

## ARTICLE X. BOARDS AND COMMISSIONS

### SECTION 1. STATEMENT OF INTENT

It is the intent of this section to identify the duties of the Board of Appeals and *Planning Commission*. Each Board or Commission shall adopt rules of its business, such rules to be made available to the public.

### SECTION 2. BOARD OF APPEALS

The Board of Appeals shall have the following powers:

1. Administrative Appeals - To hear and decide appeals of any decision or determination made by the *Administrator* in the enforcement and administration of this Ordinance, unless clearly specified otherwise in this Ordinance.
2. Special Exceptions - To hear and decide applications for special exceptions as set forth in Article VII of this Ordinance.
3. *Variances* - To authorize, upon application, *variances* from the *yard (front, side and rear)* setbacks, height, parking, loading, *shoreline cliff*, 15% *slope*, *impervious surface*, *buffer*, and *floodplain* requirements of this Ordinance.
4. Other Powers - The Board may have additional powers as may be designated by the County Commissioners of Kent County.
5. Conditions - In the granting of *variances*, appeals, and special exceptions, the Board may limit the approval by such conditions as the case may require.
6. Right of Entry - The Board of Appeals is hereby authorized to enter upon open land in Kent County for the purpose of reviewing applications pending before the Board.

### SECTION 3. PLANNING COMMISSION

The *Planning Commission* shall have the following powers:

1. *Comprehensive Plan* – To develop and approve a plan which shall be recommended to the legislative body for adoption. The plan is the principle document outlining County direction, policy, and action regarding land use. While other plans and ordinances provide more detailed information and policy, all plans and laws shall be consistent with and conform to the *Comprehensive Plan*.
2. Recommendations to County Commissioners – To make recommendations to the County Commissioners on Land Use Ordinance text amendments, zoning map amendments, and courses of actions necessary to implement the *Comprehensive Plan*.
3. Recommendations to the Board of Appeals – To make recommendations to the Board of Appeals on *variances* and certain special exceptions as set forth in this Ordinance. The Commission shall address the extent to which the *variance* or special exception complies with or deviates from the *Comprehensive Plan*. The Commission may recommend conditions and limitations on the approval of *variances* and special exceptions.

4. Subdivisions – To review and approve subdivisions of land as set forth in this Ordinance.
5. *Site plans* – To review and approve *site plans* as set forth in this Ordinance.
6. Other Powers – The *Planning Commission* may have additional powers as may be designated by the County Commissioners of Kent County.
7. Conditions – In the granting of subdivisions and *site plans*, the Commission may limit the approval by such conditions as the case may require.
8. Right of Entry – The *Planning Commission* is hereby authorized to enter upon open land in Kent County for the purpose of reviewing applications pending before the Commission.

## ARTICLE XI. DEFINITIONS

### SECTION 1. GENERAL RULES OF CONSTRUCTION

The following general rules of construction shall apply to the *regulations* of this Ordinance.

1. The singular number includes the plural and the plural the singular unless the context clearly indicates the contrary.
2. Words used in the present tense include the past and future tense, and the future the present.
3. The word “shall” is always mandatory. The word “may” is permissive.
4. The word “*building*” or “*structure*” includes any part thereof, and the word “*structure*” includes the word “*building*.”
5. Words and terms not defined herein shall be interpreted in accordance with their normal dictionary meaning and customary usage.
6. The word “Commission” refers to the Kent County Planning Commission, a seven-member board appointed the County Commissioners.
7. The word “Board” refers to the Board of Appeals, a three-member board appointed by the County Commissioners.

### SECTION 2. DEFINITIONS

For the purpose of this ordinance, certain terms and words are hereby defined.

1. Acceptable Outfall - The tidewater or that point as determined by the Kent County Soil and Water Conservation District where *stormwater* can be released to a channel without causing scouring, *erosion*, or resulting sedimentation to the receiving channel or its *floodplain*. (Where necessary, the outlet shall include structural and vegetative measures to assure non-erosive velocities.)
2. Accessory Structure - A detached *structure* on the same parcel as the principle *structure* or use and which is incidental and subordinate to the principal *structure* or use in area, extent and purpose, i.e. shed, or detached garage.
3. Accessory Use - One which: (a) is subordinate to and serves a principal *structure* or principal use; (b) is subordinate in area, extent, and purpose to the principal *structure* or use served; (c) is on the same *lot* as the principal *structure* or use served except as otherwise expressly authorized by provisions of this ordinance; and (d) is customarily incidental to the principal use or *structure*.
4. Administrator - The Zoning Administrator of Kent County.
5. Adverse Impact - For purposes of *stormwater management*, any deleterious effect on waters or *wetlands* including their quality, quantity, surface area, species, species composition, aesthetics or usefulness for human or natural causes which is or may potentially be harmful or injurious to health, welfare, safety, or property, to biological productivity, diversity, or stability or which unreasonably interferes with the enjoyment of life or property, including outdoor recreation.\*

6. Afforestation - The establishment of a *forest* on an area from which it has always or very long been absent, or the planting of open areas which are not presently in *forest cover*.
7. Agricultural Easement - A nonpossessory interest in land which restricts the conversion of use of the land, preventing nonagricultural uses.
8. Agricultural Land Management - Those methods and procedures used in the cultivation of land in order to further crops or livestock production and conservation of related *soil* and water resources. Logging and timber removal operations shall not be considered a part of this definition.
9. Agriculture - Farming activities including plowing, tillage, cropping, installation of *best management practices*, seeding, cultivating, and harvesting for production of food and fiber products (except *commercial logging* and *timber harvesting operations*), the grazing and raising of livestock and fowl, *aquaculture*, sod production, orchards, nurseries, land in government set aside programs, and other products cultivated as part of a recognized commercial enterprise.
10. Airport - A permanent installation or facility from which aircraft may take off or land, discharge or receive cargo or passengers, be repaired, take on fuel, or be stored, including hangers, terminals or accessory activities.
11. Alley - A narrow public thoroughfare not exceeding 16 feet in width which provides only a secondary means of access to abutting properties and is not intended for general traffic circulation.
12. Alteration - Any construction or renovation to an existing *structure* other than repair or addition.
13. Anadromous Fish - Fish that travel upstream from their primary habitat in the ocean to fresh waters in order to spawn.
14. Anadromous Fish Spawning Areas - Those streams that are tributary to the Chesapeake Bay where spawning of anadromous species of fish (e.g. rockfish, yellow perch, white perch, and river herring) occurs or has occurred. The streams are designated by the Maryland Department of Natural Resources.
15. Apartment - A part of a *building* containing cooking and housekeeping facilities, consisting of a room or suite of rooms intended, designed, and used as a residence for an individual or single *family*.
16. Apartment House - Same as Dwelling, *Multi-Family Dwelling*.
- 16.5. Applicant - For *erosion and sediment control*\*\* and *stormwater management* proposes: Any *person*, firm, or government agency who executes the necessary forms to procure official approval of a project or a permit to carry out construction of a project.\*
17. Approved Forest Management Plan - For the purposes of *forest conservation* outside of the Chesapeake Bay *Critical Area*, an approved *forest management plan* is a document, approved by the Department of Natural Resources Forester assigned to Kent County, that operates as a protective agreement for *forest conservation* as described in Natural Resources Article, Section 5-1607(e)-(f), Annotated Code of Maryland.

- 17.5 Approving Agency – For *erosion and sediment control*\*\* and *stormwater management* purposes: The entity responsible for the review and approval of *erosion and sediment control plans*\*\* and *stormwater management plans*.\*
18. Aquaculture
- a. The farming or culturing of finfish, shellfish, other aquatic plants or animals, or both, in lakes, streams, inlets, estuaries, and other natural or artificial water bodies or impoundments;
  - b. Activities include the hatching, cultivating, planting, feeding, raising, and harvesting of aquatic plants and animals and the maintenance and construction of the necessary equipment, *buildings*, and growing areas;
  - c. Cultivation methods include, but are not limited to seed or larvae development and grow out facilities, fish pens, shellfish rafts, racks, and long lines, seaweed floats and the culture of clams and oysters on tidelands and subtidal areas. For the purpose of this definition, related activities such as wholesale and retail sales, processing, and product storage are not considered aquacultural practices.
19. Aquifer - A porous water bearing geologic formation generally restricted to materials yielding an appreciable supply of water.
20. Architect - A professional with training in architecture and licensed by the State of Maryland.
21. Area, Gross - The total area of the *site* subject to no exclusions.
22. ASTM - The American Society for Testing and Materials.
23. Automobile Repair - Any *building, structure*, or area used for major automobile repair, body work, or servicing including the accessory sale of fuels, oils, or parts.
24. Automobile Service Station - Any *building, structure*, or use of land for the retail sale of automobile fuels, oils, and accessories and where repair service, if any, is incidental.
25. Barren land - Unmanaged land having sparse vegetation.
26. Base Flood - The *1-percent annual chance (100-year) flood* event as indicated in the *Flood Insurance Study*, as amended; the elevation of which is used for regulatory purposes in this Ordinance.\*\*\*
- 26.5 Base Flood Elevation - The water surface elevation of the *base flood* in relation to the datum specified on the *community's Flood Insurance Rate Map*. In areas of shallow flooding, the Base Flood Elevation is the highest adjacent natural grade elevation plus the depth number specified in feet on the *Flood Insurance Rate Map*, or at least four (4) feet if the depth number is not specified.\*\*\*
27. Basement - An enclosed area which is below grade on four sides.
28. Bed and Breakfast - A *building* where, for compensation and only by prearrangement for definite periods, lodging and meals are provided. Such uses are limited to three guest rooms excluding resident management quarters.

29. Bench terrace - A relatively flat area (i.e., less than 2% grade) constructed on sloping land to planned dimensions and grades. Bench terraces are applied along the contour with the length and width controlled by the natural terrain and the required *erosion* limitations.
30. Berm - A mound of *soil*, either natural or manmade, used to obstruct views, noise, direct runoff, or control *soil* loss.
31. Best Management Practices (BMP) - Conservation practices or systems of practices and management measures that control *soil* loss and reduce water quality degradation caused by nutrients, animal waste, toxics, and sediment. Agricultural *BMPs* include, but are not limited to, strip cropping, terracing, contour stripping, grass waterways, animal waste *structures*, ponds, minimal tillage, grass and naturally vegetated filter strips and proper nutrient application measures.

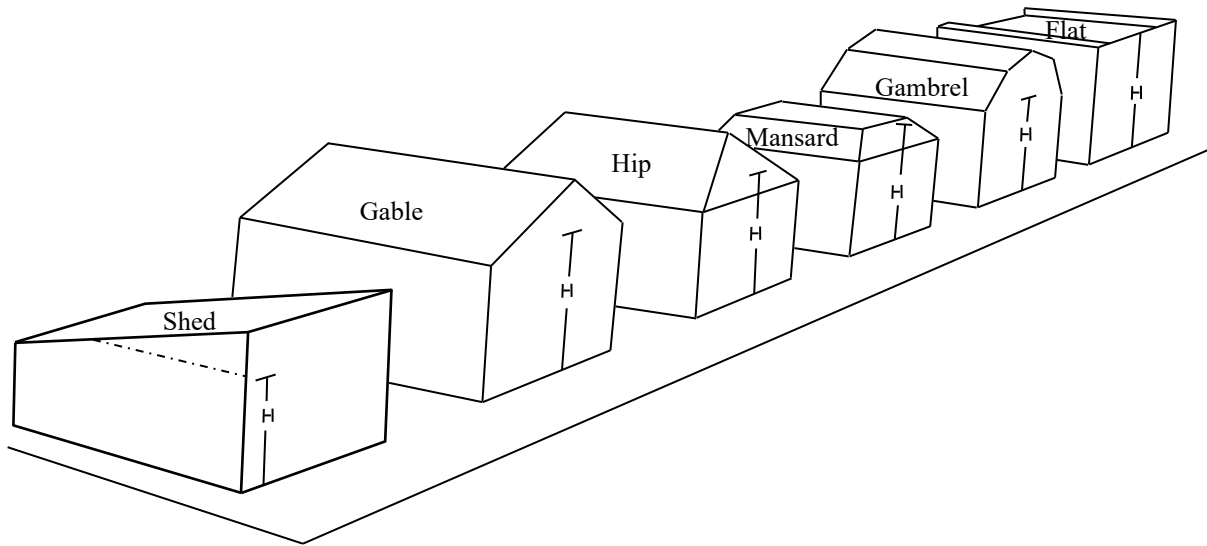
For *stormwater management* purposes: A structural device or non-structural practice designed to temporarily store or treat *stormwater* runoff in order to mitigate flooding, reduce pollution, and provide other amenities.

32. Boarding House - Same as *rooming house*
33. Boathouse - A *building* constructed for the purposes of storing a boat and boat gear.
34. Breakaway Wall - A wall that is not part of the structural support of a *building* and is intended to collapse under specific lateral loading forces without causing damage to the supporting foundation system of the *building*.
35. Buffer - Within the Chesapeake Bay *Critical Area*, an existing, naturally vegetated area or an area established in vegetation and managed to protect aquatic environments, *wetlands*, shoreline, and terrestrial environments from man-made disturbances. The purpose of the buffer is to:
- a. Provide for the removal or reduction of sediments, nutrients, and potentially harmful or toxic substances in runoff entering the Bay and its tributaries;
  - b. Minimize the adverse effects of human activities on wetlands, shorelines, stream banks, tidal waters and aquatic resources;
  - c. Maintain an area of transitional habitat between aquatic and upland communities;
  - d. Maintain the natural environment or streams; and
  - e. Protect riparian wildlife habitat.

The buffer shall be expanded for *slopes* of 15% or more, *hydric soils*, or *highly erodible soils* whose *development* or disturbance may impact streams, *wetlands*, or aquatic environments. The buffer shall be a minimum of 100 feet and shall be expanded 4 feet for every 1% of *slope* if the *slope* is over 15% (measured at the 100-foot mark) or to the top of the *slope*, whichever is greater in extent. For example, the buffer on a property with an 18% *slope* is 172 feet  $[(100 + (4 \times 18))$ . The buffer is measured horizontally from mean high tide, the edge of *tidal wetlands* or *tributary streams*.

36. Buildable Area - The area of that part of the *lot* not included within the *yards*, open space, or environmental areas herein required.
37. Buildable Width - The width of the *lot* not included within the *yards*, *open space*, or environmental areas herein required.

38. Building - Any *structure* having a roof supported by columns or walls for the housing or enclosure of *persons* or property.
39. Building, Totally Enclosed - Any *building* having no outside openings other than ordinary doors, windows, and ventilators.
40. Building, Height of - The vertical distance from the average elevation of finished ground surface around the *building* to the highest point of the coping of a flat roof, of to the deck line of the highest point of coping or parapet of a mansard roof, or to the mean height level between the eaves and ridge for gable, hip, shed, and gambrel roofs. When the highest wall of a *building* with a shed roof is within 30 feet of a *street*, the height of such *building* shall be measured to the highest point of coping or parapet.



41. Building Line - A line within a *lot*, so designated on a plat of *subdivision*, between which line and the *street line* of any abutting *street*, no *building* or *structure* may be erected.
42. Bulk - A term used in this Ordinance to describe the size and shape of a *building* or *structure* and its relationship to other *buildings*, to the *lot area* for a *building*, and to open spaces and *yards*.
43. Caliper - The diameter of a *tree* measured at six inches above grade.
44. Camp, Boarding - As for day camp, except that uses and *structures* for the lodging of guests shall be permitted in locations appropriate for extensive outdoor recreation.
45. Camp, Day - A *lot*, *tract*, or parcel of land operated as a resource utilization enterprise in which seasonal facilities, boating, fishing, swimming, outdoor sports, and activities incidental and relating to the foregoing but not including miniature golf, golf courses, golf driving ranges, mechanical amusement devices, or permanent *structures* for the housing of guests.
46. Campground - Any area or *tract* of land owned by a single entity to which accommodations for temporary and not year round occupancy are located or may be placed including cabins, tents, recreational vehicles,\* and campers, and which is used for recreational purposes and retains an open air or natural character.

47. Canopy - A detachable, roof-like cover supported from the ground, or deck, or walls, of a *building* for the protection from the sun.
48. Certificate of Occupancy or Use - A permit to legally occupy or use a *building* for the intended purpose.
49. Certification - A signed, written statement that specific conditions, inspections, or tests (when required) have been performed and that such comply with the applicable requirements of this Ordinance.
50. Champion of the State - In terms of *forest conservation*, a *tree* that appears in the *State Forest Conservation Manual* list of *State Champion trees*.
51. Champion Tree - The largest *tree* of its species within the United States, the State, County, or Municipality.
52. Channel - That part of the *waterway* where the largest class vessel that could use such *waterway* is required to navigate because of shallowness of water on both sides of such part, or as delineated on an approved plan or navigational chart.
53. Channel Protection Storage Volume - The volume used to design structural management practices to control stream channel *erosion*. Methods for calculating the channel protection storage volume are specified in the 2000 Maryland *Stormwater Design Manual*, Volumes I and II.
54. Clear-cutting - The removal of the entire stand of trees in one cutting with *tree* reproduction obtained by natural seeding from adjacent stands or from trees that were cut, from advance regeneration or stump spouts, or from planting of seeds or *seedlings* by man.
55. Clearing - The removal of trees and/or brush from the land but which shall not include the ordinary mowing of grass.
56. Cliff Height - The distance measured from mean high tide to the top of the bank.
57. Clinic - A *building* or a portion thereof designed for and used by two or more physicians, surgeons, dentists, psychiatrists, physiotherapists, or practitioners in related specialties, or a combination of persons in these professions, but not including lodging of patients overnight.
58. Club, Private - *Buildings* and facilities owned or operated by a corporation, association, *person*, or *persons* for social, educational, or recreational purpose, but not primarily to render service which is normally carried on as a business.
59. Cluster Development - Within the Critical Area, a residential *development* in which dwelling units are concentrated in a selected area or selected areas of the *development* tract so as to provide a natural habitat or other open space uses on the remainder.
60. Coastal high hazard areas - Those areas subject to coastal or tidal flooding with the addition of high velocity water and wind action. These areas are designated as a V-Zone on the *Flood Insurance Rate Map*.



- 60.5 Coastal A Zone - An area within a *special flood hazard area*, landward of a coastal high hazard area (V Zone) or landward of a shoreline without a mapped coastal high hazard area, in which the principal source(s) of *flooding* are astronomical tides and storm surges, and in which, during *base flood* conditions, the potential exists for breaking waves with heights greater than or equal to 1.5 feet. The inland limit of the Coastal A Zone may be delineated on *FIRMs* as the *Limit of Moderate Wave Action (LiWMA)*.\*\*
61. Collector Street - A *street* which is intended to collect traffic from *minor streets* within a neighborhood or a portion thereof and to distribute such traffic to *major thoroughfares*, in addition to providing access to properties abutting thereon.
62. Colonial Water Birds - Herons, egrets, terns, and glossy ibis. For the purpose of nesting these birds congregate (i.e. colonize) in relatively few areas, at which time, the regional populations of these species are highly susceptible to local disturbances.
63. Commercial Logging and Timber Harvesting Operations – The cutting and removing of tree stems from a site for commercial purposes; leaving the root mass intact, includes all commercial operations done by companies and private individuals for economic gain.\*\*\*
64. Community Piers - Boat docking facilities associated with subdivisions and similar residential areas, and with condominium, *apartment*, and other *multi-family dwelling units*. Private piers are excluded from this definition.
65. Compaction - Desiccation (drying up) of a *soil* or rock *fill* by mechanical or other procedures.
66. Comprehensive Plan - A compilation of policy statements, goals, standards, maps, and pertinent data relative to the past, present, and future trends of the local *jurisdiction* including, but not limited to, its population, housing, economics, social patterns, land use, water resources and their use, *transportation facilities*, and public facilities, prepared by or for the *Planning Commission*, agency, or office.
- 66.5 Concept Plan - For *stormwater* management purposes: The first of three plan approvals that includes information necessary to allow an initial evaluation of a proposed project.\*
67. Conference Center - A year round facility with staff, equipment, and support services dedicated to providing an environment that will support and facilitate meetings. A minimum of 100 square feet of meeting space is provided per guest room. Dedicated meeting rooms are separate from living and leisure areas.
68. Conservation Easement - A non-possessory interest in land which restricts the manner in which the land may be developed in an effort to reserve natural resources for future use.
69. Convalescent Home - A *building* where regular nursing care is provided for more than one person that is not a member of a *family* who resides on the *premises*.
70. Cottage Industry - Family type businesses which employ less than ten people and who manufacture and/or provide services with low-impact to the surrounding area and residents (e.g. low traffic volume, no heavy, noisy or environmentally disruptive machinery to perform tasks, little or no outdoor storage). Often home-based industries utilize telecommunications networks. *Cottage industries* include, but are not limited to plumbers, electricians, carpenters, and other tradesmen.

71. Country Inn - An existing *building* where, for compensation and only by prearrangement for definite periods, lodging and meals are provided. Such uses are limited to fifteen rooming units excluding resident manager quarters.
72. Country Stores - A retail store or shop which sells general merchandise and food serving the local area.
73. Courtyard - An open space that may or may not have direct *street* access and around which is arranged a single *building* or group of related *buildings*.
74. Cover Crop - The establishment of a vegetative cover to protect *soils* from *erosion* and to restrict pollutants from entering the *waterways*. Cover crops can be dense, planted crops of grasses or legumes, or crop residues such as corn, wheat, or soybean stubble which maximize *infiltration* and prevent runoff from reaching erosive velocities.
75. Critical Area - All lands and waters defined in Section 8 - 1807 of the Natural Resources Article, Annotated Code of Maryland. They include:
- a. All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide and all state and private *wetlands* designated under Title 16 of the Environmental Article<sup>\*\*\*</sup>, Annotated Code of Maryland.
  - b. All lands and water areas within 1,000 feet beyond the landward boundaries of state or private *wetlands* and the heads of tides designated under Title 16 of the Environmental Article<sup>\*\*\*</sup>, Annotated Code of Maryland.
  - c. Modification to these areas through inclusions or exclusions proposed by local *jurisdictions* and approved by the Commission as specified in Section 8 - 1807 of the Natural Resources Article, Annotated Code of Maryland.
- 75.5 Critical and Essential Facilities - Buildings and other *structures* that are intended to remain operational in the event of extreme environmental loading from flood, wind, snow or earthquakes. [Note: See Maryland Building Performance Standards, Sec. 1602 and Table 1604.5.] Critical and essential facilities typically include hospitals, fire stations, police stations, storage of critical records, facilities that handle or store hazardous materials, and similar facilities.\*\*
76. Critical Habitat Area - A critical habitat for an *endangered species* and its surrounding protection area. A critical habitat area shall
- a. Be likely to contribute to the long-term survival of the species;
  - b. Be likely to be occupied by the species for the foreseeable future; and
  - c. Constitute habitat of the species that is considered critical under Natural Resources Article, Subsection 4 - 2A -04 and 10 - 2A -06<sup>\*\*</sup>, Annotated Code of Maryland.
- 76.5 Critical Habitat for Endangered Species – a habitat occupied by an endangered species as determined or listed under Natural Resources Article, §§4-2a-04 and 10-2a-04, Annotated Code of Maryland.<sup>\*\*\*</sup>
77. Crosswalk - A public way intended for pedestrian use and excluding motor vehicles, which cuts across a block in order to furnish improved access to adjacent *streets* or properties.
78. Cut - See “*excavation*”
79. Day Care Group - A licensed home or agency that regularly provides supervision for nine or more non-related children.\*

80. Day Care Home - The provision of supplemental parental care and supervision for eight or fewer non-related children.\*
81. Declaration of Intent
- a. A signed and notarized statement by a landowner or the landowner's agent certifying that the activity on the landowner's property:
    - i. Is for certain activities exempted under this Ordinance or Natural Resources Article, Subsections 5-103 and 5-16-1—5-1612, Annotated Code of Maryland;
    - ii. Does not circumvent the requirements of this Ordinance or Natural Resources Article, Subsections 5-103 and 5-16-1—5-1612, Annotated Code of Maryland<sup>+</sup>; and
    - iii. Does not conflict with the purposes of any other Declaration of Intent.
  - b. The document required under this Ordinance.
- 81.25 Declaration of Land Restriction (Non-conversion Agreement) - A form signed by the owner to agree not to convert or modify in any manner that is inconsistent with the terms of the permit and these regulations certain enclosures below the lowest floor of elevated buildings and certain *accessory structures*. The form requires the owner to record it on the property deed to inform future owners of the restrictions.\*\*\*
- 81.5 Demolition/demolish - means the act of pulling down, destroying, removing, or razing a *building* or *structure* or commencing the work of total or substantial destruction with the intent of completing the same. For the purposes of *Historic structure* Review, the term “demolition” shall not include routine maintenance, interior renovations, removal, or construction of porches, decks, windows or other types of renovations for which approval is generally not required.\*\*
82. Density - The permitted number of *dwelling units* per acre of land to be developed.
83. Design Manual - The 2000 Maryland *Stormwater* Design Manual, Volumes I and II, that serves as the official guide for *stormwater management* principles, methods, and practices.
84. Detention Structure - A permanent *structure* for the temporary storage of runoff that is designed so as not to create a permanent pool of water.
85. Developed Land – For *stormwater* management purposed: To change the runoff characteristics of a parcel of land in conjunction with residential, commercial, industrial, or institutional construction or alteration.\*
86. Developed Woodland - Those areas of 1 acre or more in size which predominately contain trees and *natural vegetation* and which also include residential, commercial, or industrial *structures* and uses.
87. Developer - A *person*, partnership, or corporation building more than one *dwelling unit* or building one *dwelling unit* for occupancy by other than the owner, or any type of commercial or industrial *development* or dividing of land.
88. Development - Any construction, reconstruction, modification, extension or expansion of *buildings* or *structures*; placement of *manufactured homes*; mining; dredging; placement of *fill*; grading; paving; dumping; storage of equipment or materials; land *excavation*; land *clearing*; land improvement; *subdivision* of land; or any combination thereof.\*\*

89. Development Activities - The construction or substantial alteration of residential, commercial, industrial, institutional or transportation facilities or *structures*.
90. Development Project Completion - For the purposes of *afforestation*, *reforestation*, or payment into a *forest conservation* fund;
  - a. The release of the development bond, if any;
  - b. Acceptance of the project's *streets*, utilities and public services by the county; or
  - c. Designation by the County that a:
    - i. *Development* project has been completed, or
    - ii. Particular stage of a staged *development* has been completed.
91. Direct Discharge - The concentrated release of *stormwater* to tidal waters or vegetated *tidal wetlands* from new *development* or *redevelopment* projects in the Chesapeake Bay *Critical Area*.
92. Diversion - A channel or ditch and a ridge constructed across a *slope* so as to intercept and divert surface runoff.
93. Documented Breeding Bird Areas - Forested areas where the occurrence of interior dwelling birds, during the breeding season, has been demonstrated as a result of *on-site* surveys using standard biological survey techniques.
94. Dog Kennel, Commercial - The keeping of any dog or dogs, regardless of number, for breeding, sale, boarding, or treatment purposes, except in an animal hospital, dog parlor, or pet shop as permitted by these *regulations*. The keeping of five or more dogs, six months or older, for any purpose.
95. Drainage Area - That area contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridge line.
96. Drainageway - See "watercourse and/or drainageway"
97. Dwelling - A *building* or portion thereof, designed and used primarily for residential occupancy, but not including trailers, *mobile homes*, *hotels*, *motels*, *motor lodges*, boarding and *lodging house*, tourist courts, or *tourist homes*.
98. Dwelling Unit - A room or group of rooms occupied or intended to be occupied as separate living quarters by a single *family*.

Within the *Critical Area*: A single unit providing complete, independent living facilities for at least one person, including permanent provisions for sanitation, cooking, eating, sleeping, and other activities routinely associated with daily life. Dwelling unit includes living quarters for domestic or other employee or tenant, an in-law or accessory apartment, a guest house or a caretaker residence.\*
99. Dwelling, Multi-Family - A *building* designed for and occupied exclusively by three or more families living independently of each other.
100. Dwelling, Single Family - A *building* designed for and occupied exclusively by one *family*.
101. Dwelling, Two-Family - A *building* designed for and occupied exclusively by two families living independently of each other.

102. Easement - A grant or reservation by a property owner of the right to use an identifiable piece of land or right for a specified purpose or purposes.
- For *stormwater* management purposes: A grant or reservation by a property owner of the right to use an identifiable piece of land or right for a specified purpose or purposes, and which must be included in the conveyance of land affected by such easement.\*
103. Ecosystem - A more or less self-contained biological community together with the physical environment in which the community's organisms occur.
104. Elevation Certificate - A form supplied by the Federal Emergency Management Agency (FEMA) to certify elevations of *structures* above mean high sea level as established by the North American Vertical Datum of 1988 (NAVD).\*\*\*
105. Embankment or Fill - A deposit of *soil*, rock, or other materials placed by man.
106. Endangered Species - Any species of fish, wildlife, or plants which have been designated as such by regulation by the Secretary of the Department of Natural Resources. Designation occurs when the continued existence of these species as viable components of the State's resources are determined to be in jeopardy. This includes any species determined to be an "*endangered species*" pursuant to the Federal Endangered Species Act.
107. Engineer - A person with professional, technical, or practical training, ability, and experience in engineering and licensed in the State of Maryland to practice engineering.
- 107.5 Environmental Site Design (ESD) - Using small-scale *stormwater* management practices, nonstructural techniques, and site planning to mimic natural hydrologic runoff characteristics and minimize the impact of land development on water resources. Methods for designing ESD practices are specified in the *Design Manual*. \*
108. Erosion - The process by which the ground surface is worn away by the action of wind or water.
- 108.25 Erosion and Sediment Control - A system of structural and vegetative measures that minimizes soil erosion and off-site sedimentation.\*\*
- 108.5 Erosion and Sediment Control Plan - An *erosion and sediment control* strategy or plan designed to minimize *erosion* and prevent off-site sedimentation.\*\*
109. Excavation Contractor's Yard - Any land and/or *buildings* used primarily for the storage of equipment, vehicles, machinery, new, or used, building materials, paint, pipe, or electrical components used by the owners or occupant of the *premises* in the conduct of any building trades, building craft, or *excavation*/construction trade.
110. Excavation or Cut - Any act by which the ground surface is cut into, dug, quarried, uncovered, removed, displaced, or relocated and shall include the conditions resulting therefrom.
111. Excess Stormwater Runoff - In the Critical Area, all increases in *stormwater* resulting from:
- An increase in the imperviousness of the site, including all additions to buildings, roads, and parking lots;
  - Changes in permeability caused by compaction during construction or modifications in contours, including the filling or drainage of small depression areas;

- c. Alteration of *drainageways* or regrading of slopes
  - d. Destruction of forest; or
  - e. Installation of collection systems to intercept street flows or to replace swales or other *drainageways*.
- 111.5 Exemption - For *stormwater* management purposes: Those land development activities that are not subject to the *stormwater* management requirements contained in this Ordinance.\* For *erosion and sediment control* purposes: Those land development activities that are not subject to the *erosion and sediment control* requirements contained in this Ordinance.\*\*
112. Existing Grade - The vertical location of the existing ground surface prior to excavating or filling.
113. Extended Detention - A *stormwater* design feature that provides gradual release of a volume of water in order to increase settling of pollutants and protect downstream channels from frequent storm events. Methods for designing extended detention *BMPs* are specified in the *Design Manual*.
114. Extreme Flood Volume - The storage volume required to control those infrequent but large storm events in which overbank flows reach or exceed the boundaries of the *100-year floodplain*.
115. Family - An individual or individuals living together by joint agreement and occupying a single housekeeping unit with a single primary culinary facility on a non-profit, cost-sharing basis. Domestic servants employed and living on the *premises* shall be considered as part of the family.
116. Farm - A parcel of land not less than 20 acres in size used for *agriculture* as defined in Article XI of this Ordinance.
117. Farm-Based Business - A *family* run business accessory and secondary to the primary agricultural use of the property. A farm-based business does not interfere with the *on-site* or adjacent farm operations and does not generate large volumes of traffic.
118. Feedlot - Any *tract* of land or *structure*, pen, or corral where cattle, horses, sheep, goats, and swine are maintained in close quarters for the purposes of fattening such livestock for final shipment to market. This includes any enterprise used for the production, growing, or holding of agricultural animals regardless of species or number that does not control through ownership sufficient land to allow environmentally safe treatment and disposal of the waste produced by those animals. Environmentally safe shall be a combination of treatment and disposal that applies less than “x” pounds of nitrogen and phosphorous per acre as determined by Land Application of Manure, Midwest Planning Service.
- 118.25 Final Erosion and Sediment Control Plan – The last of three plan approvals that includes the information necessary to allow all approvals and permits relating to *erosion and sediment control* to be issued by the *Approving Agency*.\*\*
- 118.5 Final Stormwater Management Plan - The last of three plan approvals that includes the information necessary to allow all approvals and permits relating to *stormwater management* to be issued by the *approving agency*. \*
119. Finished Grade - The final grade or elevation of the ground surface conforming to the proposed design.

120. Fisheries Activities - Commercial water dependent fisheries facilities including *structures* for the packing, processing, canning, or freezing of finfish, crustaceans, mollusks, and amphibians and reptiles and also including related activities such as wholesale and retail sales, product storage facilities, crab shedding, offloading docks, shellfish culture operations, and shore-based facilities necessary for *aquaculture* operations.
121. Flood - General and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waters, or rapid unusual accumulation of runoff from any source.
122. Flood Insurance Rate Map (FIRM) - Map which depicts the minimum *Special Flood Hazard Area* to be regulated by this Ordinance.
- 122.5 Flood Insurance Study (FIS) - The official report in which the Federal Emergency Management Agency has provided flood profiles, *floodway* information, and the water surface elevations.\*
123. Flood Protection Elevation (FPE) - The elevation of the *base flood* plus two feet *freeboard*.\*
124. Floodplain
- a. A relatively flat or low area adjoining a river, stream, *watercourse*, or *drainageway* which is subject to partial or complete inundation;
  - b. An area subject to the unusual and rapid accumulation or runoff of surface waters from source; or
  - c. Land typically adjacent to a body of water with ground surface elevations that are inundated by the *base flood*.
125. Floodproofing - Any combination of structural and non-structural changes which reduce or eliminate *flood* damage to improved property.
126. Floodproofing Certificate - Form supplied by FEMA to certify that a *building* has been designed and constructed to be structurally dry floodproofed to the *Flood Protection Elevation*.
127. Floodway - The channel and adjacent land area required to discharge the waters of the 100-year *flood* of a *watercourse* without increasing the water surface elevations more than a specified height.
128. Floodway Fringe - That portion of the *floodplain* outside of the *floodway*.
129. Floor Area
- a. Commercial, business, and industrial *buildings* or *buildings* containing mixed uses; the sum of the gross horizontal area of the several floors of a *building* measured from the exterior faces of the exterior walls separating two *buildings* but not including:
    - i. Attic space providing headroom of less than seven feet;
    - ii. *Basement* space not used for retailing;
    - iii. Uncovered steps or fire escapes;
    - iv. Accessory water towers or cooling towers;
    - v. Accessory off-street *loading spaces*.
  - b. Residential *buildings*: the sum of the gross horizontal areas of the several floors of a dwelling, exclusive of garages, *basement*, and open porches, measured from the exterior faces of the exterior walls.
130. Flow Attenuation - Prolonging the flow time of runoff to reduce the peak discharge.

131. Forest - A biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater, includes (1) areas that have at least 100 live trees per acre with at least 50 percent of those trees having a 2-inch or greater diameter at 4.5 feet above the ground and larger; and (2) areas that have been cut but not cleared.\*
132. Forest Conservancy District Board - The forestry board created for each State Forest Conservancy District under Natural Resources Article, Subsection 5 - 601 C 5-610, Annotated Code of Maryland.
133. Forest Conservation - The *retention* of existing *forest* or the creation of new *forest*.
134. Forest Conservation and Management Agreement - An agreement as stated in the Tax Property Article, Section 8-211, Annotated Code of Maryland.
135. Forest Conservation Plan - A plan approved pursuant to the requirements of this Ordinance and the *Forest Conservation Technical Manual*.
136. Forest Conservation Technical Manual - The technical manual incorporated by reference, used to establish standards of performance required in preparing *Forest Stand Delineations* and *Forest Conservation Plans*.
137. Forest Cover - The area of a *site* meeting the definition of *forest*.
138. Forest Interior Dwelling Birds - Species of birds which require relatively large forested tracts in order to breed successfully (for example, various species of flycatchers, warblers, vireos, and woodpeckers).
139. Forest Management - The protection, manipulation, and utilization of the *forest* to provide multiple benefits, such as timber harvest, water transpiration, *wildlife habitat*, etc.
140. Forest Management Plan - A plan establishing best conservation and management practices for a landowner in assessment of the resource values of forested property.
- 140.1 Forest Mitigation Bank - an area of land which has been intentionally afforested or reforested for the express purpose of providing credits for reforestation requirements.\*
- 140.2 Forest Mitigation Bank Agreement - an agreement entered into by an individual owning a forest mitigation bank and the county which commits the banker to certain procedures and requirements when creating and operating the forest mitigation bank.\*
- 140.3 Forest Mitigation Bank Plan - a plan submitted for approval of a forest mitigation bank to the county by an individual proposing to establish a forest mitigation bank.\*
141. Forest Practice - The alteration of the *forest* either through *tree* removal or replacement in order to improve the timber, wildlife, recreational, or water quality values.
142. Forest Stand Delineation - The methodology for evaluating the existing vegetation on a *site* proposed for *development*, as provided in the *Forest Conservation Technical Manual*.
143. Freeboard - An increment of elevation added to the *Base Flood Elevation* to provide a factor of safety for uncertainties in calculations, wave actions, subsidence, or other unpredictable effects.



144. Frontage
- a. *Street Frontage* - All of the property on one side of a *street* between two intersecting *streets* (crossing or terminating), measured along the line of the *street*, or if the *street* is dead-ended, then all of the property abutting on one side between an intersecting *street* and the dead-end of the *street*.
  - b. *Lot Frontage* - The distance for which the front boundary line of the *lot* and the *street line* are coincident.
145. Garage, Private - A garage used for storage purposes only.
146. Grade - Grade elevations shall be determined by averaging the elevations of the finished ground at all corners and/or principal points in the perimeter wall of the *building*.
147. Grading/grade - Any act by which *soil* is disturbed, including but not limited to, clearing, stripping, stockpiling, excavating, grubbing, scarified, filling, removing root mat or topsoil, or any combination thereof.\*
- 147.5 Grading Unit - The maximum contiguous area allowed to be graded at a given time. For the purposes of *erosion and sediment control*, a grading unit is the maximum contiguous area allowed to be graded at a given time and can be established on a site specific bases.\*\*\*
148. Grain Dryer, Commercial - A facility for drying grain, in which the grain that is dried is primarily supplied by sources other than the owner and/or operator of the facility.
149. Group Home - A place, home, or institution which is licensed to provide boarding, shelter, and personal services to not more than eight persons, regardless of age, who have a need for supervision or assisted community living based on emotional, mental, physical, familiar, or social differences. (Examples of such persons include but shall not be limited to the mentally or physically handicapped, alcoholics, elderly, drug-dependent, and juveniles under the *jurisdiction* of the courts, the Department of Social Services, or the Juvenile Services Administration). *Group homes* shall not include public or private schools organized and operated under Maryland laws, persons related by blood or marriage within the third degree to the custodial person, or to *houses of worship*, other religious or other public institutions for caring for such persons within the *building* while parents or other custodial persons are attending services, activities, or meetings.
150. Growing Season - The period of consecutive frost free days as stated in the current *soil* survey for Kent County published by the National Cooperative Soil Survey Program, 16 U.S.C. Section 590 (a) - (f).
151. Guest House - Living quarters within a detached accessory *building* located on the same *premises* as the main dwelling. Such quarters not rented or otherwise used as a separate dwelling and having no separate utility or kitchen.
152. Health Officer - The Health Officer of Kent County.
153. Highly Erodible Soils - Those *soils* with a *slope* greater than 15%; or those *soils* with a *K Value* greater than 0.35 and with *slopes* greater than 5%.
- 153.5 Highest Adjacent Grade - The highest natural elevation of the ground surface, prior to construction, next to the proposed foundation of a structure.\*\*

\* Amended 5/21/13; \*\* Amended 6/3/14

\*\*\* Amended 9/3/19

154. Historic Structures\* - Any *structure*, including but not limited to residential, agricultural, civic and commercial buildings, which is equal to or greater than seventy-five years of age, or otherwise deemed to be of historical significance by meeting one or more of the following aspects of Kent County, Maryland or United States History.
- a. Association with historic events or activities;
  - b. Association with persons who are important to the community or to specific developments of history;
  - c. Embodiment of distinctive characteristics of a type, period, method of construction, or the work of a master; or
  - d. Potential to provide important information about history or prehistory.
  - e. For *floodplain* purposes: Any structure that is:\*\*
    - i. Individually listed in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
    - ii. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or
    - iii. Individually listed on the Maryland Register of Historic Places.
155. Historic Waterfowl Staging and Concentration Area - An area of open water and adjacent marshes where *waterfowl* gather during migration and throughout the winter season. These areas are “historic” in the sense that their location is common knowledge and because these areas have been used regularly during recent times.
156. Home Occupation - An occupation or business activity which results in a product or service and is conducted in whole or in part in a *dwelling unit* or *accessory structure* and is clearly secondary and subordinate to the residential use of the property.
157. Hospital - A *building* or group of *buildings* having room facilities for overnight patients, used for providing services for the inpatient medical or surgical care of sick or injured persons, and which may include related facilities, central service facilities, and staff offices; provided however, that such related facilities must be incidental and subordinate to the main use and must be an integral part of the hospital operation.
158. Hotel - A *building* in which lodging or boarding are provided for more than 15 persons, primarily transient, or with more than ten guest rooms, offered to the public for compensation. Ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public, in contrast to a boarding, rooming, or *lodging house* or an *apartment house* which are herein separately defined. A hotel may include *restaurants*, taverns, clubrooms, public banquet halls, ballrooms, and meeting rooms.
159. House of Worship - A *building* wherein persons regularly assemble for religious worship, and those accessory activities as are customarily associated therein, which *building* and activities are maintained and controlled by a religious body organized to sustain public worship but not to render a service which is customarily carried on as a business.
160. Hedgerow - A row or rows of bushes, shrubs, or trees forming a hedge.

161. Hydric Soils - *Soils* that are wet frequently enough to periodically produce anaerobic conditions, thereby influencing the species composition or growth, or both, of plants on these *soils*.
162. Hydrophytic Vegetation - Those plants cited in “Vascular Plant Species Occurring in Maryland Wetlands” (Dawson, F. et al., 1985) which are described as growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content (plants typically found in wet areas).
163. Impervious Surface - A surface that has been compacted or covered with a layer of material so that it is highly resistant to *infiltration* by water.  
  
For *stormwater* management purposes: Any surface that does not allow *stormwater* to infiltrate into the ground.\*
164. Infiltration - The passage or movement of water into the *soil* surface.
- 164.5 Inspection Agency - The Maryland Water Management Administration or, if enforcement authority has been delegated, Kent County.\*\*
165. Intermittent Stream - A stream in which surface water is absent during a part of the year as shown on the most recent 7.5 minute topographic quadrangle published by the United States Geologic Survey as confirmed by field verification.
166. Intrafamily Transfers - A transfer to a member of the owner’s immediate family of a portion of the owner’s property for the purpose of establishing a residence for that family member.
- 166.5 Intrafamily transfers, immediate family member – A father, mother, son, daughter, grandfather, grandmother, grandson, or granddaughter.\*\*\*
167. Island - In *street* or parking design, a raised area, usually curbed, placed to guide traffic and separate lanes or used for landscaping, signage, or lighting.
168. Junk - Dilapidated automobiles, trucks, tractors, and other such vehicles and parts thereof, dilapidated wagons, trailers, and other kinds of vehicles and parts thereof, scrap building material, scrap contractor’s equipment, tanks, caskets, appliances, cans, barrels, boxes, drums, piping, bottles, glass, old iron, machinery, rags, paper, excelsior, hair, mattresses, beds or bedding, or any other kind of scrap or waste material which is stored, kept, handled, or displayed.
169. Jurisdiction - Territory of a county or municipal corporation within which its powers may be exercised.
170. K Value - The *soil* erodibility factor in the Universal Soil Loss Equation. It is a quantitative value that is experimentally determined.
171. Land Surveyor - A person who is licensed as a land surveyor in the State of Maryland.
172. Land-based aquaculture - In the Critical Area, the raising of fish or shellfish in any natural or man-made, enclosed or impounded, water body.
173. Landforms - Features of the earth’s surface created by natural causes.

174. Landscape Plan - A plan showing the dimensions and details for *reforesting* an area at least 35 feet wide and covering 2,500 square feet or greater in size or landscaping, using native or indigenous plants when appropriate, and where applicable, and is made a part of an approved *Forest Conservation Plan*.\*\*\*
175. Laundromat - A business that provides washing, drying, and/or ironing machines or dry-cleaning machines for hire to be used by customers on the *premises*.
- 175.25 Linear Project - a project which is elongated with nearly parallel sides and is used to transport a utility product or public service not otherwise contained in an application for subdivision, such as electricity, gas, water, sewer, communications, trains, and vehicles. It may traverse fee simple properties through defined boundaries or established easement rights\*\*\*
- 175.5 Limit of Moderate Wave Action (LiMWA) - Inland limit of the area affected by waves greater than 1.5 feet during the *base flood*. *Base flood* conditions between the VE Zone and the LiMWA will be similar to, but less severe than those in the VE Zone.\*
176. Load-Bearing Fill - Any facility, earthwork, or *fill* placed in a controlled manner to support structural foundations or vehicular traffic, the instability of which would constitute a public hazard or nuisance.
177. Loading Space - An off-street space or berth within or adjacent to the main *building* for the standing, loading, or unloading of vehicles.
178. Lodging house - Same as *rooming house*.
179. Lot - A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or plat and which is recognized as a separate legal entity for the purposes of transferring title.
180. Lot Area - The total horizontal area within the *lot lines* of the lot.
181. Lot Line - The boundary line of a *lot*.
182. Lot, Corner - A *lot* abutting upon two or more *streets* at their intersection.
183. Lot, Depth - The average horizontal distance between the front and rear *lot lines*.
184. Lot, Interior - A *lot* other than a *corner lot*.
185. Lot, Through (Double Frontage) - A *lot* having a *frontage* of two approximately parallel *streets* or places.
186. Lot Width - The horizontal distance between the side *lot lines* measured at the front building *setback* line.
187. Lowest Floor - In the application of the *floodplain regulations*, the lowest floor of the lowest enclosed area, including a *basement*. An unfinished enclosure constructed of *flood* resistant materials used solely for parking of vehicles, storage, or *building* access in an area other than a *basement* is not the lowest floor, as long as it is supplied with water equalizing vents.
- 187.5 MET Tower: - A temporary tower erected for the purpose of performing a wind study to determine the optimal location for a wind energy system.\*\*

188. Maintenance Agreement or Guarantee - 1) Any security which may be required and accepted by Kent County to ensure that necessary improvements will function as required for a specified period of time. 2) The short-term management agreement associated with *afforestation, reforestation*, or landscaping. 3) The long term management agreement for *private roads* and *stormwater management* facilities.
189. Major Thoroughfare - A *street* or highway so designated on the Kent County Major Thoroughfare Map.
190. Manufactured Home - A transportable *structure* that is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities.
191. Marina - A location for docking or mooring boats and providing services for compensation to boats and the occupants thereof. Marina does not include a community pier or other noncommercial boat docking and storage facility. \*\*
- 191.5 Maximum Extent Practicable (MEP) – Designing *stormwater management systems* so that all reasonable opportunities for using *ESD planning techniques* and treatment practices are exhausted and only where absolutely necessary, a structural *BMP* is implemented. \*
192. Mean High Water Line - The average annual level of high tides at a given location.
- 192.5 Microbrewery - A facility in which beer is brewed for distribution and consumption, and which possesses the appropriate license from the State of Maryland. Tasting rooms for the consumption of on-site produced beer are permitted on the premises. \*\*\*
193. Minor Street - A *street* other than a *major thoroughfare* or *collector street* and intended primarily for providing access to abutting properties.
194. Mobile Home - A *structure*, transportable in one or more sections, which when erected on *site* is 320 square feet or more, and is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes plumbing, heating, air conditioning, and electrical systems contained in it. This term shall apply to any *structure* which meets all the requirements of this definition except the size requirement and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the federal act.
195. Mobile Home Development - Any *lot*, parcel, or *tract*, together with required *open space*, used, designed, maintained or held out to accommodate *mobile homes*, whether by rental or ownership and all *buildings* and *structures* intended as *accessory uses*. A mobile home development does not include automobile or *mobile home* sales lots on which unoccupied *mobile homes* are parked for inspection and sale. A mobile home development provides for the permanent or long-term location of *mobile homes* to be occupied as residences.
196. Mobile Home Park - A *mobile home development* which is divided into individual *sites* and solely operated exclusively as a rental project.
197. Mobile Home Subdivision - A *mobile home development* which is subdivided into individual lots.

198. Modified Buffer - An area of 100 feet measured horizontally from mean high tide, the edge of *tidal wetlands*, or *tributary streams* and located within a *Modified Buffer Area*. This modified buffer shall include a 25-foot area of existing naturally vegetated area or an area established in vegetation and managed to protect aquatic environments, *wetlands*, shoreline, and terrestrial environments from man-made disturbances. *Sites* with a *non-functioning buffer* shall be required to have a modified buffer.
199. Modified Buffer Area - Those areas as mapped by the Kent County Department of Planning and Zoning and approved by the Critical Area Commission.
200. Motel, Tourist Home, or Motor Lodge - A *building* in which lodging, or boarding and lodging, are provided and offered to the public for compensation. As such, it is open to the public in contradistinction to a boarding or *lodging house*, or a *multi-family dwelling*; same as a *hotel* except that the *buildings* are usually designed to serve tourists traveling by automobile, ingress and egress to rooms need not be through a lobby or office and parking is usually adjacent to the rooms.
201. Native Plants - Species native to the State of Maryland, including improved cultivars of those species.
202. Natural Features - Components and processes present in or produced by nature, including, but not limited to, *soil* types, geology, *slopes*, vegetation, surface water, drainage patterns, *aquifers*, recharge areas, climate, *floodplains*, aquatic life, and wildlife.
203. Natural Ground Surfaces - The ground surface in its original state before *grading*, *stripping*, *excavation*, or filling.
204. Natural Heritage Area - Any community of plants or animals which are considered to be among the best Statewide examples of their kind, and are designated by regulation by the Department of Natural Resources.
205. Natural Parks - Areas of natural habitat that provide opportunities for those recreational activities that are compatible with the maintenance of natural conditions.
206. Natural Regeneration - The natural establishment of trees and other vegetation with at least 400 woody, free-to-grow *seedlings* per acre, which are capable of reaching a height of at least twenty feet at maturity.
207. Natural Vegetation - Those plant communities that develop in the absence of human activities.
208. Nature-dominated - A condition where *landforms* or biological communities, or both, have developed by natural processes in the absence of human intervention.
209. Net Tract Area - For *forest conservation* \*
- a. Except in agricultural and resource areas, the total area of a *site*, including both forested and non-forested areas, to nearest 1/10 acre, reduced by the area where forest clearing is restricted by another local ordinance or program.
  - b. In agricultural and resource areas, the part of the total *tract* for which land use will be changed or will no longer be used for primarily agricultural activities, reduced by the area where forest clearing is restricted by another local ordinance or program.

- c. For a *linear project*, the area of a right-of-way width, new access roads, and storage, or the limits of disturbance as shown on an application for sediment and erosion control approval or in a capital improvements program project description.
210. New Construction - In terms of *floodplain* management, *structures*, including additions and improvements, and the placement of *manufactured homes*, for which the *start of construction* (herein defined) commenced on or after April 25, 1975, the initial effective date of the Kent County *Flood Insurance Rate Map*, including any subsequent improvements, alterations, modifications, and additions to such structures.\*
211. NAVD - In terms of *floodplain*: the North American Vertical Datum of 1988 elevation reference points set by the National Geodetic Survey based on mean sea level.\*
212. Nonconformities
- a. Nonconforming Lots - A validly recorded *lot* which at the time it was recorded fully complied with all applicable laws and ordinances but which does not fully comply with the *lot* requirements of this Ordinance concerning minimum *density*, area, or dimension.
  - b. Nonconforming *Structures* - A *structure* or *building*, not including *signs*, which lawfully existed on the effective date of this Ordinance but which does not comply with one or more of the development standards for the district in which it is located.
  - c. A use or activity that was lawful prior to the effective date of this Ordinance but fails to comply with the present requirements of the Ordinance.
213. Non-Functioning Buffer - A buffer will be considered non-functioning if:
- a. More than 50% of the buffer *on-site* is impervious, or
  - b. More than 75% of the buffer on the *site* is disturbed either with stone, decks, septic systems, or other obvious human impacts. The *site* shall include all contiguous parcels under single ownership.
  - c. The *site* is located within a *Modified Buffer Area*.
- Contiguous buffers of *natural vegetation* of 100 feet of shoreline are considered functioning buffers.
214. Non-Point Source Pollution - Pollution generated by diffuse land use activities rather than from an identifiable or discrete facility. It is conveyed to *waterways* through natural processes, such as rainfall, storm runoff, or groundwater seepage rather than by deliberate discharge. Non-point source pollution is not generally corrected by “end-of-pipe” treatment, but rather, by changes in land management practices.
215. Non-Renewable Resources - Resources that are not naturally regenerated or renewed.
216. Non-tidal Floodplains - These floodplains consist of the *floodway* and *floodway fringe*. Non-tidal floodplains may have detailed engineering study data, profiles, and water surface elevations, or may have approximate delineations only.
217. Non-tidal wetlands - Within the *Critical Area*, those lands, excluding *tidal wetlands* regulated under Natural Resources Article, Title 9, Annotated Code of Maryland, where the water table is usually at or near the surface, or lands where the *soil* or substrate is covered by shallow water at some time during the *growing season*, and which are usually characterized by one or both of the following:
- a. At least periodically, the lands support predominately *hydrophytic vegetation*; and
  - b. The substrate is predominately undrained *hydric soils*.

Excluded from these *regulations* are farm ponds and other man-made bodies of water whose purpose is to impound water for *agriculture*, water supply, recreation, or *waterfowl* habitat purposes.

Outside the *Critical Area*, as defined by the State of Maryland, Army Corps of Engineers, Environmental Protection Agency, Natural Resources Conservation Service, U.S. Fish and Wildlife Service, and any other applicable State or Federal Agency.

- 218. Nursing Home - Same as *Convalescent Home*.
- 219. Office of Sediment Control - The Kent County Department of Planning and Zoning
- 220. Offsets - *Structures* or actions that compensate for undesirable impacts.
- 221. Off-site - Outside of the limits of the area encompassed by the *development* or *tract*.
- 222. Off-site Stormwater Management - The design and construction of a facility necessary to control *stormwater* from more than one *development*.
- 223. On-site - Within the limits of the area encompassed by a *development* or *tract*, including an area classified as a 100-year *floodplain*.
- 224. On-site Stormwater Management - The design and construction of systems necessary to control *stormwater* within an immediate *development*.
- 225. One Percent Annual Chance (100-Year) Floodplain - An area along or adjacent to a stream or body of water that is capable of storing or conveying floodwaters during the *100-year frequency flood* as shown on the *Flood Insurance Rate Map* and *Flood Insurance Study*.\*
- 226. One Percent Annual Chance (100-Year) Flood - The *base flood*, having one chance in hundred (one percent chance) of being equaled or exceeded in any year.\*
- 227. Open Space - Those areas suitable for common recreational use or which provide visual relief to developed areas, exclusive of *flood* control channel *right of ways*, areas devoted to parking, vehicular traffic, or private land, and any other area which does not significantly lend itself to the overall benefit of either the particular *development* or surrounding environment. The boundaries of open space areas shall be treated as property lines in determining required *rear* and *side yard* setbacks. At least 50% of the required open space shall be contained as a single visually identifiable area exclusive of connecting corridors or pathways and in no case be less than 50 feet in width nor 5,000 square feet in area.

In the Critical Area, land and water areas retained in an essentially undeveloped state.

- 228. Overbank Flood Protection Volume - The volume controlled by structural practices to prevent an increase in the frequency of out-of-bank flooding generated by *development*. Methods for calculating the overbank flood protection volume are specified in the *Design Manual*.
- 229. Overburden - In the Critical Area, the strata or material in its natural state, before its removal by surface mining, overlying a mineral deposit, or in between mineral deposits.

\* Amended 6/3/14



230. Palustrine - All *non-tidal wetlands* dominated by trees, shrubs, persistent emergent plants, or emergent mosses or lichens and all such *wetlands* that occur in tidal areas where the salinity due to ocean derived salts is below one-half part per 1,000 parts of water.
231. Parking, off-street - An all weather surface area not in a *street* or *alley* and having an area of not less than 200 square feet, exclusive of driveways, permanently reserved for the temporary storage of one vehicle and connected with a *street* or *alley* by a paved driveway which affords ingress and egress for an automobile without requiring another automobile to be moved.
232. Perennial Stream - A stream containing surface water throughout an average rainfall year, as shown on the most recent 7.5 minute topographic quadrangle published by the United States Geologic Survey, as confirmed by field verification.
233. Permanent Construction - Any *structure* occupying a *site* for more than 180 days per year.
234. Permittee - Any *persons* to whom a permit is issued pursuant to this Ordinance.
235. Person - Includes, in addition to any other meaning it may have under this chapter, an individual, a corporation, a partnership, the federal government, a county, a municipal corporation, or any other political *subdivision* of the State, an agency, or any other similar entity whatsoever.
236. Personal Wireless Facility - Facility for the provision of personal wireless services, as defined by the Telecommunications Act but not including public and commercial radio and television facilities.
237. Personal Wireless Facility Tower - A tower, including guyed towers, lattice towers, and monopoles, for the purpose of supporting *personal wireless facilities*.
238. Physiographic Features - The soils, topography, land slope and aspect, and local climate that influence the form and species composition of plant communities.
239. Pier - A *structure* built over the water and supported by pillars, piles or floats, and used as a landing place, including tie-out pilings.
240. Pier Length - The straight line distance between the mean high water mark and the outermost piling.
241. Planning Commission - The Kent County Planning Commission.
- 241.5 Planning Techniques - For *stormwater management* purposes: A combination of strategies employed early in the project design to reduce the impact from *development* and to incorporate natural features into a *stormwater management* plan. \*\*
242. Plant Habitat - A community of plants commonly identifiable by the composition of its vegetation and its physiographic characteristics.
243. Plot Plan - A *site plan* for *single family dwellings*, *accessory uses* and *structures* to *single family dwellings*, additions and *alterations* to *single family dwellings*, and *agricultural structures*. These projects have minor impact, require less information, and may be reviewed and approved by the Planning Director or the Planning Director's designee.

\*\* Amended 11/16/10; \*\*\* Amended 10/16/12

244. Port - A facility or area established or designated by the State or local jurisdictions for purposes of water-borne commerce.
245. Premises - A *lot*, together with all the *buildings* and *structures* thereon.
246. Primary Road - Primary roads are identified on the Kent County Major Thoroughfare Map.
- 246.25 Priority Funding Area - An area designated as a Priority Funding Area under State Finance and Procurement Article, §5-7B-02, Annotated Code of Maryland\*\*\*
- 246.5 Private Destination/Residence Club - Tourist accommodations in one or more buildings owned, co-owned, or operated by a corporation, association, person, or persons, and serving as the temporary abode of persons having a residence elsewhere and offering both pre- and post-arrival concierge service. The use and occupancy of the units circulates among individuals on a periodically recurring basis and is inherently transient. \*
247. Private Harvesting - The cutting and removal of trees for personal use.
248. Private Road - A way for vehicular traffic maintained by private property owners using it. *Private roads* are only allowed in minor subdivisions and may serve no more than seven lots, or parcels. Abutting properties which are prohibited from using the private road (by a note on the plat) do not count toward the number of parcels using the road.\*\*
249. Professional Offices - Offices for doctors, dentists, attorneys, and similar uses as determined by the *Administrator*.
250. Project Approvals - The approval of *development*, other than *development* by a State or local government agency, in the Chesapeake Bay Critical Area by the appropriate local approval authority. The term includes approval of subdivision plats and site plans; inclusion of areas within floating zones; issuance of variances, special exceptions, and conditional use permits; and issuance of zoning permits. The term does not include building permits.
251. Protected Lands - A Maryland Agricultural Land Preservation District or any other *agricultural* or *conservation easement*.
252. Public Landing - Areas adjacent to the waters of Kent County and owned by the Kent County Commissioners for use by the public for water related activities, subject to rules and *regulations* as may be promulgated by the Kent County Commissioners.
253. Public Utilities - Uses or *structures* for the public purpose, transmission and distribution (but not power generation); fuel transmission and distribution (but not manufacture or storage); water treatment and distribution; sewerage collection and treatment; telephone service facilities (not including stations or terminals). This does not include *public utility lines* and *accessory structures*.
254. Public Utility Lines and Accessory structures - Underground gas mains and pipes and underground and overhead electrical and communications wires, cables, pipes, conduits, and their supporting poles, towers, repeaters, boosters, anodes, regulating and measuring devices, and the minor *buildings* or *structures* in which they may be housed, but not including major *buildings*, yards, stations, or substations for transforming, boosting, switching, or pumping purposes, where such facilities are constructed on the ground.

\* Amended 9/5/08; \*\* Amended 10/16/12

\*\*\* Amended 2/16/21

255. Public Water-Oriented Recreation - Shore-dependent recreation facilities or activities provided by public agencies which are available to the general public.
256. Recharge Volume - That portion of the *water quality volume* used to maintain ground water recharge rates at *development sites*. Methods for calculating the recharge volume are specified in the *Design Manual*.
257. Reclamation - The reasonable rehabilitation of disturbed land for useful purposes, and the protection of natural resources of adjacent areas, including water bodies.
258. Recreational Vehicle - A vehicular, portable device, not more than 45 feet in length, built on a chassis designed to be self-propelled or permanently towable by a light duty truck, and used as a temporary dwelling for travel or recreational purposes.\*\*
259. Redevelopment - For *stormwater management* purposes: Any construction, *alteration*, or improvement on *sites* where existing land use is commercial, industrial, institutional, or multi-family residential and existing site impervious area exceeds forty (40) percent. \*

For Critical Area purposes: The process of developing land, which is or has been developed.

260. Reforestation - The establishment of a *forest* through artificial reproduction or *natural regeneration* and including for *forest conservation* purposes:
- The creation of a biological community dominated by trees and other woody plants containing at least one hundred live trees per acre with at least 50 percent of those trees having the potential of obtaining a two-inch or greater diameter measured at 4.5 feet above the ground within seven years.
  - Establishment of a *forest* according to the *Forest Conservation Technical Manual*.
  - Landscaping of areas under an approved *landscape plan* establishing a *forest* at least 35 feet wide and covering an area of 2,500 square feet or more.
  - For a *linear project* involving overhead transmission lines, it may consist of a biological community dominated by trees and woody shrubs with no minimum height or diameter criteria.\*\*\*
261. Regulated Activity - For application of *forest conservation* outside of the *Critical Area*, any of the following activities when that activity occurs on a unit of land which is 40,000 square feet or greater:
- Subdivision*
  - Grading*
  - An activity that requires a *sediment control permit*; or
  - Project plan of a State or local agency.
262. Regulated Grading - Any *grading* performed with the approval of, and in accordance with, criteria established by this Ordinance.
263. Regulations - The whole body of regulations, text, charts, diagrams, notations, and references contained in or referred to in this Ordinance.
264. Renewable Resource - A resource that can renew or replace itself and, therefore, with proper management, can be harvested indefinitely.
265. Rental Unit - A *dwelling unit* intended for rental to transients on a day to day or week to week basis, but not intended for use or used as a permanent dwelling and not including culinary facilities.

266. Resort - A self-contained facility that serves as a primary attraction for visitors which provides recreational and/ or therapeutic facilities. A *resort* may also include meeting facilities.
267. Resource Banking - The restoration, creation, enhancement, and in certain defined circumstances, preservation of a natural resource such as *wetlands* or *forest* for the express purpose of compensating for the loss of the natural resource.
- 267.5 Responsible Personnel - Any foreman, superintendent, or project engineer who is in charge of on-site *clearing* and *grading* operations or the implementation and maintenance of an *erosion and sediment control plan*.\*\*
268. Restaurant (Without Drive Through Service) - An establishment that serves food and beverages primarily to customers seated at tables or counters within the *building* or designated outdoor seating areas. This includes cafes, tearooms, and snack bars.
269. Retention - In *forest conservation*, the deliberate holding and protection of existing trees, shrubs, or plants on the *site* according to established standards as provided in the Kent County *Forest Conservation Technical Manual*.
270. Retention Structure - A permanent *structure* that provides for the storage of runoff by means of a permanent pool of water.
271. Retreat - A small meeting facility in a private, natural area, free from distractions thus allowing meeting participants to focus on the goals and objectives of the meeting.
272. Retrofitting - The implementation of *ESD* practices, the construction of a structural *BMPs* or the modification of an existing structural *BMP* in a previously developed area to improve water quality over current conditions. \*
273. Right of way - A strip of land occupied or intended to be occupied by a *street*, *crosswalk*, railroad, road, electrical transmission line, gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another special purpose.
274. Riparian Habitat - A habitat that is strongly influenced by water and which occurs adjacent to streams, shorelines, and *wetlands*.
275. Roads - Collector, Primary, and Secondary - As shown on the County's or Town's Major Thoroughfare Map.
276. Roadside Stand - A *structure* designed or used for the display or sale of local agricultural products.
277. Roadway - That portion of a *street* or highway available for and intended for use by motor vehicle traffic.
278. Rooming House - A *building* where, for compensation and by prearrangement for definite periods, lodging, meals, or lodging and meals are provided for three or more persons but containing no more than five guest rooms or *rental units*.
- 278.5 Rural Inn\*\*\* - A facility for the purpose of providing overnight lodging to the general public for compensation and only by prearrangement, and at which dining facilities may also be offered for guests and the general public, in accordance with the following:
- a. Are for transient stays of 45 consecutive days or less for compensation with or without meals; and

\* Amended 11/16/10; \*\* Amended 5/21/13

\*\*\* Amended 4/8/15

- b. Are not to be used for permanent residence; and
  - c. Have common facilities for reservations, dining, and cleaning services, and
  - d. Have on-site management; and
  - e. Seating for dining facilities available to patrons other than registered guests for overnight lodging shall not exceed 40 seats over and above those seats needed to accommodate the maximum number of lodging guests based on two (2) individuals per room.
279. Sanitary Landfill - A land disposal *site* employing an engineering method of disposing of solid waste on land in a manner that minimizes environmental hazards by spreading the solid waste to the smallest practical volume, and applying and compacting cover at the end of each operating day or more often if required.
280. Sawmill - A facility where logs or partially processed cants are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products (but not paper or paper products) not including the processing of timber for use on the same *lot* by the owner or resident of that *lot*.
281. Screen - A *structure* or planting consisting of fencing, *berms*, and/or deciduous or coniferous trees or shrubs providing a continuous view obstruction within a *site* or property.
282. Seasonally Flooded Water Regime - A condition where surface water is present for extended periods, especially early in the *growing season*, and when surface water is absent, the water table is often near the land surface.
283. Secondary Road - Secondary roads are identified on the Kent County Major Thoroughfare Map or *roads* so designated by an incorporated town.
284. Sediment - *Soils* or other surficial materials transported or deposited by the action of wind, water, or artificial means.
285. Sediment Control Officer - Kent County Planning Director or the Director's designee.
286. Sediment Control Permit - The authorization of an activity regulated under a sediment control plan as provided in the Environmental Article, Title 4, Annotated Code of Maryland.
287. Seedlings - An unbranched woody plant, less than 24 inches in height and having a diameter of less than ½ inch measured at two inches above the root collar.
288. Selection - In the Critical Area, the removal of single, scattered, mature trees or other trees from uneven-aged stands by frequent and periodic cutting operations.
289. Selective Clearing - The careful and planned removal of trees, shrubs, and plants using specific standards and protection measures under an approved *Forest Conservation Plan*.
290. Servants' Quarters - Living quarters within a portion of the main *building* or in an accessory *building* on the same *lot* with the main *building* used for servants employed on the *premises*, such quarters having no kitchen facilities or separate utility meters, and not rented or otherwise used as a separated dwelling.
291. Setback - The distance between the *street right of way* and the line of a *building* or any projection thereof.
292. Sewage Sludge - The accumulated semi-liquid or dried solid residue that is deposited from sewage or septage in a wastewater treatment plant, as defined in the COMAR *regulations*.

293. Sewage Sludge Land Application - The deposition of *sewage sludge* on the surface or the injection or incorporation of such material into the root zone or *soil* profile.
- 293.5 Shadow Flicker: - The moving shadow created by the sun shining on rotating blades of the wind turbine.\*
294. Shopping Center - An integrated *development* of four or more commercial, retail, or service establishments, either connected or freestanding sharing common parking facilities and common access.
295. Shoreline Cliff - A steep face of 10 feet or higher with a *slope* in excess of 60 degrees either vegetated or non-vegetated which borders the Chesapeake Bay, the Chester River, the Sassafras River, or any open water tributary within Kent County.
296. Sign - See Article VI, Section 2.
297. Significantly Eroding Areas - Areas that erode 2 feet or more per year.
298. Site - Any *tract, lot*, or parcel of land or combination of tracts, lots, or parcels of land which are under one ownership, or are contiguous and in diverse ownership where *development* is to be performed as a part of a unit, *subdivision*, or project. \*\*
- 298.5 Site Development Plan - For *erosion and sediment control\*\*\** and *stormwater management* purposes: The second of three plan approvals that include the information necessary to allow a detail evaluation of a proposed project. \*\*
299. Site Plan - A drawing illustrating a proposed *development* and prepared in accordance with the specifications of Article VI, Section 5.
300. Site Plan, Major - A *site plan* which is reviewed and decided upon by the Kent County Planning Commission. This includes all *site plans* required by this Ordinance that do not meet the criteria for *plot plans* or *minor site plans*.
301. Site Plan, Minor - A *site plan* which is reviewed and decided upon by the Planning Director, or the Planning Director's designee, after review by the Technical Advisory Committee. At the Director's discretion, a *minor site plan* may be submitted to the *Planning Commission* for approval. In the absence of a Planning Director, the *Planning Commission* shall approve, approve with conditions, or disapprove *minor site plans*.
- Minor site plans* may be submitted for the following: duplexes; non-residential uses and additions that result in a maximum increase of 10% of the size of the existing *structure*; change in parking or vehicular access; construction of a non-residential *building* with a gross *floor area* of 5,000 square feet or less.
302. Slip - That area of the *waterway* contained within the tie-out pilings, a bulkhead, or a *pier*, whether covered or not.
303. Slope - The inclined exposed surface of *fill, excavation*, or natural terrain.
304. Soil - All earth material of whatever origin that overlies bedrock, and including, but not limited to, the decomposed zone of bedrock which can be readily excavated by mechanical equipment.

\* Amended 9/6/11; \*\* Amended 11/16/10;

\*\*\* Amended 5/21/13

305. Soil Conservation and Water Quality Plans - In the Critical Area, land use plans for farms that show farmers how to make the best possible use of their soil and water resources while protecting and conserving those resources for the future. It is a document containing a map and related plans that indicate:
- How the landowner plans to treat a farm unit;
  - Which *best management practices* the landowner plans to install to treat undesirable conditions; and
  - The schedule for applying those *best management practices*.
- 305.25 Solar Energy System, utility scale - Any device or combination of devices or elements which rely upon direct sunlight as an energy source, including but not limited to any substance or device which collects sunlight for generating energy primarily for use off-site. Energy generated may be used to serve on site power needs. \*
- 305.5 Solar Energy System, small: - Any device or combination of devices or elements which rely upon direct sunlight as an energy source, including but not limited to any substance or device which collects sunlight for generating energy for use on site. However, the energy output may be delivered to a power grid to offset the cost of energy on site, as well as aggregate metering as defined by the State of Maryland.\*\*
- 305.75 Special Flood Hazard Area (SFHA) – The land in the floodplain subject to a one-percent or greater chance of flooding in any given year. Special Flood Hazard Areas are designated by the Federal Emergency Management Agency in *Flood Insurance Studies* and on *Flood Insurance Rate Maps* as Zones A, AE, AH, AO, A1-30, and A99, and Zones VE and V1-30. The term includes areas shown on other flood maps that are identified in Article VI, Section 7.2 and 7.3.\*\*\*
306. Species in Need of Conservation - Those fish, plants, and wildlife whose continued existence as part of the State’s resources are in question and which may be designated by regulation by the Secretary of Natural Resources as in need of conservation pursuant to the requirements of Natural Resources Article 10-2A-06 and 4 - 2A-03, Annotated Code of Maryland.
307. Stabilization - The protection of exposed soils from *erosion* by the application of seed and mulch, seed and matting, sod, other vegetative measures, and/or structural means.+
308. Stable, Private - An accessory *building*, not related to the ordinary operation of a *farm*, for the housing of not more than four horses or mules owned by a *person* or *persons* living on the *premises* and which horses or mules are not for hire or sale.
309. Stable, Public - Any stable for the housing of horses or mules, operated for remuneration, hire, sale, or stabling, or any stable not related to the ordinary operation of a *farm*, with the capacity for more than four horses or mules, whether or not such stable is operated for remuneration, hire, sale, or stabling.
- 309.5 Standards and Specification - The “2011 Maryland Standards and Specification from Soil Erosion and Sediment Control” or any subsequent revisions.+
310. Start of Construction - For *floodplain* management, the date of issue of the building permit for any *development*, including *new construction* and *substantial improvements*, provided that the actual start of the construction or improvement was within 180 days of permit issuance. The actual start of construction is the placement of slab or footings, piles, columns, or actual placement of a

\* Amended 8/3/10; \*\* Amended 9/6/11;  
 \*\*\* Amended 6/3/14; + Amended 5/21/13

*manufactured home*. For *substantial improvement*, the start of construction is the first *alteration* of any structural part of the *building*.

311. Steep Slopes - *Slopes* of 15% or greater incline.
- 311.5 Stormwater – Water that originates from a precipitation event. \*
312. Stormwater Management
- a. For quantitative control, a system of vegetative and structural measures that control the increased volume and the rate of surface runoff caused by man-made changes to the land; and
  - b. For qualitative control, a system of vegetative, structural, and other measures that reduce or eliminate pollutants that might otherwise be carried by surface runoff.
313. Stormwater Management Plan - A set of drawings or other documents submitted by a *person* as a prerequisite to obtain *stormwater management* approval, which contain all of the information and specifications pertaining to *stormwater management*.
- 313.5 Stormwater Management System - Natural areas, *ESD* practices, *stormwater management* measures, and any other *structure* through which *stormwater* flows, infiltrates, or discharges from a site. \*
314. Stream Protection Corridor - A 100-foot naturally vegetated area or an area established in vegetation and managed to protect aquatic environments, *wetlands*, shoreline, and terrestrial environments from man-made disturbances. The *stream protection corridor* shall be 100 feet and shall be measured horizontally from the top of each normal bank of a *perennial* or *intermittent stream*.
- 314.5 Stream Restoration Project\*\* - an activity that
- a. Is designed to stabilize stream banks or enhance stream function or habitat located within an existing stream, waterway, or floodplain;
  - b. Avoids and minimizes impacts to forests and provides for replanting on-site an equivalent number of trees to the number removed by the project;
  - c. May be performed under a separate storm sewer system permit, a watershed implementation plan growth offset, or another plan administered by the state or county to achieve or maintain water quality standards; and
  - d. Is not performed to satisfy stormwater management, wetlands mitigation, or any other regulatory requirement associated with proposed development activity.
315. Street - A public or private thoroughfare which affords the principal means of access to abutting property.
316. Street Line - A dividing line separating a *lot*, *tract*, or parcel of land and a contiguous *street*.
317. Story - That portion of a *building*, other than a *basement*, including between the surface of any floor and the surface of the floor next above it; or if no floor next above it exists, then the space between such floors and the ceiling next above it.
318. Stripping - Any activity which removes the vegetative surface cover, including *tree* removal, *clearing*, grubbing, and storage or removal of top *soil*.

\* Amended 11/16/10; \*\* Amended 2/16/21



319. Structural Alteration - Any change in the supporting members of a *building*, footings, bearing walls or partitions, columns, beams, girders, or any substantial change in the roof or exterior walls, excepting such repair as may be required for the safety of the *building*.
320. Structural Rock Fills - Fills constructed predominately of rock materials for the purpose of supporting *structures*.
321. Structure - Anything constructed or erected, the use of which requires a more or less permanent location on the ground, or attached to something having a permanent location on the ground, including but not limited to *mobile homes, signs, swimming pools*, fences, gas and liquid storage tanks, backstops for tennis courts, sheds, barns, and pergolas.
322. Subdivider - Any *person*, individual, firm, partnership, association, corporation, estate, trust, or any other group or combination, acting as a unit, dividing or proposing to divide land so as to constitute a *subdivision* as defined herein and including any agent of the subdivider.
323. Subdivision - The division of a *lot, tract*, or parcel of land into two (2) or more lots, parcels, *sites*, or other divisions of land. It includes resubdivision and when appropriate to the context, shall refer to the process of subdividing or the land subdivided. Subdivisions shall be classified into one of the following:
- a. *Major Subdivision* - Any *subdivision* containing eight or more lots, parcels, *sites*, or other divisions of land.\*
  - b. *Minor Subdivision* - Any *subdivision* containing seven or fewer lots, parcels, *sites*, or other divisions of land.\*
  - c. *Adjustment of Lot lines* - Adjustment of *lot lines* between adjoining property owners which do not create additional building lots are subject to the following rules.
    1. Transfers of these lots are not counted in determining the number of lots in a *subdivision*.
    2. Plat requirements are at the discretion of the Planning Director but may not exceed those for a minor *subdivision*.
    3. Procedures shall be the same as that for minor subdivisions.
  - d. All lots, parcels, *sites*, and other divisions of land recorded after Dec. 23, 1969, from an original *lot, tract*, or parcel of land described in the Land Records of Kent County, shall be counted in determining the number of lots in the *subdivision*. The original *lot* is also counted in determining the number of lots.
324. Substantial Damage - Damage of any origin sustained by a *structure* whereby the cost of restoring the *structure* to its before damage condition would equal or exceed 50% of the market value of the *structure* before the damage occurred.
325. Substantial Improvement - Any repair, reconstruction, or improvement of a *structure*, the cost of which equals or exceeds 50% of the market value of the *structure* (less land value) either before the improvement or repair is started; or if the *structure* has incurred *substantial damage* and been restored, before the damage occurred.

*Substantial improvement* occurs when the first *alteration* of any wall, ceiling, floor, or other structural part of the *building* commences. The minimum repairs needed to correct previously identified violations of local health, safety, or sanitary codes, and *alterations* to *historic structures* which do not preclude their continued designation as *historic structures* are not considered *substantial improvements*. In *floodway* and *coastal high hazard areas*, permits shall be tracked by

property locations to determine if the cumulative value of improvements constitute *substantial improvement* of a *structure*.

326. Surface Mining

- a. The breaking of the surface *soil* in order to extract or remove minerals.
- b. Any activity or process constituting all or part of a process for the extraction or removal of minerals from their original location;
- c. The extraction of sand, gravel, rock, stone, earth, or *fill* from borrow pits for highway construction purposes or other public facilities.

For the purpose of this Ordinance, surface mining includes:

- a. Operations engaged in processing minerals at the *site* of *excavation*;
- b. Removal of *overburden* and mining of limited amounts of any mineral when done for the purpose of prospecting and to the extent necessary to determine the location, quantity, or quality of any natural deposit; and
- c. Mining operations, if the affected land exceeds one acre or more in area.

327. Swimming Pool - Any portable pool or permanent *structure* containing a body of water 18 inches or more in depth and 250 square feet or more of water surface area, intended for recreational purposes, including a wading pool but not including an ornamental reflecting pool or fish pond or any other type of pool, located and designed so as not to create a hazard or be used for swimming or wading.

328. Technical Advisory Committee (TAC) - A committee organized to review and comment on *subdivision* and other *development* proposals. TAC consists of the following persons or their designated representative: Planning Director, Director of Environmental Programs, State Highway Administration Maintenance Engineer, County Engineer, State Project Forester, Director of Water and Wastewater Services, Stormwater Management Technician, and representatives of other agencies concerned with *development* or *subdivision* review.

329. Tenant - An occupant of land or *premises* who occupies, uses, and enjoys real property for a fixed time, usually through a lease arrangement with the property owners.

330. Tenant House - A farm dwelling, other than the main farmhouse, for occupancy by a person or *family* associated with the agricultural endeavors on the *farm* or by a member of the property owner's immediate *family*.

331. Thinning - A *forest practice* used to accelerate the growth of quality trees in the shortest interval of time.

332. Tidal Wetland - Defined as State and private *wetlands* by the State of Maryland in Title 9, Natural Resources Article, Annotated Code of Maryland.

332.5 Timber Harvesting\* - a tree-cutting operation affecting 1 or more acres of forest or developed woodland within a 1-year interval that disturbs 5,000 square feet or more of forest floor. It does not include grubbing and clearing of root mass.

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

\* Amended 2/16/21

334. Townhouse - A *single family dwelling* forming one of a group or series of three or more attached *single family dwellings* separated from one another by party walls without doors, windows, or other provisions for human visibility through such walls from *basement* to roof, and having floors which may extend from one of the *dwelling units* to another.
335. Tract - Property or unit of land subject to an application for a *grading* or *sediment control permit*, *subdivision* approval, project plan approval, or areas subject to this Ordinance.
336. Transitional Habitat - A plant community whose species are adapted to the diverse and varying environmental conditions that occur along the boundary that separates aquatic and terrestrial areas.
337. Transportation Facilities - Anything that is built, installed, or established to provide a means of transport from one place to another.
338. Tree - A large, branched woody plant having one or several self-supporting stems or trunks that reach a height of at least twenty feet at maturity.
339. Tributary Streams - Those *perennial* and *intermittent streams* that are so noted on the most recent U.S. Geological Survey 7.5 minute topographic quadrangle maps (scale 1:24,000), or on more detailed maps or studies used at the discretion of Kent County.
340. Truck Stop - An independent facility catering predominantly to tractor trailers and other large highway vehicles in which highway services such as fuel, food, repair, and similar items are provided.
341. Truck Terminal - A facility where truck transport goods are transferred, or stored pending transfer, and which may include truck dispatching, parking, and servicing. The terminal cannot be used for permanent or long-term storage of goods.
- 341.5. Unwarranted Hardship - Within the *Critical Area*, without a *variance*, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.\*
342. Utility Transmission Facilities - Fixed *structures* that convey or distribute resources, waste, or both, including, but not limited to electrical lines, water conduits, and sewer lines.
343. Variance - The grant of relief from a term or terms of this Ordinance.

For *stormwater management* purposes: The modification of the minimum *stormwater management* requirements for specific circumstances such that strict adherence to the requirements would result in unnecessary hardship and not fulfill the intent of this Ordinance. \*\*

- 343.5 Violation - For floodplain purposes: Any construction or *development* in a *Special Flood Hazard Area* that is being performed without an issued permit. The failure of a building, *structure*, or other *development* for which a permit is issued to be fully compliant with these regulations and the conditions of the issued permit. A building, *structure*, or other *development* without the required design certifications, the *Elevation Certificate*, or other evidence of compliance required is presumed to be a violation until such time as the required documentation is provided.\*\*\*
344. Waiver - For *Stormwater Management* Purposes: The relinquishment from *stormwater management* requirements by Kent County for a specific *development* on a case-by-case review basis:

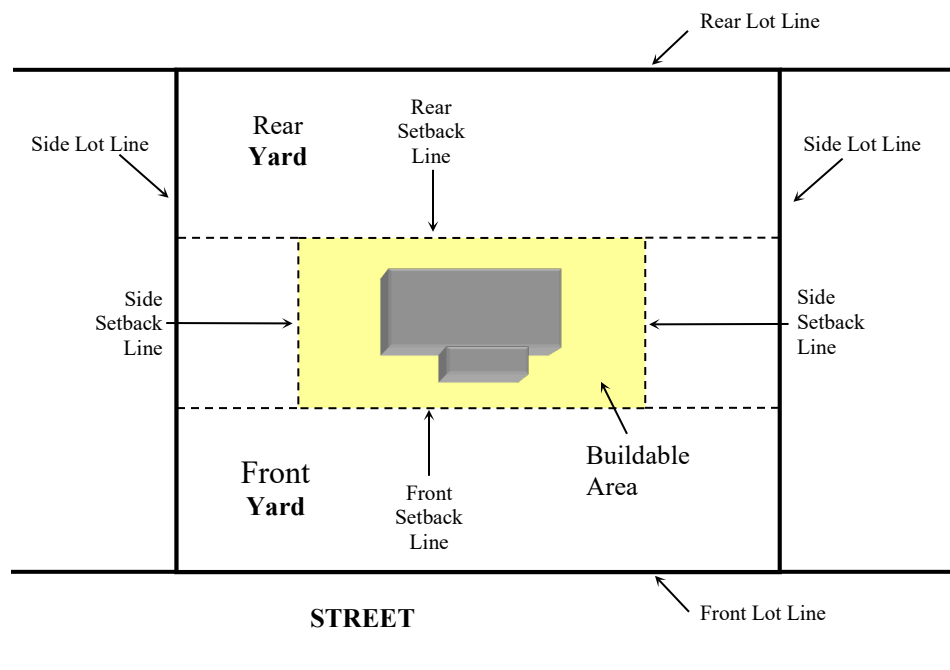
\* Amended 9/7/04; \*\* Amended 11/16/10

\*\*\* Amended 6/3/14

- a. “Qualitative *stormwater management waiver*” includes *water quality volume* and *recharge volume* design parameters.
  - b. “Quantitative *stormwater management waiver*” includes *channel protection storage volume*, *overbank flood protection volume*, and *extreme flood volume* design parameter.
345. Wash Plant - A facility where sand and gravel is washed during processing.
346. Water-based Aquaculture - In the Critical Area, the raising of fish and shellfish in any natural, open, free-flowing water body.
347. Water Quality Volume - The volume of water needed to capture and treat the runoff from 90% of the average annual runoff volume at a *development site*. Methods for calculating the water quality volume are specified in the *Design Manual*.
348. Water Use Industry - An industry that requires location near the shoreline because it utilizes surface waters for cooling or other internal purposes.
349. Watercourse and/or Drainageway - Any natural or artificial watercourse (including, but not limited to streams, rivers, creeks, ditches, channels, canals, conduits, culverts, drains, *waterways*, gullies, ravines, or washes) in which waters flow in a definite direction or course, either continuously or intermittently; and including any area adjacent thereto which is subject to inundation by reason of overflow or floodwaters.
350. Water-Dependent Facilities - Those *structures* or works associated with industrial, maritime, recreational, educational, or *fisheries activities* that require location at or near the shoreline within the *buffer*. An activity is water dependent if it cannot exist outside the buffer and is dependent on the water by reason on the intrinsic nature of its operation. These activities include, but are not limited to, ports, the intake and outfall *structures* of power plants, water use industries, marinas and other boat docking *structures*, public beaches and other *public water-oriented recreation* areas, and fisheries activities.
351. Waterfowl - Birds which frequent and often swim in water, nest and raise their young near water, and derive at least part of their food from aquatic plants and animals.
352. Watershed - The total *drainage area* contributing runoff to a single point. For *forest conservation* purposes all land lying within an area described as a sub-basin in water quality *regulations* adopted by the Department of the Environment under COMAR 26.08.02.08.\*
353. Waterway - Any body of water, including any creek , canal , river, lake, or bay
354. Waterway Line - A line marking the normal division between land and a *waterway* as established by the *Administrator*.
355. Waterway, Width Measurement - The measurement is made at the shoreline location of the *pier* and the narrowest width of the *waterway* from that point.
356. Wetlands - See “*tidal wetlands*” and “*non-tidal wetlands*”
357. Whip - An unbranched woody plant greater than twenty-four inches in height and having a diameter of less than one inch measured at two inches above the root collar.

\* Amended 2/16/21

358. Wildlife Corridor - A strip of land having vegetation that provides habitat and a safe passageway for wildlife.
359. Wildlife Habitat - Those plant communities and *physiographic features* that provide food, water, cover, nesting, foraging and feeding conditions necessary to maintain populations of animals.
- 359.5 Wind Energy System, small: A wind turbine mounted on a free standing wind tower or building for the purpose of generating energy for use on site and not for sale and includes windmills that are used for pumping water or other purposes. However, the energy output may be delivered to a power grid to offset the cost of energy on site\*
360. Yacht Club - A yacht club shall be considered a *marina*.
361. Yard - An open space other than a court, on a *lot*, and unoccupied and unobstructed from the ground upward, except as otherwise provided in this Ordinance.



362.

Yard, Front - A yard extending across the front of a *lot* between the side *lot lines* and being the minimum horizontal distance between the *street line* and the required front yard line. (See diagram)

For waterfront properties, it is that part of the yard extending across a *lot* between the side *lot lines* and being the minimum horizontal distance from the water and the main *building*.

On *corner lots*, the front yard shall be considered as parallel to the *street* upon which the *lot* has its least dimension, except waterfront lots.

363. Yard, Rear - A yard extending across the rear of the *lot* between the side *lot lines* and measured between the rear *lot line* and the rear of the main *buildings* or any projections thereof.

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

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## ARTICLE XII. ADMINISTRATIVE PROCEDURES

### SECTION 1. STATEMENT OF INTENT

The purpose of this section is to set forth the procedures for amendments, permits, enforcement, administrative appeals, fees, and interpretations of this Ordinance. The powers and duties of the Department of Planning and Zoning are specified herein insofar as the administration of this Ordinance is concerned.

### SECTION 2. GENERAL

The Kent County Department of Planning and Zoning is vested with the duty and authority to grant approvals and issue permits. All approvals and permits shall conform with the provisions of this Ordinance, and no approval of a permit shall be granted for any *structure*, use, *subdivision*, *grading*, or other *development* or purpose that would constitute a violation of this Ordinance. Any approval or permit granted or issued in conflict with this Ordinance shall be null and void.

Whenever in the course of administration and enforcement of this Ordinance, it is necessary to make any administrative decision, unless other standards are provided in the Ordinance, the decision shall be consistent with the spirit and intent of this Ordinance.

### SECTION 3. PERMITS

1. No *building* or *structure* shall be erected, constructed, altered, moved, converted, extended, enlarged, or *demolished* until a building or demolition permit is obtained from the *Administrator*. The permit shall be valid for six months from the date issued. A six-month extension may be granted by the *Administrator*. All *buildings* and *structures* shall comply with the requirements of this Ordinance.\*
2. Change or alternation of the use of any *building*, *structure*, or land shall not be permitted until a permit is obtained from the *Administrator*.
3. All applications for building and use permits shall include a diagram showing the actual shape and size of the parcel, the location and size of the *building* or *structure*, and such information as may be required by the *Administrator* to assure compliance with and to provide enforcement of this Ordinance.
4. No *person* shall do any *grading*, *clearing*, *stripping*, excavating, filling of land; *forest* harvesting; create borrow pits, spoil areas, quarries, material processing facilities, or other facilities, without first obtaining a permit from the Department of Planning and Zoning except as otherwise listed as an exemption in this Ordinance.
5. A *grading* or building permit may not be issued for any parcel or *lot* unless a *stormwater management plan* has been approved or waived by the Planning Director, or the Planning Director's designee, as meeting the requirements of this ordinance, the *Design Manual*, and the policies adopted by Kent County for *redevelopment*. Where appropriate, a building permit may not be issued without:
  - a. Recorded *easements* for the *stormwater management* facility and *easements* to provide adequate access for inspection and maintenance from a public *right of way*.
  - b. A recorded *stormwater management maintenance agreement*.
  - c. A performance bond, an irrevocable letter of credit or other surety.
  - d. Permission from adjacent property owners, as may be required.



- 5.5 A demolition permit may not be issued for any parcel or lot unless a *historic structure* review has been completed in accordance with the following process:
- a. Tier 1. The Planning Director, or Planning Director's designee, shall determine if the *structure* meets the definition of a *historic structure*.
  - b. Tier 2.
    - i. If the *structure* is found to be more than seventy-five years old or otherwise thought to be of historic significance, then the permit shall require the following documentation.
      - a) The applicant shall provide a basic floor plan that includes interior and exterior dimensions of the *structure(s)*.
      - b) The Department shall conduct a site inspection for the purpose of photographing the *historic structure(s)*, which may include the exterior and interior of the *structure(s)*. The Chair of the Historic Preservation Commission, or the Chair's designee, may accompany staff on the site inspection.
    - ii. Subject to the review of documentation, the Planning Director, or the Planning Director's designee, and the Chair of the Historic Preservation Commission, or the Chair's designee, shall determine if Tier 3 review and documentation is required. The decision shall be made within 30 days of the receipt of the required floor plan by the Department of Planning, Housing and Zoning. It shall require only one "yes" vote, for the application to proceed to Tier 3 review.
  - c. Tier 3.
    - i. Pursuant to a determination of historic significance, Tier 3 review and documentation shall be completed by staff within 45 days of the Tier 2 determination, which may result in completion of a Maryland Inventory of Historic Places form developed by the Maryland Historical Trust.
    - ii. Tier 3 review and documentation shall consist of the following:
      - a) Photographs of exterior details, including but not limited to features such as chimneys, wall coverings, windows, and doors;
      - b) Photographs of any outbuildings;
      - c) Access to the interior shall be granted in order to obtain detailed photographs of the interior spaces to capture any unique elements in the rooms that may help date the *structure*, including but not limited to woodwork, window surrounds, fireplaces, stairways, mantels, doors, and newel posts. Applicants shall make any hazards known, and only staff shall enter *structures* at staff's risk, based on staff's best judgment.
      - d) Overall measurements of the *structure*.
    - iii. The Historic Preservation Commission will review the documentation.
  - d. Failure to complete Tier 3 documentation within 45 days of the Tier 2 determination shall not delay the issuing of a permit unless another agency with review authority has failed to approve the permit or an extension is granted by the property owner. Failure of the applicant to grant interior access within the review time shall not result in the issuing of a permit.
  - e. Emergency provisions. These requirements may be waived or modified by the Planning Director, or the Planning Director's designee, when a *structure* is deemed to be an imminent threat to health, safety, and welfare of the adjoining properties and persons.\*
6. The *Administrator* may place any condition on a permit that is deemed necessary to assure compliance with and to provide enforcement of this Ordinance.

7. After approval of the permit, no changes of any kind shall be made to the plans, permit, specification, or other document without written approval from the applicable county official.
8. Any *person* aggrieved by a decision of the *Administrator* may, within thirty days after such decision, appeal to the Board of Appeals.

#### SECTION 4. ENFORCEMENT

1. It shall be the duty of the *Administrator* to enforce the provisions of this Ordinance and to refuse to issue any permit or approve any *variance*, special exception, *minor site plan*, *minor subdivision*, sediment control, *stormwater management*, or *forest conservation plan* that would violate the provisions of this Ordinance. It shall be the duty of all officers and employees to assist the enforcing officer by reporting to the enforcing officer any seeming violation of this Ordinance.
2. The *Administrator* or the *Administrator's* designee is authorized and directed to institute any appropriate action to correct violations of this Ordinance.
3. It shall be unlawful to erect, construct, reconstruct, alter, repair, convert, *demolish* or maintain any *building* or *structure*; use any property, *building*, or *sign* in violation of any regulation in, or any provision of this Ordinance, or any amendment or supplement lawfully adopted by the County Commissioners; to fail to comply with any requirement or condition imposed by the Board of Appeals or *Planning Commission*; or violate the provision of the *floodplain*, *subdivision*, sediment control, *stormwater management*, or *forest conservation* provisions of this Ordinance. Any *person*, firm, corporation, or other legal entity violating a provision of this Ordinance, or amendments thereto, shall be deemed guilty of a violation and upon conviction shall be fined according to the preset fine adopted by the County Commissioners of Kent County, or may be imprisoned for a period of not more than thirty days, or may be subject to both fine and imprisonment in the discretion of the Court. Each and every day during which such violation occurs or continues may be deemed a separate offense.\*
4. The Zoning Administrator is authorized to treat any violation as a civil violation, in which event the *Administrator*, or the *Administrator's* designee, shall deliver a citation to the *person* believed to have committed a civil violation. A copy of the citation shall be retained by the Department of Planning and Zoning and shall bear *certification* attesting to the truth of the matters set forth. The citation shall contain:
  - a. The name and address of the *person* charged;
  - b. The nature of the violation;
  - c. The place where and the time when the violation occurred;
  - d. The amount of the fine assessed;
  - e. The manner, location, and time in which the fine may be paid; and
  - f. The person's right to elect to stand trial for the violation.

5. The preset fine shall not be less than \$100.00 nor more than \$500.00 for zoning violations. The preset fine shall not exceed \$5,000.00 for violation of the *floodplain* and *subdivision* provisions of this Ordinance, and \$1,000.00 plus \$0.30 a square foot for *forest conservation*.\*\*\* Non-compliance fees for violation of the *forest conservation* provisions of this Ordinance shall be deposited in the *forest conservation* fund and may be used by the County for purposes related to implementing the *forest conservation* objectives of this Ordinance. Every day the violation continues may be considered a separate offense.

Within the Critical Area, in addition to any other penalty applicable under state law, a person who violates a provision pertaining to the Critical Area is subject to a fine not to exceed \$10,000.00. In determining the amount of the penalty to be assessed, the following may be considered:

- a. The gravity of the violation;
- b. Any willfulness of negligence involved in the violation;
- c. The environmental impact of the violation.\*

Fines shall not exceed \$5,000 for each *stormwater management* violation and not to exceed \$50,000 for numerous on site violations. Each day that a violation continues shall be considered a separate offense.\*\*

5.5 Penalties for violations of erosion and sediment control.\*\*\*

- a. Any person who violates any provision of the erosion and sediment control provisions of this Ordinance is guilty of a misdemeanor, and upon conviction in a court of competent jurisdiction is subject to a fine not exceeded \$10,000 or imprisonment not exceeding one year or both for each violation with costs imposed in the discretion of the court. Each day upon which the violation occurs constitutes a separate offense.
- b. Any agency whose approval is required under this Ordinance or any interested person may seek an injunction against any person who violates or threatens to violate any provision of this Ordinance.
- c. In addition to any other sanction under this Ordinance, a person who fails to install or to maintain erosion and sediment controls in accordance with an approved plan shall be liable to Kent County or the State in a civil action, for damages in an amount equal to double the cost of installing or maintaining the controls.
- d. Any governing authority that recovers damages in accordance with this subsection shall deposit them in a special fund, to be used solely for:
  - 1) Correcting to the extent possible the failure to implement or maintain erosion and sediment controls; and
  - 2) Administration of the sediment control program.

6. The *person* who receives a citation may elect to stand trial for the offense by filing with the Department of Planning and Zoning a notice of intent to stand trial. The notice to stand trial shall be given at least 5 days before the date of payment as set forth in the citation. Upon receipt of the notice of intent to stand trial, the Department of Planning and Zoning shall forward to the District Court of Kent County a copy of the citation and notice of intent to stand trial. On receipt of the same, the District Court shall schedule the case for trial and notify the defendants of the trial date. All fines, penalties, or forfeitures collected by the District Court for violations of this Ordinance shall be remitted to Kent County.

7. If a *person* who receives a citation for violation fails to pay the fine by the date of the payment set forth on the citation and fails to file of notice of intention to stand trial, formal notice of the violation shall be sent to the owner's last known address. If the citation is not satisfied within 15 days from the date of notice, the *person* is liable for an additional fine not to exceed twice the original fine.

If after 35 days the citation is not satisfied, the Department of Planning and Zoning may request adjudication of the case through the District Court. The District Court shall schedule the case for trial and summon the defendant to appear.

8. Adjudication of a violation under paragraphs 4 through 7 of this section is not a criminal conviction nor does it impose any civil disabilities ordinarily imposed by a criminal conviction.
9. In any proceeding before the District Court, the violation shall be prosecuted in the same manner and to the same extent as set forth for municipal infractions under Article 23A, Section 3(b)(8) - (15) of the Annotated Code of Maryland. The County Commissioners may authorize either the County Attorney, the Attorney for the *Planning Commission*, or any other designated attorney to prosecute any violation.
10. If a *person* is found by the District Court to have committed a civil zoning violation, the *person* shall be liable for the cost of the proceedings in the District Court. All zoning certificates and building permits shall be revocable subject to the continued compliance with all requirements and conditions of this and other applicable laws and *regulations*.
11. The imposition of a fine or penalty for any violation of this Ordinance shall not excuse the violation or permit it to continue, and all such violations shall be corrected within a reasonable time.
12. The *Administrator*, or the *Administrator's* designee, may issue a stop work order against a *person* who violates a provision of this Ordinance or any approval granted under this Ordinance.
13. The *Administrator*, or the *Administrator's* designee, may revoke an approved *Forest Conservation Plan* if the *Administrator* finds that:
  - a. A provision of the plan has been violated;
  - b. Approval of the plan was obtained through fraud, misrepresentation, a false or misleading statement, or omission of a relevant or material fact; or
  - c. A change in the *development* or in the condition of the *site* necessitates preparation of a new or amended plan.
14. Enforcement procedures for violations of the sediment control provision of this Ordinance shall be as follows:
  - a. When the inspection agency or an inspector determines that a violation of the approved erosion and sediment control plan has occurred, the inspector shall notify the *on-site* personnel or the *permittee* in writing of the violation, describe the required corrective action and the time period in which to have the violation corrected.
  - b. If the violation persists after the date specified for corrective action in the notice of violation, the inspection agency shall stop work on the *site*. The inspection agency shall determine the extent to which work is stopped, which may include all work on the *site*, except that work necessary to correct the violations.
  - c. If reasonable efforts to correct the violation are not undertaken by the *permittee*, the inspection agency shall refer the violation for legal action.
  - d. The Department of Planning and Zoning may deny the issuance of any permits to an applicant when it determines that the applicant is not in compliance with the provisions of a building or *grading* permit or approved erosion and sediment control plan.
  - e. Any step in the enforcement process may be taken at any time, depending upon the severity of the violation.

- f. If a *person* is working without a permit, the inspection agency shall stop work on the *site* except activity necessary to provide *erosion* and sediment control.
  - g. The Department of Planning and Zoning may suspend or revoke any *grading* or building permits after providing written notification to the *permittee* based on any of the following reasons:
    - i. Any violation(s) of the terms or conditions of the approved erosion and sediment control plan or permit.
    - ii. Non-compliance with violation notices or stop work orders issued.
    - iii. Changes in *site* characteristics upon which plan approval and permit issuance was based.
    - iv. Any violation(s) of this Ordinance or any rules and *regulations* adopted under it.
  - h. The Department of Planning and Zoning shall receive complaints and initiate enforcement procedures when violations are confirmed. Any complaint received shall be acted upon, routinely within three (3) working days and the complainant shall be notified of any action or proposed action routinely within seven (7) working days of receipt of the complaint.
- 14.5 Enforcement procedures for violations of the *stormwater management* provisions of this Ordinance consists of any one or a combination of the following actions: \*
- a. When the inspection agency or an inspector determines that a violation of the approved *stormwater management* plan has occurred, the inspector shall notify the *on-site* personnel or the *permittee* in writing of the violation, describe the required corrective action and the time period in which to have the violation corrected.
  - b. A stop work order shall be issued for the site by the County if the violation persists.
  - c. Bonds or securities shall be withheld or the case may be referred for legal action.
  - d. A civil action or criminal prosecution may be brought against any person in violation of the *stormwater* provisions of this Ordinance or the Design Manual.
  - e. Any step in the enforcement process may be taken at any time according to the severity of the violation.
  - f. Any person convicted of violating the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than \$5000 or imprisonment not exceeding 1 year or both for each violation with costs imposed not to exceed \$50,000. Each day the violation continues shall be a separate offense.
  - g. Kent County may institute injunctive, mandamus, or other appropriate action or proceedings of law to correct violations.
    - i. The Department of Planning and Zoning may deny the issuance of any permits to an applicant when it determines that the applicant is not in compliance with the provisions of a building or *grading* permit or approved erosion and sediment control plan.
    - ii. Any step in the enforcement process may be taken at any time, depending upon the severity of the violation.
    - iii. If a *person* is working without a permit, the inspection agency shall stop work on the *site* except activity necessary to provide *erosion* and sediment control.
    - iv. The County may suspend or revoke any *grading* or building permits after providing written notification to the *permittee* based on any of the following reasons:
      - a) Any violation(s) of the terms or conditions of the approved erosion and sediment control plan or permit.
      - b) Non-compliance with violation notices or stop work orders issued.

- c) Changes in *site* characteristics upon which plan approval and permit issuance was based.
    - d) Any violation(s) of this Ordinance or any rules and *regulations* adopted under it.
  - v. The County shall receive complaints and initiate enforcement procedures when violations are confirmed. Any complaint received shall be acted upon, routinely within three (3) working days and the complainant shall be notified of any action or proposed action routinely within seven (7) working days of receipt of the complaint.
15. In addition to the provisions of Article XII, Section 4 above, the County may also seek an injunction to bring about the discontinuance of illegal uses, and/or the removal of illegal *buildings, structures*, additions, *alterations*, or structural changes, and/or the discontinuance of any illegal work or activity being done, or may take any other action authorized by this Ordinance.
  16. The Planning Director or the Planning Director's designee is hereby authorized to enter upon any open land in Kent County for the purpose of enforcing and implementing this Ordinance.

#### SECTION 5. FEES

1. The County Commissioners shall establish a schedule of fees and a collection procedure for permits, *variances*, special exceptions, subdivisions, *site plans*, amendments, appeals, interpretations, and other matters pertaining to this Ordinance. Upon application, the County Commissioners may waive any fees.
2. No permits shall be issued nor action taken on *variances*, special exceptions, subdivisions, *site plans*, amendments, appeals, interpretations, or other matters pertaining to this Ordinance until the fee has been paid in full.

#### SECTION 6. AMENDMENTS

1. The County Commissioners may amend, supplement, or change the boundaries of the districts or the *regulations* of this Ordinance. Any amendment may be initiated by resolution of the County Commissioners, motion of the *Planning Commission*, or petition of any property owner using forms specified by the *Planning Commission*.
2. The application for an amendment to the text of this Ordinance shall, at a minimum, state in particular the article, section, and paragraph sought to be amended. The application shall contain the language of the proposed amendment and shall recite the reasons for such proposed change in text.
3. The application for an amendment to the map of this Ordinance shall, at a minimum, specify the map and parcels sought to be amended, the current and proposed zoning classification, and recite the reasons for the proposed amendment.
4. Before taking any action on any proposed amendment, supplement, or change, the County Commissioners shall submit the proposal to the *Planning Commission* for review and recommendation. The *Planning Commission* may hold a hearing on any proposed amendment, supplement, or change before submitting its recommendation to the County Commissioners. The

*Planning Commission* may request any pertinent data and information as it deems necessary. In its recommendation, the *Planning Commission* shall address:

- a. The public need for the proposed amendment; and
  - b. The extent to which the proposed amendment complies with or deviates from the *Comprehensive Plan* and the *Critical Area Law*.
  - c. When reviewing an amendment to the zoning map, the *Planning Commission* shall address the suitability of the property in question for the uses permitted under the proposed zoning. The *Planning Commission* shall not recommend the adoption of the amendment unless it finds that the adoption of the amendment is in the public interest and not solely for the interest of the applicant. Failure of the *Planning Commission* to report to the County Commissioners within 60 days following its first meeting after the proposal was referred to them shall be deemed approval.
5. Before approving any proposed change or amendment, the County Commissioners shall hold a public hearing thereon. Notice of any public hearing shall be given at least 15 days prior to the date of the hearing. The time, date, place, and nature of the hearing shall be published in a newspaper having general circulation in Kent County. The property shall also be conspicuously posted with the date, time, place, and nature of the hearing. The notices shall refer to places where the plans, ordinances, or amendment may be examined.
  6. In order to approve an amendment to the zoning map, except in the case of a Countywide comprehensive rezoning, the County Commissioners shall find either:
    - a. A change in the character of the neighborhood since the last countywide rezoning and such change is not the result of an action planned by the County; or
    - b. A mistake in the original zoning.
  7. The County Commissioners shall render its decision within ninety (90) days of the hearing.
  8. Petitions for amendments, supplements, or changes denied by the County Commissioners, or substantially similar petitions, shall not be considered for one year after the denial.
  9. Any *persons* aggrieved by any decision of the County Commissioners may within 30 days after such decision appeal to the Circuit Court of Kent County.
  10. Amendments dealing with *Critical Area* Districts or *Critical Area* related items shall not be effective until effective under Natural Resources Article 8-1809, as the same may be amended from time to time.

## SECTION 7. GRANDFATHERING IN THE CRITICAL AREA

Except as otherwise provided, the types of land described in the following subsection may be developed in accordance with the *density* requirements in effect prior to the adoption of the Kent County *Critical Area* Program.

A single *lot* or parcel of land that was legally of record on the date of the program approval shall be permitted to be developed with a *single family dwelling*, if a dwelling is not already placed there, notwithstanding that such *development* may be inconsistent with the *density* provisions of the approved programs:

1. Any land on which *development* activity has progressed to the point of the pouring of foundation footings or the installation of structural members;

2. Any legal parcel of land, not being part of a recorded or approved *subdivision*, that was recorded as of December 1, 1985, and land that was subdivided into recorded, legally buildable lots, where the *subdivision* received the County's final approval prior to December 1, 1985.
3. Land that was subdivided into recorded, legally buildable lots, where the *subdivision* received the County's final approval after December 1, 1985 provided that either *development* of such land conforms to the *Critical Area* criteria in this Ordinance and the other necessary *regulations*, or the area of the land is counted by the County against the growth increment permitted under COMAR 27.01.02.06.
4. Nothing in this section shall be interpreted as altering any requirements for *development activities* as set forth in Articles V and VI of this Ordinance for habitat protection areas and water dependant facilities.
5. Kent County encourages the consolidation or reconfiguration of these lots to bring these lands into conformance with the Critical Area Program.

#### SECTION 8. VALIDITY

If any section, paragraph, *subdivision*, clause, phrase, or provision of this Ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any part of the provision thereof, other than the part so decided to be invalid or unconstitutional.

#### SECTION 9. REPEAL OF CONFLICTING ORDINANCES

The Kent County Zoning Ordinance adopted August 1, 1989, the Kent County *Subdivision* Ordinance adopted December 23, 1969, the Kent County Floodplain Management Ordinance adopted April 7, 1992, the Erosion and Sediment Control Ordinance adopted November 5, 1985, the Kent County Stormwater Management Ordinance adopted August 17, 2001, and the Kent County Forest Conservation Ordinance adopted January 5, 1993, and all amendments are hereby repealed.



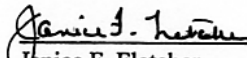
**SECTION 1.** BE IT ENACTED by the Board of the County Commissioners of Kent County, Maryland, that the Zoning Ordinance for Kent County and amendments thereto, Zoning Maps for Kent County and Part III of the Public Local Laws of Kent County be and are hereby repealed and re-enacted with amendments to read as is more particularly shone as the "Draft of Land Use Ordinance, Kent County, Maryland," dated May 2002, the Buffer Modified Area Maps, prepared by the Kent County Planning Commission, The Flood Insurance Rate Maps, dated December 4, 1985, as amended prepared by FEMA and the Map for Kent County Overlay Zone (Airport Safety Zone Map) dated September, 1999, by McCrone, Inc. are hereby enacted to stand in place and stead of the laws and maps repealed.

**SECTION 2.** BE IT FURTHER ENACTED, that this Act be adopted on the 3<sup>rd</sup> day of December, 2002, however the provisions of this Act shall take effect on the 17<sup>th</sup> day of January, 2003 contingent upon approval by the Chesapeake Bay Critical Areas Commission.

Read Third time December 3, 2002.  
PASSED this 3rd day of December, 2002.  
Failed of passage \_\_\_\_\_.

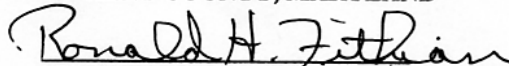
ORDERED a fair summary thereof or the entire bill shall be published in at least one newspaper of general circulation in the County, not less than three times at weekly intervals within a four week period.

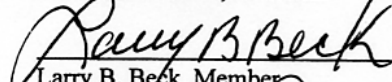
By Order of

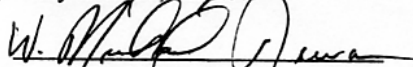
  
Janice F. Fletcher  
Executive Assistant

Approved:  
Date: 12/3/02

**THE COUNTY COMMISSIONERS  
OF KENT COUNTY, MARYLAND**

  
Ronald H. Fithian, President

  
Larry B. Beck, Member

  
W. Michael Newnam, Member

**SECTION 3.** **BE, IT FURTHER ENACTED** that this Act shall take effect on the 3rd day of October, 2003, except that this Act shall not apply to the following projects for a period of two years from the effective date of this Act, so long as substantial construction is begun within the two year period: subdivisions that have received preliminary approval as of the effective date of this Act; site plans that have received preliminary approval as of the effective date of this Act; minor subdivisions and adjustment of lot lines under review by the Technical Advisory Committee as of the effective date of this Act; and the Andover Acres Phase II and Barrett Family Limited Partnership subdivisions as shown on their most recent concept plans as of the effective date of this Act.

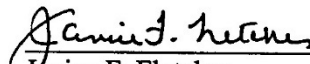
Read Third Time August 19, 2003.

PASSED this 19th day of August, 2003.

Failed of passage \_\_\_\_\_.

ORDERED a fair summary thereof of the entire bill shall be published in at least one newspaper of general circulation in the County, not less than three times at weekly intervals within a four week period.

By Order Of:

  
Janice F. Fletcher  
Executive Assistant

Approved:  
Date: 8/19/03

THE COUNTY COMMISSIONERS OF  
KENT COUNTY, MARYLAND

  
William W. Pickrum, President

  
Roy W. Crow, Member

\_\_\_\_\_  
Scott D. Livie, Member