Kent County is considered a Sanitary District which may be divided up into smaller sections and each considered a subdistrict.

68. "Schedule of Compliance" means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with the effluent limitations or water quality standard as specified by an order or permit requirement of the EHA Administration.
69. "Secondary treatment" means the treatment of sewage to produce effluent equal to or better than the following criteria:
- a. Five-day biochemical oxygen demand (BOD5):
 - b. 30 mg/l--average for a 30-day period
 - c. 45 mg/l--average for a 7-day period
 - d. Total suspended solids (SS):
 - e. 30 mg/l--average for a 20-day period*
 - f. 45 mg/l--average for a 7-day period
 - g. This has been amended to 90 mg/l for lagoon discharges, only, where applicable.
 - h. Bacterial Control: As required to meet water quality standards
 - i. Total chlorine residual: Non-detectable.
70. "Sewage" means the water-carried human waste from residences, buildings, industrial establishments, or other places.
71. "Sewerage Service Area" is that area served by, or capable of being served, a system of sanitary sewers connected to a treatment plant, or in a very large system, subareas of sewerage service as delineated by the County.
72. "Shared System" is a water or wastewater system that serves more than one single-family unit or equivalent dwelling unit.
73. "Shellfish harvesting waters" means waters that are actual or potential areas for the harvesting of shellfish including oysters, softshell clams, and brackish water clams.
74. "State" means the State of Maryland.
75. "State Discharge Permit" means a permit to discharge pollutants into waters of the State, issued by the Administration pursuant to Section 8-1413 of The Natural Resources Article, annotated Code of Maryland (1974 Volume) and Section 402 of the Federal Water Pollution Control Act Amendments, of 1972, or amendments thereto.
76. "Stream flow" means the nontidal water movement that occurs in a natural channel.
77. "Subbasin" means one of the 19 watershed areas delineated by the Maryland Department of the Environment, and comprising, in sum total, the surface waters of the State.
78. "Ten-Year Period" means that period of the 6 through 10 years following the date of adoption of the Plan, its amendment or revision by the County.
79. "Transmissivity" (of an aquifer) means the rate at which water of the prevailing kinematic viscosity is transmitted through a unit width of the aquifer under a unit hydraulic gradient.

80. "Treatment works" means any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment, and their appurtenances; and any works including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment. This term also means any method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including stormwater runoff, or industrial waste, including waste in combined stormwater and sanitary sewer systems.
81. "Under Construction" means a work or works of community water supply and community sewerage systems where actual work is progressing or where a notice to proceed with a contract for such work has been let as of the adoption date of the Plan, its amendment or revision.
82. "Underground waters (Groundwater)" means water below the surface of the ground.
83. "Vessel" means every watercraft or other artificial contrivance used or capable of being used, as a means of transportation on the waters of the State.
84. "Waste load allocation" means the identification and allotment by the MDE, as necessary to achieve compliance with Water Quality Standards, of quantities of residual wastes which may be discharged from point sources. This allotment shall include consideration for seasonal variations, and a margin of safety, and the contribution of non-point sources.
85. "Wastes" means industrial wastes and all other liquid, gaseous, solid or other substances which will pollute any waters of the State.
86. "Wastewaters" means any liquid waste substance derived from industrial, commercial, municipal, residential, agricultural, recreational or other operations or establishments, and any other liquid waste substance containing liquid, gaseous, or solid matter and having characteristics which will pollute any waters of the State.
87. "Water class unit" means a distinct portion of a subbasin.
88. "Water quality limited waters" means shellfish waters and other waters of the State for which Best Practicable Control Technology Currently Available for industrial discharges and secondary treatment for sewage discharges is not sufficiently stringent to maintain applicable water quality standards.
89. "Watercourse" means a specific body or channel of water which is part of the waters of the State.
90. "Waters" means the liquid substance which is derived from a ground water source, or a surface source, or a piped supply, or any combination thereof, which will be discharged, without change in quality, into the waters of the State, with the exception of stormwater runoff.

- 91. "Waters of the State" includes both surface and underground waters within the boundaries of the State subject to its jurisdiction, including that portion of the Atlantic Ocean within the boundaries of the State, the Chesapeake Bay and its tributaries, and all ponds, lakes, rivers, streams, public ditches, tax ditches, and public drainage systems within the State, other than those designed and used to collect, convey or dispose of sanitary sewage. The flood plain of free-flowing waters determined by DNR-WRA on the basis of the 100-year flood frequency is included as waters of the State.
- 92. "WRA" means the Water Resources Administration of the State of Maryland Department of Natural Resources.
- 93. "Zero Discharge Policy" means the elimination of all point source pollutant discharges from wastewater treatment facilities to surface waters.

APPENDIX 1-G

Commissioners' Agreement

AGREEMENT

THIS AGREEMENT is made and executed this _____ day of _____ 20____, by and between the County Commissioners of Kent County, Maryland, hereinafter referred to as "Commissioners," and _____ of Kent County, State of Maryland, sometimes hereinafter referred to as "Owner" or "Developer."

WHEREAS, Owner owns certain property in Kent County, Maryland, more particularly described in a Deed recorded among the Land Records for Kent County, Maryland in Liber _____, No. _____, Folio _____, shown on Tax Map____, Parcel ____ and shown as Lot ____ on a plat, made by _____, dated _____, a copy of which is attached hereto;

WHEREAS, Commissioners have agreed to grant to owner certain water and/or sewer allocations as more particularly set forth herein.

NOW, THEREFORE, WITNESSETH: that for and in consideration of the sums set forth herein and paid by Owner to Commissioners, and other good and valuable considerations, the receipt of which is hereby acknowledged, the parties herein agree as follows;

1. Owner will pay the Commissioners the sum of _____ (\$0.00) Dollars for acquiring ____ water allocation(s) and ____ sewer allocation(s) in the _____ Area for sewer and/or water services (the "Allocation(s)"). The Allocation(s) shall be used for Residential Use.
2. The Allocation(s) granted hereunder will remain valid only if the original conditions of this Agreement remain unchanged. The Owner cannot propose changing the project without risking the loss of the allocation(s). Allocation(s) are considered to be granted when an Agreement has been executed between the Commissioners and the Developer/Owner.

The Allocation(s) fee must be paid on execution of this Agreement; thereafter, the Developer/Owner will be assessed the minimum quarterly charges for vacant lots established by the Commissioners until the earlier of connection of the project to Kent County's water and/or sewer lines or two (2) years from the date of this Agreement. After the earlier of connection to Kent County's water and/or sewer lines, or the passage of two years from the date of this Agreement, Developer/Owner shall be charged the full quarterly charges for the improvements on the property unless, additional arrangements are specified herein:

ADDITIONAL ARRANGEMENTS: _____ [NONE]

3. The Commissioners reserve the right to review and recapture any allocations that have not been connected to Kent County's water and/or sewer lines in the event that the Wastewater Plant in the district for which they were approved is within 85% of its design capacity. Owner acknowledges the Commissioners' right to recapture any unconnected allocations subject to this Agreement subject to the conditions stated in this paragraph. Owner further acknowledges that allocation fees for any recaptured allocation are NON-REFUNDABLE. The failure of the Commissioners to undertake the review and recapture at a time when the Wastewater Plant is within 85% of its design capacity shall not constitute a waiver of the provisions of this paragraph in the event that the Commissioners decide to conduct a review and recapture during a subsequent time when the plant is within 85% of capacity.

4. The Owner will be responsible for the installation of any water or sewer appurtenances necessary for service to the property, for obtaining all necessary permits, and for the payment to the Commissioners of all associated inspection fees.
5. Owner shall guarantee the construction for a period of one (1) year from final acceptance by the Department.

WITNESS the execution hereof by the parties hereto the day and year first above written.

WITNESS:

PROPERTY OWNER(S):

ATTEST:

THE COUNTY COMMISSIONER OF
KENT COUNTY, MARYLAND

By: _____
Roy W. Crow, President

By: _____
Ronald Fithian, Member

By: _____
William Pickrum, Member