LAND USE ORDINANCE

KENT COUNTY, MARYLAND

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ARTICLE I. TITLE AND APPLICABILITY

SECTION 1. TITLE

This Ordinance shall be known as the Land Use Ordinance for Kent County, Maryland. It provides a unified, comprehensive approach to *regulations* that affect land use including Zoning, *Subdivision*, *Forest Conservation*, *Floodplain* Management, Sediment and Erosion Control, *Stormwater Management*, and the Chesapeake Bay *Critical Area*.

SECTION 2. APPLICABILITY

1. The provisions of this Ordinance shall apply to the unincorporated territory of Kent County, Maryland.

2. Except as otherwise provided by this Ordinance, all land use that occurs within the unincorporated territory of Kent County, Maryland shall comply with the applicable terms and requirements of this Ordinance.

3. No *lot* shall be created which does not conform to the applicable requirements of this Ordinance.

ARTICLE II. PURPOSE

The purpose of this Ordinance is to implement the Kent County *Comprehensive Plan* and to promote the health, safety, general welfare, and prosperity of the present and future inhabitants of Kent County, Maryland by:

1. Giving effect to policies and proposals of the Kent County *Comprehensive Plan*.

2. Reducing financial burdens imposed on the community by preventing unwise land use that requires costly infrastructure, harms existing communities, or is in areas of natural hazards such as *floodplains*, *shoreline cliffs*, *steep slopes*, and areas subject to *erosion*.

3. Minimizing damage to public and private property.

4. Providing for the preservation and enhancement of the attractiveness of Kent County through good design and arrangement, and the provision of adequate *public utilities*, *open space*, services, and facilities.

5. Enhancing the County's employment base.

6. Protecting and preserving Kent County's agricultural industry and the prime agricultural *soils* essential to the conduct of this industry.

7. Providing efficiency in the process of *development*.

8. Protecting Kent County's significant historic *structures* and areas from destruction or encroachment.

9. Protecting the biological and environmental quality of Kent County, including *forest*, water quality, habitat, and *wetlands*.

10. Reducing the effects of land use on land *erosion* or stream channel *erosion*.

11. Dividing the territory of Kent County, Maryland into zoning districts; governing the use of the land and the intensity of such use, including *bulk* and height.

12. The purposes of the *Floodplain* Management provisions are to provide public awareness for flooding prevention; to protect individuals from unknowingly buying land and *structures* subject to *flood* hazard; and to encourage appropriate construction practices in order to prevent or minimize future *flood* damage.

13. The purposes of the *Stormwater Management* provisions are to reduce local flooding, to control *adverse impacts* associated with increased *stormwater*; and to improve or substantially maintain after *development* the predevelopment runoff characteristics of the *site*.

ARTICLE III. DISTRICTS AND DISTRICT MAPS

SECTION 1. ESTABLISHMENT OF DISTRICTS

In order to regulate and restrict the location and use of land and *structures* for trade, industry, residence, and for other purposes; to regulate and restrict the location, height, and size of *structures* hereafter erected or structurally altered, the size of *yards*, and other *open space*, and the density of population, the zoning districts are hereby established:

Agricultural (AZD)
Rural Character (RC)
Rural Residential (RR)
Community Residential (CR)
Village (V)
Intense Village (IV)
Commercial (C)
Crossroads Commercial (CC)
Employment Center (EC)
Industrial (I)

Within the Resource Conservation Area of the *Critical Area*:

Resource Conservation (RCD)

Resource Conservation Areas are those areas characterized by *nature-dominated* environments (that is, wetlands, forest and abandoned fields) and resource-utilization activities (that is, agriculture, forestry, fisheries' activities or aquaculture). As of December 1, 1985, these areas had at least one of the following features:

1. Density was less than one dwelling unit per 5 acres; or
2. Dominant land use was in agriculture, wetland, forest, barren land, surface water or open space.

Within the Limited Development Area of the *Critical Area*:

Critical Area Residential (CAR)
Commercial *Critical Area* (CCA)
Industrial *Critical Area* – LDA (ICA-LDA)

Limited Development Areas are those areas which are currently developed in low or moderate intensity uses. They also contain areas of plant and animal habitats, and the quality of runoff from these areas has not been substantially altered or impaired. As of December 1, 1985, these areas had at least one of the following features:

1. Housing density ranging from one dwelling unit per 5 acres up to four dwelling units per acre;
2. Areas not dominated by agriculture, wetland, forest, barren land, surface water or open space;
3. Areas meeting the conditions of an intense development area but not concentrated in an area of at least 20 acres; or
4. Areas having public sewer or public water or both.

Within the Intense Development Area of the *Critical Area*:

Intense Village *Critical Area* (IVCA)
Marine (M)
Industrial *Critical Area* (ICA)
Conference centers, *resorts*, *retreats*, *campgrounds*,** and other uses that have received growth allocation.
Commercial Critical Area parcels that have received growth allocation*

Intense Development Areas are those areas where residential, commercial, institutional and/or industrial developed land uses predominate and where relatively little natural habitat occurs. As of December 1, 1985, these areas had at least one of the following features:

1. Housing density equal to or greater than four dwelling units per acre;
2. Industrial, institutional or commercial uses concentrated in the area; or
3. Public sewer and water collection and distribution systems were currently serving the area and housing density was greater than three dwelling units per acre; and
4. These areas are concentrated in an area of at least 20 acres.

SECTION 2. ESTABLISHMENT OF DISTRICT MAP

Such land and the district classifications thereof shall be shown on the map designated as the "Zoning District Map of Kent County, Maryland," dated and signed by the President of the County Commissioners and attested by the Clerk of the County Commissioners upon adoption. This Zoning District Map and all notations, dimensions, references, and symbols thereon shall be considered a part of this Ordinance and shall be filed as a part of this Ordinance with Kent County Department of Planning and Zoning. The original map shall be marked "Original Copy" and is not to be altered or removed from the Department of Planning and Zoning except by Court Subpoena. Copies of the Zoning Map shall be available for inspection in the Department of Planning and Zoning.

* Amended 6/3/09; ** Amended 3/3/20

SECTION 3. ANNUAL REVISION OF THE DISTRICT MAP

No later than March 31 of the year following adoption of this Ordinance, copies of the map shall be available to the public. In each calendar year thereafter, the Zoning Map shall be revised no later than March 31, reflecting changes in permitted uses, district boundaries or classification, and land use *regulations* as of December 31 of the preceding year.

SECTION 4. PERIODIC REVIEW

At least every six years, the *Planning Commission* and County Commissioners shall review the land use *regulations* and district map for consistency with the *Comprehensive Plan*, deficiencies or difficulties in administration, or any other reason the Commission may determine.

SECTION 5. INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainties exist with respect to the district boundary, the following applies:

1. Where a boundary is given a position within a *street*, *alley*, or *easement*, the boundary shall be deemed to be the center of the *right of way* of the *street*, *alley*, or *easement*.

2. If the actual location of a *street*, *alley*, or *easement* varies from the location shown on the map, the actual location shall control.

3. Where a boundary is shown as being located a specific distance from a *street* or other physical feature, this distance shall control.

4. Where the district boundary approximately coincided with *lot lines*, the *lot line* shall be construed to be the district boundary unless otherwise indicated.

5. Where district boundaries do not coincide with *lot lines* and *streets*, and where no dimensions are shown, the location of the boundary shall be determined by use of the scale shown on the map.

ARTICLE IV. GENERAL PROVISIONS

SECTION 1. COMPLIANCE WITH REGULATIONS

Hereafter, the following shall not take place unless in conformity with the *regulations* set forth in this Ordinance:

- Change of a use of any land and *structures*.
- Construction, reconstruction, modification, extension, or expansion of *buildings* or *structures*.
- Placement of *fill* and land *excavation*.
- Land *clearing*.
- Dumping or storage of materials.
- *Subdivision*.

SECTION 2. CONFLICT WITHIN ORDINANCE

In the event of any conflict between the limitations, requirements, or standards contained in different provisions of this Ordinance, the more restrictive provision shall apply.

SECTION 3. CONFLICT WITH OTHER REGULATIONS

In the event that this regulation conflicts with other federal, state, or local *regulations*, the more restrictive regulation shall prevail.

SECTION 4. USES NOT LISTED

For the purposes of this Ordinance, permitted uses are listed for the various districts. Unless the contrary is clear from the context of the lists or other *regulations* of this Ordinance, uses not specifically listed are prohibited.

SECTION 5. ACCESSORY STRUCTURES; PRIOR CONSTRUCTION

No *accessory structure* shall be constructed more than six months prior to the construction of the main *structure*. No *accessory structure* shall be used for more than six months unless the main *structure* is also being used or is under construction.

The Planning Director, or Planning Director's designee, may grant a one (1) year extension to allow *accessory structures*, which were legal, conforming *structures* and where the existence of the *structure* will not result in a nuisance to the neighborhood, to remain following the *demolition* of the main *structure*. More than one extension may be granted.*

SECTION 6. PARCEL OF RECORD REQUIRED

Every new *structure* or any *structure* that is relocated shall be on a parcel of record; in no case shall there be more than one main *structure* on a single parcel unless otherwise provided by this Ordinance.

SECTION 7. ENCROACHMENT OR REDUCTION OF HEIGHT, BULK, AND AREA REQUIREMENTS

No parcel area or dimension shall be reduced below the requirement of this Ordinance. The minimum *yards*, parking, and *loading spaces* required by this Ordinance shall not be encroached upon unless otherwise provided by this Ordinance.

SECTION 8. DENSITY DETERMINATION

Outside the Chesapeake Bay *Critical Area*, all lots, parcels, *sites*, and other divisions of land recorded after August 1, 1989, from an original *lot*, *tract*, or parcel of land described in the Land Records of Kent County, shall be counted in determining the permitted *density* of a parcel of land. Within the Chesapeake Bay *Critical Area*, all lots, parcels, *sites*, and other divisions of land recorded after December 1, 1985, shall be counted in determining the permitted *density* of a parcel of land. The original parcel is counted when determining *density* both within and outside the Chesapeake Bay *Critical Area*.

SECTION 9. SUBDIVISION

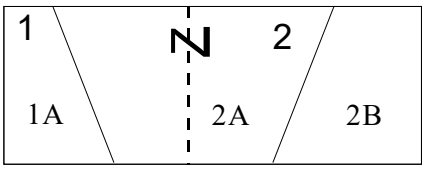
1. *Lot* Determination - All lots, parcels, *sites*, and other division of land recorded after December 23, 1969 from an original *lot*, *tract*, or parcel described in the Land Records of Kent County shall be counted in determining the number of lots in the *subdivision*. The original *lot* is also counted in determining the number of lots.

* Amended 6/7/11

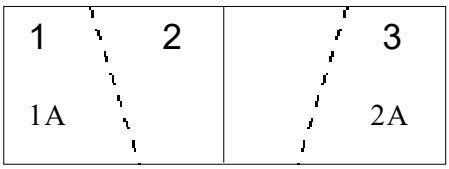
2. *Subdivider* Must Prepare and Record Plat - Any owner who subdivides land into lots, blocks, *streets*, *alleys*, public ways, or public grounds shall prepare a plat of *subdivision* to be made in accordance with the *regulations* set forth herein and the laws of the State of Maryland and shall record a copy of the plat with the Kent County Clerk of Court.

3. Approval of Plat Required - A plat of *subdivision* shall not be recorded by the Kent County Clerk of Court until the plat is approved by the Kent County Planning Commission or where applicable the Planning Director.

4. Transfer of Land; Building Permits - No parcel of land in a *subdivision* created after December 23, 1969 shall be transferred, sold, or offered for sale, nor shall a building permit be issued for any *structure* thereon, until a plat of *subdivision* is recorded with the Kent County Clerk of Court.



Original Parcels



Proposed Parcels

5. Resubdivision - When recording resubdivisions or combining lots in recorded subdivisions, letters rather than numbers should be used to indicate lots whose boundary and area have been affected.

   The numerical sequence shall remain intact to avoid confusion in the future.

6. Major *Subdivision* - A major *subdivision* is any *subdivision* containing six (6) or more lots, parcels, plats, *sites*, or other divisions of land.

7. Minor *Subdivision* - A minor *subdivision* is any *subdivision* containing five (5) of fewer lots, parcels, plats, *sites*, or other division of land.

8. *Private roads* - *Private roads* are only allowed in minor subdivisions. A *private road* may serve no more than five (5) parcels. *Private roads* shall comply with the Kent County Road Design and Construction Standards.

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ARTICLE V. DISTRICT REGULATIONS

SECTION 1. AGRICULTURAL ZONING DISTRICT

1.1 STATEMENT OF INTENT

The purpose of the Agricultural Zoning District is to encourage the use of agricultural land for farming and other agricultural businesses and to limit the use of these lands for non-agricultural purposes. *Agriculture*, including animal husbandry, is the preferred and primary use in the Agricultural Zoning District. In general, the District will consist of large contiguous areas predominantly devoted to *agriculture* or forestry and principally composed of Class I, II, and III *soils*. The District will contain some sensitive areas not well suited to *agriculture* to provide large contiguous areas. The sum of these areas consists of enough land to help maintain a market for the necessary agricultural support services in the County. In addition, the District is to provide for farm, *home occupations*, and *cottage industries* that are compatible with *agriculture* as a means to further diversify the County's economy.

1.2 PERMITTED PRINCIPAL USES AND STRUCTURES

A *building* or land shall be used only for the following purposes:

1. *Agriculture*, including horticultural, hydroponics, general farming, orchards, groves, or nurseries for growing or propagation of plants, trees, and shrubs.

2. The keeping, dairying, or raising for sale of animals, fish, birds, or reptiles but not including poultry houses, *feedlots*, horses, mules, or confinement dairies. Nutrient management plans are required. The Planning Director may waive the nutrient management plan for 4-H projects and FFA projects.

3. *Aquaculture*, including accessory processing and sales.

4. *Camp, day or boarding*, private or commercial, but not *recreational vehicle* or migrant labor camps.

5. Circus or carnival, midways and amusement parks, maze fields and other temporary recreational uses, for a specified period. The Planning Director may require a *site plan* and place conditions as may be appropriate to assure the compatibility of the temporary recreational use with this district.

6. Detached *single family dwellings*.

7. *Erosion* and *flood* control *structures*.

8. Greenhouses, wholesale or retail.

9. Hunting blinds, pits, or preserves.

10. Livestock auction houses.

11. *Personal wireless facilities* collocated on existing towers, water towers, electrical transmission towers, fire towers, silos, *grain dryers*, or other *structures* provided the height of the existing *structure* is not above that permitted by this Ordinance.

12. Poultry houses provided:
    a. Poultry houses, waste management facilities, composters, and the area for the disposal of animals shall be a minimum of 600 feet from all property lines.
    b. No poultry house, waste management facility or composter shall be in the *100-year floodplain*.
    c. The operation is managed according to waste and nutrient management plans, approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that phosphorous is a problem or has the potential to become a problem, the plan shall use phosphorus based nutrient management. When in the opinion of the Planning Director additional review is necessary from an outside agency, the Planning Director may forward the plan to the Maryland Department of the Environment or any other appropriate agency.
    d. Land in Kent County owned by the owner/operator of the poultry house shall be able to handle the manure and waste generated. The acreage requirements identified in the approved waste and nutrient management plan will be used to determine if an operation meets this requirement.
    e. Manure storage sheds and composter appropriate to the size of the operation shall be included and shall be constructed prior to receiving the first flock of chickens.

13. Public and private *forests*, wildlife reservations and similar conservation projects.

14. Public and private parks and playgrounds for the purpose of conserving and enjoying the natural resources, including both active and passive parks owned and operated by Kent County, the State of Maryland, or federal government but not including commercial play fields for football, baseball, and other major sports activities such as motocross or drag racing fields.

15. Railroad *right of ways* including a strip of land with tracks and auxiliary facilities for track operations; but not including passenger stations, freight terminals, switching and classification yards, repair shops, round houses, interlocking towers, and fueling, sanding, and watering stations.

16. *Sawmills*, temporary, for cutting timber grown on the *premises*.

17. *Stable, private* provided:
    a. The *lot* shall be two acres or more.
    b. Any *structure* for the housing or feeding of animals shall be a minimum of 100 feet from any property line.
    c. There shall be no more than one horse per acre of land. Only available pasture acreage shall be used to compute the number of horses allowed on a parcel.
    d. The operation is managed according to waste and nutrient management plans, approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that phosphorous is a problem or has the potential to become a problem, the plan shall use phosphorus based nutrient management. When in the opinion of the Planning Director additional review is necessary from an outside agency, the Planning Director may forward the plan to the Maryland Department of the Environment or any other appropriate agency.

18. Stable, commercial provided:
    a. The *lot* is 20 acres or more.
    b. Any *structure* for the keeping or feeding of animals and waste management *structures* shall be a minimum of 400 feet from any property line.
    c. No waste management facility or *structure* for the keeping of animals is in the *100-year floodplain*.
    d. The feeding and watering of animals are conducted a minimum of 100 feet from tidal water and *tributary streams*, both tidal and non-tidal, and 50 feet from *non-tidal wetlands*.
    e. The operation is managed according to waste and nutrient management plans, approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that phosphorous is a problem or has the potential to become a problem, the plan shall use phosphorus based nutrient management. When in the opinion of the Planning Director additional review is necessary from an outside agency, the Planning Director may forward the plan to the Maryland Department of the Environment or any other appropriate agency.

19. *Structures* for the buying, processing, and sale of farm products related to *agriculture*, excluding any animal products, but including seed and fertilizer sales provided that the total square footage of the *buildings* does not exceed 10,000 square feet. The 10,000 square foot restriction applies only to those *structures* associated with the approved business and not to *structures* normally associated with permitted agricultural operations. *Structures* for the buying, processing, and sale of farm products are subject to *site plan* review by the *Planning Commission* or where applicable the Planning Director.

20. Veterinary hospitals or clinics and animal shelters as defined by the County Code of Public Laws provided that all open kennels shall be at least 200 feet from all property lines. **

21. *Mobile homes* existing and in use as of January 16, 1996 may be continued in use and may be replaced with another *mobile home*, provided the replacement *mobile home* complies with the Kent County Codes and all Health Department *regulations*. It is not the intent of this provision to allow additional *mobile homes* in the County, but rather to allow the continued use and improvement (including replacement) of *mobile homes* existing as of January 16, 1996. A *mobile home* that remains idle or unused for a continuous period of two years shall not be used again except in conformity with these *regulations*.

1.3 SPECIAL EXCEPTIONS

The following principal uses and *structures* may be permitted as special exceptions in the Agricultural Zoning District, subject to *site plan* review by the *Planning Commission* or where applicable the Planning Director. Detailed limitations and standards for these uses may be found in Article VII of this Ordinance.

1. Accessory storage *structures* with a *floor area* of more than 1,200 square feet or a height that exceeds 17 feet on parcels less than 5 acres
2. *Accessory structures* in the *front yard* of *through lots*
3. Adaptive reuse of historic *structures*
4. *Airport*, landing field, heliport, or helistop, public or private
4.5 Assisted living facilities with five to eight beds*
5. Cemetery, including crematorium and mausoleum
6. *Cottage industries*, tradesmen and artisan shops
7. *Country inn*
8. *Country stores*, on *primary* and *secondary roads*

* Amended 11/3/09; ** Amended 8/20/19

9. *Day care group*
10. *Excavation contractor's yard*
11. Exposition center or fairgrounds
12. Farm employee housing
13. *Feedlot* or confinement dairy
14. Golf course, public or private
15. Migrant labor camps
16. More than four horses and mules on land less than 20 acres in size
17. *Personal wireless facility tower*
18. Poultry houses on parcels where the owner cannot handle the waste generated by the poultry houses
19. Private schools
20. *Public landings*
21. *Public utilities* and *structures*

21.5 *Rural Inn***

22. *Retreat*
23. Rifle and pistol ranges, trap and skeet shooting, sporting clays or similar activities such as paint ball, including accessory snack bars and retail sales of shooting supplies and equipment, commercial or *private club*
24. Sand and gravel pits, *excavation* or extraction (not including the removal of sod and *excavation* for foundations, *swimming pools*, *soil* and water conservation practices, and those removals approved in connection with farm use, *street* construction, *subdivision*, or planned residential *development*)
25. *Sanitary landfill* or rubble fill owned or managed by Kent County
26. *Sewage sludge land application*

26.5 *Solar energy systems, utility scale*, on farms*

27. *Structures* for the buying, processing, and sale of animal products, commercial
28. *Structures* for the buying, processing, and sale of farm products related to *agriculture*, including the sale of fertilizer and seed but not including animal products, in *structures* that exceed 10,000 square feet but are less than 50,000 square feet***
29. *Wind energy systems, small,* with a height that exceeds 80 feet or on parcels less than 20 acres*

1.4 ACCESSORY USES AND STRUCTURES

A. The following *accessory uses* are permitted on all *farms* in the Agricultural Zoning District.

1. Accessory farm *buildings*, including barns, cribs, stables, sheds, tool rooms, shops, bins, tanks, and silos. All *structures* for the keeping of animals shall be a minimum of 100 feet from any property line.

2. Accessory open or enclosed storage of farm materials, products, equipment, or vehicles.

3. Accessory storage of fertilizer and chemicals used in connection with the operation of the owner.

4. Accessory *roadside stand* for the sale of farm products.

5. Accessory farm dwellings, one on all *farms*, two on *farms* with a minimum of 50 tillable acres. Accessory farm dwellings may be *mobile homes*. These dwellings shall share a common entrance and shall be occupied by permanent employees of the *farm* or immediate members of the *family* owning or operating the *farm*. All accessory farm dwellings shall be landscaped and screened from adjacent properties.

6.

* Amended 9/6/11; ** Amended 4/8/15;
*** Amended 9/3/19

Guest house one, but not including *mobile homes*, provided:

a. The house is used exclusively for non-paying guests; and

b. No house shall be used as a permanent residence nor be rented or sold separately from the principal dwelling.

7. One hunting trailer, temporary, from September 1 to the following February 15 continually, provided that such trailer is a minimum of 150 feet from all property lines. These shall be located around existing *buildings* and out of sight.

8. The following *accessory uses* must be at least 200 feet from all property lines:

a. Commercial assembly in a *totally enclosed building* not to exceed 10,000 square feet in size, and repair of all equipment normally used in *agriculture*.

b. Petroleum storage, not to exceed 10,000 gallons and subject to applicable safety codes, ordinances, and statutes.

c. Grain, flour, and feed blending and packaging, including milling, drying, and storing.

9. Parking of commercial vehicles provided:

a. The vehicles are related to the operation of the *farm* or three non-farm related vehicles.

b. The vehicles are parked around existing *buildings*. Non-farm related vehicles cannot be parked on *farms* without *buildings*.

c. The vehicles have current licenses and are operable.

10. School buses, limited to five, parked around existing *buildings* provided the buses have current licenses and are operable.

10.5 Waste management *structures*, where not otherwise stipulated in this Ordinance, provided: **

a. Waste management *structures* shall be a minimum of 600 feet from all property lines.

b. No waste management structure shall be in the *100-year floodplain*.

c. The operation is managed according to waste and nutrient management plans, approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department.

11. *Wind energy systems, small*, provided:*

a. The height of the *structure* to the tip of the blade at its highest point does not exceed 80 feet.

b. Any system is located a minimum of 3 times its total height from a property line.

c. Towers are not readily climbable from the ground up to 12 feet.

d. All access doors to towers and electrical equipment shall be lockable.

e. Appropriate warning signage is placed on the tower and electrical equipment.

f. The blade tip at its lowest point had a ground clearance of at least 25 feet.

g. Wind turbines and towers maintain a galvanized steel, brushed aluminum finish, or a non-garish color.

h. Any small wind energy system that is not operational for a period of 12 consecutive months or more shall be removed at the landowner's expense.

B. The following *accessory uses* are permitted on all properties in the Agricultural Zoning District.

1. Accessory *off-street parking* and loading of non-commercial vehicles that have current licenses and are operable.

2. Accessory *dwelling unit*, one, in principal or *accessory structures* provided:

a. The property owner resides on the *premises*.

b. The accessory *dwelling unit* is subordinate to the principal dwelling in size and appearance.

c. The accessory *dwelling unit* may be rented but not sold as a separate unit.

* Amended 9/6/11 **Amended 10/3/17

d. The appearance of the *structure* and property remain that of a *single family dwelling* so that the average neighbor is unaware of the accessory *dwelling unit's* existence.
e. If the entrance to the accessory *dwelling unit* is separate from that of the primary dwelling, the entrance to the accessory *dwelling unit* shall be from the *side* or *rear yard*.
f. One parking space is provided in the *rear yard* for the accessory *dwelling unit*.
g. The *structure* meets all applicable Kent County Codes, including the building code, and Health Department *regulations*.

3. Accessory *off-street parking* of one commercial vehicle in the *rear yard* provided:
   a. The vehicle is used by the occupant of the dwelling.
   b. The vehicle does not exceed 16,000 pounds manufacturer's gross vehicle weight.
   c. No major repair is conducted *on-site*.
   d. No engines may run when parked *on-site*. Electrical refrigeration units may run.
   e. Honey wagons, sanitation, garbage, or other trucks used to transport odorous, flammable, or hazardous materials are prohibited.
   f. The vehicle has a current license and is operable.

4. Appurtenant *signs* in accordance with Article VI, Section 2 of this Ordinance.

5. Assisted living facilities or *group homes*, with no more than four beds provided:
   a. The property owner resides on the *premises*.
   b. The assisted living facility or *group home* is subordinate and accessory to the principal dwelling in size and appearance and is in the same *structure* as the principal *dwelling unit*.
   c. The rooms for the use are not designed or constructed to be separate *dwelling units* and may not be sold as separate *dwelling units*.
   d. The appearance of the *structure* and property remain that of a *single family dwelling* so that the average neighbor is unaware of the assisted living facility's or *group home's* existence.
   e. The *structure* meets all applicable Kent County Codes, including the building code, and Health Department requirements.

6. *Dog kennels,* commercial, provided:*
   a. Any open dog pens, runs, cages, or kennels shall be 200 feet from any side or rear lot line.
   b. The operation is managed according to waste and nutrient management plans approved by the Natural Resources Conservation Service, the University of Maryland Cooperative Extension Service, and the Kent County Health Department.

7. *Day care home* provided:
   a. Outdoor play areas are fenced and screened.
   b. Structured areas for active play or play *structures* shall not be in the *front yard* and shall be a minimum of 10 feet from the side or rear property line.
   c. One drop off / pickup space is provided.
   d. Structural or decorative additions shall be designed to be compatible with the residential character of the neighborhood.
   e. *Signs* shall be limited to two square feet.

8. *Home occupations* in main or accessory *buildings*
   Intent - The conduct of business in residential units may be permitted under the provisions of this section. It is the intent of this section to:
   a. Ensure the compatibility of *home occupations* with other uses in residential areas.

* Amended 11/1/05

b. Maintain and preserve the character of residential neighborhoods by regulating the operation of *home occupations* so that the average neighbor is unaware of their existence.
c. Guarantee to all residents freedom from excessive noise, excessive traffic, nuisance, fire, hazard, and other possible effects of commercial uses being conducted in residential areas.
d. Promote the efficient use of public services and facilities by assuring these services are provided to the residential population for which they were planned and constructed, rather than commercial uses.

Conditions -

a. A *home occupation* shall be incidental to the use of a *dwelling unit* for residential purposes and shall be conducted only by members of the *family* residing in the *dwelling unit* plus one non-resident assistant or employee.
b. Outdoor storage of materials or products is prohibited.
c. The *home occupation* shall not cause any external effect such as noise, excessive lighting, or offensive odor that is incompatible with the characteristics of the residential area. The illegal discharge of any materials, fluids, or gases into the sewer system or in any other manner of discharging such items in violation of any applicable government code is prohibited.
d. Traffic generated by the *home occupation* shall not exceed that normally expected in a residential neighborhood.
e. Parking for the *home occupation* shall be provided off-street and in the *side* or *rear yard*.
f. A *home occupation* shall limit any external evidence of an occupation to one identification *sign* not to exceed two square feet.

9. *Private garages*, *swimming pools*, game courts, and other customary residential outbuildings and *structures* provided that on parcels less than five acres, the accessory storage *structures* do not exceed 1,200 square feet and a height of 17 feet.

10. *Roadside stands* offering for sale locally grown fresh agricultural products in season, operated by the owner, lessee or *tenant* of the property on which such stand is located. Adequate *off-street parking* shall be provided. Such stands shall be completely removed at the end of the local fresh produce season.

11. Satellite dish with an antenna exceeding 3 feet in diameter provided:
    a. No antenna shall exceed an overall diameter of 12 feet or an overall height of 15 feet above *existing grade*.
    b. The antenna shall be permanently ground-mounted. An antenna shall not be installed on portable or moveable *structures*.
    c. The antenna shall be totally screened along the non-receptive axis, and low-level ornamental landscaping shall be installed along the reception window axis of the base of the antenna. Screening may consist of fencing or a variety of plant types. Screening may be waived when the antenna is located 100 feet from all property lines or the antenna is of a nature that is not visible or intrusive to the neighborhood.

12. Satellite dish, private, with an antenna 3 feet or less in diameter and solar panel arrays provided that the antenna is not installed on portable or movable *structures*.

13. School buses, limited to two, parked in the *rear* or *side yard* of dwellings provided the buses are owned or operated by the occupants of the dwelling, have current licenses, and are operable.

13.5 *Solar energy systems, small*, provided:*

a. Tree removal shall be minimized and any removal shall be mitigated at a ratio of one tree planted for each tree removed.

b. All solar collection devices shall register with the Department of Emergency Services and shall submit a map noting the location of the solar collection devices and the panel disconnect.

c. The total height of solar collection systems shall comply with the height requirements.

14. Storage in the *rear yard* of boats, campers, boat trailers, and camper trailers, which are titled under the name of the property owner or occupant. All boats, campers, boat trailers, and camper trailers must be operable and have current licenses if required.

15. Temporary *MET Tower* of any height provided:*

a. The tower is erected for no more than 12 months.

b. Any free standing *structure* is located a minimum of 3 times its total height from a property line.

c. Towers are not readily climbable from the ground up to 12 feet.

16. Keeping of backyard chickens**

a. Backyard chickens are defined as females of the species *Gallus gallus domesticus* kept for non-commercial purposes. The keeping of males of the species is not permitted.

b. The maximum number of chickens, 4 months or older, permitted on any lot is determined by lot size:

i. No chickens are permitted on a lot of less than ¼ acre;

ii No more than 5 chickens are permitted on a lot of ¼ acre to 1 acre;

iii. No more than 8 chickens are permitted on lots of more than 1 acre.

c. The area for keeping backyard chickens must be enclosed in such a fashion that the chickens are confined and not able to leave the owner's property. Backyard chickens will be provided with a covered, predator-proof coop or cage that is well ventilated. Hens shall have access to an outdoor enclosure that is adequately fenced to contain the birds on the property.

d. *Structures* (coops) for the housing of backyard chickens must meet the permitting requirements of this Ordinance. For movable coops, the permit application will show the area in which the coop will be moved. A copy of the Maryland Poultry Registration Form must accompany the building permit application.

e. Coops must be setback a minimum of 15 feet from any property line.

f. Coops may be placed in rear yards only.

g. Each coop must be kept clean and free of odors and materials that can attract vermin. Feed must be kept in secure containers so as not to attract vermin.

h. Waste must be composted or removed from the property.

i. The outdoor slaughtering of chickens is not permitted.

* Amended 9/6/11; ** Amended 8/5/14

1.5 DENSITY, AREA, HEIGHT, WIDTH, AND YARD REQUIREMENTS

A. Standard Development

Gross *density* (dwelling units/acre)	0.033 (1/30)[1, 6*]
Minimum *lot* size	
- *On-site* individual septic system	¾ acre
- Community system	½ acres
Minimum *lot width*	75 feet
Maximum percentage of property in lots	10% [2]
Maximum lots fronting on existing public road	2 [3]
Minimum y*ard*	
- *Front* (*primary road*)	100 feet
- *Front* (all other *roads*)	75 feet
- *Side*	15 feet
- *Rear*	30 feet
- Waterfront	100 feet
- *Accessory structures* on *farms* in the *side* and *rear yard*	25 feet
- Accessory residential *structures* in *rear yard*	
Side	3 feet
Rear	5 feet
Maximum s*tructure* height [4]	
- Residential or Agricultural *structure*	38 feet
- Fence [5]	
- Security	8 feet
- Agricultural	5 feet
- Ornamental	
Side and *Rear*	8 feet
Front	4 feet

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[1] Accessory *dwelling units* do not count toward the *density* calculation.

[2] Parcels 100 acres or larger do not count toward the maximum developed percentage of the property

[3] Parcels created before the date of adoption of this Ordinance do not count toward the two permitted road front parcels. The Planning Commission may waive this requirement if the proposal meets the waiver requirements in Article IX, Section 3 of this Ordinance.

[4] Height of *structures* may be further restricted by the Kent County *Airport* Safety Requirements as defined in Article V, Section 1.8B.4 of this Ordinance. Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

Accessory structures on parcels less than 5 acres in size may not exceed 17 feet in height without a special exception.

[5] Fences do not need to meet the yard requirements.

[6] Agricultural Easement Program – Nothing in this regulation shall limit the ability of a participant in the Agricultural Easement Program to convey real property impressed with an easement to his or her child provided the easement was recorded with the Kent County Clerk of Circuit Court prior to October 1, 2003.

* Amended 7/20/04

B. Enclave Development

1. Density, Area, Height, Width and Yard Requirements

Gross *density* (dwelling units/acre)	0.1 (1/10)[1]
Maximum *lot* size	¾ acre
Minimum *lot width*	75 feet
Maximum percentage of property in lots	10%
Minimum y*ard*	
- *Front*	20 feet
- *Side*	8 feet
- *Rear*	10 feet
- Waterfront	100 feet
- *Accessory structures* on *farms* in the *side* and *rear yard*	25 feet
- Accessory residential *structures* in *rear yard*	
Side	3 feet
Rear	5 feet
Maximum *front yard*	40 feet
Maximum s*tructure* height [2]	
- Residential or Agricultural *structure*	38 feet
- Fence [3]	
- Security	8 feet
- Agricultural	5 feet
- Ornamental	
Side and *Rear*	8 feet
Front	4 feet
Lot line setback from External Access Road	600 feet
Lot line setback from *Protected Lands*	600 feet
Maximum Enclave size	10 dwelling units
Minimum Enclave size	3 dwelling units
Maximum number of Enclaves	1 per parcel

[1] Accessory *dwelling units* do not count toward the *density* calculation.

[2] Height of *structures* may be further restricted by the Kent County *Airport* Safety Requirements as defined in Article V, Section 1.8B4 of this Ordinance. Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

Accessory structures on parcels less than 5 acres in size may not exceed 17 feet in height without a special exception.

[3] Fences do not need to meet the yard requirements.

2. Enclave Design Standards
   a. The purpose of the Enclave development pattern is to:
      i. Minimize the loss of productive agricultural land; and
      ii. Maintain the visual quality of the County's agricultural landscape.
   b. All plans should minimize the use of tillable soils for development and maximize the use of sloped and forested areas, which are otherwise less productive for agricultural uses.
   c. The design and location of the Enclave shall minimize the impacts to neighboring agricultural operations and hunting so as not to restrict the rights of adjacent landowners.
   d. The applicant must show that the agricultural land remaining after subdivision is suitable for a commercially viable agricultural enterprise.
   e. Enclaves shall be located so as to leave large blocks of open agricultural land throughout the Agricultural Zoning District.
   f. Access to the Enclave must be from a single internal road.
   g. The appearance of an Enclave from an external public road shall be that of a grouping of farm *buildings* in that they are clustered together and obviously a use subsidiary to the prime use of the land - *agriculture*.
   h. Landscaping that defines the access road along its entire length is desirable.
   i. The Enclave shall be planned and designed as a single unit with careful consideration given to the relationship of *structures* to one another, landscaping, buffering, screening, views, light and air, and internal circulation.
   j. Strong provision should be made for walking as opposed to vehicular connections within the Enclave.
   k. *Street* widths, alignments, and parking should be carefully scaled to the size of the Enclave.
   l. The streetscape of the Enclave should be designed in detail to avoid repetitious *setbacks*, driveways, elevations, and landscaping.
   m. Where an Enclave incorporates an existing historic *building*, building heights, exterior features, and building arrangement should be harmonious with the historic *structure*. *Street* widths, alignments, and parking should be carefully scaled to the size of the Enclave.
   n. Deed restrictions shall include language recognizing that the lots are in an agricultural area and refer to the right to farm law.

1.6 AGRICULTURAL ZONING DISTRICT GENERAL STANDARDS

1. *Agriculture* is the preferred use in the Agricultural Zoning District and agricultural operations are protected by the Kent County Right-to-Farm Law.

2. The reuse of existing *buildings* is encouraged.

3. The Department of Planning and Zoning shall approve *street* names. A name may not be approved if it duplicates or is too similar to the name of another road in the county or incorporated towns.

4. *Open space*, playgrounds, or other recreational areas shall be set aside at a rate of 1/10 acre per *dwelling unit*. If the land is not of significant quality and size for the purpose of providing or developing parks and recreational facilities, the *Planning Commission*, or where applicable the Planning Director, may permit a *developer* to pay a fee of $250.00 per *lot* or *dwelling unit* in lieu of providing land for recreational purposes. Recreational land required within a *subdivision* shall

be located so as to be reasonably accessible from all lots in the *subdivision* in accordance with the following:

a. *Steep slopes*, streams, lakes, *watercourses*, and *floodplains* may constitute up to 40% of the recreational land.

b. At least 60% of the recreational land shall be suitable for dry ground recreational use.

1.7 AGRICULTURAL ZONING DISTRICT ENVIRONMENTAL STANDARDS

The purpose of these standards is to provide for the proper stewardship of the County's natural resources. Specifically it is the overall goal of the county to maintain the quality of the County's *ecosystem* in the face of continuing activity, growth and change.

A. AGRICULTURAL ZONING DISTRICT GENERAL ENVIRONMENTAL STANDARDS

1. *Development* shall minimize *adverse impacts* to *non-tidal* or *tidal wetlands*, estuaries, the Chesapeake Bay, *tributary streams*, and the natural course and *riparian habitat* of these streams, habitat protection areas, or other significant habitat identified by the Department of Planning and Zoning.

2. *Development* shall minimize the removal of vegetation. The *developer* shall demonstrate that the change in vegetation minimizes the effect on microclimate.

3. *Development* shall minimize the effects of runoff on the existing volume of water or quality of any water body. Urban *best management practices* shall be used.

4. Whenever possible, land with poor drainage or other adverse conditions shall not be developed. When developed, the property owner shall agree to make any improvements necessary to render the property safe for *development*.

5. Whenever possible, land subject to periodic flooding, shall not be developed for any use that might involve danger to health, life, or property or aggravate floods.

6. Whenever possible, agricultural operations shall follow agricultural *best management practices* and are encouraged to develop and implement soil conservation and water quality plans, nutrient and pest management plans.

B. AGRICULTURAL ZONING DISTRICT SPECIFIC ENVIRONMENTAL STANDARDS

1. *Anadromous fish*

   a. Concrete riprap or other artificial surface shall not be installed on the bottom of natural streams unless it can be demonstrated that water quality and fishery habitat will be improved.

   b. Physical alteration of a stream, including but not limited to channelization, that interferes with the movement of fish shall be prohibited.

2. *Forest Conservation*

   This section applies to all *major* and *minor site plans* on units of land 40,000 square feet or greater; major and minor subdivisions; and *grading* and *sediment control permits* that result in the cumulative cutting, *clearing*, or *grading* of more than 40,000 square feet of *forest*. A forest *Declaration of Intent* is required for activities specifically exempted in Article VI, Section 8.2 of this Ordinance.

   a. A parcel with less than 20% of its *net tract area* in *forest cover* shall be afforested to 20% of its *net tract area*.

b. *Forest* on parcels with less than 20% of its *net tract area* in *forest* may be cut or cleared provided:
   i. The *afforestation* required to achieve the 20% *afforestation* level is determined prior to any *clearing* of *forest*.
   ii. The *afforestation* area consists of two (2) times the total surface area cleared and the area needed to achieve the 20% *afforestation* level before *clearing* occurred. For example, the *afforestation* area for a project with a *net tract area* of one hundred acres with ten (10) acres of existing *forest* of which five (5) acres are to be cleared is twenty (20) acres - ten (10) acres to achieve the required *afforestation* level and ten (10) acres to replace the *forest* cleared.

c. A parcel with more than 50% of its *net tract area* in *forest* may be cut or cleared provided *reforestation* occurs at a rate of one-quarter (1/4) acre planted for each acre removed above 50% of the *net tract area* or at a rate of two (2) acres planted for every acre removed below 50% of the *net tract area*. *Forest* retained over 50% of the *net tract area* is credited toward the required *reforestation*. For example, a project with a *net tract area* of one hundred (100) acres and an existing *forest* of sixty (60) acres that proposes to clear twenty (20) acres, the *reforestation* area is 22.5 acres.

d. The following trees, shrubs, plants, and specific areas are considered a priority for *retention* and protection and shall be left in an undisturbed condition unless the applicant demonstrates, to the satisfaction of the Department of Planning and Zoning, that reasonable efforts have been made to protect them and the plan cannot be reasonably altered.
   i. Trees, shrubs, and plants in sensitive areas including the *non-tidal 100-year floodplain*, *intermittent* and *perennial stream protection corridors*, *steep slopes*, *non-tidal wetlands*, and critical habitats;
   ii. Contiguous *forest* that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the *site*;
   iii. Trees, shrubs, and plants that are determined to be rare, threatened, or *endangered species* or *species in need of conservation*;
   iv. Trees that are associated with an historic *structure* or *site*, or trees that have been designated by the state or county as a national, state, or county *champion tree*; and
   v. Any *tree* having a diameter, measured at 4.5 feet above the ground, of:
      a) Thirty inches or more; or
      b) Seventy-five (75%) or more of the diameter, measured at 4.5 feet above the ground, of the current State *Champion tree* of that species as designated by the Department of Natural Resources.

e. The required *reforestation* or *afforestation* may be accomplished *on-site*, *off-site*, by contributing to a *forest* bank in the same *watershed* or by contributing to the Kent County Reforestation Fund. The preferred method of *afforestation* or *reforestation* is *on-site* or *forest* banking.

f. Whenever possible and appropriate, *afforestation* and *reforestation* shall include native species.

3. *Forest Interior Dwelling Birds*
   Development shall minimize impact on *forest interior dwelling birds*

4. Habitat
   a. *Wildlife corridors* shall be created whenever feasible.
   b. Fragmentation of habitat areas shall be minimized.
   c. *Hedgerows* are desirable as buffers.

5. *Natural heritage areas* and locations considered for Areas of Critical State Concern
These areas of local significance shall be preserved whenever possible. These areas are identified in Article VI, Section 3.8 of this Ordinance.

6. *Non-tidal wetlands*
Non-tidal wetlands shall be protected according to the *regulations* of the State of Maryland, Army Corps of Engineers, United States Fish and Wildlife Service, Environmental Protection Agency, and all other applicable State and Federal *Regulations*.

7. *Stream Protection Corridor*
All new *development* or *redevelopment* shall provide a 100-foot naturally vegetated *stream protection corridor* along all *tributary streams*. New *development activities*, including *structures*, parking areas, septic systems, and similar *impervious surfaces* shall not be permitted in the *stream protection corridor*. *Roads* that cross the *stream protection corridor* shall be minimized. The *Planning Commission* may modify the *stream protection corridor* when the following can be demonstrated:
   a. A reduced corridor achieves significant water quality and habitat improvements equal to the required corridor.
   b. More than 50% of the corridor on the *site* is impervious or more than 75% of the corridor on the *site* is disturbed with stone, septic systems, decks, or other obvious human impacts.
   c. The *site* shall include all contiguous parcels under single ownership.

8. *Stormwater Management*
No *person* shall develop any land for residential, commercial, industrial, or institutional uses or redevelop land without having provided for appropriate *stormwater management* measures that control or manage runoff from such developments except as provided in Article VI, Section 10 of this Ordinance. *Stormwater Management* shall be accomplished for all new *development* or *redevelopment* in accordance with the provisions of Article VI, Section 10 of this Ordinance.

9. Threatened and Endangered Species and Species in Need of Conservation
Threatened and *endangered species* and *species in need of conservation* shall be checked and noted before any approvals are granted by the Planning Director, *Planning Commission*, or Zoning Administrator. The Federal or State guidelines (whichever is stricter) for habitat protection must be followed during *development*. Plans shall also include provisions for continuance of the habitat protection after *development*. This can include *conservation easements*, cooperative agreements, special provisions in *forest management plans*, and donation or sale to a third party.

10. Water Quality
All new *development* or *redevelopment* must reduce pollutant loadings from the *site* and shall meet the *stormwater management* qualitative controls found in Article VI, Section 10 of this Ordinance.

1.8 AGRICULTURAL ZONING DISTRICT DESIGN STANDARDS

The purpose of these standards is to give a sense of the physical aspects of the County's environment to those contemplating new *development* in the community. Pertinent to this physical appearance is the design of the *site*, *buildings* and *structures*, plantings, *signs*, *street* hardware, and miscellaneous other objects observed by the public.

These standards are not intended to restrict imagination, innovation, or variety, but rather assist in focusing on design principles which can produce creative solutions that will develop a satisfactory visual appearance within the County, preserve taxable values, and promote the public health, safety, and welfare.

A. AGRICULTURAL ZONING DISTRICT GENERAL DESIGN STANDARDS

1. The landscape shall be preserved in its natural state, in so far as possible, by minimizing *tree* and *soil* removal. Any grade changes shall be in keeping with the general appearance of neighboring *development* areas. *Buildings* are encouraged to be located so as to maintain maximum natural *topography* and cover. *Topography*, *tree* cover, and natural drainage ways shall be treated as fixed determinants of road and *lot* configuration rather than malleable elements that can be changed to follow a preferred *development* scheme. Whenever possible, *development* shall be outside the *floodplain*.

2. *Streets* shall be designed and located in a manner so as to maintain and preserve natural *topography*, cover, significant landmarks and trees; to minimize *cut* and *fill*; and to preserve and enhance views and vistas on and off the subject parcel.

3. Proposed *development* shall be related harmoniously to the terrain and to the use, scale, and architecture of existing *buildings* in the vicinity that have functional or visual relationships to the proposed *buildings*.

4. All *open space* (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the *site* or overlooking it from nearby properties.

5. The color, size, height, lighting, and landscaping of appurtenant *signs* and *structures* shall be evaluated for compatibility with the local architectural motif and the maintenance of views and vistas of natural landscapes, recognized historic landmarks, parks, and landscaping.

6. Whenever possible, adverse effects on historic, traditional, or significant uses and *structures* shall be minimized, whether these exist on the *site* or on adjacent properties.

B. AGRICULTURAL ZONING DISTRICT SPECIFIC DESIGN STANDARDS

1. *Site* Access
   Site access shall be subject to the following *regulations* to help ensure vehicle and pedestrian safety and alleviate congestion:
   a. Where a proposed road is designated on an approved County or State map, *site plans* for *development* adjacent to the designated *roadway* shall include provisions for future access to the *roadway*.
   b. All new lots must abut upon and have access to a public or approved *private road*.
   c. Access shall be consolidated whenever possible.
   d. Whenever possible, *roads* shall be constructed above the elevation of the *100-year floodplain*.

2. *Floodplain*
   a. In order to prevent excessive *flood* damage and to allow for the protection of the natural and beneficial *floodplain* functions, all *development*, *new construction*, and *substantial improvements* to existing *structures* in all *floodplain* zones shall comply with the requirements of Article VI, Section 7 of this Ordinance, including but not limited to the following:
      i. Elevation of all new or substantially improved *structures*;
      ii. Compliance with venting and other construction standards; and

iii. Submission and recordation, where applicable, of *Elevation Certificates*, *Declaration of Land Restrictions*, deed restrictions, and venting affidavits.**

b. Placement of *buildings* and materials. In general, *buildings* and *accessory structures* should be located entirely out of the *floodplain*, out of the *flood* protection setback, or on land that is least susceptible to flooding. All *structures* permitted in the *floodplain* shall be oriented so as to offer the least resistance to the flow of floodwaters.

c. General *development* shall not occur in the *floodplain* where alternative locations exist. Before a permit is issued, the applicant shall demonstrate that new *structures* cannot be located out of the *floodplain* and that encroachments onto the *floodplain* are minimized.

3. *Subdivision*

a. Proposed *street* layout, blocks, and parcels shall be suitable in area and dimension for the type of *development* anticipated.

b. The total area shall be sufficient to provide adequate space for *off-street parking*, loading, landscaping, and other facilities.

c. Whenever possible, the *subdivision* should be designed to minimize *adverse impacts* on the agricultural operation.

d. The *lot* arrangement, design, and orientation shall be such that all lots will provide satisfactory building *sites*, properly related to *topography* and the character of surrounding *development*.

e. Every *lot* shall abut upon and have access to a public road or approved *private road*.

f. Lots adjoining *major thoroughfares* and railroad lines should be designed with extra depth and provision for an appropriate means of buffer or deeper building *setbacks*.

g. Where land in a *subdivision* adjoins a railroad line, the *street* layout shall make allowance for future grade separated railroad crossings at appropriate locations by providing extra *street right of way* widths for such crossings and by restricting intersecting *streets* at locations where they would cause interference with necessary approaches to such crossings.

h. Proposed *streets* in the *subdivision* shall provide for the continuation of existing, planned, or platted *streets* on adjacent tracts, unless such continuation shall be prevented by *topography* or other physical feature or unless such extension is found by the *Planning Commission* to be unnecessary for the coordination of *development* between the *subdivision* and such adjacent *tract*.

i. Where the *Planning Commission* deems it desirable or necessary to provide access to adjacent tracts not presently subdivided, proposed *streets* in the *subdivision* shall be extended to the boundary lines with such tracts.

j. Where a *subdivision* adjoins or embraces any part of a *major thoroughfare* as designated on the Kent County Major Thoroughfare Map, the layout of such *subdivision* shall provide for the platting and dedication of such part of the *major thoroughfare* in the location and at the width indicated on the *major thoroughfare* plan, except that the *subdivider* shall not be required to dedicate that part of such *major thoroughfare* that is in excess of eighty (80) feet in width.

k. Where deemed desirable to the layout of the *subdivision* and adjoining area, the *Planning Commission* may require the platting and dedication of one or more *collector streets* or parts thereof, to serve the *subdivision*.

l. Subdivisions shall be in full compliance with the provisions of this Ordinance.

m. *Private roads* are permitted in minor subdivisions and are subject to the following conditions:

i. Each road shall serve no more than seven parcels. In the event that an eighth parcel is created, the eighth parcel and all further divisions of land shall front on a public road.*

ii. The *subdivision* shall provide a 50-foot *right of way* for each *private road*.

* Amended 10/16/12; ** Amended 6/3/14

iii. The construction of all lanes and *private roads* shall adhere to the requirements established by the Kent County Department of Public Works and sediment control and *stormwater management regulations*.

iv. The deed and contract of sale of all lots in the *subdivision* shall state: "The road is private and not the responsibility of Kent County."

v. The plat shall identify all *private roads* and shall state: "The road is private and not the responsibility of Kent County."

4. Kent County *Airport* Safety Requirements

This section applies to properties that fall within the Kent County *Airport* Safety Zone as designated on the Kent County *Airport* Safety Zone Map. The Kent County *Airport* Safety Zone Map is incorporated into and made a part of this Ordinance. It is the purpose of this section to promote the public safety of the residents and visitors of Kent County by prohibiting to the extent possible, the creation or establishment of obstructions that are a hazard to air navigation.

a. No new ponds shall be constructed within 5,000 feet of the runway.

b. No new solid waste disposal *sites* shall be permitted within 5,000 feet of any publicly licensed *airport*. New solid waste disposal *sites* shall not be permitted within the limits of the *airport* safety zone if the FAA determines the *site* to be a hazard.

c. Developments which produce lights, illumination, or other visual hazards or which produce electronic interference with *airport*/airplane navigation signals are subject to the standards specified in the FAA procedure manual 7400-2C.

d. Except as otherwise provided in this Ordinance, no *structure* shall be erected, altered, or maintained and no *tree* or other vegetation shall be allowed to grow in excess of the height limitations as designated on the Kent County *Airport* Safety Zone Map.

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SECTION 2. RESOURCE CONSERVATION DISTRICT

2.1 STATEMENT OF INTENT

This district is intended to:

- Conserve, protect, and enhance the overall ecological values of the *Critical Area*, its biological productivity, and its diversity;
- Provide adequate breeding, feeding, and wintering habitats for those wildlife populations that require the Chesapeake Bay, its tributaries, or coastal habitats to sustain populations of those species;
- Conserve the existing *developed woodlands* and forests for the water quality benefits that they provide; and
- Conserve the land and water resource base necessary to maintain and support such uses as *agriculture*, forestry, fisheries' activities and *aquaculture*.

It includes areas characterized by *nature-dominated* environments (that is, *wetlands*, forests, abandoned fields) and resource-utilization activities (that is, *agriculture*, forestry, fisheries' activities, or *aquaculture*).

2.2 PERMITTED PRINCIPAL USES AND STRUCTURES

A *building* or land shall be used only for the following purposes:

1. *Agriculture* including horticultural, hydroponics or general farming, orchards, groves, or nurseries for growing or propagation of plants, trees, and shrubs.

2. On *farms*, the keeping, dairying or raising for sale of animals, fish, birds, or reptiles not including poultry houses, *feedlots*, horses, mules, or confinement dairies. Nutrient management plans are required. The Planning Director may waive the nutrient management plan for 4-H and FFA projects.

3. *Aquaculture*, including accessory processing and sales.

4. *Camp, day or boarding*, private or commercial, but not *recreational vehicle* or migrant labor camps, for the purpose of conserving and enjoying the natural resources.

5. Convalescent, group, or homes for the aged if located in dwellings existing as of December 1, 1985 provided that exterior changes are minimized and extension or enlargement of principle and *accessory structures* may not exceed 50% of the gross *floor area* of each individual *building*.

6. Detached *single family dwellings*.

7. Hunting blinds and hunting preserves.

8. *Personal wireless facilities* collocated on existing towers, water towers, electrical transmission towers, fire towers, silos, *grain dryers*, or other *structures* provided the height of the existing *structure* is not above that permitted by this Ordinance.

9. Poultry houses provided:
   a. Poultry houses, waste management facilities, composters, and the area for the disposal of animals shall be a minimum of 600 feet from all property lines.
   b. No poultry house, waste management facility, or composter shall be in the *100-year floodplain*.
   c. The operation is managed according to waste and nutrient management plans, approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that phosphorous is a problem or has the potential to become a problem, the plan shall use phosphorus based nutrient management. When in the opinion of the Planning Director additional review is necessary from an outside agency, the Planning Director may forward the plan to the Maryland Department of the Environment or any other appropriate agency.
   d. Land in Kent County owned by the owner/operator of the poultry house shall be able to handle the manure and waste generated. The acreage requirements identified in the approved waste and nutrient management plan will be used to determine if an operation meets this requirement.
   e. Manure storage sheds and composter appropriate to the size of the operation shall be included shall be constructed prior to receiving the first flock of chickens.

10. Public and private *forests*, wildlife reservations and similar conservation projects.

11. Public and private parks and playgrounds for the purpose of conserving and enjoying the natural resources, including both active and passive parks owned and operated by Kent County, the State of Maryland, or federal government but not including commercial play fields for football, baseball, and other major sports activities such as motocross or drag racing fields.

12. Railroad *right of ways*, existing as of April 12, 1988, including a strip of land with tracks and auxiliary facilities for track operations; but not including passenger stations, freight terminals, switching and classification yards, repair shops, round houses, power houses, interlocking towers, and fueling, sanding, and watering stations.

13. *Stable, private* provided:
   a. The *lot* shall be two acres or more.
   b. Any *structure* for the keeping of animals shall be located a minimum of 100 feet from any property line.
   c. There shall be no more than one horse per acre of land. Only available pasture acreage shall be used to compute the number of horses allowed on a parcel.
   d. The operation is managed according to waste and nutrient management plans, approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that phosphorous is a problem or has the potential to become a problem, the plan shall use phosphorus based nutrient management. When in the opinion of the Planning Director additional review is necessary from an outside agency, the Planning Director may forward the plan to the Maryland Department of the Environment or any other appropriate agency.

14. *Stable, public* provided:
    a. The *lot* shall be 20 acres or more;
    b. Any *structure* for the keeping, feeding of animals and waste management shall be a minimum of 400 feet from any property line;
    c. No waste management facility or *structure* for the keeping of animals is located within the *100-year floodplain*;
    d. The feeding and watering of animals are conducted a minimum of 50 feet from any body of water, including *tributary streams* and *wetlands*; and
    e. The operation is managed according to waste and nutrient management plans, approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that phosphorous is a problem or has the potential to become a problem, the plan shall use phosphorus based nutrient management. When in the opinion of the Planning Director additional review is necessary from an outside agency, the Planning Director may forward the plan to the Maryland Department of the Environment or any other appropriate agency.

15. Existing permitted *marinas* in the Resource Conservation District - It is the intent of this section to provide for the continued existence and operation as well as the reasonable expansion of *marinas* in the RCD zoned areas of the County, provided that such uses do not constitute a nuisance or a source of significant environmental pollution. It is not the intent to allow the creation of new *marinas*, but rather to protect those enterprises which existed in the RCD on April 12, 1988. An expansion shall require *site plan* review by the *Planning Commission* or where applicable the Planning Director. After *development* there shall be a net improvement in water quality at or leaving the *site*. All *marinas* in the RCD shall comply with all *regulations* in Article V, Section 13, (Marine District) of this Ordinance.

16. *Mobile homes* existing and in use as of January 16, 1996 may be continued in use and may be replaced with another *mobile home*, provided the replacement *mobile home* complies with the Kent County Codes and all Health Department *regulations*. It is not the intent of this provision to allow additional *mobile homes* in the County, but rather to allow the continued use and improvement (including replacement) of *mobile homes*, existing as of January 16, 1996. A *mobile home* that remains idle or unused for a continuous period of two years shall not be used again except in conformity with these *regulations*.

17. *Conference centers*, *resorts*, *retreats*, *campgrounds*,* *hotels*, and *motels* existing and in use as of August 1, 1989 in the Resource Conservation District. It is the intent of this section to provide for the continued existence and operation as well as the expansion of *conference centers*, *resorts*, *retreats*, *campgrounds*,* *hotels*, and *motels* existing and in use as of August 1, 1989 in the Resource Conservation District. It is not the intent to permit the creation of new *conference centers*, *resorts*, *retreats*, *campgrounds*,* *hotels*, or *motels*, but rather to protect those enterprises that existed in the Resource Conservation District on August 1, 1989. An expansion shall require *site plan* review by the *Planning Commission* and shall require a net improvement in water quality at or leaving the *site*. An expansion may require growth allocation.

* Amended 3/3/20

2.3 SPECIAL EXCEPTIONS

The following principal uses and *structures* may be permitted as special exceptions in the Resource Conservation District, subject to *site plan* review by the *Planning Commission* or where applicable the Planning Director. Detailed limitations and standards for these uses may be found in Article VII of this Ordinance.

1. Accessory storage *structures* with a *floor area* of more than 1,200 square feet or a height that exceeds 17 feet on property less than 5 acres
2. *Accessory structures* in the *front yard* of *through lots*
3. *Accessory structures* in the *front yard* requirement of waterfront parcels
4. Adaptive reuse of historic *structures*
5. *Conference center*
6. *Country inn*
7. *Day care group* if located in dwellings existing on December 1, 1985
8. Exposition center or fairgrounds, temporary
9. Farm employee housing
10. Golf course, public or private
11. More than four horses and mules on land less than 20 acres in size
12. *Personal wireless facility tower*
13. *Private club*s
14. *Public landings*
15. *Public utilities* and *structures*
16. *Resort*
17. *Retreat*
18. Sand and gravel pits, *excavation* or extraction (not including the removal of sod and *excavation* for foundations, *swimming pools*, *soil* and water conservation practices, and those removals approved in connection with *street* construction, *subdivision*, or planned residential *development*)
19. *Solar energy systems, utility scale*, on farms*

19.5 Tie-out pilings of private piers, *community piers*, and private shared piers, installed at a distance not to exceed 25% of the width of the waterway, the edge of the channel, or 180 feet from the mean high water mark, whichever is less, for the exclusive mooring use by tall ships as safe-harbors from hurricanes and other severe weather-related threats.**

20. *Wind energy systems, small*, with a height that exceeds 80 feet or on parcels less than 20 acres*

2.4 ACCESSORY USES

A. The following *accessory uses* are allowed on all *farms* in the Resource Conservation District.

1. Accessory farm *buildings*, including barns, cribs, stables, sheds, tool rooms, shops, bins, tanks, and silos. All *structures* for the keeping of animals shall be located a minimum of 100 feet from any property line. No *buildings* are permitted in the *buffer*.

2. Accessory farm dwellings, one on all *farms*, two on *farms* with a minimum of 50 tillable acres. A farm employee house may not be a *mobile home*. Houses must share a common entrance and shall be occupied by permanent employees of the *farm* or immediate member of the *family* owning or operating the *farm*. The total number of dwellings shall not exceed one dwelling per 20 acres, located within the Resource Conservation District.

3. Accessory open or enclosed storage of farm materials, products, equipment, or vehicles.

* Amended 9/6/11; **Amended 6/20/17

4. Accessory storage of fertilizer and chemicals used in connection with the farming operation of the owner.

5. Accessory *roadside stand* for the sale of farm products.

6. One hunting trailer, temporary, from September 1 to the following February 15, continually, provided that such trailer is a minimum of 150 feet from all property lines and not in the *buffer*.

7. The following *accessory uses* must be located at least 200 feet from all property lines:
   a. Assembly in a *totally enclosed building* not to exceed 10,000 square feet in size, and repair of all equipment normally used in *agriculture*.
   b. Petroleum storage, not to exceed 10,000 gallons and subject to applicable safety codes, ordinances, and statutes.
   c. Grain, flour, and feed blending and packaging, including milling, drying, and storing.

8. *Wind energy systems, small*, provided:**
   a. The height of the *structure* to the tip of the blade at its highest point does not exceed 80 feet.
   b. Any system is located a minimum of 3 times its total height from a property line.
   c. Towers are not readily climbable from the ground up to 12 feet.
   d. All access doors to towers and electrical equipment shall be lockable.
   e. Appropriate warning signage is placed on the tower and electrical equipment.
   f. The blade tip at its lowest point had a ground clearance of at least 25 feet.
   g. Wind turbines and towers maintain a galvanized steel, brushed aluminum finish, or a non-garish color.
   h. Any small wind energy system that is not operational for a period of 12 consecutive months or more shall be removed at the landowner's expense.

9. Waste management structures, where not otherwise stipulated in this Ordinance, provided: ***
   a. Waste management *structures* shall be a minimum of 600 feet from all property lines.
   b. No waste management structure shall be in the *100-year floodplain*.
   c. The operation is managed according to waste and nutrient management plans, approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department.

B. The following *accessory uses* are allowed on all properties in the Resource Conservation District

1. Accessory *dwelling unit*, one, in principal or *accessory structures*, provided:*
   a. The property owner resides on the premises.
   b. The accessory *dwelling unit* is located within the primary *dwelling unit* or its entire perimeter is within 100 feet of the primary *dwelling unit*.
   c. The accessory *dwelling unit* does not exceed 900 square feet in total enclosed area.
   d. The accessory *dwelling unit* is served by the same sewerage disposal system as the primary *dwelling unit*.
   e. If the accessory *dwelling unit* is located within the primary *dwelling unit*, it shall not increase the amount of *impervious surfaces* already attributed to the primary *dwelling unit*.
   f. The accessory *dwelling unit* may not be subdivided or conveyed separately from the primary dwelling unit.
   g. The appearance of the *structure* and property remain that of a single family residence so that the average neighbor is unaware of the accessory *dwelling unit*'s existence.

* Amended 9/7/04; ** Amended 9/6/11 *** Amended 10/3/17

h. If the entrance to the accessory *dwelling unit* is separate from that of the primary dwelling, the entrance to the accessory *dwelling unit* shall be from the *side* or *rear yard*.
i. One parking space is provided in the *rear yard* for the accessory *dwelling unit*.
j. The *structure* meets all applicable Kent County Codes, including the building code, and Health Department regulations.
k. The accessory *dwelling unit* is subordinate to the principal dwelling in size and appearance.

2. Accessory *off-street parking* and loading of non-commercial vehicles that have current licenses and are operable.

3. Accessory *off-street parking* of one commercial vehicle in the *rear yard* provided:
   a. The vehicle is used by the occupant of the dwelling.
   b. The vehicle does not exceed 16,000 pounds manufacturer's gross vehicle weight.
   c. No major repair is conducted *on-site*.
   d. No engines may run when parked *on-site*. Electrical refrigeration units may run.
   e. Honey wagons, sanitation, garbage, or other trucks used to transport odorous, flammable, or hazardous materials are prohibited.
   f. The vehicle has a current license and is operable.

4. Appurtenant *signs* in accordance with Article VI, Section 2, of this Ordinance.

5. *Day care home* provided:
   a. One drop off / pickup space is provided.
   b. Outdoor play areas are fenced and screened.
   c. *Signs* shall be limited to two square feet.
   d. Structured areas for active play or play *structures* shall not be in the *front yard* and shall be a minimum of 10 feet from the side or rear property line.
   e. Structural or decorative additions shall be designed to be compatible with the residential character of the neighborhood.

6. *Home occupations* in main or accessory *building*.
   Intent - The conduct of business in residential units may be permitted under the provisions of this section. It is the intent of this section to:
   a. Ensure the compatibility of *home occupations* with other uses permitted in the residential districts;
   b. Maintain and preserve the character of residential neighborhoods by regulating the operation of *home occupations* so that the average neighbor is unaware of their existence;
   c. Guarantee to all residents freedom from excessive noise, excessive traffic, nuisance, fire hazard, and other possible effects of commercial uses being conducted in residential areas;
   d. Promote the efficient use of public services and facilities by assuring these services are provided to the residential population for which they were planned and constructed, rather than commercial uses.

   Conditions -
   a. A *home occupation* shall be incidental to the use of a *dwelling unit* for residential purposes and shall be conducted only by members of the *family* residing in the *dwelling unit* plus no more than one non-resident assistant or employee.
   b. There shall be no outdoor storage of materials or products on the *premises*.

c. The *home occupation* shall not cause any external effect associated with the *home occupation*, such as increased noise, excessive lighting, or offensive odor, which is incompatible with the characteristics of the residential zone. There shall be no illegal discharge of any materials, fluids, or gases into the sewer system or any other manner of discharging such items in violation of any applicable government code.

d. No traffic shall be generated by such *home occupation* in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such *home occupation* shall be met off the *street* and other than in a required *front yard*.

e. A *home occupation* shall limit any external evidence of an occupation to one identification *sign* not to exceed 2 square feet in area.

6.5 Keeping of backyard chickens*

a. Backyard chickens are defined as females of the species *Gallus gallus domesticus* kept for non-commercial purposes. The keeping of males of the species is not permitted.

b. The maximum number of chickens, 4 months or older, permitted on any lot is determined by lot size:

i. No chickens are permitted on a lot of less than ¼ acre;

ii No more than 5 chickens are permitted on a lot of ¼ acre to 1 acre;

iii. No more than 8 chickens are permitted on lots of more than 1 acre.

c. The area for keeping backyard chickens must be enclosed in such a fashion that the chickens are confined and not able to leave the owner's property. Backyard chickens will be provided with a covered, predator-proof coop or cage that is well ventilated. Hens shall have access to an outdoor enclosure that is adequately fenced to contain the birds on the property.

d. *Structures* (coops) for the housing of backyard chickens must meet the permitting requirements of this Ordinance. For movable coops, the permit application will show the area in which the coop will be moved. A copy of the Maryland Poultry Registration Form must accompany the building permit application.

e. Coops must be setback a minimum of 15 feet from any property line.

f. Coops may be placed in rear yards only.

g. Each coop must be kept clean and free of odors and materials that can attract vermin. Feed must be kept in secure containers so as not to attract vermin.

h. Waste must be composted or removed from the property.

i. The outdoor slaughtering of chickens is not permitted.

7. Private piers, *community piers*, and private shared piers, not to exceed 25% of the width of the *waterway*, the edge of the *channel*, or 150 feet in length, whichever is less and subject to the stipulations of Article VI, Section 3.7 of this Ordinance. *Regulations* governing *community piers* may be found in Article VI, Section 3.7.

8. *Private garages*, *swimming pools*, game courts, and other customary residential outbuildings and *structures* provided on parcels less than five acres accessory storage *structures* do not exceed 1,200 square feet in size or a height of 17 feet.

9. *Roadside stands* offering for sale locally grown fresh agricultural products in season, operated by the owner, lessee or *tenant* of the *premises* upon which such stand is located. Adequate *off-street parking* shall be provided. Such stands shall be completely removed at the end of the local fresh produce season.

* Amended 8/5/14

10. Satellite dish, private, with an antenna exceeding 3 feet in diameter provided:
    a. No antenna shall exceed an overall diameter of 12 feet or an overall height of 15 feet above *existing grade*.
    b. The antenna shall be permanently ground mounted. No antenna shall be installed on a portable or movable *structure*.
    c. The antenna shall be totally screened along the non-receptive axis, and low-level ornamental landscaping shall be installed along the reception window axis of the base of the antenna. Screening may consist of fencing or a variety of plant types. Screening may be waived when the antenna is located 100 feet from all property lines or the antenna is of a nature that is not visible or intrusive to the neighborhood.

11. Satellite dish, private, with an antenna of 3 feet or less, and solar panel arrays, in *rear yard* only, provided that the antenna is not installed on portable or movable *structures*.

12. School buses, limited to two, parked in the *rear* or *side yard* of the dwelling provided that the buses are owned or operated by the current occupants of the dwelling, have current licenses, and are operable.

12.5 *Solar energy systems, small*, provided:*
    a. Tree removal shall be minimized and any removal shall be mitigated in accordance with the Critical Area Program requirements.
    b. All solar collection devices shall register with the Department of Emergency Services and shall submit a map noting the location of the solar collection devices and the panel disconnect.
    c. The total height of solar collection systems shall comply with the height requirements.

13. Storage of boats, campers, boat trailers, and camper trailers, which are titled under the name of the property owner, or occupant. All boats, campers, boat trailer and camper trailers must be operable and have current licenses, if required.

14. Temporary *MET Tower* of any height provided:*
    a. The tower is erected for no more than 12 months.
    b. Any free standing *structure* is located a minimum of 3 times its total height from a property line.
    c. Towers are not readily climbable from the ground up to 12 feet.

* Amended 9/6/11

2.5 DENSITY, AREA, HEIGHT, WIDTH AND YARD REQUIREMENTS

Gross density (dwelling units/ac)	0.05 (1/20) [1, 4*]
Minimum *lot* size	
- *On-site* individual septic system	¾ acre
- Community system	½ acre
Minimum *lot width*	75 feet
Minimum *yard*	
- *Front*	50 feet
- *Side*	15 feet
- *Rear*	30 feet
- *Shoreline cliff*	1.5 x *cliff height* + 20 feet
- Waterfront	Minimum 100-foot *buffer*
- *Accessory structures* on *farms* in the *side* and *rear yard*	25 feet
- Accessory residential *structures* in *rear yard*	
Side	3 feet
Rear	5 feet
Maximum *structure* height [2]	
- Residential or Agricultural *structure*	38 feet
- Fence [3]	
- Security	8 feet
- Agricultural	5 feet
- Ornamental	
Side and *Rear*	8 feet
Front	4 feet

[1] Parcels of more than 1 acre improved by more than one dwelling unit, existing as of December 1, 1985, may be subdivided into parcels of land of not less than one-half (½) acre each for each dwelling unit situated on the one-half (½) acre, or more, being subdivided.

[2] Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

Accessory structures on parcels less than 5 acres in size may not exceed 17 feet in height without a special exception.

[3] Fences do not need to meet the yard requirements.

[4] Accessory dwelling units that comply with Article V, Section 2.4.B.1 do not count toward the density calculation.

* Amended 9/7/04

2.6 RESOURCE CONSERVATION GENERAL STANDARDS

1. *Agriculture* is the preferred use in the Resource Conservation District and is protected by the Kent County Right-to-Farm Law.

2. The reuse of existing *buildings* is encouraged.

3. The Department of Planning and Zoning shall approve *street* names. A name may not be approved if it duplicates or is too similar to an existing road name in the county or incorporated towns.

4. *Open space*, playgrounds, or other recreational areas shall be set aside at a rate of 1/10 acre per *dwelling unit*. If the land is not of significant quality and size for the purpose of providing or developing parks and recreational facilities, the *Planning Commission*, or where applicable the Planning Director, may permit a *developer* to pay a fee of $250.00 for each *lot* or each *dwelling unit* in lieu of providing land for recreational purposes. Recreational land required in a *subdivision* shall be located so as to be reasonably accessible from all lots in the *subdivision* in accordance with the following:
   a. *Steep slopes*, streams, lakes, *watercourses*, and *floodplains* may constitute up to 40% of the recreational land.
   b. At least 60% of the recreational land shall be suitable for dry ground recreational use.

2.7 RESOURCE CONSERVATION DISTRICT ENVIRONMENTAL STANDARDS

The purpose of these standards is to provide for the proper stewardship of the County's natural resources. Specifically, it is the overall goal of the county to maintain the quality of the County's *ecosystem* in the face of continuing activity, growth and change.

A. RESOURCE CONSERVATION DISTRICT GENERAL ENVIRONMENTAL STANDARDS

1. *Development* shall minimize *adverse impacts* to *non-tidal* or *tidal wetlands*, estuaries, the Chesapeake Bay, *tributary streams*, and the natural course and *riparian habitat* of these streams, habitat protection areas, or other significant habitat identified by the Department of Planning and Zoning.

2. *Development* shall minimize the removal of vegetation. The *developer* shall demonstrate that the change in vegetation minimizes the effect on microclimate.

3. *Development* shall minimize the effects of runoff on the existing volume of water and quality of any water body. Urban *best management practices* shall be used.

4. Whenever possible, land with poor drainage or other adverse conditions shall not be developed. When developed, the property owner shall agree to make any improvements necessary to render the property safe for *development*.

5. Whenever possible, land subject to periodic flooding, shall not be developed for any use that might involve danger to health, life, or property or aggravate floods.

6. Agricultural operations shall follow agricultural *best management practices* and shall develop and implement *soil conservation and water quality plans* and are encouraged to develop nutrient and pest management plans.

B. RESOURCE CONSERVATION DISTRICT SPECIFIC ENVIRONMENTAL STANDARDS

1. *Agriculture*

No new agricultural land shall be created by:

a. Draining, filling, or diking any *palustrine wetlands* that have a *seasonally flooded or wetter water regime* unless the impact is mitigated.

b. *Clearing* of *forest* or woodland on *soils* with a *slope* greater than 15% or on *soils* with a *K Value* greater than 0.35 and *slope* greater than 5%.

c. *Clearing* of existing *natural vegetation* within the *buffer*.

d. *Clearing* of *forest* if the *clearing* will affect water quality or habitat protection areas as designated in Article VI, Section 3.8.

2. *Anadromous fish*

a. Concrete riprap or other artificial surface shall not be installed on the bottom of natural streams unless it can be demonstrated that water quality and fishery habitat will be improved.

b. Physical alteration of a stream, including but not limited to channelization, that interferes with the movement of fish shall be prohibited.

c. The construction or placement of dams or other *structures* that would interfere with or prevent the movement of spawning fish or larval forms in streams shall be prohibited. Where practical, the removal of existing barriers is encouraged.

d. Construction, repair or maintenance activities associated with bridges or other stream crossings or with utilities and roads which require disturbance to the *buffer*, or which occur in stream shall be prohibited between March 1 and May 15.

3. *Buffer*

a. *Development* in the *Buffer*

i. *Development activities*, including *structures*, *roads*, parking areas, and other *impervious surfaces*, mining, and related activities, or septic systems shall not be permitted within the minimum 100-foot *buffer*. This restriction does not apply to water-dependent facilities that meet the criteria set forth below.

ii. New or expanded *development activities* may be permitted in the minimum 100-foot *buffer*, provided:

a) The use is water dependent.

b) The project meets a recognized private right or public need.

c) Adverse effects on water quality and fish, plant, or *wildlife habitats* are minimized.

d) In so far as possible, non-water dependent *structures* or operations associated with water dependent projects or activities are located outside the minimum 100-foot *buffer*.

iii. Where agricultural uses of lands within the buffer cease and the lands are proposed to be converted to other uses, the buffer shall be established. In establishing the buffer, management measures shall be undertaken to provide forest vegetation that achieves the buffer functions as defined in Article XI of this Ordinance.

b. Vegetative Protection within the *Buffer*

i. *Natural vegetation* within the *buffer* shall be preserved and protected unless one of the following apply:

a) An approved *forest* harvesting plan is followed.

b) Individual trees may be cut for personal use provided this cutting does not impair the water quality or existing habitat value or other functions of the *buffer*. Trees shall be replaced on an equal basis for each *tree* cut.

c) Trees which are leaning over the water may be cut, but their stumps and roots shall not be disturbed.

d) The disturbance provides access for water-dependent facilities or shore *erosion* protection *structures*.

e) Landowners may treat trees and shrubs to maintain or improve their health.

f) Sanitation, salvage, or other timber cutting practices may be performed under a *forest management plan* or to prevent an immediate threat to life or property. These lands shall be replanted or *forest cover* allowed to regenerate.

ii. Vegetation in the *buffer* removed for reasons listed above shall be re-established over the entire disturbed area during the next planting season. These plantings shall be approved by the Department of Planning and Zoning. In addition, Article VI, Section 9 of this Ordinance shall be followed exactly.

iii. *Natural vegetation* removed for an approved purpose shall be in accordance with an approved *buffer* management plan.

c. Stream Protection

Development activities that must cross or affect streams shall be designed to:

i. Reduce increases in flood frequency and severity that are attributable to *development*.

ii. Retain tree canopy so as to maintain stream water temperature within normal variation.

iii. Provide a natural substrate for stream beds.

iv. Minimize adverse water quality and quantity impacts of *stormwater*.

4. *Forest*

a. A forestry management plan prepared by a registered forester and approved by the Maryland Department of Natural Resources shall be required when developing forested lands.

b. *Forest* shall be replaced on an acre by acre basis, but no more than 20% of any *forest* or *developed woodlands* shall be removed unless by prior agreement with the *Planning Commission*. The *developer* agrees to afforest on the following basis: a *developer* may clear or develop more *forest* than otherwise may be permitted if the total *forest* removed is not increased by more than 50% of the area permitted to be disturbed provided that the afforested area consists of 1.5 times the total surface acreage of the disturbed *forest* or *developed woodlands* or both. For example, in a 100-acre woodland, up to 30 acres may be cleared if the *developer* agrees to afforest (not necessarily on his own property) 45 acres of currently unforested land.

c. Replacement trees shall be of a species similar to that which was removed or a species appropriate to the replanting *site*.

d. *Forest* or *developed woodlands* that remain after an approved removal shall be maintained through recorded restrictive covenants, *easements*, or similar instruments.

e. *Forest* cleared prior to obtaining a *grading* permit or that exceeds the maximum area allowed shall be replanted at three times the acreage of the cleared *forest*.

f. If the acreage of the *site* limits the application of *reforestation* requirements, *forest* may be created on other lands in the *Critical Area* including County lands or a fee in an amount determined by the Maryland Department of Natural Resources to be the equivalent to the value of the required *forest* may be paid to the County Commissioners of Kent County.

These funds shall be placed in a dedicated fund used to ensure the restoration or establishment of an equivalent *forest* area in the *Critical Area* or riparian areas.

g. After *development*, the *site* shall be planted to provide a *forest* or *developed woodlands* cover of at least 20%.

5. *Forest Interior Dwelling Birds*

a. Existing riparian *forest* of 300 x 300 feet or more and *forest* areas used by *forest interior dwelling birds* and other wildlife species shall be managed according to the guidelines developed by the Maryland Department of Natural Resources and the Chesapeake Bay Critical Area Commission.

b. A *site* survey for *forest interior dwelling birds* shall be conducted prior to any *development* or agricultural expansion on deciduous *forest* of at least 50 acres or 300 x 300 foot riparian deciduous *forest*. The Planning Director may waive a *site* survey for *forest interior dwelling birds* provided the *forest* is managed for all *forest interior dwelling bird* species. Cutting and building shall be restricted to safe times (not during nesting - see Article VI, Section 3.9 of this Ordinance).

6. Habitat

a. All *roads*, bridges and utilities that must cross a Habitat Protection Area shall be located, designed, constructed, and maintained so as to provide maximum *erosion* protection and minimize negative impacts to wildlife, aquatic life and their habitats and maintain hydrologic processes and water quality. *Roads*, bridges, or utilities shall not be located in any Habitat Protection Area unless no feasible alternative exists.

b. During and after *development* in forested areas, corridors of existing *forest* or woodland vegetation shall be maintained to provide effective connections between *wildlife habitat* areas.

c. New water-dependent facilities shall be located so as to prevent disturbance to *sites* of significance to wildlife such as historic aquatic staging and concentration areas for *waterfowl*, shellfish beds, finfish nursery areas, and submerged aquatic vegetation beds.

7. *Impervious Surfaces*

Man caused *impervious surfaces* shall not exceed 15% of the site except as otherwise stated below.

a. Man caused *impervious surfaces* on parcels greater than 36,301 square feet shall be limited to 15% of the property. This section does not apply to *mobile home parks* in residential use on or before December 1, 1985.

b. Man caused *impervious surfaces* on parcels that are 21,781 to 36,300 square feet and existed on or before December 1, 1985 shall be limited to 5,445 square feet provided:

i. New *impervious surfaces* on the property have been minimized.

ii. Water quality impacts associated with runoff from new *impervious surfaces* have been minimized through *site* design or use of *best management practices*.

iii. The property owner performs *on-site* mitigation as may be required by the Planning Director or designated representative to offset potential adverse water quality impacts from the new *impervious surfaces* or the property owner pays a fee in lieu of performing the mitigation.

c. Man caused *impervious surfaces* on parcels that are 8,001 to 21,780 square feet and existed on or before December 1, 1985 shall be limited to 31.25% of the property provided:

i. New *impervious surfaces* on the property have been minimized.

ii. Water quality impacts associated with runoff from new *impervious surfaces* have been minimized through *site* design or use of *best management practices*.

iii. The property owner performs *on-site* mitigation as may be required by the Planning Director or designated representative to offset potential adverse water quality impacts from the new *impervious surfaces* or the property owner pays a fee in lieu of performing the mitigation.

d. Man caused *impervious surfaces* on parcels that are less than 8,000 square feet and existed on or before December 1, 1985 shall be limited to 25% of the property plus 500 square feet provided:

i. New *impervious surfaces* on the property have been minimized.

ii. Water quality impacts associated with runoff from new *impervious surfaces* have been minimized through *site* design or use of *best management practices*.

iii. The property owner performs *on-site* mitigation as may be required by the Planning Director or designated representative to offset potential adverse water quality impacts from the new *impervious surfaces* or the property owner pays a fee in lieu of performing the mitigation.

e. Man caused *impervious surfaces* shall not exceed 25% of an individual *lot* of one acre or less that is part of a subdivision approved after December 1, 1985. However, the total of the *impervious surfaces* over the entire *subdivision* shall not exceed 15%.

8. *Natural heritage areas* and locations considered for Areas of Critical State Concern

These areas of local significance shall be preserved whenever possible in accordance with the recommendations of the Department of Natural Resources. These areas are identified in Article VI, Section 3.8 of this Ordinance.

9. *Non-tidal wetlands*

Non-tidal wetlands shall be protected according to the *regulations* of the State of Maryland, Army Corps of Engineers, United States Fish and Wildlife Service, Environmental Protection Agency and all other applicable State and Federal *regulations*.

10. *Slopes*

Development on *slopes* greater than 15%, as measured before *development*, shall be prohibited unless the project is the only effective way to maintain or improve the stability of the slope and is consistent with the provisions of this Ordinance.

11. *Stormwater Management*

No *person* shall develop any land for residential, commercial, industrial, or institutional uses or redevelop land without having provided for appropriate *stormwater management* measures that control or manage runoff from such *development*s except as provided in Article VI, Section 10 of this Ordinance. *Stormwater Management* shall be accomplished for all new *development* or *redevelopment* in accordance with the provisions of Article VI, Section 10 of this Ordinance.

12. Threatened and Endangered Species and Species in Need of Conservation

a. Any *development* shall include a statement on the type and location of any threatened or *endangered species* or *species in need of conservation* on the property, and any recommendation for maintaining and protecting that habitat from the Department of Natural Resources.

b. Threatened or *endangered species* and *species in need of conservation* shall be checked and noted by the *developer* before any approval can be granted by the Planning Director, *Planning Commission* or Zoning Administrator.

c. The Federal or State guidelines (whichever is stricter) for habitat protection shall be followed during *development*. Plans shall include provisions for the continuance of the habitat protection after *development*. This can include *conservation easements*, cooperative agreements, and special provisions in *forest management* and *soil* conservation plans, and donation to a third party.

13. Timber Harvest

a. *Forest management plans* shall be required for all timber harvest occurring within any one-year interval and which affect one or more acres in *forest* and *developed woodlands* in the *Critical Area*. The plans shall be prepared by a registered professional forester and be reviewed and approved by the Maryland Forest, Park and Wildlife Service through the District Forestry Boards and the project forester. Plans shall be filed with the Department of Planning and Zoning. Plans shall include measures to protect surface and ground water quality and identify whether the activities will disturb or affect Habitat Protection Areas as set forth in the Land Use Ordinance or identified on the Habitat Protection Areas Map.

b. The plans shall include protective measures for Habitat Protection Areas and shall provide for the continuity of habitat. The plans shall address mitigation through *forest management* techniques which include scheduling size, timing, and intensity of harvest cuts, *afforestation*, and *reforestation*.

c. The cutting and *clearing* of trees within the minimum 100-foot *buffer* are permitted provided that:

i. Existing riparian forests of 300 x 300 feet or more and *forest* areas used by *forest interior dwelling birds* and other wildlife species shall be managed according to the guidelines developed by the Maryland Department of Natural Resources.

ii. When timber harvesting is being considered, a *site* survey for *forest interior dwelling birds* shall be done. Cutting and building shall be restricted to safe times (not during nesting – See Article VI, Section 3.9 of this Ordinance).

iii. During timber harvest, corridors of existing *forest* or woodland vegetation shall be maintained to provide effective connections between *wildlife habitat* areas.

iv. Commercial harvesting by *selection* or by *clear-cutting* of Loblolly Pine and Tulip Poplar may be permitted to within 50 feet of the landward edge of the *mean high water line* of tidal water and *perennial tributary streams* or the edge of the *tidal wetlands* provided that the cutting does not occur in the Habitat Protection Areas and that cutting is conducted pursuant to the requirements of the sediment control and *non-tidal wetlands* requirements of this Ordinance and in conformance with a *buffer* management plan prepared by a registered forester and approved by the Department of Natural Resources. The plan shall be required for all commercial harvests within the minimum 100-foot *buffer* regardless of the size of the area to be cut and shall contain the following minimum requirements:

a) That disturbance to the stream banks and shorelines shall be avoided;

b) That the area disturbed or cut shall be replanted, or allowed to regenerate in a manner that assures the availability of cover and breeding *sites* for wildlife, and reestablishes the *wildlife corridor* function of the *buffer*; and

c) That the cutting does not involve the creation of logging *roads* and skid trails within the minimum 100-foot *buffer*.

v. Commercial harvesting of trees by any method may be permitted to the edge of *intermittent streams* if the cutting and removal is done in accordance with a *Buffer* Management Plan approved by the Department of Natural Resources Forester.

14. Water Quality
All new *development* or *redevelopment* shall reduce pollutant loadings coming from the *site* and shall comply with the *stormwater management* qualitative controls found in Article VI, Section 10 of this Ordinance.

15. Wildlife Corridors
Developments shall incorporate a wildlife corridor system that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site in order to provide continuity of existing wildlife and plant habitats with offsite habitats. Plans shall include provisions for the continuance and maintenance of the wildlife corridors. This can include *conservation easements*, cooperative agreements, special provisions in forest management and soil conservation plans, and donation to a third party.

2.8 RESOURCE CONSERVATION DISTRICT DESIGN STANDARDS

The purpose of these standards is to give a sense of the physical aspects of the County's environment to those contemplating new *development* in the community. Pertinent to this physical appearance is the design of the *site*, *buildings* and *structures*, plantings, *signs*, *street* hardware, and miscellaneous other objects observed by the public.

These standards are not intended to restrict imagination, innovation, or variety, but rather assist in focusing on design principles which can produce creative solutions that will develop a satisfactory visual appearance within the County, preserve taxable values, and promote the public health, safety, and welfare.

A. RESOURCE CONSERVATION GENERAL DESIGN STANDARDS

1. The landscape shall be preserved in its natural state, in so far as possible, by minimizing *tree* and *soil* removal. Any grade changes shall be in keeping with the general appearance of neighboring development areas. *Buildings* are encouraged to be located so as to maintain maximum natural *topography* and cover. *Topography*, *tree* cover, and natural drainage ways shall be treated as fixed determinants of road and *lot* configuration rather than malleable elements that can be changed to follow a preferred *development* scheme. Whenever possible, *development* shall be outside the *floodplain*.

2. *Streets* shall be designed and located in a manner so as to maintain and preserve natural *topography*, *tree* cover, significant landmarks and trees; to minimize *cut* and *fill*; and to preserve and enhance views and vistas on and off the subject parcel.

3. Proposed *development* shall be related harmoniously to the terrain and to the use, scale, and architecture of existing *buildings* in the vicinity that have functional or visual relationships to the proposed *buildings*.

4. All *open space* (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the *site* or overlooking it from nearby properties.

5. The color, size, height, lighting, and landscaping of appurtenant *signs* and *structures* shall be evaluated for compatibility with the local architectural motif and the maintenance of views and vistas of natural landscapes, recognized historic landmarks, parks, and landscaping.

6. Whenever possible, adverse effects on historic, traditional, or significant uses and *structures* shall be minimized, whether these exist on the *site* or on adjacent properties.

B. RESOURCE CONSERVATION DISTRICT SPECIFIC DESIGN STANDARDS

1. *Site* Access

Site access shall be subject to the following *regulations* to help ensure vehicle and pedestrian safety and alleviate congestion:

a. Where a proposed road is designated on an approved County or State map, *site plans* for *development* adjacent to the designated *roadway* shall include provisions for future access to the *roadway*.
b. All new lots must abut upon and have access to a public or approved *private road*.
c. Access shall be consolidated whenever possible.
d. Whenever possible, *roads* shall be constructed above the elevation of the *100-year floodplain*.

2. *Floodplain*

a. In order to prevent excessive *flood* damage and to allow for the protection of the natural and beneficial *floodplain* functions, all *development*, *new construction*, and *substantial improvements* to existing *structures* in all *floodplain* zones shall comply with the requirements of Article VI, Section 7 of this Ordinance, including but not limited to the following:
   i. Elevation of all new or substantially improved *structures*;
   ii. Compliance with venting and other construction standards; and
   iii. Submission and recordation, where applicable, of *Elevation Certificates*, *Declaration of Land Restrictions*, deed restrictions, and venting affidavits.*
b. Placement of *buildings* and materials. In general, *buildings* and *accessory structures* should be located entirely out of the *floodplain*, out of the *flood* protection setback, or on land that is least susceptible to flooding. All *structures* permitted in the *floodplain* shall be oriented so as to offer the least resistance to the flow of floodwaters.
c. General *development* shall not occur in the *floodplain* where alternative locations exist. Before a permit is issued, the applicant shall demonstrate that new *structures* cannot be located out of the *floodplain* and that encroachments onto the *floodplain* are minimized.

* Amended 6/3/14

3. *Subdivision*

a. Proposed *street* layout, blocks, and parcels shall be suitable in area and dimension for the type of *development* anticipated.

b. The total area shall be sufficient to provide adequate space for *off-street parking*, loading, landscaping, and other facilities.

c. Whenever possible, the *subdivision* should be designed to minimize *adverse impacts* on the agricultural operation.

d. The *lot* arrangement, design, and orientation shall be such that all lots will provide satisfactory building *sites*, properly related to *topography* and the character of surrounding *development*.

e. Every *lot* shall abut upon and have access to a public road or approved *private road*.

f. Lots adjoining *major thoroughfares* and railroad lines should be designed with extra depth and provision for an appropriate means to buffer or deepen building *setbacks*.

g. Where land in a *subdivision* adjoins a railroad line, the *street* layout shall make allowance for future grade separated railroad crossings at appropriate locations by providing extra *street right of way* widths for such crossings and by restricting intersecting *streets* at locations where they would cause interference with necessary approaches to such crossings.

h. Proposed *streets* in the *subdivision* shall provide for the continuation of existing, planned, or platted *streets* on adjacent tracts, unless such continuation shall be prevented by *topography* or other physical feature or unless such extension is found by the *Planning Commission* to be unnecessary for the coordination of *development* between the *subdivision* and such adjacent *tract*.

i. Where the *Planning Commission* deems it desirable or necessary to provide access to adjacent tracts not presently subdivided, proposed *streets* in the *subdivision* shall be extended to the boundary lines with such tracts.

j. Where a *subdivision* adjoins or embraces any part of a *major thoroughfare* as designated on the Kent County Major Thoroughfare Map, the layout of such *subdivision* shall provide for the platting and dedication of such part of the *major thoroughfare* in the location and at the width indicated on the *major thoroughfare* plan, except that the *subdivider* shall not be required to dedicate that part of such *major thoroughfare* that is in excess of eighty (80) feet in width.

k. Where deemed desirable to the layout of the *subdivision* and adjoining area, the *Planning Commission* may require the platting and dedication of one or more *collector streets* or parts thereof, to serve the *subdivision*.

l. Subdivisions shall be in full compliance with the provisions of this Ordinance.

m. *Private roads* are permitted in minor subdivisions and are subject to the following conditions:

i. Each road shall serve no more than seven parcels. In the event that an eighth parcel is created, the eighth parcel and all further divisions of land shall front on a public road.*

ii. The *subdivision* shall provide a 50-foot *right of way* for each *private road*.

iii. The construction of all lanes and *private roads* shall adhere to the requirements established by the Kent County Department of Public Works and sediment control and *stormwater management regulations*.

iv. The deed and contract of sale of all lots in the *subdivision* shall state: "The road is private and not the responsibility of Kent County."

v. The plat shall identify all *private roads* and shall state: "The road is private and not the responsibility of Kent County."

* Amended 10/16/12

SECTION 3 RURAL CHARACTER DISTRICT

3.1 STATEMENT OF INTENT

The purpose of this district is to provide for the market demand for rural lots, including large estate lots, in a manner that maintains rural character and in a location that minimizes conflicts with *agriculture*. The District may function as a transition between towns, villages, residential developments, and the Agricultural Zoning District. To maintain the rural character, developments will follow strict design standards for protecting significant rural features, preserving scenic views and historic *structures*, designing with *topography*, and locating new *buildings*. Recreational uses such as golf courses, racquet courts, and stables are appropriate in this district. Public water and sewer will not be extended into this district except to correct a public health emergency.

3.2 PERMITTED PRINCIPAL USES AND STRUCTURES

A *building* or land shall be used only for the following purposes.

1. *Agriculture* including horticultural, hydroponics or general farming, orchards, groves, or nurseries for growing or propagation of plants, trees, and shrubs.

2. The keeping, dairying or raising for sale of animals, fish, birds, or reptiles but not including poultry houses, *feedlots*, horses, mules, or confinement dairies on *farms*. Nutrient management plans are required. The Planning Director may waive the nutrient management plan for 4-H and FFA projects.

3. *Aquaculture*, including accessory processing and sales.

4. *Camp, day or boarding*, private or commercial, but not *recreational vehicle* or migrant labor camps.

5. Detached *single family dwellings*.

6. *Erosion* and *flood* control *structures*.

7. Greenhouses, wholesale or retail, provided *structures* are 200 feet from any property line and are adequately landscaped.

8. Hunting blinds and hunting preserves.

9. *Personal wireless facilities* collocated on existing towers, water towers, electrical transmission towers, fire towers, silos, *grain dryers*, or other *structures* provided the height of the existing *structure* is not above that permitted by this Ordinance.

10. Public and private *forests*, wildlife reservations and similar conservation projects.

11. Public and private parks and playgrounds for the purpose of conserving and enjoying the natural resources, including both active and passive parks owned and operated by Kent County, the State of Maryland, or federal government but not including commercial play fields for football, baseball, and other major sports activities such as motocross or drag racing fields.

12. *Stable, private* provided:
    a. The *lot* shall be two acres or more.
    b. Any *structure* for the keeping of animals shall be a minimum of 100 feet from any property line.
    c. There shall be no more than one horse per acre of land. Only available pasture acreage shall be used to compute the number of horses allowed on a parcel.
    d. The operation is managed according to waste and nutrient management plans, approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that phosphorous is a problem or has the potential to become a problem, the plan shall use phosphorus based nutrient management. When in the opinion of the Planning Director additional review is necessary from an outside agency, the Planning Director may forward the plan to the Maryland Department of the Environment or any other appropriate agency.

13. *Stable, public* provided:
    a. The *lot* shall be 20 acres or more.
    b. Any *structure* for the keeping, feeding of animals and waste management *structures* shall be a minimum of 400 feet from any property line.
    c. No waste management facility or *structure* for the keeping of animals is within the *100-year floodplain*.
    d. The feeding and watering of animals are conducted a minimum of 50 feet from any body of water, including *tributary streams* and *wetlands*.
    e. The operation is managed according to waste and nutrient management plans, approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that phosphorous is a problem or has the potential to become a problem, the plan shall use phosphorus based nutrient management. When in the opinion of the Planning Director additional review is necessary from an outside agency, the Planning Director may forward the plan to the Maryland Department of the Environment or any other appropriate agency.

14. *Mobile homes* existing and in use as of January 16, 1996 may be continued in use and may be replaced with another *mobile home*, provided the replacement *mobile home* complies with the Kent County Codes and all Health Department *regulations*. It is not the intent of this provision to allow additional *mobile homes* in the County, but rather to allow the continued use and improvement (including replacement) of *mobile homes*, existing as of January 16, 1996. A *mobile home* that remains idle or unused for a continuous period of two years shall not be used again except in conformity with these *regulations*.

3.3 SPECIAL EXCEPTIONS

The following principal uses and *structures* may be permitted as special exceptions in the Rural Character District, subject to *site plan* review by the *Planning Commission* or where applicable the Planning Director. Detailed limitations and standards for these uses may be found in Article VII of this Ordinance.

1. Accessory storage *structures* with a *floor area* of more than 1,200 square feet or a height that exceeds 17 feet on parcels less than 5 acres
2. *Accessory structures* in the *front yard* of *through lots*
3. Adaptive reuse of historic *structures*
4. *Airport*, landing field, heliport, or helistop, public or private

4.5 Assisted living facility with five to eight beds*
5. Cemetery, including crematorium and mausoleum
6. *Conference center*
7. *Cottage industries*, tradesmen and artisan shops
8. *Country inn*
9. *Country stores*, on *primary* and *secondary roads*
10. *Day care group*
11. *Dog kennels*, commercial
12. Exposition center or fairgrounds
13. Golf course, public or private
14. More than four horses and mules on land less than 20 acres in size
15. *Personal wireless facility tower*
16. *Private club*s
17. Private schools
18. *Public landings*
19. *Public utilities* and *structures*
20. Raising of livestock and fowl but not including commercial *feedlots*, confinement dairies, or poultry houses on land less than 20 acres
21. Raising of small animals, commercial, including birds, bees, fish, rabbits or other creatures, but not including *dog kennels* on land less than 20 acres
22. Recreational facilities, privately or commercially owned, but not including major sports arenas for football, baseball, drag racing, motocross, or other major sports activities
23. *Resort*
24. *Retreat*
24.5 *Rural Inn****
25. Sand and gravel pits, *excavation* or extraction (not including the removal of sod and *excavation* for foundations, *swimming pools*, *soil* and water conservation practices, and those removals approved in connection with *street* construction, *subdivision*, or planned residential development)
26. *Wind energy systems, small*, with a height that exceeds 80 feet or on parcels less than 20 acres**

3.4 ACCESSORY USES

A. The following *accessory uses* are allowed on all *farms* in the Rural Character District.

1. Accessory farm *buildings*, including barns, cribs, stables, sheds, tool rooms, shops, bins, tanks, and silos. All *structures* for the keeping of animals shall be located a minimum of 100 feet from any property line. No *buildings* are permitted in the *buffer*.

2. Accessory farm houses, one on all *farms*, two on *farms* with a minimum of 50 tillable acres. A farm employee house may not be a *mobile home*. Houses must share a common entrance and shall be occupied by permanent employees of the *farm* or immediate member of the *family* owning or operating the *farm*.

3. Accessory open or enclosed storage of farm materials, products, equipment, or vehicles.

4. Accessory storage of fertilizer and chemicals used in connection with the farming operation of the owner.

5. *Guest house* one, not including *mobile homes*, provided:
   a. The house is used exclusively for non-paying guests.
   b. No house shall be used as a permanent residence nor be rented or sold separately from the principal dwelling.

* Amended 11/3/09; ** Amended 9/6/11; *** Amended 4/8/15

6. One hunting trailer, temporary, from September 1 to the following February 15, continually, provided that such trailer is a minimum of 150 feet from all property lines and not in the *buffer*. These shall be located around existing *buildings* and out of sight.

7. Parking of commercial vehicles provided:
   a. The vehicles are related to the operation of the *farm* or three non-farm related vehicles.
   b. The vehicles are parked around existing *buildings*. Non-farm related vehicles cannot be parked on *farms* without *buildings*.
   c. The vehicles have a current license and are operable.

8. The following *accessory uses* must be at least 200 feet from all property lines:
   a. Assembly in a *totally enclosed building* not to exceed 10,000 square feet in size, and repair of all equipment normally used in *agriculture*.
   b. Petroleum storage, not to exceed 10,000 gallons and subject to applicable safety codes, ordinances, and statutes.
   c. Grain, flour, and feed blending and packaging, including milling, drying, and storing.

9. School buses, limited to five, parked around existing *buildings* provided the buses have current licenses and are operable.

10. *Wind energy systems, small*, provided:*
   a. The height of the *structure* to the tip of the blade at its highest point does not exceed 80 feet.
   b. Any system is located a minimum of 3 times its total height from a property line.
   c. Towers are not readily climbable from the ground up to 12 feet.
   d. All access doors to towers and electrical equipment shall be lockable.
   e. Appropriate warning signage is placed on the tower and electrical equipment.
   f. The blade tip at its lowest point had a ground clearance of at least 25 feet.
   g. Wind turbines and towers maintain a galvanized steel, brushed aluminum finish, or a non-garish color.
   h. Any small wind energy system that is not operational for a period of 12 consecutive months or more shall be removed at the landowner's expense.

B. The following *accessory uses* are allowed on all properties in the Rural Character District

1. Accessory *dwelling unit*, one, in principal or *accessory structures* provided:
   a. The property owner resides on the *premises*.
   b. The accessory *dwelling unit* is subordinate to the principal dwelling in size and appearance.
   c. The accessory *dwelling unit* may be rented but not sold as a separate unit.
   d. The appearance of the *structure* and property remain that of a *single family dwelling* so that the average neighbor is unaware of the accessory *dwelling unit's* existence.
   e. If the entrance to the accessory *dwelling unit* is separate from that of the primary dwelling, the entrance to the accessory *dwelling unit* shall be from the *side* or *rear yard*.
   f. One parking space is provided in the *rear yard* for the accessory *dwelling unit*.
   g. The *structure* meets all applicable Kent County Codes, including the building code, and Health Department *regulations*.

2. Accessory *off-street parking* and loading of non-commercial vehicles that have current licenses and are operable.

* Amended 9/6/11

3. Accessory *off-street parking* of one commercial vehicle in the *rear yard* provided:
   a. The vehicle is used by the occupant of the dwelling.
   b. The vehicle does not exceed 16,000 pounds manufacturer's gross vehicle weight.
   c. No major repair is conducted *on-site*.
   d. No engines may run when parked *on-site*. Electrical refrigeration units may run.
   e. Honey wagons, sanitation, garbage, or other trucks used to transport odorous, flammable, or hazardous materials are prohibited.
   f. The vehicle has a current license and is operable.

4. Appurtenant *signs* in accordance with Article VI, Section 2, of this Ordinance.

5. Assisted living facilities or *group homes*, with no more than four beds provided:
   a. The property owner resides on the *premises*.
   b. The assisted living facility or *group home* is subordinate and accessory to the principal dwelling in size and appearance and is in the same *structure* as the principal *dwelling unit*.
   c. The rooms for the use are not designed or constructed to be separate *dwelling units* and may not be sold as separate *dwelling units*.
   d. The appearance of the *structure* and property remain that of a *single family dwelling* so that the average neighbor is unaware of the assisted living facility's or *group home's* existence.
   e. The *structure* meets all applicable Kent County Codes, including the building code, and Health Department requirements.

6. *Day care home*, provided:
   a. Outdoor play areas are fenced and screened.
   b. Structured areas for active play or play *structures* shall not be in the *front yard* and shall be a minimum of 10 feet from the side or rear property line.
   c. One drop off / pickup space is provided.
   d. Structural or decorative additions shall be designed to be compatible with the residential character of the neighborhood.
   e. *Signs* shall be limited to two square feet.

7. *Home occupations* in main or accessory *buildings*

   Intent - The conduct of business in residential units may be permitted under the provisions of this section. It is the intent of this section to:
   a. Ensure the compatibility of *home occupations* with other uses in residential areas.
   b. Maintain and preserve the character of residential neighborhoods by regulating the operation of *home occupations* so that the average neighbor is unaware of their existence.
   c. Guarantee to all residents freedom from excessive noise, excessive traffic, nuisance, fire, hazard, and other possible effects of commercial uses being conducted in residential areas.
   d. Promote the efficient use of public services and facilities by assuring these services are provided to the residential population for which they were planned and constructed, rather than commercial uses.

   Conditions -
   a. A *home occupation* shall be incidental to the use of a *dwelling unit* for residential purposes and shall be conducted only by members of the *family* residing in the *dwelling unit* plus one non-resident assistant or employee.
   b. Outdoor storage of materials or products is prohibited.

c. The *home occupation* shall not cause any external effect such as noise, excessive lighting, or offensive odor which is incompatible with the characteristics of the residential area. The illegal discharge of any materials, fluids, or gases into the sewer system or in any other manner of discharging such items in violation of any applicable government code is prohibited.

d. Traffic generated by the *home occupation* shall not exceed that normally expected in a residential neighborhood.

e. Parking for the *home occupation* shall be provided off-street and in the *side* or *rear yard*.

f. A *home occupation* shall limit any external evidence of an occupation to one identification *sign* not to exceed two square feet.

7.5. Keeping of backyard chickens*

a. Backyard chickens are defined as females of the species *Gallus gallus domesticus* kept for non-commercial purposes. The keeping of males of the species is not permitted.

b. The maximum number of chickens, 4 months or older, permitted on any lot is determined by lot size:

i. No chickens are permitted on a lot of less than ¼ acre;

ii No more than 5 chickens are permitted on a lot of ¼ acre to 1 acre;

iii. No more than 8 chickens are permitted on lots of more than 1 acre.

c. The area for keeping backyard chickens must be enclosed in such a fashion that the chickens are confined and not able to leave the owner's property. Backyard chickens will be provided with a covered, predator-proof coop or cage that is well ventilated. Hens shall have access to an outdoor enclosure that is adequately fenced to contain the birds on the property.

d. *Structures* (coops) for the housing of backyard chickens must meet the permitting requirements of this Ordinance. For movable coops, the permit application will show the area in which the coop will be moved. A copy of the Maryland Poultry Registration Form must accompany the building permit application.

e. Coops must be setback a minimum of 15 feet from any property line.

f. Coops may be placed in rear yards only.

g. Each coop must be kept clean and free of odors and materials that can attract vermin. Feed must be kept in secure containers so as not to attract vermin.

h. Waste must be composted or removed from the property.

i. The outdoor slaughtering of chickens is not permitted.

8. *Private garages*, *swimming pools*, game courts, and other customary residential outbuildings and *structures* provided that *accessory structures* on parcels less than 5 acres do not exceed 1,200 square feet or 17 feet in height.

9. *Roadside stands* offering for sale locally grown fresh agricultural products in season, operated by the owner, lessee or *tenant* of the *premises* upon which such stand is located. Adequate *off-street parking* shall be provided. Such stands shall be completely removed at the end of the local fresh produce season.

* Amended 8/5/14

10. Satellite dish, private, with an antenna exceeding 3 feet in diameter provided:
    a. No antenna shall exceed an overall diameter of 12 feet or an overall height of 15 feet above *existing grade*.
    b. The antenna shall be permanently ground mounted. No antenna shall be installed on a portable or movable *structure*.
    c. The antenna shall be totally screened along the non-receptive axis and low-level ornamental landscaping shall be installed along the reception window axis of the base of the antenna. Screening may consist of fencing or a variety of plant types. Screening may be waived when the antenna is located 100 feet from all property lines or the antenna is of a nature that is not visible or intrusive to the neighborhood.
    d. The final installation should blend carefully with the surrounding landscape and not appear as an obvious attempt at camouflage.

11. Satellite dish, private, with an antenna of 3 feet or less, and solar panel arrays, provided that the antenna is not installed on portable or movable *structures*.

12. School buses, limited to two, parked in the *rear* or *side yard* of the dwelling provided that the buses are owned or operated by the current occupants of the dwelling, have current licenses, and are operable.

12.5 *Solar energy systems, small*, provided:*
    a. Tree removal shall be minimized and any removal shall be mitigated at a ratio or one tree planted for each tree removed.
    b. All solar collection devices shall register with the Department of Emergency Services and shall submit a map noting the location of the solar collection devices and the panel disconnect.
    c. The total height of solar collection systems shall comply with the height requirements.

13. Storage in the *rear yard* of boats, campers, boat trailers, and camper trailers, which are titled under the name of the property owner or occupant. All boats, campers, boat trailers and camper trailers must be operable and have current licenses, if required.

14. Temporary *MET Tower* of any height provided:*
    a. The tower is erected for no more than 12 months.
    b. Any free standing *structure* is located a minimum of 3 times its total height from a property line.
    c. Towers are not readily climbable from the ground up to 12 feet.

* Amended 9/6/11

3.5 DENSITY, AREA, HEIGHT, WIDTH AND YARD REQUIREMENTS

Gross density (dwelling units/ac)	0.05 (1/20) [1]
Minimum *lot* size	¾ acre
Minimum *lot width*	75 feet
Minimum *yard*	
- *Front*	50 feet
- *Side*	15 feet
- *Rear*	30 feet
- Waterfront	100 feet
- *Accessory structures* on *farms* in the *side* and *rear yard*	25 feet
- Accessory residential *structures* in *rear yard*	
Side	3 feet
Rear	5 feet
Maximum *structure* height [2]	
- Residential or Agricultural *structure*	38 feet
- Fence [3]	
- Security	8 feet
- Agricultural	5 feet
- Ornamental	
Side and *Rear*	8 feet
Front	4 feet

[1] Accessory *dwelling units* are not counted toward permitted *density*.

[2] Height of *structures* may be further restricted by the Kent County *Airport* Safety Requirements as defined in Article V, Section 3.8B5 of this Ordinance. Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

Accessory structures on parcels less than 5 acres in size may not exceed 17 feet in height without a special exception.

[3] Fences do not need to meet the yard requirements.

3.6 RURAL CHARACTER DISTRICT GENERAL STANDARDS

1. The reuse of existing *buildings* is encouraged.

2. The Department of Planning and Zoning shall approve *street* names. A name may not be approved if it duplicates or is too similar to an existing road name in the county or incorporated towns.

3. *Open space*, playgrounds, or other recreational areas shall be set aside at a rate of 1/10 acre per *dwelling unit*. If the land is not of significant quality and size for the purpose of providing or developing parks and recreational facilities, the *Planning Commission*, or where applicable the Planning Director, may permit a *developer* to pay a fee of $250.00 for each *lot* or each *dwelling unit* in lieu of providing land for recreational purposes. Recreational land required in a *subdivision* shall be located so as to be reasonably accessible from all lots in the *subdivision* in accordance with the following:
   a. *Steep slopes*, streams, lakes, *watercourses*, and *floodplains* may constitute up to 40% of the recreational land.
   b. At least 60% of the recreational land shall be suitable for dry ground recreational use.

3.7 RURAL CHARACTER DISTRICT ENVIRONMENTAL STANDARDS

The purpose of these standards is to provide for the proper stewardship of the County's natural resources. Specifically it is the overall goal of the county to maintain the quality of the County's *ecosystem* in the face of continuing activity, growth and change.

A. RURAL CHARACTER DISTRICT GENERAL ENVIRONMENTAL STANDARDS

1. *Development* shall minimize *adverse impacts* to *non-tidal* or *tidal wetlands*, estuaries, the Chesapeake Bay, *tributary streams*, and the natural course and *riparian habitat* of these streams, habitat protection areas, or other significant habitat identified by the Department of Planning and Zoning.

2. *Development* shall minimize the removal of vegetation.

3. *Development* shall minimize the effects of runoff on the existing volume of water or quality of any water body. Urban *best management practices* shall be used.

4. Whenever possible, land with poor drainage or other adverse conditions shall not be developed. When developed, the property owner shall agree to make any improvements necessary to render the property safe for *development*.

5. Whenever possible, land subject to periodic flooding, shall not be developed for any use that might involve danger to health, life, or property or aggravate floods.

6. Whenever possible, agricultural operations shall follow agricultural *best management practices* and are encouraged to develop and implement soil conservation and water quality plans, nutrient and pest management plans.

B. RURAL CHARACTER DISTRICT SPECIFIC ENVIRONMENTAL STANDARDS

1. *Anadromous fish*

a. Concrete riprap or other artificial surface shall not be installed on the bottom of natural streams unless it can be demonstrated that water quality and fishery habitat will be improved.

b. Physical alteration of a stream, including but not limited to channelization, that interferes with the movement of fish shall be prohibited.

2. *Forest Conservation*

This section applies to all *major* and *minor site plans* on units of land 40,000 square feet or greater; major and minor subdivisions; and *grading* and *sediment control permits* that result in the cumulative cutting, *clearing*, or *grading* of more than 40,000 square feet of *forest*. A forest *Declaration of Intent* is required for activities specifically exempted in Article VI, Section 8.2 of this Ordinance.

a. A parcel with less than 20% of its *net tract area* in *forest cover* shall be afforested to 20% of its *net tract area*.

b. A parcel with less than 20% of its *net tract area* in *forest* may be cut or cleared provided:

i. The *afforestation* required to achieve the 20% *afforestation* level is determined prior to any *clearing* of *forest*.

ii. The *afforestation* area consists of two (2) times the total surface area cleared and the area needed to achieve the 20% *afforestation* level before *clearing* occurred. For example, the *afforestation* area for a project with a *net tract area* of one hundred acres with ten (10) acres of existing *forest* of which five (5) acres are to be cleared is twenty (20) acres - ten (10) acres to achieve the required *afforestation* level and ten (10) acres to replace the *forest* cleared.

c. A parcel with more than 50% of its *net tract area* in *forest* may be cut or cleared provided *reforestation* occurs at a rate of one-quarter (1/4) acre planted for each acre removed above 50% of the *net tract area* or at a rate of two (2) acres planted for every acre removed below 50% of the *net tract area*. *Forest* retained over 50% of the *net tract area* is credited toward the required *reforestation*. For example, a project with a *net tract area* of one hundred (100) acres and an existing *forest* of sixty (60) acres of which twenty (20) acres will be cleared, will require a *reforestation* area of 22.5 acres.

d. The following trees, shrubs, plants, and specific areas are considered a priority for *retention* and protection and shall be left in an undisturbed condition unless the applicant demonstrates, to the satisfaction of the Department of Planning and Zoning, that reasonable efforts have been made to protect them and the plan cannot be reasonably altered.

i. Trees, shrubs, and plants in sensitive areas including the *non-tidal 100-year floodplain*, *intermittent* and *perennial stream protection corridors*, *steep slopes*, *non-tidal wetlands*, and critical habitats;

ii. Contiguous *forest* which connects the largest undeveloped or most vegetated tracts of land within and adjacent to the *site*;

iii. Trees, shrubs, and plants that are determined to be rare, threatened, or *endangered species* or *species in need of conservation*.

iv. Trees that are associated with an historic *structure* or *site*, or trees that have been designated by the state or county as a national, state, or county *champion tree*.

v. Any *tree* having a diameter, measured at 4.5 feet above the ground, of:

a) Thirty inches or more; or

b) Seventy-five percent (75%) or more of the diameter, measured at 4.5 feet above the ground, of the current State *Champion tree* of that species as designated by the Department of Natural Resources.

e. The required *reforestation* or *afforestation* may be accomplished *on-site*, *off-site*, by contributing to a *forest* bank in the same *watershed* or by contributing to the Kent County Reforestation Fund. The preferred method of *afforestation* or *reforestation* is *on-site* or *forest* banking.

f. Whenever possible and appropriate, *afforestation* and *reforestation* shall include native species.

3. *Forest Interior Dwelling Birds*
Development shall minimize impacts on *forest interior dwelling birds*. Whenever possible, riparian *forest* shall be expanded.

4. Habitat
   a. *Wildlife corridors* shall be created whenever feasible.
   b. Fragmentation of natural habitat areas shall be prohibited.
   c. *Hedgerows* are desirable as buffers.

5. Natural heritage areas and locations considered for Areas of Critical State Concern
These areas of local significance shall be preserved whenever possible. These areas are identified in Article VI Section 3.8 of this Ordinance.

6. *Non-tidal wetlands*
Non-tidal wetlands shall be protected according to the *regulations* of the State of Maryland, Army Corps of Engineers, United States Fish and Wildlife Service, Environmental Protection Agency, and all other applicable State and Federal *Regulations*.

7. *Stream Protection Corridor*
All new *development* or *redevelopment* shall provide a naturally vegetated 100-foot *stream protection corridor* along all *tributary streams*. New *development activities*, including *structures*, parking areas, septic systems, and similar *impervious surfaces* shall not be permitted in the *stream protection corridor*. *Roads* that cross the *stream protection corridor* shall be minimized. The *Planning Commission* may modify the *stream protection corridor* when the following can be demonstrated:
   a. A reduced corridor achieves significant water quality and habitat improvements equal to the required corridor.
   b. More than 50% of the corridor is impervious or more than 75% of the corridor is disturbed with stone, septic systems, decks, or other obvious human impacts.
   c. The *site* shall include all contiguous parcels under single ownership.

8. *Stormwater Management*
No *person* shall develop any land for residential, commercial, industrial, or institutional uses or redevelop land without having provided for appropriate *stormwater management* measures that control or manage runoff from such developments except as provided in Article VI, Section 10 of this Ordinance. *Stormwater management* shall be accomplished for all new *development* or *redevelopment* in accordance with the provisions of Article VI, Section 10 of this Ordinance.

9. Threatened and Endangered Species and Species in Need of Conservation
Threatened and *endangered species* and *species in need of conservation* shall be checked and noted before any approvals are granted by the Planning Director, *Planning Commission*, or Zoning Administrator. The Federal or State guidelines (whichever is stricter) for habitat protection must be followed during *development*. Plans shall also include provisions for continuance of the habitat protection after *development*. This can include *conservation easements*, cooperative agreements, special provisions in *forest management plans*, and donation or sale to a third party.

10. Water Quality
All new *development* or *redevelopment* must reduce pollutant loadings from the *site* and shall comply with the *stormwater management* qualitative controls found in Article VI, Section 10 of this Ordinance.

3.8 RURAL CHARACTER DISTRICT DESIGN STANDARDS

The purpose of these standards is to give a sense of the physical aspects of the County's environment to those contemplating *development* in the community. Pertinent to this physical appearance is the design of the *site*, *buildings* and *structures*, plantings, *signs*, *street* hardware, and miscellaneous other objects observed by the public.

These standards are not intended to restrict imagination, innovation, or variety, but rather assist in focusing on design principles which can produce creative solutions that will develop a satisfactory visual appearance within the County, preserve taxable values, and promote the public health, safety, and welfare.

A. RURAL CHARACTER DISTRICT GENERAL DESIGN STANDARDS

1. The landscape shall be preserved in its natural state, in so far as possible, by minimizing *tree* and *soil* removal. Any grade changes shall be in keeping with the general appearance of neighboring development areas. *Buildings* are encouraged to be located so as to maintain maximum natural *topography* and cover. *Topography*, *tree* cover, and natural drainage ways shall be treated as fixed determinants of road and *lot* configuration rather than malleable elements that can be changed to follow a preferred *development* scheme. Whenever possible, *development* shall be outside the *floodplain*.

2. *Streets* shall be designed and located in a manner so as to maintain and preserve natural *topography*, cover, significant landmarks and trees; to minimize *cut* and *fill*; and to preserve and enhance views and vistas on and off the subject parcel.

3. Proposed *development* shall be related harmoniously to the terrain and to the use, scale, and architecture of existing *buildings* in the vicinity that have functional or visual relationships to the proposed *buildings*.

4. All *open space* (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the *site* or overlooking it from nearby properties.

5. *Open space* shall be designed to retain and protect the most unique features of the *site* such as significant view corridors, *buildings* of historic merit, views of these features from the road and adjacent properties. Long narrow strips of *open space* shall be avoided.

6. The color, size, height, lighting, and landscaping of appurtenant *signs* and *structures* shall be evaluated for compatibility with the local architectural motif and the maintenance of views and vistas of natural landscapes, recognized historic landmarks, parks, and landscaping.

7. Whenever possible, adverse effects on historic, traditional, or significant uses and *structures* shall be minimized, whether these exist on the *site* or on adjacent properties.

8. Whenever possible, proposed developments should incorporate design elements such as single loaded *streets*, reverse curves, terminal vistas of *open space*, and foreground meadows.

B. RURAL CHARACTER DISTRICT SPECIFIC DESIGN STANDARDS

1. *Site* Access

Site access shall be subject to the following *regulations* to help ensure vehicle and pedestrian safety and alleviate congestion:

a. Where a proposed road is designated on an approved County or State map, *site plans* for *development* adjacent to the designated *roadway* shall include provisions for future access to the *roadway*.
b. All new lots must abut upon and have access to a public or approved *private road*.
c. Pedestrian and bicycle linkages to adjacent developments, recreational facilities, and other public or semi-public uses shall be provided whenever possible.
d. Access shall be consolidated whenever possible.
e. The applicant shall demonstrate that access to the project is adequate and the roads which will be impacted have the capacity to handle the traffic generated by the proposed project and will not endanger the safety of the general public.*
f. Whenever possible, *roads* shall be constructed above the elevation of the *100-year floodplain*.

2. *Floodplain*

a. In order to prevent excessive *flood* damage and to allow for the protection of the natural and beneficial *floodplain* functions, all *development*, *new construction*, and *substantial improvements* to existing *structures* in all *floodplain* zones shall comply with the requirements of Article VI, Section 7 of this Ordinance, including but not limited to the following:
   i. Elevation of all new or substantially improved *structures*;
   ii. Compliance with venting and other construction standards; and
   iii. Submission and recordation, where applicable, of *Elevation Certificates*, *Declaration of Land Restrictions*, deed restrictions, and venting affidavits.**
b. Placement of *buildings* and materials. In general, *buildings* and *accessory structures* should be located entirely out of the *floodplain*, out of the *flood* protection setback, or on land that is least susceptible to flooding. All *structures* permitted in the *floodplain* shall be oriented so as to offer the least resistance to the flow of floodwaters.
c. General *development* shall not occur in the *floodplain* where alternative locations exist. Before a permit is issued, the applicant shall demonstrate that new *structures* cannot be located out of the *floodplain* and that encroachments onto the *floodplain* are minimized.

* Amended 11/14/06; ** Amended 6/3/14

3. Landscaping

Street trees shall be included in each *subdivision*. *Street* trees may be clustered or evenly spaced. The number of *street* trees shall be calculated as follows:

a. Small trees (trees less than 25 feet in height at maturity) - 1 per 25 linear feet of *lot* or *open space* along public or *private roads*

b. Medium or large trees (25 feet or taller at maturity) - 1 per 40 linear feet of *lot* or *open space* along pubic or *private roads*.

At the time of planting, deciduous trees shall have at least a 2-3-inch *caliper* at 6 inches above grade; coniferous trees shall be at least 5 to 6 feet in height.

The *Planning Commission*, or where applicable the Planning Director, may waive the requirement for *street* trees.

4. *Subdivision*

a. Proposed *street* layout, blocks, and parcels shall be suitable in area and dimension for the type of *development* anticipated.

b. The total area shall be sufficient to provide adequate space for *off-street parking*, loading, landscaping, and other facilities.

c. Whenever possible, the *subdivision* should be designed to minimize *adverse impacts* on the agricultural operation.

d. The *lot* arrangement, design, and orientation shall be such that all lots will provide satisfactory building *sites*, properly related to *topography*, the character of surrounding *development*, and avoid facing the rear of properties to the existing road.

e. Proposed *open space* in the *subdivision* shall provide for the continuation of existing, planned, or platted *open space* on adjacent tracts unless the proposed extension is found by the *Planning Commission* to be unnecessary for the coordination of *development* between the *subdivision* and such adjacent *tract*.

f. Whenever possible, the majority of the houses shall abut undivided *open space*.

g. Every *lot* shall abut upon and have access to a public road or approved *private road*.

h. Lots adjoining *major thoroughfares* and railroad lines should be designed with extra depth and provision for an appropriate means of buffer or deeper building *setbacks*.

i. Where land in a *subdivision* adjoins a railroad line, the *street* layout shall make allowance for future grade separated railroad crossings at appropriate locations by providing extra *street right of way* widths for such crossings and by restricting intersecting *streets* at locations where they would cause interference with necessary approaches to such crossings.

j. Proposed *streets* in the *subdivision* shall provide for the continuation of existing, planned, or platted *streets* on adjacent tracts, unless such continuation shall be prevented by *topography* or other physical feature or unless such extension is found by the *Planning Commission* to be unnecessary for the coordination of *development* between the *subdivision* and such adjacent *tract*.

k. Where the *Planning Commission* deems it desirable or necessary to provide access to adjacent tracts not presently subdivided, proposed *streets* in the *subdivision* shall be extended to the boundary lines with such tracts.

l. Where a *subdivision* adjoins or embraces any part of a *major thoroughfare* as designated on the Kent County Major Thoroughfare Map, the layout of such *subdivision* shall provide for the platting and dedication of such part of the *major thoroughfare* in the location and at the width indicated on the *major thoroughfare* plan, except that the *subdivider* shall not be required to dedicate that part of such *major thoroughfare* that is in excess of eighty (80) feet in width.

m. Where deemed desirable to the layout of the *subdivision* and adjoining area, the *Planning Commission* may require the platting and dedication of one or more *collector streets* or parts thereof, to serve the *subdivision*.

n. Subdivisions shall be in full compliance with the provisions of this Ordinance.

o. *Private roads* are permitted in minor subdivisions and are subject to the following conditions:

   i. Each road shall serve no more than seven parcels. In the event that an eighth parcel is created, the eighth parcel and all further divisions of land shall front on a public road.*

   ii. The *subdivision* shall provide a 50-foot *right of way* for each *private road*.

   iii. The construction of all lanes and *private roads* shall adhere to the requirements established by the Kent County Department of Public Works and sediment control and *stormwater management regulations*.

   iv. The deed and contract of sale of all lots in the *subdivision* shall state: "The road is private and not the responsibility of Kent County."

   v. The plat shall identify all *private roads* and shall state: "The road is private and not the responsibility of Kent County."

5. Kent County *Airport* Safety Requirements

This section applies to properties that fall within the Kent County *Airport* Safety Zone as designated on the Kent County *Airport* Safety Zone Map. The Kent County *Airport* Safety Zone Map is incorporated into and made a part of this Ordinance. It is the purpose of this section to promote the public safety of the residents and visitors of Kent County by prohibiting to the extent possible, the creation or establishment of obstructions that are a hazard to air navigation.

a. No new ponds shall be constructed within 5,000 feet of the runway.

b. No new solid waste disposal *sites* shall be permitted within 5,000 feet of any publicly licensed *airport*. New solid waste disposal *sites* shall not be permitted within the limits of the *airport* safety zone if the FAA determines the *site* to be a hazard.

c. Developments which produce lights, illumination, or other visual hazards or which produce electronic interference with *airport*/airplane navigation signals are subject to the standards specifies in the FAA procedure manual 7400-2C.

d. Except as otherwise provided in this Ordinance, no *structure* shall be erected, altered, or maintained and no *tree* or other vegetation shall be allowed to grow in excess of the height limitations as designated on the Kent County *Airport* Safety Zone Map.

* Amended 10/16/12

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SECTION 4 RURAL RESIDENTIAL

4.1 STATEMENT OF INTENT

The purpose of this district is to provide for low *density*, single family residential *development* in areas of existing residential *development*, together with facilities and *accessory uses* normally compatible with residential surroundings, and at the same time to permit agricultural uses and to preserve open spaces and rural character. This district is located in areas of existing rural *development* and those areas designated as neighborhood development areas in the *Comprehensive Plan*.

4.2 PERMITTED PRINCIPAL USES AND STRUCTURES

A *building* or land shall be used only for the following purposes.

1. *Agriculture* including horticultural, hydroponics or general farming, orchards, groves, or nurseries for growing or propagation of plants, trees, and shrubs.

2. *Camp, day or boarding*, private or commercial, but not *recreational vehicle* or migrant labor camps.

3. Detached *single family dwellings*.

4. *Erosion* and *flood* control *structures*.

5. Greenhouses, wholesale or retail, provided *structures* are 200 feet from any property line and are adequately landscaped.

6. Public and private *forests*, wildlife reservations and similar conservation projects.

7. Public and private parks and playgrounds for the purpose of conserving and enjoying the natural resources, including both active and passive parks owned and operated by Kent County, the state of Maryland, or federal government but not including commercial play fields for football, baseball, and other major sports activities such as motocross or drag racing fields.

8. *Stable, private* provided:
   a. The *lot* shall be two acres or more.
   b. Any *structure* for the keeping of animals shall be a minimum of 100 feet from any property line.
   c. There shall be no more than one horse per acre of land. Only available pasture acreage shall be used to compute the number of horses allowed on a parcel.
   d. The operation is managed according to waste and nutrient management plans, approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that phosphorous is a problem or has the potential to become a problem, the plan shall use phosphorus based nutrient management. When in the opinion of the Planning Director additional review is necessary from an outside agency, the Planning Director may forward the plan to the Maryland Department of the Environment or any other appropriate agency.

9. *Stable, public* provided:
   a. The *lot* shall be 20 acres or more.
   b. Any *structure* for the keeping, feeding of animals and waste management *structures* shall be a minimum of 400 feet from any property line.
   c. No waste management facility or *structure* for the keeping of animals is within the *100-year floodplain*.
   d. The feeding and watering of animals are conducted a minimum of 50 feet from any body of water, including *tributary streams* and *wetlands*.
   e. The operation is managed according to waste and nutrient management plans, approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that phosphorous is a problem or has the potential to become a problem, the plan shall use phosphorus based nutrient management. When in the opinion of the Planning Director additional review is necessary from an outside agency, the Planning Director may forward the plan to the Maryland Department of the Environment or any other appropriate agency.

10. *Mobile homes* existing and in use as of January 16,1996 may be continued in use and may be replaced with another *mobile home*, provided the replacement *mobile home* complies with the Kent County Codes and all Health Department *regulations*. It is not the intent of this provision to allow additional *mobile homes* in the County, but rather to allow the continued use and improvement (including replacement) of *mobile homes*, existing as of January 16, 1996. A *mobile home* that remains idle or unused for a continuous period of two years shall not be used again except in conformity with these *regulations*.

4.3 SPECIAL EXCEPTIONS

The following principal uses and *structures* may be permitted as special exceptions in the Rural Residential District, subject to *site plan* review by the *Planning Commission* or where applicable the Planning Director. Detailed limitations and standards for these uses may be found in Article VII of this Ordinance.

1. Accessory storage *structures* with a *floor area* of more than 1,200 square feet or a height that exceeds 17 feet on parcels less than 5 acres
2. *Accessory structures* in the *front yard* of *through lots*
3. Adaptive reuse of historic *structures*
4. *Airport*, landing field, heliport, or helistop, public or private
5. *Aquaculture*, including accessory processing and sales
5.5 Assisted living facility with five to eight beds*
6. Cemetery, including crematorium and mausoleum
7. *Conference center*
8. *Cottage industries*, tradesmen and artisan shops
9. *Country inn*
10. *Country stores*, on *primary* and *secondary roads*
11. *Day care group*
12. *Dog kennels*, commercial
13. Golf course, public or private
14. *Houses of worship*
15. More than four horses and mules on land less than 20 acres in size
16. *Private club*s
17. Private schools

* Amended 11/3/09

18. *Public landings*
19. *Public utilities* and *structures*
20. Raising of livestock and fowl but not including commercial *feedlots*, confinement dairies, or poultry houses
21. Raising of small animals, commercial, including birds, bees, fish, rabbits or other creatures, but not including *dog kennels*
22. Recreational facilities, privately or commercially owned, but not including major sports arenas for football, baseball, drag racing, motocross, or other major sports activities
23. *Resort*
24. *Retreat*

24.5 *Rural Inn***

25. Sand and gravel pits, *excavation* or extraction (not including the removal of sod and *excavation* for foundations, *swimming pools*, *soil* and water conservation practices, and those removals approved in connection with *street* construction, *subdivision*, or planned residential *development*)
26. *Wind energy systems, small*, with a height that exceeds 80 feet or on parcels less than 20 acres*

4.4 ACCESSORY USES

A. The following *accessory uses* are allowed on all *farms* in the Rural Residential District.

1. Accessory farm *buildings*, including barns, cribs, stables, sheds, tool rooms, shops, bins, tanks, and silos. All *structures* for the keeping of animals shall be located a minimum of 100 feet from any property line. No *buildings* are permitted in the *buffer*.

2. Accessory farm houses, one on all *farms*, two on *farms* with a minimum of 50 tillable acres. A farm employee house may not be a *mobile home*. Houses must share a common entrance and shall be occupied by permanent employees of the *farm* or immediate member of the *family* owning or operating the *farm*.

3. Accessory open or enclosed storage of farm materials, products, equipment, or vehicles.

4. Accessory storage of fertilizer and chemicals used in connection with the farming operation of the owner.

5. *Guest house,* one, not including *mobile homes*, provided:
   a. The house is used exclusively for non-paying guests.
   b. No house shall be used as a permanent residence nor be rented or sold separately from the principal dwelling.

6. One hunting trailer, temporary, from September 1 to the following February 15, continually, provided that such trailer is a minimum of 150 feet from all property lines and not in the *stream protection corridor*. These shall be located around existing *buildings* and out of sight.

7. Parking of commercial vehicles provided:
   a. The vehicles are related to the operation of the *farm* or three non-farm related vehicles.
   b. The vehicles are parked around existing *buildings*. Non-farm related vehicles cannot be parked on *farms* without *buildings*.
   c. The vehicles have current licenses and are operable.

* Amended 9/6/11; ** Amended 4/8/15

8. The following *accessory uses* must be at least 200 feet from all property lines:
   a. Assembly in a *totally enclosed building* not to exceed 10,000 square feet in size, and repair of all equipment normally used in *agriculture*.
   b. Petroleum storage, not to exceed 10,000 gallons and subject to applicable safety codes, ordinances, and statutes.
   c. Grain, flour, and feed blending and packaging, including milling, drying, and storing.

9. School buses, limited to five, parked around existing *buildings* provided the buses have current licenses and are operable.

10. *Wind energy systems, small*, provided:*
   a. The height of the *structure* to the tip of the blade at its highest point does not exceed 80 feet.
   b. Any system is located a minimum of 3 times its total height from a property line.
   c. Towers are not readily climbable from the ground up to 12 feet.
   d. All access doors to towers and electrical equipment shall be lockable.
   e. Appropriate warning signage is placed on the tower and electrical equipment.
   f. The blade tip at its lowest point had a ground clearance of at least 25 feet.
   g. Wind turbines and towers maintain a galvanized steel, brushed aluminum finish, or a non-garish color.
   h. Any small wind energy system that is not operational for a period of 12 consecutive months or more shall be removed at the landowner's expense.

B. The following *accessory uses* are allowed on all properties in the Rural Residential District

1. Accessory *dwelling unit*, one, in principal or *accessory structures* provided:
   a. The property owner resides on the *premises*.
   b. The accessory *dwelling unit* is subordinate to the principal dwelling in size and appearance.
   c. The accessory *dwelling unit* may be rented but not sold as a separate unit.
   d. The appearance of the *structure* and property remain that of a *single family dwelling* so that the average neighbor is unaware of the accessory *dwelling unit's* existence.
   e. If the entrance to the accessory *dwelling unit* is separate from that of the primary dwelling, the entrance to the accessory *dwelling unit* shall from the *side* or *rear yard*.
   f. One parking space is provided in the *rear yard* for the accessory *dwelling unit*.
   g. The *structure* meets all applicable Kent County Codes, including the building code, and Health Department *regulations*.

2. Accessory *off-street parking* and loading of non-commercial vehicles that have a current license and are operable.

3. Accessory *off-street parking* of one commercial vehicle in the *rear yard* provided:
   a. The vehicle is used by the occupant of the dwelling.
   b. The vehicle does not exceed 16,000 pounds manufacturer's gross vehicle weight.
   c. No major repair is conducted *on-site*.
   d. No engines may run when parked *on-site*. Electrical refrigeration units may run.
   e. Honey wagons, sanitation, garbage, or other trucks used to transport odorous, flammable, or hazardous materials are prohibited.
   f. The vehicle has a current license and is operable.

4. Appurtenant *signs* in accordance with Article VI, Section 2, of this Ordinance.

* Amended 9/6/11

5. Assisted living facilities or *group homes*, with no more than four beds provided:
   a. The property owner resides on the *premises*.
   b. The assisted living facility or *group home* is subordinate and accessory to the principal dwelling in size and appearance and is in the same *structure* as the principal *dwelling unit*.
   c. The rooms for the use are not designed or constructed to be separate *dwelling units* and may not be sold as separate *dwelling units*.
   d. The appearance of the *structure* and property remain that of a *single family dwelling* so that the average neighbor is unaware of the assisted living facility's or *group home's* existence.
   e. The *structure* meets all applicable Kent County Codes, including the building code, and Health Department requirements.

6. *Day care home* provided:
   a. Outdoor play areas are fenced and screened.
   b. Structured areas for active play or play *structures* shall not be in the *front yard* and shall be a minimum of 10 feet from the side or rear property line.
   c. One drop off / pickup space is provided.
   d. Structural or decorative additions shall be designed to be compatible with the residential character of the neighborhood.
   e. *Signs* shall be limited to two square feet.

7. *Home occupations* in main or accessory *buildings*

   Intent - The conduct of business in residential units may be permitted under the provisions of this section. It is the intent of this section to:
   a. Ensure the compatibility of *home occupations* with other uses in residential areas.
   b. Maintain and preserve the character of residential neighborhoods by regulating the operation of *home occupations* so that the average neighbor is unaware of their existence.
   c. Guarantee to all residents freedom from excessive noise, excessive traffic, nuisance, fire, hazard, and other possible effects of commercial uses being conducted in residential areas.
   d. Promote the efficient use of public services and facilities by assuring these services are provided to the residential population for which they were planned and constructed, rather than commercial uses.

   Conditions -
   a. A *home occupation* shall be incidental to the use of a *dwelling unit* for residential purposes and shall be conducted only by members of the *family* residing in the *dwelling unit* plus one non-resident assistant or employee.
   b. Outdoor storage of materials or products is prohibited.
   c. The *home occupation* shall not cause any external effect such as noise, excessive lighting, or offensive odor which is incompatible with the characteristics of the residential area. The illegal discharge of any materials, fluids, or gases into the sewer system or in any other manner of discharging such items in violation of any applicable government code is prohibited.
   d. Traffic generated by the *home occupation* shall not exceed that normally expected in a residential neighborhood.
   e. Parking for the *home occupation* shall be provided off-street and in the *side* or *rear yard*.
   f. A *home occupation* shall limit any external evidence of an occupation to one identification *sign* not to exceed two square feet.

7.5 Keeping of backyard chickens*

a. Backyard chickens are defined as females of the species *Gallus gallus domesticus* kept for non-commercial purposes. The keeping of males of the species is not permitted.

b. The maximum number of chickens, 4 months or older, permitted on any lot is determined by lot size:

i. No chickens are permitted on a lot of less than ¼ acre;

ii No more than 5 chickens are permitted on a lot of ¼ acre to 1 acre;

iii. No more than 8 chickens are permitted on lots of more than 1 acre.

c. The area for keeping backyard chickens must be enclosed in such a fashion that the chickens are confined and not able to leave the owner's property. Backyard chickens will be provided with a covered, predator-proof coop or cage that is well ventilated. Hens shall have access to an outdoor enclosure that is adequately fenced to contain the birds on the property.

d. *Structures* (coops) for the housing of backyard chickens must meet the permitting requirements of this Ordinance. For movable coops, the permit application will show the area in which the coop will be moved. A copy of the Maryland Poultry Registration Form must accompany the building permit application.

e. Coops must be setback a minimum of 15 feet from any property line.

f. Coops may be placed in rear yards only.

g. Each coop must be kept clean and free of odors and materials that can attract vermin. Feed must be kept in secure containers so as not to attract vermin.

h. Waste must be composted or removed from the property.

i. The outdoor slaughtering of chickens is not permitted.

8. *Private garages*, *swimming pools*, game courts, and other customary residential outbuildings and *structures* provided that *accessory structures* on parcels less than 5 acres do not exceed 1,200 square feet or 17 feet in height.

9. *Roadside stands* offering for sale locally grown fresh agricultural products in season, operated by the owner, lessee or *tenant* of the *premises* upon which such stand is located. Adequate *off-street parking* shall be provided. Such stands shall be completely removed at the end of the local fresh produce season.

10. Satellite dish, private, with an antenna exceeding 3 feet in diameter provided:

a. No antenna shall exceed an overall diameter of 12 feet or an overall height of 15 feet above *existing grade*.

b. The antenna shall be permanently ground mounted. No antenna shall be installed on a portable or movable *structure*.

c. The antenna shall be totally screened along the non-receptive axis and low-level ornamental landscaping shall be installed along the reception window axis of the base of the antenna. Screening may consist of fencing or a variety of plant types. Screening may be waived when the antenna is located 100 feet from all property lines or the antenna is of a nature that is not visible or intrusive to the neighborhood.

d. The final installation should blend carefully with the surrounding landscape and not appear as an obvious attempt at camouflage.

11. Satellite dish, private, with an antenna of 3 feet or less, and solar panel arrays, provided that the antenna is not installed on portable or movable *structures*.

* Amended 8/5/14

12. School buses, limited to two, parked in the *rear* or *side yard* of the dwelling provided that the buses are owned or operated by the current occupants of the dwelling, have current licenses, and are operable.

12.5 *Solar energy systems, small*, provided:*

a. Tree removal shall be minimized and any removal shall be mitigated at a ratio or one tree planted for each tree removed.

b. All solar collection devices shall register with the Department of Emergency Services and shall submit a map noting the location of the solar collection devices and the panel disconnect.

c. The total height of solar collection systems shall comply with the height requirements.

13. Storage in the *rear* or *side yard* of boats, campers, boat trailers and camper trailers, which are titled under the name of the property owner, or occupant. All boats, campers, boat trailers and camper trailers must be operable and have current licenses, if required.

14. Temporary *MET Tower* of any height provided:*

a. The tower is erected for no more than 12 months.

b. Any free standing *structure* is located a minimum of 3 times its total height from a property line.

c. Towers are not readily climbable from the ground up to 12 feet.

* Amended 9/6/11

4.5 DENSITY, AREA, HEIGHT, WIDTH AND YARD REQUIREMENTS

Gross *density* (dwelling units/ac)	0.33 (1/3) [1]
Minimum *lot* size	
- O*n-site* individual septic system	¾ acre
- Public, community or shared system	½ acre
Minimum *lot width*	75 feet
Minimum *yard*	
- *Front*	35 feet
- *Side*	10 feet
- *Rear*	30 feet
- Waterfront	100 feet
- *Accessory structures* on *farms* in the *side* and *rear yard*	25 feet
- Accessory residential *structures* in *rear yard*	
Side	3 feet
Rear	5 feet
Maximum *structure* height [2]	
- Residential or Agricultural *structure*	38 feet
- Fence [3]	
- Security	8 feet
- Agricultural	5 feet
- Ornamental	
Side and *Rear*	8 feet
Front	4 feet

[1] Accessory *dwelling units* are not included in *density* calculations.

[2] Height of *structures* may be further restricted by of the Kent County *Airport* Safety Requirements as defined in Article V, Section 4.8.B.5 of this Ordinance. Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

Accessory structures on parcels less than 5 acres in size may not exceed 17 feet in height without a special exception.

[3] Fences do not need to meet yard requirements.

4.6 RURAL RESIDENTIAL DISTRICT GENERAL STANDARDS

1. The reuse of existing *buildings* is encouraged.

2. The Department of Planning and Zoning shall approve *street* names. A name may not be approved if it duplicates or is too similar to an existing road name in the county or incorporated towns.

3. Minor Subdivisions - At a minimum, *open space*, playgrounds, or other recreational areas shall be set aside at a rate of 1/10 acre per *dwelling unit*. If the land is not of significant quality and size for the purpose of providing or developing parks and recreational facilities, the *Planning Commission*, or where applicable the Planning Director, may permit a *developer* to pay a fee of $250.00 for each *lot* or each *dwelling unit* in lieu of providing land for recreational purposes. Recreational land required in a *subdivision* shall be located so as to be reasonably accessible from all lots in the *subdivision* in accordance with the following:
   a. *Steep slopes*, streams, lakes, *watercourses*, and *floodplains* may constitute up to 40% of the recreational land.
   b. At least 60% of the recreational land shall be suitable for dry ground recreational use.

4. Major subdivisions shall include 40% of the adjusted *tract* acreage in *open space* unless all of the parcels are 10 acres or more in size. The adjusted *tract* acreage shall be determined by subtracting the acreage in *slopes* over 25%, tidal and *non-tidal wetlands*, required *buffer*s, and *stormwater management* areas. The *Planning Commission* may waive this requirement when the total amount of *open space*, including *steep slopes*, *wetlands*, *buffer*s, and *stormwater management* areas exceeds 60% of the *site*. When all of the parcels in the *subdivision* exceed 10 acres in size, the *developer* shall pay a fee of $250.00 for each *lot* in lieu of providing land for recreational purposes.

4.7 RURAL RESIDENTIAL DISTRICT ENVIRONMENTAL STANDARDS

The purpose of these standards is to provide for the proper stewardship of the County's natural resources. Specifically it is the overall goal of the county to maintain the quality of the County's *ecosystem* in the face of continuing activity, growth and change.

A. RURAL RESIDENTIAL DISTRICT GENERAL ENVIRONMENTAL STANDARDS

1. *Development* shall minimize *adverse impacts* to *non-tidal* or *tidal wetlands*, estuaries, the Chesapeake Bay, *tributary streams*, and the natural course and *riparian habitat* of these streams, habitat protection areas, or other significant habitat identified by the Department of Planning and Zoning.

2. *Development* shall minimize the removal of vegetation.

3. *Development* shall minimize the effects of runoff on the existing volume of water or quality of any water body. Urban *best management practices* shall be used.

4. Whenever possible, land with poor drainage or other adverse conditions shall not be developed. When developed, the property owner shall agree to make any improvements necessary to render the property safe for *development*.

5. Whenever possible, land subject to periodic flooding, shall not be developed for any use that might involve danger to health, life, or property or aggravate floods.

6. Whenever possible, agricultural operations shall follow agricultural *best management practices* and are encouraged to develop and implement *soil* conservation and water quality, nutrient and pest management plans.

B. RURAL RESIDENTIAL DISTRICT SPECIFIC ENVIRONMENTAL STANDARDS

1. *Anadromous fish*
   a. Concrete riprap or other artificial surface shall not be installed on the bottom of natural streams unless it can be demonstrated that water quality and fishery habitat will be improved.
   b. Physical alteration of a stream, including but not limited to channelization, that interferes with the movement of fish shall be prohibited

2. *Forest Conservation*
   This section applies to all *major* and *minor site plans* on units of land 40,000 square feet or greater; major and minor subdivisions; and *grading* and *sediment control permits* that result in the cumulative cutting, *clearing*, or *grading* of more than 40,000 square feet of *forest*. A forest *Declaration of Intent* is required for activities specifically exempted in Article VI, Section 8.2 of this Ordinance.
   a. A parcel with less than 20% of its *net tract area* in *forest cover* shall be afforested to 20% of its *net tract area*.
   b. A parcel with less than 20% of its *net tract area* in *forest* may be cut or cleared provided:
      i. The *afforestation* required to achieve the 20% *afforestation* level is determined prior to any *clearing* of *forest*.
      ii. The *afforestation* area consists of two (2) times the total surface area cleared and the area needed to achieve the 20% *afforestation* level before *clearing* occurred. For example, the *afforestation* area for a project with a *net tract area* of one hundred acres with ten (10) acres of existing *forest* of which five (5) acres are to be cleared is acres twenty (20) acres - ten (10) acres to achieve the required *afforestation* level and ten (10) acres to replace the *forest* cleared.
   c. A parcel with more than 50% of its *net tract area* in *forest* may be cut or cleared provided *reforestation* occurs at a rate of one-quarter (1/4) acre planted for each acre removed above 50% of the *net tract area* or at a rate of two (2) acres planted for every acre removed below 50% of the *net tract area*. *Forest* retained over 50% of the *net tract area* is credited toward the required *reforestation*. For example, a project with a *net tract area* of one hundred (100) acres and an existing *forest* of sixty (60) acres of which twenty (20) acres will be cleared, will require a *reforestation* area of 22.5 acres.
   d. The following trees, shrubs, plants, and specific areas are considered a priority for *retention* and protection and shall be left in an undisturbed condition unless the applicant demonstrates, to the satisfaction of the Department of Planning and Zoning, that reasonable efforts have been made to protect them and the plan cannot be reasonably altered.
      i. Trees, shrubs, and plants in sensitive areas including the *non-tidal 100-year floodplain*, *intermittent* and *perennial stream protection corridors*, *steep slopes*, *non-tidal wetlands*, and critical habitats.
      ii. Contiguous *forest* that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the *site*.

iii. Trees, shrubs, and plants that are determined to be rare, threatened, or *endangered species* or *species in need of conservation*.

iv. Trees that are associated with an historic *structure* or *site*, or trees that have been designated by the state or county as a national, state, or county *champion tree*.

v. Any *tree* having a diameter, measured at 4.5 feet above the ground, of:

a) Thirty inches or more; or

b) Seventy-five (75%) or more of the diameter, measured at 4.5 feet above the ground, of the current State *Champion tree* of that species as designated by the Department of Natural Resources.

e. The required *reforestation* or *afforestation* may be accomplished *on-site*, *off-site*, by contributing to a *forest* bank in the same *watershed* or by contributing to the Kent County Reforestation Fund. The preferred method of *afforestation* or *reforestation* is *on-site* or *forest* banking.

f. Whenever possible and appropriate, *afforestation* and *reforestation* shall include native species.

3. *Forest Interior Dwelling Birds*

Development shall minimize impacts on *forest interior dwelling birds*. Whenever possible, riparian *forest* shall be expanded.

4. Habitat

a. *Wildlife corridors* shall be created whenever feasible.

b. Fragmentation of natural habitat areas shall be prohibited.

c. *Hedgerows* are desirable as buffers.

5. *Natural heritage areas* and locations considered for Areas of Critical State Concern

These areas of local significance shall be preserved whenever possible. These areas are identified in Article VI, Section 3.8 of this Ordinance.

6. *Non-tidal wetlands*

Non-tidal wetlands shall be protected according to the *regulations* of the State of Maryland, Army Corps of Engineers, United States Fish and Wildlife Service, Environmental Protection Agency, and all other applicable State and Federal *Regulations*.

7. *Stream Protection Corridor*

All new *development* or *redevelopment* shall provide a 100-foot naturally vegetated *stream protection corridor* along all *tributary streams*. New *development activities*, including *structures*, parking areas, septic systems, and similar *impervious surfaces* shall not be permitted in the *stream protection corridor*. *Roads* that cross the *stream protection corridor* shall be minimized. The *Planning Commission* may modify the *stream protection corridor* when the following can be demonstrated:

a. A reduced corridor achieves significant water quality and habitat improvements equal to the required corridor.

b. More than 50% of the corridor is impervious or more than 75% of the corridor is disturbed with stone, septic systems, decks, or other obvious human impacts.

c. The *site* shall include all contiguous parcels under single ownership.

8. *Stormwater Management*
No *person* shall develop any land for residential, commercial, industrial, or institutional uses or redevelop land without having provided for appropriate *stormwater management* measures that control or manage runoff from such developments except as provided in Article VI, Section 10 of this Ordinance. *Stormwater management* shall be accomplished for all new *development* or *redevelopment* in accordance with the provisions of Article VI, Section 10 of this Ordinance.

9. Threatened and Endangered Species and Species in Need of Conservation
Threatened and *endangered species* and *species in need of conservation* shall be checked and noted before any approvals are granted by the Planning Director, *Planning Commission*, or Zoning Administrator. The Federal or State guidelines (whichever is stricter) for habitat protection must be followed during *development*. Plans shall also include provisions for continuance of the habitat protection after *development*. This can include *conservation easements*, cooperative agreements, special provisions in *forest management plans*, and donation or sale to a third party.

10. Water Quality
All new *development* or *redevelopment* must reduce pollutant loadings from the *site* and shall comply with the *stormwater management* qualitative controls found in Article VI, Section 10 of this Ordinance.

4.8 RURAL RESIDENTIAL DISTRICT DESIGN STANDARDS

The purpose of these standards is to give a sense of the physical aspects of the County's environment to those contemplating *development* in the community. Pertinent to this physical appearance is the design of the *site*, *buildings* and *structures*, plantings, *signs*, *street* hardware, and miscellaneous other objects observed by the public.

These standards are not intended to restrict imagination, innovation, or variety, but rather assist in focusing on design principles which can produce creative solutions that will develop a satisfactory visual appearance within the County, preserve taxable values, and promote the public health, safety, and welfare.

A. RURAL RESIDENTIAL DISTRICT GENERAL DESIGN STANDARDS

1. The landscape shall be preserved in its natural state, in so far as possible, by minimizing *tree* and *soil* removal. Any grade changes shall be in keeping with the general appearance of neighboring development areas. *Buildings* are encouraged to be located so as to maintain maximum natural *topography* and cover. *Topography*, *tree* cover, and natural drainage ways shall be treated as fixed determinants of road and *lot* configuration rather than malleable elements that can be changed to follow a preferred *development* scheme. Whenever possible, *development* shall be outside the *floodplain*.

2. *Streets* shall be designed and located in a manner so as to maintain and preserve natural *topography*, cover, significant landmarks and trees; to minimize *cut* and *fill*; and to preserve and enhance views and vistas on and off the subject parcel.

3. Proposed *development* shall be related harmoniously to the terrain and to the use, scale, and architecture of existing *buildings* in the vicinity that have functional or visual relationships to the proposed *buildings*.

4. All *open space* (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the *site* or overlooking it from nearby properties.

5. *Open space* shall be designed to retain and protect the most unique features of the *site* such as significant view corridors, *buildings* of historic merit, views of these features from the road and adjacent properties. Long narrow strips of *open space* shall be avoided.

6. The color, size, height, lighting, and landscaping of appurtenant *signs* and *structures* shall be evaluated for compatibility with the local architectural motif and the maintenance of views and vistas of natural landscapes, recognized historic landmarks, parks, and landscaping.

7. Whenever possible, adverse effects on historic, traditional, or significant uses and *structures* shall be minimized, whether these exist on the *site* or on adjacent properties.

8. Whenever possible, proposed developments should incorporate design elements such as single loaded *streets*, reverse curves, terminal vistas of *open space*, and foreground meadows.

B. RURAL RESIDENTIAL DISTRICT SPECIFIC DESIGN STANDARDS

1. *Site* Access

Site access shall be subject to the following *regulations* to help ensure vehicle and pedestrian safety and alleviate congestion:

a. Where a proposed road is designated on an approved County or State map, *site plans* for *development* adjacent to the designated *roadway* shall include provisions for future access to the *roadway*.
b. All new lots must abut upon and have access to a public or approved *private road*.
c. Pedestrian and bicycle linkages to adjacent developments, recreational facilities, and other public or semi-public uses shall be provided whenever possible.
d. Access shall be consolidated whenever possible.
e. The applicant shall demonstrate that access to the project is adequate and the roads which will be impacted have the capacity to handle the traffic generated by the proposed project and will not endanger the safety of the general public.*
f. Whenever possible, *roads* shall be constructed above the elevation of the *100-year floodplain*.

2. *Floodplain*

a. In order to prevent excessive *flood* damage and to allow for the protection of the natural and beneficial *floodplain* functions, all *development*, *new construction*, and *substantial improvements* to existing *structures* in all *floodplain* zones shall comply with the requirements of Article VI, Section 7 of this Ordinance, including but not limited to the following:
   i. Elevation of all new or substantially improved *structures*;
   ii. Compliance with venting and other construction standards; and
   iii. Submission and recordation, where applicable, of *Elevation Certificates*, *Declaration of Land Restrictions*, deed restrictions, and venting affidavits.**
b. Placement of *buildings* and materials. In general, *buildings* and *accessory structures* should be located entirely out of the *floodplain*, out of the *flood* protection setback, or on land that is least susceptible to flooding. All *structures* permitted in the *floodplain* shall be oriented so as to offer the least resistance to the flow of floodwaters.

* Amended 11/14/06; ** Amended 6/3/14

c. General *development* shall not occur in the *floodplain* where alternative locations exist. Before a permit is issued, the applicant shall demonstrate that new *structures* cannot be located out of the *floodplain* and that encroachments onto the *floodplain* are minimized

3. Landscaping

Street trees shall be included in each *subdivision*. *Street* trees may be clustered or evenly spaced. The number of *street* trees shall be calculated as follows:

a. Small trees (trees less than 25 feet in height at maturity) - 1 per 25 linear feet of *lot* or *open space* along public or *private roads*
b. Medium or large trees (25 feet or taller at maturity) - 1 per 40 linear feet of *lot* or *open space* along pubic or *private roads*.

At the time of planting, deciduous trees shall have at least a 2-3-inch *caliper* at 6 inches above grade; coniferous trees shall be at least 5 to 6 feet in height.

The *Planning Commission*, or where applicable the Planning Director, may waive the requirement for *street* trees.

4. *Subdivision*

a. Proposed *street* layout, blocks, and parcels shall be suitable in area and dimension for the type of *development* anticipated.
b. The total area shall be sufficient to provide adequate space for *off-street parking*, loading, landscaping, and other facilities.
c. Whenever possible, the *subdivision* should be designed to minimize *adverse impacts* on the agricultural operation.
d. The *lot* arrangement, design, and orientation shall be such that all lots will provide satisfactory building *sites*, properly related to *topography*, the character of surrounding *development*, and avoid facing the rear of properties to the existing road.
e. Proposed *open space* in the *subdivision* shall provide for the continuation of existing, planned, or platted *open space* on adjacent tracts unless the proposed extension is found by the *Planning Commission* to be unnecessary for the coordination of *development* between the *subdivision* and such adjacent *tract*.
f. Whenever possible, the majority of the houses shall abut undivided *open space*.
g. Every *lot* shall abut upon and have access to a public road or approved *private road*.
h. Lots adjoining *major thoroughfares* and railroad lines should be designed with extra depth and provision for an appropriate means of buffer or deeper building *setbacks*.
i. Where land in a *subdivision* adjoins a railroad line, the *street* layout shall make allowance for future grade separated railroad crossings at appropriate locations by providing extra *street right of way* widths for such crossings and by restricting intersecting *streets* at locations where they would cause interference with necessary approaches to such crossings.
j. Proposed *streets* in the *subdivision* shall provide for the continuation of existing, planned, or platted *streets* on adjacent tracts, unless such continuation shall be prevented by *topography* or other physical feature or unless such extension is found by the *Planning Commission* to be unnecessary for the coordination of *development* between the *subdivision* and such adjacent *tract*.
k. Where the *Planning Commission* deems it desirable or necessary to provide access to adjacent tracts not presently subdivided, proposed *streets* in the *subdivision* shall be extended to the boundary lines with such tracts.
l. Where a *subdivision* adjoins or embraces any part of a *major thoroughfare* as designated on the Kent County Major Thoroughfare Map, the layout of such *subdivision* shall provide

for the platting and dedication of such part of the *major thoroughfare* in the location and at the width indicated on the *major thoroughfare* plan, except that the *subdivider* shall not be required to dedicate that part of such *major thoroughfare* that is in excess of eighty (80) feet in width.

m. Where deemed desirable to the layout of the *subdivision* and adjoining area, the *Planning Commission* may require the platting and dedication of one or more *collector streets* or parts thereof, to serve the *subdivision*.

n. Subdivisions shall be in full compliance with the provisions of this Ordinance.

o. *Private roads* are permitted in minor subdivisions and are subject to the following conditions:

   i. Each road shall serve no more than seven parcels. In the event that an eighth parcel is created, the eighth parcel and all further divisions of land shall front on a public road.*

   ii. The *subdivision* shall provide a 50-foot *right of way* for each *private road*.

   iii. The construction of all lanes and *private roads* shall adhere to the requirements established by the Kent County Department of Public Works and sediment control and *stormwater management regulations*.

   iv. The deed and contract of sale of all lots in the *subdivision* shall state: "The road is private and not the responsibility of Kent County."

   v. The plat shall identify all *private roads* and shall state: "The road is private and not the responsibility of Kent County."

5. Kent County *Airport* Safety Requirements

This section applies to properties that fall within the Kent County *Airport* Safety Zone as designated on the Kent County *Airport* Safety Zone Map. The Kent County *Airport* Safety Zone Map is incorporated into and made a part of this Ordinance. It is the purpose of this section to promote the public safety of the residents and visitors of Kent County by prohibiting to the extent possible, the creation or establishment of obstructions that are a hazard to air navigation.

a. No new ponds shall be constructed within 5,000 feet of the runway.

b. No new solid waste disposal *sites* shall be permitted within 5,000 feet of any publicly licensed *airport*. New solid waste disposal *sites* shall not be permitted within the limits of the *airport* safety zone if the FAA determines the *site* to be a hazard.

c. Developments which produce lights, illumination, or other visual hazards or which produce electronic interference with *airport*/airplane navigation signals are subject to the standards specifies in the FAA procedure manual 7400-2C.

d. Except as otherwise provided in this Ordinance, no *structure* shall be erected, altered, or maintained and no *tree* or other vegetation shall be allowed to grow in excess of the height limitations as designated on the Kent County *Airport* Safety Zone Map.

* Amended 10/16/12

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SECTION 5 CRITICAL AREA RESIDENTIAL

5.1 STATEMENT OF INTENT

This district is intended to allow low *density* residential *development* in areas where the impact on the natural environment is minimal. The purpose of this district is to maintain, or if possible to improve, the quality of runoff and groundwater entering the Chesapeake Bay and its tributaries and to maintain existing areas of natural habitats while allowing limited residential *development* that conforms to environmental standards and that reflects the scale and character of existing *development*. These areas must have one of the following characteristics:

- Housing *density* ranges from one *dwelling unit* per five acres, up to four *dwelling units* per acre.
- Areas not dominated by *agriculture*, *wetlands*, *forest*, *barren land*, surface water or space; or
- Areas having public sewer or water, or both.
- Areas meeting the conditions of an Intense Development Area but less than 20 acres in size.

5.2 PERMITTED PRINCIPAL USES AND STRUCTURES

A *building* or land shall be used only for the following purposes.

1. *Agriculture* including horticultural, hydroponics or general farming, orchards, groves, or nurseries for growing or propagation of plants, trees, and shrubs.

2. *Camp, day or boarding*, private or commercial, but not *recreational vehicle* or migrant labor camps.

3. Detached *single family dwellings.*

4. *Erosion* and *flood* control *structures*.

5. Greenhouses, wholesale or retail, provided *structures* are 200 feet from all property lines and are adequately landscaped.

6. Public and private *forests*, wildlife reservations and similar conservation projects.

7. Public and private parks and playgrounds for the purpose of conserving and enjoying the natural resources, including both active and passive parks owned and operated by Kent County, the State of Maryland, or federal government but not including commercial play fields for football, baseball, and other major sports activities such as motocross or drag racing fields.

8. *Stable, private* provided:
   a. The *lot* shall be two acres or more.
   b. Any *structure* for the keeping of animals shall be a minimum of 100 feet from any property line.
   c. There shall be no more than one horse per acre of land. Only available pasture acreage shall be used to compute the number of horses allowed on a parcel.
   d. The operation is managed according to waste and nutrient management plans, approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the

University of Maryland, indicates that phosphorous is a problem or has the potential to become a problem, the plan shall use phosphorus based nutrient management. When in the opinion of the Planning Director additional review is necessary from an outside agency, the Planning Director may forward the plan to the Maryland Department of the Environment or any other appropriate agency.

9. *Stable, public* provided:
   a. The *lot* shall be 20 acres or more.
   b. Any *structure* for the keeping, feeding of animals and waste management shall be a minimum of 400 feet from any property line.
   c. No waste management facility or *structure* for the keeping of animals is within the *100-year floodplain*.
   d. The feeding and watering of animals are conducted a minimum of 50 feet from any body of water, including *tributary streams* and *wetlands*.
   e. The operation is managed according to waste and nutrient management plans, approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that phosphorous is a problem or has the potential to become a problem, the plan shall use phosphorus based nutrient management. When in the opinion of the Planning Director additional review is necessary from an outside agency, the Planning Director may forward the plan to the Maryland Department of the Environment or any other appropriate agency.

10. *Mobile homes* existing and in use as of January 16, 1996 may be continued in use and may be replaced with another *mobile home*, provided the replacement *mobile home* complies with the Kent County Codes and all Health Department *regulations*. It is not the intent of this provision to allow additional *mobile homes* in the County, but rather to allow the continued use and improvement (including replacement) of *mobile homes*, existing as of January 16, 1996. A *mobile home* that remains idle or unused for a continuous period of two years shall not be used again except in conformity with these *regulations*.

5.3 SPECIAL EXCEPTIONS

The following principal uses and *structures* may be permitted as special exceptions in the *Critical Area* Residential District, subject to *site plan* review by the *Planning Commission* or where applicable the Planning Director. Detailed limitations and standards for these uses may be found in Article VII of this Ordinance.

1. Accessory storage *structures* with a *floor area* of more than 1,200 square feet or a height that exceeds 17 feet on parcels less than 5 acres
2. *Accessory structures* in the *front yard* of *through lots*
3. *Accessory structures* in the *front yard* requirement of waterfront parcels
4. *Airport*, landing field, heliport, or helistop, public or private
5. *Aquaculture*, including accessory processing and sales

5.5 Assisted living facility with five to eight beds*

6. Cemetery, including crematorium and mausoleum
7. *Conference center*
8. *Cottage industries*, tradesmen and artisan shops
9. *Country inn*
10. *Day care group*

* Amended 2/3/10

11. *Dog kennels*, commercial
12. Golf course, public or private
13. More than four horses and mules on land less than 20 acres in size
14. *Private club*s
15. Private schools
16. *Public landings*
17. *Public utilities* and *structures*
18. Raising of small animals, commercial, including birds, bees, fish, rabbits or other creatures but not including *dog kennels*.
19. Recreational facilities, privately or commercially owned, but not including major sports arenas for football, baseball, drag racing, motocross or other major sports activities
20. *Resort*
21. *Retreat*
22. Sand and gravel pits, *excavation* or extraction (not including the removal of sod and *excavation* for foundations, *swimming pools*, *soil* and water conservation practices, and those removals approved in connection with *street* construction, *subdivision*, or planned residential development)

22.5 Tie-out pilings of private piers, *community piers*, and private shared piers, installed at a distance not to exceed 25% of the width of the waterway, the edge of the channel, or 180 feet from the mean high water mark, whichever is less, for the exclusive mooring use by tall ships as safe-harbors from hurricanes and other severe weather-related threats.**

23. *Wind energy systems, small*, with a height that exceeds 80 feet or on parcels less than 20 acres*

5.4 ACCESSORY USES

The following *accessory uses* are allowed on all properties in the *Critical Area* Residential District

1. Accessory *dwelling unit*, one, in principal or *accessory structures* provided:
   a. The property owner resides on the *premises*.
   b. The accessory *dwelling unit* is subordinate to the principal dwelling in size and appearance.
   c. The accessory *dwelling unit* may be rented but not sold as a separate unit.
   d. The appearance of the *structure* and property remain that of a *single family dwelling* so that the average neighbor is unaware of the accessory *dwelling unit's* existence.
   e. If the entrance to the accessory *dwelling unit* is separate from that of the primary dwelling, the entrance to the accessory *dwelling unit* shall from the *side* or *rear yard*.
   f. One parking space is provided in the *rear yard* for the accessory *dwelling unit*.
   g. The *structure* meets all applicable Kent County Codes, including the building code, and Health Department *regulations*.

2. Accessory *off-street parking* and loading of non-commercial vehicles that have current licenses and are operable.

3. Accessory *off-street parking* of one commercial vehicle in the *rear yard* provided:
   a. The vehicle is used by the occupant of the dwelling.
   b. The vehicle does not exceed 16,000 pounds manufacturer's gross vehicle weight.
   c. No major repair is conducted *on-site*.
   d. No engines may run when parked *on-site*. Electrical refrigeration units may run.
   e. Honey wagons, sanitation, garbage, or other trucks used to transport odorous, flammable, or hazardous materials are prohibited.
   f. The vehicle has a current license and is operable.

* Amended 9/6/11; ** Amended 6/20/17

4. Appurtenant *signs* in accordance with Article VI, Section 2, of this Ordinance.

5. Assisted living facilities or *group homes*, with no more than four beds provided:
   a. The property owner resides on the *premises*.
   b. The assisted living facility or *group home* is subordinate and accessory to the principal dwelling in size and appearance and is in the same *structure* as the principal *dwelling unit*.
   c. The rooms for the use are not designed or constructed to be separate *dwelling units* and may not be sold as separate *dwelling units*.
   d. The appearance of the *structure* and property remain that of a *single family dwelling* so that the average neighbor is unaware of the assisted living facility's or *group home's* existence.
   e. The *structure* meets all applicable Kent County Codes, including the building code, and Health Department requirements.

6. *Day care home*, provided:
   a. Outdoor play areas are fenced and screened.
   b. Structured areas for active play or play *structures* shall not be in the *front yard* and shall be a minimum of 10 feet from the side or rear property line.
   c. One drop off / pickup space is provided.
   d. Structural or decorative additions shall be designed to be compatible with the residential character of the neighborhood.
   e. *Signs* shall be limited to two square feet.

7. *Home occupations* in main or accessory *buildings*

   Intent - The conduct of business in residential units may be permitted under the provisions of this section. It is the intent of this section to:
   a. Ensure the compatibility of *home occupations* with other uses in residential areas;
   b. Maintain and preserve the character of residential neighborhoods by regulating the operation of *home occupations* so that the average neighbor is unaware of their existence;
   c. Guarantee to all residents freedom from excessive noise, excessive traffic, nuisance, fire, hazard, and other possible effects of commercial uses being conducted in residential areas;
   d. Promote the efficient use of public services and facilities by assuring these services are provided to the residential population for which they were planned and constructed, rather than commercial uses.

   Conditions -
   a. A *home occupation* shall be incidental to the use of a *dwelling unit* for residential purposes and shall be conducted only by members of the *family* residing in the *dwelling unit* plus one non-resident assistant or employee.
   b. Outdoor storage of materials or products is prohibited.
   c. The *home occupation* shall not cause any external effect such as noise, excessive lighting, or offensive odor which is incompatible with the characteristics of the residential area. The illegal discharge of any materials, fluids, or gases into the sewer system or in any other manner of discharging such items in violation of any applicable government code is prohibited.
   d. Traffic generated by the *home occupation* shall not exceed that normally expected in a residential neighborhood.
   e. Parking for the *home occupation* shall be provided off-street and in the *side* or *rear yard*.
   f. A *home occupation* shall limit any external evidence of an occupation to one identification *sign* not to exceed two square feet.

7.5 Keeping of backyard chickens*

a. Backyard chickens are defined as females of the species *Gallus gallus domesticus* kept for non-commercial purposes. The keeping of males of the species is not permitted.

b. The maximum number of chickens, 4 months or older, permitted on any lot is determined by lot size:

i. No chickens are permitted on a lot of less than ¼ acre;

ii No more than 5 chickens are permitted on a lot of ¼ acre to 1 acre;

iii. No more than 8 chickens are permitted on lots of more than 1 acre.

c. The area for keeping backyard chickens must be enclosed in such a fashion that the chickens are confined and not able to leave the owner's property. Backyard chickens will be provided with a covered, predator-proof coop or cage that is well ventilated. Hens shall have access to an outdoor enclosure that is adequately fenced to contain the birds on the property.

d. *Structures* (coops) for the housing of backyard chickens must meet the permitting requirements of this Ordinance. For movable coops, the permit application will show the area in which the coop will be moved. A copy of the Maryland Poultry Registration Form must accompany the building permit application.

e. Coops must be setback a minimum of 15 feet from any property line.

f. Coops may be placed in rear yards only.

g. Each coop must be kept clean and free of odors and materials that can attract vermin. Feed must be kept in secure containers so as not to attract vermin.

h. Waste must be composted or removed from the property.

i. The outdoor slaughtering of chickens is not permitted.

8. Private piers, *community piers*, and private shared piers, not to exceed 25% of the width of the *waterway*, the edge of the *channel*, or 150 feet in length, whichever is less and subject to the stipulations of Article VI, Section 3.7 of this Ordinance. *Regulations* governing *community piers* may be found in Article VI, Section 3.7 of this Ordinance.

9. *Private garages*, *swimming pools*, game courts, and other customary residential outbuildings and *structures* provided that *accessory structures* on parcels less than 5 acres do not exceed 1,200 square feet or 17 feet in height.

10. *Roadside stands* offering for sale locally grown fresh agricultural products in season, operated by the owner, lessee or *tenant* of the *premises* upon which such stand is located. Adequate *off-street parking* shall be provided. Such stands shall be completely removed at the end of the local fresh produce season.

11. Satellite dish, private, with an antenna exceeding 3 feet in diameter provided:

a. No antenna shall exceed an overall diameter of 12 feet or an overall height of 15 feet above *existing grade*.

b. The antenna shall be permanently ground mounted. No antenna shall be installed on a portable or movable *structure*.

c. The antenna shall be totally screened along the non-receptive axis and low-level ornamental landscaping shall be installed along the reception window axis of the base of the antenna. Screening may consist of fencing or a variety of plant types. Screening may be waived when the antenna is located 100 feet from all property lines or the antenna is of a nature that is not visible or intrusive to the neighborhood.

d. The final installation should blend carefully with the surrounding landscape and not appear as an obvious attempt at camouflage.

* Amended 8/5/14

12. Satellite dish, private, with an antenna of 3 feet or less, and solar panel arrays, provided that the antenna is not installed on portable or movable *structures*.

13. School buses, limited to two, parked in the *rear* or *side yard* of dwelling provided that the buses are owned or operated by the current occupants of the dwelling, have current licenses, and are operable.

13.5 *Solar energy systems, small*, provided:*

a. Tree removal shall be minimized and any removal shall be mitigated in accordance with the Critical Area Program requirements.
b. All solar collection devices shall register with the Department of Emergency Services and shall submit a map noting the location of the solar collection devices and the panel disconnect.
c. The total height of solar collection systems shall comply with the height requirements.

14. Storage of boats, campers, boat trailers, and camper trailers, which are titled under the name of the property owner, or occupant. All boats, campers, boat trailers and camper trailers must be operable and have current licenses, if required.

15. Temporary *MET Tower* of any height provided:*

a. The tower is erected for no more than 12 months.
b. Any free standing *structure* is located a minimum of 3 times its total height from a property line.
c. Towers are not readily climbable from the ground up to 12 feet.

* Amended 9/6/11

5.5 DENSITY, AREA, HEIGHT, WIDTH AND YARD REQUIREMENTS

Gross *density* (dwelling units/ac)	1 [1]
Minimum *lot* size	½ acre
Minimum *lot width*	75 feet
Minimum *yard*	
- *Front*	50 feet
- *Side*	15 feet
- *Rear*	30 feet
- Waterfront	Minimum 100-foot *buffer* or *modified buffer* [2]
- *Shoreline cliff*	1.5 x *cliff height* + 20 feet
- *Accessory structures* on *farms* in the *side* and *rear yard*	25 feet
- Accessory residential *structures* in *rear yard*	
Side	3 feet
Rear	5 feet
Maximum *structure* height [3]	
- Residential or Agricultural *structure*	38 feet
- Fence [4]	
- Security	8 feet
- Agricultural	5 feet
- Ornamental	
Side and *Rear*	8 feet
Front	4 feet

[1] Accessory *dwelling units* are not included in *density* calculations.

[2] Modifications for *structures* existing prior to April 12, 1988 may be permitted as per Article V, Section 5.7.B.3.d

[3] Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

Accessory structures on parcels less than 5 acres in size may not exceed 17 feet in height without a special exception.

[4] Fences do not need to meet yard requirements.

5.6 CRITICAL AREA RESIDENTIAL DISTRICT GENERAL STANDARDS

1. The reuse of existing *buildings* is encouraged.

2. The Department of Planning and Zoning shall approve *street* names. A name may not be approved if it duplicates or is too similar to an existing road name in the county or incorporated towns.

3. *Open space*, playgrounds, or other recreational areas shall be set aside at a rate of 1/10 acre per *dwelling unit*. If the land is not of significant quality and size for the purpose of providing or developing parks and recreational facilities, the *Planning Commission*, or where applicable the Planning Director, may permit a *developer* to pay a fee of $250.00 for each *lot* or each *dwelling unit* in lieu of providing land for recreational purposes. Recreational land required in a *subdivision* shall be located so as to be reasonably accessible from all lots in the *subdivision* in accordance with the following:
   a. *Steep slopes*, streams, lakes, *watercourses*, and *floodplains* may constitute up to 40% of the recreational land.
   b. At least 60% of the recreational land shall be suitable for dry ground recreational use.

5.7 CRITICAL AREA RESIDENTIAL DISTRICT ENVIRONMENTAL STANDARDS

The purpose of these standards is to provide for the proper stewardship of the County's natural resources. Specifically it is the overall goal of the county to maintain the quality of the County's *ecosystem* in the face of continuing activity, growth and change.

A. CRITICAL AREA RESIDENTIAL DISTRICT GENERAL ENVIRONMENTAL STANDARDS

1. *Development* shall minimize *adverse impacts* to *non-tidal* or *tidal wetlands*, estuaries, the Chesapeake Bay, *tributary streams*, and the natural course and *riparian habitat* of these streams, habitat protection areas, or other significant habitat identified by the Department of Planning and Zoning.

2. *Development* shall minimize the removal of vegetation.

3. *Development* shall minimize the effects of runoff on the existing volume of water and quality of any water body. Urban *best management practices* shall be used.

4. Whenever possible, land with poor drainage or other adverse conditions shall not be developed. When developed, the property owner shall agree to make any improvements necessary to render the property safe for *development*.

5. Whenever possible, land subject to periodic flooding, shall not be developed for any use that might involve danger to health, life, or property or aggravate floods.

6. Agricultural operations shall follow agricultural *best management practices* and shall develop and implement *soil conservation and water quality plans* and are encouraged to develop nutrient and pest management plans.

B. CRITICAL AREA RESIDENTIAL DISTRICT SPECIFIC ENVIRONMENTAL STANDARDS

1. *Agriculture*

No new agricultural land shall be created by:

a. Draining, filling, or diking any *palustrine wetlands* which have a *seasonally flooded or wetter water regime* unless the impact is mitigated.

b. *Clearing* of *forest* or woodland on *soils* with a *slope* greater than 15% or on *soils* with a *K Value* greater than 0.35 and *slope* greater than 5%.

c. *Clearing* of existing *natural vegetation* within the *buffer*.

d. *Clearing* of *forest* if the *clearing* will affect water quality or habitat protection areas as designated in Article VI, Section 3.8 of this Ordinance.

2. *Anadromous fish*

a. Concrete riprap or other artificial surface shall not be installed on the bottom of natural streams unless it can be demonstrated that water quality and fishery habitat will be improved.

b. Physical alteration of a stream, including but not limited to channelization, that interferes with the movement of fish shall be prohibited.

c. The construction or placement of dams or other *structures* that would interfere with or prevent the movement of spawning fish or larval forms in streams shall be prohibited. Where practical, the removal of existing barriers is encouraged.

d. Construction, repair or maintenance activities associated with bridges or other stream crossings or with utilities and roads which require disturbance to the *buffer*, or which occur in stream shall be prohibited between March 1 and May 15.

3. *Buffer*

a. *Development* in the *Buffer*

i. *Development activities*, including *structures*, *roads*, parking areas, and other *impervious surfaces*, mining, and related activities, or septic systems shall not be permitted within the minimum 100-foot *buffer*. This restriction does not apply to water-dependent facilities that meet the criteria set forth below.

ii. New or expanded *development activities* may be permitted in the minimum 100-foot *buffer*, provided:

a) The use is water dependent.

b) The project meets a recognized private right or public need.

c) Adverse effects on water quality and fish, plant, or *wildlife habitats* are minimized.

d) In so far as possible, non-water dependent *structures* or operations associated with water dependent projects or activities are located outside the minimum 100-foot *buffer*.

iii. Where agricultural uses of lands within the *buffer* cease and the lands are proposed to be converted to other uses, the *buffer* shall be established. In establishing the *buffer*, management measures shall be undertaken to provide forest vegetation that achieves the *buffer* functions as defined in Article XI of this Ordinance.

b. Vegetative Protection within the *Buffer*

i. *Natural vegetation* within the *buffer* shall be preserved and protected unless one of the following apply:

a) An approved *forest* harvesting plan is followed.

b) Individual trees may be cut for personal use provided this cutting does not impair the water quality or existing habitat value or other functions of the *buffer*. Trees shall be replaced on an equal basis for each *tree* cut.

c) Trees which are leaning over the water may be cut, but their stumps and roots shall not be disturbed.

d) The disturbance provides access for water-dependent facilities or shore *erosion* protection *structures*.

e) Landowners may treat trees and shrubs to maintain or improve their health.

f) Sanitation, salvage, or other timber cutting practices may be performed under a *forest management plan* or to prevent an immediate threat to life or property. These lands shall be replanted or *forest cover* allowed to regenerate.

ii. Vegetation in the *buffer* removed for reasons listed above shall be re-established over the entire disturbed area during the next planting season. These plantings shall be approved by the Department of Planning and Zoning. In addition, Article VI, Section 9 of this Ordinance shall be followed exactly.

iii. *Natural vegetation* removed for an approved purpose shall be in accordance with an approved *buffer* management plan.

c. Stream Protection

Development activities that must cross or affect streams shall be designed to:

i. Reduce increases in flood frequency and severity that are attributable to development.

ii. Retain tree canopy so as to maintain stream water temperature within normal variation.

iii. Provide a natural substrate for stream beds.

iv. Minimize adverse water quality and quantity impacts of *stormwater*.

d. Expansion of Existing Dwellings in the *Modified Buffer*

Dwellings existing as of April 12, 1988 and in the minimum 100-foot *buffer* may be expanded provided:

i. All opportunities for expansion outside of the minimum 100-foot *buffer* are exhausted.

ii. New construction is not closer to mean high tide or the edge of tidal wetlands than the existing dwelling or the average line of neighboring properties.

iii. An area of *natural vegetation* equal to 3 times the footprint of the expansion shall be planted in the 100-foot *buffer*. If there is not enough area in the *buffer* to accommodate the required planting, the required planting shall occur on the same property.

4. *Forest*

a. A forestry management plan prepared by a registered forester and approved by the Maryland Department of Natural Resources shall be required when developing forested lands.

b. *Forest* shall be replaced on an acre by acre basis, but no more than 20% of any *forest* or *developed woodlands* shall be removed unless by prior agreement with the *Planning Commission*, the *developer* agrees to afforest on the following basis: a *developer* may clear or develop more *forest* than otherwise may be permitted if the total *forest* removed is not increased by more than 50% of the area permitted to be disturbed provided that the afforested area consists of 1.5 times the total surface acreage of the disturbed *forest* or *developed woodlands* or both. For example, in a 100 acre woodland, up to 30 acres may

be cleared if the *developer* agrees to afforest (not necessarily on his own property) 45 acres of currently unforested land.

c. Replacement trees shall be of a species similar to that which was removed or a species appropriate to the replanting *site*.

d. *Forest* or *developed woodlands* that remain after development shall be maintained through recorded restrictive covenants, *easements*, or similar instruments.

e. Sediment, erosion and grading permits shall be required before forest or developed woodlands are cleared. *Forest* cleared prior to obtaining permits or that exceeds the maximum area allowed shall be replanted at three times the acreage of the cleared *forest*.

f. If the acreage of the *site* limits the application of *reforestation* requirements *forest* may be created on other lands in the *Critical Area* including County lands, or a fee in an amount determined by the Maryland Department of Natural Resources to be the equivalent to the value of the required *forest* may be paid to the County Commissioners of Kent County. These funds shall be placed in a dedicated fund used to ensure the restoration or establishment of an equivalent *forest* area, in the *Critical Area* or riparian areas.

g. After *development*, the *site* shall be planted to provide a *forest* or *developed woodlands* cover of at least 20%.

5. *Forest Interior Dwelling Birds*

a. Existing riparian *forest* of 300 x 300 feet or more and *forest* areas used by *forest interior dwelling birds* and other wildlife species shall be managed according to the guidelines developed by the Maryland Department of Natural Resources and the Chesapeake Bay Critical Area Commission.

b. A *site* survey for *forest interior dwelling birds* shall be conducted prior to any *development* or agricultural expansion on deciduous *forest* of at least 50 acres or 300 x 300 foot riparian deciduous *forest*. The Planning Director may waive a *site* survey for *forest interior dwelling birds* provided the *forest* is managed for all *forest interior dwelling bird* species. Cutting and building shall be restricted to safe times (not during nesting - see Article VI, Section 3.9 of this Ordinance).

6. Habitat

a. All *roads*, bridges and utilities that must cross a Habitat Protection Area shall be located, designed, constructed, and maintained so as to provide maximum *erosion* protection and minimize negative impacts to wildlife, aquatic life and their habitats and maintain hydrologic processes and water quality. *Roads*, bridges, or utilities shall not be located in any Habitat Protection Area unless no feasible alternative exists.

b. During and after *development* in forested areas, corridors of existing *forest* or woodland vegetation shall be maintained to provide effective connections between *wildlife habitat* areas.

c. New water-dependent facilities shall be located so as to prevent disturbance to *sites* of significance to wildlife such as historic aquatic staging and concentration areas for *waterfowl*, shellfish beds, finfish nursery areas, and submerged aquatic vegetation beds.

7. *Impervious Surfaces*

Man caused *impervious surfaces* shall not exceed 15% of the site except as otherwise stated below.

a. Man caused *impervious surfaces* on parcels greater than 36,301 square feet shall be limited to 15% of the property. This section does not apply to *mobile home parks* in residential use on or before December 1, 1985.

b. Man caused *impervious surfaces* on parcels that are 21,781 to 36,300 square feet and existed on or before December 1, 1985 shall be limited to 5,445 square feet provided:
   i. New *impervious surfaces* on the property have been minimized.
   ii. Water quality impacts associated with runoff from new *impervious surfaces* have been minimized through *site* design or use of *best management practices*.
   iii. The property owner performs *on-site* mitigation as may be required by the Planning Director or designated representative to offset potential adverse water quality impacts from the new *impervious surfaces* or the property owner pays a fee in lieu of performing the mitigation.

c. Man caused *impervious surfaces* on parcels that are 8,001 to 21,780 square feet and existed on or before December 1, 1985 shall be limited to 31.25% of the property provided:
   i. New *impervious surfaces* on the property have been minimized.
   ii. Water quality impacts associated with runoff from new *impervious surfaces* have been minimized through *site* design or use of *best management practices*.
   iii. The property owner performs *on-site* mitigation as may be required by the Planning Director or designated representative to offset potential adverse water quality impacts from the new *impervious surfaces* or the property owner pays a fee in lieu of performing the mitigation.

d. Man caused *impervious surfaces* on parcels that are less than 8,000 square feet and existed on or before December 1, 1985 shall be limited to 25% of the property plus 500 square feet provided:
   i. New *impervious surfaces* on the property have been minimized.
   ii. Water quality impacts associated with runoff from new *impervious surfaces* have been minimized through *site* design or use of *best management practices*.
   iii. The property owner performs *on-site* mitigation as may be required by the Planning Director or designated representative to offset potential adverse water quality impacts from the new *impervious surfaces* or the property owner pays a fee in lieu of performing the mitigation.

e. Man caused *impervious surfaces* shall not exceed 25% of an individual *lot* of one acre or less which is part of a *subdivision* approved after December 1, 1985. However, the total of the *impervious surfaces* over the entire *subdivision* shall not exceed 15%.

8. *Natural heritage areas* and locations considered for Areas of Critical State Concern
   These areas of local significance shall be preserved whenever possible in accordance with the recommendations of the Department of Natural Resources. These areas are identified in Article VI, Section 3.8 of this Ordinance.

9. *Non-tidal wetlands*
   Non-tidal wetlands shall be protected according to the *regulations* of the State of Maryland, Army Corps of Engineers, United States Fish and Wildlife Service, Environmental Protection Agency and all other applicable State and Federal *regulations*.

10. *Slopes*
    Development on *slopes* greater than 15%, as measured before development, shall be prohibited unless the project is the only effective way to maintain or improve the stability of the land.

11. *Stormwater Management*

No *person* shall develop any land for residential, commercial, industrial, or institutional uses or redevelop land without having provided for appropriate *stormwater management* measures that control or manage runoff from such developments except as provided in Article VI, Section 10 of this Ordinance. *Stormwater Management* shall be accomplished for all new *development* or *redevelopment* in accordance with the provisions of Article VI, Section 10 of this Ordinance.

12. Threatened and Endangered Species and Species in Need of Conservation

a. Any *development* shall include a statement on the type and location of any threatened or *endangered species* or *species in need of conservation* on the property, and any recommendation for maintaining and protecting that habitat from the Department of Natural Resources.

b. Threatened or *endangered species* or *species in need of conservation* shall be checked and noted by the *developer* before any approval can be granted by the Planning Director, *Planning Commission* or Zoning Administrator.

c. The Federal or State guidelines (whichever is stricter) for habitat protection shall be followed during *development*. Plans shall include provisions for the continuance of the habitat protection after *development*. This can include *conservation easements*, cooperative agreements, and special provisions in *forest management* and *soil* conservation plans, and donation to a third party.

13. Timber Harvest

a. *Forest management plans* shall be required for all timber harvests occurring within any one year interval and which affect one or more acres of *forest* and *developed woodlands* in the *Critical Area*. The plans shall be prepared by a registered professional forester and be reviewed and approved by the Maryland Forest, Park and Wildlife Service through the District Forestry Boards and the project forester. Plans shall be filed with the Department of Planning and Zoning. Plans shall include measures to protect surface and ground water quality and identify whether the activities will disturb or affect Habitat Protection Areas as set forth in the Land Use Ordinance or identified on the Habitat Protection Areas Map.

b. The plans shall include protective measures for Habitat Protection Areas and shall provide for the continuity of habitat. The plans shall address mitigation through *forest management* techniques which include scheduling size, timing, and intensity of harvest cuts, *afforestation*, and *reforestation*.

c. The cutting and *clearing* of trees within the minimum 100-foot *buffer* are permitted provided that:

i. Existing riparian forests of 300 x 300 feet or more and *forest* areas used by *forest interior dwelling birds* and other wildlife species shall be managed according to the guidelines developed by the Maryland Department of Natural Resources.

ii. When timber harvesting is being considered, a *site* survey for *forest interior dwelling birds* shall be done. Cutting and building shall be restricted to safe times (not during nesting – See Article VI, Section 3.9 of this Ordinance).

iii. During timber harvest, corridors of existing *forest* or woodland vegetation shall be maintained to provide effective connections between *wildlife habitat* areas.

iv. Commercial harvesting by *selection* or by *clear-cutting* of Loblolly Pine and Tulip Poplar may be permitted to within 50 feet of the landward edge of the *mean high water line* of tidal water and *perennial tributary streams* or the edge of the *tidal wetlands* provided that the cutting does not occur in the Habitat Protection Areas and that cutting is conducted pursuant to the requirements of the sediment control and *non-tidal wetlands* requirements of this Ordinance and in conformance with a *buffer* management plan prepared by a registered forester and approved by the

Department of Natural Resources. The plan shall be required for all commercial harvests within the minimum 100-foot *buffer* regardless of the size of the area to be cut and shall contain the following minimum requirements:

a) That disturbance to the stream banks and shorelines shall be avoided.

b) That the area disturbed or cut shall be replanted, or allowed to regenerate in a manner that assures the availability of cover and breeding *sites* for wildlife, and reestablishes the *wildlife corridor* function of the *buffer*.

c) That the cutting does not involve the creation of logging *roads* and skid trails within the minimum 100-foot *buffer*.

v. Commercial harvesting of trees by any method may be permitted to the edge of *intermittent streams* if the cutting and removal are in accordance with a *Buffer* Management Plan approved by the Department of Natural Resources Forester.

14. Water Quality

All new development or *redevelopment* shall reduce pollutant loadings coming from the *site* and shall comply with the *stormwater management* qualitative controls found in Article VI, Section 10 of this Ordinance.

15. Wildlife Corridors

Developments shall incorporate a wildlife corridor system that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site in order to provide continuity of existing wildlife and plant habitats with offsite habitats. Plans shall include provisions for the continuance and maintenance of the wildlife corridors. This can include *conservation easements*, cooperative agreements, special provisions in forest management and soil conservation plans, and donation to a third party.

5.8 CRITICAL AREA RESIDENTIAL DISTRICT DESIGN STANDARDS

The purpose of these standards is to give a sense of the physical aspects of the County's environment to those contemplating *development* in the community. Pertinent to this physical appearance is the design of the *site*, *buildings* and *structures*, plantings, *signs*, *street* hardware, and miscellaneous other objects observed by the public.

These standards are not intended to restrict imagination, innovation, or variety, but rather assist in focusing on design principles which can produce creative solutions that will develop a satisfactory visual appearance within the County, preserve taxable values, and promote the public health, safety, and welfare.

A. CRITICAL AREA RESIDENTIAL DISTRICT GENERAL DESIGN STANDARDS

1. The landscape shall be preserved in its natural state, in so far as possible, by minimizing *tree* and *soil* removal. Any grade changes shall be in keeping with the general appearance of neighboring development areas. *Buildings* are encouraged to be located so as to maintain maximum natural *topography* and cover. *Topography*, *tree* cover, and natural drainage ways shall be treated as fixed determinants of road and *lot* configuration rather than malleable elements that can be changed to follow a preferred *development* scheme. Whenever possible, *development* shall be outside the *floodplain*.

2. *Streets* shall be designed and located in a manner as to maintain and preserve natural *topography*, cover, significant landmarks and trees; to minimize *cut* and *fill*; and to preserve and enhance views and vistas on and off the subject parcel.

3. Proposed *development* shall be related harmoniously to the terrain and to the use, scale, and architecture of existing *buildings* in the vicinity that have functional or visual relationships to the proposed *buildings*.

4. All *open space* (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the *site* or overlooking it from nearby properties.

5. The color, size, height, lighting, and landscaping of appurtenant *signs* and *structures* shall be evaluated for compatibility with the local architectural motif and the maintenance of views and vistas of natural landscapes, recognized historic landmarks, parks, and landscaping.

6. Whenever possible, adverse effects on historic, traditional, or significant uses and *structures* shall be minimized, whether these exist on the *site* or on adjacent properties.

B. CRITICAL AREA RESIDENTIAL DISTRICT SPECIFIC DESIGN STANDARDS

1. *Site* Access

Site access shall be subject to the following *regulations* to help ensure vehicle and pedestrian safety and alleviate congestion:

a. Where a proposed road is designated on an approved County or State map, *site plans* for *development* adjacent to the designated *roadway* shall include provisions for future access to the *roadway*.
b. All new lots must abut upon and have access to a public or approved *private road*.
c. Pedestrian and bicycle linkages to adjacent developments, recreational facilities, and other public or semi-public uses shall be provided whenever possible.
d. Access shall be consolidated whenever possible.
e. The applicant shall demonstrate that access to the project is adequate and the roads which will be impacted have the capacity to handle the traffic generated by the proposed project and will not endanger the safety of the general public.*
f. Whenever possible, *roads* shall be constructed above the elevation of the *100-year floodplain*.

2. *Floodplain*

a. In order to prevent excessive *flood* damage and to allow for the protection of the natural and beneficial *floodplain* functions, all *development*, *new construction*, and *substantial improvements* to existing *structures* in all *floodplain* zones shall comply with the requirements of Article VI, Section 7 of this Ordinance, including but not limited to the following:
   i. Elevation of all new or substantially improved *structures*;
   ii. Compliance with venting and other construction standards; and
   iii. Submission and recordation, where applicable, of *Elevation Certificates*, *Declaration of Land Restrictions*, deed restrictions, and venting affidavits.**
b. Placement of *buildings* and materials. In general, *buildings* and *accessory structures* should be located entirely out of the *floodplain*, out of the *flood* protection setback, or on land that is least susceptible to flooding. All *structures* permitted in the *floodplain* shall be oriented so as to offer the least resistance to the flow of floodwaters.

* Amended 11/14/06; ** Amended 6/3/14

c. General *development* shall not occur in the *floodplain* where alternative locations exist. Before a permit is issued, the applicant shall demonstrate that new *structures* cannot be located out of the *floodplain* and that encroachments onto the *floodplain* are minimized.

3. Landscaping

Street trees shall be included in each *subdivision*. *Street* trees may be clustered or evenly spaced. The number of *street* trees shall be calculated as follows:

a. Small trees (trees less than 25 feet in height at maturity) - 1 per 25 linear feet of *lot* or *open space* along public or *private roads*.
b. Medium or large trees (25 feet or taller at maturity) - 1 per 40 linear feet of *lot* or *open space* along pubic or *private roads*.

At the time of planting, deciduous trees shall have at least a 2-3 inch *caliper* at 6 inches above grade; coniferous trees shall be at least 5 to 6 feet in height.

The *Planning Commission*, or where applicable the Planning Director, may waive the requirement for *street* trees.

4. *Subdivision*

a. Proposed *street* layout, blocks, and parcels shall be suitable in area and dimension for the type of *development* anticipated.
b. The total area shall be sufficient to provide adequate space for *off-street parking*, loading, landscaping, and other facilities.
c. Whenever possible, the *subdivision* should be designed to minimize *adverse impacts* on the agricultural operation.
d. The *lot* arrangement, design, and orientation shall be such that all lots will provide satisfactory building *sites*, properly related to *topography* and the character of surrounding *development*.
e. Every *lot* shall abut upon and have access to a public road or approved *private road*.
f. Lots adjoining *major thoroughfares* and railroad lines should be designed with extra depth and provision for an appropriate means of buffer or deeper building *setbacks*.
g. Where land in a *subdivision* adjoins a railroad line, the *street* layout shall make allowance for future grade separated railroad crossings at appropriate locations by providing extra *street right of way* widths for such crossings and by restricting intersecting *streets* at locations where they would cause interference with necessary approaches to such crossings.
h. Proposed *streets* in the *subdivision* shall provide for the continuation of existing, planned, or platted *streets* on adjacent tracts, unless such continuation shall be prevented by *topography* or other physical feature or unless such extension is found by the *Planning Commission* to be unnecessary for the coordination of *development* between the *subdivision* and such adjacent *tract*.
i. Where the *Planning Commission* deems it desirable or necessary to provide access to adjacent tracts not presently subdivided, proposed *streets* in the *subdivision* shall be extended to the boundary lines with such tracts.
j. Where the *subdivision* adjoins or embraces any part of a *major thoroughfare* as designated on the Kent County Major Thoroughfare Map. The layout of such *subdivision* shall provide for the platting and dedication of such part of the *major thoroughfare* in the location and at the width indicated on the *major thoroughfare* plan, except that the *subdivider* shall not be required to dedicate that part of such *major thoroughfare* that is in excess of eighty (80) feet in width.
k. Where deemed desirable to the layout of the *subdivision* and adjoining area, the *Planning*

Commission may require the platting and dedication of one or more *collector streets* or parts thereof, to serve the *subdivision*.

l. Subdivisions shall be in full compliance with the provisions of this Ordinance.

m. *Private roads* are permitted in minor subdivisions and are subject to the following conditions:

   i. Each road shall serve no more than seven parcels. In the event that an eighth parcel is created, the eighth parcel and all further divisions of land shall front on a public road.*

   ii. The *subdivision* shall provide a 50-foot *right of way* for each *private road*.

   iii. The construction of all lanes and *private roads* shall adhere to the requirements established by the Kent County Department of Public Works and sediment control and *stormwater management regulations*.

   iv. The deed and contract of sale of all lots in the *subdivision* shall state: "The road is private and not the responsibility of Kent County."

   v. The plat shall identify all *private roads* and shall state: "The road is private and not the responsibility of Kent County"

* Amended 10/16/12

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SECTION 6 COMMUNITY RESIDENTIAL

6.1 STATEMENT OF INTENT

The purpose of this district is to provide for single family residential *development* in areas of existing residential *development*, together with facilities and *accessory uses* normally compatible with residential surroundings, and at the same time to permit agricultural uses and to preserve open spaces and rural character. This district is in areas near existing developed areas, villages and incorporated towns.

6.2 PERMITTED PRINCIPAL USES AND STRUCTURES

A *building* or land shall be used only for the following purposes.

1. *Agriculture* including horticultural, hydroponics or general farming, orchards, groves, or nurseries for growing or propagation of plants, trees, and shrubs.

2. *Camp, day or boarding*, private or commercial, but not *recreational vehicle* or migrant labor camps.

3. Detached *single family dwellings*.

4. *Erosion* and *flood* control *structures*.

5. Greenhouses, wholesale or retail, provided *structures* are 200 feet from any property line and are adequately landscaped.

6. Public and private *forests*, wildlife reservations and similar conservation projects.

7. Public and private parks and playgrounds for the purpose of conserving and enjoying the natural resources, including both active and passive parks owned and operated by Kent County, the state of Maryland, or federal government but not including commercial play fields for football, baseball, and other major sports activities such as motocross or drag racing fields.

8. *Stable, private* provided:
   a. The *lot* shall be two acres or more.
   b. Any *structure* for the keeping of animals shall be a minimum of 100 feet from any property line.
   c. There shall be no more than one horse per acre of land. Only available pasture acreage shall be used to compute the number of horses allowed on a parcel.
   d. The operation is managed according to waste and nutrient management plans, approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that phosphorous is a problem or has the potential to become a problem, the plan shall use phosphorus based nutrient management. When in the opinion of the Planning Director additional review is necessary from an outside agency, the Planning Director may forward the plan to the Maryland Department of the Environment or any other appropriate agency.

9. *Mobile homes* existing and in use as of January 16, 1996 may be continued in use and may be replaced with another *mobile home*, provided the replacement *mobile home* complies with the Kent County Codes and all Health Department *regulations*. It is not the intent of this provision to allow additional *mobile homes* in the County, but rather to allow the continued use and improvement (including replacement) of *mobile homes*, existing as of January 16, 1996. A *mobile home* that remains idle or unused for a continuous period of two years shall not be used again except in conformity with these *regulations*.

6.3 SPECIAL EXCEPTIONS

The following principal uses and *structures* may be permitted as special exceptions in the Community Residential District, subject to *site plan* review by the *Planning Commission* or where applicable the Planning Director. Detailed limitations and standards for these uses may be found in Article VII of this Ordinance.

1. Accessory storage *structures* with a *floor area* of more than 1,200 square feet or a height that exceeds 17 feet on parcels less than 5 acres
2. *Accessory structures* in the *front yard* of *through lots*
3. Adaptive reuse of historic *structures*
4. *Airport*, landing field, heliport, or helistop, public or private
4.5 Assisted living facilities with five to eight beds*
5. Cemetery, including crematorium and mausoleum
6. *Conference center*
7. *Cottage industries*, tradesmen and artisan shops
8. *Country inn*
9. *Country stores*, on *primary* and *secondary roads*
10. *Day care group*
11. Golf course, public or private
12. *Houses of worship*
13. *Private club*s
14. Private schools
15. *Public landings*
16. *Public utilities* and *structures*
17. Raising of small animals, commercial, including birds, bees, fish, rabbits or other creatures, but not including *dog kennels*
18. Recreational facilities, privately or commercially owned, but not including major sports arenas for football, baseball, drag racing, motocross, or other major sports activities
19. *Resort*
20. *Retreat*
20.5 *Rural Inn* ***
21. *Wind energy systems, small*, with a height that exceeds 80 feet or on parcels less than 20 acres**

6.4 ACCESSORY USES

A. The following *accessory uses* are allowed on all *farms* in the Community Residential District.

1. Accessory farm *buildings*, including barns, cribs, stables, sheds, tool rooms, shops, bins, tanks, and silos. All *structures* for the keeping of animals shall be located a minimum of 100 feet from any property line. No *buildings* are permitted in the *buffer*.

2. Accessory farm houses, one on all *farms*, two on *farms* with a minimum of 50 tillable acres. A farm employee house may not be a *mobile home*. Houses must share a common entrance and shall

* Amended 11/3/09: ** Amended 9/6/11; *** Amended 4/8/15

be occupied by permanent employees of the *farm* or immediate member of the *family* owning or operating the *farm*.

3. Accessory open or enclosed storage of farm materials, products, equipment, or vehicles.

4. Accessory storage of fertilizer and chemicals used in connection with the farming operation of the owner.

5. *Guest house* one, not including *mobile homes*, provided:
   a. The house is used exclusively for non-paying guests.
   b. No house shall be used as a permanent residence nor be rented or sold separately from the principal dwelling.

6. One hunting trailer, temporary, from September 1 to the following February 15, continually, provided that such trailer is a minimum of 150 feet from all property lines and not in the *stream protection corridor*. These shall be located around existing *buildings* and out of sight.

7. Parking of commercial vehicles provided:
   a. The vehicles are related to the operation of the *farm* or three non-farm related vehicles.
   b. The vehicles are parked around existing *buildings*. Non-farm related vehicles cannot be parked on *farms* without *buildings*.
   c. The vehicles have current licenses and are operable.

8. The following *accessory uses* must be at least 200 feet from all property lines:
   a. Assembly in a *totally enclosed building* not to exceed 10,000 square feet in size and repair of all equipment normally used in *agriculture*.
   b. Petroleum storage, not to exceed 10,000 gallons and subject to applicable safety codes, ordinances, and statutes.
   c. Grain, flour, and feed blending and packaging, including milling, drying, and storing.

9. School buses, limited to five, parked around existing *buildings* provided the buses have current licenses and are operable.

10. *Wind energy systems, small*, provided:*
    a. The height of the *structure* to the tip of the blade at its highest point does not exceed 80 feet.
    b. Any system is located a minimum of 3 times its total height from a property line.
    c. Towers are not readily climbable from the ground up to 12 feet.
    d. All access doors to towers and electrical equipment shall be lockable.
    e. Appropriate warning signage is placed on the tower and electrical equipment.
    f. The blade tip at its lowest point had a ground clearance of at least 25 feet.
    g. Wind turbines and towers maintain a galvanized steel, brushed aluminum finish, or a non-garish color.
    h. Any small wind energy system that is not operational for a period of 12 consecutive months or more shall be removed at the landowner's expense.

B. The following *accessory uses* are allowed on all properties in the Community Residential District

1. Accessory *dwelling unit*, one, in principal or *accessory structures* provided:
   a. The property owner resides on the *premises*.
   b. The accessory *dwelling unit* is subordinate to the principal dwelling in size and appearance.
   c. The accessory *dwelling unit* may be rented but not sold as a separate unit.

* Amended 9/6/11

d. The appearance of the *structure* and property remain that of a *single family dwelling* so that the average neighbor is unaware of the accessory *dwelling unit's* existence.
e. If the entrance to the accessory *dwelling unit* is separate from that of the primary dwelling, the entrance to the accessory *dwelling unit* shall be from the *side* or *rear yard*.
f. One parking space is provided in the *rear yard* for the accessory *dwelling unit*.
g. The *structure* meets all applicable Kent County Codes, including the building code, and Health Department *regulations*.

2. Accessory *off-street parking* and loading of non-commercial vehicles that have current licenses and are operable.

3. Accessory *off-street parking* of one commercial vehicle in the *rear yard* provided:
a. The vehicle is used by the occupant of the dwelling.
b. The vehicle does not exceed 16,000 pounds manufacturer's gross vehicle weight.
c. No major repair is conducted *on-site*.
d. No engines may run when parked *on-site*. Electrical refrigeration units may run.
e. Honey wagons, sanitation, garbage, or other trucks used to transport odorous, flammable, or hazardous materials are prohibited.
f. The vehicle has a current license and is operable.

4. Appurtenant *signs* in accordance with Article VI, Section 2, of this Ordinance.

5. Assisted living facilities or *group homes*, with no more than four beds provided:
a. The property owner resides on the *premises*.
b. The assisted living facility or *group home*, is subordinate and accessory to the principal dwelling in size and appearance and is in the same *structure* as the principal *dwelling unit*.
c. The rooms for the use are not designed or constructed to be separate *dwelling units* and may not be sold as separate *dwelling units*.
d. The appearance of the *structure* and property remain that of a *single family dwelling* so that the average neighbor is unaware of the assisted living facility's or *group home's* existence.
e. The *structure* meets all applicable Kent County Codes, including the building code, and Health Department requirements.

6. *Day care home* provided:
a. Outdoor play areas are fenced and screened.
b. Structured areas for active play or play *structures* shall not be in the *front yard* and shall be a minimum of 10 feet from the side or rear property line.
c. One drop off / pickup space is provided.
d. Structural or decorative additions shall be designed to be compatible with the residential character of the neighborhood.
e. *Signs* shall be limited to two square feet.

7. *Home occupations* in main or accessory *buildings*
<u>Intent</u> - The conduct of business in residential units may be permitted under the provisions of this section. It is the intent of this section to:
a. Ensure the compatibility of *home occupations* with other uses in residential areas;
b. Maintain and preserve the character of residential neighborhoods by regulating the operation of *home occupations* so that the average neighbor is unaware of their existence;

c. Guarantee to all residents freedom from excessive noise, excessive traffic, nuisance, fire, hazard, and other possible effects of commercial uses being conducted in residential areas;

d. Promote the efficient use of public services and facilities by assuring these services are provided to the residential population for which they were planned and constructed, rather than commercial uses.

Conditions -

a. A *home occupation* shall be incidental to the use of a *dwelling unit* for residential purposes and shall be conducted only by members of the *family* residing in the *dwelling unit* plus one non-resident assistant or employee.

b. Outdoor storage of materials or products is prohibited.

c. The *home occupation* shall not cause any external effect such as noise, excessive lighting, or offensive odor which is incompatible with the characteristics of the residential area. The illegal discharge of any materials, fluids, or gases into the sewer system or in any other manner of discharging such items in violation of any applicable government code is prohibited.

d. Traffic generated by the *home occupation* shall not exceed that normally expected in a residential neighborhood.

e. Parking for the *home occupation* shall be provided off-street and in the *side* or *rear yard*.

f. A *home occupation* shall limit any external evidence of an occupation to one identification *sign* not to exceed two square feet.

7.5 Keeping of backyard chickens*

a. Backyard chickens are defined as females of the species *Gallus gallus domesticus* kept for non-commercial purposes. The keeping of males of the species is not permitted.

b. The maximum number of chickens, 4 months or older, permitted on any lot is determined by lot size:

i. No chickens are permitted on a lot of less than ¼ acre;

ii No more than 5 chickens are permitted on a lot of ¼ acre to 1 acre;

iii. No more than 8 chickens are permitted on lots of more than 1 acre.

c. The area for keeping backyard chickens must be enclosed in such a fashion that the chickens are confined and not able to leave the owner's property. Backyard chickens will be provided with a covered, predator-proof coop or cage that is well ventilated. Hens shall have access to an outdoor enclosure that is adequately fenced to contain the birds on the property.

d. *Structures* (coops) for the housing of backyard chickens must meet the permitting requirements of this Ordinance. For movable coops, the permit application will show the area in which the coop will be moved. A copy of the Maryland Poultry Registration Form must accompany the building permit application.

e. Coops must be setback a minimum of 15 feet from any property line.

f. Coops may be placed in rear yards only.

g. Each coop must be kept clean and free of odors and materials that can attract vermin. Feed must be kept in secure containers so as not to attract vermin.

h. Waste must be composted or removed from the property.

i. The outdoor slaughtering of chickens is not permitted.

8. *Private garages*, *swimming pools*, game courts, and other customary residential outbuildings and *structures* provided that *accessory structures* on parcels less than 5 acres do not exceed 1,200 square feet or 17 feet in height.

* Amended 8/5/14

9. *Roadside stands* offering for sale locally grown fresh agricultural products in season, operated by the owner, lessee or *tenant* of the *premises* upon which such stand is located. Adequate *off-street parking* shall be provided. Such stands shall be completely removed at the end of the local fresh produce season.

10. Satellite dish, private, with an antenna exceeding 3 feet in diameter provided:
    a. No antenna shall exceed an overall diameter of 12 feet or an overall height of 15 feet above *existing grade*.
    b. The antenna shall be permanently ground mounted. No antenna shall be installed on a portable or movable *structure*.
    c. The antenna shall be totally screened along the non-receptive axis and low-level ornamental landscaping shall be installed along the reception window axis of the base of the antenna. Screening may consist of fencing or a variety of plant types. Screening may be waived when the antenna is located 100 feet from all property lines or the antenna is of a nature that is not visible or intrusive to the neighborhood.
    d. The final installation should blend carefully with the surrounding landscape and not appear as an obvious attempt at camouflage.

11. Satellite dish, private, with an antennae of 3 feet or less, and solar panel arrays, provided that the antenna is not installed on portable or movable *structures*.

12. School buses, limited to two, parked in the *rear* or *side yard* of the dwelling provided that the buses are owned or operated by the current occupants of the dwelling, have current licenses, and are operable.

12.5 *Solar energy systems, small*, provided:*
    a. Tree removal shall be minimized and any removal shall be mitigated at a ratio or one tree planted for each tree removed.
    b. All solar collection devices shall register with the Department of Emergency Services and shall submit a map noting the location of the solar collection devices and the panel disconnect.
    c. The total height of solar collection systems shall comply with the height requirements.

13. Storage in the *rear* or *side yard* of boats, campers, boat trailers, and camper trailers, which are titled under the name of the property owner, or occupant. All boats, campers, boat trailers and camper trailers must be operable and have current licenses, if required.

14. Temporary *MET Tower* of any height provided:*
    a. The tower is erected for no more than 12 months.
    b. Any free standing *structure* is located a minimum of 3 times its total height from a property line.
    c. Towers are not readily climbable from the ground up to 12 feet.

* Amended 9/6/11

6.5 DENSITY, AREA, HEIGHT, WIDTH AND YARD REQUIREMENTS

Gross *density* (dwelling units/ac)	1[1]
Minimum *lot* size	½ acre
Minimum *lot width*	75 feet
Minimum *yard*	
- *Front*	35 feet
- *Side*	10 feet
- *Rear*	30 feet
- Waterfront	100 feet
- *Accessory structures* on *farms* in the *side* and *rear yard*	25 feet
- Accessory residential *structures* in *rear yard*	
Side	3 feet
Rear	5 feet
Maximum *structure* height [2]	
- Residential or Agricultural *structure*	38 feet
- Fence [3]	
- Security	8 feet
- Agricultural	5 feet
- Ornamental	
Side and *Rear*	8 feet
Front	4 feet

[1] Accessory *dwelling units* are not included in *density* calculations.

[2] Height of *structures* may be further restricted by of the Kent County *Airport* Safety Requirements as defined in Article V, Section 6.8.B.5 of this Ordinance. Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

Accessory structures on parcels less than 5 acres in size may not exceed 17 feet in height without a special exception.

[3] Fences do not need to meet yard requirements.

6.6 COMMUNITY RESIDENTIAL DISTRICT GENERAL STANDARDS

1. The reuse of existing *buildings* is encouraged.

2. The Department of Planning and Zoning shall approve *street* names. A name may not be approved if it duplicates or is too similar to an existing road name in the County or incorporated towns.

3. Minor Subdivisions - At a minimum, *open space*, playgrounds, or other recreational areas shall be set aside at a rate of 1/10 acre per *dwelling unit*. If the land is not of significant quality and size for the purpose of providing or developing parks and recreational facilities, the *Planning Commission*, or where applicable the Planning Director, may permit a *developer* to pay a fee of $250.00 for each *lot* or each *dwelling unit* in lieu of providing land for recreational purposes. Recreational land required in a *subdivision* shall be located so as to be reasonably accessible from all lots in the *subdivision* in accordance with the following:
   a. *Steep slopes*, streams, lakes, *watercourses*, and *floodplains* may constitute up to 40% of the recreational land.
   b. At least 60% of the recreational land shall be suitable for dry ground recreational use.

4. Major subdivisions shall include 40% of the adjusted *tract* acreage in *open space* unless all of the parcels are 10 acres or more in size. The adjusted *tract* acreage shall be determined by subtracting the acreage in *slopes* over 25%, *tidal* and *non-tidal wetlands*, required *buffer*s, and *stormwater management* areas. The *Planning Commission* may waive this requirement when the total amount of *open space*, including *steep slopes*, *wetlands*, *buffer*s, and *stormwater management* areas, exceeds 60% of the *site*. When all of the parcels in the *subdivision* exceed 10 acres in size, the *developer* shall pay a fee of $250.00 for each *lot* in lieu of providing land for recreational purposes

6.7 COMMUNITY RESIDENTIAL DISTRICT ENVIRONMENTAL STANDARDS

The purpose of these standards is to provide for the proper stewardship of the County's natural resources. Specifically it is the overall goal of the county to maintain the quality of the County's *ecosystem* in the face of continuing activity, growth and change.

A. COMMUNITY RESIDENTIAL DISTRICT GENERAL ENVIRONMENTAL STANDARDS

1. *Development* shall minimize *adverse impacts* to *non-tidal* or *tidal wetlands*, estuaries, the Chesapeake Bay, *tributary streams*, and the natural course and *riparian habitat* of these streams, habitat protection areas, or other significant habitat identified by the Department of Planning and Zoning.

2. *Development* shall minimize the removal of vegetation.

3. *Development* shall minimize the effects of runoff on the existing volume of water or quality of any water body. Urban *best management practices* shall be used.

4. Whenever possible, land with poor drainage or other adverse conditions shall not be developed. When developed, the property owner shall agree to make any improvements necessary to render the property safe for *development*.

5. Whenever possible, land subject to periodic flooding, shall not be developed for any use that might involve danger to health, life, or property or aggravate floods.

6. Whenever possible, agricultural operations shall follow agricultural *best management practices* and are encouraged to develop and implement *soil* conservation and water quality, nutrient and pest management plans.

B. COMMUNITY RESIDENTIAL DISTRICT SPECIFIC ENVIRONMENTAL STANDARDS

1. *Anadromous fish*
   a. Concrete riprap or other artificial surface shall not be installed on the bottom of natural streams unless it can be demonstrated that water quality and fishery habitat will be improved.
   b. Physical alteration of a stream, including but not limited to channelization, that interferes with the movement of fish shall be prohibited.

2. *Forest Conservation*
   This section applies to all *major* and *minor site plans* on units of land 40,000 square feet or greater; major and minor subdivisions; and *grading* and *sediment control permits* that result in the cumulative cutting, *clearing*, or *grading* of more than 40,000 square feet of *forest*. A forest *Declaration of Intent* is required for activities specifically exempted in Article VI, Section 8.2 of this Ordinance.
   a. A parcel with less than 20% of its *net tract area* in *forest cover* shall be afforested to 20% of its *net tract area*.
   b. A parcel with less than 20% of its *net tract area* in *forest* may be cut or cleared provided:
      i. The *afforestation* required to achieve the 20% *afforestation* level is determined prior to any *clearing* of *forest*.
      ii. The *afforestation* area consists of two (2) times the total surface area cleared and the area needed to achieve the 20% *afforestation* level before *clearing* occurred. For example, the *afforestation* area for a project with a *net tract area* of one hundred acres with ten (10) acres of existing *forest* of which five (5) acres are to be cleared is twenty (20) acres - ten (10) acres to achieve the required *afforestation* level and ten (10) acres to replace the *forest* cleared.
   c. A parcel with more than 50% of its *net tract area* in *forest* may be cut or cleared provided *reforestation* occurs at a rate of one-quarter (1/4) acre planted for each acre removed above 50% of the *net tract area* or at a rate of two (2) acres planted for every acre removed below 50% of the *net tract area*. *Forest* retained over 50% of the *net tract area* is credited toward the required *reforestation*. For example, a project with a *net tract area* of one hundred (100) acres and an existing *forest* of sixty (60) acres of which twenty (20) acres will be cleared, will require a *reforestation* area of 22.5 acres.
   d. The following trees, shrubs, plants, and specific areas are considered a priority for *retention* and protection and shall be left in an undisturbed condition unless the applicant demonstrates, to the satisfaction of the Department of Planning and Zoning, that reasonable efforts have been made to protect them and the plan cannot be reasonably altered.
      i. Trees, shrubs, and plants in sensitive areas including the *non-tidal 100-year floodplain*, *intermittent* and *perennial stream protection corridors*, *steep slopes*, *non-tidal wetlands*, and critical habitats.
      ii. Contiguous *forest* that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the *site*.

iii. Trees, shrubs, and plants that are determined to be rare, threatened, or *endangered species* or *species in need of conservation*.

iv. Trees that are associated with an historic *structure* or *site*, or trees that have been designated by the state or county as a national, state, or county *champion tree*.

v. Any *tree* having a diameter, measured at 4.5 feet above the ground, of:

a) Thirty inches or more; or

b) Seventy-five percent (75%) or more of the diameter, measured at 4.5 feet above the ground, of the current State *Champion tree* of that species as designated by the Department of Natural Resources.

e. The required *reforestation* or *afforestation* may be accomplished *on-site*, *off-site*, by contributing to a *forest* bank in the same *watershed* or by contributing to the Kent County Reforestation Fund. The preferred method of *afforestation* or *reforestation* is *on-site* or *forest* banking.

f. Whenever possible and appropriate, *afforestation* and *reforestation* shall include native species.

3. *Forest Interior Dwelling Birds*

Development shall minimize impacts on *forest interior dwelling birds*. Whenever possible, riparian *forest* shall be expanded.

4. Habitat

a. *Wildlife corridors* shall be created whenever feasible.

b. Fragmentation of natural habitat areas shall be prohibited.

c. *Hedgerows* are desirable as buffers.

5. *Natural heritage areas* and locations considered for Areas of Critical State Concern

These areas of local significance shall be preserved whenever possible. These areas are identified in Article VI, Section 3.8 of this Ordinance.

6. *Non-tidal wetlands*

Non-tidal wetlands shall be protected according to the *regulations* of the State of Maryland, Army Corps of Engineers, United States Fish and Wildlife Service, Environmental Protection Agency, and all other applicable State and Federal *Regulations*.

7. *Stream Protection Corridor*

All new *development* or *redevelopment* shall provide a 100-foot naturally vegetated *stream protection corridor* along all *tributary streams*. New *development activities*, including *structures*, parking areas, septic systems, and similar *impervious surfaces* shall not be permitted in the *stream protection corridor*. *Roads* that cross the *stream protection corridor* shall be minimized. The *Planning Commission* may modify the *stream protection corridor* when the following can be demonstrated:

a. A reduced corridor achieves significant water quality and habitat improvements equal to the required corridor.

b. More than 50% of the corridor is impervious or more than 75% of the corridor is disturbed with stone, septic systems, decks, or other obvious human impacts.

c. The *site* shall include all contiguous parcels under single ownership.

8. *Stormwater Management*

No *person* shall develop any land for residential, commercial, industrial, or institutional uses or redevelop land without having provided for appropriate *stormwater management* measures that control or manage runoff from such developments except as provided in Article VI, Section 10 of this

Ordinance. *Stormwater* management shall be accomplished for all new *development* or *redevelopment* in accordance with the provisions of Article VI, Section 10 of this Ordinance.

9. Threatened and Endangered Species and Species in Need of Conservation
Threatened and *endangered species* and *species in need of conservation* shall be checked and noted before any approvals are granted by the Planning Director, *Planning Commission*, or Zoning Administrator. The Federal or State guidelines (whichever is stricter) for habitat protection must be followed during *development*. Plans shall also include provisions for continuance of the habitat protection after *development*. This can include *conservation easements*, cooperative agreements, special provisions in *forest management plans*, and donation or sale to a third party.

10. Water Quality
All new *development* or *redevelopment* must reduce pollutant loadings from the *site* and shall comply with the *stormwater management* qualitative controls found in Article VI, Section 10 of this Ordinance.

6.8 COMMUNITY RESIDENTIAL DISTRICT DESIGN STANDARDS

The purpose of these standards is to give a sense of the physical aspects of the County's environment to those contemplating *development* in the community. Pertinent to this physical appearance is the design of the *site*, *buildings* and *structures*, plantings, *signs*, *street* hardware, and miscellaneous other objects observed by the public.

These standards are not intended to restrict imagination, innovation, or variety, but rather assist in focusing on design principles which can produce creative solutions that will develop a satisfactory visual appearance within the County, preserve taxable values, and promote the public health, safety, and welfare.

A. COMMUNITY RESIDENTIAL DISTRICT GENERAL DESIGN STANDARDS

1. The landscape shall be preserved in its natural state, in so far as possible, by minimizing *tree* and *soil* removal. Any grade changes shall be in keeping with the general appearance of neighboring development areas. *Buildings* are encouraged to be located so as to maintain maximum natural *topography* and cover. *Topography*, *tree* cover, and natural drainage ways shall be treated as fixed determinants of road and *lot* configuration rather than malleable elements that can be changed to follow a preferred *development* scheme. Whenever possible, *development* shall be outside the *floodplain*.

2. *Streets* shall be designed and located in a manner so as to maintain and preserve natural *topography*, cover, significant landmarks and trees; to minimize cut and *fill*; and to preserve and enhance views and vistas on and off the subject parcel.

3. Proposed *development* shall be related harmoniously to the terrain and to the use, scale, and architecture of existing *buildings* in the vicinity that have functional or visual relationships to the proposed *buildings*.

4. All *open space* (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the *site* or overlooking it from nearby properties.

5. *Open space* shall be designed to retain and protect the most unique features of the *site* such as significant view corridors, *buildings* of historic merit, views of these features from the road and adjacent properties. Long narrow strips of *open space* shall be avoided.

6. The color, size, height, lighting, and landscaping of appurtenant *signs* and *structures* shall be evaluated for compatibility with the local architectural motif and the maintenance of views and vistas of natural landscapes, recognized historic landmarks, parks, and landscaping.

7. Whenever possible, adverse effects on historic, traditional, or significant uses and *structures* shall be minimized, whether these exist on the *site* or on adjacent properties.

8. Whenever possible, proposed developments should incorporate design elements such as single loaded *streets*, reverse curves, terminal vistas of *open space*, and foreground meadows.

B. COMMUNITY RESIDENTIAL DISTRICT SPECIFIC DESIGN STANDARDS

1. *Site* Access

Site access shall be subject to the following *regulations* to help ensure vehicle and pedestrian safety and alleviate congestion:

a. Where a proposed road is designated on an approved County or State map, *site plans* for *development* adjacent to the designated *roadway* shall include provisions for future access to the *roadway*.
b. All new lots must abut upon and have access to a public or approved *private road*.
c. Pedestrian and bicycle linkages to adjacent developments, recreational facilities, and other public or semi-public uses shall be provided whenever possible.
d. Access shall be consolidated whenever possible.
e. The applicant shall demonstrate that access to the project is adequate and the roads which will be impacted have the capacity to handle the traffic generated by the proposed project and will not endanger the safety of the general public.*
f. Whenever possible, *roads* shall be constructed above the elevation of the *100-year floodplain*.

2. *Floodplain*

a. In order to prevent excessive *flood* damage and to allow for the protection of the natural and beneficial *floodplain* functions, all *development*, *new construction*, and *substantial improvements* to existing *structures* in all *floodplain* zones shall comply with the requirements of Article VI, Section 7 of this Ordinance, including but not limited to the following:
   i. Elevation of all new or substantially improved *structures*;
   ii. Compliance with venting and other construction standards; and
   iii. Submission and recordation, where applicable, of *Elevation Certificates*, *Declaration of Land Restrictions*, deed restrictions, and venting affidavits.**
b. Placement of *buildings* and materials. In general, *buildings* and *accessory structures* should be located entirely out of the *floodplain*, out of the *flood* protection setback, or on land that is least susceptible to flooding. All *structures* permitted in the *floodplain* shall be oriented so as to offer the least resistance to the flow of floodwaters.
c. General *development* shall not occur in the *floodplain* where alternative locations exist. Before a permit is issued, the applicant shall demonstrate that new *structures* cannot be located out of the *floodplain* and that encroachments onto the *floodplain* are minimized.

* Amended 11/14/06; ** Amended 6/3/14

3. Landscaping

Street trees shall be included in each *subdivision*. *Street* trees may be clustered or evenly spaced. The number of *street* trees shall be calculated as follows:

a. Small trees (trees less than 25 feet in height at maturity) - 1 per 25 linear feet of *lot* or *open space* along public or *private roads*

b. Medium or large trees (25 feet or taller at maturity) - 1 per 40 linear feet of *lot* or *open space* along pubic or *private roads*.

At the time of planting, deciduous trees shall have at least a 2- 3-inch *caliper* at 6 inches above grade; coniferous trees shall be at least 5 to 6 feet in height.

The *Planning Commission*, or where applicable the Planning Director, may waive the requirement for *street* trees.

4. *Subdivision*

a. Proposed *street* layout, blocks, and parcels shall be suitable in area and dimension for the type of *development* anticipated.

b. The total area shall be sufficient to provide adequate space for *off-street parking*, loading, landscaping, and other facilities.

c. Whenever possible, the *subdivision* should be designed to minimize *adverse impacts* on agricultural operations.

d. The *lot* arrangement, design, and orientation shall be such that all lots will provide satisfactory building *sites*, properly related to *topography*, the character of surrounding *development*, and avoid facing the rear of properties to the existing road.

e. Proposed *open space* in the *subdivision* shall provide for the continuation of existing, planned, or platted *open space* on adjacent tracts unless the proposed extension is found by the *Planning Commission* to be unnecessary for the coordination of *development* between the *subdivision* and such adjacent *tract*.

f. Whenever possible, the majority of the houses shall abut undivided *open space*.

g. Every *lot* shall abut upon and have access to a public road or approved *private road*.

h. Lots adjoining *major thoroughfares* and railroad lines should be designed with extra depth and provision for an appropriate means of buffer or deeper building *setbacks*.

i. Where land in a *subdivision* adjoins a railroad line, the *street* layout shall make allowance for future grade separated railroad crossings at appropriate locations by providing extra *street right of way* widths for such crossings and by restricting intersecting *streets* at locations where they would cause interference with necessary approaches to such crossings.

j. Proposed *streets* in the *subdivision* shall provide for the continuation of existing, planned, or platted *streets* on adjacent tracts, unless such continuation shall be prevented by *topography* or other physical feature or unless such extension is found by the *Planning Commission* to be unnecessary for the coordination of *development* between the *subdivision* and such adjacent *tract*.

k. Where the *Planning Commission* deems it desirable or necessary to provide access to adjacent tracts not presently subdivided, proposed *streets* in the *subdivision* shall be extended to the boundary lines with such tracts.

l. Where a *subdivision* adjoins or embraces any part of a *major thoroughfare* as designated on the Kent County Major Thoroughfare Map, the layout of such *subdivision* shall provide for the platting and dedication of such part of the *major thoroughfare* in the location and at the width indicated on the *major thoroughfare* plan, except that the *subdivider* shall not be required to dedicate that part of such *major thoroughfare* that is in excess of eighty (80) feet in width.

m. Where deemed desirable to the layout of the *subdivision* and adjoining area, the *Planning Commission* may require the platting and dedication of one or more *collector streets* or parts thereof, to serve the *subdivision*.

n. Subdivisions shall be in full compliance with the provisions of this Ordinance

o. *Private roads* are permitted in minor subdivisions and are subject to the following conditions:

   i. Each road shall serve no more than seven parcels. In the event that an eighth parcel is created, the eighth parcel and all further divisions of land shall front on a public road.*

   ii. The *subdivision* shall provide a 50-foot *right of way* for each *private road*.

   iii. The construction of all lanes and *private roads* shall adhere to the requirements established by the Kent County Department of Public Works and sediment control and *stormwater management regulations*.

   iv. The deed and contract of sale of all lots in the *subdivision* shall state: "The road is private and not the responsibility of Kent County."

   v. The plat shall identify all *private roads* and shall state: "The road is private and not the responsibility of Kent County."

5. Kent County *Airport* Safety Requirements

This section applies to properties that fall within the Kent County *Airport* Safety Zone as designated on the Kent County *Airport* Safety Zone Map. The Kent County *Airport* Safety Zone Map is incorporated into and made a part of this Ordinance. It is the purpose of this section to promote the public safety of the residents and visitors of Kent County by prohibiting to the extent possible, the creation or establishment of obstructions that are a hazard to air navigation.

a. No new ponds shall be constructed within 5,000 feet of the runway.

b. No new solid waste disposal *sites* shall be permitted within 5,000 feet of any publicly licensed *airport*. New solid waste disposal *sites* shall not be permitted within the limits of the *airport* safety zone if the FAA determines the *site* to be a hazard.

c. Developments which produce lights, illumination, or other visual hazards or which produce electronic interference with *airport*/airplane navigation signals are subject to the standards specifies in the FAA procedure manual 7400-2C.

d. Except as otherwise provided in this Ordinance, no *structure* shall be erected, altered, or maintained and no *tree* or other vegetation shall be allowed to grow in excess of the height limitations as designated on the Kent County *Airport* Safety Zone Map.

* Amended 10/16/12

SECTION 7 VILLAGE DISTRICT

7.1 STATEMENT OF INTENT

The purpose of this district is to provide for high quality residential, neighborhood business, and office *development*. In those areas served by public water and sewer, this zone will be characterized by a wide variety of housing types, densities, and uses. In those areas without *public utilities*, this zone will be largely single family with the possibility of multi-family residential when it does not hazard public health and is consistent with the Village Master Plan for the area.

This district is created to:

- Encourage residential *development* in existing towns and communities on *major thoroughfares*.
- Permit a variety of housing types.
- Provide incentives for residential *development* by allowing variations in *lot* size, *density*, *frontage*, and *yard* requirements.
- Encourage compact *development*.
- Promote the *development* of non-residential uses that complement and enhance the character, vitality and attractiveness of the community as a place to live and work.
- Encourage designs that allow for the filling-in of vacant areas and create *development* that is compatible with the character of existing lots and *buildings*.

7.2 PERMITTED PRINCIPAL USES AND STRUCTURES

A *building* or *structure* shall be used only for the following purposes:

1. Detached *single family dwellings*

2. *Two-family dwellings*

3. Town houses, subject to *site plan* review

4. *Multi-family dwellings*, subject to *site plan* review

5. Rooming, boarding, and *lodging houses*

6. *Houses of worship*, subject to *site plan* review

7. Convents, monasteries etc., subject to *site plan* review

8. Financial institutions, subject to *site plan* review

9. Fire and rescue stations, subject to *site plan* review

10. Dinner theaters and playhouses, subject to *site plan* review

11. Offices - administrative, business, sales, and professional, subject to *site plan* review

12. *Personal wireless facilities* collocated on existing towers, water towers, electrical transmission towers, fire towers, silos, *grain dryers*, or other *structures* provided the height of the existing *structure* is not above that permitted by this Ordinance.

13. Public uses, *buildings*, and utilities. Public *buildings* include but are not limited to schools, offices, parks, playgrounds, and *roads* funded, owned and operated by local, state, or federal agencies. *Public utilities* are water, sewer, electric, gas, oil, and communication facilities owned and operated by the Kent County Department of Water and Wastewater or other public utility. *Public utilities* include substations, poles, lines, transformers, pipes, meters, treatment facilities, pumping stations, and appurtenances but not transmission towers. Power plants and the like are not permitted. The following items require *site plan* review: schools, offices, playgrounds, treatment facilities, water towers, substations, and transformers.

14. *Restaurants* without drive through facilities limited to 75 seats, subject to *site plan* review

15. Funeral homes, subject to *site plan* review

16. Neighborhood retail businesses which supply household commodities on the *premises* such as groceries, meats, dairy products, baked goods, or other foods, drugs, notions, flowers or hardware. All retail sales shall be conducted entirely within a *building*, except where otherwise approved by the *Planning Commission*.* Other uses and *structures* which meet the criteria specified above may be approved by the Zoning Administrator. Neighborhood retail businesses shall require a *site plan*.

17. Curio shops, craft shops, antique stores, and similar uses consistent with the character of the town area. Such uses shall be limited to a gross *floor area* of 1,500 square feet. New construction shall require *site plan* review.

18. Personal service establishments which perform services on the *premises* for persons residing in adjacent residential areas such as shoe repair, dry cleaners, tailors, *laundromats*, beauty parlors, barber shops, and the like. All personal service uses shall be conducted entirely within a *building*. Other uses and *structures* which meet the criteria specified above may be approved by the Zoning Administrator. Personal service activities require *site plan* review.

19. Recreational uses indoor, commercial, i.e. game courts, *swimming pools*, and other like private recreational facilities, subject to *site plan* review.

20. Existing commercial or industrial uses and *structures* in the Village District. It is the intent of this Section to provide for the continued existence and operation as well as the reasonable expansion of commercial and industrial uses which exist in the Village District, provided that such uses or *structures* do not constitute a nuisance or a source of significant environmental pollution. It is not the intent hereof to allow the creation of new commercial or industrial uses which are not permitted under this Section, but rather to protect those enterprises which existed in the Village District as of August 1, 1989. An expansion will require *site plan* review.

21. *Agriculture*, excluding the raising of livestock and fowl, including horticultural, hydroponics, and truck farming, general farming, cultivation of field crops, and raising of orchards, groves, and nurseries.

* Amended 6/17/14

22. *Mobile homes* existing and in use as of January 16, 1996 may be continued in use and may be replaced with another *mobile home*, provided the replacement *mobile home* complies with the Kent County Codes and all Health Department *regulations*. It is not the intent of this provision to allow additional *mobile homes* in the County but rather to allow the continued use and improvement (including replacement) of *mobile homes* existing as of January 16, 1996. A *mobile home* that remains idle or unused for a continuous period of two years shall not be used again except in conformity with these *regulations*.

23. Marine supply store including indoor outboard motor sales, subject to site plan review.**

24. New and used boat sales, boat and outboard motor repairs and boat storage, subject to the following limitations:**
    a. The property shall front on 2 public roads.
    b. All repairs are conducted inside a building.
    c. The storage area and repair access area shall be screened on all sides with wood fencing a minimum of 6 feet in height.
    d. The repair shop building and the storage and repair access area shall be set back at least 100 feet from adjacent properties that are zoned for residential use.
    e. The open area for display of boats shall be limited to 3,000 square feet in size.
    f. This use is subject to site plan review.

25. Up to 30 self-storage units in 1 building not to exceed 100 square feet of floor space per unit, subject to site plan review. The property shall front on 2 public roads.**

7.3 SPECIAL EXCEPTIONS

The following principal uses and *structures* may be permitted as special exceptions in the Village District, subject to *site plan* review by the *Planning Commission* or where applicable the Planning Director. Detailed limitations and standards for these uses may be found in Article VII of this Ordinance.

1. *Accessory structures* in the *front yard* of *through lots*
2. Adaptive reuse of historic *structures*
3. *Automobile service station*s, but not including repair
4. Cemetery, including crematorium and mausoleum
5. Convalescent, nursing, or group homes for the aged with five or more beds
6. *Day care group*
7. *Mobile home parks*
8. Outdoor recreation, miniature golf, but not golf courses
9. Printing and publishing
10. *Private club*s
11. Private schools
12. *Retreat*

12.5 *Rural Inn* ***

12.75 School bus parking lot +

13. *Wind energy systems, small**

7.4 ACCESSORY USES AND STRUCTURES

The following *accessory uses* and *structures* shall be permitted on all properties in the Village District.

1. Accessory vehicle parking limited to those vehicles used as a part of principal permitted uses or approved special exceptions provided the vehicles have current licenses and are operable. Parking areas will be approved during *site plan* review.

* Amended 9/6/11; ** Amended 8/5/14; ***Amended 4/8/15; + Amended 4/3/18

2. Appurtenant *signs* in accordance with Article VI, Section 2 of this Ordinance.

3. Assisted living facilities or *group homes*, with no more than four beds provided:
   a. The property owner resides on the *premises*.
   b. The assisted living facility or *group home*, is subordinate and accessory to the principal dwelling in size and appearance and is in the same *structure* as the principal *dwelling unit*.
   c. The rooms for the use are not designed or constructed to be separate *dwelling units* and may not be sold as separate *dwelling units*.
   d. The appearance of the *structure* and property remain that of a *single family dwelling* so that the average neighbor is unaware of the assisted living facility's or *group home's* existence.
   e. The *structure* meets all applicable Kent County Codes, including the building code, and Health Department requirements.

4. *Day care home* provided:
   a. Outdoor play areas are fenced and screened.
   b. Structured areas for active play or play *structures* shall not be in the *front yard* and shall be a minimum of 10 feet from the side or rear property line.
   c. One drop off / pickup space is provided.
   d. Structural or decorative additions shall be designed to be compatible with the residential character of the neighborhood.
   e. *Signs* shall be limited to two square feet.

5. *Home occupations* in main or accessory *buildings*

   Intent - The conduct of business in residential units may be permitted under the provisions of this section. It is the intent of this section to:
   a. Ensure the compatibility of *home occupations* with other uses in residential areas.
   b. Maintain and preserve the character of residential neighborhoods by regulating the operation of *home occupations* so that the average neighbor is unaware of their existence.
   c. Guarantee to all residents freedom from excessive noise, excessive traffic, nuisance, fire, hazard, and other possible effects of commercial uses being conducted in residential areas.
   d. Promote the efficient use of public services and facilities by assuring these services are provided to the residential population for which they were planned and constructed, rather than commercial uses.

   Conditions -
   a. A *home occupation* shall be incidental to the use of a *dwelling unit* for residential purposes and shall be conducted only by members of the *family* residing in the *dwelling unit* plus one non-resident assistant or employee.
   b. Outdoor storage of materials or products is prohibited.
   c. The *home occupation* shall not cause any external effect such as noise, excessive lighting, or offensive odor which is incompatible with the characteristics of the residential area. The illegal discharge of any materials, fluids, or gases into the sewer system or in any other manner of discharging such items in violation of any applicable government code is prohibited.
   d. Traffic generated by the *home occupation* shall not exceed that normally expected in a residential neighborhood.
   e. Parking for the *home occupation* shall be provided off-street and in the *side* or *rear yard*.
   f. A *home occupation* shall limit any external evidence of an occupation to one identification *sign* not to exceed two square feet.

5.5 Keeping of backyard chickens*

a. Backyard chickens are defined as females of the species *Gallus gallus domesticus* kept for non-commercial purposes. The keeping of males of the species is not permitted.

b. The maximum number of chickens, 4 months or older, permitted on any lot is determined by lot size:

i. No chickens are permitted on a lot of less than ¼ acre;

ii No more than 5 chickens are permitted on a lot of ¼ acre to 1 acre;

iii. No more than 8 chickens are permitted on lots of more than 1 acre.

c. The area for keeping backyard chickens must be enclosed in such a fashion that the chickens are confined and not able to leave the owner's property. Backyard chickens will be provided with a covered, predator-proof coop or cage that is well ventilated. Hens shall have access to an outdoor enclosure that is adequately fenced to contain the birds on the property.

d. *Structures* (coops) for the housing of backyard chickens must meet the permitting requirements of this Ordinance. For movable coops, the permit application will show the area in which the coop will be moved. A copy of the Maryland Poultry Registration Form must accompany the building permit application.

e. Coops must be setback a minimum of 15 feet from any property line.

f. Coops may be placed in rear yards only.

g. Each coop must be kept clean and free of odors and materials that can attract vermin. Feed must be kept in secure containers so as not to attract vermin.

h. Waste must be composted or removed from the property.

i. The outdoor slaughtering of chickens is not permitted.

6. Uses and *structures* which are customarily accessory and clearly incidental and subordinate to permitted uses and *structures*.

7. Parking of one commercial vehicle in the *side* or *rear yard* of dwellings provided:

a. The vehicle is used by the occupant of the dwelling.

b. The vehicle does not have a manufacturer's gross vehicle weight that exceeds 16,000 pounds.

c. Refrigerator units do not run when parked at the dwelling.

d. No major repair is conducted *on-site*.

e. Honey wagons, sanitation, garbage, or other trucks used to transport odorous, flammable, or hazardous materials are prohibited.

f. The vehicle has a current license and is operable.

8. Recreational uses such as *swimming pools*, game courts, and other like recreational facilities located a minimum of 25 feet from all property lines.

9. Satellite dish, private, with an antenna exceeding 3 feet in diameter provided:

a. No antenna shall exceed an overall diameter of 12 feet or an overall height of 15 feet above *existing grade*.

b. The antenna shall be permanently ground-mounted. An antenna shall not be installed on portable or moveable *structures*.

c. The antenna shall be totally screened along the non-receptive axis and low-level ornamental landscaping shall be installed along the reception window axis of the base of the antenna. Screening may consist of fencing or a variety of plant types. Screening may be waived when the antenna is located 100 feet from all property lines or the antenna is of a nature that is not visible or intrusive to the neighborhood.

* Amended 8/5/14

10. Satellite dish, private, with an antenna 3 feet or less in diameter, and solar panel arrays, provided that the antenna is not installed on portable or movable *structures*.

11. School buses, limited to two, parked in the *rear* or *side yard* of dwellings provided the buses are owned by the occupants of the dwelling, have current licenses and are operable.

11.5 *Solar energy systems, small*, provided:*

a. Tree removal shall be minimized and any removal shall be mitigated at a ratio or one tree planted for each tree removed.

b. All solar collection devices shall register with the Department of Emergency Services and shall submit a map noting the location of the solar collection devices and the panel disconnect.

c. The total height of solar collection systems shall comply with the height requirements.

12. Storage in the *rear yard* of boats, campers, boat trailers, and camper trailers, which are titled under the name of the property owner or occupant. All boats, boat trailers, and camper trailers must be operable and have current licenses if required.

13. Temporary *MET Tower* of any height provided:*

a. The tower is erected for no more than 12 months.

b. Any free standing *structure* is located a minimum of 3 times its total height from a property line.

c. Towers are not readily climbable from the ground up to 12 feet.

* Amended 9/6/11

7.5 DENSITY, AREA, HEIGHT, WIDTH, AND YARD REQUIREMENTS

Gross *density* (dwelling units/acre)	4
Minimum *lot* size	9,500 square feet
Minimum *lot frontage*	50 feet
Minimum *yard*	
- *Front*	20 feet
- *Side*	8 feet
- *Rear*	10 feet
- Accessory residential *structures* in *rear yard*	
Side	3 feet
Rear	5 feet
Maximum *structure* height [1]	
- Commercial	38 feet
- Residential	38 feet
- Fence [2]	
- Security	8 feet
- Agricultural	5 feet
- Ornamental	
Side and *Rear*	8 feet
Front	4 feet

[1] Height of *structures* may be further restricted by of the Kent County *Airport* Safety Requirements as defined in Article V, Section 7.8.C.12 of this Ordinance. Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

[2] Fences do not need to meet yard requirements.

7.6 VILLAGE GENERAL STANDARDS

1. The reuse of existing *buildings* is encouraged.

2. Public water and sewer systems may be required by the *Planning Commission*.

3. The Department of Planning and Zoning shall approve *street* names. A name may not be approved if it duplicates or is too similar to the name of another road in the county or incorporated towns.

4. When deemed necessary by the *Planning Commission*, or where applicable the Planning Director, unobstructed *easements* at least 10 feet wide shall be provided to facilitate walkways to commercial facilities, community areas, schools, parks, playgrounds, or other public areas.

5. *Open space*, playgrounds, or other recreational areas shall be set aside at a rate of 1/10 acre per *dwelling unit*. If the land is not of significant quality and size for the purpose of providing or developing parks and recreational facilities, the *Planning Commission*, or where applicable the Planning Director, may permit a *developer* to pay a fee of $250.00 for each *lot* or each *dwelling unit* in lieu of providing land for recreational purposes. Recreational land required in a *subdivision* shall be located so as to be reasonably accessible from all lots in the *subdivision* in accordance with the following:
   a. *Steep slopes*, streams, lakes, *watercourses*, and *floodplains* may constitute up to 40% of the recreational land.
   b. At least 60% of the recreational land shall be suitable for dry ground recreational use.

7.7 VILLAGE ENVIRONMENTAL STANDARDS

The purpose of these standards is to provide for the proper stewardship of the County's natural resources. Specifically it is the overall goal of the county to maintain the quality of the County's *ecosystem* in the face of continuing activity, growth and change.

A. VILLAGE ENVIRONMENTAL STANDARDS

1. *Development* shall minimize *adverse impacts* to *non-tidal* or *tidal wetlands*, estuaries, the Chesapeake Bay, *tributary streams*, and the natural course and *riparian habitat* of these streams, habitat protection areas, or other significant habitat identified by the Department of Planning and Zoning.

2. *Development* shall minimize the removal of vegetation. The *developer* shall demonstrate that the change in vegetation minimizes the effect on microclimate.

3. *Development* shall minimize the effects of runoff on the existing volume of water or quality of any water body. Urban *best management practices* shall be used.

4. Whenever possible, land with poor drainage or other adverse conditions shall not be developed. When developed, the property owner shall agree to make any improvements necessary to render the property safe for *development*.

5. Whenever possible, land subject to periodic flooding, shall not be developed for any use that might involve danger to health, life, or property or aggravate floods.

6. If practicable, permeable areas shall be established in vegetation. *Native plants* are preferred.

B. VILLAGE SPECIFIC ENVIRONMENTAL STANDARDS

1. *Anadromous fish*
   a. Concrete riprap or other artificial surface shall not be installed on the bottom of natural streams unless it can be demonstrated that water quality and fishery habitat will be improved.
   b. Physical alteration of a stream, including but not limited to channelization, that interferes with the movement of fish shall be prohibited.

2. *Forest Conservation*
   This section applies to all *major* and *minor site plans* on units of land 40,000 square feet or greater, major and minor subdivisions, *grading* and *sediment control permits* that result in the cumulative cutting, *clearing*, or *grading* of more than 40,000 square feet of *forest*. A forest *Declaration of Intent* is required for activities specifically exempted in Article 6, Section 8.2 of this Ordinance.
   a. A parcel with less than 15% of its *net tract area* in *forest cover* shall be afforested to 15% of its *net tract area*.
   b. A parcel with less than 15% of its *net tract area* in *forest* may be cut or cleared provided:
      i. The *afforestation* required to achieve the 15% *afforestation* level is determined prior to any *clearing* of *forest*.
      ii. The *afforestation* area consists of two (2) times the total surface area cleared and the area needed to achieve the 15% *afforestation* level before *clearing* occurred. For example, the *afforestation* area for a project with a *net tract area* of one hundred acres with ten (10) acres of existing *forest* of which five (5) will be cleared is fifteen (15) acres - five (5) acres to achieve the required *afforestation* level and ten (10) acres to replace the *forest* cleared.
   c. A parcel with more than 15% of its *net tract area* in *forest* may be cut or cleared provided *reforestation* occurs at a rate of one-quarter (1/4) acre planted for each acre removed above 15% of the *net tract area* or at a rate of two (2) acres planted for every acre removed below 15% of the *net tract area*. *Forest* retained over 15% of the *net tract area* is credited toward the required *reforestation*. For example, a project with a *net tract area* of one hundred (100) acres and an existing *forest* of thirty acres of which twenty acres will be cleared requires a *reforestation* area of 13.75 acres.
   d. The required *reforestation* or *afforestation* may be accomplished *on-site*, *off-site*, by contributing to a *forest* bank in the same *watershed* or by contributing to the Kent County Reforestation Fund. The preferred method of *afforestation* or *reforestation* is *forest* banking or *off-site afforestation*.
   e. Whenever possible and appropriate, *afforestation* and *reforestation* shall include native species.

3. *Forest Interior Dwelling Birds*
   Development shall minimize impact on *forest interior dwelling birds*. Whenever possible, riparian *forest* shall be expanded.

4. Habitat
   a. *Wildlife corridors* shall be created whenever feasible.
   b. Fragmentation of habitat areas shall be minimized.

5. *Natural heritage areas* and locations considered for Areas of Critical State Concern
   These areas of local significance shall be preserved whenever possible. These areas are identified in Article VI, Section 3.8 of this Ordinance.

6. *Non-tidal wetlands*
Non-tidal wetlands shall be protected according to the *regulations* of the State of Maryland, Army Corps of Engineers, United States Fish and Wildlife Service, Environmental Protection Agency, and all other applicable State and Federal *Regulations*.

7. *Stream Protection Corridor*
All new *development* or *redevelopment* shall provide a 100-foot naturally vegetated *stream protection corridor* along all *tributary streams*. New *development activities*, including *structures*, parking areas, septic systems, and similar *impervious surfaces* shall not be permitted in the *stream protection corridor*. *Roads* that cross the *stream protection corridor* shall be minimized. The *Planning Commission* may modify the *stream protection corridor* when the following can be demonstrated:
   a. A reduced corridor achieves significant water quality and habitat improvements equal to the required corridor.
   b. More than 50% of the corridor is impervious or more than 75% of the corridor is disturbed with stone, septic systems, decks, or other obvious human impacts.
   c. The *site* shall include all contiguous parcels under single ownership.

8. *Stormwater Management*
No *person* shall develop any land for residential, commercial, industrial, or institutional uses or redevelop land without having provided for appropriate *stormwater management* measures that control or manage runoff from such developments except as provided in Article VI, Section 10 of this Ordinance. *Stormwater* management shall be accomplished for all new *development* or *redevelopment* in accordance with the provisions of Article VI, Section 10 of this Ordinance.

9. Threatened and Endangered Species and Species in Need of Conservation
Threatened and *endangered species* and *species in need of conservation* shall be checked and noted before any approvals are granted by the Planning Director, *Planning Commission*, or Zoning Administrator. The Federal or State guidelines (whichever is stricter) for habitat protection must be followed during *development*. Plans shall also include provisions for continuance of the habitat protection after *development*. This can include *conservation easements*, cooperative agreements, special provisions in *forest management plans*, and donation or sale to a third party.

10. Water Quality
All new *development* or *redevelopment* shall reduce the pollutant loadings by at least 10%. Pollutant loadings will be calculated in the manner developed by the Metropolitan Washington Council of Governments using phosphorous as the keystone element or in a manner acceptable to the Planning Director or the Planning Director's designee. When *on-site* compliance is not possible, *offsets* may be substituted. All *sites* shall comply with the *stormwater management* qualitative controls found in Article VI, Section 10 of this Ordinance.

7.8 VILLAGE DESIGN STANDARDS

The purpose of these standards is to give a sense of the physical aspects of the County's environment to those contemplating new *development* in the community. Pertinent to this physical appearance is the design of the *site*, *buildings* and *structures*, plantings, *signs*, *street* hardware, and miscellaneous other objects observed by the public.

These standards are not intended to restrict imagination, innovation, or variety, but rather assist in focusing on design principles which can produce creative solutions that will develop a satisfactory visual appearance within the County, preserve taxable values, and promote the public health, safety, and welfare.

A. VILLAGE GENERAL DESIGN STANDARDS

1. The landscape shall be preserved in its natural state, in so far as possible, by minimizing *tree* and *soil* removal. Any grade changes shall be in keeping with the general appearance of neighboring development areas. *Buildings* are encouraged to be located so as to maintain maximum natural *topography* and cover. *Topography*, *tree* cover, and natural drainage ways shall be treated as fixed determinants of road and *lot* configuration rather than malleable elements that can be changed to follow a preferred *development* scheme. Whenever possible, *development* shall be outside the *floodplain*.

2. *Streets* shall be designed and located in a manner as to maintain and preserve natural *topography*, cover, significant landmarks and trees; to minimize *cut* and *fill*; and to preserve and enhance views and vistas on and off the subject parcel.

3. Proposed *development* shall be related harmoniously to the terrain and to the use, scale, and architecture of existing *buildings* in the vicinity that have functional or visual relationships to the proposed *buildings*. *Development* shall be designed to provide safe, comfortable places where people can visit, meet, shop, and rest without conflicting with other *street* uses.

4. All *open space* (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the *site* or overlooking it from nearby properties.

5. The color, size, height, lighting, and landscaping of appurtenant *signs* and *structures* shall be evaluated for compatibility with the local architectural motif and the maintenance of views and vistas of natural landscapes, recognized historic landmarks, parks, and landscaping.

6. Whenever possible, adverse effects on historic, traditional, or significant uses and *structures* shall be minimized, whether these exist on the *site* or on adjacent properties.

7. *Buildings* should be designed to enhance the community's sense of place by varying building massing and roof treatments, and by using building components and architectural design that emphasize the human scale. Commercial establishments are encouraged to limit the visual impression of height by the use of roof treatments, and varying the plane of exterior walls.

8. Parking *lot* design shall reflect the fact that once people step out of their cars, they become pedestrians. Parking lots shall be designed not only to facilitate efficient vehicle circulation but to also permit smooth pedestrian circulation.

9. Provision for safe and efficient bicycle circulation and parking should be included in the overall design of the parking lot.

10. The convenience and safety of both vehicles and pedestrian movement on adjoining ways and properties shall be considered during *site* design.

11. Whenever possible, display areas should be incorporated into the overall design of the *site*. Display areas shall not be in the *front yard setback*.

B. VILLAGE DESIGN ELEMENTS

1. New developments should be an extension of the overall village *development* pattern rather than stand in contrast to it.

2. New designs should consist of small, understandable neighborhood segments rather than a single, large suburban theme.

3. New developments should reflect the unordered, historical growth of the village and avoid the cookie-cutter sameness of many new residential subdivisions.

4. Any opportunities for a strong, central focus should be studied and developed. These central places are usually a key to establishing community identity.

5. The types of *open space* provided should be a reflection of how passive and active open spaces are now used in the village, whether they are adequate, and how they may be complemented.

6. Strong provisions should be made for walking as opposed to vehicular connections both within and outside of the new community.

7. *Street* widths and alignments should be carefully scaled to neighborhood size and be patterned after the character of existing residential *streets*.

8. The streetscape of new developments should be designed in detail to avoid repetitious *setbacks*, driveways, elevations, and landscaping.

9. New developments should carefully study and reflect the physical diversity of the existing village in regard to the mixture of housing types; a mixture of housing styles; and a mixture of *lot* sizes and shapes.

10. It is particularly important that new construction meet minimum design criteria in order for it to blend with the surroundings. New construction throughout the village should be compatible with the surrounding properties, in terms of formal characteristics such as height, massing, roof shapes and window proportions. When new construction is surrounded by existing historic *buildings*, building height and exterior materials shall be harmonious with those of adjacent properties.

C. VILLAGE SPECIFIC DESIGN STANDARDS

1. *Site* Access

Site access shall be subject to the following *regulations* to help ensure vehicle and pedestrian safety and alleviate congestion:

a. Where property abuts a *primary*, *secondary*, or *collector road*, access shall be by way of the *secondary* or *collector road*. Exceptions to this rule shall be instances where the *Planning Commission*, or where applicable the Planning Director, determines that direct access onto the *primary road* would promote traffic safety.

b. Where one or more contiguous parcels abutting a *primary road* are under single ownership and any one of the parcels abuts a *secondary road* or *collector road*, access to all of the parcels of the parcels under single ownership shall be by way of the *secondary* or *collector road*. Exceptions to this rule shall be instances when the *Planning Commission*, or where applicable the Planning Director, determines that direct access onto the *primary road* would promote traffic safety.

c. Only one direct access approach onto a *primary road* from an individual parcel of record as of August 1, 1989 shall be permitted unless the *Planning Commission*, or where applicable the Planning Director, finds one of the following:

   i. The *Planning Commission* may, with approval of the State Highway Administration or Kent County Public Works Department, approve additional access if the additional access is deemed to be significantly beneficial to the safety and operation of the highway or if allowing only one access approach would be a safety hazard or increase traffic congestion.

   ii. The *Planning Commission* may approve access when the parcel is bisected by *steep slopes*, bodies of water, or other topographic features in such a manner as to render some portion of the property inaccessible without additional road access.

d. Where a proposed road is designated on an approved County or State map, *site plans* for *development* adjacent to the designated *roadway* shall include provisions for future access to the *roadway*.

e. Existing, planned, or platted *streets* on adjacent properties shall be continued when the *Planning Commission*, or where applicable the Planning Director, determines that the continuation is necessary for safe and reasonable circulation between the properties.

f. All new lots must abut upon and have access to a public road or approved *private road*.

g. When deemed necessary by the *Planning Commission*, or where applicable the Planning Director, developments shall provide access to adjacent tracts not presently developed.

h. Direct automobile links should be made to the existing village or town to emphasize the connections between new and existing *development*

i. Pedestrian and bicycle linkages to adjacent developments, recreational facilities, and other public or semi-public uses shall be provided whenever possible.

j. The design and construction of walkways and bicycle paths will be evaluated on the basis of safety, accessibility, and suitability, for use by motor-impaired individuals, and surface suitability in terms of anticipated use and maintenance requirements.

k. Access shall be consolidated whenever possible.

l. The applicant shall demonstrate that access to the project is adequate and the roads which will be impacted have the capacity to handle the traffic generated by the proposed project and will not endanger the safety of the general public.*

m. Whenever possible, *roads* shall be constructed above the elevation of the *100-year floodplain*.

* Amended 11/14/06

2. Building Arrangement and *Site* Design

The purpose of imposing *regulations* governing building arrangement and *site* design is to help protect significant environmental and historic features, promote a sense of neighborhood and community identity and reduce the visual impact of high *density development* on the surrounding area.

a. Where existing *buildings* express a traditionally modest (pre-zoning) front *setback*, creating a characteristically close relationship with the *street* (as in village and town centers and along their approach *roads*), it is highly desirable to continue this pattern in order to retain the area's character. Therefore, the *setback* of new construction should harmonize with the average *setbacks* of existing *buildings*.

Outside the areas of generally uniform building *setbacks* (where existing *structures* are at various distances from the *roadway*), front *setbacks* may vary to a greater degree, and principal *buildings* shall generally be within 40 feet and no closer than 20 feet to the front line unless there are substantial counterbalancing considerations (such as irregular *topography*, *wetlands*, or the preservation of natural rural features, including pastures, crop land, meadows, or timber stands).

b. Where significant trees, groves, *waterways*, historic, archeological, or prehistoric *sites* or unique habitats are within the property boundaries of a proposed project, the Planning Commission, or where applicable the Planning Director, may require that every possible means shall be provided to preserve these features. In addition to identifying existing *natural features* as per Article VI, Section 5 of this Ordinance, an inventory of existing *on-site* historic and archeological features may be required.

3. Parking Areas

a. Parking lots shall be located as much as possible to the rear of *buildings*. Locating parking lots between the front property line and the primary building is specifically prohibited except for public recreational facilities in which the parking lot is a minimum of 200 feet from the front property line and existing public roads.*

b. *Sites* shall be designed to prevent awkward or dangerous vehicular flow.

c. Driveways in parking lots must be a minimum of 20 feet wide for two-way traffic and a minimum of 15 feet wide for one-way traffic.

d. A minimum of one handicap parking space shall be provided for every 25 spaces in a safe, convenient, and centralized location.

e. Whenever possible, parking lot design shall provide for connection to adjacent parcels where uses are compatible.

f. Marked walkways, separated from vehicular traffic shall be provided to the entrance of commercial establishments.

g. Parking areas with 80 spaces or more shall include walkways running parallel to the parking rows every four rows and walkways running perpendicular to the parking rows every 20 spaces. Display areas are not considered parking areas. The *Planning Commission*, or where applicable the Planning Director, may reduce or waive this requirement.

h. Landscaping shall be provided according to the provisions in this Ordinance.

4. Delivery Trucks and Trash Collection Vehicles

a. *Loading* and *unloading spaces* for delivery trucks shall not block major pedestrian ways or create blind spots when trucks are loading and unloading.

b. Trash boxes shall be accessible to collection trucks when all vehicle parking spaces are filled.

* Amended 6/3/08

5. *Floodplain*

a. In order to prevent excessive *flood* damage and to allow for the protection of the natural and beneficial *floodplain* functions, all *development*, *new construction*, and *substantial improvements* to existing *structures* in all *floodplain* zones shall comply with the requirements of Article VI, Section 7 of this Ordinance, including but not limited to the following:

i. Elevation of all new or substantially improved *structures*;

ii. Compliance with venting and other construction standards; and

iii. Submission and recordation, where applicable, of *Elevation Certificates*, *Declaration of Land Restrictions*, deed restrictions, and venting affidavits.*

b. Placement of *buildings* and materials. In general, *buildings* and *accessory structures* should be located entirely out of the *floodplain*, out of the *flood* protection setback, or on land that is least susceptible to flooding. All *structures* permitted in the *floodplain* shall be oriented so as to offer the least resistance to the flow of floodwaters.

c. General *development* shall not occur in the *floodplain* where alternative locations exist. Before a permit is issued, the applicant shall demonstrate that new *structures* cannot be located out of the *floodplain* and that encroachments onto the *floodplain* are minimized.

6. Landscaping - General

a. A minimum area of 15% of each new or redeveloped *site*, excluding *single family dwellings*, shall be landscaped. Landscaping within the parking areas and screening may be counted toward this requirement. The *Planning Commission*, or where applicable the Planning Director, may reduce or waive the landscaping requirement when it is demonstrated that the spirit and intent of the requirement are accomplished through other means or the nature of the change does not require additional landscaping.

b. The *front yard* shall be landscaped and maintained in a neat and attractive condition.

c. Landscaping shall be maintained in a good condition with at least the same quality and quantity as initially approved.

d. The *landscape plan* shall be prepared by a registered professional forester, landscape architect, or other professional with equivalent experience and qualifications.

e. *Street* trees shall be included in each *subdivision*. *Street* trees may be clustered, evenly spaced, or when building envelopes are within 20 feet of the public road *right of way*, as *front yard* landscape trees. The number of trees shall be calculated as follows:

i. Small trees (trees less than 25 feet in height at maturity) - 1 per 25 feet of *lot* or *open space*.

ii. Medium and large trees (25 feet or taller at maturity) - 1 per 40 feet of *lot* or *open space*.

Deciduous trees shall have at least a 2-3 inch *caliper* at 6 inches above grade. Coniferous trees shall be at least 5 to 6 feet in height.

7. Parking Area Landscaping

a. At least 10% of all parking areas where more than ten parking spaces are provided shall be landscaped. This may be waived by the *Planning Commission* or where applicable the Planning Director. Perimeter screening does not count toward parking area landscaping.

b. To avoid large expanses of paved parking areas, the following provisions, which may be waived by the *Planning Commission*, or where applicable the Planning Director, shall apply:

i. A row shall not contain more than twelve 12 spaces without a landscaped *island* of at least the size of one parking space.

* Amended 6/3/14

ii. The ends of parking rows shall contain an *island* a minimum of six feet wide adequately landscaped with shade trees, ground cover, and shrubs.

iii. Double rows of parking shall be separated by a minimum six-foot planting strip adequately landscaped with shade trees and shrubs.

8. Perimeter Landscaping and Screening

a. Screening is required to protect adjoining properties and *roadways* from noise, glare, and uses which are visually incompatible with neighboring land uses. Screening is required:

i. On *sites* which involve loading or unloading (including the storage of vehicles and boats), trash, or disposal areas and where accessory *buildings* and *structures* are adjacent to residential properties.

ii. Where exterior storage areas are visible from *roadways*, sidewalks, or nearby residential properties.

iii. When noise not typically occurring in residential areas is expected to project onto nearby properties.

iv. To *screen* parking areas (not including display areas) from motorists, pedestrians, and adjoining residential properties.

v. Where the commercial *site* abuts a residential district.

b. Landscaped screens shall be designed to complement other landscaping occurring naturally on the *site*, planted previously, or approved as a part of a *site plan* review. Whenever possible, existing vegetation and landform shall be used to create screens.

c. The *screen* shall be capable of providing year round screening.

d. When noise is likely to be a factor, the *screen* shall be of sufficient construction to be an effective noise buffer.

e. Screening shall consist of trees and plants, and may include masonry, or wooden fencing used with or without *berms*. Screening shall consist of a functional and well-designed combination of the following:

i. Vegetative ground cover

ii. Coniferous and deciduous shrubs

a) Specimens of which will reach and maintain a minimum height of 5 feet of full vegetative growth.

b) Plants which measure a minimum of 3 feet in height at the time of planting and are expected to attain a height of 5 feet within 3 years.

iii. Coniferous and deciduous trees - Species and sizes of which will be chosen to best accomplish an adequate *screen* (i.e., evergreens used for visual screening, deciduous trees for seasonal screening).

f. Natural *slopes* and existing vegetation may be substituted for some or all of the requirements above, provided that these features serve to *screen* the area from adjoining properties and *roadways*. The *Planning Commission*, or where applicable the Planning Director, shall determine the acceptability of using existing *slopes* and vegetation for this purpose. The *Planning Commission* or where applicable the Planning Director may waive screening where it is physically impossible to accomplish.

g. Screening and fencing shall be maintained in a good condition with at least the same quality and quantity as initially approved.

9. Lighting
   a. Lighting shall not exceed eighteen feet in height unless mounted on the *building*. This may be waived by the *Planning Commission* or where applicable the Planning Director.
   b. Lighting on the *site* shall be designed to avoid glare onto adjacent properties and adjacent *roadways* and shall not interfere with traffic or create a safety hazard.
   c. Lighting on the *site* shall be sufficient to provide for the safety and security of the business, its employees, and its customers.
   d. Lighting shall be color corrected.

10. *Subdivision*
   a. Proposed *street* layout, blocks, and parcels shall be suitable in area and dimension for the type of *development* anticipated.
   b. The total area shall be sufficient to provide adequate space for *off-street parking*, loading, landscaping, and other facilities.
   c. The *lot* arrangement, design, and orientation shall be such that all lots will provide satisfactory building *sites*, properly related to *topography* and the character of surrounding *development*.
   d. All reasonable efforts should be made to protect adjacent residential areas from potential nuisances from commercial *subdivision* by providing adequate depth in parcels adjacent to residential zoning.
   e. Every *lot* shall abut upon and have access to a public road or approved *private road*.
   f. Lots adjoining railroad lines should be designed with extra depth and provision for an appropriate means of buffer or deeper building *setbacks*.
   g. Where land in a *subdivision* adjoins a railroad line, the *street* layout shall make allowance for future grade separated railroad crossings at appropriate locations by providing extra *street right of way* widths for such crossings and by restricting intersecting *streets* at locations where they would cause interference with necessary approaches to such crossings.
   h. Proposed *streets* in the *subdivision* shall provide for the continuation of existing, planned, or platted *streets* on adjacent tracts, unless such continuation shall be prevented by *topography* or other physical feature or unless such extension is found by the *Planning Commission* to be unnecessary for the coordination of *development* between the *subdivision* and such adjacent *tract*.
   i. Where the *Planning Commission* deems it desirable or necessary to provide access to adjacent tracts not presently subdivided, proposed *streets* in the *subdivision* shall be extended to the boundary lines with such tracts.
   j. Where the *subdivision* adjoins or embraces any part of a *major thoroughfare* as designated on the Kent County Major Thoroughfare Map. The layout of such *subdivision* shall provide for the platting and dedication of such part of the *major thoroughfare* in the location and at the width indicated on the *major thoroughfare* plan, except that the *subdivider* shall not be required to dedicate that part of such *major thoroughfare* that is in excess of eighty (80) feet in width.
   k. Where deemed desirable to the layout of the *subdivision* and adjoining area, the *Planning Commission* may require the platting and dedication of one or more *collector streets* or parts thereof, to serve the *subdivision*.
   l. Subdivisions shall be in full compliance with the provisions of this Ordinance
   m. *Private roads* are permitted in minor subdivisions and are subject to the following conditions:
      i. Each road shall serve no more than seven parcels. In the event that an eighth parcel is created, the eighth parcel and all further divisions of land shall front on a public road.*

* Amended 10/16/12

ii. The *subdivision* shall provide a 50-foot *right of way* for each *private road*.

iii. The construction of all lanes and *private roads* shall adhere to the requirements established by the Kent County Department of Public Works and sediment control and *stormwater management regulations*.

iv. The deed and contract of sale of all lots in the *subdivision* shall state: "The road is private and not the responsibility of Kent County."

v. The plat shall identify all *private roads* and shall state: "The road is private and not the responsibility of Kent County."

11. Building Mass, Size, and Scale

a. New *development* is encouraged to follow the guidelines found in the pertinent village master plan. Building elevations will be required for new commercial and multi-family developments. The *Planning Commission*, or where applicable the Planning Director, may waive this requirement.

b. New *buildings* should not create large, bulky masses but should be scaled down into groupings of smaller attached *structures* and modules that reflect proportions similar to historic *buildings*. Methods used to create intervals that reflect and respect historic *structures* include but are not limited to the following:

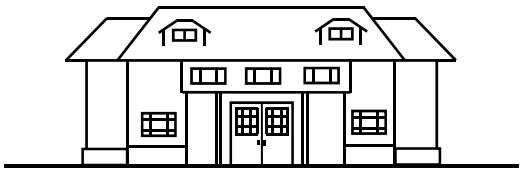
i. Facade modulation - stepping back or extending forward a portion of the facade.

ii. Repeating window patterns at established intervals.

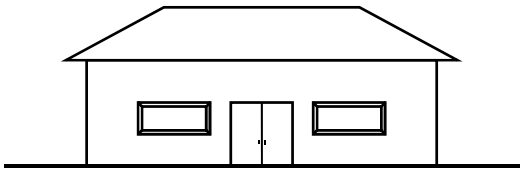
iii. Providing a balcony or bay window at established intervals.

iv. Changing the roofline by alternating dormers, stepped roofs, gables, or other roof elements.

v. Use of landscaping and architectural detailing at the ground level.



Structure 1, Utilizes building massing



Structure 2, Does not utilize building massing

The above structures are the same height and width and are drawn to the same scale.

c. Building designs shall be encouraged to utilize traditional materials (brick or wood) and contemporary interpretations of earlier styles.

d. The design of new *buildings*, building additions, and *alterations*, and facade renovations should reflect the positive aspects of the existing design features of the County. *Buildings* should complement and improve the overall environment of the area.

e. Commercial *buildings* are encouraged to be arranged in varied clustered masses related closely to the road.

f. The proposed building orientation shall respect the orientation and scale of surrounding *buildings* and where deemed necessary by the *Planning Commission* serve as an orderly transition to a different scale.

g. All rooftop equipment shall be screened from public view by screening material of the same nature as the building's basic building materials.

h. To avoid monotonous linear *development*, multi-family *development* shall be in small clusters designed as neighborhood units. A cluster shall not include more than 30 units.

i. In multi-family *development*, the number of units in a row is to be limited to a maximum of eight.

j. *Offsets* at party walls and/or front and rear facades or similar devices are required to visually reduce building mass and create individualized spaces (*courtyards*, seating areas, etc.) for all multi-family projects. Drawings of the building elevations will be required. The *Planning Commission*, or where applicable the Planning Director, may waive this requirement.

12. Kent County *Airport* Safety Requirements

This section applies to properties that fall within the Kent County *Airport* Safety Zone as designated on the Kent County *Airport* Safety Zone Map. The Kent County *Airport* Safety Zone Map is incorporated into and made a part of this Ordinance. It is the purpose of this section to promote the public safety of the residents and visitors of Kent County by prohibiting to the extent possible, the creation or establishment of obstructions that are a hazard to air navigation.

a. No new ponds shall be constructed within 5,000 feet of the runway.

b. No new solid waste disposal *sites* shall be permitted within 5,000 feet of any publicly licensed *airport*. New solid waste disposal *sites* shall not be permitted within the limits of the *airport* safety zone if the FAA determines the *site* to be a hazard.

c. Developments which produce lights, illumination, or other visual hazards or which produce electronic interference with *airport*/airplane navigation signals are subject to the standards specifies in the FAA procedure manual 7400-2C.

d. Except as otherwise provided in this Ordinance, no *structure* shall be erected, altered, or maintained and no *tree* or other vegetation shall be allowed to grow in excess of the height limitations as designated on the Kent County *Airport* Safety Zone Map.

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SECTION 8 INTENSE VILLAGE

8.1 STATEMENT OF INTENT

The purpose of this district is to provide for a high quality and well designed mix of commercial, office, and residential areas with emphasis on uses and intensities that make efficient use of public facilities and limit sprawling *development*. It is intended that residences, shops and offices are in close proximity to each other as is found in the traditional village pattern and that the resulting mix of uses form lively, prosperous neighborhoods that serve as an attractive place to live, work, shop, and play. The district may act as a transition between town and the more rural areas of the County. *Buildings* in this district shall be oriented to the *street* and provision made for pedestrian access so that the character of the area is interpreted as pedestrian.

8.2 PERMITTED PRINCIPAL USES AND STRUCTURES

A *building* or land shall be used only for the following purposes:

1. Detached *single family dwellings*

2. *Two-family dwellings*

3. *Townhouses*, subject to *site plan* review

4. *Multi-family dwellings*, subject to *site plan* review

5. Rooming, boarding, and *lodging houses*

6. *Automobile service station*s, not including auto repair, subject to *site plan* review

7. *Houses of worship*. New construction shall require *site plan* review

8. Financial institutions, subject to *site plan* review

9. Fire and rescue stations, subject to *site plan* review

10. Home and business services such as grounds care, janitorial, exterminators, landscaping, and other repair and maintenance services, but not septic tank maintenance, subject to *site plan* review

11. *Hotels* and *motels*, subject to *site plan* review

12. *Country inns*, subject to *site plan* review

13. Indoor movie theaters, playhouses, and dinner theaters, subject to *site plan* review

14. Offices - administrative, business, sales, and professional, subject to *site plan* review

15. *Personal wireless facilities* collocated on existing towers, water towers, electrical transmission towers, fire towers, silos, *grain dryers*, or other *structures* provided the height of the existing *structure* is not above that permitted by this Ordinance.

16. Public uses, *buildings*, and utilities. Public *buildings* include but are not limited to schools, offices, parks, playgrounds, and *roads* funded, owned and operated by local, state, or federal agencies. *Public utilities* are water, sewer, electric, gas, oil, and communication facilities owned and operated by the Kent County Department of Water and Wastewater or other public utility. *Public utilities* include substations, poles, lines, transformers, pipes, meters, treatment facilities, pumping stations, and appurtenances but not transmission towers. Power plants and the like are not permitted. The following items require *site plan* review: schools, offices, playgrounds, treatment facilities, water towers, substations, and transformers.

17. *Restaurants* without drive through facilities, subject to *site plan* review

18. Retail businesses, supplying on the *premises*, household goods, new automobile parts, agricultural supplies and commodities, sporting goods, business machinery sales and rentals, and the like including department, outlet, and discount stores provided all retail sales shall be conducted entirely within a *building* except where otherwise approved by the *Planning Commission*. All retail business *buildings* are limited to a footprint of 10,000 square feet. All retail businesses shall be subject to *site plan* review.

19. Funeral homes, subject to *site plan* review

20. Recreational uses, indoor, commercial, i.e. game courts, *swimming pools*, and other like recreational facilities, subject to *site plan* review.

21. Personal service establishments which perform services on the *premises* for persons residing in adjacent residential areas, such as shoe repair, dry cleaners, tailors, *Laundromats*, beauty parlors, barber shops, and the like. All personal service uses shall be conducted entirely within a *building*. Other uses and *structures* that meet the criteria specified above may be approved by the Zoning Administrator. Personal service activities require *site plan* review.

22. Self storage centers, provided the front façade of the center and any other façade visible from adjoining public roads reflect the scale, materials and design features common to residential or *historic structures* in the County. Self storage centers shall require site plan review.

8.3 SPECIAL EXCEPTIONS

The following principal uses and *structures* may be permitted as special exceptions in the Intense Village District, subject to *site plan* review by the *Planning Commission*, or where applicable the Planning Director. Detailed limitations and standards for these uses may be found in Article VII of this Ordinance.

1. *Accessory structures* in the *front yard* of *through lots*
2. Adaptive reuse of historic *structures*
3. *Automobile repair*
4. Car wash
5. *Conference center*
6. Convalescent, nursing, or group homes for the aged with five or more beds
7. *Cottage industries*, tradesmen and artisan shops
8. *Day care group*
9. *Hospital*, rehabilitation facility, or other similar institution for human care, but not including animal hospitals
10. Outdoor entertainment
11. Outdoor recreation, miniature golf, but not golf courses

12. Printing and publishing
13. *Private club*s
14. Private schools
15. Pubs, taverns and bars
16. *Resort*
16.5 School bus parking lot **
17. *Wind energy systems, small**

8.4 ACCESSORY USES

The following *accessory uses* and *structures* shall be permitted in the Intense Village District.

1. Accessory housing

2. Accessory vehicle parking limited to those vehicles used as part of principal permitted uses or approved special exceptions provided the vehicles have current licenses and are operable. Parking areas will be approved during *site plan* review.

3. Assisted living facilities or *group homes*, with no more than four beds provided:
   a. The property owner resides on the *premises*.
   b. The assisted living facility or *group home* is subordinate and accessory to the principal dwelling in size and appearance and is in the same *structure* as the principal *dwelling unit*.
   c. The rooms for the use are not designed or constructed to be separate *dwelling units* and may not be sold as separate *dwelling units*.
   d. The appearance of the *structure* and property remain that of a *single family dwelling* so that the average neighbor is unaware of the assisted living facility's or *group home's* existence.
   e. The *structure* meets all applicable Kent County Codes, including the building code, and Health Department requirements.

4. Appurtenant *signs* in accordance with Article VI, Section 2 of this Ordinance

5. Cemetery, including crematorium and mausoleum, accessory to a *house of worship* located on the same parcel.

6. *Day care home* provided:
   a. Outdoor play areas are fenced and screened.
   b. Structured areas for active play or play *structures* shall not be in the *front yard* and shall be a minimum of 10 feet from the side or rear property line.
   c. One drop off / pickup space is provided.
   d. Structural or decorative additions shall be designed to be compatible with the residential character of the neighborhood.
   e. *Signs* shall be limited to two square feet.

* Amended 9/6/11; ** Amended 4/3/18

7. *Home occupations* in main or accessory *buildings*

Intent - The conduct of business in residential units may be permitted under the provisions of this section. It is the intent of this section to:

a. Ensure the compatibility of *home occupations* with other uses in residential areas;
b. Maintain and preserve the character of residential neighborhoods by regulating the operation of *home occupations* so that the average neighbor is unaware of their existence;
c. Guarantee to all residents freedom from excessive noise, excessive traffic, nuisance, fire, hazard, and other possible effects of commercial uses being conducted in residential areas;
d. Promote the efficient use of public services and facilities by assuring these services are provided to the residential population for which they were planned and constructed, rather than commercial uses.

Conditions -

a. A *home occupation* shall be incidental to the use of a *dwelling unit* for residential purposes and shall be conducted only by members of the *family* residing in the *dwelling unit* plus one non-resident assistant or employee.
b. Outdoor storage of materials or products is prohibited.
c. The *home occupation* shall not cause any external effect such as noise, excessive lighting, or offensive odor which is incompatible with the characteristics of the residential area. The illegal discharge of any materials, fluids, or gases into the sewer system or in any other manner of discharging such items in violation of any applicable government code is prohibited.
d. Traffic generated by the *home occupation* shall not exceed that normally expected in a residential neighborhood.
e. Parking for the *home occupation* shall be provided off-street and in the *side* or *rear yard*.
f. A *home occupation* shall limit any external evidence of an occupation to one identification *sign* not to exceed two square feet.

7.5 Keeping of backyard chickens*

a. Backyard chickens are defined as females of the species *Gallus gallus domesticus* kept for non-commercial purposes. The keeping of males of the species is not permitted.
b. The maximum number of chickens, 4 months or older, permitted on any lot is determined by lot size:
   i. No chickens are permitted on a lot of less than ¼ acre;
   ii No more than 5 chickens are permitted on a lot of ¼ acre to 1 acre;
   iii. No more than 8 chickens are permitted on lots of more than 1 acre.
c. The area for keeping backyard chickens must be enclosed in such a fashion that the chickens are confined and not able to leave the owner's property. Backyard chickens will be provided with a covered, predator-proof coop or cage that is well ventilated. Hens shall have access to an outdoor enclosure that is adequately fenced to contain the birds on the property.
d. *Structures* (coops) for the housing of backyard chickens must meet the permitting requirements of this Ordinance. For movable coops, the permit application will show the area in which the coop will be moved. A copy of the Maryland Poultry Registration Form must accompany the building permit application.
e. Coops must be setback a minimum of 15 feet from any property line.
f. Coops may be placed in rear yards only.
g. Each coop must be kept clean and free of odors and materials that can attract vermin. Feed must be kept in secure containers so as not to attract vermin.
h. Waste must be composted or removed from the property.
i. The outdoor slaughtering of chickens is not permitted.

* Amended 8/5/14

8. Parking of one commercial vehicle in the *side* or *rear yard* of dwellings provided:
   a. The vehicle is used by the occupant of the dwelling.
   b. The vehicle does not have a manufacturer's gross vehicle weight that exceeds 16,000 pounds.
   c. Refrigerator units do not run when parked at the dwelling.
   d. No major repair is conducted *on-site*.
   e. Honey wagons, sanitation, garbage, or other trucks used to transport odorous, flammable, or hazardous materials are prohibited.
   f. The vehicle has a current license and is operable.

9. Recreational uses such as *swimming pools*, game courts, and other like recreational facilities located a minimum of 25 feet from all property lines.

10. Satellite dish with an antenna exceeding 3 feet in diameter provided:
   a. No antenna shall exceed an overall diameter of 12 ft. or an overall height of 15 ft. above *existing grade*.
   b. The antenna shall be permanently ground-mounted. An antenna shall not be installed on portable or moveable *structures*.
   c. The antenna shall be totally screened along the non-receptive axis and low-level ornamental landscaping shall be installed along the reception window axis of the base of the antenna. Screening may consist of fencing or a variety of plant types. Screening may be waived when the antenna is located 100 ft. from all property lines or the antenna is of a nature that is not visible or intrusive to the neighborhood.

11. Satellite dish, private, with an antenna 3 feet or less in diameter provided that the antenna is not installed on portable or movable *structures*.

12. School buses, limited to two, parked in the *rear* or *side yard* of dwellings provided the buses are owned by the occupants of the dwelling, have current licenses, and are operable.

12.5 *Solar energy systems, small*, provided:*
   a. Tree removal shall be minimized and any removal shall be mitigated at a ratio or one tree planted for each tree removed.
   b. All solar collection devices shall register with the Department of Emergency Services and shall submit a map noting the location of the solar collection devices and the panel disconnect.
   c. The total height of solar collection systems shall comply with the height requirements.

13. Storage in the *rear yard* of boats, campers, boat trailers, and camper trailers, which are titled under the name of the property owner or occupant. All boats, boat trailers, and camper trailers must be operable and have current licenses if required.

13.5 Temporary *MET Tower* of any height provided:*
   a. The tower is erected for no more than 12 months.
   b. Any free standing *structure* is located a minimum of 3 times its total height from a property line.
   c. Towers are not readily climbable from the ground up to 12 feet.

14. Uses and *structures* which are customarily accessory and clearly incidental and subordinate to permitted uses and *structures*.

* Amended 9/6/11

8.5 DENSITY, AREA, HEIGHT, WIDTH, AND YARD REQUIREMENTS

Gross *density* (dwelling units/acre)	8
Minimum *lot area* per unit	
- *Single family dwelling*	5,000 square feet
- Duplex/ triplex	4,000 square feet
- *Townhouse*/*apartments*	2,000 square feet
Minimum *lot frontage*	[1]
Minimum *yard*	
- *Front*	[1]
- *Side*	[1]
- *Rear*	[1]
- Accessory residential *structures*	[1]
Maximum *structure* height [2]	
- Commercial	40 feet
- Residential	40 feet
- Fence [3]	
- Security	8 feet
- Ornamental	
Front and *side yard*	4 feet
Rear yard	8 feet

[1] *Frontage* and minimum *yard* requirements will be determined during site plan review and in accordance with the applicable Village Master Plan.

[2] Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

[3] Fences do not need to meet yard requirements.

8.6 INTENSE VILLAGE GENERAL STANDARDS

1. The reuse of existing *buildings* is encouraged.

2. Public water and sewer systems may be required by the *Planning Commission*.

3. The Department of Planning and Zoning shall approve *street* names. A name may not be approved if it duplicates or is too similar to the name of another road in the county or incorporated towns.

4. When deemed necessary by the *Planning Commission*, or where applicable the Planning Director, unobstructed *easements* at least 10 feet wide shall be provided to facilitate walkways to commercial facilities, community areas, schools, parks, playgrounds, or other public areas.

5. *Open space*, playgrounds, or other recreational areas shall be set aside at a rate of 1/10 acre per *dwelling unit*. If the land is not of significant quality and size for the purpose of providing or developing parks and recreational facilities, the *Planning Commission*, or where applicable the Planning Director, may permit a *developer* to pay a fee of $250.00 for each *lot* or each *dwelling unit* in lieu of providing land for recreational purposes. Recreational land required in a *subdivision* shall be located so as to be reasonably accessible from all lots in the *subdivision* in accordance with the following:
   a. *Steep slopes*, streams, lakes, *watercourses*, and *floodplains* may constitute up to 40% of the recreational land.
   b. At least 60% of the recreational land shall be suitable for dry ground recreational use.

8.7 INTENSE VILLAGE ENVIRONMENTAL STANDARDS

The purpose of these standards is to provide for the proper stewardship of the County's natural resources. Specifically it is the overall goal of the county to maintain the quality of the County's *ecosystem* in the face of continuing activity, growth and change.

A. INTENSE VILLAGE ENVIRONMENTAL STANDARDS

1. *Development* shall minimize *adverse impacts* to *non-tidal* or *tidal wetlands*, estuaries, the Chesapeake Bay, *tributary streams*, and the natural course and *riparian habitat* of these streams, habitat protection areas, or other significant habitat identified by the Department of Planning and Zoning.

2. *Development* shall minimize the removal of vegetation. The *developer* shall demonstrate that the change in vegetation minimizes the effect on the microclimate.

3. *Development* shall minimize the effects of runoff on the existing volume of water or quality of any water body. Urban *best management practices* shall be used.

4. Whenever possible, land with poor drainage or other adverse conditions shall not be developed. When developed, the property owner shall agree to make any improvements necessary to render the property safe for *development*.

5. Whenever possible, land subject to periodic flooding, shall not be developed for any use that might involve danger to health, life, or property or aggravate floods.

6. If practicable, permeable areas shall be established in vegetation. *Native plants* are preferred.

B. INTENSE VILLAGE SPECIFIC ENVIRONMENTAL STANDARDS

1. *Anadromous fish*
   a. Concrete riprap or other artificial surface shall not be installed on the bottom of natural streams unless it can be demonstrated that water quality and fishery habitat will be improved.
   b. Physical alteration of a stream, including but not limited to channelization, that interferes with the movement of fish shall be prohibited.

2. *Forest Conservation*
   This section applies to all *major* and *minor site plans* on units of land 40,000 square feet or greater, major and minor subdivisions, *grading* and *sediment control permits* that result in the cumulative cutting, *clearing*, or *grading* of more than 40,000 square feet of *forest*. A forest *Declaration of Intent* is required for activities specifically exempted in Article VI, Section 8.2 of this Ordinance.
   a. A parcel with less than 15% of its *net tract area* in *forest cover* shall be afforested to 15% of its *net tract area*.
   b. A parcel with less than 15% of its *net tract area* in *forest* may be cut or cleared provided:
      i. The *afforestation* required to achieve the 15% *afforestation* level is determined prior to any *clearing* of *forest*.
      ii. The *afforestation* area consists of two (2) times the total surface area cleared and the area needed to achieve the 15% *afforestation* level before *clearing* occurred. For example, the *afforestation* area for a project with a *net tract area* of one hundred acres with ten (10) acres of existing *forest* of which five (5) will be cleared will require a *reforestation* area of fifteen (15) acres - five (5) acres to achieve the required *afforestation* level and ten (10) acres to replace the *forest* cleared.
   c. A parcel with more than 15% of its *net tract area* in *forest* may be cut or cleared provided *reforestation* occurs at a rate of one-quarter (1/4) acre planted for each acre removed above 15% of the *net tract area* or at a rate of two (2) acres planted for every acre removed below 15% of the *net tract area*. *Forest* retained over 15% of the *net tract area* is credited toward the required *reforestation*. For example, a project with a *net tract area* of one hundred (100) acres and an existing *forest* of thirty acres of which twenty acres will be cleared requires a *reforestation* area of 13.75 acres.
   d. The required *reforestation* or *afforestation* may be accomplished *on-site*, *off-site*, by contributing to a *forest* bank in the same *watershed* or by contributing to the Kent County Reforestation Fund. The preferred method of *afforestation* or *reforestation* is *forest* banking or *off-site afforestation*.
   e. Whenever possible and appropriate, *afforestation* and *reforestation* shall include native species.

3. *Forest Interior Dwelling Birds*
   Development shall minimize impact on *forest interior dwelling birds*. Whenever possible, riparian *forest* shall be expanded.

4. Habitat
   a. *Wildlife corridors* shall be created whenever feasible.
   b. Fragmentation of habitat areas shall be minimized.

5. *Natural heritage areas* and locations considered for Areas of Critical State Concern
These areas of local significance shall be preserved whenever possible. These areas are identified in Article VI, Section 3.8 of this Ordinance.

6. *Non-tidal wetlands*
Non-tidal wetlands shall be protected according to the *regulations* of the State of Maryland, Army Corps of Engineers, United States Fish and Wildlife Service, Environmental Protection Agency, and all other applicable State and Federal *Regulations*.

7. *Stream Protection Corridor*
All new *development* or *redevelopment* shall provide a 100-foot naturally vegetated *stream protection corridor* along all *tributary streams*. New *development activities*, including *structures*, parking areas, septic systems, and similar *impervious surfaces* shall not be permitted in the *stream protection corridor*. *Roads* that cross the *stream protection corridor* shall be minimized. The *Planning Commission* may modify the *stream protection corridor* when the following can be demonstrated:
   a. A reduced corridor achieves significant water quality and habitat improvements equal to the required corridor.
   b. More than 50% of the corridor is impervious or more than 75% of the corridor is disturbed with stone, septic systems, decks, or other obvious human impacts.
   c. The *site* shall include all contiguous parcels under single ownership.

8. *Stormwater Management*
No *person* shall develop any land for residential, commercial, industrial, or institutional uses or redevelop land without having provided for appropriate *stormwater management* measures that control or manage runoff from such developments except as provided in Article VI, Section 10 of this Ordinance. *Stormwater Management* shall be accomplished for all new *development* or *redevelopment* in accordance with the provisions of Article VI, Section 10 of this Ordinance.

9. Threatened and Endangered Species and Species in Need of Conservation
Threatened and *endangered species* and *species in need of conservation* shall be checked and noted before any approvals are granted by the Planning Director, *Planning Commission*, or Zoning Administrator. The Federal or State guidelines (whichever is stricter) for habitat protection must be followed during *development*. Plans shall also include provisions for continuance of the habitat protection after *development*. This can include *conservation easements*, cooperative agreements, special provisions in *forest management plans*, and donation or sale to a third party.

10. Water Quality
All new *development* or *redevelopment* shall reduce the pollutant loadings by at least 10%. Pollutant loadings will be calculated in the manner developed by the Metropolitan Washington Council of Governments using phosphorous as the keystone element or in a manner acceptable to the Planning Director or the Planning Director's designee. When *on-site* compliance is not possible, *offsets* may be substituted. All *sites* shall comply with the *stormwater management* qualitative controls found in Article VI, Section 10 of this Ordinance.

8.8 INTENSE VILLAGE DESIGN STANDARDS

The purpose of these standards is to give a sense of the physical aspects of the County's environment to those contemplating new *development* in the community. Pertinent to this physical appearance is the design of the *site*, *buildings* and *structures*, plantings, *signs*, *street* hardware, and miscellaneous other objects observed by the public.

These standards are not intended to restrict imagination, innovation, or variety, but rather assist in focusing on design principles which can produce creative solutions that will develop a satisfactory visual appearance within the County, preserve taxable values, and promote the public health, safety, and welfare.

A. INTENSE VILLAGE GENERAL DESIGN STANDARDS

1. The landscape shall be preserved in its natural state, in so far as possible, by minimizing *tree* and *soil* removal. Any grade changes shall be in keeping with the general appearance of neighboring development areas. *Buildings* are encouraged to be located so as to maintain maximum natural *topography* and cover. *Topography*, *tree* cover, and natural drainage ways shall be treated as fixed determinants of road and *lot* configuration rather than malleable elements that can be changed to follow a preferred *development* scheme. Whenever possible, *development* shall be outside the *floodplain*.

2. *Streets* shall be designed and located in a manner so as to maintain and preserve natural *topography*, cover, significant landmarks and trees; to minimize *cut* and *fill*; and to preserve and enhance views and vistas on and off the subject parcel.

3. Proposed *development* shall be related harmoniously to the terrain and to the use, scale, and architecture of existing *buildings* in the vicinity that have functional or visual relationships to the proposed *buildings*. *Development* shall be designed to provide safe, comfortable places where people can visit, meet, shop, and rest without conflicting with other *street* uses.

4. All *open space* (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the *site* or overlooking it from nearby properties.

5. The color, size, height, lighting, and landscaping of appurtenant *signs* and *structures* shall be evaluated for compatibility with the local architectural motif and the maintenance of views and vistas of natural landscapes, recognized historic landmarks, parks, and landscaping.

6. Whenever possible, adverse effects on historic, traditional, or significant uses and *structures* shall be minimized, whether these exist on the *site* or on adjacent properties.

7. *Buildings* should be designed to enhance the community's sense of place by varying building massing and roof treatments, and by using building components and architectural design that emphasize the human scale. Commercial establishments are encouraged to limit the visual impression of height by the use of roof treatments, and varying the plane of exterior walls.

8. Parking lot design shall reflect the fact that once people step out of their cars, they become pedestrians. Parking lots shall be designed not only to facilitate efficient vehicle circulation but to also permit smooth pedestrian circulation.

9. Provision for safe and efficient bicycle circulation and parking should be included in the overall design of the parking lot.

10. The convenience and safety of both vehicle and pedestrian movement on adjoining ways and properties shall be considered during *site* design.

11. Whenever possible, display areas should be incorporated into the overall design of the *site*. Display areas shall not be in the *front yard setback*.

B. INTENSE VILLAGE DESIGN ELEMENTS

1. New *development* should be an extension of the overall village *development* pattern rather than stand in contrast to it.

2. New designs should consist of small, understandable neighborhood segments rather than a single, large suburban theme.

3. New *development* should reflect the unordered, historical growth of the village and avoid the cookie-cutter sameness of many new residential subdivisions.

4. Any opportunities for a strong, central focus should be studied and developed. These central places are usually a key to establishing community identity.

5. The types of *open space* provided should be a reflection of how passive and active open spaces are now used in the village, whether they are adequate, and how they may be complemented.

6. Strong provisions should be made for walking as opposed to vehicular connections both within and outside of the new community.

7. *Street* widths and alignments should be carefully scaled to neighborhood size and be patterned after the character of existing residential *streets*.

8. The streetscape of new developments should be designed in detail to avoid repetitious *setbacks*, driveways, elevations, and landscaping.

9. New developments should carefully study and reflect the physical diversity of the existing village in regard to the mixture of housing types; mixture of housing styles; and mixture of *lot* sizes and shapes.

10. It is particularly important that new construction meet minimum design criteria in order for it to blend with the surroundings. New construction throughout the village should be compatible with the surrounding properties, in terms of formal characteristics such as height, massing, roof shapes and window proportions. When new construction is surrounded by existing historic *buildings*, building height and exterior materials shall be harmonious with those of adjacent properties.

C. INTENSE VILLAGE SPECIFIC DESIGN STANDARDS

1. *Site* Access

Site access shall be subject to the following *regulations* to help ensure vehicle and pedestrian safety and alleviate congestion:

a. Where property abuts a *primary*, *secondary*, or *collector road*, access shall be by way of the *secondary* or *collector road*. Exceptions to this rule shall be instances where the *Planning Commission*, or where applicable the Planning Director, determines that direct access onto the *primary road* would promote traffic safety.

b. Where one or more contiguous parcels abutting a *primary road* are under single ownership and any one of the parcels abuts a *secondary road* or *collector road*, access to all of the parcels under single ownership shall be by way of the *secondary* or *collector road*. Exceptions to this rule shall be instances when the *Planning Commission*, or where applicable the Planning Director, determines that direct access onto the *primary road* would promote traffic safety.

c. Only one direct access approach onto a *primary road* from an individual parcel of record as of August 1, 1989 shall be permitted unless the *Planning Commission*, or where applicable the Planning Director, finds one of the following:

   i. The *Planning Commission* may, with approval of the State Highway Administration or Kent County Public Works Department, approve additional access if the additional access is deemed to be significantly beneficial to the safety and operation of the highway or if allowing only one access approach would be a safety hazard or increase traffic congestion.

   ii. The *Planning Commission* may approve access when the parcel is bisected by *steep slopes*, bodies of water, or other topographic features in such a manner as to render some portion of the property inaccessible without additional road access.

d. Where a proposed road is designated on an approved County or State map, *site plans* for *development* adjacent to the designated *roadway* shall include provisions for future access to the *roadway*.

e. Existing, planned, or platted *streets* on adjacent properties shall be continued when the *Planning Commission*, or where applicable the Planning Director, determines that the continuation is necessary for safe and reasonable circulation between the properties.

f. All new lots must abut upon and have access to a public road or approved *private road*.

g. When deemed necessary by the *Planning Commission*, or where applicable the Planning Director, developments shall provide access to adjacent tracts not presently developed.

h. Direct automobile links should be made to the existing village or town to emphasize the connections between new and existing *development*

i. Pedestrian and bicycle linkages to adjacent developments, recreational facilities, and other public or semi-public uses shall be provided whenever possible.

j. The design and construction of walkways and bicycle paths will be evaluated on the basis of safety, accessibility, and suitability for use by motor-impaired individuals, and surface suitability in terms of anticipated use and maintenance requirements.

k. Access shall be consolidated whenever possible.

l. The applicant shall demonstrate that access to the project is adequate and the roads which will be impacted have the capacity to handle the traffic generated by the proposed project and will not endanger the safety of the general public.*

m. Whenever possible, *roads* shall be constructed above the elevation of the *100-year floodplain*.

* Amended 11/14/06

2. Building Arrangement and *Site* Design

The purpose of imposing *regulations* governing building arrangement and *site* design is to help protect significant environmental and historic features, promote a sense of neighborhood and community identity, and reduce the visual impact of high *density development* on the surrounding area.

a. Where existing *buildings* express a traditionally modest (pre-zoning) front *setback*, creating a characteristically close relationship with the *street* (as in village and town centers and along their approach *roads*), it is highly desirable to continue this pattern in order to retain the area's character. Therefore, the *setback* of new construction should harmonize with the average *setbacks* of existing *buildings*.

Outside the areas of generally uniform building *setbacks* (where existing *structures* are at various distances from the *roadway*), front *setbacks* may vary to a greater degree, and principal *buildings* shall generally be within 40 feet and no closer than 20 feet to the front line unless there are substantial counterbalance considerations (such as irregular *topography*, *wetlands*, or the preservation of natural rural features, including pastures, crop land, meadows, or timber stands).

b. Where significant trees, groves, *waterways*, historic, archeological, or prehistoric *sites* or unique habitats are within the property boundaries of a proposed project, the Planning Commission, or where applicable the Planning Director, may require every possible means shall be provided to preserve these features. In addition to identifying existing *natural features* as per Article VI, Section 5 of this Ordinance, an inventory of existing *on-site* historic and archeological features may be required.

3. Parking Areas

a. Parking lots shall be located as much as possible to the rear of *buildings*. Locating parking lots between the front property line and the primary *building* is specifically prohibited.

b. *Sites* shall be designed to prevent awkward or dangerous vehicular flow.

c. Driveways in parking lots must be a minimum of 20 feet wide for two-way traffic and a minimum of 15 feet wide for one-way traffic.

d. A minimum of one handicap parking space shall be provided for every 25 spaces in a safe, convenient, and centralized location.

e. Whenever possible, parking lot design shall provide for connection to adjacent parcels where uses are compatible.

f. Marked walkways, separated from vehicular traffic shall be provided to the entrance of commercial establishments.

g. Parking areas with 80 spaces or more shall provide walkways running parallel to the parking rows every four rows and walkways running perpendicular to the parking rows every 20 spaces. Display areas are not considered parking areas. The *Planning Commission*, or where applicable the Planning Director, may reduce or waive this requirement.

h. Landscaping shall be provided according to the provisions of this Ordinance.

4. Delivery Trucks and Trash Collection Vehicles

a. *Loading* and *unloading spaces* for delivery trucks shall not block major pedestrian ways or create blind spots when trucks are loading and unloading.

b. Trash boxes shall be accessible to collection trucks when all vehicle parking spaces are filled.

5. *Floodplain*

a. In order to prevent excessive *flood* damage and to allow for the protection of the natural and beneficial *floodplain* functions, all *development*, *new construction*, and *substantial improvements* to existing *structures* in all *floodplain* zones shall comply with the requirements of Article VI, Section 7 of this Ordinance, including but not limited to the following:

i. Elevation of all new or substantially improved *structures*;

ii. Compliance with venting and other construction standards; and

iii. Submission and recordation, where applicable, of *Elevation Certificates*, *Declaration of Land Restrictions*, deed restrictions, and venting affidavits.*

b. Placement of *buildings* and materials. In general, *buildings* and *accessory structures* should be located entirely out of the *floodplain*, out of the *flood* protection setback, or on land that is least susceptible to flooding. All *structures* permitted in the *floodplain* shall be oriented so as to offer the least resistance to the flow of floodwaters.

c. General *development* shall not occur in the *floodplain* where alternative locations exist. Before a permit is issued, the applicant shall demonstrate that new *structures* cannot be located out of the *floodplain* and that encroachments onto the *floodplain* are minimized.

6. Landscaping - General

a. A minimum area of 15% of each new or redeveloped *site*, excluding *single family dwellings*, shall be landscaped. Landscaping within the parking areas and screening may be counted toward this requirement. The *Planning Commission*, or where applicable the Planning Director, may reduce or waive the landscape requirement when it is demonstrated that the spirit and intent of the requirements are accomplished through other means or the nature of the change does not require additional landscaping.

b. The *front yard* shall be landscaped and maintained in a neat and attractive condition.

c. Landscaping shall be maintained in the in a good condition with at least the same quality and quantity as initially approved.

d. The *landscape plan* shall be prepared by a registered professional forester, landscape architect, or other professional with equivalent experience and qualifications.

e. *Street* trees shall be included in each *subdivision*. *Street* trees may be clustered, evenly spaced, or when building envelopes are within 20 feet of the public road *right of way*, as *front yard* landscape trees. The number of trees shall be calculated as follows:

i. Small trees (trees less than 25 feet in height at maturity) - 1 per 25 linear feet of *lot* or *open space*.

ii. Medium and large trees (25 feet or taller at maturity) - 1 per 40 linear feet of *lot* or *open space*.

Deciduous trees shall have at least a 2-3 inch *caliper* at 6 inches above grade. Coniferous trees shall be at least 5 to 6 feet in height.

7. Parking Area Landscaping

a. At least 10% of all parking areas where more than ten parking spaces are provided shall be landscaped. This may be waived by the *Planning Commission* or where applicable the Planning Director. Perimeter screening does not count toward parking area landscaping.

b. To avoid large expanses of paved parking areas, the following provisions, which may be waived by the *Planning Commission*, or where applicable the Planning Director, shall apply:

i. A row shall not contain more than twelve 12 spaces without a landscaped *island* of at least the size of one parking space.

* Amended 6/3/14

ii. The ends of parking rows shall contain an *island* a minimum of six feet wide adequately landscaped with shade trees, ground cover, and shrubs.

iii. Double rows of parking shall be separated by a minimum six-foot planting strip adequately landscaped with shade trees and shrubs.

8. Perimeter Landscaping and Screening

a. Screening is required to protect adjoining properties and *roadways* from noise, glare, and uses which are visually incompatible with neighboring land uses. Screening is required:

i. On *sites* which involve loading or unloading (including the storage of vehicles and boats), trash, or disposal areas and where accessory *buildings* and *structures* are adjacent to residential properties.

ii. Where exterior storage areas are visible from *roadways*, sidewalks, or nearby residential properties.

iii. When noise not typically occurring in residential areas is expected to project onto nearby properties.

iv. To *screen* parking areas (not including display areas) from motorists, pedestrians, and adjoining residential properties.

v. Where the commercial *site* abuts a residential district.

b. Landscaped screens shall be designed to complement other landscaping occurring naturally on the *site*, planted previously, or approved as a part of a *site plan* review. Whenever possible, existing vegetation and landform shall be used to create screens.

c. The *screen* shall be capable of providing year round screening.

d. When noise is likely to be a factor, the *screen* shall be of sufficient construction to be an effective noise buffer.

e. Screening shall consist of trees and plants, and may include masonry, or wooden fencing used with or without *berms*. Screening shall consist of a functional and well-designed combination of the following:

i. Vegetative ground cover

ii. Coniferous and deciduous shrubs

a) Specimens of which will reach and maintain a minimum height of 5 feet of full vegetative growth.

b) Plants which measure a minimum of 3 feet in height at the time of planting and are expected to attain a 5-foot height within 3 years.

iii. Coniferous and deciduous trees - Species and sizes of which will be chosen to best accomplish an adequate *screen* (i.e., evergreens used for visual screening, deciduous trees for seasonal screening).

f. Natural *slopes* and existing vegetation may be substituted for some or all of the requirements above, provided that these features serve to *screen* the area from adjoining properties and *roadways*. The *Planning Commission*, or where applicable the Planning Director, shall determine the acceptability of using existing *slopes* and vegetation for this purpose. The *Planning Commission*, or where applicable the Planning Director, may waive screening where it is physically impossible to accomplish.

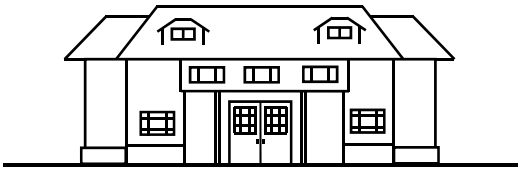
g. Screening and fencing shall be maintained in good condition and with at least the same quality and quantity as initially approved.

9. Lighting
   a. Lighting shall not exceed eighteen feet in height unless mounted on the *building*. This may be waived by the *Planning Commission* or where applicable the Planning Director.
   b. Lighting on the *site* shall be designed to avoid glare onto adjacent properties and adjacent *roadways* and shall not interfere with traffic or create a safety hazard.
   c. Lighting on the *site* shall be sufficient to provide for the safety and security of the business, its employees, and its customers.
   d. Lighting shall be color corrected.

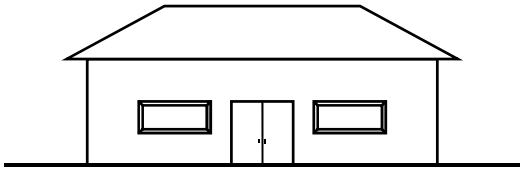
10. *Subdivision*
   a. Proposed *street* layout, blocks, and parcels shall be suitable in area and dimension for the type of *development* anticipated.
   b. The total area shall be sufficient to provide adequate space for *off-street parking*, loading, landscaping, and other facilities.
   c. All reasonable efforts should be made to protect adjacent residential areas from potential nuisances from commercial *subdivision* by providing adequate depth in parcels adjacent to residential zoning.
   d. The *lot* arrangement, design, and orientation shall be such that all lots will provide satisfactory building *sites*, properly related to *topography* and the character of surrounding *development*.
   e. Every *lot* shall abut upon and have access to a public road or approved *private road*.
   f. Lots adjoining *major thoroughfares* and railroad lines should be designed with extra depth and provision for an appropriate means of buffer or deeper building *setbacks*.
   g. Where land in a *subdivision* adjoins a railroad line, the *street* layout shall make allowance for future grade separated railroad crossings at appropriate locations by providing extra *street right of way* widths for such crossings and by restricting intersecting *streets* at locations where they would cause interference with necessary approaches to such crossings.
   h. Proposed *streets* in the *subdivision* shall provide for the continuation of existing, planned, or platted *streets* on adjacent tracts, unless such continuation shall be prevented by *topography* or other physical feature or unless such extension is found by the *Planning Commission* to be unnecessary for the coordination of *development* between the *subdivision* and such adjacent *tract*.
   i. Where the *Planning Commission* deems it desirable or necessary to provide access to adjacent tracts not presently subdivided, proposed *streets* in the *subdivision* shall be extended to the boundary lines with such tracts.
   j. Where the *subdivision* adjoins or embraces any part of a *major thoroughfare* as designated on the Kent County Major Thoroughfare Map. The layout of such *subdivision* shall provide for the platting and dedication of such part of the *major thoroughfare* in the location and at the width indicated on the *major thoroughfare* plan, except that the *subdivider* shall not be required to dedicate that part of such *major thoroughfare* that is in excess of eighty (80) feet in width.
   k. Where deemed desirable to the layout of the *subdivision* and adjoining area, the *Planning Commission* may require the platting and dedication of one or more *collector streets* or parts thereof, to serve the *subdivision*.
   l. Subdivisions shall be in full compliance with the provisions of this Ordinance.

m. *Private roads* are permitted in minor subdivisions and are subject to the following conditions:
   i. Each road shall serve no more than seven parcels. In the event that an eighth parcel is created, the eighth parcel and all further divisions of land shall front on a public road.*
   ii. The *subdivision* shall provide a 50-foot *right of way* for each *private road*.
   iii. The construction of all lanes and *private roads* shall adhere to the requirements established by the Kent County Department of Public Works and sediment control and *stormwater management regulations*.
   iv. The deed and contract of sale of all lots in the *subdivision* shall state: "The road is private and not the responsibility of Kent County."
   v. The plat shall identify all *private roads* and shall state: "The road is private and not the responsibility of Kent County."

11. Building Mass, Size, and Scale
   a. New *development* is encouraged to follow the guidelines found in the pertinent village master plan. Building elevations will be required for new commercial and multi-family developments. The *Planning Commission*, or where applicable the Planning Director, may waive this requirement.
   b. New *buildings* should not create large, bulky masses but should be scaled down into groupings of smaller attached *structures* and modules that reflect proportions similar to historic *buildings*. Methods used to create intervals that reflect and respect historic *structures* include but are not limited to the following:
      i. Facade modulation - stepping back or extending forward a portion of the facade.
      ii. Repeating window patterns at established intervals.
      iii. Providing a balcony or bay window at established intervals.
      iv. Changing the roofline by alternating dormers, stepped roofs, gables, or other roof elements.
      v. Use of landscaping and architectural detailing at the ground level.



Structure 1, Utilizes building massing



Structure 2, Does not utilize building massing

The above structures are the same height and width and are drawn to the same scale.

   c. Building designs shall be encouraged to utilize traditional materials (brick or wood) and contemporary interpretations of earlier styles.
   d. The design of new *buildings*, building additions and *alterations*, and facade renovations should reflect the positive aspects of the existing design features of the County. *Buildings* should complement and improve the overall environment of the area.
   e. Commercial *buildings* are encouraged to be arranged in varied clustered masses related closely to the road.
   f. The proposed building orientation shall respect the orientation and scale of serve as an orderly transition to a different scale.

* Amended 10/16/12

g. All rooftop equipment shall be screened from public view by screening material of the same nature as the building's basic building materials.

h. To avoid monotonous, linear *development*, multi-family *development* shall be in small clusters designed as neighborhood units. A cluster shall include not more than 30 units.

i. In multi-family *development*, the number of units in a row is to be limited to a maximum of eight.

j. *Offsets* at party walls and/or front and rear facades or similar devices are required to visually reduce building mass and create individualized spaces (*courtyards*, seating areas, etc.) for all multi-family projects. Drawings of the building elevations will be required. The *Planning Commission*, or where applicable Planning Director, may waive this requirement.

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SECTION 9 INTENSE VILLAGE CRITICAL AREA

9.1 STATEMENT OF INTENT

The purpose of this district is to provide for a high quality and well designed mix of commercial, office, and residential areas with emphasis on uses and intensities that makes efficient use of public facilities and limits sprawling *development*. It is intended that residences, shops and offices are in close proximity to each other as is found in the traditional village pattern and that the resulting mix of uses form lively, prosperous neighborhoods that serve as an attractive places to live, work, shop, and play. The district may act as a transition between town and the more rural areas of the County. *Buildings* in this district shall be oriented to the *street* and provision made for pedestrian access so that the character of the area is interpreted as pedestrian. The Intense Village Critical Area District is intended to:

- Improve the quality of runoff from developed areas that enters the Chesapeake Bay or its tributary streams.
- Accommodate additional mixed use development provided that water quality is not impaired.
- Minimize the expansion of intensely developed areas into portions of the Critical Area designated as habitat protection areas and resource conservation areas.
- Conserve and enhance fish, wildlife, and plant habitats to the extent possible within intensely developed areas.
- Encourage the use of *retrofitting* measures to address existing *stormwater* management problems.

9.2 PERMITTED PRINCIPAL USES AND STRUCTURES

A *building* or land shall be used only for the following purposes:

1. Detached *single family dwellings*

2. *Two-family dwellings*

3. *Townhouses*, subject to *site plan* review

4. *Multi-family dwellings*, subject to *site plan* review

5. Rooming, boarding, and *lodging houses*

6. *Automobile service station*s, not including *automobile repair*, subject to *site plan* review

7. Boat docks, piers (open or covered), and wharves, commercial, provided that they do not exceed 25% of the *waterway*, or the edge of the *channel*, whichever is less

8. Boat rental, sales, supplies, instruction, and other services customarily associated with a full service *marina*

9. *Houses of worship*. New construction shall be subject to *site plan* review.

10. Financial institutions, subject to *site plan* review

11. Fire and rescue stations, subject to *site plan* review

12. Funeral homes, subject to *site plan* review

13. Home and business services such as grounds care, janitorial, exterminators, landscaping, and other repair and maintenance services, but not septic tank maintenance, subject to *site plan* review

14. *Hotels* and *motels*, subject to *site plan* review

15. *Country inns*, subject to *site plan* review

16. Indoor movie theaters, playhouses, and dinner theaters, subject to *site plan* review

17. Offices - administrative, business, sales, and professional, subject to *site plan* review

18. *Marinas*, subject to *site plan* review

19. *Personal wireless facilities* collocated on existing towers, water towers, electrical transmission towers, fire towers, silos, *grain dryers*, or other *structures* provided the height of the existing *structure* is not above that permitted by this Ordinance.

20. Public uses, *buildings*, and utilities. Public *buildings* include but are not limited to schools, offices, parks, playgrounds, and *roads* funded, owned and operated by local, state, or federal agencies. *Public utilities* are water, sewer, electric, gas, oil, and communication facilities owned and operated by the Kent County Department of Water and Wastewater or other public utility. *Public utilities* include substations, poles, lines, transformers, pipes, meters, treatment facilities, pumping stations, and appurtenances, but not including transmission towers. Power plants and the like are not permitted. The following items shall be subject to *site plan* review: schools, offices, playgrounds, treatment facilities, water towers, substations, and transformers.

21. *Restaurants* without drive through facilities, subject to *site plan* review

22. Retail business, supplying on the *premises*, household goods, new automobile parts, agricultural supplies and commodities, sporting goods, business machinery sales and rental, and the like including department, outlet, and discount stores provided all retail sales shall be conducted entirely within a *building* except where otherwise approved by the *Planning Commission*. All retail business *buildings* are limited to a footprint of 10,000 square feet. All retail businesses shall be subject to *site plan* review.

23. Recreational uses, indoor, commercial, i.e. game courts, *swimming pools*, and other like recreational facilities, but not including golf courses, subject to *site plan* review

24. Personal service establishments which perform services on the *premises* for persons residing in adjacent residential areas, such as shoe repair, dry cleaners, tailors, *Laundromats*, beauty parlors, barber shops, and the like. All personal service uses shall be conducted entirely within a *building*. Other uses and *structures* that meet the criteria specified above may be approved by the Zoning Administrator. Personal service activities shall be subject to *site plan* review.

9.3 SPECIAL EXCEPTIONS

The following principal uses and *structures* may be permitted as special exceptions in the Intense Village *Critical Area* District, subject to *site plan* review by the *Planning Commission*, or where applicable the Planning Director. Detailed limitations and standards for these uses may be found in Article VII of this Ordinance.

1. *Accessory structures* in the *front yard* of *through lots*
2. Adaptive reuse of historic *structures*
3. *Automobile repair*
4. Car wash
5. *Conference center*
6. Convalescent, nursing, or group homes for the aged with five or more beds
7. *Cottage industries*, tradesmen and artisan shops
8. *Day care group*
9. *Hospital*, rehabilitation facility or other similar institution for human care but not including animal hospitals
10. Outdoor entertainment
11. Outdoor recreation, miniature golf, but not golf courses
12. Printing and publishing
13. *Private club*s
14. Private schools
15. Pubs, taverns and bars
16. *Public landings*
17. *Resort*
18. *Wind energy systems, small**

9.4 ACCESSORY USES

The following *accessory uses* and *structures* shall be permitted in the Intense Village *Critical Area* District.

1. Accessory housing

2. Accessory vehicle parking limited to those vehicles used as a part of principal permitted uses or approved special exceptions provided the vehicles have current licenses and are operable. Parking areas will be approved during *site plan* review.

3. Assisted living facilities or *group homes*, with no more than four beds provided:
   a. The property owner resides on the *premises*.
   b. The assisted living facility or *group home*, is subordinate and accessory to the principal dwelling in size and appearance and is in the same *structure* as the principal *dwelling unit*.
   c. The rooms for the use are not designed or constructed to be separate *dwelling units* and may not be sold as separate *dwelling units*.
   d. The appearance of the *structure* and property remain that of a *single family dwelling* so that the average neighbor is unaware of the assisted living facility's or *group home's* existence.
   e. The *structure* meets all applicable Kent County Codes, including the building code, and Health Department requirements.

* Amended 9/6/11

4. Bath houses, pump out *structures*, and other uses normally associated with *marinas*.

5. *Day care home* provided:
   a. Outdoor play areas are fenced and screened.
   b. Structured areas for active play or play *structures* shall not be in the *front yard* and shall be a minimum of 10 feet from the side or rear property line.
   c. One drop off / pickup space is provided.
   d. Structural or decorative additions shall be designed to be compatible with the residential character of the neighborhood.
   e. *Signs* shall be limited to two square feet.

6. Fuel storage and sales at *marinas*, for marine purposes only

7. *Home occupations* in main or accessory *buildings*

   Intent - The conduct of business in residential units may be permitted under the provisions of this section. It is the intent of this section to:
   a. Ensure the compatibility of *home occupations* with other uses in residential areas;
   b. Maintain and preserve the character of residential neighborhoods by regulating the operation of *home occupations* so that the average neighbor is unaware of their existence;
   c. Guarantee to all residents freedom from excessive noise, excessive traffic, nuisance, fire hazard, and other possible effects of commercial uses being conducted in residential areas;
   d. Promote the efficient use of public services and facilities by assuring these services are provided to the residential population for which they were planned and constructed, rather than commercial uses.

   Conditions -
   a. A *home occupation* shall be incidental to the use of a *dwelling unit* for residential purposes and shall be conducted only by members of the *family* residing in the *dwelling unit* plus one non-resident assistant or employee.
   b. Outdoor storage of materials or products is prohibited.
   c. The *home occupation* shall not cause any external effect such as noise, excessive lighting, or offensive odor which is incompatible with the characteristics of the residential area. The illegal discharge of any materials, fluids, or gases into the sewer system or in any other manner of discharging such items in violation of any applicable government code is prohibited.
   d. Traffic generated by the *home occupation* shall not exceed that normally expected in a residential neighborhood.
   e. Parking for the *home occupation* shall be provided off-street and in the *side* or *rear yard*.
   f. A *home occupation* shall limit any external evidence of an occupation to one identification *sign* not to exceed two square feet.

7.5 Keeping of backyard chickens*
   a. Backyard chickens are defined as females of the species *Gallus gallus domesticus* kept for non-commercial purposes. The keeping of males of the species is not permitted.
   b. The maximum number of chickens, 4 months or older, permitted on any lot is determined by lot size:
      i. No chickens are permitted on a lot of less than ¼ acre;
      ii No more than 5 chickens are permitted on a lot of ¼ acre to 1 acre;
      iii. No more than 8 chickens are permitted on lots of more than 1 acre.

* Amended 8/5/14

c. The area for keeping backyard chickens must be enclosed in such a fashion that the chickens are confined and not able to leave the owner's property. Backyard chickens will be provided with a covered, predator-proof coop or cage that is well ventilated. Hens shall have access to an outdoor enclosure that is adequately fenced to contain the birds on the property.
d. *Structures* (coops) for the housing of backyard chickens must meet the permitting requirements of this Ordinance. For movable coops, the permit application will show the area in which the coop will be moved. A copy of the Maryland Poultry Registration Form must accompany the building permit application.
e. Coops must be setback a minimum of 15 feet from any property line.
f. Coops may be placed in rear yards only.
g. Each coop must be kept clean and free of odors and materials that can attract vermin. Feed must be kept in secure containers so as not to attract vermin.
h. Waste must be composted or removed from the property.
i. The outdoor slaughtering of chickens is not permitted.

8. Parking of one commercial vehicle in the *side* or *rear yard* of dwellings provided:
   a. The vehicle is used by the occupant of the dwelling.
   b. The vehicle does not have a manufacturer's gross vehicle weight that exceeds 16,000 pounds.
   c. Refrigerator units do not run when parked at the dwelling.
   d. No major repair is conducted *on-site*.
   e. Honey wagons, sanitation, garbage, or other trucks used to transport odorous, flammable, or hazardous materials are prohibited.
   f. The vehicle has a current license and is operable.

9. Recreational uses such as *swimming pools*, game courts, and other like recreational facilities located a minimum of 25 feet from all property lines.

10. Satellite dish with an antenna exceeding 3 feet in diameter provided:
    a. No antenna shall exceed an overall diameter of 12 ft. or an overall height of 15 ft. above *existing grade*.
    b. The antenna shall be permanently ground-mounted. An antenna shall not be installed on portable or moveable *structures*.
    c. The antenna shall be totally screened along the non-receptive axis and low-level ornamental landscaping shall be installed along the reception window axis of the base of the antenna. Screening may consist of fencing or a variety of plant types. Screening may be waived when the antenna is located 100 ft. from all property lines or the antenna is of a nature that is not visible or intrusive to the neighborhood.

11. Satellite dish, private, with an antenna 3 feet or less in diameter provided that the antenna is not installed on portable or movable *structures*.

12. School buses, limited to two, parked in the *rear* or *side yard* of dwellings provided the buses are owned by the occupants of the dwelling, have current licenses, and are operable.

12.5 *Solar energy systems, small*, provided:*
   a. Tree removal shall be minimized and any removal shall be mitigated in accordance with the Critical Area Program requirements.

* Amended 9/6/11

b. All solar collection devices shall register with the Department of Emergency Services and shall submit a map noting the location of the solar collection devices and the panel disconnect.

c. The total height of solar collection systems shall comply with the height requirements.

13. Storage in the *rear yard* of boats, campers, boat trailers, and camper trailers, which are titled under the name of the property owner or occupant. All boats, boat trailers, and camper trailers must be operable and have current licenses if required.

13.5 Temporary *MET Tower* of any height provided:*

a. The tower is erected for no more than 12 months.

b. Any free standing *structure* is located a minimum of 3 times its total height from a property line.

c. Towers are not readily climbable from the ground up to 12 feet.

14. Uses and *structures* which are customarily accessory and clearly incidental and subordinate to permitted uses and *structures*.

* Amended 9/6/11

9.5 DENSITY, AREA, HEIGHT, WIDTH, AND YARD REQUIREMENTS

Gross *density* (dwelling units/acre)	8
Minimum *lot area* per unit	
- *Single family dwelling*	5,000 square feet
- Duplex/triplex	4,000 square feet
- *Townhouse*/*apartments*	2,000 square feet
Minimum *lot frontage*	[1]
Minimum *yard*	
- *Front*	[1]
- *Side*	[1]
- *Rear*	[1]
- Waterfront	Minimum 100 foot buffer or *modified buffer* [2]
- Accessory residential *structures*	[1]
Maximum *structure* height [3]	
- Commercial	40 feet
- Residential	40 feet
- Fence [4]	
- Security	8 feet
- Ornamental	
Front and *side yard*	4 feet
Rear yard	8 feet

[1] *Frontage* and minimum *yard* requirements will be determined during site plan review and in accordance with the applicable Village Master Plan.

[2] Modifications for structures existing prior to April 12, 1988 may be permitted as per Article V, Section 9.7.B.4.

[3] Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

[4] Fences do not need to meet yard requirements.

9.6 INTENSE VILLAGE CRITICAL AREA GENERAL STANDARDS

1. The reuse of existing *buildings* is encouraged.

2. Public water and sewer systems may be required by the *Planning Commission*.

3. The Department of Planning and Zoning shall approve *street* names. A name may not be approved if it duplicates or is too similar to the name of another road in the county or incorporated towns.

4. When deemed necessary by the *Planning Commission*, or where applicable the Planning Director, unobstructed *easements* at least 10 feet wide shall be provided to facilitate walkways to commercial facilities, community areas, schools, parks, playgrounds, or other public areas.

5. *Open space*, playgrounds, or other recreational areas shall be set aside at a rate of 1/10 acre per *dwelling unit*. If the land is not of significant quality and size for the purpose of providing or developing parks and recreational facilities, the *Planning Commission*, or where applicable the Planning Director, may permit a *developer* to pay a fee of $250.00 for each *lot* or each *dwelling unit* in lieu of providing land for recreational purposes. Recreational land required in a *subdivision* shall be located so as to be reasonably accessible from all lots in the *subdivision* in accordance with the following:
   a. *Steep slopes*, streams, lakes, *watercourses*, and *floodplains* may constitute up to 40% of the recreational land.
   b. At least 60% of the recreational land shall be suitable for dry ground recreational use.

9.7 INTENSE VILLAGE CRITICAL AREA ENVIRONMENTAL STANDARDS

The purpose of these standards is to provide for the proper stewardship of the County's natural resources. Specifically it is the overall goal of the county to maintain the quality of the County's *ecosystem*s in the face of continuing activity, growth and change.

A. INTENSE VILLAGE CRITICAL AREA GENERAL ENVIRONMENTAL STANDARDS

1. *Development* shall minimize *adverse impacts* to *non-tidal* or *tidal wetlands*, estuaries, the Chesapeake Bay, *tributary streams* and the natural course and *riparian habitat* of these streams, Habitat Protection Areas or other significant habitat as identified by the Department of Planning and Zoning.

2. *Development* shall minimize the removal of vegetation. Protection of remaining vegetation and replacement of removed vegetation shall be required. The *developer* shall demonstrate that the change in vegetation minimizes the effect on the microclimate.

3. *Development* shall minimize the effects on the existing volume and quality of any water body. Chemical and nutrient pollution shall be reduced or at least minimized. Urban *best management practices* shall be used.

4. Whenever possible, land with poor drainage or other adverse condition shall not be developed. When developed, the property owner shall agree to make any improvements necessary to render the property safe for *development*.

5. Whenever possible, land subject to periodic flooding shall not be developed for any use which might involve danger to health, life, or property or aggravate *flood* hazard.

6. If practicable, permeable areas shall be established in vegetation. *Native plants* are preferred.

B. INTENSE VILLAGE CRITICAL AREA SPECIFIC ENVIRONMENTAL STANDARDS

1. *Agriculture*

No new agricultural land shall be created by:

a. Draining, filling, or diking any *palustrine wetlands* which have a *seasonally flooded or wetter water regime* unless the impact is mitigated.
b. *Clearing* of *forest* or woodland on *soils* with a *slope* greater than 15% or on *soils* with a *K Value* greater than 0.35 and a *slope* greater than 5%.
c. *Clearing* of existing *natural vegetation* within the *buffer*.
d. *Clearing* of *forest* if the *clearing* will affect water quality or habitat protection areas as designated in Article VI, Section 3.8 of this Ordinance.

2. *Anadromous fish*

a. Concrete riprap or other artificial surface shall not be installed on the bottom of natural streams unless it can be demonstrated that water quality and fishery habitat will be improved.
b. Physical alteration of a stream, including but not limited to channelization, that interferes with the movement of fish shall be prohibited
c. The construction or placement of dams or other *structures* that would interfere with or prevent the movement of spawning fish or larval forms in streams shall be prohibited. Where practical, the removal of existing barriers is encouraged.
d. Construction, repair or maintenance activities associated with bridges or other stream crossings or with utilities and roads which require disturbance to the *buffer*, or which occur in stream shall be prohibited between March 1 and May 15.

3. *Buffer*

a. *Development* in the *Buffer*
   i. New *development activities*, including *structures*, *roads*, parking areas, and other *impervious surfaces*, mining, and related activities, or septic systems shall not be permitted within the minimum 100-foot *buffer*. This restriction does not apply to water-dependent facilities that meet the criteria set forth below.
   ii. New or expanded *development activities* may be permitted in the minimum 100-foot *buffer*, provided:
      a) The use is water dependent;
      b) The project meets a recognized private right or public need;
      c) Adverse effects on water quality and fish, plant, and *wildlife habitat* are minimized; and
      d) In so far as possible, non-water dependent *structures* or operations associated with water-dependent projects or activities are located outside the minimum 100-foot *buffer*.
   iii. Water-dependent research facilities or activities operated by State, Federal, local agencies or education facilities may be permitted in the *buffer* if non-water dependent *structures* or facilities associated with these projects are located outside the *buffer*.
   iv. Commercial water-dependent fisheries facilities including, but not limited to, *structures* for crab shedding, fish off-loading docks, shellfish culture operations,

and shore based facilities for *aquaculture* operations, and *fisheries activities* may be permitted in the *buffer*.

b. Vegetation protection within the *Buffer*

i. *Natural vegetation* within the *buffer* shall be preserved and protected unless one of the following apply:

a) An approved *forest* harvesting plan is followed.

b) Individual trees may be cut for personal use provided this cutting does not impair the water quality or existing habitat value or other functions of the *buffer*. Trees shall be replaced on an equal basis for each *tree* cut.

c) Trees which are leaning over the water may be cut, but their stumps and roots shall not be disturbed.

d) The disturbance provides access for water-dependent facilities or shore *erosion* protection *structures*.

e) Landowners may treat trees and shrubs to maintain or improve their health.

ii. Vegetation in the *buffer* removed for the reasons listed above shall be reestablished over the entire disturbed area during the next planting season. These plantings shall be approved by the Department of Planning and Zoning. In addition, Article VI, Section 9 of this Ordinance shall be followed exactly.

iii. *Natural vegetation* removed for an approved purpose shall be in accordance with an approved *buffer* management plan.

c. Stream Protection

Development activities that must cross or affect streams shall be designed to:

i. Reduce increases in flood frequency and severity that are attributable to development.

ii. Retain tree canopy so as to maintain stream water temperature within normal variation.

iii. Provide a natural substrate for stream beds.

iv. Minimize adverse water quality and quantity impacts of *stormwater*.

4. *Modified Buffer*

a. *Development* in the *Modified Buffer*

i. No new *development* shall encroach within 25 feet of mean high tide or 25 feet of the edge of a *tidal wetland*. Expansion to the side or rear but not closer to the water may be permitted as long as the expansion is designed and located to maximize the distance from the shoreline or to enhance or protect the environmentally sensitive features on the *site*.

ii. An area of existing *impervious surface on-site* equal to or greater than the area of new *development* shall be removed and revegetated, or

iii. A *forest buffer* will be planted *on-site* equal to three times the amount of newly developed *impervious surface* within the minimum 100-foot *buffer* (equal areas to be planted for other disturbance outside of the minimum 100-foot *buffer*); if there is not enough available space on the *lot* to create a *buffer*, the property owner must plant the required amounts *on-site* outside the *buffer*, *off-site*, or must pay a fee-in-lieu.

b. Vegetative Protection within the *Modified Buffer*

Natural vegetation within the *modified buffer* shall be preserved and protected unless one of the following apply:

i. Individual trees may be cut for personal use provided this cutting does not impair the water quality or existing habitat value or other functions of the *buffer*. Trees shall be replaced on an equal basis for each *tree* cut.

ii. Trees which are leaning over the water may be cut, but their stumps and roots shall not be disturbed.

iii. The disturbance provides access for water-dependent facilities or shore *erosion* protection *structures*.

iv. Landowners may treat trees and shrubs to maintain or improve their heath.

5. *Forest*

a. A forestry management plan prepared by a registered forester and approved by the Maryland Department of Natural Resources shall be required when developing forested lands.

b. *Forest* shall be replaced on an acre by acre basis, but no more than 20% of any *forest* or *developed woodlands* shall be removed unless by prior agreement with the *Planning Commission*, the *developer* agrees to afforest on the following basis: a *developer* may clear or develop more *forest* than otherwise may be permitted if the total *forest* removed is not increased by more than 50% of the area permitted to be disturbed provided that the afforested area consists of 1.5 times the total surface acreage of the disturbed *forest* or *developed woodlands* or both. For example, in a 100 acre woodland, up to 30 acres may be cleared if the *developer* agrees to afforest (not necessarily on his own property) 45 acres of currently unforested land.

c. Replacement trees shall be of a species similar to that which was removed or a species appropriate to the replanting *site*.

d. *Forest* or *developed woodlands* that remain after an approved removal shall be maintained through recorded restrictive covenants, *easements*, or similar instruments.

e. *Forest* cleared prior to obtaining a *grading* permit or that exceeds the maximum area allowed shall be replanted at three times the acreage of the cleared *forest*.

f. If the acreage of the *site* limits the application of *reforestation* requirements *forest* may be created on other lands in the *Critical Area* including County lands, or a fee in an amount determined by the Maryland Department of Natural Resources to be the equivalent to the value of the required *forest* may be paid to the County Commissioners of Kent County. These funds shall be placed in a dedicated fund used to ensure the restoration or establishment of an equivalent *forest* area, in the *Critical Area* or riparian areas.

g. After *development*, the *site* shall be planted to provide a *forest* or *developed woodlands* cover of at least 15%.

6. *Forest Interior Dwelling Birds*

a. Existing riparian *forest* of 300 x 300 feet or more and *forest* areas used by *forest interior dwelling birds* and other wildlife species shall be managed according to the guidelines developed by the Maryland Department of Natural Resources and the Chesapeake Bay Critical Area Commission.

b. A *site* survey for *forest interior dwelling birds* shall be conducted prior to any *development* or agricultural expansion on deciduous *forest* of at least 50 acres or 300 x 300 foot riparian deciduous *forest*. The Planning Director may waive a *site* survey for *forest interior dwelling birds* provided the *forest* is managed for all *forest interior dwelling bird* species. Cutting and building shall be restricted to safe times (not during nesting - see Article VI, Section 3.9 of this Ordinance).

7. Habitat

   a. All *roads*, bridges and utilities that must cross a Habitat Protection Area shall be located, designed, constructed, and maintained so as to provide maximum *erosion* protection and minimize negative impacts to wildlife, aquatic life and their habitats and maintain hydrologic processes and water quality. *Roads*, bridges, or utilities shall not be located in any Habitat Protection Area unless no feasible alternative exists.

   b. During and after *development* in forested areas, corridors of existing *forest* or woodland vegetation shall be maintained to provide effective connections between *wildlife habitat* areas.

   c. New water-dependent facilities shall be located so as to prevent disturbance to *sites* of significance to wildlife such as historic aquatic staging and concentration areas for *waterfowl*, shellfish beds, finfish nursery areas, and submerged aquatic vegetation beds.

8. *Natural heritage areas* and locations considered for areas of Critical State Concern

   These areas of local significance shall be preserved whenever possible in accordance with the recommendations of the Department of Natural Resources. These areas are identified in Article VI, Section 3.8 of this Ordinance.

9. *Non-tidal wetlands*

   Non-tidal wetlands shall be protected according to the *regulations* of the State of Maryland, Army Corps of Engineers, United States Fish and Wildlife Service, Environmental Protection Agency and all other applicable State and Federal *regulations*.

10. *Slopes*

    Development on *slopes* greater than 15%, as measured before development, shall be prohibited unless the project is the only effective way to maintain or improve the stability of the land.

11. *Stormwater Management*

    No *person* shall develop any land for residential, commercial, industrial, or institutional uses or redevelop land without having provided for appropriate *stormwater management* measures that control or manage runoff from such developments except as provided in Article VI, Section 10 of this Ordinance. *Stormwater Management* shall be accomplished for all new *development* or *redevelopment* in accordance with the provisions of Article VI, Section 10 of this Ordinance.

12. Threatened and Endangered Species and Species in Need of Conservation

    a. Any *development* shall include a statement on the type and location of any threatened, *endangered species* or *species in need of conservation* on the property, and any recommendation for maintaining and protecting that habitat from the Department of Natural Resources.

    b. Threatened and *endangered species* and *species in need of conservation* shall be checked and noted by the *developer* before any approvals can be granted by the Planning Director, *Planning Commission*, or Zoning Administrator.

    c. The Federal or State guidelines (which ever is stricter) for habitat protection shall be followed during *development*. Plans shall include provisions for the continuance of the habitat protection after *development*. This can include *conservation easements*, cooperative agreements, and special provisions in *forest management* and *soil* conservation plans, and donation to a third party.

13. Timber Harvest

a. *Forest management plans* shall be required for all timber harvests occurring within any one year interval and which affect one or more acres in *forest* or *developed woodlands* in the *Critical Area*. The plans shall be prepared by a registered professional forester and be reviewed and approved by the Maryland Forest, Park, and Wildlife Service through the District Forestry Boards and the project forester. Plans shall be filed with the Department of Planning and Zoning. Plans shall include measures to protect surface and ground water quality and identify whether the activities will disturb or affect Habitat Protection Areas as set forth in the Land Use Ordinance or identified on the Habitat Protection Areas Map.

b. Plans shall include protective measures for Habitat Protection Areas and shall provide for the continuity of habitat. The plans shall address mitigation through *forest management* techniques which include scheduling size, timing, and intensity of harvest cuts, *afforestation* and *reforestation*.

c. The cutting and *clearing* of trees within the minimum 100-foot *buffer* is permitted provided:

   i. Existing riparian *forest* of 300 x 300 feet or more and *forest* areas used by *forest interior dwelling birds* and other wildlife species shall be managed according to the guidelines in Article VI, Section 3.

   ii. When timber harvesting is being considered, a *site* survey for *forest interior dwelling birds* shall be done. Cutting and building shall be restricted to safe times (not during nesting – See Article VI, Section 3.9 of this Ordinance).

   iii. During timber harvest in corridors of existing *forest* or woodlands, vegetation shall be maintained to provide effective connections between *wildlife habitat* area.

d. Commercial harvesting by *selection* or by *clear-cutting* of Loblolly Pine and Tulip Popular may be permitted to within 50 feet of the landward edge of the *mean high water line* of tidal water and *perennial streams* or the edge of *tidal wetlands* provided that the cutting does not occur in the Habitat Protection Areas and the cutting is conducted pursuant to the requirements of Article VI, Section 9 and the *non-tidal wetlands* requirements of this Ordinance and in conformance with a *buffer* management plan prepared by a registered professional forester and approved by the Department of Natural Resources. The plan shall be required for all commercial harvest within the minimum 100-foot *buffer* regardless of the size of the area to be cut and shall contain the following minimum requirements:

   i. That disturbance to stream banks and shorelines shall be avoided.

   ii. That the area to be disturbed or cut shall be replanted or allowed to regenerate in a manner that assures the availability of cover and breeding *sites* for wildlife and reestablishes the *wildlife corridor* function of the *buffer*.

   iii. That the cutting does not involve the creation of logging *roads* and skid trails within the minimum 100-foot *buffer*.

Commercial harvesting of trees by any method may be permitted to the edge of *intermittent streams* if the cutting and removal is done in accordance with a *buffer* Management Plan approved by the Department of Natural Resources, Bay Watershed Forester.

14. Water Quality

New *development* and *redevelopment* shall reduce pollutant loadings coming off the *site* by at least 10%. Pollutant loads shall be calculated in the manner developed by the Metropolitan Washington Council of Governments using phosphorous as the keystone element. All *sites* shall comply with the *stormwater management* qualitative controls found in Article VI, Section 10 of this Ordinance.

15. Wildlife Corridors
Developments shall incorporate a wildlife corridor system that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site in order to provide continuity of existing wildlife and plant habitats with offsite habitats. Plans shall include provisions for the continuance and maintenance of the wildlife corridors. This can include *conservation easements*, cooperative agreements, special provisions in forest management and soil conservation plans, and donation to a third party.

9.8 INTENSE VILLAGE CRITICAL AREA DESIGN STANDARDS

The purpose of these standards is to give a sense of the physical aspects of the County's environment to those contemplating new *development* in the community. Pertinent to this physical appearance is the design of the *site*, *buildings* and *structures*, plantings, *signs*, *street* hardware, and miscellaneous other objects observed by the public.

These standards are not intended to restrict imagination, innovation, or variety, but rather assist in focusing on design principles which can produce creative solutions that will develop a satisfactory visual appearance within the County, preserve taxable values, and promote the public health, safety, and welfare.

A. INTENSE VILLAGE CRITICAL AREA GENERAL DESIGN STANDARDS

1. The landscape shall be preserved in its natural state, in so far as possible, by minimizing *tree* and *soil* removal. Any grade changes shall be in keeping with the general appearance of neighboring development areas. *Buildings* are encouraged to be located so as to maintain maximum natural *topography* and cover. *Topography*, *tree* cover, and natural drainage ways shall be treated as fixed determinants of road and *lot* configuration rather than malleable elements that can be changed to follow a preferred *development* scheme. Whenever possible, *development* shall be outside the *floodplain*.

2. *Streets* shall be designed and located in a manner so as to maintain and preserve natural *topography*, cover, significant landmarks and trees; to minimize *cut* and *fill*; and to preserve and enhance views and vistas on and off the subject parcel.

3. Proposed *development* shall be related harmoniously to the terrain and to the use, scale, and architecture of existing *buildings* in the vicinity that have functional or visual relationships to the proposed *buildings*. *Development* shall be designed to provide safe, comfortable places where people can visit, meet, shop, and rest without conflicting with other *street* uses.

4. All *open space* (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the *site* or overlooking it from nearby properties.

5. The color, size, height, lighting, and landscaping of appurtenant *signs* and *structures* shall be evaluated for compatibility with the local architectural motif and the maintenance of views and vistas of natural landscapes, recognized historic landmarks, parks, and landscaping.

6. Whenever possible, adverse effects on historic, traditional, or significant uses and *structures* shall be minimized, whether these exist on the *site* or on adjacent properties.

7. *Buildings* should be designed to enhance the community's sense of place by varying building massing and roof treatments, and by using building components and architectural design that emphasize the human scale. Commercial establishments are encouraged to limit the visual impression of height by the use of roof treatments, and varying the plane of exterior walls.

8. Parking lot design shall reflect the fact that once people step out their cars, they become pedestrians. Parking lots shall be designed not only to facilitate efficient vehicle circulation but to also permit smooth pedestrian circulation.

9. Provision for safe and efficient bicycle circulation and parking should be included in the overall design of the parking lot.

10. The convenience and safety of both vehicles and pedestrian movement on adjoining ways and properties shall be considered during *site* design.

11. Whenever possible, display areas should be incorporated into the overall design of the *site*. Display areas shall not be in the *front yard setback*.

B. INTENSE VILLAGE CRITICAL AREA DESIGN ELEMENTS

1. New developments should be an extension of the overall village *development* pattern rather than stand in contrast to it.

2. New designs should consist of small, understandable neighborhood segments rather than a single, large suburban theme.

3. New developments should reflect the unordered, historical growth of the village and avoid the cookie-cutter sameness of many new residential subdivisions.

4. Any opportunities for a strong, central focus should be studied and developed. These central places are usually a key to establishing community identity.

5. The types of *open space* provided should be a reflection of how passive and active open spaces are now used in the village, whether they are adequate, and how they may be complemented.

6. Strong provisions should be made for walking as opposed to vehicular connections both within and outside of the new community.

7. *Street* widths and alignments should be carefully scaled to neighborhood size and be patterned after the character of existing residential *streets*.

8. The streetscape of new developments should be designed in detail to avoid repetitious *setbacks*, driveways, elevations, and landscaping.

9. New developments should carefully study and reflect the physical diversity of the existing village in regard to the mixture of housing types, mixture of housing styles, and mixture of *lot* sizes and shapes.

10. It is particularly important that new construction meet minimum design criteria in order for it to blend with the surroundings. New construction throughout the village should be compatible with the surrounding properties, in terms of formal characteristics such as height, massing, roof shapes and window proportions. When new construction is surrounded by existing historic *buildings*, building height and exterior materials shall be harmonious with those of adjacent properties.

C. INTENSE VILLAGE CRITICAL AREA SPECIFIC DESIGN STANDARDS

1. *Site* Access

Site access shall be subject to the following *regulations* to help ensure vehicle and pedestrian safety and alleviate congestion:

a. Where property abuts a *primary*, *secondary*, or *collector road*, access shall be by way of the *secondary* or *collector road*. Exceptions to this rule shall be instances where the *Planning Commission*, or where applicable the Planning Director, determines that direct access onto the *primary road* would promote traffic safety.

b. Where one or more contiguous parcels abutting a *primary road* are under single ownership and any one of the parcels abuts a *secondary road* or *collector road*, access to all of the parcels under single ownership shall be by way of the *secondary* or *collector road*. Exceptions to this rule shall be instances when the *Planning Commission*, or where applicable the Planning Director, determines that direct access onto the *primary road* would promote traffic safety.

c. Only one direct access approach onto a *primary road* from an individual parcel of record as of August 1, 1989 shall be permitted unless the *Planning Commission*, or where applicable the Planning Director, finds one of the following:

   i. The *Planning Commission* may, with approval of the State Highway Administration or Kent County Public Works Department, approve additional access if the additional access is deemed to be significantly beneficial to the safety and operation of the highway or if allowing only one access approach would be a safety hazard or increase traffic congestion.

   ii. The *Planning Commission* may approve access when the parcel is bisected by *steep slopes*, bodies of water, or other topographic features in such a manner as to render some portion of the property inaccessible without additional road access.

d. Where a proposed road is designated on an approved County or State map, *site plans* for *development* adjacent to the designated *roadway* shall include provisions for future access to the *roadway*.

e. Existing, planned, or platted *streets* on adjacent properties shall be continued when the *Planning Commission*, or where applicable the Planning Director, determines that the continuation is necessary for safe and reasonable circulation between the properties.

f. All new lots must abut upon and have access to a public road or approved *private road*.

g. When deemed necessary by the *Planning Commission*, or where applicable the Planning Director, developments shall provide access to adjacent tracts not presently developed.

h. Direct automobile links should be made to the existing village or town to emphasize the connections between new and existing *development*

i. Pedestrian and bicycle linkages to adjacent developments, recreational facilities, and other public or semi-public uses shall be provided whenever possible.

j. The design and construction of walkways and bicycle paths will be evaluated on the basis of safety, accessibility, and suitability for use by the motor-impaired individuals, and surface suitability in terms of anticipated use and maintenance requirements.

k. Access shall be consolidated whenever possible.

l. The applicant shall demonstrate that access to the project is adequate and the roads which will be impacted have the capacity to handle the traffic generated by the proposed project and will not endanger the safety of the general public.*

m. Whenever possible, *roads* shall be constructed above the elevation of the *100-year floodplain*.

2. Building Arrangement and *Site* Design

The purpose of imposing *regulations* governing building arrangement and *site* design is to help protect significant environmental and historic features, promote a sense of neighborhood and community identity and reduce the visual impact of high *density development* on the surrounding area.

a. Where existing *buildings* express a traditionally modest (pre-zoning) front *setback*, creating a characteristically close relationship with the *street* (as in village and town centers and along their approach *roads*), it is highly desirable to continue this pattern in order to retain the area's character. Therefore, the *setback* of new construction should harmonize with the average setbacks of existing *buildings*.

Outside the areas of generally uniform building *setbacks* (where existing *structures* are at various distances from the *roadway*), front *setbacks* may vary to a greater degree, and principal *buildings* shall generally be within 40 feet and no closer than 20 feet to the front line unless there are substantial counterbalancing considerations (such as irregular *topography*, *wetlands*, or the preservation of natural rural features, including pastures, crop land, meadows, or timber stands).

b. Where significant trees, groves, *waterways*, historic, archeological, or prehistoric *sites* or unique habitats are within the property boundaries of a proposed project, the Planning Commission, or where applicable the Planning Director, may require every possible means shall be provided to preserve these features. In addition to identifying existing *natural features* as per Article VI, Section 5 of this Ordinance, an inventory of existing *on-site* historic and archeological features may be required.

3. Parking Areas

a. Parking lots shall be located as much as possible to the rear of *buildings*. Locating parking lots between the front property line and the primary *building* is specifically prohibited.

b. *Sites* shall be designed to prevent awkward or dangerous vehicular flow.

c. Driveways in parking lots must be a minimum of 20 feet wide for two-way traffic and a minimum of 15 feet wide for one-way traffic.

d. A minimum of one handicap parking space shall be provided for every 25 spaces in a safe, convenient, and centralized location.

e. Whenever possible, parking lot design shall provide for connection to adjacent parcels where uses are compatible.

f. Marked walkways, separated from vehicular traffic shall be provided to the entrance of commercial establishments.

g. Parking areas with 80 spaces or more shall provide walkways running parallel to the parking rows every four rows and walkways running perpendicular to the parking rows every 20 spaces. Display areas are not considered parking areas. The *Planning Commission*, or where applicable the Planning Director, may reduce or waive this requirement.

h. Landscaping shall be provided according to the provisions in this Ordinance.

* Amended 11/14/06

4. Delivery Trucks and Trash Collection Vehicles
   a. *Loading* and *unloading spaces* for delivery trucks shall not block major pedestrian ways or create blind spots when trucks are loading and unloading.
   b. Trash boxes shall be accessible to collection trucks when all vehicle parking spaces are filled.

5. *Floodplain*
   a. In order to prevent excessive *flood* damage and to allow for the protection of the natural and beneficial *floodplain* functions, all *development*, *new construction*, and *substantial improvements* to existing *structures* in all *floodplain* zones shall comply with the requirements of Article VI, Section 7 of this Ordinance, including but not limited to the following:
      i. Elevation of all new or substantially improved *structures*;
      ii. Compliance with venting and other construction standards; and
      iii. Submission and recordation, where applicable, of *Elevation Certificates*, *Declaration of Land Restrictions*, deed restrictions, and venting affidavits.*
   b. Placement of *buildings* and materials. In general, *buildings* and *accessory structures* should be located entirely out of the *floodplain*, out of the *flood* protection setback, or on land that is least susceptible to flooding. All *structures* permitted in the *floodplain* shall be oriented so as to offer the least resistance to the flow of floodwaters.
   c. General *development* shall not occur in the *floodplain* where alternative locations exist. Before a permit is issued, the applicant shall demonstrate that new *structures* cannot be located out of the *floodplain* and that encroachments onto the *floodplain* are minimized.

6. Landscaping - General
   a. A minimum area of 15% of each new or redeveloped *site*, excluding *single family dwellings*, shall be landscaped. Landscaping within the parking areas and screening may be counted toward this requirement. The *Planning Commission*, or where applicable the Planning Director, may reduce or waive the landscape requirement when it is demonstrated that the spirit and intent of the requirement are accomplished through other means or the nature of the change does not require additional landscaping.
   b. The *front yard* shall be landscaped and maintained in a neat and attractive condition.
   c. Landscaping shall be maintained in a good condition with at least the same quality and quantity as initially approved.
   d. The *landscape plan* shall be prepared by a registered professional forester, landscape architect, or other professional with equivalent experience and qualifications.
   e. *Street* trees shall be included in each *subdivision*. *Street* trees may be clustered, evenly spaced, or when building envelopes are within 20 feet of the public road *right of way*, as *front yard* landscape trees. The number of trees shall be calculated as follows:
      i. Small trees (trees less than 25 feet in height at maturity) - 1 per 25 linear feet of *lot* or *open space*.
      ii. Medium and large trees (25 feet or taller at maturity) - 1 per 40 linear feet of *lot* or *open space*.

      Deciduous trees shall have at least a 2-3 inch *caliper* at 6 inches above grade. Coniferous trees shall be at least 5 to 6 feet in height.

7. Parking Area Landscaping
   a. At least 10% of all parking areas where more than ten parking spaces are provided shall be landscaped. This may be waived by the *Planning Commission* or where applicable the Planning Director. Perimeter screening does not count toward parking area landscaping.

* Amended 6/3/14

b. To avoid large expanses of paved parking areas, the following provisions, which may be waived by the *Planning Commission*, or where applicable the Planning Director, shall apply:
   i. A row shall not contain more than twelve 12 spaces without a landscaped *island* of at least the size of one parking space.
   ii. The ends of parking rows shall contain an *island* a minimum of six feet wide adequately landscaped with shade trees, ground cover, and shrubs.
   iii. Double rows of parking shall be separated by a minimum six-foot planting strip adequately landscaped with shade trees and shrubs.

8. Perimeter Landscaping and Screening
   a. Screening is required to protect adjoining properties and *roadways* from noise, glare, and uses which are visually incompatible with neighboring land uses. Screening is required:
      i. On *sites* which involve loading or unloading (including the storage of vehicles and boats), trash, or disposal areas and where accessory *buildings* and *structures* are adjacent to residential properties.
      ii. Where exterior storage areas are visible from *roadways*, sidewalks, or nearby residential properties.
      iii. When noise not typically occurring in residential areas is expected to project onto nearby properties.
      iv. To *screen* parking areas (not including display areas) from motorists, pedestrians, and adjoining residential properties.
      v. Where the commercial *site* abuts a residential district.
   b. Landscaped screens shall be designed to complement other landscaping occurring naturally on the *site*, planted previously, or approved as a part of a *site plan* review. Whenever possible, existing vegetation and landform shall be used to create screens.
   c. The *screen* shall be capable of providing year round screening.
   d. When noise is likely to be a factor, the *screen* shall be of sufficient construction to be an effective noise buffer.
   e. Screening shall consist of trees and plants, and may include masonry, or wooden fencing used with or without *berms*. Screening shall consist of a functional and well-designed combination of the following:
      i. Vegetative ground cover
      ii. Coniferous and deciduous shrubs
         a) Specimens of which will reach and maintain a minimum height of 5 feet of full vegetative growth.
         b) Plants which measure a minimum of 3 feet in height at the time of planting and are expected to attain a 5-foot height within 3 years.
      iii. Coniferous and deciduous trees - Species and sizes of which will be chosen to best accomplish an adequate *screen* (i.e. evergreens used for visual screening, deciduous trees for seasonal screening).
   f. Natural *slopes* and existing vegetation may be substituted for some or all of the requirements above, provided that these features serve to *screen* the area from adjoining properties and *roadways*. The *Planning Commission* or where applicable the Planning Director shall determine the acceptability of using existing *slopes* and vegetation for this purpose. The *Planning Commission* or where applicable the Planning Director may waive screening where it is physically impossible to accomplish.
   g. Screening and fencing shall be maintained in at least the same quality and quantity as initially approved.

9. Lighting
   a. Lighting shall not exceed eighteen feet in height unless mounted on the *building*. This may be waived by the *Planning Commission* or where applicable the Planning Director.
   b. Lighting on the *site* shall be designed to avoid glare onto adjacent properties and adjacent *roadways* and shall not interfere with traffic or create a safety hazard.
   c. Lighting on the *site* shall be sufficient to provide for the safety and security of the business, its employees, and its customers.
   d. Lighting shall be color corrected.

10. *Subdivision*
   a. Proposed *street* layout, blocks, and parcels shall be suitable in area and dimension for the type of *development* anticipated.
   b. The total area shall be sufficient to provide adequate space for *off-street parking*, loading, landscaping, and other facilities.
   c. All reasonable efforts should be made to protect adjacent residential areas from potential nuisances from commercial *subdivision* by providing adequate depth in parcels adjacent to residential zoning.
   d. The *lot* arrangement, design, and orientation shall be such that all lots will provide satisfactory building *sites*, properly related to *topography* and the character of surrounding *development*.
   e. Every *lot* shall abut upon and have access to a public road or approved *private road*.
   f. Lots adjoining *major thoroughfares* and railroad lines should be designed with extra depth and provision for an appropriate means of buffer or deeper building setbacks.
   g. Where land in a *subdivision* adjoins a railroad line, the *street* layout shall make allowance for future grade separated railroad crossings at appropriate locations by providing extra *street right of way* widths for such crossings and by restricting intersecting *streets* at locations where they would cause interference with necessary approaches to such crossings.
   h. Proposed *streets* in the *subdivision* shall provide for the continuation of existing, planned, or platted *streets* on adjacent tracts, unless such continuation shall be prevented by *topography* or other physical features or unless such extension is found by the *Planning Commission* to be unnecessary for the coordination of *development* between the *subdivision* and such adjacent tracts.
   i. Where the *Planning Commission* deems it desirable or necessary to provide access to adjacent tracts not presently subdivided, proposed *streets* in the *subdivision* shall be extended to the boundary lines with such tracts.
   j. Where the *subdivision* adjoins or embraces any part of a *major thoroughfare* as designated on the Kent County Major Thoroughfare Map, the layout of such *subdivision* shall provide for the platting and dedication of such part of the *major thoroughfare* in the location and at the width indicated on the *major thoroughfare* plan, except that the *subdivider* shall not be required to dedicate that part of such *major thoroughfare* that is in excess of eighty (80) feet in width.
   k. Where deemed desirable to the layout of the *subdivision* and adjoining area, the *Planning Commission* may require the platting and dedication of one or more *collector streets* or parts thereof, to serve the *subdivision*.
   l. Subdivisions shall be in full compliance with the provisions of this Ordinance.
   m. *Private roads* are permitted in minor subdivisions and are subject to the following conditions:
      i. Each road shall serve no more than seven parcels. In the event that an eighth parcel is created, the eighth parcel and all further divisions of land shall front on a public road.*

* Amended 10/16/12

ii. The *subdivision* shall provide a 50-foot *right of way* for each *private road*.

iii. The construction of all lanes and *private roads* shall adhere to the requirements established by the Kent County Department of Public Works and sediment control and *stormwater management regulations*.

iv. The deed and contract of sale of all lots in the *subdivision* shall state: "The road is private and not the responsibility of Kent County."

v. The plat shall identify all *private roads* and shall state: "The road is private and not the responsibility of Kent County"

11. Building Mass, Size, and Scale

a. New *development* is encouraged to follow the guidelines found in the pertinent village master plan. Building elevations will be required for new commercial and multi-family developments. The *Planning Commission*, or where applicable the Planning Director, may waive this requirement.

b. New *buildings* should not create large, bulky, masses but should be scaled down to into groupings of smaller attached *structures* and modules that reflect proportions similar to historic *buildings*. Methods used to create intervals that reflect and respect historic *structures* include but are not limited to the following:

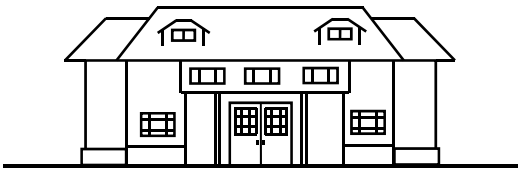
i. Facade modulation - stepping back or extending forward a portion of the facade.

ii. Repeating window patterns at established intervals

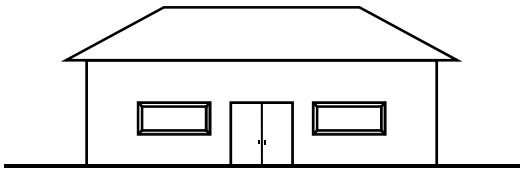
iii. Providing a balcony or bay window at established intervals

iv. Changing the roofline by alternating dormers, stepped roofs, gables, or other roof elements.

v. Use of landscaping and architectural detailing at the ground level.



Structure 1, Utilizes building massing



Structure 2, Does not utilize building massing

The above structures are the same height and width and are drawn to the same scale.

c. Building designs shall be encouraged to utilize traditional materials (brick or wood) and contemporary interpretations of earlier styles.

d. The design of new *buildings*, building additions, and *alterations*, and facade renovations should reflect the positive aspects of the existing design features of the County. *Buildings* should complement and improve the overall environment of the area.

e. Commercial *buildings* are encouraged to be arranged in varied clustered masses related closely to the road.

f. The proposed building orientation shall respect the orientation and scale of surrounding *buildings* and where deemed necessary by the *Planning Commission* serve as an orderly transition to a different scale.

g. All rooftop equipment shall be screened from public view by screening material of the same nature as the building's basic building materials.

h. To avoid monotonous linear *development*, multi-family *development* shall be in small clusters designed as neighborhood units. A cluster shall not include more than 30 units.

i. In multi-family *development*, the number of units in a row is to be limited to a maximum of eight.

j. *Offsets* at party walls and /or front and rear facades or similar devices are required to visually reduce building mass and create individualized spaces (*courtyards*, seating areas, etc.) for all multi-family projects. Drawings of the building elevations will be required. The *Planning Commission*, or where applicable the Planning Director, may waive this requirement.

SECTION 10 CROSSROADS COMMERCIAL DISTRICT

10.1 STATEMENT OF INTENT

The purpose of this district is to provide appropriate locations for a broad range of commercial activities such as retail, wholesale, and contracting activities serving the local community. These activities are primarily oriented to highway uses rather than central business locations. Crossroads Commercial districts are generally located at the intersection of major highways. Because these uses are located subject to public view, which is a concern of the whole community, they should provide an appropriate appearance, controlled traffic movement, ample landscaping, and protect adjacent properties from the traffic and visual impacts associated with the commercial use. It is the intent that a Crossroads Commercial District shall have a minimum *frontage* of 150 feet on a single *primary road*. Whenever possible, *frontage* of the district shall not exceed depth.

10.2 PERMITTED PRINCIPAL USES AND STRUCTURES

A *building* or land may be used only for the following purposes, in all cases subject to *site plan* review by the *Planning Commission*, or where applicable the Planning Director.

1. *Agriculture*, excluding the raising of livestock and fowl, including horticulture, hydroponics, and truck farming, general farming, cultivation of field crops, and raising of orchards, groves, and nurseries.

2. *Automobile repair*

3. *Automobile service station*s

4. Car wash provided the waste water is recycled

5. Circus or carnival, midways and amusement parks, temporary, for a period of time not to exceed one week per year

6. *Country inn*

7. Financial institutions

8. Fire and rescue squad stations

9. Home and business services such as grounds care, cleaning, exterminators, landscaping, and other repair and maintenance services

10. *Hotels* and *motels*

11. Machinery and equipment sales

12. Modular building sales not including the storage of modular *buildings*

13. Motor vehicle sales, service, and rental

14. *Personal wireless facilities* collocated on existing towers, water towers, electrical transmission towers, fire towers, silos, *grain dryers*, or other *structures* provided the height of the existing *structure* is not above that permitted by this Ordinance.

15. Public uses, *buildings* and utilities. Public *buildings* and uses include but are not limited to schools, offices, parks, playgrounds, and *roads* funded and owned and operated by the local, state, or federal agencies, but not including major sports facilities. *Public utilities* are water, sewer, electric, gas, oil, and communication facilities owned and operated by the Kent County Department of Water and Wastewater or other public utility. *Public utilities* include substations, poles, lines, transformers, pipes, meters, treatment facilities, pumping stations and appurtenances but not including transmission towers. Power plants and the like are not permitted.

16. Restaurant without drive through facilities

17. Retail businesses, supplying on the *premises*, household goods, new automotive parts, agricultural supplies and commodities, sporting goods, and the like, including department, outlet and discount stores provided:
    a. All retail sales and/or storage shall be conducted entirely within a *building* except where otherwise approved by the *Planning Commission*.
    b. The *building* size does not exceed 20,000 square feet.

18. Retail nurseries and greenhouses

19. Veterinary hospitals and offices

20. Wayside stands - vegetable and agricultural produce

10.3 SPECIAL EXCEPTIONS

The following principal uses and *structures* may be permitted as special exceptions in the Crossroads Commercial District, subject to *site plan* review by the *Planning Commission*, or where applicable the Planning Director. Detailed limitations and standards for these uses shall be found in Article VII of this Ordinance.

1. Attached retail businesses
2. Boat building and sales
3. *Cottage industries*, tradesmen and artisan shops
3.5 The manufacture, processing, and assembling of food products to include baked and confectioners' goods, frozen food processing, fruit and vegetable processing, canning and storage, or businesses of a similar nature, excluding animal and seafood processing. **
4. *Personal wireless facility tower*
5. Recreational facilities, privately or commercially owned, but not including major sports arenas for football, baseball, drag racing, motocross, or other major sports activities
6. *Single family dwellings*
6.5 *Solar energy systems, utility scale* *
7. Truck parking lot
8. *Wind energy systems, small*, with a height that exceeds 80 feet*

* Amended 9/6/11; ** Amended 4/3/18

10.4 ACCESSORY USES AND STRUCTURES

The following *accessory uses* and *structures* are permitted in the Crossroads Commercial District.

1. Storage of office supplies or merchandise normally carried in stock in connection with a permitted office, business, or commercial use, subject to the applicable district *regulations*

2. Accessory *apartments*

3. Accessory truck parking

4. *Accessory structures* and uses customarily associated with permitted uses

5. Appurtenant *signs* in accordance with Article V, Section 2 of this Ordinance

5.5 School buses, limited to three, parked in the *rear* or *side yard* provided the buses are owned or operated by the property owner, have current licenses, and are operable **

6. *Solar energy systems, small*, provided:*
   a. Tree removal shall be minimized and any removal shall be mitigated at a ratio or one tree planted for each tree removed.
   b. All solar collection devices shall register with the Department of Emergency Services and shall submit a map noting the location of the solar collection devices and the panel disconnect.
   c. The total height of solar collection systems shall comply with the height requirements.

7. Temporary *MET Tower* of any height provided:*
   a. The tower is erected for no more than 12 months.
   b. Any free standing *structure* is located a minimum of 3 times its total height from a property line.
   c. Towers are not readily climbable from the ground up to 12 feet.

8. *Wind energy systems, small*, limited to one tower provided:*
   a. The height of the *structure* to the tip of the blade at its highest point does not exceed 80 feet.
   b. Any system is located a minimum of 3 times its total height from a property line.
   c. Towers are not readily climbable from the ground up to 12 feet.
   d. All access doors to towers and electrical equipment shall be lockable.
   e. Appropriate warning signage is placed on the tower and electrical equipment.
   f. The blade tip at its lowest point had a ground clearance of at least 25 feet.
   g. Wind turbines and towers maintain a galvanized steel, brushed aluminum finish, or a non-garish color.
   h. Any small wind energy system that is not operational for a period of 12 consecutive months or more shall be removed at the landowner's expense.

* Amended 9/6/11; ** Amended 4/3/18

10.5 DENSITY, AREA, HEIGHT, WIDTH, AND YARD REQUIREMENTS

Minimum *lot* size	NA
Minimum *frontage*	
- Public road	100 feet
Minimum *yard*	
- *Front*	50 feet
- *Side* & *Rear yard*	50 feet with buffering from adjoining AZD, RCD, RC, RR, CAR, CR, V, IV, & IVCA 30 feet from CC, C, CCA, M, EC, I, ICA-LDA, & ICA which may be reduced to 0 if emergency and maintenance vehicle access are acceptably addressed and if the adjoining property is a compatible use
- Waterfront	100 feet
Height [1]	
- Commercial *structure*	45 feet
- Residential *structure*	38 feet
- Fence [2]	
- Security	8 feet
- Ornamental	
Front and *side yard*	4 feet
Rear yard	8 feet

[1] Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

[2] Fences do not need to meet yard requirements.

10.6 CROSSROADS COMMERCIAL GENERAL STANDARDS

1. The reuse of existing *buildings* is encouraged.

2. Public water and sewer systems may be required by the *Planning Commission* in a Crossroads Commercial District.

3. The Department of Planning and Zoning shall approve *street* names. A name may not be approved if it duplicates or is too similar to the name of another road in the county or incorporated towns.

4. *Signs* in the Crossroads Commercial area shall be permitted in accordance with the *regulations* contained in Article VI, Section 2.

5. Minimum *off-street parking* and *loading spaces* shall be required of each use in a Crossroads Commercial District in accordance with the *regulations* contained in Article VI, Section 1 of this Ordinance.

10.7 CROSSROADS COMMERCIAL ENVIRONMENTAL STANDARDS

The purpose of these standards is to provide for the proper stewardship of the County's natural resources. Specifically it is the overall goal of the county to maintain the quality of the County's *ecosystem* in the face of continuing activity, growth and change.

A. CROSSROADS COMMERCIAL GENERAL ENVIRONMENTAL STANDARDS

1. *Development* shall minimize *adverse impacts* to *non-tidal* or *tidal wetlands*, estuaries, the Chesapeake Bay, *tributary streams*, and the natural and *riparian habitat* of these streams, habitat protection areas, or other significant habitat identified by the Department of Planning and Zoning.

2. *Development* shall minimize the effects of runoff on the existing volume of water or quality of any water body. Urban *best management practices* shall be used.

3. Whenever possible, land subject to periodic flooding, shall not be developed for any use that might involve danger to health, life, or property or aggravate floods.

B. CROSSROADS COMMERCIAL SPECIFIC ENVIRONMENTAL STANDARDS

1. *Agriculture*
   No new agricultural land shall be created by:
   a. *Clearing* of an area of *forest* or woodland greater than 40,000 square feet in a one-year period without filing a *Forest Conservation Plan*. An agricultural *Declaration of Intent* shall be filed with the Kent County Department of Planning and Zoning.
   b. *Clearing* of existing *natural vegetation* within the *stream protection corridor*.

2. *Anadromous fish*

a. Concrete riprap or other artificial surface shall not be installed on the bottom of natural streams unless it can be demonstrated that water quality and fishery habitat will be improved.

b. Physical alteration of a stream, including but not limited to channelization, that interferes with the movement of fish shall be prohibited.

3. *Forest Conservation*

This section applies to all *major* and *minor site plans* on units of land 40,000 square feet or greater; major and minor subdivisions; and *grading* and *sediment control permits* that result in the cumulative cutting, *clearing*, or *grading* of more than 40,000 square feet of *forest*. A forest *Declaration of Intent* is required for activities specifically exempted in Article VI, Section 8.2 of this Ordinance.

a. A parcel with less than 20% of its *net tract area* in *forest cover* shall be afforested to 20% of its *net tract area*.

b. A parcel with less than 20% of its *net tract area* in *forest* may be cut or cleared provided:

i. The *afforestation* required to achieve the 20% *afforestation* level is determined prior to any *clearing* of *forest*.

ii. The *afforestation* area consists of two (2) times the total surface area cleared and the area needed to achieve the 20% *afforestation* level before *clearing* occurred. For example, the *afforestation* area for a project with a *net tract area* of one hundred acres with ten (10) acres of existing *forest* of which five (5) will be cleared is acres twenty (20) acres - ten (10) acres to achieve the required *afforestation* level and ten (10) acres to replace the *forest* cleared.

c. A parcel with more than 50% of its *net tract area* in *forest* may be cut or cleared provided *reforestation* occurs at a rate of one-quarter (1/4) acre planted for each acre removed above 50% of the *net tract area* or at a rate of two (2) acres planted for every acre removed below 50% of the *net tract area*. *Forest* retained over 50% of the *net tract area* is credited toward the required *reforestation*. For example, a project with a *net tract area* of one hundred (100) acres and an existing *forest* of sixty (60) acres of which twenty (20) acres will be cleared requires a *reforestation* area of 22.5 acres.

d. The following trees, shrubs, plants, and specific areas are considered a priority for *retention* and protection and shall be left in an undisturbed condition unless the applicant demonstrates, to the satisfaction of the Department of Planning and Zoning, that reasonable efforts have been made to protect them and the plan cannot be reasonably altered.

i. Trees, shrubs, and plants in sensitive areas including the *non-tidal 100-year floodplain*, *intermittent* and *perennial stream protection corridors*, *steep slopes*, *non-tidal wetlands*, and critical habitats.

ii. Contiguous *forest* that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the *site*.

iii. Trees, shrubs, and plants that are determined to be rare, threatened, or *endangered species* or *species in need of conservation*.

iv. Trees that are associated with an historic *structure* or *site*, or trees that have been designated by the state or county as a national, state, or county *champion tree*.

v. Any *tree* having a diameter, measured at 4.5 feet above the ground, of:

a) Thirty inches or more; or

b) Seventy-five (75%) or more of the diameter, measured at 4.5 feet above the ground, of the current State *Champion tree* of that species as designated by the Department of Natural Resources.

e. The required *reforestation* or *afforestation* may be accomplished *on-site*, *off-site*, by contributing to a *forest* bank in the same *watershed* or by contributing to the Kent County Reforestation Fund. The preferred method of *afforestation* or *reforestation* is *off-site* or *forest* banking.

f. Whenever possible and appropriate, *afforestation* and *reforestation* shall include native species.

4. *Natural heritage areas* and locations considered for Areas of Critical State Concern
These areas of local significance shall be preserved whenever possible. These areas are identified in Article VI, Section 3.8 of this Ordinance.

5. *Non-tidal wetlands*
Non-tidal wetlands shall be protected according to the *regulations* of the State of Maryland, Army Corps of Engineers, United States Fish and Wildlife Service, Environmental Protection Agency, and all other applicable State and Federal *Regulations*.

6. *Stream Protection Corridor*
All new *development* or *redevelopment* shall provide a 100-foot naturally vegetated *stream protection corridor* along all *tributary streams*. New *development activities*, including *structures*, parking areas, *structures*, septic systems, and similar *impervious surfaces* shall not be permitted in the *stream protection corridor*. *Roads* that cross the *stream protection corridor* shall be minimized. The *Planning Commission* may modify the *stream protection corridor* when the following can be demonstrated:

a. A reduced corridor achieves significant water quality and habitat improvements equal to the required corridor.

b. More than 50% of the corridor is impervious or more than 75% of the corridor is disturbed with stone, septic systems, decks, or other obvious human impacts.

c. The *site* shall include all contiguous parcels under single ownership.

7. *Stormwater Management*
No *person* shall develop any land for residential, commercial, industrial, or institutional uses or redevelop land without having provided for appropriate *stormwater management* measures that control or manage runoff from such developments except as provided in Article VI, Section 10 of this Ordinance. *Stormwater Management* shall be accomplished for all new *development* or *redevelopment* in accordance with the provisions of Article VI, Section 10 of this Ordinance.

8. Threatened and Endangered Species and Species in Need of Conservation
Threatened and *endangered species* and *species in need of conservation* shall be checked and noted by the applicant before any approvals are granted by the Planning Director, *Planning Commission*, or Zoning Administrator. The Federal or State guidelines (whichever is stricter) for habitat protection must be followed during *development*. Plans shall also include provisions for continuance of the habitat protection after *development*. This can include *conservation easements*, cooperative agreements, special provisions in *forest management plans*, and donation or sale to a third party.

9. Water Quality
All new *development* or *redevelopment* shall reduce the pollutant loadings by at least 10%. Pollutant loadings will be calculated in the manner developed by the Metropolitan Washington Council of Governments using phosphorous as the keystone element or in a manner acceptable to the Planning Director or the Planning Director's designee. When *on-site* compliance is not possible, *offsets* may be substituted.

10.8 CROSSROADS COMMERCIAL DESIGN STANDARDS

The purpose of these standards is to give a sense of the physical aspects of the County's environment to those contemplating new *development* in the community. Pertinent to this physical appearance is the design of the *site*, *buildings* and *structures*, plantings, *signs*, *street* hardware, and miscellaneous other objects observed by the public.

These standards are not intended to restrict imagination, innovation, or variety, but rather assist in focusing on design principles which can produce creative solutions that will develop a satisfactory visual appearance within the County, preserve taxable values, and promote the public health, safety, and welfare.

A. CROSSROADS COMMERCIAL GENERAL DESIGN STANDARDS

1. The landscape shall be preserved in its natural state, in so far as possible, by minimizing *tree* and *soil* removal. Any grade changes shall be in keeping with the general appearance of neighboring development areas. *Buildings* are encouraged to be located so as to maintain maximum natural *topography* and cover. Whenever possible, *development* shall be located outside of the *floodplain*.

2. *Streets* shall be designed and located in a manner so as to maintain and preserve natural *topography*, cover, significant landmarks and trees; to minimize *cut* and *fill*; and to preserve and enhance views and vistas on and off the subject parcel.

3. Proposed *development* shall be related harmoniously to the terrain and to the use and scale of existing *buildings* in the vicinity that have functional or visual relationships to the proposed *buildings*. *Development* shall be designed to provide safe, comfortable places where people can visit, meet, shop, and rest without conflicting with other *street* uses.

4. All *open space* (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the *site* or overlooking it from nearby properties.

5. Whenever possible, adverse effects on historic, traditional, or significant uses and *structures* shall be minimized, whether these exist on the *site* or on adjacent properties.

6. Varied building massing is encouraged to enhance the community's sense of place.

7. Commercial establishments, offices, and financial institutions emphasize personal service as their primary products. These *structures* should reflect personal service by their architectural design which is at a human scale at entries and interior spaces. Building components such as windows, wood doors, and decorative trim should emphasize the human scale in coordination with each other and the building scale.

8. Each unit of *development*, and the total *development*, shall create an environment of desirability and stability. Commercial establishments are encouraged to limit the visual impression of height by the use of roof treatment, and varying the plane of exterior walls.

9. Parking lot design shall reflect the fact that once people step out their cars, they become pedestrians. Parking lots shall be designed not only to facilitate efficient vehicle circulation but to also permit smooth pedestrian circulation.

10. Provision for safe, efficient bicycle circulation and parking should be included in the overall design of the parking lot.

11. Whenever possible, display areas should be incorporated into the overall design of the *site*. Display areas shall not be in the *front yard setback*.

B. CROSSROADS COMMERCIAL SPECIFIC DESIGN STANDARDS

1. *Site* Access

Site access shall be subject to the following *regulations* to help ensure vehicle and pedestrian safety and alleviate congestion:

a. Where property abuts a *primary*, *secondary*, or *collector road*, access shall be by way of the *secondary* or *collector road*. Exceptions to this rule shall be instances where the *Planning Commission*, or where applicable the Planning Director, determines that direct access onto the *primary road* would promote traffic safety.

b. Where one or more contiguous parcels abutting a *primary road* are under single ownership and any one of the parcels abuts a *secondary road* or *collector road*, access to all of the parcels under single ownership shall be by way of the *secondary* or *collector road*. Exceptions to this rule shall be instances when the *Planning Commission*, or where applicable the Planning Director, determines that direct access onto the *primary road* would promote traffic safety.

c. Only one direct access approach onto a *primary road* from an individual parcel of record as of August 1, 1989 shall be permitted unless the *Planning Commission*, or where applicable the Planning Director, finds one of the following:

i. The *Planning Commission* may, with approval of the State Highway Administration or Kent County Public Works Department, approve additional access if the additional access is deemed to be significantly beneficial to the safety and operation of the highway or if allowing only one access approach would be a safety hazard or increase traffic congestion.

ii. The *Planning Commission* may approve access when the parcel is bisected by *steep slopes*, bodies of water, or other topographic features in such a manner as to render some portion of the property inaccessible without additional road access.

d. Where a proposed road is designated on an approved County or State map, *site plans* for *development* adjacent to the designated *roadway* shall include provisions for future access to the *roadway*.

e. Existing, planned, or platted *streets* on adjacent properties shall be continued when the *Planning Commission*, or where applicable the Planning Director, determines that the continuation is necessary for safe and reasonable circulation between the properties.

f. When deemed necessary by the *Planning Commission*, or where applicable the Planning Director, developments shall provide access to adjacent tracts not presently developed.

g. Pedestrian and bicycle linkages to adjacent developments shall be provided whenever possible.

h. Access shall be consolidated whenever possible.

i. Whenever possible, *roads* shall be constructed above the elevation of the *100-year floodplain*.

j. The applicant shall demonstrate that access to the project is adequate and the roads which will be impacted have the capacity to handle the traffic generated by the proposed project and will not endanger the safety of the general public.*

* Amended 11/14/06

2. Parking Areas
   a. Parking lots shall be located as much as possible to the rear of *buildings*. Locating parking lots in the *front yard* is specifically prohibited.
   b. *Sites* shall be designed to prevent awkward or dangerous vehicular flow.
   c. Driveways in parking lots must be a minimum of 20 feet wide for two-way traffic and 15 feet wide for one-way traffic.
   d. A minimum of one handicap parking space for every 25 spaces in a safe, convenient, and centralized location.
   e. Whenever possible, parking lot design shall provide for connection to adjacent parcels where uses are compatible.
   f. Marked walkways separated from vehicular traffic shall be provided to the entrance of establishments. Parking areas with 80 spaces or more shall include walkways running parallel to the parking rows every four rows and walkways running perpendicular to the parking rows every 20 spaces. Display areas approved by the *Planning Commission*, or where applicable the Planning Director shall not be included in the tabulation of parking spaces. The *Planning Commission* may waive this requirement.
   g. Landscaping shall be provided according to the provisions in this Ordinance.

3. Delivery Trucks and Trash Collection Vehicles
   a. *Loading* and *unloading spaces* for delivery trucks shall not block major pedestrian ways or create blind spots when trucks are loading and unloading.
   b. Trash boxes shall be accessible to collection trucks when all vehicle parking spaces are filled.

4. *Floodplain*
   a. In order to prevent excessive *flood* damage and to allow for the protection of the natural and beneficial *floodplain* functions, all *development*, *new construction*, and *substantial improvements* to existing *structures* in all *floodplain* zones shall comply with the requirements of Article VI, Section 7 of this Ordinance, including but not limited to the following:
      i. Elevation of all new or substantially improved *structures*;
      ii. Compliance with venting and other construction standards; and
      iii. Submission and recordation, where applicable, of *Elevation Certificates*, *Declaration of Land Restrictions*, deed restrictions, and venting affidavits.*
   b. Placement of *buildings* and materials. In general, *buildings* and *accessory structures* should be located entirely out of the *floodplain*, out of the *flood* protection setback, or on land that is least susceptible to flooding. All *structures* permitted in the *floodplain* shall be oriented so as to offer the least resistance to the flow of floodwaters.
   c. General *development* shall not occur in the *floodplain* where alternative locations exist. Before a permit is issued, the applicant shall demonstrate that new *structures* cannot be located out of the *floodplain* and that encroachments onto the *floodplain* are minimized.

* Amended 6/3/14

5. Landscaping - General
   a. A minimum area of 15% of each new or redeveloped *site* shall be landscaped. Landscaping within the parking areas and screening may be counted toward this requirement.
   b. The *front yard* shall be landscaped and maintained in a neat and attractive condition.
   c. Landscaping shall be maintained in a good condition with at least the same quality and quantity as initially approved.
   d. The *landscape plan* shall be prepared by a registered professional forester, landscape architect, or other professional with equivalent experience and qualifications.
   e. The *Planning Commission*, or where applicable the Planning Director, may reduce or waive the landscape requirement when it is demonstrated that the spirit and intent of the requirement are accomplished through other means or the nature of the change does not require additional landscaping.

6. Parking Area Landscaping
   a. At least 10% of all parking areas where more than ten parking spaces are provided shall be landscaped. Perimeter screening does not count toward parking area landscaping. This may be waived by the *Planning Commission* or where applicable the Planning Director.
   b. In parking areas of 80 spaces or more to avoid large expanses of paved parking areas, the following provisions, which may be waived by the *Planning Commission*, or where applicable the Planning Director, shall apply:
      i. A row shall not contain more than twelve 12 spaces without a landscaped *island* of at least the size of one parking space.
      ii. The ends of parking rows shall contain an *island* a minimum of six feet wide adequately landscaped with shade trees, ground cover, and shrubs.
      iii. Double rows of parking shall be separated by a minimum six-foot planting strip adequately landscaped with shade trees and shrubs.

7. Perimeter Landscaping and Screening
   a. Screening is required to protect adjoining properties and *roadways* from noise, glare, and uses which are visually incompatible with neighboring land uses. Screening is required:
      i. On *sites* which involve loading or unloading (including the storage of vehicles and boats), trash, or disposal areas and where accessory *buildings* and *structures* are adjacent to residential properties.
      ii. Where exterior storage areas are visible from *roadways*, sidewalks, or nearby residential properties
      iii. When noise not typically occurring in residential areas is expected to project onto nearby properties.
      iv. To *screen* parking areas, but not approved display areas, from motorists, pedestrians, and adjoining residential properties.
      v. Where the commercial *site* abuts a residential district
   b. Landscaped screens shall be designed to complement other landscaping occurring naturally on the *site*, planted previously, or approved as a part of a *site plan* review. Whenever possible, existing vegetation and landform shall be used to create screens.
   c. The *screen* shall be capable of providing year round screening.
   d. When noise is likely to be a factor, the *screen* shall be of sufficient construction to be an effective noise buffer.

e. Screening shall consist of trees and plants, and may include masonry, or wooden fencing used with or without *berms*. Screening shall consist of a functional and well-designed combination of the following:
   i. Vegetative ground cover
   ii. Coniferous and deciduous shrubs
      a) Specimens which will reach and maintain a minimum height of 5 feet of full vegetative growth
      b) Plants which measure a minimum of 3 feet in height at the time of planting and are expected to attain a 5-foot height within 3 years.
   iii. Coniferous and deciduous trees
      Species and sizes of which will be chosen to best accomplish an adequate *screen* (i.e., evergreens used for visual screening, deciduous trees for seasonal screening).

f. Natural *slopes* and existing vegetation may be substituted for some or all of the requirements above, provided that these features serve to *screen* the area from adjoining properties and *roadways*. The *Planning Commission*, or where applicable the Planning Director shall determine the acceptability of using existing *slopes* and vegetation for this purpose. The *Planning Commission*, or where applicable the Planning Director may waive screening where it is physically impossible to accomplish.

g. Screening and fencing shall be maintained in a good condition with at least the same quality and quantity as initially approved.

9. Lighting
   a. Lighting shall be designed at the human scale and shall not exceed eighteen feet in height. This does not apply to lighting mounted on *buildings*. The *Planning Commission*, or where applicable the Planning Director, may waive the height limitation.
   b. Lighting on the *site* shall be designed to avoid glare onto adjacent properties and adjacent *roadways* and shall not interfere with traffic or create a safety hazard.
   c. Lighting on the *site* shall be sufficient to provide for the safety and security of the business, its employees, and its customers.
   d. Lighting shall be color corrected.

9. *Subdivision*
   a. All reasonable efforts should be made to protect adjacent residential areas from potential nuisances from commercial *subdivision* by providing adequate residential depth in parcels adjacent to residential zoning.
   b. Proposed *street* layout, blocks, and parcels shall be suitable in area and dimension for the type of *development* anticipated.
   c. The total area shall be sufficient to provide adequate space for *off-street parking*, loading, landscaping, and other facilities.
   d. The *lot* arrangement, design, and orientation shall be such that all lots will provide satisfactory building *sites*, properly related to *topography* and the character of surrounding *development*.
   e. Every *lot* shall abut upon and have access to a public road or approved *private road*.
   f. Lots adjoining *major thoroughfares* and railroad lines should be designed with extra depth and provision for an appropriate means of buffer or deeper building setbacks.
   g. Where land in a *subdivision* adjoins a railroad line, the *street* layout shall make allowance for future grade separated railroad crossings at appropriate locations by providing extra *street right of way* widths for such crossings and by restricting intersecting *streets* at locations where they would cause interference with necessary approaches to such crossings.

h. Proposed *streets* in the *subdivision* shall provide for the continuation of existing, planned, or platted *streets* on adjacent tracts, unless such continuation shall be prevented by *topography* or other physical feature or unless such extension is found by the *Planning Commission* to be unnecessary for the coordination of *development* between the *subdivision* and such adjacent *tract*.

i. Where the *Planning Commission* deems it desirable or necessary to provide access to adjacent tracts not presently subdivided, proposed *streets* in the *subdivision* shall be extended to the boundary lines with such tracts.

j. Where the *subdivision* adjoins or embraces any part of a *major thoroughfare* as designated on the Kent County Major Thoroughfare Map. The layout of such *subdivision* shall provide for the platting and dedication of such part of the *major thoroughfare* in the location and at the width indicated on the *major thoroughfare* plan, except that the *subdivider* shall not be required to dedicate that part of such *major thoroughfare* that is in excess of eighty (80) feet in width.

k. Where deemed desirable to the layout of the *subdivision* and adjoining area, the *Planning Commission* may require the platting and dedication of one or more *collector streets* or parts thereof, to serve the *subdivision*.

l. Subdivisions shall be in full compliance with the provisions of this Ordinance.

m. *Private roads* are permitted in minor subdivisions and are subject to the following conditions:

i. Each road shall serve no more than seven parcels. In the event that an eighth parcel is created, the eighth parcel and all further divisions of land shall front on a public road.*

ii. The *subdivision* shall provide a 50-foot *right of way* for each *private road*.

iii. The construction of all lanes and *private roads* shall adhere to the requirements established by the Kent County Department of Public Works and sediment control and *stormwater management regulations*.

iv. The deed and contract of sale of all lots in the *subdivision* shall state: "The road is private and not the responsibility of Kent County."

v. The plat shall identify all *private roads* and shall state: "The road is private and not the responsibility of Kent County."

10. Building Mass, Size, and Scale

a. New *buildings* should not create large, bulky, masses but should be scaled down to into groupings of smaller attached *structures* and modules that reflect proportions similar to historic *buildings*. Methods used to create intervals that reflect and respect historic *structures* include but are not limited to the following:

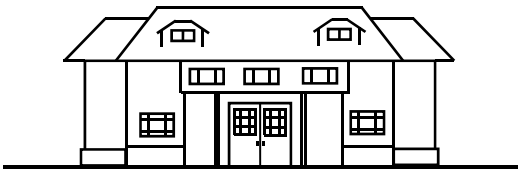
i. Facade modulation - stepping back or extending forward a portion of the facade.

ii. Repeating window patterns at established intervals

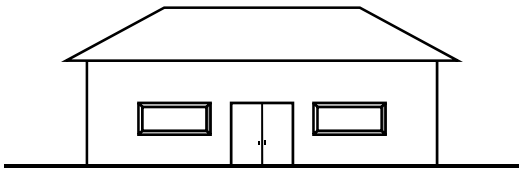
iii. Providing a balcony or bay window at established intervals

iv. Changing the roofline by alternating dormers, stepped roofs, gables, or other roof elements.

v. Use of landscaping and architectural detailing at the ground level.



Structure 1, Utilizes building massing



Structure 2, Does not utilize building massing

The above structures are the same height and width and are drawn to the same scale.

* Amended 10/16/12

b. Building designs shall be encouraged to utilize traditional materials (brick or wood) and contemporary interpretations of earlier styles.

c. The design of new *buildings*, building additions, and *alterations*, and facade renovations should reflect the positive aspects of the existing design features of the County. *Buildings* should complement and improve the overall environment of the area.

d. The proposed building orientation shall respect the orientation and scale of surrounding *buildings* and where deemed necessary by the *Planning Commission* serve as an orderly transition to a different scale.

e. All rooftop equipment shall be screened from public view by screening material of the same nature as the building's basic building materials.

f. Commercial *buildings* are encouraged to be arranged in varied clustered masses related closely to the road

g. Arches, porches, arcades, overhangs, full roofs, and varying facade setbacks are encouraged on *buildings* in this district.

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SECTION 11 COMMERCIAL DISTRICT

11.1 STATEMENT OF INTENT

The purpose of this district is to accommodate commercial and service activities that are not normally located in central business concentrations. These uses are primarily oriented to highway locations and include services and destination retail. Consequently, the district is located along major arterial highways. It is further intended that this District shall be for the purpose of limiting sprawling *development* by providing *sites* with adequate *frontage* and depth to permit controlled access to public *streets*. Because these uses are subject to public view, which is of concern to the whole community, they should provide an appropriate appearance, controlled traffic movement, ample landscaping, and protect adjacent properties from the traffic and visual impacts associated with the commercial activity. It is the intent that a Commercial District shall have a minimum *frontage* of 150 feet on a single *primary road*. Whenever possible, *frontage* of the district shall not exceed depth.

11.2 PERMITTED PRINCIPAL USES AND STRUCTURES

A *building* or land shall be used only for the following purposes, in all cases subject to *site plan* review by the *Planning Commission* or where applicable the Planning Director.

1. *Agriculture*, excluding the raising of livestock and fowl, including horticulture, hydroponics, and truck farming, general farming, cultivation of field crops, and raising of orchards, groves, and nurseries.

2. Building material sales

3. Circus or carnival, midways and amusement parks, temporary, for a period of time not to exceed one week per year

4. Financial Institutions

5. *Hotels* and *motels*

6. Mini storage facilities

7. Machinery and equipment sales, service, and rental

8. Motor vehicle sales, service, and rental

9. *Personal wireless facilities* collocated on existing towers, water towers, electrical transmission towers, fire towers, silos, *grain dryers*, or other *structures* provided the height of the existing *structure* is not above that permitted by this Ordinance.

10. Public uses, *buildings* and utilities. Public *buildings* and uses include, but are not limited to, schools, offices, parks, playgrounds, and *roads*, but not including major sports facilities, funded, owned and operated by local, state, or federal agencies. *Public utilities* are water, sewer, electric, gas, oil and communication facilities owned and operated by the Kent County Department of Water and Wastewater or other public utility. *Public utilities* include substations, poles, lines, transformers, pipes, meters, treatment facilities, pumping stations and appurtenances but not transmission towers. Power plants and the like are not permitted.

11. *Restaurants* without drive through facilities

12. Retail businesses, supplying on the *premises*, household goods, new automotive parts, agricultural supplies and commodities, sporting goods, and the like, including department, outlet and discount stores provided:
    a. All retail sales and/or storage shall be conducted entirely within a *building* except where otherwise approved by the *Planning Commission*.
    b. The retail business does not exceed 60,000 square feet of gross *floor area*. The restriction on gross *floor area* does not apply to the Commercial District in the Route 301 corridor.

13. In the US Route 301 Corridor, the manufacture, processing, fabrication, and assembly of products. These uses include, but are not limited to, scientific and precision instruments, photographic equipment, communications equipment, computation equipment, drugs, medicines, pharmaceuticals, household appliances, toys, sporting and athletic goods, glass products made of purchased glass, electric lighting and wiring equipment, service industry machines, lithographic and printing processes, industrial controls, radio and TV receiving sets, watches and clocks, bags and containers, sanitary paper products, optical goods, electrical machinery, prefabricated and modular housing and components, dairy product feed and grain, baked and confectioners' goods, farm machinery, frozen food processing, packing plants, animal and seafood processing, fruit and vegetable processing, canning and storage, recyclable materials processing as defined in the Code of Kent County Public Laws (Article 148-2) or companies of a similar nature provided:*
    a. That in reviewing the site plan and determining the suitability of the proposed business, the Planning Commission or, where applicable, the Planning Director must find all of the following:
        i. Existing or planned public facilities are adequate to handle the usage generated by the business. The use does not require improvements to public facilities detrimental to the character of the area.
        ii. The proposed use does not create an unacceptable impact on the surrounding area by way of noise, odor, noxious materials, or other nuisances. The *Planning Commission* may require a Certified Engineer's Report describing the proposed operation, all machines, processes, products and by-products, stating the nature and expected levels of emissions or discharge to land, air, water or liquid, solid, or gaseous effluent and electrical impulses, vibrations and noise under normal operations and the specifications or treatment methods and mechanisms to be used to control such emissions or discharge.
        iii. The health, safety, and welfare or employees and residents of the neighborhood will be protected.
    b. In so far as possible, all uses shall be conducted within a completely enclosed structure or be completely screened. Outdoor storage of materials and unfinished products is prohibited unless otherwise approved by the *Planning Commission* or, where applicable, the Planning Director and subject to such conditions as may be determined by the *Planning Commission* or, where applicable, the Planning Director.

14. Distribution centers and warehousing. In reviewing the site plan, the *Planning Commission* or, where applicable, the Planning Director shall make findings on the following:*
    a. The impact of the proposed business or industry on existing or planned public facilities.
    b. The impact of the operation of the facility on the surrounding area.
    c. The health, safety, and welfare of employees and residents of the neighborhood.
    d. In so far as possible, all uses shall be conducted entirely within a completely enclosed structure or be completely screened. Outdoor storage of materials and unfinished products is prohibited unless otherwise approved by the *Planning Commission* and subject to such conditions as may be determined by the *Planning Commission*.

15. *Microbrewery* as defined by the State of Maryland**

* Amended 10/16/12; ** Amended 9/3/13

11.3 SPECIAL EXCEPTIONS

The following principal uses and *structures* may be permitted as special exceptions in the Commercial District, subject to *site plan* review by the *Planning Commission*, or where applicable the Planning Director. Detailed limitations and standards for these uses shall be found in Article VII of this Ordinance.

1. Boat building and sales
2. *Cottage industries*, tradesmen and artisan shops
3. *Personal wireless facility tower*
4. Radio and television tower, commercial
5. Recreational facilities, privately or commercially owned, but not including major sports arenas for football, baseball, drag racing, motocross, or other major sports activities
6. Retail businesses, supplying on the *premises*, household goods, new automotive parts, agricultural supplies and commodities, sporting goods, and the like, including department, outlet and discount stores with a gross *floor area* that exceeds 60,000 square feet.

6.5 School bus parking lot **

7. *Single family dwellings*
8. *Shopping centers*

8.5 *Solar energy systems, utility scale**

9. Truck parking lot
10. *Truck terminals*
11. *Truck stops*
12. *Wind energy systems, small,* with a height that exceeds 80 feet*

11.4 ACCESSORY USES AND STRUCTURES

The following *accessory uses* and *structures* are permitted in the Commercial District

1. Storage of office supplies or merchandise normally carried in stock in connection with a permitted office, business, or commercial use, subject to the applicable district *regulations*.

2. Accessory *apartments*

3. Accessory truck parking

4. *Accessory uses* and *structures* normally associated with a permitted use

5. Appurtenant *signs* in accordance with Article VI, Section 2 of this Ordinance

5.5 School buses, limited to three, parked in the *rear* or *side yard* provided the buses are owned or operated by the property owner, have current licenses, and are operable **

6. *Solar energy systems, small*, provided:*
   a. Tree removal shall be minimized and any removal shall be mitigated at a ratio or one tree planted for each tree removed.
   b. All solar collection devices shall register with the Department of Emergency Services and shall submit a map noting the location of the solar collection devices and the panel disconnect.
   c. The total height of solar collection systems shall comply with the height requirements.

* Amended 9/6/11; ** Amended 4/3/18

7. Temporary *MET Tower* of any height provided:*
   a. The tower is erected for no more than 12 months.
   b. Any free standing *structure* is located a minimum of 3 times its total height from a property line.
   c. Towers are not readily climbable from the ground up to 12 feet.

8. *Wind energy systems, small*, limited to one tower provided:*
   a. The height of the *structure* to the tip of the blade at its highest point does not exceed 80 feet.
   b. Any system is located a minimum of 3 times its total height from a property line.
   c. Towers are not readily climbable from the ground up to 12 feet.
   d. All access doors to towers and electrical equipment shall be lockable.
   e. Appropriate warning signage is placed on the tower and electrical equipment.
   f. The blade tip at its lowest point had a ground clearance of at least 25 feet.
   g. Wind turbines and towers maintain a galvanized steel, brushed aluminum finish, or a non-garish color.
   h. Any small wind energy system that is not operational for a period of 12 consecutive months or more shall be removed at the landowner's expense.

11.5 DENSITY, AREA, HEIGHT, WIDTH, AND YARD REQUIREMENTS

Minimum *lot* size	NA
Minimum *frontage*	
- Public road	100 feet
Minimum *yard*	
- *Front*	50 feet
- *Side* & *Rear yard*	50 feet with buffering from adjoining AZD, RCD, RC, RR, CAR, CR, V, IV, & IVCA
	30 feet from CC, C, CCA, M, EC, I, ICA-LDA, & ICA which may be reduced to 0 if emergency and maintenance vehicle access are acceptably addressed and if the adjoining property is a compatible use
- Waterfront	100 feet
Height [1]	
- Commercial *structure*	45 feet
- Residential *structure*	38 feet
- Fence [2]	
- Security	8 feet
- Ornamental	
Front and *side yard*	4 feet
Rear yard	8 feet

[1] Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

[2] Fences do not need to meet yard requirements.

* Amended 9/6/11

11.6 COMMERCIAL GENERAL STANDARDS

1. The reuse of existing *buildings* is encouraged.

2. Public water and sewer systems may be required by the *Planning Commission* in a Commercial District.

3. The Department of Planning and Zoning shall approve *street* names. A name may not be approved if it duplicates or is too similar to the name of another road in the county or incorporated towns.

4. *Signs* in the commercial area shall be permitted in accordance with the *regulations* contained in Article VI, Section 2 of this Ordinance.

5. Minimum *off-street parking* and *loading spaces* shall be required for each use in a Commercial District in accordance with the *regulations* contained in Article VI, Section 1 of this Ordinance.

11.7 COMMERCIAL ENVIRONMENTAL STANDARDS

The purpose of this district is to provide for the proper stewardship of the County's natural resources. Specifically, it is the overall goal of the County to maintain the quality of the County's *ecosystem* in the face of continuing activity, growth, and change.

A. COMMERCIAL GENERAL ENVIRONMENTAL STANDARDS

1. *Development* shall minimize *adverse impacts* to *non-tidal* or *tidal wetlands*, estuaries, the Chesapeake Bay, *tributary streams*, and the natural and *riparian habitat* of these streams, habitat protection areas, or other significant habitat identified by the Department of Planning and Zoning.

2. *Development* shall minimize the effects of runoff on the existing volume of water or quality of any water body. Urban *best management practices* shall be used.

3. Whenever possible, land subject to periodic flooding, shall not be developed for any use that might involve danger to health, life, or property or aggravate floods.

B. COMMERCIAL SPECIFIC ENVIRONMENTAL STANDARDS

1. *Agriculture*
   No new agricultural land shall be created by:
   a. *Clearing* of an area of *forest* or woodland greater than 40,000 square feet in a one-year period without filing a *Forest Conservation Plan*. An agricultural *Declaration of Intent* shall be filed with the Kent County Department of Planning and Zoning.
   b. *Clearing* of *natural vegetation* within the *stream protection corridor*.

2. *Anadromous fish*
   a. Concrete riprap or other artificial surface shall not be installed on the bottom of natural streams unless it can be demonstrated that water quality and fishery habitat will be improved.
   b. Physical alteration of a stream, including but not limited to channelization, that interferes with the movement of fish shall be prohibited

3. *Forest Conservation*

This section applies to *major* and *minor site plans* on units of land 40,000 square feet or greater; major and minor subdivisions; and *grading* and *sediment control permits* that result in the cumulative cutting, *clearing*, or *grading* of more than 40,000 square feet of *forest*. A forest *Declaration of Intent* is required for activities specifically exempted in Article VI, Section 8.2 of this Ordinance.

a. A parcel with less than 15% of its *net tract area* in *forest cover* shall be afforested to 15% of its *net tract area*.

b. A parcel with less than 15% of its *net tract area* in *forest* may be cut or cleared provided:

   i. The *afforestation* required to achieve the 15% *afforestation* level is determined prior to any *clearing* of *forest*.

   ii. The *afforestation* area consists of two (2) times the total surface area cleared and the area needed to achieve the 15% *afforestation* level before *clearing* occurred. For example, the *afforestation* area for a project with a *net tract area* of one hundred acres with ten (10) acres of existing *forest* of which five (5) will be cleared will be fifteen (15) acres - five (5) acres to achieve the required *afforestation* level and ten (10) acres to replace the *forest* cleared.

c. A parcel with more than 15% of its *net tract area* in *forest* may be cut or cleared provided *reforestation* occurs at a rate of one-quarter (1/4) acre planted for each acre removed above 15% of the *net tract area* or at a rate of two (2) acres planted for every acre removed below 15% of the *net tract area*. *Forest* retained over 15% of the *net tract area* is credited toward the required *reforestation*. For example, a project with a *net tract area* of one hundred (100) acres and an existing *forest* of thirty acres that proposes of which twenty acres will be cleared requires a *reforestation* area of 13.75 acres.

d. The required *reforestation* or *afforestation* may be accomplished *on-site*, *off-site*, by contributing to a *forest* bank in the same *watershed* or by contributing to the Kent County Reforestation Fund. The preferred method of *afforestation* or *reforestation* is *forest* banking or *off-site afforestation*.

e. Whenever possible and appropriate, *afforestation* and *reforestation* shall include native species.

4. *Natural heritage areas* and locations considered for Areas of Critical State Concern

These areas of local significance shall be preserved whenever possible. These areas are identified in Article VI, Section 3.8 of this Ordinance.

5. *Non-tidal wetlands*

Non-tidal wetlands shall be protected according to the *regulations* of the State of Maryland, Army Corps of Engineers, United States Fish and Wildlife Service, Environmental Protection Agency, and all other applicable State and Federal *Regulations*.

6. *Stream Protection Corridor*

All new *development* or *redevelopment* shall provide a naturally vegetated *stream protection corridor* along all *tributary streams*. New *development activities*, including *structures*, parking areas, septic systems, and similar *impervious surfaces* shall not be permitted in the *stream protection corridor*. *Roads* that cross the *stream protection corridor* shall be minimized. The *Planning Commission* may modify the *stream protection corridor* when the following can be demonstrated:

a. A reduced corridor achieves significant water quality and habitat improvements equal to the required corridor.

b. More than 50% of the corridor is impervious or more than 75% of the corridor is disturbed with stone, septic systems, decks, or other obvious human impacts.

c. The *site* shall include all contiguous parcels under single ownership.

7. *Stormwater Management*

No *person* shall develop any land for residential, commercial, industrial, or institutional uses or redevelop land without having provided for appropriate *stormwater management* measures that control or manage runoff from such developments except as provided in Article VI, Section 10 of this Ordinance. *Stormwater* management shall be accomplished for all new *development* or *redevelopment* in accordance with the provisions of Article VI, Section 10 of this Ordinance.

8. Threatened and Endangered Species and Species in Need of Conservation

Threatened and *endangered species* and *species in need of conservation* shall be checked and noted before any approvals are granted by the Planning Director, *Planning Commission*, or Zoning Administrator. The Federal or State guidelines (whichever is stricter) for habitat protection must be followed during *development*. Plans shall also include provisions for continuance of the habitat protection after *development*. This can include *conservation easements*, cooperative agreements, special provisions in *forest management plans*, and donation or sale to a third party.

9. Water Quality

All new *development* or *redevelopment* shall reduce the pollutant loadings by at least 10%. Pollutant loadings will be calculated in the manner developed by the Metropolitan Washington Council of Governments using phosphorous as the keystone element or in a manner acceptable to the Planning Director or the Planning Director's designee. When *on-site* compliance is not possible, *offsets* may be substituted. All *sites* shall comply with the *stormwater management* qualitative controls found in Article VI, Section 10 of this Ordinance.

11.8 COMMERCIAL DESIGN STANDARDS

The purpose of these standards is to give a sense of the physical aspects of the County's environment to those contemplating new *development* in the community. Pertinent to this physical appearance is the design of the *site*, *buildings* and *structures*, plantings, *signs*, *street* hardware, and miscellaneous other objects observed by the public.

These standards are not intended to restrict imagination, innovation, or variety, but rather assist in focusing on design principles which can produce creative solutions that will develop a satisfactory visual appearance within the County, preserve taxable values, and promote the public health, safety, and welfare.

A. COMMERCIAL GENERAL DESIGN STANDARDS

1. The landscape shall be preserved in its natural state, in so far as possible, by minimizing *tree* and *soil* removal. Any grade changes shall be in keeping with the general appearance of neighboring development areas. *Buildings* are encouraged to be located so as to maintain maximum natural *topography* and cover. Whenever possible, *development* shall be located outside of the *floodplain*.

2. *Streets* shall be designed and located in a manner so as to maintain and preserve natural *topography*, cover, significant landmarks and trees; to minimize *cut* and *fill*; and to preserve and enhance views and vistas on and off the subject parcel.

3. Proposed *development* shall be related harmoniously to the terrain and to the use and scale of existing *buildings* in the vicinity that have functional or visual relationships to the proposed *buildings*. *Development* shall be designed to provide safe, comfortable places where people can visit, meet, shop, and rest without conflicting with other *street* uses.

4. All *open space* (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the *site* or overlooking it from nearby properties.

5. Whenever possible, adverse effects on historic, traditional, or significant uses and *structures* shall be minimized, whether these exist on the *site* or on adjacent properties.

6. Varied building massing is encouraged to enhance the community's sense of place.

7. Commercial establishments, offices, and financial institutions emphasize personal service as their primary products. These *structures* should reflect personal service by their architectural design which is at a human scale at entries and interior spaces. Building components such as windows, wooden doors, and decorative trim should emphasize the human scale in coordination with each other and the building scale.

8. Each unit of *development*, and the total *development*, shall create an environment of desirability and stability. Commercial establishments are encouraged to limit the visual impression of height by the use of roof treatments and varying the plane of exterior walls.

9. Parking lot design shall reflect the fact that once people step out their cars, they become pedestrians. Parking lots shall be designed not only to facilitate efficient vehicle circulation but to also permit smooth pedestrian circulation.

10. Provision for safe and efficient bicycle circulation and parking should be included in the overall design of the parking lot.

11. Whenever possible, display areas should be incorporated into the overall design of the *site*. Display areas shall not be in the *front yard setback*.

12. Corporate or trademark architecture shall not be permitted.

B. COMMERCIAL SPECIFIC DESIGN STANDARDS

1. *Site* Access

Site access shall be subject to the following *regulations* to help ensure vehicle and pedestrian safety and alleviate congestion:

a. Where property abuts a *primary*, *secondary*, or *collector road*, access shall be by way of the *secondary* or *collector road*. Exceptions to this rule shall be instances where the *Planning Commission*, or where applicable the Planning Director, determines that direct access onto the *primary road* would promote traffic safety.

b. Where one or more contiguous parcels abutting a *primary road* are under single ownership and any one of the parcels abuts a *secondary road* or *collector road*, access to all of the parcels under single ownership shall be by way of the *secondary* or *collector road*. Exceptions to this rule shall be instances when the *Planning Commission*, or where applicable the Planning Director, determines that direct access onto the *primary road* would promote traffic safety.

c. Only one direct access approach onto a *primary road* from an individual parcel of record as of August 1, 1989 shall be permitted unless the *Planning Commission*, or where applicable the Planning Director, finds one of the following:

   i. The *Planning Commission* may, with approval of the State Highway Administration or Kent County Public Works Department, approve additional access if the additional access is deemed to be significantly beneficial to the safety and operation of the highway or if allowing only one access approach would be a safety hazard or increase traffic congestion.

   ii. The *Planning Commission* may approve access when the parcel is bisected by *steep slopes*, bodies of water, or other topographic features in such a manner as to render some portion of the property inaccessible without additional road access.

d. Where a proposed road is designated on an approved County or State map, *site plans* for *development* adjacent to the designated *roadway* shall include provisions for future access to the *roadway*.

e. Existing, planned, or platted *streets* on adjacent properties shall be continued when the *Planning Commission*, or where applicable the Planning Director, determines that the continuation is necessary for safe and reasonable circulation between the properties.

f. When deemed necessary by the *Planning Commission*, or where applicable the Planning Director, developments shall provide access to adjacent tracts not presently developed.

g. Pedestrian and bicycle linkages to adjacent developments shall be provided whenever possible.

h. Access shall be consolidated whenever possible.

i. Whenever possible, *roads* shall be constructed above the elevation of the *100-year floodplain*.

j. The applicant shall demonstrate that access to the project is adequate and the roads which will be impacted have the capacity to handle the traffic generated by the proposed project and will not endanger the safety of the general public.*

2. Parking Areas

a. Parking lots shall be located as much as possible to the rear of *buildings*. Locating parking lots in the *front yard setback* is specifically prohibited.

b. *Sites* shall be designed to prevent awkward or dangerous vehicular flow.

c. Driveways in parking lots must be a minimum of 20 feet wide for two-way traffic and 15 feet wide for one-way traffic.

d. A minimum of one handicap parking space shall be provided for every 25 spaces in a safe, convenient, and centralized location.

* Amended 11/14/06

e. Whenever possible, parking lot design shall provide for connection to adjacent parcels where uses are compatible.

f. Marked walkways, separated from vehicular traffic shall be provided to the entrance of establishments. Parking areas with 80 spaces or more shall include walkways running parallel to the parking rows every four rows and walkways running perpendicular to the parking rows every 20 spaces. Display areas approved by the *Planning Commission*, or where applicable the Planning Director shall not be included in the tabulation of parking spaces. The *Planning Commission* may waive this requirement.

g. Landscaping shall be provided according to the provisions in this Ordinance.

3. Pedestrian Flows

a. Sidewalks at least eight feet wide shall be provided along all sides of the *lot* that abuts a public *street*.

b. Parking areas with 80 spaces or more shall provide a continuous internal pedestrian walkway from the perimeter sidewalk to the principal customer entrance. The walkway shall be at least eight feet in width and shall feature landscaping and other pedestrian amenities.

c. The internal pedestrian walkways shall be distinguished from paving surfaces through the use of special pavers, bricks, scored concrete, or other materials that will clearly identify the pedestrian walkway.

d. Parking areas with 80 spaces or more shall provide a weather protection feature such as an awning extending a minimum of 30 feet from all customer entrances.

e. Sidewalks shall be provided along the full length of any *building* abutting public parking areas.

f. The *Planning Commission* may waive these requirements.

4. Delivery Trucks and Trash Collection Vehicles

a. *Loading* and *unloading spaces* for delivery trucks shall not block major pedestrian ways or create blind spots when trucks are loading and unloading.

b. Trash boxes shall be accessible to collection trucks when all vehicle parking spaces are filled.

5. *Floodplain*

a. In order to prevent excessive *flood* damage and to allow for the protection of the natural and beneficial *floodplain* functions, all *development*, *new construction*, and *substantial improvements* to existing *structures* in all *floodplain* zones shall comply with the requirements of Article VI, Section 7 of this Ordinance, including but not limited to the following:

i. Elevation of all new or substantially improved *structures*;

ii. Compliance with venting and other construction standards; and

iii. Submission and recordation, where applicable, of *Elevation Certificates*, *Declaration of Land Restrictions*, deed restrictions, and venting affidavits.*

b. Placement of *buildings* and materials. In general, *buildings* and *accessory structures* should be located entirely out of the *floodplain*, out of the *flood* protection setback, or on land that is least susceptible to flooding. All *structures* permitted in the *floodplain* shall be oriented so as to offer the least resistance to the flow of floodwaters.

c. General *development* shall not occur in the *floodplain* where alternative locations exist. Before a permit is issued, the applicant shall demonstrate that new *structures* cannot be located out of the *floodplain* and that encroachments onto the *floodplain* are minimized.

* Amended 6/3/14

6. Landscaping - General
   a. A minimum area of 15% of each new or redeveloped *site* shall be landscaped. Landscaping within the parking areas and screening may be counted toward this requirement.
   b. The *front yard* shall be landscaped and maintained in a neat and attractive condition.
   c. Landscaping shall be maintained in the in a good condition with at least the same quality and quantity as initially approved.
   d. The *landscape plan* shall be prepared by a registered professional forester, landscape architect, or other professional with equivalent experience and qualifications.
   e. The *Planning Commission*, or where applicable the Planning Director, may reduce or waive the landscape requirement when it is demonstrated that the spirit and intent of the requirement are accomplished through other means or the nature of the change does not require additional landscaping.

7. Parking Area Landscaping
   a. At least 10% of all parking areas where more than ten parking spaces are provided shall be landscaped. Perimeter screening does not count toward parking area landscaping. This may be waived by the *Planning Commission* or where applicable the Planning Director.
   b. To avoid large expanses of paved parking areas in parking areas of 80 spaces or more, the following provisions, which may be waived by the *Planning Commission*, or where applicable the Planning Director, shall apply:
      i. A row shall not contain more than twelve 12 spaces without a landscaped *island* of at least the size of one parking space.
      ii. The ends of parking rows shall contain an *island* a minimum of six feet wide adequately landscaped with shade trees, ground cover, and shrubs.
      iii. Double rows of parking shall be separated by a minimum six-foot planting strip adequately landscaped with shade trees and shrubs.

8. Perimeter Landscaping and Screening
   a. Screening is required to protect adjoining properties and *roadways* from noise, glare, and uses which are visually incompatible with neighboring land uses. Screening is required:
      i. On *sites* which involve loading or unloading (including the storage of vehicles and boats), trash, or disposal areas and where accessory *buildings* and *structures* are adjacent to residential properties.
      ii. Where exterior storage areas are visible from *roadways*, sidewalks, or nearby residential properties.
      iii. When noise not typically occurring in residential areas is expected to project onto nearby properties.
      iv. To *screen* parking areas, but not approved display areas, from motorists, pedestrians, and adjoining residential properties.
      v. Where the commercial *site* abuts a residential district.
   b. Landscaped screens shall be designed to complement other landscaping occurring naturally on the *site*, planted previously, or approved as a part of a *site plan* review. Whenever possible, existing vegetation and landform shall be used to create screens.
   c. The *screen* shall be capable of providing year round screening.
   d. When noise is likely to be a factor, the *screen* shall be of sufficient construction to be an effective noise buffer.

e. Screening shall consist of trees and plants, and may include masonry, or wooden fencing used with or without *berms*. Screening shall consist of a functional and well-designed combination of the following:
   i. Vegetative ground cover
   ii. Coniferous and deciduous shrubs
      a) Specimens which will reach and maintain a minimum height of 5 feet of full vegetative growth.
      b) Plants which measure a minimum of 3 feet in height at the time of planting and are expected to attain a height of 5 feet within 3 years.
   iii. Coniferous and deciduous trees
      Species and sizes of which will be chosen to best accomplish an adequate *screen* (i.e. evergreens used for visual screening, deciduous trees for seasonal screening).

f. Natural *slopes* and existing vegetation may be substituted for some or all of the requirements above, provided that these features serve to *screen* the area from adjoining properties and *roadways*. The *Planning Commission*, or where applicable the Planning Director, shall determine the acceptability of using existing *slopes* and vegetation for this purpose. The *Planning Commission*, or where applicable the Planning Director, may waive screening where it is physically impossible to accomplish.

g. Screening and fencing shall be maintained in at least the same quality and quantity as initially approved.

9. Lighting
   a. Lighting shall be designed at the human scale and shall not exceed eighteen feet in height. This does not apply to lighting mounted on *buildings*. The *Planning Commission*, or where applicable the Planning Director, may waive the height limitation.
   b. Lighting on the *site* shall be designed to avoid glare onto adjacent properties and adjacent *roadways* and shall not interfere with traffic or create a safety hazard.
   c. Lighting on the *site* shall be sufficient to provide for the safety and security of the business, its employees, and its customers.
   d. Lighting shall be color corrected.

10. *Subdivision*
   a. All reasonable efforts should be made to protect adjacent residential areas from potential nuisances from the commercial *subdivision* by providing adequate depth in parcels adjacent to residential zoning.
   b. Proposed *street* layout, blocks, and parcels shall be suitable in area and dimension for the type of *development* anticipated.
   c. The total area shall be sufficient to provide adequate space for *off-street parking*, loading, landscaping, and other facilities.
   d. The *lot* arrangement, design, and orientation shall be such that all lots will provide satisfactory building *sites*, properly related to *topography* and the character of surrounding *development*.
   e. Every *lot* shall abut upon and have access to a public road or approved *private road*.
   f. Lots adjoining *major thoroughfares* and railroad lines should be designed with extra depth and provision for an appropriate means of buffer or deeper building setbacks.
   g. Where land in a *subdivision* adjoins a railroad line, the *street* layout shall make allowance for future grade separated railroad crossings at appropriate locations by providing extra *street right of way* widths for such crossings and by restricting intersecting *streets* at locations where they would cause interference with necessary approaches to such crossings.

h. Proposed *streets* in the *subdivision* shall provide for the continuation of existing, planned, or platted *streets* on adjacent tracts, unless such continuation shall be prevented by *topography* or other physical features or unless such extension is found by the *Planning Commission* to be unnecessary for the coordination of *development* between the *subdivision* and such adjacent tracts.

i. Where the *Planning Commission* deems it desirable or necessary to provide access to adjacent tracts not presently subdivided, proposed *streets* in the *subdivision* shall be extended to the boundary lines with such tracts.

j. Where the *subdivision* adjoins or embraces any part of a *major thoroughfare* as designated on the Kent County Major Thoroughfare Map. The layout of such *subdivision* shall provide for the platting and dedication of such part of the *major thoroughfare* in the location and at the width indicated on the *major thoroughfare* plan, except that the *subdivider* shall not be required to dedicate that part of such *major thoroughfare* that is in excess of eighty (80) feet in width.

k. Where deemed desirable to the layout of the *subdivision* and adjoining area, the *Planning Commission* may require the platting and dedication of one or more *collector streets* or parts thereof, to serve the *subdivision*.

l. Subdivisions shall be in full compliance with the provisions of this Ordinance.

m. *Private roads* are permitted in minor subdivisions and are subject to the following conditions:

i. Each road shall serve no more than seven parcels. In the event that an eighth parcel is created, the eighth parcel and all further divisions of land shall front on a public road.*

ii. The *subdivision* shall provide a 50-foot *right of way* for each *private road*.

iii. The construction of all lanes and *private roads* shall adhere to the requirements established by the Kent County Department of Public Works and sediment control and *stormwater management regulations*.

iv. The deed and contract of sale of all lots in the *subdivision* shall state: "The road is private and not the responsibility of Kent County."

v. The plat shall identify all *private roads* and shall state: "The road is private and not the responsibility of Kent County."

11. Building Mass, Size, and Scale

a. New *buildings* should not create large, bulky, masses but should be scaled down to into groupings of smaller attached *structures* and modules that reflect proportions similar to historic *buildings*. Methods used to create intervals that reflect and respect historic *structures* include but are not limited to the following:

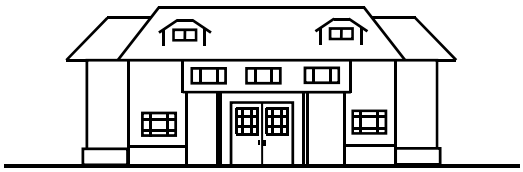
i. Facade modulation - stepping back or extending forward at least 20% of the facade.

ii. Repeating window patterns at established intervals.

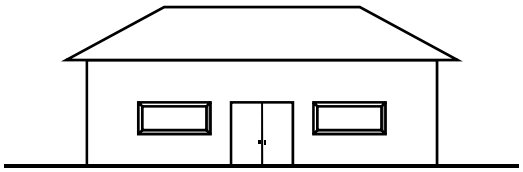
iii. Providing a balcony or bay window at established intervals.

iv. Changing the roofline by alternating dormers, stepped roofs, gables, or other roof elements.

v. Use of landscaping and architectural detailing at the ground level.



Structure 1, Utilizes building massing



Structure 2, Does not utilize building massing

The above structures are the same height and width and are drawn to the same scale.

* Amended 10/16/12

b. Building designs shall be encouraged to utilize traditional materials (brick or wood) and contemporary interpretations of earlier styles.

c. The design of new *buildings*, building additions and *alterations*, and facade renovations should reflect the positive aspects of the existing design features of the County. *Buildings* should complement and improve the overall environment of the area.

d. The proposed building orientation shall respect the orientation and scale of surrounding *buildings* and where deemed necessary by the *Planning Commission* serve as an orderly transition to a different scale.

e. All rooftop equipment shall be screened from public view by screening material of the same nature as the building's basic building materials.

f. Loading docks, trash collection, and similar facilities and functions shall be incorporated into the overall design of the *building* and landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public *streets*.

g. *Buildings* in *shopping centers* are encouraged to be arranged in varied clustered masses related closely to the road.

h. Arches, porches, arcades, overhangs, full roofs, and varying facade setbacks are encouraged in *shopping centers*.

i. The scale within a *shopping center* shall be consistent throughout the center. Where anchor or major tenants require larger building areas, the larger scale of these units shall be broken down into a scale comparable to the predominant unit in the *development*. The placement of anchor stores shall consider the overall balance of the center.

SECTION 12 COMMERCIAL CRITICAL AREA

12.1 STATEMENT OF INTENT

The purpose of this district is to accommodate commercial and service activities that are not normally located in central business concentrations. These uses are primarily oriented to highway locations and include services and destination retail. Consequently, the district is located along major arterial highways. It is further intended that this District shall be for the purpose of limiting sprawling *development* by providing *sites* with adequate *frontage* and depth to permit controlled access to public *streets*. Because these uses are subject to public view, which is of concern to the whole community, they should provide an appropriate appearance, controlled traffic movement, ample landscaping, and protect adjacent properties from the traffic and visual impacts associated with the commercial activity. It is the intent that a Commercial *Critical Area* District shall have a minimum *frontage* of 150 feet on a single *primary road*. Whenever possible, *frontage* of the district shall not exceed depth.

12.2 PERMITTED PRINCIPAL USES AND STRUCTURES

A *building* or land shall be used only for the following purposes, in all cases subject to *site plan* review by the *Planning Commission*, or where applicable the Planning Director.

1. *Agriculture*, excluding the raising of livestock and fowl, including horticulture, hydroponics, and truck farming, general farming, cultivation of field crops, and raising of orchards, groves, and nurseries.

2. Building material sales

3. Circus or carnival, midways and amusement parks, temporary, for a period of time not to exceed one week per year

4. *Hotels* and *motels*

5. Financial institutions

6. Mini storage facilities

7. Machinery and equipment sales, service, and rental

8. Motor vehicle sales, service, and rental

9. *Personal wireless facilities* collocated on existing towers, water towers, electrical transmission towers, fire towers, silos, *grain dryers*, or other *structures* provided the height of the existing *structure* is not above that permitted by this Ordinance.

10. Public uses, *buildings* and utilities. Public *buildings* and uses include, but are not limited to, schools, offices, parks, playgrounds but not major sports facilities, and *roads* funded, owned and operated by local, state, or federal agencies. *Public utilities* are water, sewer, electric, gas, oil, and communication facilities owned and operated by the Kent County Department of Water and Wastewater or other public utility. *Public utilities* include substations, poles, lines, transformers, pipes, meters, treatment facilities, pumping stations and appurtenances but not transmission towers. Power plants and the like are not permitted.

11. *Restaurants* without drive through facilities

12. Retail businesses, including *shopping centers*,* supplying on the *premises*, household goods, new automotive parts, agricultural supplies and commodities, sporting goods, and the like, including department, outlet and discount stores provided:
    a. All retail sales and/or storage shall be conducted entirely within a *building* except where otherwise approved by the *Planning Commission*.
    b. The *building* size does not exceed 60,000 square feet in size. The restriction on *building* size does not apply to the Commercial *Critical Area* District in the Route 301 corridor.

12.3 SPECIAL EXCEPTIONS

The following principal uses and *structures* may be permitted as special exceptions in the Commercial *Critical Area* District, subject to *site plan* review by the *Planning Commission*, or where applicable the Planning Director. Detailed limitations and standards for these uses shall be found in Article VII of this Ordinance.

1. Boat building and sales
2. *Cottage industries*, tradesmen and artisan shops
3. *Personal wireless facility tower*
4. Recreational facilities, privately or commercially owned, but not including major sports arenas for football, baseball, drag racing, motocross, or other major sports activities
5. *Single family dwellings*

5.5 *Solar energy systems, utility scale**

6. *Truck stops*
7. *Wind energy systems, small*, with a height that exceeds 80 feet*

12.4 ACCESSORY USES AND STRUCTURES

The following *accessory uses* and *structures* are permitted in the Commercial *Critical Area* District

1. Storage of office supplies or merchandise normally carried in stock in connection with a permitted office, business, or commercial use, subject to the applicable district *regulations*

2. Accessory *apartments*

3. Accessory truck parking

4. *Accessory uses* and *structures* normally associated with permitted uses.

5. Appurtenant *signs* in accordance with Article VI, Section 2 of this Ordinance.

6. *Solar energy systems, small*, provided:*
    a. Tree removal shall be minimized and any removal shall be mitigated in accordance with the Critical Area Program requirements.
    b. All solar collection devices shall register with the Department of Emergency Services and shall submit a map noting the location of the solar collection devices and the panel disconnect.
    c. The total height of solar collection systems shall comply with the height requirements.

* Amended 9/6/11

7. Temporary *MET Tower* of any height provided:*
   a. The tower is erected for no more than 12 months.
   b. Any free standing *structure* is located a minimum of 3 times its total height from a property line.
   c. Towers are not readily climbable from the ground up to 12 feet.

8. *Wind energy systems, small*, limited to one tower provided:*
   a. The height of the *structure* to the tip of the blade at its highest point does not exceed 80 feet.
   b. Any system is located a minimum of 3 times its total height from a property line.
   c. Towers are not readily climbable from the ground up to 12 feet.
   d. All access doors to towers and electrical equipment shall be lockable.
   e. Appropriate warning signage is placed on the tower and electrical equipment.
   f. The blade tip at its lowest point had a ground clearance of at least 25 feet.
   g. Wind turbines and towers maintain a galvanized steel, brushed aluminum finish, or a non-garish color.
   h. Any small wind energy system that is not operational for a period of 12 consecutive months or more shall be removed at the landowner's expense.

* Amended 9/6/11

12.5 DENSITY, AREA, HEIGHT, WIDTH, AND YARD REQUIREMENTS

Minimum *lot* size	NA
Minimum *frontage*	
- Public road	100 feet
Minimum *yard*	
- *Front*	50 feet
- *Side* & *Rear yard*	50 feet with buffering from adjoining AZD, RCD, RC, RR, CAR, CR, V, IV, & IVCA 30 feet from CC, C, CCA, M, EC, I, ICA-LDA, & ICA which may be reduced to 0 if emergency and maintenance vehicle access are acceptably addressed and if the adjoining property is a compatible use
- Waterfront	Minimum 100-foot *buffer* or *modified buffer 1*
Height [2]	
- Commercial *structure*	45 feet
- Residential *structure*	38 feet
- Fence [3]	
- Security	8 feet
- Ornamental	
Front and *Side*	4 feet
Rear	8 feet

[1] Modifications for structures existing prior to April 12, 1988 may be permitted as per Article V, Section 12.7.B.4.

[2] Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

[3] Fences do not need to meet yard requirements.

* Amended 5/7/08

12.6 COMMERCIAL CRITICAL AREA GENERAL STANDARDS

1. The reuse of existing *buildings* is encouraged.

2. Public water and sewer systems may be required by the *Planning Commission* in a Commercial *Critical Area* District.

3. The Department of Planning and Zoning shall approve *street* names. A name may not be approved if it duplicates or is too similar to the name of another road in the county or incorporated towns.

4. *Signs* in the commercial area shall be permitted in accordance with the *regulations* contained in Article VI, Section 2 of this Ordinance.

5. Minimum *off-street parking* and *loading spaces* shall be required of each use in a Commercial *Critical Area* District in accordance with the *regulations* contained in Article VI, Section 1 of this Ordinance.

12.7 COMMERCIAL CRITICAL AREA ENVIRONMENTAL STANDARDS

The purpose of these standards is to provide for the proper stewardship of the County's natural resources. Specifically it is the overall goal of the county to maintain the quality of the County's *ecosystem* in the face of continuing activity, growth and change.

A. COMMERCIAL CRITICAL AREA GENERAL ENVIRONMENTAL STANDARDS

1. *Development* shall minimize *adverse impacts* to *non-tidal* or *tidal wetlands*, estuaries, the Chesapeake Bay, *tributary streams*, and the natural and *riparian habitat* of these streams, habitat protection areas, or other significant habitat identified by the Department of Planning and Zoning.

2. *Development* shall minimize the removal of *natural vegetation*. Protection of remaining vegetation and replacement of removed vegetation shall be required.

3. *Development* shall minimize the effects of runoff on the existing volume of water and quality of any water body. Urban *best management practices* shall be used.

4. Whenever possible, land subject to periodic flooding, shall not be developed for any use that might involve danger to health, life, or property or aggravate floods.

5. If practicable, permeable areas shall be established in vegetation.

B. COMMERCIAL CRITICAL AREA SPECIFIC ENVIRONMENTAL STANDARDS

1. *Agriculture*

No new agricultural land shall be created by:

a. Draining, filling, or diking any *palustrine wetlands* which have a *seasonally flooded or wetter water regime* unless the impact is mitigated.

b. *Clearing* of *forest* or woodland on *soils* with a *slope* greater than 15% or on *soils* with a *K Value* greater than 0.35 and a *slope* greater than 5%.

c. *Clearing* of existing *natural vegetation* within the *buffer*.

d. *Clearing* of *forest* if the *clearing* will affect water quality or habitat protection areas as designated in Article VI, Section 3.8 of this Ordinance.

2. *Anadromous fish*

a. Concrete riprap or other artificial surface shall not be installed on the bottom of natural streams unless it can be demonstrated that water quality and fishery habitat will be improved.

b. Physical alteration of a stream, including but not limited to channelization, that interferes with the movement of fish shall be prohibited

c. The construction or placement of dams or other *structures* that would interfere with or prevent the movement of spawning fish or larval forms in streams shall be prohibited. Where practical, the removal of existing barriers is encouraged.

d. Construction, repair or maintenance activities associated with bridges or other stream crossings or with utilities and roads which require disturbance to the *buffer*, or which occur in stream shall be prohibited between March 1 and May 15.

3. *Buffer*

a. *Development* in the *Buffer*

i. New *development activities*, including *structures*, *roads*, parking areas, and other *impervious surfaces*, mining, and related activities, or septic systems shall not be permitted within the minimum 100-foot *buffer*. This restriction does not apply to water-dependent facilities that meet the criteria set forth below.

ii. New or expanded *development activities* may be permitted in the minimum 100-foot *buffer*, provided:

a) The use is water dependent;

b) The project meets a recognized private right or public need;

c) Adverse effects on water quality and fish, plant, and *wildlife habitat* are minimized; and

d) In so far as possible, non-water dependent *structures* or operations associated with water-dependent projects or activities are located outside the minimum 100-foot *buffer*.

iii. Where agricultural uses of lands within the buffer cease and the lands are proposed to be converted to other uses, the buffer shall be established. In establishing the buffer, management measures shall be undertaken to provide forest vegetation that achieves the buffer functions as defined in Article XI of this Ordinance.

iv. Water-dependent research facilities or activities operated by State, Federal, local agencies or education facilities may be permitted in the *buffer* if non-water dependent *structures* or facilities associated with these projects are located outside the *buffer*.

v. Commercial water-dependent fisheries facilities including, but not limited to, *structures* for crab shedding, fish off-loading docks, shellfish culture operations,

and shore based facilities for *aquaculture* operations, and *fisheries activities* may be permitted in the *buffer*.

b. Vegetation Protection within the *Buffer*

i. *Natural vegetation* within the *buffer* shall be preserved and protected unless one of the following apply:

a) An approved *forest* harvesting plan is followed.

b) Individual trees may be cut for personal use provided this cutting does not impair the water quality or existing habitat value or other functions of the *buffer*. Trees shall be replaced on an equal basis for each *tree* cut.

c) Trees which are leaning over the water may be cut, but their stumps and roots shall not be disturbed.

d) The disturbance provides access for water-dependent facilities or shore *erosion* protection *structures*.

e) Landowners may treat trees and shrubs to maintain or improve their health.

ii. Vegetation in the *buffer* removed for the reasons listed above shall be reestablished over the entire disturbed area during the next planting season. These plantings shall be approved by the Department of Planning and Zoning. In addition, Article VI, Section 9 of this Ordinance shall be followed exactly.

iii. *Natural vegetation* removed for an approved purpose shall be in accordance with an approved *buffer* management plan.

c. Stream Protection

Development activities that must cross or affect streams shall be designed to:

i. Reduce increases in flood frequency and severity that are attributable to development.

ii. Retain tree canopy so as to maintain stream water temperature within normal variation.

iii. Provide a natural substrate for stream beds.

iv. Minimize adverse water quality and quantity impacts of *stormwater*.

4. *Modified Buffer*

a. *Development* in the *Modified Buffer*.

i. No new *development* shall encroach within 25 feet of mean high tide or 25 feet of the edge of a *tidal wetland*. Expansion to the side or rear but not closer to the water may be permitted as long as the expansion is designed and located to maximize the distance from the shoreline or to enhance or protect the environmentally sensitive features on the *site*.

ii. An area of existing *impervious surface on-site* equal to or greater than the area of new *development* shall be removed and revegetated, or

iii. A *forest buffer* will be planted *on-site* equal to three times the amount of newly developed *impervious surface* within the minimum 100-foot *buffer* (equal areas to be planted for other disturbance outside of the minimum 100-foot *buffer*); if there is not enough available space on the *lot* to create a *buffer*, the property owner must plant the required amounts *on-site* outside the *buffer*, *off-site*, or must pay a fee-in-lieu.

b. Vegetative Protection within the *Modified Buffer*

Natural vegetation within the *modified buffer* shall be preserved and protected unless one of the following apply:

i. An approved *forest* harvesting plan is followed.

ii. Individual trees may be cut for personal use provided this cutting does not impair the water quality or existing habitat value or other functions of the *buffer*. Trees shall be replaced on an equal basis for each *tree* cut.

iii. Trees which are leaning over the water may be cut, but their stumps and roots shall not be disturbed.

iv. The disturbance provides access for water-dependent facilities or shore *erosion* protection *structures*.

v. Landowners may treat trees and shrubs to maintain or improve their heath.

5. *Forest*

a. A forestry management plan prepared by a registered forester and approved by the Maryland Department of Natural Resources shall be required when developing forested lands.

b. *Forest* shall be replaced on an acre by acre basis, but no more than 20% of any *forest* or *developed woodlands* shall be removed unless by prior agreement with the *Planning Commission*, the *developer* agrees to afforest on the following basis: a *developer* may clear or develop more *forest* than otherwise may be permitted if the total *forest* removed is not increased by more than 50% of the area permitted to be disturbed provided that the afforested area consists of 1.5 times the total surface acreage of the disturbed *forest* or *developed woodlands* or both. For example, in a 100 acre woodland, up to 30 acres may be cleared if the *developer* agrees to afforest (not necessarily on his own property) 45 acres of currently unforested land.

c. Replacement trees shall be of a species similar to that which was removed or a species appropriate to the replanting *site*.

d. *Forest* or *developed woodlands* that remain after an approved removal shall be maintained through recorded restrictive covenants, *easements*, or similar instruments.

e. *Forest* cleared prior to obtaining a *grading* permit or that exceeds the maximum area allowed shall be replanted at three times the acreage of the cleared *forest*.

f. If the acreage of the *site* limits the application of *reforestation* requirements *forest* may be created on other lands in the *Critical Area* including County lands, or a fee in an amount determined by the Maryland Department of Natural Resources to be the equivalent to the value of the required *forest* may be paid to the County Commissioners of Kent County. These funds shall be placed in a dedicated fund used to ensure the restoration or establishment of an equivalent *forest* area, in the *Critical Area* or riparian areas.

g. After *development*, the *site* shall be planted to provide a *forest* or *developed woodlands* cover of at least 15%.

6. *Forest Interior Dwelling Birds*

a. Existing riparian *forest* of 300 x 300 feet or more and *forest* areas used by *forest interior dwelling birds* and other wildlife species shall be managed according to the guidelines developed by the Maryland Department of Natural Resources and the Chesapeake Bay Critical Area Commission.

b. A *site* survey for *forest interior dwelling birds* shall be conducted prior to any *development* or agricultural expansion on deciduous *forest* of at least 50 acres or 300 x 300 foot riparian deciduous *forest*. A *site* survey for *forest interior dwelling birds* may be waived by the Planning Director provided the *forest* is managed for all *forest interior dwelling bird* species. Cutting and building shall be restricted to safe times (not during nesting - see Article V, Section 3.9 of this Ordinance).

7. Habitat

a. All *roads*, bridges, and utilities that must cross a Habitat Protection Area shall be located, designed, constructed, and maintained so as to provide maximum *erosion* protection and minimize negative impacts to wildlife, aquatic life and their habitats and maintain hydrologic processing and water quality. *Roads*, bridges, or utilities shall not be located in any Habitat Protection Area, unless no feasible alternative exists.

b. During and after *development* in forested areas, corridors of existing *forest* or woodland vegetation shall be maintained to provide effective connections between *wildlife habitat* areas.

c. New water-dependent facilities shall be located so as to prevent disturbance to *sites* of significance to wildlife such as historic aquatic staging and concentration areas for *waterfowl*, shellfish beds, finfish nursery areas, habitat protection areas, and submerged aquatic vegetation beds.

8. Impervious Surfaces

Man caused *impervious surfaces* shall not exceed 15% of the site except at otherwise stated below.

a. Man caused *impervious surfaces* on parcels greater than 36,301 square feet shall be limited to 15% of the property. This section does not apply to *mobile home parks* in residential use on or before December 1, 1985.

b. Man caused *impervious surfaces* on parcels that are 21,781 to 36,300 square feet and existed on or before December 1, 1985 shall be limited to 5,445 square feet provided:

i. New *impervious surfaces* on the property have been minimized.

ii. Water quality impacts associated with runoff from new *impervious surfaces* have been minimized through *site* design or use of *best management practices*.

iii. The property owner performs *on-site* mitigation as may be required by the Planning Director or designated representative to offset potential adverse water quality impacts from the new *impervious surfaces* or the property owner pays a fee in lieu of performing the mitigation.

c. Man caused *impervious surfaces* on parcels that are 8,001 to21,780 square feet and existed on or before December 1, 1985 shall be limited to 31.25% of the property provided:

i. New *impervious surfaces* on the property have been minimized.

ii. Water quality impacts associated with runoff from new *impervious surfaces* have been minimized through *site* design or use of *best management practices*.

iii. The property owner performs *on-site* mitigation as may be required by the Planning Director or designated representative to offset potential adverse water quality impacts from the new *impervious surfaces* or the property owner pays a fee in lieu of performing the mitigation.

d. Man caused *impervious surfaces* on parcels that are less than 8,000 square feet and existed on or before December 1, 1985 shall be limited to 25% of the property plus 500 square feet provided:

i. New *impervious surfaces* on the property have been minimized.

ii. Water quality impacts associated with runoff from new *impervious surfaces* have been minimized through *site* design or use of *best management practices*.

iii. The property owner performs *on-site* mitigation as may be required by the Planning Director or designated representative to offset potential adverse water quality impacts from the new *impervious surfaces* or the property owner pays a fee in lieu of performing the mitigation.

e. Man caused *impervious surfaces* shall not exceed 25% of an individual *lot* of one acre or less which is part of a *subdivision* approved after December 1, 1985. However, the total of the *impervious surfaces* over the entire *subdivision* shall not exceed 15%.

f. Properties granted growth allocation in accordance with the Kent County Growth Allocation Policy may be exempt from the 15% lot coverage requirement.*

9. *Natural heritage areas* and locations considered for areas of Critical State Concern
These areas of local significance shall be preserved whenever possible in accordance with the recommendations of the Department of Natural Resources. These areas are identified in Article VI, Section 3.8 of this Ordinance.

10. *Non-tidal wetlands*
Non-tidal wetlands shall be protected according to the *regulations* of the State of Maryland, Army Corps of Engineers, United States Fish and Wildlife Service, Environmental Protection Agency and all other applicable State and Federal *regulations.*

11. *Slopes*
Development on *slopes* greater than 15%, as measured before development, shall be prohibited unless the project is the only effective way to maintain or improve the stability of the land.

12. *Stormwater Management*
No *person* shall develop any land for residential, commercial, industrial, or institutional uses or redevelop land without having provided for appropriate *stormwater management* measures that control or manage runoff from such developments except as provided in Article VI, Section 10 of this Ordinance. *Stormwater Management* shall be accomplished for all new *development* or *redevelopment* in accordance with the provisions of Article VI, Section 10 of this Ordinance.

13. Threatened and Endangered Species and Species in Need of Conservation

a. Any *development* shall include a statement on the type and location of any threatened or *endangered species* or *species in need of conservation* on the property, and any recommendation for maintaining and protecting that habitat from the Department of Natural Resources.

b. Threatened or *endangered species* and *species in need of conservation* shall be checked and noted by the *developer* before any approvals can be granted by the Planning Director, *Planning Commission*, or Zoning Administrator.

c. The Federal or State guidelines (whichever is stricter) for habitat protection shall be followed during *development*. Plans shall include provisions for the continuance of the habitat protection after *development*. This can include *conservation easements*, cooperative agreements, special provisions in *forest management* and *soil* conservation plans, and donation to a third party.

14. Timber Harvest

a. *Forest management plans* shall be required for all timber harvests occurring within any one-year interval and which affect one or more acres in *forest* and *developed woodlands* in the *Critical Area*. The plans shall be prepared by a registered professional forester and be reviewed and approved by the Maryland Forest, Park and Wildlife Service through the District Forestry Boards and the project forester. Plans shall be filed with the Department of Planning and Zoning. Plans shall include measures to protect surface and ground water quality and identify whether the activities will disturb or affect Habitat Protection Areas as set forth in the this Ordinance or identified on the Habitat Protection Areas Map.

* Amended 6/3/09

b. Plans shall include protective measures for Habitat Protection Areas and shall provide for the continuity of habitat. The plans shall address mitigation through *forest management* techniques which include scheduling size, timing, and intensity of harvest cuts, *afforestation*, and *reforestation*.

c. The cutting and *clearing* of trees within the minimum 100-foot *buffer* are permitted provided that:

i. Existing riparian forests of 300 x 300 feet or more and *forest* areas used by *forest interior dwelling birds* and other wildlife species shall be managed according to the guidelines developed by the Maryland Department of Natural Resources.

ii. When timber harvesting is being considered, a *site* survey for *forest interior dwelling birds* shall be done. Cutting and building shall be restricted to safe times (not during nesting – See Article VI, Section 3.9 of this Ordinance).

iii. During timber harvest, corridors of existing *forest* or woodland vegetation shall be maintained to provide effective connections between *wildlife habitat* areas.

iv. Commercial harvesting by *selection* or by *clear-cutting* of Loblolly Pine and Tulip Poplar may be permitted to within 50 feet of the landward edge of the *mean high water line* of tidal water and *perennial tributary streams* or the edge of the *tidal wetlands* provided that the cutting does not occur in the Habitat Protection Areas and that cutting is conducted pursuant to the requirements of the sediment control and *non-tidal wetlands* requirements of this Ordinance and in conformance with a *buffer* management plan prepared by a registered forester and approved by the Department of Natural Resources. The plan shall be required for all commercial harvests within the minimum 100-foot *buffer* regardless of the size of the area to be cut and shall contain the following minimum requirements:

a) That disturbance to the stream banks and shorelines shall be avoided;

b) That the area disturbed or cut shall be replanted, or allowed to regenerate in a manner that assures the availability of cover and breeding *sites* for wildlife, and reestablishes the *wildlife corridor* function of the *buffer*; and

c) That the cutting does not involve the creation of logging *roads* and skid trails within the minimum 100-foot *buffer*.

v. Commercial harvesting of trees by any method may be permitted to the edge of *intermittent streams* if the cutting and removal is done in accord with a *Buffer* Management Plan approved by the Department of Natural Resources, Bay Watershed Forester.

15. Water Quality

All new *development* or *redevelopment* shall reduce pollutant loading from the *site* and shall comply with the *stormwater management* qualitative control measures found in Article VI, Section 10 of this Ordinance.

16. Wildlife Corridors

Developments shall incorporate a wildlife corridor system that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site in order to provide continuity of existing wildlife and plant habitats with offsite habitats. Plans shall include provisions for the continuance and maintenance of the wildlife corridors. This can include *conservation easements*, cooperative agreements, special provisions in forest management and soil conservation plans, and donation to a third party.

12.8 COMMERCIAL CRITICAL AREA DESIGN STANDARDS

The purpose of these standards is to give a sense of the physical aspects of the County's environment to those contemplating new *development* in the community. Pertinent to this physical appearance is the design of the *site*, *buildings* and *structures*, plantings, *signs*, *street* hardware, and miscellaneous other objects observed by the public.

These standards are not intended to restrict imagination, innovation, or variety, but rather assist in focusing on design principles which can produce creative solutions that will develop a satisfactory visual appearance within the County, preserve taxable values, and promote the public health, safety, and welfare.

A. COMMERCIAL CRITICAL AREA GENERAL DESIGN STANDARDS

1. The landscape shall be preserved in its natural state, in so far as possible, by minimizing *tree* and *soil* removal. Any grade changes shall be in keeping with the general appearance of neighboring development areas. *Buildings* are encouraged to be located so as to maintain maximum natural *topography* and cover. Whenever possible, *development* shall be located outside of the *floodplain*.

2. *Streets* shall be designed and located in a manner so as to maintain and preserve natural *topography*, cover, significant landmarks and trees; to minimize *cut* and *fill*; and to preserve and enhance views and vistas on and off the subject parcel.

3. Proposed *development* shall be related harmoniously to the terrain and to the use and scale of existing *buildings* in the vicinity that have functional or visual relationships to the proposed *buildings*. *Development* shall be designed to provide safe, comfortable places where people can visit, meet, shop, and rest without conflicting with other *street* uses.

4. All *open space* (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the *site* or overlooking it from nearby properties.

5. Whenever possible, adverse effects on historic, traditional, or significant uses and *structures* shall be minimized, whether these exist on the *site* or on adjacent properties.

6. Varied building massing is encouraged to enhance the community's sense of place.

7. Commercial establishments, offices, and financial institutions emphasize personal service as their primary products. These *structures* should reflect personal service by their architectural design which is at a human scale at entries and interior spaces. Building components such as windows, wood doors, and decorative trim should emphasize the human scale in coordination with each other and the building scale.

8. Each unit of *development*, and the total *development*, shall create an environment of desirability and stability. Commercial establishments are encouraged to limit the visual impression of height by the use of roof treatments, and varying the plane of exterior walls.

9. Parking lot design shall reflect the fact that once people step out their cars, they become pedestrians. Parking lots shall be designed not only to facilitate efficient vehicle circulation but to also permit smooth pedestrian circulation.

10. Provision for safe and efficient bicycle circulation and parking should be included in the overall design of the parking lot.

11. Whenever possible, display areas should be incorporated into the overall design of the *site*. Display areas shall not be in the *front yard setback*.

B. COMMERCIAL CRITICAL AREA SPECIFIC DESIGN STANDARDS

1. *Site* Access

Site access shall be subject to the following *regulations* to help ensure vehicle and pedestrian safety and alleviate congestion:

a. Where property abuts a *primary*, *secondary*, or *collector road*, access shall be by way of the *secondary* or *collector road*. Exceptions to this rule shall be instances where the *Planning Commission*, or where applicable the Planning Director, determines that direct access onto the *primary road* would promote traffic safety.

b. Where one or more contiguous parcels abutting a *primary road* are under single ownership and any one of the parcels abuts a *secondary road* or *collector road*, access to all of the parcels of the parcels under single ownership shall be by way of the *secondary* or *collector road*. Exceptions to this rule shall be instances when the *Planning Commission*, or where applicable the Planning Director, determines that direct access onto the *primary road* would promote traffic safety.

c. Only one direct access approach onto a *primary road* from an individual parcel of record as of August 1, 1989 shall be permitted unless the *Planning Commission*, or where applicable the Planning Director, finds one of the following:

i. The *Planning Commission* may, with approval of the State Highway Administration or Kent County Public Works Department, approve additional access if the additional access is deemed to be significantly beneficial to the safety and operation of the highway or if allowing only one access approach would be a safety hazard or increase traffic congestion.

ii. The *Planning Commission* may approve access when the parcel is bisected by *steep slopes*, bodies of water, or other topographic features in such a manner as to render some portion of the property inaccessible without additional road access.

d. Where a proposed road is designated on an approved County or State map, *site plans* for *development* adjacent to the designated *roadway* shall include provisions for future access to the *roadway*.

e. Existing, planned, or platted *streets* on adjacent properties shall be continued when the *Planning Commission*, or where applicable the Planning Director, determines that the continuation is necessary for safe and reasonable circulation between the properties.

f. When deemed necessary by the *Planning Commission*, or where applicable the Planning Director, developments shall provide access to adjacent tracts not presently developed.

g. Pedestrian and bicycle linkages to adjacent developments shall be provided whenever possible.

h. Access shall be consolidated whenever possible.

i. Whenever possible, *roads* shall be constructed above the elevation of the *100-year floodplain*.

j. The applicant shall demonstrate that access to the project is adequate and the roads which will be impacted have the capacity to handle the traffic generated by the proposed project and will not endanger the safety of the general public.*

* Amended 11/14/06

2. Parking Areas
   a. Parking lots shall be located as much as possible to the rear of *buildings*. Locating parking lots in the *front yard setback* is specifically prohibited.
   b. *Sites* shall be designed to prevent awkward or dangerous vehicular flow.
   c. Driveways in parking lots must be a minimum of 20 feet wide for two-way traffic and 15 feet wide for one-way traffic.
   d. A minimum of one handicap parking space shall be provided for every 25 spaces in a safe, convenient, and centralized location.
   e. Whenever possible, parking lot design shall provide for connection to adjacent parcels where uses are compatible.
   f. Marked walkways, separated from vehicular traffic shall be provided to the entrance of establishments. Parking areas with 80 spaces or more shall provide walkways running parallel to the parking rows every four rows and walkways running perpendicular to the parking rows every 20 spaces. Display areas approved by the *Planning Commission*, or where applicable the Planning Director shall not be included in the tabulation of parking spaces. The *Planning Commission* may waive this requirement.
   g. Landscaping shall be provided according to the provisions in this Ordinance.

3. Delivery Trucks and Trash Collection Vehicles
   a. *Loading* and *unloading spaces* for delivery trucks shall not block major pedestrian ways or create blind spots when trucks are loading and unloading.
   b. Trash boxes shall be accessible to collection trucks when all vehicle parking spaces are filled.

4. *Floodplain*
   a. In order to prevent excessive *flood* damage and to allow for the protection of the natural and beneficial *floodplain* functions, all *development*, *new construction*, and *substantial improvements* to existing *structures* in all *floodplain* zones shall comply with the requirements of Article VI, Section 7 of this Ordinance, including but not limited to the following:
      i. Elevation of all new or substantially improved *structures*;
      ii. Compliance with venting and other construction standards; and
      iii. Submission and recordation, where applicable, of *Elevation Certificates*, *Declaration of Land Restrictions*, deed restrictions, and venting affidavits.*
   b. Placement of *buildings* and materials. In general, *buildings* and *accessory structures* should be located entirely out of the *floodplain*, out of the *flood* protection setback, or on land that is least susceptible to flooding. All *structures* permitted in the *floodplain* shall be oriented so as to offer the least resistance to the flow of floodwaters.
   c. General *development* shall not occur in the *floodplain* where alternative locations exist. Before a permit is issued, the applicant shall demonstrate that new *structures* cannot be located out of the *floodplain* and that encroachments onto the *floodplain* are minimized.

5. Landscaping - General
   a. A minimum area of 15% of each new or redeveloped *site* shall be landscaped. Landscaping within the parking areas and screening may be counted toward this requirement.
   b. The *front yard* shall be landscaped and maintained in a neat and attractive condition.
   c. Landscaping shall be maintained in a good condition with at least the same quality and quantity as initially approved.

* Amended 6/3/14

d. The *landscape plan* shall be prepared by a registered professional forester, landscape architect, or other professional with equivalent experience and qualifications.

e. The *Planning Commission*, or where applicable the Planning Director, may reduce or waive the landscape requirement when it is demonstrated that the spirit and intent of the requirement are accomplished through other means or the nature of the change does not require additional landscaping.

6. Parking Area Landscaping

a. At least 10% of all parking areas where more than ten parking spaces are provided shall be landscaped. Perimeter screening does not count toward parking area landscaping. This may be waived by the *Planning Commission* or where applicable the Planning Director.

b. To avoid large expanses of paved parking areas in parking areas of 80 spaces or more, the following provisions, which may be waived by the *Planning Commission*, or where applicable the Planning Director, shall apply:

i. A row shall not contain more than twelve 12 spaces without a landscaped *island* of at least the size of one parking space.

ii. The ends of parking rows shall contain an *island* a minimum of six feet wide adequately landscaped with shade trees, ground cover, and shrubs.

iii. Double rows of parking shall be separated by a minimum six-foot planting strip adequately landscaped with shade trees and shrubs.

7. Perimeter Landscaping and Screening

a. Screening is required to protect adjoining properties and *roadways* from noise, glare, and uses which are visually incompatible with neighboring land uses. Screening is required:

i. On *sites* which involve loading or unloading (including the storage of vehicles and boats), trash, or disposal areas and where accessory *buildings* and *structures* are adjacent to residential properties.

ii. Where exterior storage areas are visible from *roadways*, sidewalks, or nearby residential properties.

iii. When noise not typically occurring in residential areas is expected to project onto nearby properties.

iv. To *screen* parking areas, but not approved display areas, from motorists, pedestrians, and adjoining residential properties.

v. Where the commercial *site* abuts a residential district.

b. Landscaped screens shall be designed to complement other landscaping occurring naturally on the *site*, planted previously, or approved as a part of a *site plan* review. Whenever possible, existing vegetation and landform shall be used to create screens.

c. The *screen* shall be capable of providing year round screening.

d. When noise is likely to be a factor, the *screen* shall be of sufficient construction to be an effective noise buffer.

e. Screening shall consist of trees and plants, and may include masonry, or wooden fencing used with or without *berms*. Screening shall consist of a functional and well-designed combination of the following:

i. Vegetative ground cover

ii. Coniferous and deciduous shrubs

a) Specimens of which will reach and maintain a minimum height of 5 feet of full vegetative growth.

b) Plants which measure a minimum of 3 feet in height at the time of planting and are expected to attain a 5-foot height within 3 years.

iii. Coniferous and deciduous trees
Species and sizes of which will be chosen to best accomplish an adequate *screen* (i.e. evergreens used for visual screening, deciduous trees for seasonal screening).

f. Natural *slopes* and existing vegetation may be substituted for some or all of the requirements above, provided that these features serve to *screen* the area from adjoining properties and *roadways*. The *Planning Commission*, or where applicable the Planning Director, shall determine the acceptability of using existing *slopes* and vegetation for this purpose. The *Planning Commission*, or where applicable the Planning Director, may waive screening where it is physically impossible to accomplish.

g. Screening and fencing shall be maintained in at least the same quality and quantity as initially approved.

8. Lighting

a. Lighting shall be designed at the human scale and shall not exceed eighteen feet in height. This does not apply to lighting mounted on *buildings*. The *Planning Commission*, or where applicable the Planning Director, may waive the height limitation.

b. Lighting on the *site* shall be designed to avoid glare onto adjacent properties and adjacent *roadways* and shall not interfere with traffic or create a safety hazard.

c. Lighting on the *site* shall be sufficient to provide for the safety and security of the business, its employees, and its customers.

d. Lighting shall be color corrected.

9. *Subdivision*

a. All reasonable efforts should be made to protect adjacent residential areas from potential nuisances from the commercial *subdivision* by providing adequate depth in parcels adjacent to residential zoning.

b. Proposed *street* layout, blocks, and parcels shall be suitable in area and dimension for the type of *development* anticipated.

c. The total area shall be sufficient to provide adequate space for *off-street parking*, loading, landscaping, and other facilities.

d. The *lot* arrangement, design, and orientation shall be such that all lots will provide satisfactory building *sites*, properly related to *topography* and the character of surrounding *development*.

e. Every *lot* shall abut upon and have access to a public road or approved *private road*.

f. Lots adjoining *major thoroughfares* and railroad lines should be designed with extra depth and provision for an appropriate means of buffer or deeper building setbacks.

g. Where land in a *subdivision* adjoins a railroad line, the *street* layout shall make allowance for future grade separated railroad crossings at appropriate locations by providing extra *street right of way* widths for such crossings and by restricting intersecting *streets* at locations where they would cause interference with necessary approaches to such crossings.

h. Proposed *streets* in the *subdivision* shall provide for the continuation of existing, planned, or platted *streets* on adjacent tracts, unless such continuation shall be prevented by *topography* or other physical feature or unless such extension is found by the *Planning Commission* to be unnecessary for the coordination of *development* between the *subdivision* and such adjacent *tract*.

i. Where the *Planning Commission* deems it desirable or necessary to provide access to adjacent tracts not presently subdivided, proposed *streets* in the *subdivision* shall be extended to the boundary lines with such tracts.

j. Where the *subdivision* adjoins or embraces any part of a *major thoroughfare* as designated on the Kent County Major Thoroughfare Map, the layout of such *subdivision* shall provide for the platting and dedication of such part of the *major thoroughfare* in the location and at the width indicated on the *major thoroughfare* plan, except that the *subdivider* shall not be required to dedicate that part of such *major thoroughfare* that is in excess of eighty (80) feet in width.

k. Where deemed desirable to the layout of the *subdivision* and adjoining area, the *Planning Commission* may require the platting and dedication of one or more *collector streets* or parts thereof, to serve the *subdivision*.

l. Subdivisions shall be in full compliance with the provisions of this Ordinance.

m. *Private roads* are permitted in minor subdivisions and are subject to the following conditions:

i. Each road shall serve no more than seven parcels. In the event that an eighth parcel is created, the eighth parcel and all further divisions of land shall front on a public road.*

ii. The *subdivision* shall provide a 50-foot *right of way* for each *private road*.

iii. The construction of all lanes and *private roads* shall adhere to the requirements established by the Kent County Department of Public Works and sediment control and *stormwater management regulations*.

iv. The deed and contract of sale of all lots in the *subdivision* shall state: "The road is private and not the responsibility of Kent County."

v. The plat shall identify all *private roads* and shall state: "The road is private and not the responsibility of Kent County."

10. Building Mass, Size, and Scale

a. New *buildings* should not create large, bulky, masses but should be scaled down to into groupings of smaller attached *structures* and modules that reflect proportions similar to historic *buildings*. Methods used to create intervals that reflect and respect historic *structures* include but are not limited to the following:

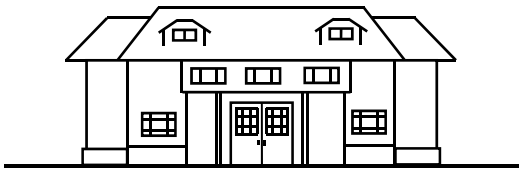
i. Facade modulation - stepping back or extending forward a portion of the facade.

ii. Repeating window patterns at established intervals.

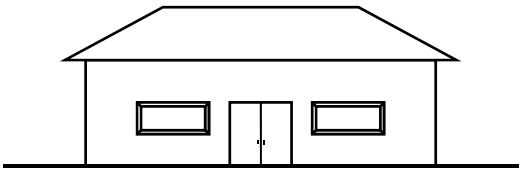
iii. Providing a balcony or bay window at established intervals.

iv. Changing the roofline by alternating dormers, stepped roofs, gables, or other roof elements.

v. Use of landscaping and architectural detailing at the ground level.



Structure 1, Utilizes building massing



Structure 2, Does not utilize building massing

The above structures are the same height and width and are drawn to the same scale.

b. Building designs shall be encouraged to utilize traditional materials (brick or wood) and contemporary interpretations of earlier styles.

c. The design of new *buildings*, building additions, and *alterations*, and facade renovations should reflect the positive aspects of the existing design features of the County. *Buildings* should complement and improve the overall environment of the area.

* Amended 10/16/12

d. The proposed building orientation shall respect the orientation and scale of surrounding *buildings* and where deemed necessary by the *Planning Commission* serve as an orderly transition to a different scale.

e. All rooftop equipment shall be screened from public view by screening material of the same nature as the building's basic building materials.

f. *Buildings* in *shopping centers* are encouraged to be arranged in varied clustered masses related closely to the road.

g. Arches, porches, arcades, overhangs, full roofs, and varying facade setbacks are encouraged in *shopping centers*.

h. The scale within a *shopping center* shall be consistent throughout the center. Where anchor or major tenants require larger building areas, the larger scale of these units shall be broken down into comparable to the predominant unit in the *development*. The placement of anchor stores shall consider the overall balance of the center.

SECTION 13. MARINE DISTRICT

13.1 STATEMENT OF INTENT

The purpose of this district is to provide for full service *marinas*, including out-of-water boat storage, repair, and other services normally associated with *marinas*. Marine industrial uses, including boat building, are permitted in appropriate locations subject to applicable sanitation and pollution laws and ordinances. *Retrofitting* of *stormwater management* is encouraged and standards are provided to improve the quality of runoff that enters the Chesapeake Bay and its tributaries. The Marine District is intended to:

- Improve the quality of runoff from developed areas that enters the Chesapeake Bay or its tributary streams.
- Accommodate additional mixed-use development provided that water quality is not impaired.
- Minimize the expansion of intensely developed areas into portions of the Critical Area designated as habitat protection areas and resource conservation areas.
- Conserve and enhance fish, wildlife, and plant habitats to the extent possible within intensely developed areas.
- Encourage the use of *retrofitting* measures to address existing *stormwater* management problems.

13.2 PERMITTED PRINCIPAL USES AND STRUCTURES

A *building* or land shall be used only for the following purposes, in all cases subject to *site plan* review by the *Planning Commission* or where applicable the Planning Director.

1. Boat docks, piers and wharves, provided that they do not exceed 25% of the *waterway*, or the edge of the *channel*, whichever is less

2. Boat repair, in and out of water, located at least 100 feet from any residential district

3. Boat rental, sales, supplies, instruction, and other services customarily associated with a full service *marina*

4. Boat building, located at least 100 feet from any residential district

5. *Erosion* and *flood* control *structures*

6. *Restaurants* without drive through facilities

7. Out-of-water boat storage but not multi-level boat storage

8. *Marinas*

8.5 *Private destination/residence clubs**
   a. The aggregate Marine zoned property shall consist of 4 or more acres.
   b. The facilities for such overnight accommodations shall pay the appropriate county taxes, including taxes payable under Article III or Chapter 152 of the Code of Public Local Laws if Kent County.
   c. The facilities for overnight accommodations shall use a reservation system.

* Amended 9/5/08

d. Permitted accessory uses may include clubhouse, restaurants, cafés or other dining facilities; bars, pubs or taverns; recreational facilities, such as tennis courts, swimming pools, and spas and other accessory uses that are customarily associated with a lodging facility. The permitted accessory uses shall not include trap, skeet, clay birds, paint ball, or other similar firearm activities. The applicant shall describe all proposed accessory uses in the application for site plan. Recreational facilities shall be at least twenty-five (25) feet from the nearest property line.

e. Where they exist, listed *historic structures* shall be incorporated into the overall project.

f. Significant view corridors, both from the site and onto the site, shall be preserved as far as possible.

g. The height of all *structures* shall not exceed thirty-eight (38) feet.

h. Parking lots shall be landscaped as required for commercial developments in Article V, Section 11 of this Ordinance.

i. The approval of a facility for overnight accommodations shall not impose restrictions that will preclude the use of the marina and property for commercial marine uses permitted in the Marine Zoning District, including boat building, storage, and repair; however, the continuation of these uses shall not be required. The maintenance and continuation of boat slips will be required.

j. The County may require connection to a public sewer system, if and when such system is available.

k. Campgrounds, mobile homes, *recreational vehicle* and manufactured home parks shall not be considered private destination or residence clubs.

9. *Public landings*

10. *Public utility lines* and *accessory structures* provided:
    a. The *structures* are screened from the road and adjacent properties.
    b. In so far as possible, *structures* are located to maintain significant views.
    c. In so far as possible, *structures* are not visually intrusive to the neighborhood.

11. Existing *conference centers*, *resorts*, *retreats*, *hotels*, and *motels* in the Marine District. It is the intent of this section to provide for the continued existence and operation as well as the expansion of existing *conference centers*, *resorts*, *retreats*, *hotels*, and *motels* in the Marine District. It is not the intent to permit the creation of new *conference centers*, *resorts*, *retreats*, *hotels*, or *motels*, but rather to protect those enterprises that existed in the Marine District on August 1, 1989. An expansion shall require *site plan* review by the *Planning Commission* and shall require a net improvement in water quality at or leaving the *site*. An expansion may require growth allocation.

13.3 SPECIAL EXCEPTIONS

The following principal uses and *structures* may be permitted as special exceptions in the Marine District, subject to *site plan* review by the *Planning Commission* or where applicable the Planning Director. Detailed limitations and standards for these uses may be found in Article VII of this Ordinance.

1. Adaptive reuse of historic *structures*
2. *Airport*, landing field, heliport, or helistop, public or private
3. *Country inn*
4. Dredge spoil *site*
5. Dormitories for employees
6. Multi-level boat storage, excluding dinghy storage
7. *Private club*s

8. Pubs, taverns, and bars, including open air facilities
9. Seafood processing, including wholesale and retail sales

13.4 ACCESSORY USES AND STRUCTURES

The following *accessory uses* and *structures* are permitted in the Marine District.

1. Appurtenant *signs* in accordance with Article VI, Section 2 of this Ordinance

2. Bath houses, pump out *structures*, and other *accessory structures* normally associated with permitted uses

3. Dwellings, limited to two, for persons permanently employed on the *premises*

4. Fuel storage and sale for marine purposes only

5. *Off-street parking* and loading, including the parking of commercial vehicles related to the operation of an *on-site* business

6. Recreational uses such as *swimming pools*, game courts, and other like recreational facilities located a minimum of 25 ft. from all property lines

7. Satellite dish with an antenna exceeding 3 feet in diameter provided:
   a. No antenna shall exceed an overall diameter of 12 ft. or an overall height of 15 ft. above *existing grade*.
   b. The antenna shall be permanently ground-mounted. An antenna shall not be installed on portable or moveable *structures*.
   c. The antenna shall be totally screened along the non-receptive axis and low-level ornamental landscaping shall be installed along the reception window axis of the base of the antenna. Screening may consist of fencing or a variety of plant types. Screening may be waived when the antenna is located 100 ft. from all property lines or the antenna is of a nature that is not visible or intrusive to the neighborhood.

8. Satellite dish with an antenna 3 feet or less in diameter provided that the antenna is not installed on portable or movable *structures*

8.5 *Solar energy systems, small*, provided:*
   a. Tree removal shall be minimized and any removal shall be mitigated in accordance with the Critical Area Program requirements.
   b. All solar collection devices shall register with the Department of Emergency Services and shall submit a map noting the location of the solar collection devices and the panel disconnect.
   c. The total height of solar collection systems shall comply with the height requirements.

9. Stores or shops for the conduct of retail sales including the sale of groceries, beverages, food, clothing, marine supplies, and similar shops and stores

10. Temporary *MET Tower* of any height provided:*
   a. The tower is erected for no more than 12 months.
   b. Any free standing *structure* is located a minimum of 3 times its total height from a property line.
   c. Towers are not readily climbable from the ground up to 12 feet.

* Amended 9/6/11

11. *Wind energy systems, small*, provided:*
    a. The height of the *structure* to the tip of the blade at its highest point does not exceed 80 feet.
    b. Any system is located a minimum of 3 times its total height from a property line.
    c. Towers are not readily climbable from the ground up to 12 feet.
    d. All access doors to towers and electrical equipment shall be lockable.
    e. Appropriate warning signage is placed on the tower and electrical equipment.
    f. The blade tip at its lowest point had a ground clearance of at least 25 feet.
    g. Wind turbines and towers maintain a galvanized steel, brushed aluminum finish, or a non-garish color.
    h. Any small wind energy system that is not operational for a period of 12 consecutive months or more shall be removed at the landowner's expense.

* Amended 9/6/11

13.5 DENSITY, HEIGHT, WIDTH, BULK AND FENCE REQUIREMENTS

Gross *density* (dwelling units/acre)	2
Minimum *lot* size	½ acre
Minimum *frontage*	
- Road	100 feet
- Waterfront	100 feet
Minimum *yard*	
- *Front*	30 feet
- *Side*	
Adjacent to CC, CCA, M*	8 feet
Adjacent to other districts	25 feet
- *Rear*	
Adjacent to CC, CCA, M*	10 feet
Adjacent to other districts	25 feet
- Waterfront	Minimum 100-foot *buffer* or *modified buffer* [1]
- *Shoreline cliff*	1.5 x *cliff height* + 20 feet
- Minimum *pier*	
Side yard	30 feet
- Accessory *Buildings*	
Side	3 feet
Rear	5 feet
Height	
- *Buildings*	38 feet
- Covered *pier* [2]	38 feet
- Fence	
- Security	8 feet
- Ornamental	
Front & Side	4 feet
Rear	8 feet

[1] Modifications for structures existing prior to April 12, 1988 may be permitted as per Article V, Section 13.6.B.4.

[2] Height of covered *piers* shall be measured from Mean High Tide.

* Amended 11/1/05

13.6 MARINE ENVIRONMENTAL STANDARDS

The purpose of these standards is to provide for the proper stewardship of the County's natural resources. Specifically it is the overall goal of the county to maintain the quality of the County's *ecosystem* in the face of continuing activity, growth and change.

A. MARINE GENERAL ENVIRONMENTAL STANDARDS

1. *Development* shall minimize *adverse impacts* to *non-tidal* or *tidal wetlands*, estuaries, the Chesapeake Bay, *tributary streams* and the natural course and *riparian habitat* of these streams, Habitat Protection Areas or other significant habitat as identified by the Department of Planning and Zoning.

2. *Development* shall minimize the removal of vegetation. Protection of remaining vegetation and replacement of removed vegetation shall be required. The *developer* shall demonstrate that the change in vegetation minimizes the effect on the microclimate.

3. *Development* shall minimize the effects of runoff on the existing volume and quality of any water body. Chemical and nutrient pollution shall be reduced or at least minimized. Urban *best management practices* shall be used.

4. Whenever possible, land with poor drainage or other adverse condition shall not be developed. When developed, the property owner shall agree to make any improvements necessary to render the property safe for *development*.

5. Whenever possible, land subject to periodic flooding shall not be developed for any use which might involve danger to health, life, or property or aggravate *flood* hazard.

6. If practicable, permeable areas shall be established in vegetation. *Native plants* are preferred.

B. MARINE SPECIFIC ENVIRONMENTAL STANDARDS

1. *Agriculture*
   No new agricultural land shall be created by:
   a. Draining, filling, or diking, any *palustrine wetlands* which have a *seasonally flooded or wetter water regime* unless the impact is mitigated.
   b. *Clearing* of *forest* or woodland on *soils* with a *slope* greater than 15% or on *soils* with a *K Value* greater than 0.35 and *slope* greater than 5%.
   c. *Clearing* of existing *natural vegetation* within the *buffer*.
   d. *Clearing* of *forest* if the *clearing* will affect water quality or habitat protection areas as designated in Article VI, Section 3.8 of this Ordinance.

2. *Anadromous fish*
   a. Concrete riprap or other artificial surface shall not be installed on the bottom of natural streams unless it can be demonstrated that water quality and fishery habitat will be improved.
   b. Physical alteration of a stream, including but not limited to channelization, that interferes with the movement of fish shall be prohibited.
   c. The construction or placement of dams or other *structures* that would interfere with or prevent the movement of spawning fish or larval forms in streams shall be prohibited. Where practical, the removal of existing barriers is encouraged.

d. Construction, repair or maintenance activities associated with bridges or other stream crossings or with utilities and roads which require disturbance to the *buffer*, or which occur in stream shall be prohibited between March 1 and May 15.

3. *Buffer*

a. *Development* in the *Buffer*

i. New *development activities*, including *structures*, *roads*, parking areas, and other *impervious surfaces*, mining, and related activities, or septic systems shall not be permitted within the minimum 100-foot *buffer*. This restriction does not apply to water-dependent facilities that meet the criteria set forth below.

ii. New or expanded *development activities* may be permitted in the minimum 100-foot *buffer*, provided

a) The use is water dependent.

b) The project meets a recognized private right or public need.

c) Adverse effects on water quality and fish, plant, or *wildlife habitats* are minimized.

d) In so far as possible, non-water dependent *structures* or operations associated with water-dependent projects or activities are located outside the minimum 100-foot *buffer*.

iii. Water-dependent research facilities or activities operated by State, Federal, local agencies or education facilities may be permitted in the *buffer* if non-water dependent *structures* or facilities associated with these projects are located outside the *buffer*.

iv. Commercial water-dependent fisheries facilities including, but not limited to, *structures* for crab shedding, fish off-loading docks, shellfish culture operations, and shore based facilities for *aquaculture* operations, and *fisheries activities* may be permitted in the *buffer*.

b. Vegetation protection within the *Buffer*

i. *Natural vegetation* within the *buffer* shall be preserved and protected unless one of the following apply:

a) An approved *forest* harvesting plan is followed.

b) Individual trees may be cut for personal use provided this cutting does not impair the water quality or existing habitat value or other functions of the *buffer*. Trees shall be replaced on an equal basis for each *tree* cut.

c) Trees which are leaning over the water may be cut, but their stumps and roots shall not be disturbed.

d) The disturbance provides access for water-dependent facilities or shore *erosion* protection *structures*.

e) Landowners may treat trees and shrubs to maintain or improve their health.

ii. Vegetation in the *buffer* removed for the reasons listed above shall be reestablished over the entire disturbed area during the next planting season. These plantings shall be approved by the Department of Planning and Zoning. In addition, Article VI, Section 9 of this Ordinance shall be followed exactly.

iii. *Natural vegetation* removed for an approved purpose shall be in accordance with an approved *buffer* management plan.

c. Stream Protection

Development activities that must cross or affect streams shall be designed to:

i. Reduce increases in flood frequency and severity that are attributable to development.

ii. Retain tree canopy so as to maintain stream water temperature within normal variation.
iii. Provide a natural substrate for stream beds.
iv. Minimize adverse water quality and quantity impacts of *stormwater*.

4. *Modified Buffer*
   a. *Development* in the *Modified Buffer*
      i. No new *development* shall encroach within 25 feet of mean high tide or 25 feet of the edge of a *tidal wetland*. Expansion to the side or rear but not to closer to the water may be permitted as long as the expansion is designed and located to maximize the distance from the shoreline or to enhance or protect the environmentally sensitive features on the *site*.
      ii. An area of existing *impervious surface on-site* equal to or greater than the area of new *development* shall be removed and revegetated, or
      iii. A *forest buffer* will be planted *on-site* equal to three times the amount of newly developed *impervious surface* within the minimum 100-foot *buffer* (equal areas to be planted for other disturbance outside of the minimum 100-foot *buffer*); if there is not enough available space on the *lot* to create a *buffer*, the property owner must plant the required amounts *on-site* outside the *buffer*, *off-site*, or must pay a fee-in-lieu.
   b. Vegetative Protection within the *Modified Buffer*
      Natural vegetation within the *modified buffer* shall be preserved and protected unless one of the following apply:
      i. Individual trees may be cut for personal use provided this cutting does not impair the water quality or existing habitat value or other functions of the *buffer*. Trees shall be replaced on an equal basis for each *tree* cut.
      ii. Trees which are leaning over the water may be cut, but their stumps and roots shall not be disturbed.
      iii. The disturbance provides access for water-dependent facilities or shore *erosion* protection *structures*.
      iv. Landowners may treat trees and shrubs to maintain or improve their heath.

5. *Forest Interior Dwelling Birds*
   a. Existing riparian *forest* of 300 x 300 feet or more and *forest* areas used by *forest interior dwelling birds* and other wildlife species shall be managed according to the guidelines developed by the Maryland Department of Natural Resources and the Chesapeake Bay Critical Area Commission.
   b. A *site* survey for *forest interior dwelling birds* shall be conducted prior to any *development* or agricultural expansion on deciduous *forest* of at least 50 acres or 300 x 300 foot riparian deciduous *forest*. The Planning Director may waive a *site* survey for *forest interior dwelling birds* provided the *forest* is managed for all *forest interior dwelling bird* species. Cutting and building shall be restricted to safe times (not during nesting - see Article VI, Section 3.9 of this Ordinance).

6. Habitat
   a. All *roads*, bridges and utilities that must cross a Habitat Protection Area shall be located, designed, constructed, and maintained so as to provide maximum *erosion* protection and minimize negative impacts to wildlife, aquatic life and their habitats and maintain hydrologic processes and water quality. *Roads*, bridges, or utilities shall not be located in any Habitat Protection Area unless no feasible alternative exists.

b. During and after *development* in forested areas, corridors of existing *forest* or woodland vegetation shall be maintained to provide effective connections between *wildlife habitat* areas.

c. New water-dependent facilities shall be located so as to prevent disturbance to *sites* of significance to wildlife such as historic aquatic staging and concentration areas for *waterfowl*, shellfish beds, finfish nursery areas, and submerged aquatic vegetation beds.

7. *Natural heritage areas* and locations considered for Areas of Critical State Concern
These areas of local significance shall be preserved whenever possible in accordance with the recommendations of the Department of Natural Resources. These areas are identified in Article VI, Section 3.8 of this Ordinance.

8. *Non-tidal wetlands*
Non-tidal wetlands shall be protected according to the *regulations* of the State of Maryland, Army Corps of Engineers, United States Fish and Wildlife Service, Environmental Protection Agency and all other applicable State and Federal *regulations.*

9. *Slopes*
Development on *slopes* greater than 15%, as measured before development, shall be prohibited unless the project is the only effective way to maintain or improve the stability of the land.

10. *Stormwater Management*
No *person* shall develop any land for residential, commercial, industrial, or institutional uses or redevelop land without having provided for appropriate *stormwater management* measures that control or manage runoff from such developments except as provided in Article VI, Section 10 of this Ordinance. *Stormwater* management shall be accomplished for all new *development* or *redevelopment* in accordance with the provisions of Article VI, Section 10 of this Ordinance.

11. Threatened and Endangered Species and Species in Need of Conservation

a. Any *development* shall include a statement on the type and location of any threatened or *endangered species* or *species in need of conservation* on the property, and any recommendation for maintaining and protecting that habitat from the Department of Natural Resources.

b. Threatened or *endangered species* and *species in need of conservation* shall be checked and noted by the *developer* before any approval can be granted by the Planning Director, *Planning Commission* or Zoning Administrator.

c. The Federal or State guidelines (whichever is stricter) for habitat protection shall be followed during *development*. Plans shall include provisions for the continuance of the habitat protection after *development*. This can include *conservation easements*, cooperative agreements, special provisions in *forest management* and *soil* conservation plans, and donation to a third party.

12. Timber Harvest

a. *Forest management plans* shall be required for all timber harvest occurring within any one-year interval and which affect one or more acres in *forest* and *developed woodlands* in the *Critical Area*. The plans shall be prepared by a registered professional forester and be reviewed and approved by the Maryland Forest, Park and Wildlife Service through the District Forestry Boards and the project forester. Plans shall be filed with the Department of Planning and Zoning.

b. Plans shall include measures to protect surface and ground water quality and identify whether the activities will disturb or affect Habitat Protection Areas as set forth in this Ordinance or identified on the Habitat Protection Areas Map.

c. Plans shall include protective measures for Habitat Protection Areas and shall provide for the continuity of habitat. The plans shall address mitigation through *forest management* techniques which include scheduling size, timing, and intensity of harvest cuts, *afforestation*, and *reforestation*.

d. The cutting and *clearing* of trees within the minimum 100-foot *buffer* is permitted provided that:

   i. Existing riparian forests of 300 x 300 feet or more and *forest* areas used by *forest interior dwelling birds* and other wildlife species shall be managed according to the guidelines of the Department of Natural Resources.

   ii. When timber harvesting is being considered, a *site* survey for *forest interior dwelling birds* shall be done. Cutting and building shall be restricted to safe times (not during nesting - See Article VI, Section 3.9 of this Ordinance).

   iii. During timber harvest in corridors of existing *forest* or woodland vegetation shall be maintained to provide effective connections between *wildlife habitat* areas.

   iv. Commercial harvesting by *selection* or by *clear-cutting* of Loblolly Pine and Tulip Poplar may be permitted to within 50 feet of the landward edge of the *mean high water line* of tidal water and *perennial tributary streams* or the edge of the *tidal wetlands* provided that the cutting does not occur in the Habitat Protection Areas, and that cutting is conducted pursuant to the requirements of the Article VI, Section 9 and *non-tidal wetlands* requirements of this Ordinance, and in conformance with a *buffer* management plan prepared by a registered forester and approved by the Department of Natural Resources. The plan shall be required for all commercial harvests within the minimum 100-foot *buffer* regardless of the size of the area to be cut and shall contain the following minimum requirements:

      a) That disturbance to the stream banks and shorelines shall be avoided;

      b) That the area disturbed or cut shall be replanted, or allowed to regenerate in a manner that assures the availability of cover and breeding *sites* for wildlife, and reestablishes the *wildlife corridor* function of the *buffer*; and

      c) That the cutting does not involve the creation of logging *roads* and skid trails within the minimum 100-foot *buffer*.

      Commercial harvesting of trees by any method may be permitted to the edge of *intermittent streams* if the cutting and removal is done in accordance with a *Buffer* Management Plan approved by the Department of Natural Resources Forester.

13. Water Quality

a. New and existing *marinas* shall meet the sanitary requirements of the Maryland Department of the Environment.

b. New *marinas* shall establish a means of minimizing the discharge of bottom wash waters into tidal waters.

c. All new development and *redevelopment* shall reduce pollutant loadings coming off the *site* by at least 10%. Pollutant loads will be calculated in the manner developed by the Metropolitan Washington Council of Governments using phosphorous as the keystone pollutant. All *sites* shall comply with the *stormwater management* qualitative control measures found in Article VI, Section 10 of this Ordinance.

d. New and expanding *marinas* shall provide pump-outs for boat holding tanks. Adequate *signs* shall be posted to make boaters aware of the service available.

e. New *marinas* and expanding *marinas* shall provide facilities for recycling or proper disposal of oil, anti freeze, paint thinner, and other toxic or hazardous substances associated with the type of facility being developed.

f. Activities shall not significantly alter existing water circulation patterns or salinity regimes.

g. The water body upon which these activities are proposed shall have adequate flushing characteristics in the area.

h. Disturbances to *wetlands*, submerged aquatic plant beds, or other areas of important aquatic habitats shall be minimized and mitigated.

i. Shellfish beds shall not be disturbed or be made subject to discharge that will render them unsuitable for harvesting.

j. Dredging shall be conducted in a manner, and using a method, which causes the least disturbance to water quality and aquatic and terrestrial habitats in the area immediately surrounding the dredging operation or within the *Critical Area*, generally.

k. Dredged spoil shall not be placed within the *buffer* or elsewhere in that portion of the *Critical Area* which has been designated as a Habitat Protection Area except as is necessary for:

   i. Backfill for permitted shore erosion protection measures;

   ii. Use in approved vegetated shore *erosion* projects;

   iii. Placement on previously approved channel maintenance spoil disposal areas; and

   iv. Beach nourishment.

l. Interference with the natural transport of sand shall be minimized.

14. Wildlife Corridors

Developments shall incorporate a wildlife corridor system that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site in order to provide continuity of existing wildlife and plant habitats with offsite habitats. Plans shall include provisions for the continuance and maintenance of the wildlife corridors. This can include *conservation easements*, cooperative agreements, special provisions in forest management and soil conservation plans, and donation to a third party.

13.7 MARINE DISTRICT DESIGN STANDARDS

The purpose of these standards is to give a sense of the physical aspects of the County's environment to those contemplating new *development* in the community. Pertinent to this physical appearance is the design of the *site*, *buildings* and *structures*, plantings, *signs*, *street* hardware, and miscellaneous other objects that are observed by the public.

These standards are not intended to restrict imagination, innovation, or variety, but rather assist in focusing on design principles which can produce creative solutions that will develop a satisfactory visual appearance within the County, preserve taxable values, and promote the public health, safety, and welfare.

A. MARINE DISTRICT GENERAL DESIGN STANDARDS

1. The landscape shall be preserved in its natural state, insofar as practicable, by leaving the most sensitive area of the *site* intact and by minimizing *tree* and *soil* removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building *sites* shall be as to maintain maximum natural *topography* and cover. Whenever possible *development* shall be located outside the *floodplain*.

2. *Topography*, *tree* cover, *watercourses*, and natural drainage ways shall be treated as fixed detriments of road and *lot* configuration rather than malleable elements that can be changed to follow a preferred *development* scheme.

3. *Open space* and naturally vegetative areas shall be located, insofar as possible, so as to connect and expand existing greenways on adjacent *sites*.

4. All *open space* (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the *site* or overlooking it from nearby properties.

5. *Streets* shall be designed and located in such a manner so as to maintain and preserve natural *topography*, cover, significant landmarks and trees; to minimize *cut* and *fill*; and to preserve and enhance views and vistas on or off the subject parcel.

6. The color, size heights, lighting, and landscaping of appurtenant *signs* shall be evaluated for compatibility with the local architectural motif and the maintenance of views and vistas of natural landscapes, recognized historic landmarks, parks, and landscaping.

7. The removal or disruption of historic, traditional or significant uses, *structures*, or architectural elements shall be minimized insofar as practicable, whether these exist on the *site* or on adjacent properties.

B. MARINE DISTRICT SPECIFIC DESIGN STANDARDS

1. *Site* Access
Site access shall be subject to the following *regulations* to help ensure safety and alleviate traffic congestion:
   a. Where property abuts a *primary*, *secondary*, or a *collector road*, access to the property shall be by the way of the *secondary* or *collector road*. Exceptions to this rule shall be instances where the *Planning Commission* determines that direct access onto the *primary road* would promote traffic safety.
   b. Where one or more contiguous parcels abutting a *primary road* are under single ownership and any one of the parcels abuts a *secondary* or *collector road*, access to the property shall be by way of the *secondary road*.
   c. Only one direct approach onto a *primary road* to any individual parcel of record as of August 1, 1989 shall be permitted unless the *Planning Commission*, or where applicable the Planning Director, finds one of the following:
      i. An additional entrance is significantly beneficial to the safety and operation of the highway.
      ii. One entrance is a safety hazard or increases traffic congestion.

iii. The property is bisected by *steep slopes*, bodies of water, or other topographic feature in such a manner as to render some portion of the property inaccessible without additional road access.

d. Where a road is designated on an approved county map, *site plans* for *development* adjacent to the designated *roadway* shall include provisions for future access to the *roadway*.

e. Existing, planned or platted *streets* on adjacent properties shall be continued when the *Planning Commission*, or where applicable the Planning Director, determines that the continuation is necessary for the safe and reasonable circulation between the properties.

f. When deemed necessary or desirable by the *Planning Commission*, or where applicable the Planning Director, developments shall provide access to adjacent tracts not presently developed.

g. Access shall be consolidated whenever possible.

h. Whenever possible, *roads* shall be constructed above the elevation of the *100-year floodplain*.

i. The applicant shall demonstrate that access to the project is adequate and the roads which will be impacted have the capacity to handle the traffic generated by the proposed project and will not endanger the safety of the general public.*

2. *On-site* Circulation:

a. *Sites* shall be designed to prevent awkward or dangerous vehicular flow.

b. *Sites* shall be designed to discourage pedestrians and vehicles from sharing the same pathways.

c. Safe, convenient, and centralized access from handicap parking spaces shall be provided.

d. *Loading* and *unloading spaces* for delivery trucks shall not block major pedestrian ways or create blind spots when trucks are loading and unloading.

e. Trash boxes shall be accessible to collection trucks when all vehicle parking spaces are filled.

3. *Floodplain*

a. In order to prevent excessive *flood* damage and to allow for the protection of the natural and beneficial *floodplain* functions, all *development*, *new construction*, and *substantial improvements* to existing *structures* in all *floodplain* zones shall comply with the requirements of Article VI, Section 7 of this Ordinance, including but not limited to the following:

i. Elevation of all new or substantially improved *structures*;

ii. Compliance with venting and other construction standards; and

iii. Submission and recordation, where applicable, of *Elevation Certificates*, *Declaration of Land Restrictions*, deed restrictions, and venting affidavits.**

b. Placement of *buildings* and materials. In general, *buildings* and *accessory structures* should be located entirely out of the *floodplain*, out of the *flood* protection setback, or on land that is least susceptible to flooding. All *structures* permitted in the *floodplain* shall be oriented so as to offer the least resistance to the flow of floodwaters.

c. General *development* shall not occur in the *floodplain* where alternative locations exist. Before a permit is issued, the applicant shall demonstrate that new *structures* cannot be located out of the *floodplain* and that encroachments onto the *floodplain* are minimized.

4. General Landscape Requirements

a. A minimum area of 10% of each new *development* shall be landscaped. Buffers and screening count in the calculation of the landscaped area. This may be waived by the *Planning Commission* or where applicable the Planning Director.

* Amended 11/14/06; ** Amended 6/3/14

b. Parking areas shall be screened from view of motorists, pedestrians, and adjoining residential properties with a vegetative *screen* or landscaped *berm*. The height of the *berm* shall be approximately 3 feet. The width of the *berm* shall be at least twice the height. The vegetative *screen* shall have the potential of reaching a height of at least 3 feet within five years. The width of the landscaped area shall be 4 feet or wider. Perimeter screening shall not restrict sight distance needed for vehicular or pedestrian safety.

c. Natural *slopes* and existing vegetation may be substituted for some or all of the requirements above, provided that these features serve to *screen* the parking area from motorist, pedestrians, and adjoining property owners. The *Planning Commission*, or where applicable the Planning Director, may waive perimeter screening where it is physically impossible to accomplish.

5. Screening

a. Screening is required to protect adjoining properties and *roadways* from noise, glare, and uses which are visually incompatible with neighboring land uses. Screening is required:

i. On *sites* which involve loading or unloading (including the storage of vehicles and boats), trash, or disposal areas and where accessory *buildings* and *structures* are adjacent to residential properties.

ii. Where exterior storage areas are visible from *roadways*, sidewalks, or nearby residential properties.

iii. When noise not typically occurring in residential areas is expected to project onto nearby properties.

b. Landscaped screens shall be designed to complement other landscaping occurring naturally on the *site*, planted previously, or approved as a part of a *site plan* review. Whenever possible, existing vegetation and landform shall be used to create screens.

c. The *screen* shall be capable of providing year round screening.

d. When noise is likely to be a factor, the *screen* shall be of sufficient construction to be an effective noise buffer.

e. Screening shall consist of trees and plants, and may include masonry, or wooden fencing used with or without *berms*. Screening shall consist of a functional and well-designed combination of the following:

i. Vegetative ground cover

ii. Coniferous and deciduous shrubs

a) Specimens of which will reach and maintain a minimum height of 5 feet of full vegetative growth.

b) Plants which measure a minimum of 3 feet in height at the time of planting and are expected to attain a 5-foot height within 3 years.

iii. Coniferous and deciduous trees

Species and sizes of which will be chosen to best accomplish an adequate *screen* (i.e. evergreens used for visual screening, deciduous trees for seasonal screening).

f. Natural *slopes* and existing vegetation may be substituted for some or all of the requirements above, provided that these features serve to *screen* the area from adjoining properties and *roadways*. The *Planning Commission*, or where applicable the Planning Director, shall determine the acceptability of using existing *slopes* and vegetation for this purpose. The *Planning Commission*, or where applicable the Planning Director, may waive screening where it is physically impossible to accomplish.

g. Screening and fencing shall be maintained in at least the same quality and quantity as initially approved.

6. Lighting

Lighting on the *site* shall be designed to avoid glare onto adjacent properties and the *waterway*.

7. *Subdivision*

a. Proposed *street* layout, blocks, and parcels shall be suitable in area and dimension for the type of *development* anticipated.

b. The total area shall be sufficient to provide adequate space for *off-street parking*, loading, landscaping, and other facilities.

c. All reasonable efforts should be made to protect adjacent residential areas from potential nuisances from the marine *subdivision* by providing adequate depth in parcels adjacent to residential zoning.

d. The *lot* arrangement, design, and orientation shall be such that all lots will provide satisfactory building *sites*, properly related to *topography* and the character of surrounding *development*.

e. Every *lot* shall abut upon and have access to a public road or approved *private road*.

f. Lots adjoining *major thoroughfares* and railroad lines should be designed with extra depth and provision for an appropriate means of buffer or deeper building setbacks.

g. Proposed *streets* in the *subdivision* shall provide for the continuation of existing, planned, or platted *streets* on adjacent tracts, unless such continuation shall be prevented by *topography* or other physical features or unless such extension is found by the *Planning Commission* to be unnecessary for the coordination of *development* between the *subdivision* and such adjacent *tract*.

h. Where the *Planning Commission* deems it desirable or necessary to provide access to adjacent tracts not presently subdivided, proposed *streets* in the *subdivision* shall be extended to the boundary lines with such tracts.

i. Where the *subdivision* adjoins or embraces any part of a *major thoroughfare* as designated on the Kent County Major Thoroughfare Map. The layout of such *subdivision* shall provide for the platting and dedication of such part of the *major thoroughfare* in the location and at the width indicated on the *major thoroughfare* plan, except that the *subdivider* shall not be required to dedicate that part of such *major thoroughfare* that is in excess of eighty (80) feet in width.

j. Where deemed desirable to the layout of the *subdivision* and adjoining area, the *Planning Commission* may require the platting and dedication of one or more *collector streets* or parts thereof, to serve the *subdivision*.

k. Subdivisions shall be in full compliance with the provisions of this Ordinance.

l. *Private roads* are permitted in minor subdivisions and are subject to the following conditions:

i. Each road shall serve no more than seven parcels. In the event that an eighth parcel is created, the eighth parcel and all further divisions of land shall front on a public road.*

ii. The *subdivision* shall provide a 50-foot *right of way* for each *private road*.

iii. The construction of all lanes and *private roads* shall adhere to the requirements established by the Kent County Department of Public Works and sediment control and *stormwater management regulations*.

iv. The deed and contract of sale of all lots in the *subdivision* shall state: "The road is private and not the responsibility of Kent County."

v. The plat shall identify all *private roads* and shall state: "The road is private and not the responsibility of Kent County."

* Amended 10/16/12

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SECTION 14 EMPLOYMENT CENTER DISTRICT

14.1 STATEMENT OF INTENT

Employment Center Districts are defined as planned developments primarily for light industrial uses which are environmentally sound, sustainable and compatible with adjacent uses. They are further defined as areas devoted to industrial uses which present an attractive appearance and complement surrounding land use character by means of appropriate setting of *buildings* and service areas and landscape treatment.

It is intended that Employment Center Districts be located in areas having one or more major highways, and clearly demonstrated suitable for the intended uses in so far as physical characteristics and relationship to surrounding *development*.

14.2 PERMITTED PRINCIPAL USES AND STRUCTURES

For every industrial *structure* and use erected, reconstructed, altered, or enlarged after the effective date of this Ordinance, a *site plan* shall be filed. No building permit shall be issued until said *site plan* is approved by the *Planning Commission* or where applicable the Planning Director.

1. Manufacture, processing, fabrication, and assembly of products. These uses include but are not limited to scientific and precision instruments, photographic equipment, communications equipment, computation equipment, drugs, medicines, pharmaceuticals, household appliances, toys, sporting and athletic goods, glass products made of purchased glass, electric lighting and wiring equipment, service industry machines, lithographic and printing processes, industrial controls, radio and TV receiving sets, watches and clocks, bags and containers, sanitary paper products, optical goods, electrical machinery, prefabricated and modular housing and components, dairy product feed and grain, baked and confectioners' goods, farm machinery, frozen food processing, packing plants, animal and seafood processing, fruit and vegetable processing, canning and storage.

2. Businesses and industries, including research and development companies, of a similar nature to those listed in Article V Section 14.2.1 may also be permitted by the Zoning Administrator. The Zoning Administrator shall consider the following:
   a. The impact of the proposed business or industry on existing or planned public facilities.
   b. The impact of the operation of the facility on the surrounding area.
   c. The health, safety, and welfare of employees and residents of the neighborhood.

3. Distribution centers and warehousing provided that a single building footprint does not exceed 75,000 square feet in size. The restriction on building footprint does not apply to the Employment Center District in the Route 301 corridor. In reviewing the *site plan*, the *Planning Commission*, or where applicable the Planning Director, shall consider the following:
   a. The impact of the proposed business or industry on existing or planned public facilities.
   b. The impact of the operation of the facility on the surrounding area.
   c. The health, safety, and welfare of employees and residents of the neighborhood.

4. Manufacture of concrete and ceramics products and sewage treatment plants provided such uses shall be located at least 400 feet from any residential district boundary. Outdoor storage of materials is prohibited.

5. *Personal wireless facilities* collocated on existing towers, water towers, electrical transmission towers, fire towers, silos, *grain dryers*, or other *structures* provided the height of the existing *structure* is not above that permitted by this Ordinance.

6. Public utility *buildings*, *structures*, water treatment plants, and transmission lines.

7. Blacksmith, welding and machine shops. Outdoor storage of materials is prohibited unless otherwise approved by the *Planning Commission* and subject to such conditions as may be determined by the *Planning Commission*.

8. Vocational and trade schools including training facilities

9. *Airports*, landing fields, helistops, and heliports.

10. Governmental public works and utility *buildings* or *structures*.

11. *Single family dwelling*, one per existing property, subject to the *yard* requirements found in the Agricultural Zoning District, provided however, that bona fide *intrafamily transfers* may be permitted in the industrial district (thus exceeding the one *single family dwelling* per existing property requirement) under the following conditions:
    a. The owner of the parcel or the proposed parcel shall attest, in writing, to the bona fide family relationship and that the intent of the *subdivision*/use is not for ultimate transfer to a third party.
    b. Any deed for a *lot* that is created by a bona fide *intrafamily transfer* shall contain the covenant stating that the *lot* is created subject to the provisions of this section and that the provisions of this section shall control as long as the property continues to be zoned for industrial uses.
    c. A *lot* created by a bona fide *intrafamily transfer* may not be conveyed subsequently to any *person* other than a member of the owners immediate family except under the following procedures:
       The Kent County Planning Commission must determine that:
       i. The *lot* was created as a part of bona fide *intrafamily transfer* and not with the intent of subdividing the original parcel of land for purposes of ultimate transfer to a third party; and
       ii. The owner of the transferred property dies; or
       iii. A change of circumstances has occurred since the original transfer was made that is consistent with the intent of this ordinance.
    d. This subsection shall not prevent the conveyance of such a *lot* to a third party as security for a mortgage or deed of trust, or subsequent conveyances resulting from a foreclosure.
    e. The maximum *lot* size shall be two acres.
    f. Any deed or *subdivision* plat for a *lot* created by a bona fide *intrafamily transfer* shall contain a statement that the adjacent property is zoned for industrial uses.
    g. The parcel is created for the construction of a primary residence only.
    h. This provision applies to those individuals owning industrial zoned land prior to July 7, 1994. Subsequent owners of industrial zoned land shall be limited to one *single family dwelling*.

12. Boat building and boat repair. Outdoor storage of materials and boats under construction is prohibited unless otherwise permitted by the *Planning Commission* and subject to such conditions as may be determined by the *Planning Commission*.

13. *Truck terminals*, limited to 20 trucks provided the parking and loading area is fenced, screened, and located at least 400 feet from any residential district boundary and 100 feet from all property lines. The limitation on the number of trucks does not apply to Employment Center Districts in the Route 301 corridor.

14. Storage and office trailers, temporary during construction.

15. Offices provided that a single building footprint is 10,000 square feet or greater.

16. *Agriculture*, excluding the raising of livestock and fowl, including horticulture, hydroponics, and truck farming, general farming, cultivation of field crops, and raising of orchards, groves, and nurseries.

17. *Solar energy systems, utility scale*, provided:*
    a. A solar collection device or combination of devices are designed and located to avoid glare or reflection onto adjacent properties and adjacent roadways and shall not interfere with traffic or create a safety hazard.
    b. Screening, capable or providing year round screening, is provided along any side that does not provide solar collection.
    c. Roof mounted solar collection devices shall not extent more than 10 feet from the top of the roof. The total height of the building, including the solar collection devices shall comply with the height regulations.
    d. Solar collection devices shall not exceed 45 feet in height.
    e. All solar collection devices shall register with the Kent County Department of Emergency Services and shall submit a map noting the location of the solar collection devices and the panel disconnect.

14.3 SPECIAL EXCEPTIONS

The following principal uses and *structures* may be permitted as special exceptions in the Employment Center District, subject to *site plan* review. Detail limitations and standards for these uses may be found in Article VII of this Ordinance.

1. *Personal wireless facility tower*
2. Radio and television tower, commercial
3. *Wind energy systems, small*, with a height that exceeds 80 feet**

14.4 PERMITTED ACCESSORY USES

The following *accessory uses* are permitted in the Employment Center District. A *site plan* shall be required.

1. *Day care group*

2. Dwellings, limited to two (2) for persons permanently employed on the *premises*

3. Offices

4. Out of water boat storage

5. *Restaurants* without drive through facilities

* Amended 8/3/10; ** Amended 9/6/11

6. Retail sales of products produced *on-site*

6.25 *Solar energy systems, small*, provided:*

a. Tree removal shall be minimized and any removal shall be mitigated in accordance with the Critical Area Program requirements.
b. All solar collection devices shall register with the Department of Emergency Services and shall submit a map noting the location of the solar collection devices and the panel disconnect.
c. The total height of solar collection systems shall comply with the height requirements.

6.5 Temporary *MET Tower* of any height provided:*

a. The tower is erected for no more than 12 months.
b. Any free standing *structure* is located a minimum of 3 times its total height from a property line.
c. Towers are not readily climbable from the ground up to 12 feet.

7. Uses and *structures* which are customarily accessory and incidental to any permitted use shall be permitted in the district provided they are clearly subordinate to the principal use

8. *Wind energy systems, small*, limited to one tower provided:*

a. The height of the *structure* to the tip of the blade at its highest point does not exceed 80 feet.
b. Any system is located a minimum of 3 times its total height from a property line.
c. Towers are not readily climbable from the ground up to 12 feet.
d. All access doors to towers and electrical equipment shall be lockable.
e. Appropriate warning signage is placed on the tower and electrical equipment.
f. The blade tip at its lowest point had a ground clearance of at least 25 feet.
g. Wind turbines and towers maintain a galvanized steel, brushed aluminum finish, or a non-garish color.
h. Any small wind energy system that is not operational for a period of 12 consecutive months or more shall be removed at the landowner's expense.

* Amended 9/6/11

14.5 DENSITY, HEIGHT, WIDTH, BULK, AND FENCE REQUIREMENTS

	STANDARD	INDUSTRIAL SUBDIVISION
Gross *density*(dwelling units/ acre)	0.05 (1/20)[1]	[2]
Minimum *lot* size	20 acres	NA
Maximum residential *lot* size	2 acres	2 acres
Minimum *lot frontage*	75 feet	[2]
Minimum *yard*		
- *Front*		
- Existing *Primary road*	100 feet [3]	100 feet [3]
- Other *roads*	[2]	[2]
- *Side* and *Rear*		
- Adjacent to I, ICA, EC	15 feet	[2]
- Adjacent to CC, CCCA, M, AZD, RCD	40 feet [3]	[2]
- Adjacent to V, RR, CAR	100 feet [3]	[2]
- Adjacent to public road	100 feet [4]	100 feet [4]
Height		
- Industrial *structure*	45 feet	45 feet
- Residential *structure*	35 feet	35 feet
- Towers, silos, etc.	150 feet [5]	150 feet [5]
- Fence [6]		
- Security	8 feet	8 feet
- Ornamental		
Front and *Side*	4 feet	4 feet
Rear	8 feet	8 feet
Maximum building footprint		
- Distribution Center		
- Route 301 Corridor	NA	NA
- Other locations	75,000 sq. ft.	75,000 sq. ft.
- Other industrial *buildings*		
- Route 301 Corridor	NA	NA
- Other locations	250,000 sq. ft.	250,000 sq. ft.
- Office *buildings* *	10,000 sq. ft.	10,000 sq. ft.

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[1] *Intrafamily transfers* only

[2] As approved during *subdivision* review

[3] When a side or rear lot line coincides with a side or rear lot line of a property in a non-industrial zone, the required yard shall be landscaped and screened and shall be unoccupied by buildings, *structures*, or parking area.

[4] May be reduced or increased during *site* plan review

[5] Except in the *Airport* Safety Zone

[6] Fences do not need to meet the yard requirements.

14.6 EMPLOYMENT CENTER DISTRICT PERFORMANCE STANDARDS

Any industrial use established after August 1, 1989 shall be operated so as to meet the performance standards established hereinafter. Any use already established on August 1, 1989 shall be permitted to continue provided that no *alteration*, expansion, enlargement, or modification shall be permitted which effectively increases the degree of nonconformity which existed prior to any *alteration*, expansion, enlargement, or modification. An application to alter, expand, enlarge, or modify an existing use which does not meet the performance standards shall include a statement identifying measures proposed to bring the use into conformity with the performance standards.

Points of measurement to determine compliance with the performance standards shall be the property *lot line* or zoning line nearest the source that is the subject of measurement.

1. NOISE - All sources of noise (except those not under direct control of occupant of use, such as vehicles), must not create sound or impact noise levels in excess of the values specified below when measured at the points indicated. In addition, between 7:00 P.M. and 7:00 A.M., the permissible sound levels at a residential district boundary where adjoining Industrial Districts, shall be reduced by five decibels in each octave band and in the overall band for impact noises.

   Method of Measurement and Meaning of Terms:
   Noise shall be measured by means of a sound level meter and octave band analyzer, calibrated in decibels (re 0.0002 microbar) and shall be measured at the nearest *lot line* from which the noise level radiates. Impact noises shall be measured by means of an impact noise analyzer. Impact noises are those whose peak values fluctuate more than six decibels from the steady values indicated on the sound level meter set at fast response.

   Decibel - A measurement of the intensity (volume) of a sound.

   Octave band - A prescribed interval of sound frequencies which classifies sound according to its pitch.

   Preferred frequency octave bands - A stigmatized series of octave bands prescribed by the American Standards Association in Sel. 6-1970 Preferred Frequencies for Acoustical Measurements.

   Sound level meter - An electronic instrument which includes a microphone, an amplifier, and an output meter which measures noise and sound pressure levels in a specified manner. It may be used with the octave band analyzer that permits measuring the sound pressure level in discrete octave bands.

MAXIMUM PERMITTED SOUND LEVELS (Decibels)

Octave band, cycles/second	At residential boundaries	At other *lot lines*
31.5	64	72
63	64	74
125	60	70
250	54	65
500	48	59
1,000	42	55
2,000	38	51
4,000	34	47
8,000	30	44
Overall	80	90

2. VIBRATION - The product of displacement in inches times the frequency in cycles per second of earthborn vibrations from any activity shall not exceed the values specified below when measured at the points indicated.

   Method of Measurement and Meaning of Terms:
   Earthborn vibrations shall be measured by means of a three component recording system, capable of measuring vibration in three mutually perpendicular directions. The displacement shall be the maximum instantaneous vector sum of the amplitude in the three directions.

   Vibrations - The periodic displacement of oscillation of the earth.

MAXIMUM PERMITTED VIBRATIONS (INCHES PER SECOND)
AREA OF MEASUREMENT

Type of Vibrations	At Residential Boundaries	At other *Lot lines*
Continuous	0.003	0.015
Impulsive - 100/min or less	0.006	0.030
Less than 8 pulses per 24 hours	0.015	0.075

3. GLARE - No direct or sky reflected glare, whether from flood lights or from high temperature processes such as combustion, welding or otherwise, is to be visible beyond the *lot line*, except for *signs*, parking lot lighting and other lighting permitted by this Ordinance or required by any other applicable regulation, ordinance or law.

4. AIR POLLUTION - The rules and *regulations* of the State of Maryland shall apply.

5. WATER POLLUTION - The rules and *regulations* of the State of Maryland shall apply.

6. RADIOACTIVITY - There shall be no radioactive emission which would be dangerous to the health and safety of persons on or beyond the *premises* where such radioactive material is used. Determination of existence of such danger and the handling of radioactive materials, the discharge of such materials into the atmosphere and streams or other water, and the disposal of radioactive

wastes shall be by reference to and in accordance with applicable current *regulations* of the governments of the United States and Maryland.

7. ELECTRICAL INTERFERENCE - There shall be no electrical disturbance emanating from any *lot* which would adversely affect the operation of any equipment on any other *lot* or *premises*.

8. SMOKE AND PARTICULATE MATTER LIMITATIONS -
   a. General Limitations - In addition to the performance standard specified hereinafter, the emission of smoke or particulate matter in such manner or quantity as to be detrimental to or endanger the public health, safety, comfort, or welfare is hereby declared to be a public nuisance and shall henceforth be unlawful.

      Particulate matter emission caused by the wind from open storage areas, *yards*, *roads*, etc., within *lot lines* shall be kept to a minimum by appropriate landscaping, paving, wetting, or other means.

      For the purposes of determining the density or equivalent opacity of smoke, the Ringelmann Chart as adopted and published by the United States Bureau of Mines in Circular No. 8333 (7718) shall be employed.
   b. Permitted Smoke Emission - Within 1,000 feet of a residence or commercial zoning district boundary line, the emission of visible smoke from any vent, stack, chimney, or combustion process, darker than Ringelmann No.2 for a period or periods aggregating more than 4 minutes in any 60 minute period shall not be permitted.

9. TOXIC MATTER LIMITATIONS - In any Industrial District, toxic materials which are released shall not exceed 10% of the maximum permissible airborne concentration allowed an industrial worker when measured at any point beyond the *lot line*, either at ground level or habitable elevation, whichever is more restrictive. When maximum permissible airborne concentrations of toxic materials allowed an industrial worker are not contained in the most recent list of Threshold Limit Values published by the American Conference of Governmental Industrial Hygienists, the applicant shall satisfy the County *Health Officer* that proposed levels will be safe to the general population.

10. ODOROUS MATTER LIMITATIONS - The release of odorous matter from any Industrial District across residential or commercial district boundary lines shall be so controlled that at ground level or at habitable elevations the concentration shall not exceed the odor threshold lines. Further, the release of odorous matter across *lot lines* shall not become a nuisance or source of discomfort to neighboring uses. As a guide in determining qualities of offensive odors, Table III (Odor Thresholds), Chapter 5, "Air Pollution Abatement Manual", by Manufacturing Chemists Association, Inc. (as amended) may be used.

11. CERTIFIED *ENGINEER'S* REPORT SUBMITTAL - The applicant for a *grading* permit, *sediment control permit*, or building permit for uses in an Industrial District, or applicants for *variances* to the district shall be required to submit proof that the uses proposed will not cause violations of Federal, State or County laws or *regulations*. For industrial uses which will produce emissions of pollutants to the waters or air of the County, this proof shall include measurements of the ambient water and air quality as well as documentation in the form of figures that the additional planned and proposed industrial use will not cause the violation of either ambient or source standards outlined by the laws and *regulations* of the Federal, State, or County governments.

    Each future occupant of an industrial character shall submit to the County as a part of final *site development* plan approval, a certified *engineer's* report describing: the proposed operation, all machines, processes, products and by-products, stating the nature and expected levels of emission

or discharge to land, air, water or liquid, solid, or gaseous effluent and electrical impulses, vibrations and noise under normal operations and the specifications or treatment methods and mechanisms to be used to control such emission or discharge.

Existing industrial uses shall be permitted to continue and to expand, enlarge or modify provided that the industry continues to comply with the performance standards. Existing industrial uses that do not conform to the performance standards shall be permitted to expand, modify, or enlarge provided the expansion, modification, or enlargement does not increase the degree of nonconformance and that the applicant submits a statement that identifies measures to bring the industry into compliance. When the *Planning Commission* finds that an existing industry is not making a good faith effort to comply with the performance standards, the *Planning Commission* may deny an application for expansion, modification, or enlargement and may initiate an enforcement action.

14.7 EMPLOYMENT CENTER DISTRICT GENERAL STANDARDS

1. As a part of the *site plan* review, the applicant shall submit a statement that includes an explanation of the following:
   a. The type of raw materials, waste products, and other byproducts associated with the process.
   b. The identity of all chemicals and solids to be discharged into the sewage system.
   c. The type and amount of traffic expected to be generated by the operation.
   d. The proposed hours of operation.
   e. The proposed architectural design (graphic or narrative) of all *structures*.

2. The *Planning Commission*, or where applicable the Planning Director may require additional standards and requirements to those stated in this Article as are necessary for the protection of the environment and the health and safety of the citizens of the County

3. The use established shall not create or be a continuation of highway "strip" *development* with multiple access points creating highway hazards and visual clutter in so far as practical. A highway strip is two or more access points or "curb cuts" off of an existing State or County Road within 3,000 feet of each other. Any use in an employment center district shall have access at least 3,000 feet from any highway strip, in so far as possible. The *Planning Commission* may waive this requirement when the Commission finds all of the following:
   a. The proposal complies with the spirit and intent of the Land Use Ordinance and the *Comprehensive Plan*.
   b. That the waiver will not cause a substantial detriment to adjacent or neighboring property.
   c. That the waiver will not create a safety hazard or increase traffic congestion.
   d. The waiver is the minimum necessary to relieve a practical difficulty and is not sought for reasons of convenience, profit or caprice.

4. Central water and sewer systems may be required by the *Planning Commission* in an Employment Center District. If a public system is available, use of such system shall be mandatory.

5. *Signs* in industrial area shall be permitted in accordance with the *regulations* contained in Article VI, Section 2 of this Ordinance.

6. Minimum *off-street parking* and *loading spaces* shall be required of each use in the Employment Center District in accordance with the *regulations* contained in Article VI, Section 1of this Ordinance.

7. In so far as possible, all uses shall be conducted within a completely enclosed *structure* or be completely screened. Outdoor storage of materials and unfinished products is prohibited unless otherwise approved by the *Planning Commission* and subject to such conditions as may be determined by the *Planning Commission*.

8. The Department of Planning and Zoning shall approve *street* names. A name may not be approved if it duplicates or is too similar to the name of another road in the county or incorporated towns.

14.8 ENVIRONMENTAL STANDARDS

The purpose of these standards is to provide for the proper stewardship of the County's natural resources. Specifically it is the overall goal of the county to maintain the quality of the County's *ecosystem* in the face of continuing activity, growth and change.

A. EMPLOYMENT CENTER DISTRICT GENERAL ENVIRONMENTAL STANDARDS

1 *Development* shall minimize *adverse impacts* to *non-tidal* or *tidal wetlands*, estuaries, the Chesapeake Bay, *tributary streams*, and the natural and *riparian habitat* of these streams, habitat protection areas, or other significant habitat identified by the Department of Planning and Zoning.

2. *Development* shall minimize the effects of runoff on the existing volume of water or quality of any water body. Urban best management practices shall be used.
3. Whenever possible, land subject to periodic flooding shall not be developed for any use that might involve danger to health, life or property or aggravate floods.

B. EMPLOYMENT CENTER DISTRICT SPECIFIC ENVIRONMENTAL STANDARDS

1. *Agriculture*
   No new agricultural land shall be created by:
   a. Draining, filling, or diking any *palustrine wetlands* which have *seasonally flooded or wetter water regime* unless the impact is mitigated.
   b. *Clearing* or an area of *forest* or woodland greater than 40,000 square feet in a one-year period without filing a *Forest Conservation Plan*. An agricultural *Declaration of Intent* shall be filed with the Kent County Department of Planning and Zoning.
   c. *Clearing* of existing *natural vegetation* within the *stream protection corridor*.

2. *Anadromous fish*
   a. Concrete riprap or other artificial surface shall not be installed on the bottom of natural streams unless it can be demonstrated that water quality and fishery habitat will be improved.
   b. Physical alteration of a stream, including but not limited to channelization, that interferes with the movement of fish shall be prohibited.

3. *Forest Conservation*

This section applies to *major* and *minor site plans* on units of land 40,000 square feet or greater; major and minor subdivisions; and *grading* and *sediment control permits* that result in the cumulative cutting, *clearing*, or *grading* or more than 40,000 square feet of *forest*. A forest *Declaration of Intent* is required for activities specifically exempt in Article VI, Section 8.2 of this Ordinance.

a. A parcel with less than 15% of its *net tract area* in *forest cover* shall be afforested up to 15% of its *net tract area*.

b. A parcel with less than 15% of its *net tract area* in *forest* may be cut or cleared provided:

   i. The *afforestation* required to achieve the 15% *afforestation* level is determined prior to any *clearing* of *forest*.

   ii. The *afforestation* area consists of two (2) times the total surface area cleared and the area needed to achieve the 15% *afforestation* level before *clearing* occurred. For example, the *afforestation* area for a project with a *net tract area* of one hundred acres with ten (10) acres of existing forest of which five (5) is to be cleared is fifteen (15) acres – five (5) acres to achieve the required *afforestation* level and ten (10) acres to replace the *forest* cleared.

c. A parcel with more than 15% of its *net tract area* in *forest* may be cut or cleared provided *reforestation* occurs at a rate of one-quarter (¼) acre planted for each acre removed above 15% of the *net tract area* or at a rate of two (2) acres planted for every acres removed below 15% of the *net tract area*. *Forest* retained over 15% of the *net tract area* is credited toward the required *reforestation*. For example, a project with a *net tract area* of one hundred acres and existing *forest* of 30 acres of which 20 acres is to be cleared has a *reforestation* area of 13.75 acres.

d. The required *reforestation* or *afforestation* may be accomplished *on-site*, *off-site*, by contributing to a *forest* bank in the same *watershed* or by contributing to the Kent County Reforestation Fund. The preferred method of *afforestation* or *reforestation* is forest banking or *off-site afforestation*.

e. Whenever possible and appropriate, *afforestation* and *reforestation* shall included native species.

4. Habitat

a. *Wildlife corridors* shall be preserved whenever possible.

b. Fragmentation of habitat areas shall be minimized.

c. *Hedgerows* are desirable for screening.

5. *Natural heritage areas* and locations considered for Areas of Critical State Concern

These areas of local significance shall be preserved whenever possible. These areas are identified in Article VI, Section 3.8 of this Ordinance.

6. *Non-tidal wetlands*

Non-tidal wetlands shall be protected according to the *regulations* of the State of Maryland, Army Corps of Engineers, United States Fish and Wildlife Service, Environmental Protection Agency, and all other applicable State and Federal *Regulations*.

7. *Stream Protection Corridor*

All new *development* or *redevelopment* shall provide a 100-foot naturally vegetated *stream protection corridor* along all *tributary streams*. New *development activities*, including *structures*, parking areas, *structures*, septic systems, and similar *impervious surfaces* shall not be permitted in the *stream protection corridor*. *Roads* that cross the *stream protection corridor* shall be minimized.

The *Planning Commission* may modify the *stream protection corridor* when the following can be demonstrated:

a. A reduced corridor achieves significant water quality and habitat improvements equal to the required corridor.
b. More than 50% of the corridor is impervious or more than 75% of the corridor is disturbed with stone, septic systems, decks, or other obvious human impacts.
c. The *site* shall include all contiguous parcels under single ownership.

8. *Stormwater Management*
No *person* shall develop any land for residential, commercial, industrial, or institutional uses or redevelop land without having provided for appropriate *stormwater management* measures that control or manage runoff from such developments except as provided in Article VI, Section 10 of this Ordinance. *Stormwater* management shall be accomplished for all new *development* or *redevelopment* in accordance with the provisions of Article VI, Section 10 of this Ordinance.

9. Threatened and Endangered Species and Species in Need of Conservation
Threatened and *endangered species* and *species in need of conservation* shall be checked and noted by the applicant before any approvals are granted by the Planning Director, *Planning Commission*, or Zoning Administrator. The Federal or State guidelines (whichever is stricter) for habitat protection must be followed during *development*. Plans shall also include provisions for continuance of the habitat protection after *development*. This can include *conservation easements*, cooperative agreements, special provisions in *forest management plans*, and donation or sale to a third party.

10. Water Quality
All new *development* or *redevelopment* shall reduce the pollutant loading from the *site* and shall comply with the *stormwater management* measures found in Article VI, Section 10 of this Ordinance.

14.9 EMPLOYMENT CENTER DISTRICT DESIGN STANDARDS

The purpose of these standards is to give a sense of the physical aspects of the County's environment to those contemplating new *development* in the community. Pertinent to this physical appearance is the design of the *site*, *buildings* and *structures*, plantings, *signs*, *street* hardware, and miscellaneous other objects that the public observes.

These standards are not intended to restrict imagination, innovation, or variety, but rather assist in focusing on design principals which can produce creative solutions that will develop a satisfactory visual appearance within the County, preserve taxable values, and promote the public health, safety, and welfare.

A. EMPLOYMENT CENTER GENERAL DESIGN STANDARDS

1. The landscape shall be preserved in its natural state, in so far as possible, by leaving the most sensitive area of the *site* intact and by minimizing *tree* and *soil* removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. Whenever possible, *development* shall be located outside the *floodplain*.

2. All *open space* (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the *site* or overlooking it from nearby properties.

3. *Streets* shall be designed and located in such a manner as to maintain and preserve natural *topography*, cover, significant landmarks and trees; to minimize *cut* and *fill*; and to preserve and enhance views and vistas on or off the subject properties.

B. EMPLOYMENT CENTER SPECIFIC DESIGN STANDARDS

1. *Site* Access

a. *Site* access shall be subject to the following *regulations* to help ensure safety and alleviate traffic congestion:

i. Where property abuts a *primary*, *secondary*, or a *collector road*, access to the property shall be by way of the *secondary* or *collector road*. Exceptions to this rule shall be instances where the *Planning Commission*, or where applicable the Planning Director, determines that direct access onto the *primary road* would promote traffic safety.

ii. Where one or more contiguous parcels abutting a *primary road* are under single ownership and any one of the parcels abuts a *secondary* or *collector road*, access to the property shall be by of the *secondary road*. Exceptions to this rule shall be instances where the *Planning Commission*, or where applicable the Planning Director, determines that direct access onto the *primary road* would promote traffic safety.

iii. Only one direct approach onto a *primary road* from an individual parcel of record as of August 1, 1989 shall be permitted unless the *Planning Commission*, or where applicable the Planning Director, finds one of the following:

iv. An additional entrance is significantly beneficial to the safety and operation of the highway.

a) One entrance is a safety hazard or increases traffic congestion.

b) The property is bisected by *steep slopes*, bodies of water, or other topographic feature so as to render some portion of the property inaccessible without additional road access.

b. Where a proposed road is designated on an approved County or Town map, *site plans* for *development* adjacent to the designated *roadway* shall include provisions for future access to the *roadway*.

c. Existing, planned, or platted *streets* on adjacent properties shall be continued when the *Planning Commission* or where applicable the Planning Director determines that the continuation is necessary for safe and reasonable circulation between the properties.

d. When deemed necessary by the *Planning Commission* or where applicable the Planning Director, developments shall provide access to adjacent tracts not presently developed.

e. Access shall be consolidated whenever possible.

f. Whenever possible, *roads* shall be constructed above the elevation of the *100-year floodplain*.

g. The applicant shall demonstrate that access to the project is adequate and the roads which will be impacted have the capacity to handle the traffic generated by the proposed project and will not endanger the safety of the general public.*

* Amended 11/14/06

2. *On-site* Circulation
   a. *Sites* shall be designed to prevent awkward or dangerous vehicular flow.
   b. *Loading* and *unloading spaces* shall not block the passage of other vehicles on the service drive or major pedestrian ways or create blind spots when trucks are loading or unloading.
   c. *Sites* shall be designed to discourage pedestrians and vehicles from sharing the same pathways.
   d. Safe, convenient, and centralized handicap parking shall be provided.
   e. Trash boxes must be accessible to collection trucks when all vehicle parking spaces are filled.
   f. Parking shall not be permitted in the required *front yard*.

3. *Floodplain*
   a. In order to prevent excessive *flood* damage and to allow for the protection of the natural and beneficial *floodplain* functions, all *development*, *new construction*, and *substantial improvements* to existing *structures* in all *floodplain* zones shall comply with the requirements of Article VI, Section 7 of this Ordinance, including but not limited to the following:
      i. Elevation of all new or substantially improved *structures*;
      ii. Compliance with venting and other construction standards; and
      iii. Submission and recordation, where applicable, of *Elevation Certificates*, *Declaration of Land Restrictions*, deed restrictions, and venting affidavits.*
   b. Placement of *buildings* and materials. In general, *buildings* and *accessory structures* should be located entirely out of the *floodplain*, out of the *flood* protection setback, or on land that is least susceptible to flooding. All *structures* permitted in the *floodplain* shall be oriented so as to offer the least resistance to the flow of floodwaters.
   c. General *development* shall not occur in the *floodplain* where alternative locations exist. Before a permit is issued, the applicant shall demonstrate that new *structures* cannot be located out of the *floodplain* and that encroachments onto the *floodplain* are minimized.

4. General Landscape Requirements
   a. The *front yard* shall be landscaped and shall be maintained in a neat and attractive condition.
   b. *Sites* shall be permanently maintained in good condition with at least the same quality and quantity of landscaping as originally proposed.
   c. The *landscape plan* shall be prepared by a registered professional forester, landscape architect, or other professional with equivalent experience and qualifications.
   d. The *Planning Commission*, or where applicable the Planning Director, may waive the landscape requirements when it is demonstrated that the spirit and intent of the requirement is accomplished through other means or the nature of the change is one that does not require additional landscaping.

5. Screening
   a. Screening is required to protect adjoining properties and *roadways* from noise, glare, and uses which are visually incompatible with neighboring land uses. Screening is required:
      i. On *sites* which involve loading or unloading (including the storage of vehicles and boats), trash, or disposal areas and where accessory *buildings* and *structures* are adjacent to residential properties.
      ii. Where exterior storage areas are visible from *roadways*, sidewalks, or nearby residential properties.

* Amended 6/3/14

iii. When noise not typically occurring in residential areas is expected to project onto nearby properties.

iv. To *screen* parking areas from motorists, pedestrians, and adjoining residential properties.

v. Where the industrial district abuts a residential district or a *primary* or *secondary road*.

vi. Where the *Planning Commission* determines that additional screening is necessary to protect properties in the area.

b. Landscaped screens shall be designed to complement other landscaping occurring naturally on the *site*, planted previously, or approved as a part of a *site plan* review. Whenever possible, existing vegetation and landform shall be used to create screens.

c. The *screen* shall be capable of providing year round screening.

d. When noise is likely to be a factor, the *screen* shall be of sufficient construction to be an effective noise buffer.

e. Screening shall consist of trees and plants and may include masonry, or wooden fencing used with or without *berms*. Screening shall consist of a functional and well-designed combination of the following:

i. Vegetative ground cover

ii. Coniferous and deciduous shrubs

a) Specimens of which will reach and maintain a minimum height of 5 feet of full vegetative growth.

b) Plants which measure a minimum of 3 feet in height at the time of planting and are expected to attain a 5-foot height within 3 years.

iii. Coniferous and deciduous trees

Species and sizes of which will be chosen to best accomplish an adequate *screen* (i.e., evergreens used for visual screening, deciduous trees for seasonal screening)

f. Natural *slopes* and existing vegetation may be substituted for some or all of the requirements above, provided that these features serve to *screen* the area from adjoining properties and *roadways*. The *Planning Commission*, or where applicable the Planning Director, shall determine the acceptability of using existing *slopes* and vegetation for this purpose. The *Planning Commission*, or where applicable the Planning Director, may waive screening where it is physically impossible to accomplish.

g. Screening and fencing shall be maintained in at least the same quality and quantity as initially approved.

6. Lighting

a. Lighting on the *site* shall be designed to avoid glare onto adjacent properties.

b. Lighting on the *site* shall be sufficient to provide for the safety and security of the business, its employees, and its customers.

7. *Site* Planning

External Relationship: *Site* planning within the District shall provide protection of individual lots from adverse surrounding influences and for protection of surrounding areas from adverse influences existing within the District. In particular:

a. Principal vehicular access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. Storage, turn lanes, or traffic dividers may be required by the *Planning Commission* where existing or anticipated heavy flows indicate need. In general, *streets* shall not be connected with *streets* outside the District in such a way as to encourage the use of such *streets* by substantial amounts of through traffic.

b. *Yards*, fences, walls, or vegetative screening shall be provided where needed to protect residential districts or pubic *streets* from undesirable views, lighting, noise, or other *off-site* influences. In particular, outdoor storage, extensive *off-street parking* areas, and service areas for loading and unloading vehicles, and for storage and collection of refuse and garbage shall be effectively screened.

8. *Subdivision*

a. All reasonable efforts should be made to protect adjacent residential areas from potential nuisances from the industrial *subdivision* by providing extra depth in parcels adjacent to existing or residential *development*.

b. Proposed *street* layout, blocks, and parcels shall be suitable in area and dimension for the type of *development* anticipated.

c. The total area shall be sufficient to provide adequate space for *off-street parking*, loading, landscaping, and other facilities.

d. The *lot* arrangement, design, and orientation shall be such that all lots will provide satisfactory building *sites*, properly related to *topography* and the character of surrounding *development*.

e. Every *lot* shall abut upon and have access to a public road or approved *private road*.

f. Lots adjoining *major thoroughfares* and railroad lines should be designed with extra depth and provision for an appropriate means of buffer or deeper building setbacks.

g. Where land in a *subdivision* adjoins a railroad line, the *street* layout shall make allowance for future grade separated railroad crossings at appropriate locations by providing extra *street right of way* widths for such crossings and by restricting intersecting *streets* at locations where they would cause interference with necessary approaches to such crossings.

h. Proposed *streets* in the *subdivision* shall provide for the continuation of existing, planned, or platted *streets* on adjacent tracts, unless such continuation shall be prevented by *topography* or other physical feature or unless such extension is found by the *Planning Commission* to be unnecessary for the coordination of *development* between the *subdivision* and such adjacent *tract*.

i. Where the *Planning Commission* deems it desirable or necessary to provide access to adjacent tracts not presently subdivided, proposed *streets* in the *subdivision* shall be extended to the boundary lines with such tracts.

j. Where the *subdivision* adjoins or embraces any part of a *major thoroughfare* as designated on the Kent County Major Thoroughfare Map, the layout of such *subdivision* shall provide for the platting and dedication of such part of the *major thoroughfare* in the location and at the width indicated on the *major thoroughfare* plan, except that the *subdivider* shall not be required to dedicate that part of such *major thoroughfare* that is in excess of eighty (80) feet in width.

k. Where deemed desirable to the layout of the *subdivision* and adjoining area, the *Planning Commission* may require the platting and dedication of one or more *collector streets* or parts thereof, to serve the *subdivision*.

l. Subdivisions shall be in full compliance with the provisions of this Ordinance.

m. *Private roads* are permitted in minor subdivisions and are subject to the following conditions:

i. Each road shall serve no more than seven parcels. In the event that an eighth parcel is created, the eighth parcel and all further divisions of land shall front on a public road.*

ii. The *subdivision* shall provide a 50-foot *right of way* for each *private road*.

* Amended 10/16/12

iii. The construction of all lanes and *private roads* shall adhere to the requirements established by the Kent County Department of Public Works and sediment control and *stormwater management regulations*.

iv. The deed and contract of sale of all lots in the *subdivision* shall state: "The road is private and not the responsibility of Kent County."

v. The plat shall identify all *private roads* and shall state: "The road is private and not the responsibility of Kent County."

9. Kent County *Airport* Safety Requirements

This section applies to properties that fall within the Kent County *Airport* Safety Zone as designated on the Kent County *Airport* Safety Zone Map. The Kent County *Airport* Safety Zone Map is incorporated into and made a part of this Ordinance. It is the purpose of this section to promote the public safety of the residents and visitors of Kent County by prohibiting to the extent possible, the creation or establishment of obstructions that are a hazard to air navigation.

a. No new ponds shall be constructed within 5,000 feet of the runway.

b. No new solid waste disposal *sites* shall be permitted within 5,000 feet of any publicly licensed *airport*. New solid waste disposal *sites* shall not be permitted within the limits of the *airport* safety zone if the FAA determines the *site* to be a hazard.

c. Developments which produce lights, illumination, or other visual hazards or which produce electronic interference with *airport*/airplane navigation signals are subject to the standards specifies in the FAA procedure manual 7400-2C.

d. Except as otherwise provided in this Ordinance, no *structure* shall be erected, altered, or maintained and no *tree* or other vegetation shall be allowed to grow in excess of the height limitations as designated on the Kent County *Airport* Safety Zone Map.

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SECTION 15 INDUSTRIAL DISTRICT

15.1 STATEMENT OF INTENT

This district is intended to provide for a range of industrial uses which are environmentally sound, sustainable, and compatible with adjacent uses. Furthermore, the district is limited to light manufacturing and support businesses. Light industries include those which manufacture, process, store, package or distribute goods and materials, and are, in general, dependent on raw materials refined elsewhere.

15.2 PERMITTED PRINCIPAL USES AND STRUCTURES

For every industrial *structure* and use erected, reconstructed, altered, or enlarged after the effective date of this Ordinance, a *site plan* shall be filed. No building permit shall be issued until said *site plan* is approved by the *Planning Commission*, or where applicable the Planning Director.

1. Manufacture, processing, fabrication, and assembly of products. These uses include but are not limited to scientific and precision instruments, photographic equipment, communications equipment, computation equipment, drugs, medicines, pharmaceuticals, household appliances, toys, sporting and athletic goods, glass products made of purchased glass, electric lighting and wiring equipment, service industry machines, lithographic and printing processes, industrial controls, radio and TV receiving sets, watches and clocks, bags and containers, sanitary paper products, optical goods, electrical machinery, prefabricated and modular housing and components, dairy product feed and grain, baked and confectioners' goods, farm machinery, frozen food processing, packing plants, animal and seafood processing, fruit and vegetable processing, canning and storage.

2. Businesses and industries, including research and *development* companies, of a similar nature to those listed in Article V Section 14.2.1 of this Ordinance may also be permitted by the Zoning Administrator. The Zoning Administrator shall consider the following:
   a. The impact of the proposed business or industry on existing or planned public facilities.
   b. The impact of the operation of the facility on the surrounding area.
   c. The health, safety, and welfare of employees and residents of the neighborhood.

3. Distribution centers and warehousing provided that a single building footprint does not exceed 75,000 square feet in size. The restriction on building footprint does not apply to the Employment Center District in the Route 301 corridor. In reviewing the *site plan*, the *Planning Commission*, or where applicable the Planning Director, shall consider the following:
   a. The impact of the proposed business or industry on existing or planned public facilities.
   b. The impact of the operation of the facility on the surrounding area.
   c. The health, safety, and welfare of employees and residents of the neighborhood.

4. *Agriculture*, excluding the raising of livestock and fowl, including horticulture, hydroponics, and truck farming, general farming, cultivation of field crops, and raising of orchards, groves, and nurseries.

4.5 Animal shelters as defined by the County Code of Public Laws *

5. Manufacture of concrete and ceramics products, commercial *sawmills*, sewage treatment plants, and lumberyards provided such use shall be located at least 400 feet from any residential district boundary.

* Amended 8/20/19

6. Manufacture, processing, and distribution of hot mix asphalt (a.k.a. bituminous concrete or asphalt concrete) including the storage of raw materials *on-site*, provided asphalt cement shall not be refined on the *site*, and further provided that such facilities shall be located within two miles of Route 301.

7. *Personal wireless facilities* collocated on existing towers, water towers, electrical transmission towers, fire towers, silos, *grain dryers*, or other *structures* provided the height of the existing *structure* is not above that permitted by this Ordinance.

8. Public utility *buildings*, *structures*, water treatment plants, and transmission lines.

9. Blacksmith, welding and machine shops

10. Contractors' yard

11. Vocational and trade schools including training facilities

12. *Airports*, landing fields, helistops, and heliports

13. Governmental public works and utility *buildings* or *structures*

14. *Single family dwelling*, one per existing property, subject to the *yard* requirements found in the Agricultural Zoning District, provided however, that bona fide *intrafamily transfers* may be permitted in the industrial district [thus exceeding the one *single family dwelling* per existing property requirement] under the following conditions:
    a. The owner of the parcel or the proposed parcel shall attest, in writing, to the bona fide family relationship and that the intent of the *subdivision*/use is not for ultimate transfer to a third party.
    b. Any deed for a *lot* that is created by a bona fide *intrafamily transfer* shall contain a covenant stating that the *lot* is created subject to the provisions of this section and that the provisions of this section shall control as long as the property continues to be zoned industrial.
    c. A *lot* created by a bona fide *intrafamily transfer* may not be conveyed subsequently to any *person* other than a member of the owners immediate family except under the following procedures:
       The Kent County Planning Commission must determine that:
       i. The *lot* was created as a part of bona fide *intrafamily transfer* and not with the intent of subdividing the original parcel of land for purposes of ultimate transfer to a third party; or
       ii. The owner of the transferred property dies; or
       iii. A change of circumstances has occurred since the original transfer was made that is consistent with the intent of this ordinance.
    d. This subsection shall not prevent the conveyance of such a *lot* to a third party as security for a mortgage or deed of trust or subsequent conveyances resulting from a foreclosure.
    e. The maximum *lot* size shall be two acres;
    f. Any deed or *subdivision* plat for a *lot* created by a bona fide *intrafamily transfer* shall contain a statement that the adjacent property is zoned industrial;
    g. The parcel is created for the construction of a primary residence only; and
    h. These provisions apply to those individuals owning industrial zoned land prior to July 7, 1994. Subsequent owners of industrial zoned land shall be limited to a one *single family dwelling*.

15. Boat building and boat repair

16. *Truck terminals*, limited to 20 trucks provided the parking and loading area is fenced, screened, and located at least 400 feet from any residential district boundary and 100 feet from all property lines. The limitation on the number of trucks does not apply to Employment Center Districts in the Route 301 corridor.

17. Storage and office trailers, temporary during construction

18. *Solar energy systems, utility scale*, provided:**
    a. A solar collection device or combination of devices are designed and located to avoid glare or reflection onto adjacent properties and adjacent roadways and shall not interfere with traffic or create a safety hazard.
    b. Screening, capable or providing year round screening, is provided along the non-reflective axis of the solar collection device or collection of devices.
    c. Roof mounted solar collection devices shall not extend more than 10 feet from the top of the roof. The total height of the building including the solar collection devices shall comply with the height regulations.
    d. Solar collection devices shall not exceed 45 feet in height
    e. All solar collection devices shall register with the Kent County Department of Emergency Services and shall submit a map noting the location of the solar collection devices and the panel disconnect.

15.3 SPECIAL EXCEPTIONS

The following principal uses and *structures* may be permitted as special exceptions in the Industrial District, subject to *site plan* review. Detailed limitations and standards for these uses may be found in Article VII of this Ordinance.

1. *Personal wireless facility tower*
2. Radio and television tower, commercial
3. Production of biofuels*
4. *Wind energy systems, small*, with a height that exceeds 80 feet***

15.4 PERMITTED ACCESSORY USES

The following *accessory uses* are permitted in the Industrial District. A *site plan* shall be required.

1. *Day care group*

2. Dwellings, limited to two (2) for persons permanently employed on the *premises*

3. Offices

4. Out of water boat storage

5. *Restaurants* without drive through facilities

6. Retail sales of products produced *on-site*

* Amended 11/21/06; ** Amended 8/3/10; *** Amended 9/6/11

6.25 *Solar energy systems, small*, provided:*

a. Tree removal shall be minimized and any removal shall be mitigated in accordance with Critical Area Program requirements.

b. All solar collection devices shall register with the Department of Emergency Services and shall submit a map noting the location of the solar collection devices and the panel disconnect.

c. The total height of solar collection systems shall comply with the height requirements.

6.5 Temporary *MET Tower* of any height provided:*

a. The tower is erected for no more than 12 months.

b. Any free standing *structure* is located a minimum of 3 times its total height from a property line.

c. Towers are not readily climbable from the ground up to 12 feet.

7. Uses and *structures* which are customarily accessory and incidental to any permitted use shall be permitted in the district provided they are clearly subordinate to the principal use

8. *Wind energy systems, small*, limited to one tower provided:*

a. The height of the *structure* to the tip of the blade at its highest point does not exceed 80 feet.

b. Any system is located a minimum of 3 times its total height from a property line.

c. Towers are not readily climbable from the ground up to 12 feet.

d. All access doors to towers and electrical equipment shall be lockable.

e. Appropriate warning signage is placed on the tower and electrical equipment.

f. The blade tip at its lowest point had a ground clearance of at least 25 feet.

g. Wind turbines and towers maintain a galvanized steel, brushed aluminum finish, or a non-garish color.

h. Any small wind energy system that is not operational for a period of 12 consecutive months or more shall be removed at the landowner's expense.

* Amended 9/6/11

15. 5 DENSITY, HEIGHT, WIDTH, BULK, AND FENCE REQUIREMENTS

	STANDARD	INDUSTRIAL SUBDIVISION
Gross *density*(dwelling units/ acre)	0.05 (1/20)[1]	[2]
Minimum *lot* size	20 acres	NA
Maximum residential *lot* size	2 acre	2 acre
Minimum f*rontage*	75 feet	[2]
Minimum *yard*		
- *Front*		
- Existing *Primary road*	100 feet [3]	100 feet [3]
- Other *roads*	[2]	[2]
- *Side* and *Rear*		
- Adjacent to EC, I, ICA-LDA, & ICA	15 feet	[2]
- Adjacent to AZD, RCD, CC, C, CCA, & M	40 feet [3]	[2]
- Adjacent to V, RR, CAR	100 feet [3]	[2]
- Adjacent to public road	100 feet [4]	100 feet [4]
Height		
- Industrial *structure*	45 feet	45 feet
- Residential *structure*	35 feet	35 feet
- Towers, silos, etc.	150 feet [5]	150 feet [5]
- Fence [6]		
- Security	8 feet	8 feet
- Ornamental		
Front and *Side*	4 feet	4 feet
Rear	8 feet	8 feet
Maximum building footprint		
- Distribution Center		
- Route 301 Corridor	NA	NA
- Other locations	75,000 sq. ft.	75,000 sq. ft.
- Other industrial *buildings*		
- Route 301 Corridor	NA	NA
- Other locations	250,000 sq. ft.	250,000 sq. ft.
- Office *buildings**	10,000 sq. ft.	10,000 sq. ft.

[1] *Intrafamily transfers* only.

[2] As approved during *subdivision* review.

[3] When a side or rear lot line coincides with a side or rear lot line of a property in a non-industrial zone, the required yard shall be landscaped and screened and shall be unoccupied by buildings, *structures*, or parking area.

[4] May be reduced or increased during *site* plan review.

[5] Except in the *Airport* Safety Zone.

[6] Fences do not need to meet the yard requirements.

*Errata 10/5/17

15.6 INDUSTRIAL PERFORMANCE STANDARDS

Any industrial use established after August 1, 1989 shall be operated so as to meet the performance standards established hereinafter. Any use already established on August 1, 1989 shall be permitted to continue provided that no *alteration*, expansion, enlargement, or modification shall be permitted which effectively increases the degree of nonconformity that existed prior to any *alteration*, expansion, enlargement, or modification. An application to alter, expand, enlarge, or modify an existing use which does not meet the performance standards shall include a statement identifying measures proposed to bring the use into conformity with the performance standards.

Points of measurement to determine compliance with the performance standards shall be the property *lot line* or zoning line nearest the source that is the subject of measurement.

1. NOISE - All sources of noise (except those not under direct control of occupant of use, such as vehicles), must not create sound or impact noise levels in excess of the values specified below when measured at the points indicated. In addition, between 7:00 P.M. and 7:00 A.M., the permissible sound levels at a residential district boundary where adjoining Industrial Districts, shall be reduced by five decibels in each octave band and in the overall band for impact noises.

   Method of Measurement and Meaning of Terms:
   Noise shall be measured by means of a sound level meter and octave band analyzer, calibrated in decibels (re 0.0002 microbar) and shall be measured at the nearest *lot line* from which the noise level radiates. Impact noises shall be measured by means of an impact noise analyzer. Impact noises are those whose peak values fluctuate more than six decibels from the steady values indicated on the sound level meter set at fast response.

   Decibel - A measurement of the intensity (volume) of a sound.

   Octave band - A prescribed interval of sound frequencies which classifies sound according to its pitch.

   Preferred frequency octave bands - A stigmatized series of octave bands prescribed by the American Standards Association in Sel. 6-1970 Preferred Frequencies for Acoustical Measurements.

   Sound level meter - An electronic instrument which includes a microphone, an amplifier, and an output meter which measures noise and sound pressure levels in a specified manner. It may be used with the octave band analyzer that permits measuring the sound pressure level in discrete octave bands.

MAXIMUM PERMITTED SOUND LEVELS (Decibels)

Octave band, cycles/second	At residential boundaries	At other *lot lines*
31.5	64	72
63	64	74
125	60	70
250	54	65
500	48	59
1,000	42	55
2,000	38	51
4,000	34	47
8,000	30	44
Overall	80	90

2. VIBRATION - The product of displacement in inches times the frequency in cycles per second of earthborn vibrations from any activity shall not exceed the values specified below when measured at the points indicated.

   Method of Measurement and Meaning of Terms:
   Earthborn vibrations shall be measured by means of a three component recording system, capable of measuring vibration in three mutually perpendicular directions. The displacement shall be the maximum instantaneous vector sum of the amplitude in the three directions.

   Vibrations - The periodic displacement of oscillation of the earth.

MAXIMUM PERMITTED VIBRATIONS (INCHES PER SECOND)
AREA OF MEASUREMENT

Type of Vibrations	At Residential Boundaries	At other *Lot lines*
Continuous	0.003	0.015
Impulsive - 100/min or less	0.006	0.030
Less than 8 pulses per 24 hours	0.015	0.075

3. GLARE - No direct or sky reflected glare, whether from flood lights or from high temperature processes such as combustion, welding or otherwise, is to be visible beyond the *lot line*, except for *signs*, parking lot lighting and other lighting permitted by this Ordinance or required by any other applicable regulation, ordinance or law.

4. AIR POLLUTION - The rules and *regulations* of the State of Maryland shall apply.

5. WATER POLLUTION - The rules and *regulations* of the State of Maryland shall apply.

6. RADIOACTIVITY - There shall be no radioactive emission which would be dangerous to the health and safety of persons on or beyond the *premises* where such radioactive material is used. Determination of existence of such danger and the handling of radioactive materials, the discharge of such materials into the atmosphere and streams or other water, and the disposal of radioactive

wastes shall be by reference to and in accordance with applicable current *regulations* of the governments of the United States and Maryland.

7. ELECTRICAL INTERFERENCE - There shall be no electrical disturbance emanating from any *lot* which would adversely affect the operation of any equipment on any other *lot* or *premises*.

8. SMOKE AND PARTICULATE MATTER LIMITATIONS -
   a. General Limitations - In addition to the performance standard specified hereinafter, the emission of smoke or particulate matter in such manner or quantity as to be detrimental to or endanger the public health, safety, comfort, or welfare is hereby declared to be a public nuisance and shall henceforth be unlawful.

      Particulate matter emission caused by the wind from open storage areas, *yards*, *roads*, etc., within *lot lines* shall be kept to a minimum by appropriate landscaping, paving, wetting, or other means.

      For the purposes of determining the density or equivalent opacity of smoke, the Ringelmann Chart as adopted and published by the United States Bureau of Mines in Circular No. 8333 (7718) shall be employed.
   b. Permitted Smoke Emission - Within 1,000 feet of a residence or commercial zoning district boundary line, the emission of visible smoke from any vent, stack, chimney, or combustion process, darker than Ringelmann No.2 for a period or periods aggregating more than 4 minutes in any 60 minute period shall not be permitted.

9. TOXIC MATTER LIMITATIONS - In any Industrial District, toxic materials which are released shall not exceed 10% of the maximum permissible airborne concentration allowed an industrial worker when measured at any point beyond the *lot line*, either at ground level or habitable elevation, whichever is more restrictive. When maximum permissible airborne concentrations of toxic materials allowed an industrial worker are not contained in the most recent list of Threshold Limit Values published by the American Conference of Governmental Industrial Hygienists, the applicant shall satisfy the County *Health Officer* that proposed levels will be safe to the general population.

10. ODOROUS MATTER LIMITATIONS - The release of odorous matter from any Industrial District across residential or commercial district boundary lines shall be so controlled that at ground level or at habitable elevations the concentration shall not exceed the odor threshold lines. Further, the release of odorous matter across *lot lines* shall not become a nuisance or source of discomfort to neighboring uses. As a guide in determining qualities of offensive odors, Table III (Odor Thresholds), Chapter 5, "Air Pollution Abatement Manual", by Manufacturing Chemists Association, Inc. (as amended) may be used.

11. CERTIFIED *ENGINEER'S* REPORT SUBMITTAL - The applicant for a *grading* permit, *sediment control permit*, or building permit for uses in an Industrial District, or applicants for *variances* to the district shall be required to submit proof that the uses proposed will not cause violations of Federal, State or County laws or *regulations*. For industrial uses which will produce emissions of pollutants to the waters or air of the County, this proof shall include measurements of the ambient water and air quality as well as documentation in the form of figures that the additional planned and proposed industrial use will not cause the violation of either ambient or source standards outlined by the laws and *regulations* of the Federal, State, or County governments.

    Each future occupant of an industrial character shall submit to the County as a part of final *site development* plan approval, a certified *engineer's* report describing: the proposed operation, all machines, processes, products and by-products, stating the nature and expected levels of emission

or discharge to land, air, water or liquid, solid, or gaseous effluent and electrical impulses, vibrations and noise under normal operations and the specifications or treatment methods and mechanisms to be used to control such emission or discharge.

Existing industrial uses shall be permitted to continue and to expand, enlarge or modify provided that the industry continues to comply with the performance standards. Existing industrial uses that do not conform to the performance standards shall be permitted to expand, modify, or enlarge provided the expansion, modification, or enlargement does not increase the degree of nonconformance and that the applicant submits a statement that identifies measures to bring the industry into compliance. When the *Planning Commission* finds that an existing industry is not making a good faith effort to comply with the performance standards, the *Planning Commission* may deny an application for expansion, modification, or enlargement and may initiate an enforcement action.

15.7 INDUSTRIAL GENERAL STANDARDS

1. As a part of the *site plan* review, the applicant shall submit a statement that includes an explanation of the following:
   a. The type of raw materials, waste products, and other by-products associated with the process.
   b. The identity of all chemicals and solids to be discharged into the sewage system.
   c. The type and amount of traffic expected to be generated by the operation.
   d. The proposed hours of operation.
   e. The proposed architectural design (graphic or narrative) of all *structures*.

2. The *Planning Commission*, or where applicable the Planning Director may require additional standards and requirements to those stated in this Article as are necessary for the protection of the environment and the health and safety of the citizens of the County.

3. The use established shall not create or be a continuation of highway "strip" *development* with multiple access points creating highway hazards and visual clutter in so far as practical. A highway strip is two or more access points or "curb cuts" off of an existing State or County road within 3,000 feet of each other. Any use in an Industrial District shall have access at least 3,000 feet from any highway strip, in so far as possible. The *Planning Commission* may waive this requirement when the Commission finds all of the following:
   a. The proposal complies with the spirit and intent of the Land Use Ordinance and the Comprehensive Plan.
   b. That the waiver will not cause a substantial detriment to adjacent or neighboring property.
   c. That the waiver will not create a safety hazard or increase traffic congestion.
   d. The waiver is the minimum necessary to relieve a practical difficulty and not sought for reasons of convenience, profit, or caprice.

4. Central water and sewer systems may be required by the *Planning Commission* in an Industrial District. If a public system is available, use of such system shall be mandatory.

5. *Signs* in industrial areas shall be permitted in accordance with the regulations contained in Article VI, Section 2 of this Ordinance.

6. Minimum *off-street parking* and *loading spaces* shall be required of each use in an Industrial District in accordance with the *regulations* contained in Article VI, Section 1 of this Ordinance.

7. In so far as possible, all uses shall be conducted within a completely enclosed *structure* or be completely screened. Finished or semi-finished products manufactured on the *premises* may be stored in the open if screened from the *street* and adjacent uses.

8. The Department of Planning and Zoning shall approve *street* names. A name may not be approved if it duplicates or is too similar to the name of another road in the county or incorporated towns.

15.8 INDUSTRIAL ENVIRONMENTAL STANDARDS

The purpose of these standards is to provide for the proper stewardship of the County's natural resources. Specifically, it is the overall goal of the County to maintain the quality of the County's *ecosystem* in the face of continuing activity, growth and change.

A. INDUSTRIAL GENERAL ENVIRONMENTAL STANDARDS

1. *Development* shall minimize *adverse impacts* to *non-tidal* or *tidal wetlands*, estuaries, the Chesapeake Bay, *tributary streams*, and the natural and *riparian habitat* of these streams, habitat protection zones, or other significant habitat identified by the Department of Planning and Zoning.

2. *Development* shall minimize the effects of runoff on the existing volume of water or quality of any water body. Urban *best management practices* shall be used.

3. Whenever possible, land subject to periodic flooding shall not be developed for any use that might involve danger to health, life or property or aggravate floods.

B. INDUSTRIAL SPECIFIC ENVIRONMENTAL STANDARDS

1. *Agriculture*
   No new agricultural land shall be created by:
   a. Draining, filling or diking any *palustrine wetlands* which have a *seasonally flooded or wetter water regime* unless the impact is mitigated.
   b. *Clearing* of an area of *forest* or woodland greater than 40,000 square feet in a one-year period without filing a *Forest Conservation Plan*. An agricultural *Declaration of Intent* shall be filed with the Kent County Department of Planning and Zoning.
   c. *Clearing* of existing *natural vegetation* within the *stream protection corridor*.

2. *Anadromous fish*
   a. Concrete riprap or other artificial surface shall not be installed on the bottom of natural streams unless it can be demonstrated that water quality and fishery habitat will be improved.
   b. Physical alteration of a stream, including but not limited to channelization, that interferes with the movement of fish shall be prohibited.

3. *Forest Conservation*
   This section applies to *major* and *minor site plans* on units of land 40,000 square feet or greater; major and minor subdivisions; and *grading* and *sediment control permits* that result in the cumulative cutting, *clearing*, or *grading* of more than 40,000 square feet of forest. A forest

Declaration of Intent is required for activities specifically exempted in Article VI, Section 8.2 of this Ordinance.

a. A parcel with less than 15% of its *net tract area* in *forest cover* shall be afforested to 15% of its *net tract area*.

b. A parcel with less than 15% of its *net tract area* in *forest* may be cut or cleared provided:

   i. The *afforestation* required to achieve the 15% *afforestation* level is determined prior to any *clearing* of *forest*.

   ii. The *afforestation* area consists of two (2) times the total surface area cleared and the area needed to achieve the 15% *afforestation* level before clearing occurred. For example, the *afforestation* area for a project with a *net tract area* of one hundred acres with ten (10) acres of existing *forest* of which five (5) acres will be cleared will be fifteen (15) acres – five (5) acres to achieve the required *afforestation* level and ten (10) acres to replace the forest cleared.

c. A parcel with more than 15% of its *net tract area* in *forest* may be cut or cleared provided *reforestation* occurs at a rate of one-quarter (¼) acre planted for each acre removed above 15% of the *net tract area* or at a rate of two (2) acres planted fore every acre removed below 15% of the *net tract area*. *Forest* retained over 15% of the *net tract area* is credited toward the required *reforestation*. For example, a project with *net tract area* of one hundred (100) acres and an existing *forest* of thirty acres of which twenty acres is to be cleared requires a *reforestation* area of 13.75 acres.

d. The required *reforestation* or *afforestation* may be accomplished *on-site*, *off-site*, by contributing to a forest bank in the same *watershed* or by contributing to the Kent County Reforestation Fund. The preferred method of *afforestation* or *reforestation* is forest banking or *off-site afforestation*.

e. Whenever possible and appropriate, *afforestation* and *reforestation* shall include native species.

4. *Natural heritage areas* and locations considered for Areas of Critical State Concern

   These areas of local significance shall be preserved whenever possible. These areas are identified in Article VI, Section 3.8 of this Ordinance.

5. *Non-tidal wetlands*

   Non-tidal wetlands shall be protected according to the *regulations* of the State of Maryland, Army Corps of Engineers, United States Fish and Wildlife Service, Environmental Protection Agency, and all other applicable State and Federal *Regulations*.

6. *Stream Protection Corridor*

   All new *development* or *redevelopment* shall provide a 100-foot naturally vegetated *stream protection corridor* along all *tributary streams*. New *development activities*, including *structures*, parking areas, septic systems, and similar *impervious surfaces* shall not be permitted in the *stream protection corridor*. *Roads* that cross the *stream protection corridor* shall be minimized. The *Planning Commission* may modify the *stream protection corridor* when the following can be demonstrated:

   a. A reduced corridor achieves significant water quality and habitat improvements equal to the required corridor.

   b. More than 50% of the corridor is impervious or more than 75% of the corridor is disturbed with stone, septic systems, decks, or other obvious human impacts.

   c. The *site* shall include all contiguous parcels under single ownership.

7. *Stormwater Management*
No *person* shall develop any land for residential, commercial, industrial, or institutional uses or redevelop land without having provided for appropriate *stormwater management* measures that control or manage runoff from such developments except as provided in Article VI, Section 10 of this Ordinance. *Stormwater Management* shall be accomplished for all new *development* or *redevelopment* in accordance with the provisions of Article VI, Section 10 of this Ordinance.

8. Threatened and Endangered Species and Species in Need of Conservation
Threatened and *endangered species* and *species in need of conservation* shall be checked and noted by the applicant before any approvals are granted by the Planning Director, *Planning Commission*, or Zoning Administrator. The Federal or State guidelines (whichever is stricter) for habitat protection must be followed during *development*. Plans shall also include provisions for continuance of the habitat protection after *development*. This can include *conservation easements*, cooperative agreements, special provisions in *forest management plans*, and donation or sale to a third party.

9. Water Quality
All new *development* or *redevelopment* shall reduce the pollutant loading from the *site* and shall comply with the *stormwater management* qualitative control measures found in Article VI, Section 10 of this Ordinance.

15.9 INDUSTRIAL DISTRICT GENERAL DESIGN STANDARDS

The purpose of these standards is to give a sense of the physical aspects of the County's environment to those contemplating new *development* in the community. Pertinent to this physical appearance is the design of the *site*, *buildings* and *structures*, plantings, *signs*, *street* hardware, and miscellaneous other objects that the public observes.

These standards are not intended to restrict imagination, innovation, or variety, but rather assist in focusing on design principals which can produce creative solutions that will develop a satisfactory visual appearance within the County, preserve taxable values, and promote the public health, safety, and welfare.

1. *Site* Access
Site access shall be subject to the following *regulations* to help ensure safety and alleviate traffic congestion:
   a. Where property abuts a *primary*, *secondary*, or a *collector road*, access to the property shall be by way of the *secondary* or *collector road*. Exceptions to this rule shall be instances where the *Planning Commission*, or where applicable the Planning Director, determines that direct access onto the *primary road* would promote traffic safety.
   b. Where one or more contiguous parcels abutting a *primary road* are under single ownership and any one of the parcels abuts a *secondary* or *collector road*, access to the property shall be by way of the *secondary road*. Exceptions to this rule shall be instances where the *Planning Commission*, or where applicable the Planning Director, determines that direct access onto the *primary road* would promote traffic safety.
   c. Only one direct approach onto a *primary road* from an individual parcel of record as of August 1, 1989 shall be permitted unless the *Planning Commission*, or where applicable the Planning Director, finds one of the following:
      i. An additional entrance is significantly beneficial to the safety and operation of the highway.
      ii. One entrance is a safety hazard or increases traffic congestion.

iii. The property is bisected by *steep slopes*, bodies of water, or other topographic feature so as to render some portion of the property inaccessible without additional road access.

d. Where a proposed road is designated on an approved County or Town map, *site plans* for *development* adjacent to the designated *roadway* shall include provisions for future access to the *roadway*.

e. Existing, planned, or platted *streets* on adjacent properties shall be continued when the *Planning Commission* or where applicable the Planning Director determines that the continuation is necessary for safe and reasonable circulation between the properties.

f. When deemed necessary by the *Planning Commission* or where applicable the Planning Director, developments shall provide access to adjacent tracts not presently developed.

g. Access shall be consolidated whenever possible.

h. Whenever possible, *roads* shall be constructed above the elevation of the *100-year floodplain*.

i. The applicant shall demonstrate that access to the project is adequate and the roads which will be impacted have the capacity to handle the traffic generated by the proposed project and will not endanger the safety of the general public.*

2. *On-site* Circulation

a. *Sites* shall be designed to prevent awkward or dangerous vehicular flow.

b. *Loading* and *unloading spaces* shall not block the passage of other vehicles on the service drive or major pedestrian ways or create blind spots when trucks are loading or unloading.

c. *Sites* shall be designed to discourage pedestrians and vehicles from sharing the same pathways.

d. Safe, convenient, and centralized handicap parking shall be provided.

e. Trash boxes must be accessible to collection trucks when all vehicle parking spaces are filled.

f. Parking shall not be permitted in the required *front yard*.

3. *Floodplain*

a. In order to prevent excessive *flood* damage and to allow for the protection of the natural and beneficial *floodplain* functions, all *development*, *new construction*, and *substantial improvements* to existing *structures* in all *floodplain* zones shall comply with the requirements of Article VI, Section 7 of this Ordinance, including but not limited to the following:

i. Elevation of all new or substantially improved *structures*;

ii. Compliance with venting and other construction standards; and

iii. Submission and recordation, where applicable, of *Elevation Certificates*, *Declaration of Land Restrictions*, deed restrictions, and venting affidavits.**

b. Placement of *buildings* and materials. In general, *buildings* and *accessory structures* should be located entirely out of the *floodplain*, out of the *flood* protection setback, or on land that is least susceptible to flooding. All *structures* permitted in the *floodplain* shall be oriented so as to offer the least resistance to the flow of floodwaters.

c. General *development* shall not occur in the *floodplain* where alternative locations exist. Before a permit is issued, the applicant shall demonstrate that new *structures* cannot be located out of the *floodplain* and that encroachments onto the *floodplain* are minimized.

* Amended 11/14/06; ** Amended 6/3/14

4. General Landscape Requirements
   a. The *front yard* shall be landscaped and shall be maintained in a neat and attractive condition.
   b. *Sites* shall be permanently maintained in good condition with at least the same quality and quantity of landscaping as originally proposed.
   c. The *landscape plan* shall be prepared by a registered professional forester, landscape architect, or other professional with equivalent experience and qualifications.
   d. The *Planning Commission*, or where applicable the Planning Director, may waive the landscape requirements when it is demonstrated that the spirit and intent of the requirement is accomplished through other means or the nature of the change is one that does not require additional landscaping.

5. Screening
   a. Screening is required to protect adjoining properties and *roadways* from noise, glare, and uses which are visually incompatible with neighboring land uses. Screening is required:
      i. On *sites* which involve loading or unloading (including the storage of vehicles and boats), trash, or disposal areas and where accessory *buildings* and *structures* are adjacent to residential properties.
      ii. Where exterior storage areas are visible from *roadways*, sidewalks, or nearby residential properties.
      iii. When noise not typically occurring in residential areas is expected to project onto nearby properties.
      iv. To *screen* parking areas from motorists, pedestrians, and adjoining residential properties.
      v. Where the industrial district abuts a residential district or a *primary* or *secondary road*.
      vi. Where the *Planning Commission* determines that additional screening is necessary to protect properties in the area.
   b. Landscaped screens shall be designed to complement other landscaping occurring naturally on the *site*, planted previously, or approved as a part of a *site plan* review. Whenever possible, existing vegetation and landform shall be used to create screens.
   c. The *screen* shall be capable of providing year round screening.
   d. When noise is likely to be a factor, the *screen* shall be of sufficient construction to be an effective noise buffer.
   e. Screening shall consist of trees and plants and may include masonry, or wooden fencing used with or without *berms*. Screening shall consist of a functional and well-designed combination of the following:
      i. Vegetative ground cover
      ii. Coniferous and deciduous shrubs
         a) Specimens of which will reach and maintain a minimum height of 5 feet of full vegetative growth.
         b) Plants which measure a minimum of 3 feet in height at the time of planting and are expected to attain a 5-foot height within 3 years.
      iii. Coniferous and deciduous trees
         Species and sizes of which will be chosen to best accomplish an adequate *screen* (i.e. evergreens used for visual screening, deciduous trees for seasonal screening)
   f. Natural *slopes* and existing vegetation may be substituted for some or all of the requirements above, provided that these features serve to *screen* the area from adjoining properties and *roadways*. The *Planning Commission*, or where applicable the Planning Director, shall determine the acceptability of using existing *slopes* and vegetation for this

purpose. The *Planning Commission*, or where applicable the Planning Director, may waive screening where it is physically impossible to accomplish.

g. Screening and fencing shall be maintained in at least the same quality and quantity as initially approved.

6. Lighting

a. Lighting on the *site* shall be designed to avoid glare onto adjacent properties.

b. Lighting on the *site* shall be sufficient to provide for the safety and security of the business, its employees, and its customers.

7. *Site* Planning

External Relationship: *Site* planning within the District shall provide protection of individual lots from adverse surrounding influences and for protection of surrounding areas from adverse influences existing within the District. In particular:

a. Principal vehicular access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. Storage, turn lanes, or traffic dividers may be required by the *Planning Commission* where existing or anticipated heavy flows indicate need. In general, *streets* shall not be connected with *streets* outside the District in such a way as to encourage the use of such *streets* by substantial amounts of through traffic.

b. *Yards*, fences, walls, or vegetative screening shall be provided where needed to protect residential districts or pubic *streets* from undesirable views, lighting, noise, or other *off-site* influences. In particular, outdoor storage, extensive *off-street parking* areas, and service areas for loading and unloading vehicles, and for storage and collection of refuse and garbage shall be effectively screened

8. *Subdivision*

a. All reasonable efforts should be made to protect adjacent residential areas from potential nuisances from the industrial *subdivision* by providing extra depth in parcels adjacent to existing or residential *development*.

b. Proposed *street* layout, blocks, and parcels shall be suitable in area and dimension for the type of *development* anticipated.

c. The total area shall be sufficient to provide adequate space for *off-street parking*, loading, landscaping, and other facilities.

d. The *lot* arrangement, design, and orientation shall be such that all lots will provide satisfactory building *sites*, properly related to *topography* and the character of surrounding *development*.

e. Every *lot* shall abut upon and have access to a public road or approved *private road*.

f. Lots adjoining *major thoroughfares* and railroad lines should be designed with extra depth and provision for an appropriate means of buffer or deeper building setbacks.

g. Where land in a *subdivision* adjoins a railroad line, the *street* layout shall make allowance for future grade separated railroad crossings at appropriate locations by providing extra *street right of way* widths for such crossings and by restricting intersecting *streets* at locations where they would cause interference with necessary approaches to such crossings.

h. Proposed *streets* in the *subdivision* shall provide for the continuation of existing, planned, or platted *streets* on adjacent tracts, unless such continuation shall be prevented by *topography* or other physical feature or unless such extension is found by the *Planning Commission* to be unnecessary for the coordination of *development* between the *subdivision* and such adjacent *tract*.

i. Where the *Planning Commission* deems it desirable or necessary to provide access to adjacent tracts not presently subdivided, proposed *streets* in the *subdivision* shall be extended to the boundary lines with such tracts.

j. Where the *subdivision* adjoins or embraces any part of a *major thoroughfare* as designated on the Kent County Major Thoroughfare Map, the layout of such *subdivision* shall provide for the platting and dedication of such part of the *major thoroughfare* in the location and at the width indicated on the *major thoroughfare* plan, except that the *subdivider* shall not be required to dedicate that part of such *major thoroughfare* that is in excess of eighty (80) feet in width.

k. Where deemed desirable to the layout of the *subdivision* and adjoining area, the *Planning Commission* may require the platting and dedication of one or more *collector streets* or parts thereof, to serve the *subdivision*.

l. Subdivisions shall be in full compliance with the provisions of this Ordinance.

m. *Private roads* are permitted in minor subdivisions and are subject to the following conditions:

   i. Each road shall serve no more than seven parcels. In the event that an eighth parcel is created, the eighth parcel and all further divisions of land shall front on a public road.*

   ii. The *subdivision* shall provide a 50-foot *right of way* for each *private road*.

   iii. The construction of all lanes and *private roads* shall adhere to the requirements established by the Kent County Department of Public Works and sediment control and *stormwater management regulations*.

   iv. The deed and contract of sale of all lots in the *subdivision* shall state: "The road is private and not the responsibility of Kent County."

   v. The plat shall identify all *private roads* and shall state: "The road is private and not the responsibility of Kent County."

9. Kent County *Airport* Safety Requirements

This section applies to properties that fall within the Kent County *Airport* Safety Zone as designated on the Kent County *Airport* Safety Zone Map. The Kent County *Airport* Safety Zone Map is incorporated into and made a part of this Ordinance. It is the purpose of this section to promote the public safety of the residents and visitors of Kent County by prohibiting to the extent possible, the creation or establishment of obstructions that are a hazard to air navigation.

a. No new ponds shall be constructed within 5,000 feet of the runway.

b. No new solid waste disposal *sites* shall be permitted within 5,000 feet of any publicly licensed *airport*. New solid waste disposal *sites* shall not be permitted within the limits of the *airport* safety zone if the FAA determines the *site* to be a hazard.

c. Developments which produce lights, illumination, or other visual hazards or which produce electronic interference with *airport*/airplane navigation signals are subject to the standards specifies in the FAA procedure manual 7400-2C.

d. Except as otherwise provided in this Ordinance, no *structure* shall be erected, altered, or maintained and no *tree* or other vegetation shall be allowed to grow in excess of the height limitations as designated on the Kent County *Airport* Safety Zone Map.

* Amended 10/16/12

SECTION 16 INDUSTRIAL DISTRICT - CRITICAL AREA - LDA

16.1 STATEMENT OF INTENT

This district is intended to provide for a range of industrial uses which are environmentally sound, sustainable, and compatible with adjacent uses. Furthermore, the district is limited to light manufacturing and support businesses. Light industries include those which manufacture, process, store, package or distribute goods and materials and are, in general, dependent on raw materials refined elsewhere.

16.2 PERMITTED PRINCIPAL USES AND STRUCTURES

For every industrial *structure* and use erected, reconstructed, altered, or enlarged after the effective date of this Ordinance, a *site plan* shall be filed. No building permit shall be issued until said *site plan* is approved by the *Planning Commission*, or where applicable the Planning Director.

1. Manufacture, processing, fabrication, and assembly of products. These uses include but are not limited to scientific and precision instruments, photographic equipment, communications equipment, computation equipment, drugs, medicines, pharmaceutical, household appliances, toys, sporting and athletic goods, glass products made of purchased glass, electric lighting and wiring equipment, service industry machines, lithographic and printing processes, industrial controls, radio and TV receiving sets, watches and clocks, bags and containers, sanitary paper products, optical goods, electrical machinery, prefabricated and modular housing and components, dairy product feed and grain, baked and confectioners' goods, farm machinery, frozen food processing, packing plants, animal and seafood processing, fruit and vegetable processing, canning and storage.

2. Businesses and industries, including research and development companies, of a similar nature to those listed in Article V Section 15.2.1 may also be permitted by the Zoning Administrator. The Zoning Administrator shall consider the following:
   a. The impact of the proposed business or industry on existing or planned public facilities.
   b. The impact of the operation of the facility on the surrounding area.
   c. The health, safety, and welfare of employees and residents of the neighborhood.

3. Distribution centers and warehousing including motor freight terminals, provided that a single building footprint does not exceed 75,000 square feet in size. In reviewing the *site plan* the *Planning Commission* shall consider the following:
   a. The impact of the proposed business or industry on existing or planned public facilities.
   b. The impact of the operation of the facility on the surrounding area.
   c. The health, safety, and welfare of employees and residents of the neighborhood.

4. *Agriculture*, excluding the raising of livestock and fowl, including horticulture, hydroponics, and truck farming, general farming, cultivation of field crops, and raising of orchards, groves, and nurseries.

5. Manufacture of concrete and ceramics provided such use shall be located at least 400 feet from any residential district boundary. Outdoor storage of materials is prohibited unless otherwise permitted by the *Planning Commission* and subject to conditions as may be determined by the *Planning Commission*.

6. *Personal wireless facilities* collocated on existing towers, water towers, electrical transmission towers, fire towers, silos, *grain dryers*, or other *structures* provided the height of the existing *structure* is not above that permitted by this Ordinance.

7. Public utility buildings, *structures*, water treatment plants, and transmission lines, except:
   a. Transportation facilities and utility transmission facilities, except those necessary to serve permitted uses, or where regional or interstate facilities must cross tidal waters (utility transmission facilities do no include power plant); or
   b. Permanent sludge handling, storage, and disposal facilities, other than those associated with wastewater treatment facilities. However, agricultural or horticultural use of sludge under appropriate approvals when applied by an approved method at approved application rates may be permitted in the Critical Area, except in the 100 foot buffer.

8. Blacksmith, welding and machine shops

9. Contractors' yard

10. Vocational and trade schools including training facilities

11. *Airports*, landing fields, helistop, or heliports

12. Governmental public works and utility *buildings* or *structures*

13. *Single family dwelling*, one per existing property, subject to the *yard* requirements found in the Agricultural Zoning District, provided however, that bona fide *intrafamily transfers* may be permitted in the industrial district (thus exceeding the one *single family dwelling* per existing property requirement) under the following conditions:
   a. The owner of the parcel or the proposed parcel shall attest, in writing, to the bona fide family relationship and that the intent of the *subdivision*/use is not for ultimate transfer to a third party.
   b. Any deed for a *lot* that is created by a bona fide *intrafamily transfer* shall contain the covenant stating that the *lot* is created subject to the provisions of this section and that the provisions of this section shall control as long as the property continues to be zoned industrial.
   c. A *lot* created by a bona fide *intrafamily transfer* may not be conveyed subsequently to any *person* other than a member of the owners immediate family except under the following procedures:
      The Kent County Planning Commission must determine that:
      i. The *lot* was created as a part of bona fide *intrafamily transfer* and not with the intent of subdividing the original parcel of land for purposes of ultimate transfer to a third party; and
      ii. The owner of the transferred property dies; or
      iii. A change of circumstances has occurred since the original transfer was made that is consistent with the intent of this ordinance.
   d. This subsection shall not prevent the conveyance of such a *lot* to a third party as security for a mortgage or deed of trust or subsequent conveyances resulting from a foreclosure.
   e. The maximum *lot* size shall be two acres;
   f. Any deed or *subdivision* plat for a *lot* created by a bona fide *intrafamily transfer* shall contain a statement that the adjacent property is zoned industrial;
   g. The parcel is created for the construction of a primary residence only; and

h. These provisions apply to those individuals owning industrial zoned land prior to July 7, 1994. Subsequent owners of industrial zoned land shall be limited to a one *single family dwelling*.

14. Boat building and boat repair

15. Transmission towers, including cellular towers

16. Storage and office trailers, temporary during construction

16.2.5 SPECIAL EXCEPTIONS

The following principal uses and *structures* may be permitted as special exceptions in the Industrial Critical Area – LDA District, subject to *site plan* review. Detailed limitations and standards for these uses may be found in Article VII of this Ordinance.

1. *Wind energy systems, small*, with a height that exceeds 80 feet*

16.3 PERMITTED ACCESSORY USES

The following *accessory uses* are permitted in the Industrial District. A *site plan* shall be required.

1. *Day care group*

2. Dwellings, limited to two (2) for persons permanently employed on the *premises*

3. Offices

4. Out of water boat storage

5. *Restaurants* without drive through facilities

6. Retail sales of products produced *on-site*

6.25 *Solar energy systems, small*, provided:*
   a. Tree removal shall be minimized and any removal shall be mitigated in accordance with the Critical Area Program requirements.
   b. All solar collection devices shall register with the Department of Emergency Services and shall submit a map noting the location of the solar collection devices and the panel disconnect.
   c. The total height of solar collection systems shall comply with the height requirements.

6.5 Temporary *MET Tower* of any height provided:*
   a. The tower is erected for no more than 12 months.
   b. Any free standing *structure* is located a minimum of 3 times its total height from a property line.
   c. Towers are not readily climbable from the ground up to 12 feet.

7. Uses and *structures* which are customarily accessory and incidental to any permitted use shall be permitted in the district provided they are clearly subordinate to the principal use

* Amended 9/6/11

8. *Wind energy systems, small*, limited to one tower provided:*
   a. The height of the *structure* to the tip of the blade at its highest point does not exceed 80 feet.
   b. Any system is located a minimum of 3 times its total height from a property line.
   c. Towers are not readily climbable from the ground up to 12 feet.
   d. All access doors to towers and electrical equipment shall be lockable.
   e. Appropriate warning signage is placed on the tower and electrical equipment.
   f. The blade tip at its lowest point had a ground clearance of at least 25 feet.
   g. Wind turbines and towers maintain a galvanized steel, brushed aluminum finish, or a non-garish color.
   h. Any small wind energy system that is not operational for a period of 12 consecutive months or more shall be removed at the landowner's expense.

* Amended 9/6/11

16.4 DENSITY, HEIGHT, WIDTH, BULK, AND FENCE REQUIREMENTS

	STANDARD	INDUSTRIAL SUBDIVISION
Gross *density* (dwelling units/ acre)	0.05 (1/20) [1]	[2]
Maximum residential *lot* size	2 acre	2 acre
Minimum f*rontage*	75 feet	2
Minimum *yard*		
- *Front*		
- Existing *Primary road*	100 feet [3]	100 feet [3]
- Other *roads*	[2]	[2]
- *Side* and *Rear*		
- Adjacent to EC, I, ICA-LDA, ICA	15 feet	2
- Adjacent to AZD, RCD, CC, C, CCA, M	40 feet [4]	2
- Adjacent to RC, RR, CAR, CR, V, IV, & IVCA	100 feet [4]	2
- Adjacent to public road	100 feet [3]	100 feet [3]
- Waterfront	Minimum 100 ft. *buffer* or *modified buffer*[5]	Minimum 100 ft. *buffer* or *modified buffer* [5]
- *Shoreline cliff*	1.5 x *cliff height* + 20 ft.	1.5 x *cliff height* +20 ft.
Height [6]		
- Industrial *structure*	45 feet	45 feet
- Residential *structure*	38 feet	38 feet
- Towers, silos, etc.	150 feet	150 feet
- Fence [7]		
- Security	8 feet	8 feet
- Ornamental		
Front and *Side*	4 feet	4 feet
Rear	8 feet	8 feet
Maximum building footprint		
- Distribution Center	75,000 sq. ft.	75,000 sq. ft.
- Other industrial *buildings*	250,000 sq. ft.	250,000 sq. ft.

[1] *Intrafamily transfers* only.

[2] As approved during *subdivision* review.

[3] May be reduced or increased during *site* plan review.

[4] When a side or rear lot line coincides with a side or rear lot line of a property located in a non-industrial zone, the required yard shall be landscaped and screened and shall be unoccupied by buildings, *structures*, or parking area.

[5] *Buffers* in designated areas may be modified according to the standards found in Article V, Section 16.7.B.4.

[6] Additional height restrictions apply to properties in the *Airport* Safety Zone.

[7] Fences do not need to meet the yard requirements.

16.5 INDUSTRIAL - CRITICAL AREA - LDA PERFORMANCE STANDARDS

Any industrial use established after August 1, 1989 shall be operated so as to meet the performance standards established hereinafter. Any use already established on August 1, 1989 shall be permitted to continue provided that no *alteration*, expansion, enlargement, or modification shall be permitted which effectively increases the degree of nonconformity which existed prior to any *alteration*, expansion, enlargement, or modification. An application to alter, expand, enlarge, or modify an existing use which does not meet the performance standards shall include a statement identifying measures proposed to bring the use into conformity with the performance standards.

Points of measurement to determine compliance with the performance standards shall be the property *lot line* or zoning line nearest the source that is the subject of measurement.

1. NOISE - All sources of noise (except those not under direct control of occupant of use, such as vehicles), must not create sound or impact noise levels in excess of the values specified below when measured at the points indicated. In addition, between 7:00 P.M. and 7:00 A.M., the permissible sound levels at a residential district boundary where adjoining Industrial Districts, shall be reduced by five decibels in each octave band and in the overall band for impact noises.

   Method of Measurement and Meaning of Terms:
   Noise shall be measured by means of a sound level meter and octave band analyzer, calibrated in decibels (re 0.0002 microbar) and shall be measured at the nearest *lot line* from which the noise level radiates. Impact noises shall be measured by means of an impact noise analyzer. Impact noises are those whose peak values fluctuate more than six decibels from the steady values indicated on the sound level meter set at fast response.

   Decibel - A measurement of the intensity (volume) of a sound.

   Octave band - A prescribed interval of sound frequencies which classifies sound according to its pitch.

   Preferred frequency octave bands - A stigmatized series of octave bands prescribed by the American Standards Association in Sel. 6-1970 Preferred Frequencies for Acoustical Measurements.

   Sound level meter - An electronic instrument which includes a microphone, an amplifier, and an output meter which measures noise and sound pressure levels in a specified manner. It may be used with the octave band analyzer that permits measuring the sound pressure level in discrete octave bands.

MAXIMUM PERMITTED SOUND LEVELS (Decibels)

Octave band, cycles/second	At residential boundaries	At other *lot lines*
31.5	64	72
63	64	74
125	60	70
250	54	65
500	48	59
1,000	42	55
2,000	38	51
4,000	34	47
8,000	30	44
Overall	80	90

2. VIBRATION - The product of displacement in inches times the frequency in cycles per second of earthborn vibrations from any activity shall not exceed the values specified below when measured at the points indicated.

   Method of Measurement and Meaning of Terms:
   Earthborn vibrations shall be measured by means of a three component recording system, capable of measuring vibration in three mutually perpendicular directions. The displacement shall be the maximum instantaneous vector sum of the amplitude in the three directions.

   Vibrations - The periodic displacement of oscillation of the earth.

MAXIMUM PERMITTED VIBRATIONS (INCHES PER SECOND)
AREA OF MEASUREMENT

Type of Vibrations	At Residential Boundaries	At other *Lot lines*
Continuous	0.003	0.015
Impulsive - 100/min or less	0.006	0.030
Less than 8 pulses per 24 hours	0.015	0.075

3. GLARE - No direct or sky reflected glare, whether from flood lights or from high temperature processes such as combustion, welding or otherwise, is to be visible beyond the *lot line*, except for *signs*, parking lot lighting and other lighting permitted by this Ordinance or required by any other applicable regulation, ordinance or law.

4. AIR POLLUTION - The rules and *regulations* of the State of Maryland shall apply.

5. WATER POLLUTION - The rules and *regulations* of the State of Maryland shall apply.

6. RADIOACTIVITY - There shall be no radioactive emission which would be dangerous to the health and safety of persons on or beyond the *premises* where such radioactive material is used. Determination of existence of such danger and the handling of radioactive materials, the discharge of such materials into the atmosphere and streams or other water, and the disposal of radioactive

wastes shall be by reference to and in accordance with applicable current *regulations* of the governments of the United States and Maryland.

7. ELECTRICAL INTERFERENCE - There shall be no electrical disturbance emanating from any *lot* which would adversely affect the operation of any equipment on any other *lot* or *premises*.

8. SMOKE AND PARTICULATE MATTER LIMITATIONS -
   a. General Limitations - In addition to the performance standard specified hereinafter, the emission of smoke or particulate matter in such manner or quantity as to be detrimental to or endanger the public health, safety, comfort, or welfare is hereby declared to be a public nuisance and shall henceforth be unlawful.

      Particulate matter emission caused by the wind from open storage areas, *yards*, *roads*, etc., within *lot lines* shall be kept to a minimum by appropriate landscaping, paving, wetting, or other means.

      For the purposes of determining the density or equivalent opacity of smoke, the Ringelmann Chart as adopted and published by the United States Bureau of Mines in Circular No. 8333 (7718) shall be employed.
   b. Permitted Smoke Emission - Within 1,000 feet of a residence or commercial zoning district boundary line, the emission of visible smoke from any vent, stack, chimney, or combustion process, darker than Ringelmann No.2 for a period or periods aggregating more than 4 minutes in any 60 minute period shall not be permitted.

9. TOXIC MATTER LIMITATIONS - In any Industrial District, toxic materials which are released shall not exceed 10% of the maximum permissible airborne concentration allowed an industrial worker when measured at any point beyond the *lot line*, either at ground level or habitable elevation, whichever is more restrictive. When maximum permissible airborne concentrations of toxic materials allowed an industrial worker are not contained in the most recent list of Threshold Limit Values published by the American Conference of Governmental Industrial Hygienists, the applicant shall satisfy the County *Health Officer* that proposed levels will be safe to the general population.

10. ODOROUS MATTER LIMITATIONS - The release of odorous matter from any Industrial District across residential or commercial district boundary lines shall be so controlled that at ground level or at habitable elevations the concentration shall not exceed the odor threshold lines. Further, the release of odorous matter across *lot lines* shall not become a nuisance or source of discomfort to neighboring uses. As a guide in determining qualities of offensive odors, Table III (Odor Thresholds), Chapter 5, "Air Pollution Abatement Manual", by Manufacturing Chemists Association, Inc. (as amended) may be used.

11. CERTIFIED *ENGINEER'S* REPORT SUBMITTAL - The applicant for a *grading* permit, *sediment control permit*, or building permit for uses in an Industrial District, or applicants for *variances* to the district shall be required to submit proof that the uses proposed will not cause violations of Federal, State or County laws or *regulations*. For industrial uses which will produce emissions of pollutants to the waters or air of the County, this proof shall include measurements of the ambient water and air quality as well as documentation in the form of figures that the additional planned and proposed industrial use will not cause the violation of either ambient or source standards outlined by the laws and *regulations* of the Federal, State, or County governments.

    Each future occupant of an industrial character shall submit to the County as a part of final *site development* plan approval, a certified *engineer's* report describing: the proposed operation, all machines, processes, products and by-products, stating the nature and expected levels of emission

or discharge to land, air, water or liquid, solid, or gaseous effluent and electrical impulses, vibrations and noise under normal operations and the specifications or treatment methods and mechanisms to be used to control such emission or discharge.

Existing industrial uses shall be permitted to continue and to expand, enlarge or modify provided that the industry continues to comply with the performance standards. Existing industrial uses that do not conform to the performance standards shall be permitted to expand, modify, or enlarge provided the expansion, modification, or enlargement does not increase the degree of nonconformance and that the applicant submits a statement that identifies measures to bring the industry into compliance. When the *Planning Commission* finds that an existing industry is not making a good faith effort to comply with the performance standards, the *Planning Commission* may deny an application for expansion, modification, or enlargement and may initiate an enforcement action.

16.6 INDUSTRIAL - CRITICAL AREA - LDA GENERAL STANDARDS

1. As a part of the *site plan* review, the applicant shall submit a statement that includes an explanation of the following:
   a. The type of raw materials, waste products, and other byproducts associated with the process.
   b. The identity of all chemicals and solids to be discharged into the sewage system.
   c. The type and amount of traffic expected to be generated by the operation.
   d. The proposed hours of operation.
   e. The proposed architectural design (graphic or narrative) of all *structures*.

2. The *Planning Commission*, or where applicable the Planning Director, may require additional standards and requirements to those stated in this Article as are necessary for the protection of the environment and the health, and safety of the citizens of the County.

3. The use established shall not create or be a continuation of highway "strip" *development* with multiple access points creating highway hazards and visual clutter in so far as practical. A highway strip is two or more access points or "curb cuts" off of an existing State or County Road within 3,000 feet of each other. Any use in an industrial district shall have access at least 3,000 feet from any highway strip, in so far as possible. The *Planning Commission* may waive this requirement when the commission finds all of the following:
   a. The proposal complies with the spirit and intent of the Land Use Ordinance and the *Comprehensive Plan*.
   b. That the waiver will not cause a substantial detriment to adjacent or neighboring property
   c. That the waiver will not create a safety hazard or increase traffic congestion
   d. The waiver is the minimum necessary to relieve a practical difficulty and is not sought for reasons of convenience, profit, or caprice.

4. Central water and sewer systems may be required by the *Planning Commission* in an Industrial District. If a public system is available, use of such system shall be mandatory.

5. *Signs* in industrial area shall be permitted in accordance with the *regulations* contained in Article VI, Section 2 of this Ordinance.

6. Minimum *off-street parking* and *loading spaces* shall be required of each use in an Industrial District in accordance with the *regulations* contained in Article VI, Section 1 of this Ordinance.

7. In so far as possible, all uses shall be conducted within a completely enclosed *structure* or be completely screened. Finished or semi-finished products manufactured on the *premises* may be stored in the open if screened from the *street* and adjacent uses.

8. The Department of Planning and Zoning shall approve *street* names. A name may not be approved if it duplicates or is too similar to the name of another road in the county or incorporated towns.

16.7 INDUSTRIAL - CRITICAL AREA - LDA ENVIRONMENTAL STANDARDS

The purpose of these standards is to provide for the proper stewardship of the County's natural resources. Specifically it is the overall goal of the county to maintain the quality of the County's *ecosystem* in the face of continuing activity, growth and change.

A. INDUSTRIAL - CRITICAL AREA - LDA GENERAL ENVIRONMENTAL STANDARDS

1. *Development* shall minimize *adverse impacts* to *non-tidal* or *tidal wetlands*, estuaries, the Chesapeake Bay, *tributary streams*, and the natural and *riparian habitat* of these streams, habitat protection areas, or other significant habitat identified by the Department of Planning and Zoning.

2. *Development* shall minimize the removal of *natural vegetation*. Protection of remaining vegetation and replacement of removed vegetation shall be required.

3. *Development* shall minimize the effects of runoff on the existing volume of water and quality of any water body. Urban *best management practices* shall be used.

4. Whenever possible, land subject to periodic flooding, shall not be developed for any use that might involve danger to health, life, or property or aggravate floods.

5. If practicable, permeable areas shall be established in vegetation.

B. INDUSTRIAL - CRITICAL AREA - LDA SPECIFIC ENVIRONMENTAL STANDARDS

1. *Agriculture*
   No new agricultural land shall be created by:
   a. Draining, filling, or diking any *palustrine wetlands* which have a *seasonally flooded or wetter water regime* unless the impact is mitigated.
   b. *Clearing* of an area of *forest* or woodland greater than 40,000 square feet in a one-year period without filing a *Forest Conservation Plan*. An agricultural *Declaration of Intent* shall be filed with the Kent County Department of Planning and Zoning.
   c. *Clearing* of existing *natural vegetation* within the *stream protection corridor*.

2. *Anadromous fish*
   a. Concrete riprap or other artificial surface shall not be installed on the bottom of natural streams unless it can be demonstrated that water quality and fishery habitat will be improved.
   b. Physical alteration of a stream, including but not limited to channelization, that interferes with the movement of fish shall be prohibited
   c. The construction or placement of dams or other *structures* that would interfere with or prevent the movement of spawning fish or larval forms in streams shall be prohibited. Where practical, the removal of existing barriers is encouraged.

d. Construction, repair or maintenance activities associated with bridges or other stream crossings or with utilities and roads which require disturbance to the *buffer*, or which occur in stream shall be prohibited between March 1 and May 15.

3. *Buffer*

a. *Development* in the *Buffer*:

i. New *development activities*, including *structures*, *roads*, parking areas, and other *impervious surfaces*, mining, and related activities, or septic systems shall not be permitted within the minimum 100-foot *buffer*. This restriction does not apply to water-dependent facilities that meet the criteria set forth below.

ii. New or expanded *development activities* may be permitted in the minimum 100-foot *buffer*, provided

a) The use is water dependent; and

b) The project meets a recognized private right or public need;

c) Adverse effects on water quality and fish, plant, and *wildlife habitat* are minimized; and

d) In so far as possible, non-water dependent *structures* or operations associated with water-dependent projects or activities are located outside the minimum 100-foot *buffer*.

iii. Where agricultural uses of lands within the buffer cease and the lands are proposed to be converted to other uses, the buffer shall be established. In establishing the buffer, management measures shall be undertaken to provide forest vegetation that achieves the buffer functions as defined in Article XI of this Ordinance.

iv. Water-dependent research facilities or activities operated by State, Federal, local agencies or education facilities may be permitted in the *buffer* if non-water dependent *structures* or facilities associated with these projects are located outside the *buffer*.

v. Commercial water-dependent fisheries facilities including, but not limited to, *structures* for crab shedding, fish off-loading docks, shellfish culture operations, and shore based facilities for *aquaculture* operations, and *fisheries activities* may be permitted in the *buffer*.

b. Vegetation protection within the *Buffer* -

i. *Natural vegetation* within the *buffer* shall be preserved and protected unless one of the following apply:

a) An approved *forest* harvesting plan is followed;

b) Individual trees may be cut for personal use provided this cutting does not impair the water quality or existing habitat value or other functions of the *buffer*. Trees shall be replaced on an equal basis for each *tree* cut.

c) Trees which are leaning over the water may be cut, but their stumps and roots shall not be disturbed;

d) The disturbance provides access for water-dependent facilities or shore *erosion* protection *structures*;

e) Landowners may treat trees and shrubs to maintain or improve their health.

ii. Vegetation in the *buffer* removed for the reasons listed above shall be reestablished over the entire disturbed area during the next planting season. These plantings shall be approved by the Department of Planning and Zoning. In addition, Article VI, Section 9 of this Ordinance shall be followed exactly.

iii. *Natural vegetation* removed for an approved purpose shall be in accordance with an approved *buffer* management plan.

c. Stream Protection

Development activities that must cross or affect streams shall be designed to:

i. Reduce increases in flood frequency and severity that are attributable to development.

ii. Retain tree canopy so as to maintain stream water temperature within normal variation.

iii. Provide a natural substrate for stream beds.

iv. Minimize adverse water quality and quantity impacts of *stormwater*.

4. *Modified Buffer*

a. *Development* in the *Modified Buffer*

i. No new *development* shall encroach within 25 feet of mean high tide or 25 feet of the edge of a *tidal wetland*. Expansion to the side or rear but not closer to the water may be permitted as long as the expansion is designed and located to maximize the distance from the shoreline or to enhance or protect the environmentally sensitive features on the *site*.

ii. An area of existing *impervious surface on-site* equal to or greater than the area of new *development* shall be removed and revegetated, or

iii. A *forest buffer* will be planted *on-site* equal to three times the amount of newly developed *impervious surface* within the minimum 100-foot *buffer* (equal areas to be planted for other disturbance outside of the minimum 100-foot *buffer*); if there is not enough available space on the *lot* to create a *buffer*, the property owner must plant the required amounts *on-site* outside the *buffer*, *off-site*, or must pay a fee-in-lieu.

b. Vegetative Protection within the *Modified Buffer*

Natural vegetation within the *modified buffer* shall be preserved and protected unless one of the following apply:

i. An approved *forest* harvesting plan is followed;

ii. Individual trees may be cut for personal use provided this cutting does not impair the water quality or existing habitat value or other functions of the *buffer*. Trees shall be replaced on an equal basis for each *tree* cut;

iii. Trees which are leaning over the water may be cut, but their stumps and roots shall not be disturbed;

iv. The disturbance provides access for water-dependent facilities or shore *erosion* protection *structures*;

v. Landowners may treat trees and shrubs to maintain or improve their heath.

5. *Forest*

a. A forestry management plan prepared by a registered forester and approved by the Maryland Department of Natural Resources shall be required when developing forested lands.

b. *Forest* shall be replaced on an acre by acre basis, but no more than 20% of any *forest* or *developed woodlands* shall be removed unless by prior agreement with the *Planning Commission*, the *developer* agrees to afforest on the following basis: a *developer* may clear or develop more *forest* that otherwise may be permitted if the total *forest* removed is not increased by more than 50% of the area permitted to be disturbed provided that the afforested area consists of 1.5 times the total surface acreage of the disturbed *forest* or *developed woodlands* or both. For example, in a 100-acre woodland, up to 30 acres may be cleared if the *developer* agrees to afforest (not necessarily on his own property) 45 acres of currently unforested land.

c. Replacement trees shall be of a species similar to that which was removed or a species appropriate to the replanting *site*.

d. *Forest* or *developed woodlands* that remain after an approved removal shall be maintained through recorded restrictive covenants, *easements*, or similar instruments.

e. *Forest* cleared prior to obtaining a *grading* permit or that exceeds the maximum area allowed shall be replanted at three times the acreage of the cleared *forest*.

f. If the acreage of the *site* limits the application of *reforestation* requirements *forest* may be created on other lands in the *Critical Area* including County lands, or a fee in an amount determined by the Maryland Department of Natural Resources to be the equivalent to the value of the required *forest* may be paid to the County Commissioners of Kent County. These funds shall be placed in a dedicated fund used to ensure the restoration or establishment of an equivalent *forest* area, in the *Critical Area* or riparian areas.

g. After *development*, the *site* shall be planted to provide a *forest* or *developed woodlands* cover of at least 15%.

6. *Forest Interior Dwelling Birds*

a. Existing riparian *forest* of 300 x 300 feet or more and *forest* areas used by *forest interior dwelling birds* and other wildlife species shall be managed according to the guidelines developed by the Maryland Department of Natural Resources and the Chesapeake Bay Critical Area Commission.

b. A *site* survey for *forest interior dwelling birds* shall be conducted prior to any *development* or agricultural expansion on deciduous *forest* of at least 50 acres or 300 x 300 foot riparian deciduous *forest*. The Planning Director may waive a *site* survey for *forest interior dwelling birds* provided the *forest* is managed for all *forest interior dwelling bird* species. Cutting and building shall be restricted to safe times (not during nesting - see Article VI, Section 3.9 of this Ordinance).

7. Habitat

a. All *roads*, bridges and utilities that must cross a Habitat Protection Area shall be located, designed, constructed, and maintained so as to provide maximum *erosion* protection and minimize negative impacts to wildlife, aquatic life and their habitats and maintain hydrologic processes and water quality. *Roads*, bridges, or utilities shall not be located in any Habitat Protection Area unless no feasible alternative exists.

b. During and after *development* in forested areas, corridors of existing *forest* or woodland vegetation shall be maintained to provide effective connections between *wildlife habitat* areas.

c. New water-dependent facilities shall be located so as to prevent disturbance to *sites* of significance to wildlife such as historic aquatic staging and concentration areas for *waterfowl*, shellfish beds, finfish nursery areas, and submerged aquatic vegetation beds.

8. *Impervious Surfaces*

Man caused *impervious surfaces* shall not exceed 15% of the site except at otherwise stated below.

a. Man caused *impervious surfaces* on parcels greater than 36,301 square feet shall be limited to 15% of the property. This section does not apply to *mobile home parks* in residential use on or before December 1, 1985.

b. Man caused *impervious surfaces* on parcels that are 21,781 to 36,300 square feet and existed on or before December 1, 1985 shall be limited to 5,445 square feet provided:

i. New *impervious surfaces* on the property have been minimized.

ii. Water quality impacts associated with runoff from new *impervious surfaces* have been minimized through *site* design or use of *best management practices*.

iii. The property owner performs *on-site* mitigation as may be required by the Planning Director or designated representative to offset potential adverse water quality impacts from the new *impervious surfaces* or the property owner pays a fee in lieu of performing the mitigation.

c. Man caused *impervious surfaces* on parcels that are 8,001 to21,780 square feet and existed on or before December 1, 1985 shall be limited to 31.25% of the property provided:

i. New *impervious surfaces* on the property have been minimized.

ii. Water quality impacts associated with runoff from new *impervious surfaces* have been minimized through *site* design or use of *best management practices*.

iii. The property owner performs *on-site* mitigation as may be required by the Planning Director or designated representative to offset potential adverse water quality impacts from the new *impervious surfaces* or the property owner pays a fee in lieu of performing the mitigation.

d. Man caused *impervious surfaces* on parcels that are less than 8,000 square feet and existed on or before December 1, 1985 shall be limited to 25% of the property plus 500 square feet provided:

i. New *impervious surfaces* on the property have been minimized.

ii. Water quality impacts associated with runoff from new *impervious surfaces* have been minimized through *site* design or use of *best management practices*.

iii. The property owner performs *on-site* mitigation as may be required by the Planning Director or designated representative to offset potential adverse water quality impacts from the new *impervious surfaces* or the property owner pays a fee in lieu of performing the mitigation.

e. Man caused *impervious surfaces* shall not exceed 25% of an individual *lot* of one acre or less which is part of a *subdivision* approved after December 1, 1985. However, the total of the *impervious surfaces* over the entire *subdivision* shall not exceed 15%.

9. *Natural heritage areas* and locations considered for Areas of Critical State Concern

These areas of local significance shall be preserved whenever possible in accordance with the recommendations of the Department of Natural Resources. These areas are identified in Article VI, Section 3.8 of this Ordinance.

10. *Non-tidal wetlands*

Non-tidal wetlands shall be protected according to the *regulations* of the State of Maryland, Army Corps of Engineers, United States Fish and Wildlife Service, Environmental Protection Agency and all other applicable State and Federal *regulations*.

11. *Slopes*

Development on *slopes* greater than 15%, as measured before development, shall be prohibited unless the project is the only effective way to maintain or improve the stability of the land.

12. *Stormwater Management*

No *person* shall develop any land for residential, commercial, industrial, or institutional uses or redevelop land without having provided for appropriate *stormwater management* measures that control or manage runoff from such developments except as provided in Article VI, Section 10 of this Ordinance. *Stormwater Management* shall be accomplished for all new *development* or *redevelopment* in accordance with the provisions of Article VI, Section 10 of this Ordinance.

13. Threatened and Endangered Species and Species in Need of Conservation

a. Any *development* shall include a statement on the type and location of any threatened or *endangered species* or *species in need of conservation* on the property, and any recommendation for maintaining and protecting that habitat from the Department of Natural Resources.

b. Threatened or *endangered species* and *species in need of conservation* shall be checked and noted by the *developer* before any approvals can be granted by the Planning Director, *Planning Commission*, or Zoning Administrator.

c. The Federal or State guidelines (which ever is stricter) for habitat protection shall be followed during *development*. Plans shall include provisions for the continuance of the habitat protection after *development*. This can include *conservation easements*, cooperative agreements, special provisions in *forest management* and *soil* conservation plans, and donation to a third party.

14. Timber Harvest

a. *Forest management plans* shall be required for all timber harvest occurring within any one-year interval and which affect one or more acres in *forest* or *developed woodlands* in the *Critical Area*. The plans shall be prepared by a registered professional forester and be reviewed and approved by the Maryland Forest, Park, and Wildlife Service through the District Forestry Boards and the project forester. Plans shall be filed with the Kent County Planning Commission. Plans shall include measures to protect surface and ground water quality and identify whether the activities will disturb or affect Habitat Protection Areas as set forth in the Land Use Ordinance or identified on the Habitat Protection Areas Map.

b. Plans shall include protective measures for Habitat Protection Areas and shall provide for the continuity of habitat. The plans shall address mitigation through *forest management* techniques which include scheduling size, timing, and intensity of harvest cuts, *afforestation* and *reforestation*.

c. The cutting and *clearing* of trees within the minimum 100-foot *buffer* is permitted provided:

i. Existing riparian *forest* of 300 x 300 feet or more and *forest* areas used by *forest interior dwelling birds* and other wildlife species shall be managed according to the guidelines in Article VI, Section 3.

ii. When timber harvesting is being considered, a *site* survey for *forest interior dwelling birds* shall be done. Cutting and building shall be restricted to safe times (not during nesting – See Article VI, Section 3.9 of this Ordinance).

iii. During timber harvest in corridors of existing *forest* or woodlands, vegetation shall be maintained to provide effective connections between *wildlife habitat* area.

iv. Commercial harvesting by *selection* or by *clear-cutting* of Loblolly Pine and Tulip Popular may be permitted to within 50 feet of the landward edge of the *mean high water line* of tidal water and *perennial streams* or the edge of *tidal wetlands* provided that the cutting does not occur in the Habitat Protection Areas and the cutting is conducted pursuant to the requirements of Article VI, Section 9 and the *non-tidal wetlands* requirements of this Ordinance, and in conformance with a *buffer* management plan prepared by a registered professional forester and approved by the Department of Natural Resources. The plan shall be required for all commercial harvest within the minimum 100-foot *buffer* regardless of the size of the area to be cut and shall contain the following minimum requirements:

a) That disturbance to stream banks and shorelines shall be avoided.

b) That the area to be disturbed or cut shall be replanted or allowed to regenerate in a manner that assures the availability of cover and breeding *sites* for wildlife and reestablishes the *wildlife corridor* function of the *buffer*.

c) That the cutting does not involve the creation of logging *roads* and skid trails within the minimum 100-foot *buffer*.

Commercial harvesting of trees by any method may be permitted to the edge of the *intermittent streams* if the cutting and removal is done in accordance with a *Buffer* Management Plan approved by the Department of Natural Resources, Bay Watershed Forester.

15. Water Quality
All new *development* or *redevelopment* shall reduce pollutant loading from the *site* and shall comply with the *stormwater management* qualitative control measures found in Article VI, Section 10 of this Ordinance.

16. Wildlife Corridors
Developments shall incorporate a wildlife corridor system that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site in order to provide continuity of existing wildlife and plant habitats with offsite habitats. Plans shall include provisions for the continuance and maintenance of the wildlife corridors. This can include *conservation easements*, cooperative agreements, special provisions in forest management and soil conservation plans, and donation to a third party.

16.8 INDUSTRIAL CRITICAL AREA - LDA DISTRICT DESIGN STANDARDS

The purpose of these standards is to give a sense of the physical aspects of the County's environment to those contemplating new *development* in the community. Pertinent to this physical appearance is the design of the *site*, *buildings* and *structures*, plantings, *signs*, *street* hardware, and miscellaneous other objects that the public observes.

These standards are not intended to restrict imagination, innovation, or variety, but rather assist in focusing on design principals which can produce creative solutions that will develop a satisfactory visual appearance within the County, preserve taxable values, and promote the public health, safety, and welfare.

A. INDUSTRIAL CRITICAL AREA - LDA GENERAL DESIGN STANDARDS

1. The landscape shall be preserved in its natural state, in so far as possible, by leaving the most sensitive area of the *site* intact and by minimizing *tree* and *soil* removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. Whenever possible, *development* shall be located outside the *floodplain*.

2. Each unit of *development*, as well as the total *development*, shall create an environment of desirability and stability. Every *structure*, when completed and in place, shall have a finished appearance.

B. INDUSTRIAL CRITICAL AREA - LDA SPECIFIC DESIGN STANDARDS

1. *Site* Access

Site access shall be subject to the following *regulations* to help ensure safety and alleviate traffic congestion:

a. Where property abuts a *primary*, *secondary*, or a *collector road*, access to the property shall be by way of the *secondary* or *collector road*. Exceptions to this rule shall be instances where the *Planning Commission*, or where applicable the Planning Director, determines that direct access onto the *primary road* would promote traffic safety.

b. Where one or more contiguous parcels abutting a *primary road* are under single ownership and any one of the parcels abuts a *secondary* or *collector road*, access to the property shall be by of the *secondary road*. Exceptions to this rule shall be instances where the *Planning Commission*, or where applicable the Planning Director, determines that direct access onto the *primary road* would promote traffic safety.

c. Only one direct approach onto a *primary road* from an individual parcel of record as of August 1, 1989 shall be permitted unless the *Planning Commission*, or where applicable the Planning Director finds one of the following:

   i. An additional entrance is significantly beneficial to the safety and operation of the highway.

   ii. One entrance is a safety hazard or will increase traffic congestion.

   iii. The property is bisected by *steep slopes*, bodies of water, or other topographic features so as to render some portion of the property inaccessible without additional road access.

d. Where a proposed road is designated on an approved County or Town map, *site plans* for *development* adjacent to the designated *roadway* shall include provisions for future access to the *roadway*.

e. Existing, planned, or platted *streets* on adjacent properties shall be continued when the *Planning Commission*, or where applicable the Planning Director, determines that the continuation is necessary for safe and reasonable circulation between the properties.

f. When deemed necessary by the *Planning Commission*, or where applicable the Planning Director, developments shall provide access to adjacent tracts not presently developed.

g. Access shall be consolidated whenever possible.

h. Whenever possible, *roads* shall be constructed above the elevation of the *100-year floodplain*.

i. The applicant shall demonstrate that access to the project is adequate and the roads which will be impacted have the capacity to handle the traffic generated by the proposed project and will not endanger the safety of the general public.*

2. *On-site* Circulation

a. *Sites* shall be designed to prevent awkward or dangerous vehicular flow.

b. *Loading* and *unloading spaces* shall not block the passage of other vehicles on the service drive or major pedestrian ways or create blind spots when trucks are loading or unloading.

c. *Sites* shall be designed to discourage pedestrians and vehicles from sharing the same pathways.

d. Safe, convenient, and centralized handicap parking shall be provided.

e. Trash boxes must be accessible to collection trucks when all vehicle parking spaces are filled.

f. Parking shall not be permitted in the required *front yard*.

* Amended 11/14/06

3. *Floodplain*

a. In order to prevent excessive *flood* damage and to allow for the protection of the natural and beneficial *floodplain* functions, all *development*, *new construction*, and *substantial improvements* to existing *structures* in all *floodplain* zones shall comply with the requirements of Article VI, Section 7 of this Ordinance, including but not limited to the following:

i. Elevation of all new or substantially improved *structures*;

ii. Compliance with venting and other construction standards; and

iii. Submission and recordation, where applicable, of *Elevation Certificates*, *Declaration of Land Restrictions*, deed restrictions, and venting affidavits.*

b. Placement of *buildings* and materials. In general, *buildings* and *accessory structures* should be located entirely out of the *floodplain*, out of the *flood* protection setback, or on land that is least susceptible to flooding. All *structures* permitted in the *floodplain* shall be oriented so as to offer the least resistance to the flow of floodwaters.

c. General *development* shall not occur in the *floodplain* where alternative locations exist. Before a permit is issued, the applicant shall demonstrate that new *structures* cannot be located out of the *floodplain* and that encroachments onto the *floodplain* are minimized.

4. General Landscape Requirements

a. The *front yard* shall be landscaped and shall be maintained in a neat and attractive condition.

b. *Sites* shall be permanently maintained in good condition with at least the same quality and quantity of landscaping as originally proposed.

c. The *landscape plan* shall be prepared by a registered professional forester, landscape architect, or other professional with equivalent experience and qualifications.

d. The *Planning Commission*, or where applicable the Planning Director, may waive the landscape requirements when it is demonstrated that the spirit and intent of the requirement is accomplished through other means or the nature of the change is one that does not require additional landscaping.

5. Screening

a. Screening is required to protect adjoining properties and *roadways* from noise, glare, and uses which are visually incompatible with neighboring land uses. Screening is required:

i. On *sites* which involve loading or unloading (including the storage of vehicles and boats), trash, or disposal areas and where accessory *buildings* and *structures* are adjacent to residential properties.

ii. Where exterior storage areas are visible from *roadways*, sidewalks, or nearby residential properties

iii. When noise not typically occurring in residential areas is expected to project onto nearby properties.

iv. To *screen* parking areas from motorists, pedestrians, and adjoining residential properties.

v. Where the industrial district abuts a residential district or a *primary* or *secondary road*.

vi. Where the *Planning Commission* determines that additional screening is necessary to protect properties in the area.

b. Landscaped screens shall be designed to complement other landscaping occurring naturally on the *site*, planted previously, or approved as a part of a *site plan* review. Whenever possible, existing vegetation and landform shall be used to create screens.

c. The *screen* shall be capable of providing year round screening.

* Amended 6/3/14

d. When noise is likely to be a factor, the *screen* shall be of sufficient construction to be an effective noise buffer.

e. Screening shall consist of trees and plants and may include masonry, or wooden fencing used with or without *berms*. Screening shall consist of a functional and well-designed combination of the following:

   i. Vegetative ground cover

   ii. Coniferous and deciduous shrubs

      a) Specimens of which will reach and maintain a minimum height of 5 feet of full vegetative growth.

      b) Plants which measure a minimum of 3 feet in height at the time of planting and are expected to attain a 5-foot height within 3 years.

   iii. Coniferous and deciduous trees

      Species and sizes of which will be chosen to best accomplish an adequate *screen* (i.e., evergreens used for visual screening, deciduous trees for seasonal screening)

f. Natural *slopes* and existing vegetation may be substituted for some or all of the requirements above, provided that these features serve to *screen* the area from adjoining properties and *roadways*. The *Planning Commission* or where applicable the Planning Director shall determine the acceptability of using existing *slopes* and vegetation for this purpose. The *Planning Commission*, or where applicable the Planning Director, may waive screening where it is physically impossible to accomplish.

g. Screening and fencing shall be maintained in at least the same quality and quantity as initially approved.

6. Lighting

   a. Lighting on the *site* shall be designed to avoid glare onto adjacent properties.

   b. Lighting on the *site* shall be sufficient to provide for the safety and security of the business, its employees, and its customers.

7. *Site* Planning

   External Relationship: *Site* planning within the District shall provide protection of individual lots from adverse surrounding influences and for protection of surrounding areas from adverse influences existing within the District. In particular:

   a. Principal vehicular access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. Storage, turn lanes, or traffic dividers may be required by the *Planning Commission* where existing or anticipated heavy flows indicate need. In general, *streets* shall not be connected with *streets* outside the District in such a way as to encourage the use of such *streets* by substantial amounts of through traffic.

   b. *Yards*, fences, walls, or vegetative screening shall be provided where needed to protect residential districts or pubic *streets* from undesirable views, lighting, noise, or other *off-site* influences. In particular, outdoor storage, extensive *off-street parking* areas, and service areas for loading and unloading vehicles, and for storage and collection of refuse and garbage shall be effectively screened.

8. *Subdivision*

   a. All reasonable efforts should be made to protect adjacent residential areas from potential nuisances from the industrial *subdivision* by providing extra depth in parcels adjacent to existing or residential *development*.

   b. Proposed *street* layout, blocks, and parcels shall be suitable in area and dimension for the type of *development* anticipated.

c. The total area shall be sufficient to provide adequate space for *off-street parking*, loading, landscaping, and other facilities.

d. The *lot* arrangement, design, and orientation shall be such that all lots will provide satisfactory building *sites*, properly related to *topography* and the character of surrounding *development*.

e. Every *lot* shall abut upon and have access to a public road or approved *private road*.

f. Lots adjoining *major thoroughfares* and railroad lines should be designed with extra depth and provision for an appropriate means of buffer or deeper building setbacks.

g. Where land in a *subdivision* adjoins a railroad line, the *street* layout shall make allowance for future grade separated railroad crossings at appropriate locations by providing extra *street right of way* widths for such crossings and by restricting intersecting *streets* at locations where they would cause interference with necessary approaches to such crossings.

h. Proposed *streets* in the *subdivision* shall provide for the continuation of existing, planned, or platted *streets* on adjacent tracts, unless such continuation shall be prevented by *topography* or other physical feature or unless such extension is found by the *Planning Commission* to be unnecessary for the coordination of *development* between the *subdivision* and such adjacent *tract*.

i. Where the *Planning Commission* deems it desirable or necessary to provide access to adjacent tracts not presently subdivided, proposed *streets* in the *subdivision* shall be extended to the boundary lines with such tracts.

j. Where the *subdivision* adjoins or embraces any part of a *major thoroughfare* as designated on the Kent County Major Thoroughfare Map, the layout of such *subdivision* shall provide for the platting and dedication of such part of the *major thoroughfare* in the location and at the width indicated on the *major thoroughfare* plan, except that the *subdivider* shall not be required to dedicate that part of such *major thoroughfare* that is in excess of eighty (80) feet in width.

k. Where deemed desirable to the layout of the *subdivision* and adjoining area, the *Planning Commission* may require the platting and dedication of one or more *collector streets* or parts thereof, to serve the *subdivision*.

l. Subdivisions shall be in full compliance with the provisions of this Ordinance.

m. *Private roads* are permitted in minor subdivisions and are subject to the following conditions:

   i. Each road shall serve no more than seven parcels. In the event that an eighth parcel is created, the eighth parcel and all further divisions of land shall front on a public road.*

   ii. The *subdivision* shall provide a 50-foot *right of way* for each *private road*.

   iii. The construction of all lanes and *private roads* shall adhere to the requirements established by the Kent County Department of Public Works and sediment control and *stormwater management regulations*.

   iv. The deed and contract of sale of all lots in the *subdivision* shall state: "The road is private and not the responsibility of Kent County."

   v. The plat shall identify all *private roads* and shall state: "The road is private and not the responsibility of Kent County."

* Amended 10/16/12

SECTION 17 INDUSTRIAL DISTRICT - CRITICAL AREA

17.1 STATEMENT OF INTENT

This district is intended to provide for a range of industrial uses which are environmentally sound, sustainable, and compatible with adjacent uses. Furthermore, the district is limited to light manufacturing and support businesses. Light industries include those which manufacture, process, store, package or distribute goods and materials and are, in general, dependent on raw materials refined elsewhere. The Industrial District – Critical Area is intended to:

- Improve the quality of runoff from developed areas that enters the Chesapeake Bay or its tributary streams.
- Accommodate additional mixed-use development provided that water quality is not impaired.
- Minimize the expansion of intensely developed areas into portions of the Critical Area designated as habitat protection areas and resource conservation areas.
- Conserve and enhance fish, wildlife, and plant habitats to the extent possible within intensely developed areas.
- Encourage the use of *retrofitting* measures to address existing *stormwater* management problems.

17.2 PERMITTED PRINCIPAL USES AND STRUCTURES

For every industrial *structure* and use erected, reconstructed, altered, or enlarged after the effective date of this Ordinance, a *site plan* shall be filed. No building permit shall be issued until said *site plan* is approved by the *Planning Commission*, or where applicable the Planning Director.

1. Manufacture, processing, fabrication, and assembly of products. These uses include but are not limited to scientific and precision instruments, photographic equipment, communications equipment, computation equipment, drugs, medicines, pharmaceuticals, household appliances, toys, sporting and athletic goods, glass products made of purchased glass, electric lighting and wiring equipment, service industry machines, lithographic and printing processes, industrial controls, radio and TV receiving sets, watches and clocks, bags and containers, sanitary paper products, optical goods, electrical machinery, prefabricated and modular housing and components, dairy product feed and grain, baked and confectioners' goods, farm machinery, frozen food processing, packing plants, animal and seafood processing, fruit and vegetable processing, canning and storage.

2. Businesses and industries, including research and development companies, of a similar nature to those listed in Article V Section 16.2.1 may also be permitted by the Zoning Administrator. The Zoning Administrator shall consider the following:
   a. The impact of the proposed business or industry on existing or planned public facilities.
   b. The impact of the operation of the facility on the surrounding area.
   c. The health, safety, and welfare of employees and residents of the neighborhood.

3. Distribution centers and warehousing including motor freight terminals, provided that a single building footprint does not exceed 75,000 square feet in size. In reviewing the *site plan* the *Planning Commission* shall consider the following:
   a. The impact of the proposed business or industry on existing or planned public facilities.
   b. The impact of the operation of the facility on the surrounding area.
   c. The health, safety, and welfare of employees and residents of the neighborhood.

4. *Agriculture*, excluding *feedlots* and poultry houses

5. Manufacture of concrete and ceramics provided such use shall be located at least 400 feet from any residential district boundary. Outdoor storage of materials is prohibited unless otherwise permitted by the *Planning Commission* and subject to such conditions as may be determined by the *Planning Commission*.

6. *Personal wireless facilities* collocated on existing towers, water towers, electrical transmission towers, fire towers, silos, *grain dryers*, or other *structures* provided the height of the existing *structure* is not above that permitted by this Ordinance.

7. Public utility buildings, *structures*, water treatment plants, and transmission lines, except:
   a. Transportation facilities and utility transmission facilities, except those necessary to serve permitted uses, or where regional or interstate facilities must cross tidal waters (utility transmission facilities do no include power plant); or
   b. Permanent sludge handling, storage, and disposal facilities, other than those associated with wastewater treatment facilities. However, agricultural or horticultural use of sludge under appropriate approvals when applied by an approved method at approved application rates may be permitted in the Critical Area, except in the 100 foot buffer.

8. Blacksmith, welding and machine shops.

9. Contractors' yard

10. Vocational and trade schools including training facilities

11. *Airports*, landing fields, helistop, or heliports

12. Governmental public works and utility *buildings* or *structures*

13. *Single family dwelling*, one per existing property, subject to the *yard* requirements found in the Agricultural Zoning District, provided however, that bona fide *intrafamily transfers* may be permitted in the industrial district [thus exceeding the one *single family dwelling* per existing property requirement] under the following conditions:
   a. The owner of the parcel or the proposed parcel shall attest, in writing, to the bona fide family relationship and that the intent of the *subdivision*/use is not for ultimate transfer to a third party.
   b. Any deed for a *lot* that is created by a bona fide *intrafamily transfer* shall contain the covenant stating that the *lot* is created subject to the provisions of this section and that the provisions of this section shall control as long as the property continues to be zoned industrial.
   c. A *lot* created by a bona fide *intrafamily transfer* may not be conveyed subsequently to any *person* other than a member of the owners immediate family except under the following procedures:
      The Kent County Planning Commission must determine that:
      i. The *lot* was created as a part of bona fide *intrafamily transfer* and not with the intent of subdividing the original parcel of land for purposes of ultimate transfer to a third party; and
      ii. The owner of the transferred property dies; or

iii. A change of circumstances has occurred since the original transfer was made that is consistent with the intent of this ordinance.

d. This subsection shall not prevent the conveyance of such a *lot* to a third party as security for a mortgage or deed of trust or subsequent conveyances resulting from a foreclosure.

e. The maximum *lot* size shall be two acres;

f. Any deed or *subdivision* plat for a *lot* created by a bona fide *intrafamily transfer* shall contain a statement that the adjacent property is zoned industrial;

g. The parcel is created for the construction of a primary residence only; and

h. These provisions apply to those individuals owning industrial zoned land prior to July 7, 1994. Subsequent owners of industrial zoned land shall be limited to a one *single family dwelling*.

14. Boat building and boat repair

15. Storage and office trailers, temporary during construction

17.2.5 SPECIAL EXCEPTIONS

The following principal uses and *structures* may be permitted as special exceptions in the Industrial Critical Area District, subject to *site plan* review. Detailed limitations and standards for these uses may be found in Article VII of this Ordinance.

1. *Wind energy systems, small*, with a height that exceeds 80 feet*

17.3 PERMITTED ACCESSORY USES

The following *accessory uses* are permitted in the Industrial District. A *site plan* shall be required.

1. *Day care group*

2. Dwellings, limited to two (2) for persons permanently employed on the *premises*

3. Offices

4. Out of water boat storage

5. *Restaurants* without drive through facilities

6. Retail sales of products produced *on-site*

6.25 *Solar energy systems, small*, provided:*

a. Tree removal shall be minimized and any removal shall be mitigated in accordance with the Critical Area Program requirements.

b. All solar collection devices shall register with the Department of Emergency Services and shall submit a map noting the location of the solar collection devices and the panel disconnect.

c. The total height of solar collection systems shall comply with the height requirements.

* Amended 9/6/11

6.5 Temporary *MET Tower* of any height provided:*

a. The tower is erected for no more than 12 months.
b. Any free standing *structure* is located a minimum of 3 times its total height from a property line.
c. Towers are not readily climbable from the ground up to 12 feet.

7. Uses and *structures* which are customarily accessory and incidental to any permitted use shall be permitted in the district provided they are clearly subordinate to the principal use

8. *Wind energy systems, small*, limited to one tower provided:*

a. The height of the *structure* to the tip of the blade at its highest point does not exceed 80 feet.
b. Any system is located a minimum of 3 times its total height from a property line.
c. Towers are not readily climbable from the ground up to 12 feet.
d. All access doors to towers and electrical equipment shall be lockable.
e. Appropriate warning signage is placed on the tower and electrical equipment.
f. The blade tip at its lowest point had a ground clearance of at least 25 feet.
g. Wind turbines and towers maintain a galvanized steel, brushed aluminum finish, or a non-garish color.
h. Any small wind energy system that is not operational for a period of 12 consecutive months or more shall be removed at the landowner's expense.

* Amended 9/6/11

17.4 DENSITY, HEIGHT, WIDTH, BULK, AND FENCE REQUIREMENTS

	STANDARD	INDUSTRIAL SUBDIVISION
Gross *density* (dwelling units/ acre)	0.05 (1/20) [1]	[2]
Maximum residential *lot* size	2 acre	2 acre
Minimum *frontage*	75 feet	[2]
Minimum *yard*		
- *Front*		
- Existing *Primary road*	100 feet [3]	100 feet [3]
- Other r*oads*	[2]	[2]
- *Side* and *Rear*		
- Adjacent to EC, I, ICA-LDA, & ICA	15 feet	[2]
- Adjacent to AZD, RCD, CC, C, CCA, & M	40 feet [4]	[2]
- Adjacent to RC, RR, CAR, CR, V, IV, & IVCA	100 feet [4]	[2]
- Adjacent to public road	100 feet [3]	100 feet [3]
- Waterfront	Minimum 100 ft. *buffer* or *modified buffer* [5]	Minimum 100 ft. *buffer* or modified *buffer* [5]
- *Shoreline cliff*	1.5 x *cliff height* +20 ft.	1.5 x *cliff height* +20 ft.
Height [6]		
- Industrial *structure*	45 feet	45 feet
- Residential *structure*	35 feet	35 feet
- Fence [7]		
- Security	8 feet	8 feet
- Ornamental		
Front and *Side*	4 feet	4 feet
Rear	8 feet	8 feet
Maximum building bootprint		
- Distribution Center	75,000 sq. ft.	75,000 sq. ft.
- Other industrial *buildings*	250,000 sq. ft.	250,000 sq. ft.

[1] *Intrafamily transfers* only.

[2] As approved during *subdivision* review.

[3] May be reduced or increased during *site* plan review.

[4] When a side or rear lot line coincides with a side or rear lot line of a property located in a non-industrial zone, the required yard shall be landscaped and screened and shall be unoccupied by buildings, *structures*, or parking area.

[5] *Buffers* in designated areas may be modified according to the standards found in Article V, Section 17.7.B.4

[6] Additional height restrictions apply to properties in the *Airport* Safety Zone.

[7] Fences do not need to meet yard requirements.

17.5 INDUSTRIAL - CRITICAL AREA PERFORMANCE STANDARDS

Any industrial use established after August 1, 1989 shall be operated so as to meet the performance standards established hereinafter. Any use already established on August 1, 1989 shall be permitted to continue provided that no *alteration*, expansion, enlargement, or modification shall be permitted which effectively increases the degree of nonconformity which existed prior to any *alteration*, expansion, enlargement, or modification. An application to alter, expand, enlarge, or modify an existing use which does not meet the performance standards shall include a statement identifying measures proposed to bring the use into conformity with the performance standards.

Points of measurement to determine compliance with the performance standards shall be the property *lot line* or zoning line nearest the source that is the subject of measurement.

1. NOISE - All sources of noise (except those not under direct control of occupant of use, such as vehicles), must not create sound or impact noise levels in excess of the values specified below when measured at the points indicated. In addition, between 7:00 P.M. and 7:00 A.M., the permissible sound levels at a residential district boundary where adjoining Industrial Districts, shall be reduced by five decibels in each octave band and in the overall band for impact noises.

   Method of Measurement and Meaning of Terms:
   Noise shall be measured by means of a sound level meter and octave band analyzer, calibrated in decibels (re 0.0002 microbar) and shall be measured at the nearest *lot line* from which the noise level radiates. Impact noises shall be measured by means of an impact noise analyzer. Impact noises are those whose peak values fluctuate more than six decibels from the steady values indicated on the sound level meter set at fast response.

   Decibel - A measurement of the intensity (volume) of a sound.

   Octave band - A prescribed interval of sound frequencies which classifies sound according to its pitch.

   Preferred frequency octave bands - A stigmatized series of octave bands prescribed by the American Standards Association in Sel. 6-1970 Preferred Frequencies for Acoustical Measurements.

   Sound level meter - An electronic instrument which includes a microphone, an amplifier, and an output meter which measures noise and sound pressure levels in a specified manner. It may be used with the octave band analyzer that permits measuring the sound pressure level in discrete octave bands.

MAXIMUM PERMITTED SOUND LEVELS (Decibels)

Octave band, cycles/second	At residential boundaries	At other *lot lines*
31.5	64	72
63	64	74
125	60	70
250	54	65
500	48	59
1,000	42	55
2,000	38	51
4,000	34	47
8,000	30	44
Overall	80	90

2. VIBRATION - The product of displacement in inches times the frequency in cycles per second of earthborn vibrations from any activity shall not exceed the values specified below when measured at the points indicated.

   Method of Measurement and Meaning of Terms:
   Earthborn vibrations shall be measured by means of a three component recording system, capable of measuring vibration in three mutually perpendicular directions. The displacement shall be the maximum instantaneous vector sum of the amplitude in the three directions.

   Vibrations - The periodic displacement of oscillation of the earth.

MAXIMUM PERMITTED VIBRATIONS (INCHES PER SECOND)
AREA OF MEASUREMENT

Type of Vibrations	At Residential Boundaries	At other *Lot lines*
Continuous	0.003	0.015
Impulsive - 100/min or less	0.006	0.030
Less than 8 pulses per 24 hours	0.015	0.075

3. GLARE - No direct or sky reflected glare, whether from flood lights or from high temperature processes such as combustion, welding or otherwise, is to be visible beyond the *lot line*, except for *signs*, parking lot lighting and other lighting permitted by this Ordinance or required by any other applicable regulation, ordinance or law.

4. AIR POLLUTION - The rules and *regulations* of the State of Maryland shall apply.

5. WATER POLLUTION - The rules and *regulations* of the State of Maryland shall apply.

6. RADIOACTIVITY - There shall be no radioactive emission which would be dangerous to the health and safety of persons on or beyond the *premises* where such radioactive material is used. Determination of existence of such danger and the handling of radioactive materials, the discharge of such materials into the atmosphere and streams or other water, and the disposal of radioactive

wastes shall be by reference to and in accordance with applicable current *regulations* of the governments of the United States and Maryland.

7. ELECTRICAL INTERFERENCE - There shall be no electrical disturbance emanating from any *lot* which would adversely affect the operation of any equipment on any other *lot* or *premises*.

8. SMOKE AND PARTICULATE MATTER LIMITATIONS -
   a. General Limitations - In addition to the performance standard specified hereinafter, the emission of smoke or particulate matter in such manner or quantity as to be detrimental to or endanger the public health, safety, comfort, or welfare is hereby declared to be a public nuisance and shall henceforth be unlawful.

      Particulate matter emission caused by the wind from open storage areas, *yards*, *roads*, etc., within *lot lines* shall be kept to a minimum by appropriate landscaping, paving, wetting, or other means.

      For the purposes of determining the density or equivalent opacity of smoke, the Ringelmann Chart as adopted and published by the United States Bureau of Mines in Circular No. 8333 (7718) shall be employed.
   b. Permitted Smoke Emission - Within 1,000 feet of a residence or commercial zoning district boundary line, the emission of visible smoke from any vent, stack, chimney, or combustion process, darker than Ringelmann No.2 for a period or periods aggregating more than 4 minutes in any 60 minute period shall not be permitted.

9. TOXIC MATTER LIMITATIONS - In any Industrial District, toxic materials which are released shall not exceed 10% of the maximum permissible airborne concentration allowed an industrial worker when measured at any point beyond the *lot line*, either at ground level or habitable elevation, whichever is more restrictive. When maximum permissible airborne concentrations of toxic materials allowed an industrial worker are not contained in the most recent list of Threshold Limit Values published by the American Conference of Governmental Industrial Hygienists, the applicant shall satisfy the County *Health Officer* that proposed levels will be safe to the general population.

10. ODOROUS MATTER LIMITATIONS - The release of odorous matter from any Industrial District across residential or commercial district boundary lines shall be so controlled that at ground level or at habitable elevations the concentration shall not exceed the odor threshold lines. Further, the release of odorous matter across *lot lines* shall not become a nuisance or source of discomfort to neighboring uses. As a guide in determining qualities of offensive odors, Table III (Odor Thresholds), Chapter 5, "Air Pollution Abatement Manual," by Manufacturing Chemists Association, Inc. (as amended) may be used.

11. CERTIFIED *ENGINEER'S* REPORT SUBMITTAL - The applicant for a *grading* permit, *sediment control permit*, or building permit for uses in an Industrial District, or applicants for *variances* to the district shall be required to submit proof that the uses proposed will not cause violations of Federal, State or County laws or *regulations*. For industrial uses which will produce emissions of pollutants to the waters or air of the County, this proof shall include measurements of the ambient water and air quality as well as documentation in the form of figures that the additional planned and proposed industrial use will not cause the violation of either ambient or source standards outlined by the laws and *regulations* of the Federal, State, or County governments.

    Each future occupant of an industrial character shall submit to the County as a part of final *site development* plan approval, a certified *engineer's* report describing: the proposed operation, all machines, processes, products and by-products, stating the nature and expected levels of emission

or discharge to land, air, water or liquid, solid, or gaseous effluent and electrical impulses, vibrations and noise under normal operations and the specifications or treatment methods and mechanisms to be used to control such emission or discharge.

Existing industrial uses shall be permitted to continue and to expand, enlarge or modify provided that the industry continues to comply with the performance standards. Existing industrial uses that do not conform to the performance standards shall be permitted to expand, modify, or enlarge provided the expansion, modification, or enlargement does not increase the degree of nonconformance and that the applicant submits a statement that identifies measures to bring the industry into compliance. When the *Planning Commission* finds that an existing industry is not making a good faith effort to comply with the performance standards, the *Planning Commission* may deny an application for expansion, modification, or enlargement and may initiate an enforcement action.

17.6 INDUSTRIAL - CRITICAL AREA GENERAL STANDARDS

1. As a part of the *site plan* review, the applicant shall submit a statement that includes an explanation of the following:
   a. The type of raw materials, waste products, and other byproducts associated with the process.
   b. The identity of all chemicals and solids to be discharged into the sewage system.
   c. The type and amount of traffic expected to be generated by the operation.
   d. The proposed hours of operation.
   e. The proposed architectural design (graphic or narrative) of all *structures*.

2. The *Planning Commission*, or where applicable the Planning Director, may require additional standards and requirements to those stated in this Article as are necessary for the protection of the environment and the health, and safety of the citizens of the County.

3. The use established shall not create or be a continuation of highway "strip" *development* with multiple access points creating highway hazards and visual clutter in so far as practical. A highway strip is two or more access points or "curb cuts" off of an existing State or County Road within 3,000 feet of each other. Any use in an industrial district shall have access at least 3,000 feet from any highway strip, in so far as possible. The *Planning Commission* may waive this requirement when the commission finds all of the following:
   a. The proposal complies with the spirit and intent of the Land Use Ordinance and the *Comprehensive Plan*.
   b. That the waiver will not cause a substantial detriment to adjacent or neighboring property
   c. That the waiver will not create a safety hazard or increase traffic congestion
   d. The waiver is the minimum necessary to relieve a practical difficulty and is not sought for reasons of convenience, profit, or caprice.

4. Central water and sewer systems may be required by the *Planning Commission* in an Industrial District. If a public system is available, use of such system shall be mandatory.

5. *Signs* in industrial area shall be permitted in accordance with the *regulations* contained in Article VI, Section 2 of this Ordinance.

6. Minimum *off-street parking* and *loading spaces* shall be required of each use in an Industrial District in accordance with the *regulations* contained in Article VI, Section 1 of this Ordinance.

7. In so far as possible, all uses shall be conducted within a completely enclosed *structure* or be completely screened. Finished or semi-finished products manufactured on the *premises* may be stored in the open if screened from the *street* and adjacent uses.

8. The Department of Planning and Zoning shall approve *street* names. A name may not be approved if it duplicates or is too similar to the name of another road in the county or incorporated towns.

17.7 INDUSTRIAL - CRITICAL AREA ENVIRONMENTAL STANDARDS

The purpose of these standards is to provide for the proper stewardship of the County's natural resources. Specifically it is the overall goal of the county to maintain the quality of the County's *ecosystem* in the face of continuing activity, growth, and change.

A. INDUSTRIAL - CRITICAL AREA GENERAL ENVIRONMENTAL STANDARDS

1. *Development* shall minimize *adverse impacts* to *non-tidal* or *tidal wetlands*, estuaries, the Chesapeake Bay, *tributary streams*, and the natural and *riparian habitat* of these streams, habitat protection areas, or other significant habitat identified by the Department of Planning and Zoning.

2. *Development* shall minimize the removal of *natural vegetation*. Protection of remaining vegetation and replacement of removed vegetation shall be required.

3. *Development* shall minimize the effects of runoff on the existing volume of water and quality of any water body. Urban *best management practices* shall be used.

4. Whenever possible, land subject to periodic flooding, shall not be developed for any use that might involve danger to health, life, or property or aggravate floods.

5. If practicable, permeable areas shall be established in vegetation.

B. INDUSTRIAL - CRITICAL AREA SPECIFIC ENVIRONMENTAL STANDARDS

1. *Agriculture*
   No new agricultural land shall be created by:
   a. Draining, filling, or diking, any *palustrine wetlands* which have a *seasonally flooded or wetter water regime* unless the impact is mitigated.
   b. *Clearing* of *forest* or woodland on *soils* with a *slope* greater than 15% or on *soils* with a *K Value* greater than 0.35 and *slope* greater than 5%.
   c. *Clearing* of existing *natural vegetation* within the *buffer*.
   d. *Clearing* of *forest* if the *clearing* will affect water quality or habitat protection areas as designated in Article VI, Section 3.8.

2. *Anadromous fish*
   a. Concrete riprap or other artificial surface shall not be installed on the bottom of natural streams unless it can be demonstrated that water quality and fishery habitat will be improved.
   b. Physical alteration of a stream, including but not limited to channelization, that interferes with the movement of fish shall be prohibited

c. The construction or placement of dams or other *structures* that would interfere with or prevent the movement of spawning fish or larval forms in streams shall be prohibited. Where practical, the removal of existing barriers is encouraged.

d. Construction, repair or maintenance activities associated with bridges or other stream crossings or with utilities and roads which require disturbance to the *buffer*, or which occur in stream shall be prohibited between March 1 and May 15.

3. *Buffer*

a. *Development* in the *Buffer*:

i. New *development activities*, including *structures*, *roads*, parking areas, and other *impervious surfaces*, mining, and related activities, or septic systems shall not be permitted within the minimum 100-foot *buffer*. This restriction does not apply to water-dependent facilities that meet the criteria set forth below.

ii. New or expanded *development activities* may be permitted in the minimum 100-foot *buffer*, provided

a) The use is water dependent;

b) The project meets a recognized private right or public need;

c) Adverse effects on water quality and fish, plant, and *wildlife habitat* are minimized;

d) In so far as possible, non-water dependent *structures* or operations associated with water-dependent projects or activities are located outside the minimum 100-foot *buffer*.

iii. Water-dependent research facilities or activities operated by State, Federal, local agencies or education facilities may be permitted in the *buffer* if non-water dependent *structures* or facilities associated with these projects are located outside the *buffer*.

iv. Commercial water-dependent fisheries facilities including, but not limited to, *structures* for crab shedding, fish off-loading docks, shellfish culture operations, and shore based facilities for *aquaculture* operations, and *fisheries activities* may be permitted in the *buffer*.

b. Vegetation protection within the *Buffer* -

i. *Natural vegetation* within the *buffer* shall be preserved and protected unless one of the following apply:

a) An approved *forest* harvesting plan is followed.

b) Individual trees may be cut for personal use provided this cutting does not impair the water quality or existing habitat value or other functions of the *buffer*. Trees shall be replaced on an equal basis for each *tree* cut.

c) Trees which are leaning over the water may be cut, but their stumps and roots shall not be disturbed.

d) The disturbance provides access for water-dependent facilities or shore *erosion* protection *structures*.

e) Landowners may treat trees and shrubs to maintain or improve their health.

ii. Vegetation in the *buffer* removed for the reasons listed above shall be reestablished over the entire disturbed area during the next planting season. These plantings shall be approved by the Department of Planning and Zoning. In addition, Article VI, Section 9 of this Ordinance shall be followed exactly.

iii. *Natural vegetation* removed for an approved purpose shall be in accord with an approved *buffer* management plan.

c. Stream Protection

Development activities that must cross or affect streams shall be designed to:

i. Reduce increases in flood frequency and severity that are attributable to development.

ii. Retain tree canopy so as to maintain stream water temperature within normal variation.

iii. Provide a natural substrate for stream beds.

iv. Minimize adverse water quality and quantity impacts of *stormwater*.

4. *Modified Buffer*

a. *Development* in the *Modified Buffer*

i. No new *development* shall encroach within 25 feet of mean high tide or 25 feet of the edge of a *tidal wetland*. Expansion to the side or rear but not to closer to the water may be permitted as long as the expansion is designed and located to maximize the distance from the shoreline or to enhance or protect the environmentally sensitive features on the *site*.

ii. An area of existing *impervious surface on-site* equal to or greater than the area of new *development* shall be removed and revegetated, or

iii. A *forest buffer* will be planted *on-site* equal to three times the amount of newly developed *impervious surface* within the minimum 100-foot *buffer* (equal areas to be planted for other disturbance outside of the minimum 100-foot *buffer*); if there is not enough available space on the *lot* to create a *buffer*, the property owner must plant the required amounts *on-site* outside the *buffer*, *off-site*, or must pay a fee-in-lieu.

b. Vegetative Protection within the *Modified Buffer*

Natural vegetation within the *modified buffer* shall be preserved and protected unless one of the following apply:

i. Individual trees may be cut for personal use provided this cutting does not impair the water quality or existing habitat value or other functions of the *buffer*. Trees shall be replaced on an equal basis for each *tree* cut.

ii. Trees which are leaning over the water may be cut, but their stumps and roots shall not be disturbed.

iii. The disturbance provides access for water-dependent facilities or shore *erosion* protection *structures*.

iv. Landowners may treat trees and shrubs to maintain or improve their heath.

5. *Forest*

a. A forestry management plan prepared by a registered forester and approved by the Maryland Department of Natural Resources shall be required when developing forested lands.

b. *Forest* shall be replaced on an acre by acre basis, but no more than 20% of any *forest* or *developed woodlands* shall be removed unless by prior agreement with the *Planning Commission*, the *developer* agrees to afforest on the following basis: a *developer* may clear or develop more *forest* that otherwise may be permitted if the total *forest* removed is not increased by more than 50% of the area permitted to be disturbed provided that the afforested area consists of 1.5 times the total surface acreage of the disturbed *forest* or *developed woodlands* or both. For example, in a 100-acre woodland, up to 30 acres may be cleared if the *developer* agrees to afforest (not necessarily on his own property) 45 acres of currently unforested land.

c. Replacement trees shall be of a species similar to that which was removed or a species appropriate to the replanting *site*.

d. *Forest* or *developed woodlands* that remain after an approved removal shall be maintained through recorded restrictive covenants, *easements*, or similar instruments.

e. *Forest* cleared prior to obtaining a *grading* permit or that exceeds the maximum area allowed shall be replanted at three times the acreage of the cleared *forest*.

f. If the acreage of the *site* limits the application of *reforestation* requirements *forest* may be created on other lands in the *Critical Area* including County lands, or a fee in an amount determined by the Maryland Department of Natural Resources to be the equivalent to the value of the required *forest* may be paid to the County Commissioners of Kent County. These funds shall be placed in a dedicated fund used to ensure the restoration or establishment of an equivalent *forest* area, in the *Critical Area* or riparian areas.

g. After *development*, the *site* shall be planted to provide a *forest* or *developed woodlands* cover of at least 15%.

6. *Forest Interior Dwelling Birds*

a. Existing riparian *forest* of 300 x 300 feet or more and *forest* areas used by *forest interior dwelling birds* and other wildlife species shall be managed according to the guidelines developed by the Maryland Department of Natural Resources and the Chesapeake Bay Critical Area Commission.

b. A *site* survey for *forest interior dwelling birds* shall be conducted prior to any *development* or agricultural expansion on deciduous *forest* of at least 100 acres or 300 x 300 foot riparian deciduous *forest*. The Planning Director may waive a *site* survey for *forest interior dwelling birds* provided the *forest* is managed for all *forest interior dwelling bird* species. Cutting and building shall be restricted to safe times (not during nesting - see Article VI, Section 3.9 of this Ordinance).

7. Habitat

a. All *roads*, bridges and utilities that must cross a Habitat Protection Area shall be located, designed, constructed, and maintained so as to provide maximum *erosion* protection and minimize negative impacts to wildlife, aquatic life and their habitats and maintain hydrologic processes and water quality. *Roads*, bridges, or utilities shall not be located in any Habitat Protection Area unless no feasible alternative exists.

b. During and after *development* in forested areas, corridors of existing *forest* or woodland vegetation shall be maintained to provide effective connections between *wildlife habitat* areas.

c. New water-dependent facilities shall be located so as to prevent disturbance to *sites* of significance to wildlife such as historic aquatic staging and concentration areas for *waterfowl*, shellfish beds, finfish nursery areas, and submerged aquatic vegetation beds.

8. *Natural heritage areas* and locations considered for Areas of Critical State Concern

These areas of local significance shall be preserved whenever possible in accordance with the recommendations of the Department of Natural Resources. These areas are identified in Article VI, Section 3.8 of this Ordinance.

9. *Non-tidal wetlands*

Non-tidal wetlands shall be protected according to the *regulations* of the State of Maryland, Army Corps of Engineers, United States Fish and Wildlife Service, Environmental Protection Agency and all other applicable State and Federal *regulations*.

10. *Slopes*

Development on *slopes* greater than 15%, as measured before development, shall be prohibited unless the project is the only effective way to maintain or improve the stability of the land.

11. *Stormwater Management*

No *person* shall develop any land for residential, commercial, industrial, or institutional uses or redevelop land without having provided for appropriate *stormwater management* measures that control or manage runoff from such developments except as provided in Article VI, Section 10 of this Ordinance. *Stormwater Management* shall be accomplished for all new *development* or *redevelopment* in accordance with the provisions of Article VI, Section 10 of this Ordinance.

12. Threatened and Endangered Species and Species in Need of Conservation

a. Any *development* shall include a statement on the type and location of any threatened or *endangered species* or *species in need of conservation* on the property, and any recommendation for maintaining and protecting that habitat from the Department of Natural Resources.

b. Threatened or *endangered species* and *species in need of conservation* shall be checked and noted by the *developer* before any approvals can be granted by the Planning Director, *Planning Commission*, or Zoning Administrator.

c. The Federal or State guidelines (which ever is stricter) for habitat protection shall be followed during *development*. Plans shall include provisions for the continuance of the habitat protection after *development*. This can include *conservation easements*, cooperative agreements, special provisions in *forest management* and *soil* conservation plans, and donation to a third party.

13. Timber Harvest

a. *Forest management plans* shall be required for all timber harvest occurring within any one-year interval and which affect one or more acres in *forest* or *developed woodlands* in the *Critical Area*. The plans shall be prepared by a registered professional forester and be reviewed and approved by the Maryland Forest, Park, and Wildlife Service through the District Forestry Boards and the project forester. Plans shall be filed with the department of Planning and Zoning. Plans shall include measures to protect surface and ground water quality and identify whether the activities will disturb or affect Habitat Protection Areas as set forth in the Land Use Ordinance or identified on the Habitat Protection Areas Map.

b. Plans shall include protective measures for Habitat Protection Areas and shall provide for the continuity of habitat. The plans shall address mitigation through *forest management* techniques which include scheduling size, timing, and intensity of harvest cuts, *afforestation* and *reforestation*.

c. The cutting and *clearing* of trees within the minimum 100-foot *buffer* is permitted provided:

i. Existing riparian *forest* of 300 x 300 feet or more and *forest* areas used by *forest interior dwelling birds* and other wildlife species shall be managed according to the guidelines in Article VI, Section 3.

ii. When timber harvesting is being considered, a *site* survey for *forest interior dwelling birds* shall be done. Cutting and building shall be restricted to safe times (not during nesting – See Article VI, Section 3.9 of this Ordinance).

iii. During timber harvest in corridors of existing *forest* or woodlands, vegetation shall be maintained to provide effective connections between *wildlife habitat* area.

iv. Commercial harvesting by *selection* or by *clear-cutting* of Loblolly Pine and Tulip Popular may be permitted to within 50 feet of the landward edge of the *mean high water line* of tidal water and *perennial streams* or the edge of *tidal wetlands* provided that the cutting does not occur in the Habitat Protection Areas and the cutting is conducted pursuant to the requirements of the Kent County Grading and Sediment Control Ordinance and the *non-tidal wetlands* requirements of this

Ordinance, and in conformance with a *buffer* management plan prepared by a registered professional forester and approved by the Department of Natural Resources. The plan shall be required for all commercial harvest within the minimum 100-foot *buffer* regardless of the size of the area to be cut and shall contain the following minimum requirements:

a) That disturbance to stream banks and shorelines shall be avoided;

b) That the area to be disturbed or cut shall be replanted or allowed to regenerate in a manner that assures the availability of cover and breeding *sites* for wildlife and reestablishes the *wildlife corridor* function of the *buffer*.

c) That the cutting does not involve the creation of logging *roads* and skid trails within the minimum 100-foot *buffer*.

Commercial harvesting of trees by any method may be permitted to the edge of the *intermittent streams* if the cutting and removal is done in accordance with a *Buffer* Management Plan approved by the Department of Natural Resources, Bay Watershed Forester.

14. Water Quality

New *development* and *redevelopment* shall reduce pollutant loadings coming off the *site* by at least 10%. Pollutant loads shall be calculated in the manner developed by the Metropolitan Washington Council of Governments using phosphorous as the keystone element. All *sites* shall comply with the *stormwater management* qualitative control measures found in Article VI, Section 10 of this Ordinance.

15. Wildlife Corridors

Developments shall incorporate a wildlife corridor system that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site in order to provide continuity of existing wildlife and plant habitats with offsite habitats. Plans shall include provisions for the continuance and maintenance of the wildlife corridors. This can include *conservation easements*, cooperative agreements, special provisions in forest management and soil conservation plans, and donation to a third party.

17.8 INDUSTRIAL CRITICAL AREA DISTRICT DESIGN STANDARDS

The purpose of these standards is to give a sense of the physical aspects of the County's environment to those contemplating new *development* in the community. Pertinent to this physical appearance is the design of the *site*, *buildings* and *structures*, plantings, *signs*, *street* hardware, and miscellaneous other objects that the public observes.

These standards are not intended to restrict imagination, innovation, or variety, but rather assist in focusing on design principals which can produce creative solutions that will develop a satisfactory visual appearance within the County, preserve taxable values, and promote the public health, safety, and welfare.

A. INDUSTRIAL CRITICAL AREA GENERAL DESIGN STANDARDS

1. The landscape shall be preserved in its natural state, in so far as possible, by leaving the most sensitive area of the *site* intact and by minimizing *tree* and *soil* removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. Whenever possible, *development* shall be located outside the *floodplain*.

2. Each unit of *development*, as well as the total *development*, shall create an environment of desirability and stability. Every *structure*, when completed and in place, shall have a finished appearance.

B. INDUSTRIAL CRITICAL AREA SPECIFIC DESIGN STANDARDS

1. *Site* Access

Site access shall be subject to the following *regulations* to help ensure safety and alleviate traffic congestion:

a. Where property abuts a *primary*, *secondary*, or a *collector road*, access to the property shall be by way of the *secondary* or *collector road*. Exceptions to this rule shall be instances where the *Planning Commission*, or where applicable the Planning Director, determines that direct access onto the *primary road* would promote traffic safety.

b. Where one or more contiguous parcels abutting a *primary road* are under single ownership and any one of the parcels abuts a *secondary* or *collector road*, access to the property shall be by of the *secondary road*. Exceptions to this rule shall be instances where the *Planning Commission*, or where applicable the Planning Director, determines that direct access onto the *primary road* would promote traffic safety.

c. Only one direct approach onto a *primary road* from an individual parcel of record as of August 1, 1989 shall be permitted unless the *Planning Commission*, or where applicable the Planning Director, finds one of the following:

   i. An additional entrance is significantly beneficial to the safety and operation of the highway.

   ii. One entrance is a safety hazard or will increase traffic congestion.

   iii. The property is bisected by *steep slopes*, bodies of water, or other topographic feature so as to render some portion of the property inaccessible without additional road access.

d. Where a proposed road is designated on an approved County or Town map, *site plans* for *development* adjacent to the designated *roadway* shall include provisions for future access to the *roadway*.

e. Existing, planned, or platted *streets* on adjacent properties shall be continued when the *Planning Commission*, or where applicable the Planning Director determines that the continuation is necessary for safe and reasonable circulation between the properties.

f. When deemed necessary by the *Planning Commission*, or where applicable the Planning Director, developments shall provide access to adjacent tracts not presently developed.

g. Access shall be consolidated whenever possible.

h. Whenever possible, *roads* shall be constructed above the elevation of the *100-year floodplain*.

i. The applicant shall demonstrate that access to the project is adequate and the roads which will be impacted have the capacity to handle the traffic generated by the proposed project and will not endanger the safety of the general public.*

* Amended 11/14/06

2. *On-site* Circulation
   a. *Sites* shall be designed to prevent awkward or dangerous vehicular flow.
   b. *Loading* and *unloading spaces* shall not block the passage of other vehicles on the service drive or major pedestrian ways or create blind spots when trucks are loading or unloading.
   c. *Sites* shall be designed to discourage pedestrians and vehicles from sharing the same pathways.
   d. Safe, convenient, and centralized handicap parking shall be provided.
   e. Trash boxes must be accessible to collection trucks when all vehicle parking spaces are filled.
   f. Parking shall not be permitted in the required *front yard*.

3. *Floodplain*
   a. In order to prevent excessive *flood* damage and to allow for the protection of the natural and beneficial *floodplain* functions, all *development*, *new construction*, and *substantial improvements* to existing *structures* in all *floodplain* zones shall comply with the requirements of Article VI, Section 7 of this Ordinance, including but not limited to the following:
      i. Elevation of all new or substantially improved *structures*;
      ii. Compliance with venting and other construction standards; and
      iii. Submission and recordation, where applicable, of *Elevation Certificates*, *Declaration of Land Restrictions*, deed restrictions, and venting affidavits.*
   b. Placement of *buildings* and materials. In general, *buildings* and *accessory structures* should be located entirely out of the *floodplain*, out of the *flood* protection setback, or on land that is least susceptible to flooding. All *structures* permitted in the *floodplain* shall be oriented so as to offer the least resistance to the flow of floodwaters.
   c. General *development* shall not occur in the *floodplain* where alternative locations exist. Before a permit is issued, the applicant shall demonstrate that new *structures* cannot be located out of the *floodplain* and that encroachments onto the *floodplain* are minimized.

4. General Landscape Requirements
   a. The *front yard* shall be landscaped and shall be maintained in a neat and attractive condition.
   b. *Sites* shall be permanently maintained in good condition with at least the same quality and quantity of landscaping as originally proposed.
   c. The *landscape plan* shall be prepared by a registered professional forester, landscape architect, or other professional with equivalent experience and qualifications.
   d. The *Planning Commission*, or where applicable the Planning Director, may waive the landscape requirements when it is demonstrated that the spirit and intent of the requirement is accomplished through other means or the nature of the change is one that does not require additional landscaping.

5. Screening
   a. Screening is required to protect adjoining properties and *roadways* from noise, glare, and uses which are visually incompatible with neighboring land uses. Screening is required:
      i. On *sites* which involve loading or unloading (including the storage of vehicles and boats), trash, or disposal areas and where accessory *buildings* and *structures* are adjacent to residential properties.
      ii. Where exterior storage areas are visible from *roadways*, sidewalks, or nearby residential properties

* Amended 6/3/14

iii. When noise not typically occurring in residential areas is expected to project onto nearby properties.

iv. To *screen* parking areas from motorists, pedestrians, and adjoining residential properties.

v. Where the industrial district abuts a residential district or a *primary* or *secondary road*.

vi. Where the *Planning Commission* determines that additional screening is necessary to protect properties in the area.

b. Landscaped screens shall be designed to complement other landscaping occurring naturally on the *site*, planted previously, or approved as a part of a *site plan* review. Whenever possible, existing vegetation and landform shall be used to create screens.

c. The *screen* shall be capable of providing year round screening.

d. When noise is likely to be a factor, the *screen* shall be of sufficient construction to be an effective noise buffer.

e. Screening shall consist of trees and plants and may include masonry, or wooden fencing used with or without *berms*. Screening shall consist of a functional and well-designed combination of the following:

i. Vegetative ground cover

ii. Coniferous and deciduous shrubs

a) Specimens of which will reach and maintain a minimum height of 5 feet of full vegetative growth

b) Plants which measure a minimum of 3 feet in height at the time of planting and are expected to attain a 5-foot height within 3 years.

iii. Coniferous and deciduous trees

Species and sizes of which will be chosen to best accomplish an adequate *screen* (i.e., evergreens used for visual screening, deciduous trees for seasonal screening)

f. Natural *slopes* and existing vegetation may be substituted for some or all of the requirements above, provided that these features serve to *screen* the area from adjoining properties and *roadways*. The *Planning Commission*, or where applicable the Planning Director, shall determine the acceptability of using existing *slopes* and vegetation for this purpose. The *Planning Commission*, or where applicable the Planning Director, may waive screening where it is physically impossible to accomplish.

g. Screening and fencing shall be maintained in at least the same quality and quantity as initially approved.

6. Lighting

a. Lighting on the *site* shall be designed to avoid glare onto adjacent properties.

b. Lighting on the *site* shall be sufficient to provide for the safety and security of the business, its employees, and its customers.

7. *Site* Planning

External Relationship: *Site* planning within the District shall provide protection of individual lots from adverse surrounding influences and for protection of surrounding areas from adverse influences existing within the District. In particular:

a. Principal vehicular access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. Storage, turn lanes, or traffic dividers may be required by the *Planning Commission* where existing or anticipated heavy flows indicate need. In general, *streets* shall not be connected with *streets* outside the District in such a way as to encourage the use of such *streets* by substantial amounts of through traffic.

b. *Yards*, fences, walls, or vegetative screening shall be provided where needed to protect residential districts or pubic *streets* from undesirable views, lighting, noise, or other *off-site* influences. In particular, outdoor storage, extensive *off-street parking* areas, and service areas for loading and unloading vehicles, and for storage and collection of refuse and garbage shall be effectively screened.

8. *Subdivision*

a. All reasonable efforts should be made to protect adjacent residential areas from potential nuisances from the industrial *subdivision* by providing extra depth in parcels adjacent to existing or residential *development*.

b. Proposed *street* layout, blocks, and parcels shall be suitable in area and dimension for the type of *development* anticipated.

c. The total area shall be sufficient to provide adequate space for *off-street parking*, loading, landscaping, and other facilities.

d. The *lot* arrangement, design, and orientation shall be such that all lots will provide satisfactory building *sites*, properly related to *topography* and the character of surrounding *development*.

e. Every *lot* shall abut upon and have access to a public road or approved *private road*.

f. Lots adjoining *major thoroughfares* and railroad lines should be designed with extra depth and provision for an appropriate means of buffer or deeper building setbacks.

g. Where land in a *subdivision* adjoins a railroad line, the *street* layout shall make allowance for future grade separated railroad crossings at appropriate locations by providing extra *street right of way* widths for such crossings and by restricting intersecting *streets* at locations where they would cause interference with necessary approaches to such crossings.

h. Proposed *streets* in the *subdivision* shall provide for the continuation of existing, planned, or platted *streets* on adjacent tracts, unless such continuation shall be prevented by *topography* or other physical feature or unless such extension is found by the *Planning Commission* to be unnecessary for the coordination of *development* between the *subdivision* and such adjacent *tract*.

i. Where the *Planning Commission* deems it desirable or necessary to provide access to adjacent tracts not presently subdivided, proposed *streets* in the *subdivision* shall be extended to the boundary lines with such tracts.

j. Where the *subdivision* adjoins or embraces any part of a *major thoroughfare* as designated on the Kent County Major Thoroughfare Map, the layout of such *subdivision* shall provide for the platting and dedication of such part of the *major thoroughfare* in the location and at the width indicated on the *major thoroughfare* plan, except that the *subdivider* shall not be required to dedicate that part of such *major thoroughfare* that is in excess of eighty (80) feet in width.

k. Where deemed desirable to the layout of the *subdivision* and adjoining area, the *Planning Commission* may require the platting and dedication of one or more *collector streets* or parts thereof, to serve the *subdivision*.

l. Subdivisions shall be in full compliance with the provisions of this Ordinance.

m. *Private roads* are permitted in minor subdivisions and are subject to the following conditions:

i. Each road shall serve no more than seven parcels. In the event that an eighth parcel is created, the eighth parcel and all further divisions of land shall front on a public road.*

ii. The *subdivision* shall provide a 50-foot *right of way* for each *private road*.

* Amended 10/16/12

iii. The construction of all lanes and *private roads* shall adhere to the requirements established by the Kent County Department of Public Works and sediment control and *stormwater management regulations*.

iv. The deed and contract of sale of all lots in the *subdivision* shall state: "The road is private and not the responsibility of Kent County."

v. The plat shall identify all *private roads* and shall state: "The road is private and not the responsibility of Kent County."

9. Kent County *Airport* Safety Requirements

This section applies to properties that fall within the Kent County *Airport* Safety Zone as designated on the Kent County *Airport* Safety Zone Map. The Kent County *Airport* Safety Zone Map is incorporated into and made a part of this Ordinance. It is the purpose of this section to promote the public safety of the residents and visitors of Kent County by prohibiting to the extent possible, the creation or establishment of obstructions that are a hazard to air navigation.

a. No ponds shall be constructed within 5,000 feet of the runway.

b. No solid waste disposal *sites* shall be permitted within 5,000 feet of any publicly licensed *airport*; within the limits of the *airport* safety zone if determined to be a hazard by the FAA

c. Developments which produce lights, illumination, or other visual hazards or which produce electronic interference with *airport*/airplane navigation signals are subject to the standards specifies in the FAA procedure manual 7400-2C.

d. Except as otherwise provided in this Ordinance, no *structure* shall be erected, altered, or maintained and no *tree* or other vegetation shall be allowed to grow in excess of the height limitations as designated on the Kent County *Airport* Safety Zone Map.

ARTICLE VI. SPECIAL PROVISIONS

SECTION 1. PARKING AND LOADING REQUIREMENTS

1.1 PURPOSE

The purpose of this section is to set forth the minimum standards for parking and loading and to ensure adequate parking for permitted uses.

1.2 OFF-STREET PARKING

No *building*, *structure*, or *premises* shall be erected, unless *off-street parking*, consistent with the provision of this section, is provided. Each required parking space shall be at least 20 feet in length and nine feet in width and contain at least 180 square feet. The number of parking spaces provided shall be determined according to the minimum standards set forth in this Article.

The *Planning Commission* shall use the parking standards as guidelines and may allow fewer total spaces where one or more of the following situations apply:

1. Two or more uses share the same parking in such a way that the hours or days of peak usage are so different that a lower total number will provide for all uses adequately.

2. The clientele of the use is such that a reduced number of spaces is appropriate, such as a neighborhood grocery, a business likely to be frequented by pedestrians, and so on.

3. The use is water dependent or water related to an extent that most of the activity would be from the water, such as a fish processing facility without a retail outlet. Parking for employees and visitors would still be required.

4. Employees are residents of the *structure* housing the use, such as in a *home occupation*.

The applicant and the *Planning Commission* may agree to a reduced number of parking spaces below the number required with the agreement and condition that if more spaces are required in the future because of miscalculation, unanticipated growth, or other error, those spaces and associated maneuvering area shall be provided by the applicant. The *Planning Commission* may require that additional *open space* be kept for this purpose. An agreement shall be drafted to this effect. The *Planning Commission* may also limit the maximum number of parking spaces above the number required through *site plan* review to encourage innovative design and safe and efficient vehicular and pedestrian circulation.

1.3 PARKING REQUIREMENTS

Residential	2 per dwelling unit
Residential, Duplex	2 per dwelling unit
Residential, Multi-family, Townhouses	1 per unit, plus 2 spaces for each bedroom in the dwelling
Lodging, Rooming, or Boarding houses, Bed & breakfast	1 per guest unit, plus 1 per employee
Commercial Riding Academies, Stables	1 per 2 horse stalls
Kennel	1 per 400 sq. ft of gross floor area but not less than 4
Golf Course	5 per green and 50% of the requirement for accessory uses, if on-site
Country inns, Tourist Homes, Courts, Motels, Hotels	1 per guest unit, plus 1 per employee
Community Centers, Civic Clubs, Museums	1 per 50 sq. ft. of gross floor area
Assembly Halls	1 per 3 seats
Restaurants or establishments for on premises consumption of food, or beverages	1 per 150 sq. ft. of floor area, minimum of 3 spaces
Laundromat	1 per 2 washer/dryer units
Professional offices, clinics	4 per professional person
Houses of worship	1 per 5 seating spaces
Office Buildings	1 per 400 sq. ft. of gross floor area
Banks	1 per 150 sq. ft. of gross floor area
Funeral Home, Mortuary	1 per 150 sq. ft. of gross floor area
Private clubs	1 per 5 members
Retail or wholesale stores	1 per 200 sq. ft. of gross floor area
Automobile Sales	1 per every 300 sq. ft gross floor area and 1 per each employee and 1 per service bay.
Industrial uses, warehousing	1 per 2 employees in principal shift
Marinas, multi-level boat storage building, public landings	1 per slip, plus 1 per every 2 full time employees
Hospital	1 per 2 patient beds
Convalescent Home	1 per 5 patient beds.

1.4 OFF-STREET LOADING

Any *building* or part thereof having a gross *floor area* of 5,000 square feet or more and which is to be occupied by manufacturing, storage, warehousing, wholesale or retail store, *hotel*, *restaurant*, industrial, funeral home, or other uses requiring the receipt or dispatch of materials by vehicles, shall provide a minimum of one off-street *loading space* plus one additional space for each 20,000 square feet of gross *floor area* or major fraction thereof in excess of the first 20,000 square feet. Each *loading space* shall be a minimum of 12 feet in width, 45 feet in length and with a clear height of not less than 14 feet.

1.5 BICYCLE PARKING

No new commercial, industrial, marine or multi-family residential use shall be erected, unless bicycle parking at a rate of one bicycle parking space per 20 required auto parking spaces is provided. Bicycle parking spaces shall be visible and convenient to cyclists. Bicycle parking requirements may be met by providing lockers or racks inside a *building*, adjacent to the *building*, in an accessory parking lot, or underneath an awning or marquee. A bicycle parking space shall be a minimum of six feet long by one foot wide and if enclosed a minimum of 4 feet high.

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SECTION 2. SIGNS

2.1 STATEMENT OF INTENT

The purpose of this section is to establish minimum *regulations* for the design and display of signs. The *regulations* and standards provide sufficient identification of property while preserving the overall attractiveness of the County. Incentives are provided for design excellence.

2.2 DEFINITIONS

For the purpose of this section, certain terms and words pertaining to signs are hereby defined. The general rules of construction contained in Article X of this Ordinance are applicable to these definitions.

1. Accessory Sign - A sign relating only to uses of the *premises* on which the sign is located or products sold on the *premises*, or indicating the name or address of a *building* or the occupants or management of a *building* on the *premises* where the sign is located.

2. Detached Sign - A sign not attached to or painted on a *building*, but which is affixed to the ground. A sign attached to a flat surface, such as a fence or wall not a part of a *building*, shall be considered a detached sign.

3. Double-Faced Sign - A sign with two parallel faces, back to back, and located not more than 24 inches from each other.

4. Flashing Sign - An illuminated sign on which the artificial or reflected light is not maintained stationary and constant in intensity and color at all times when in use. Any sign that revolves or moves shall be considered a flashing sign.

5. Flat Sign - A sign affixed directly to or painted on or otherwise inscribed on an exterior wall and confined within the limits thereof of any *building* and which projects from that surface less than 12 inches at all points.

6. Illuminated Sign - Any sign designed to give forth artificial light, reflect light from another source, or is back lighted by spotlights or flood lights not a part of or attached to the sign itself.

7. Marquee Sign- Any sign attached to or hung from a marquee. For the purpose of this Article a marquee is a covered *structure* projecting from and supported by the *building* with independent roof and is erected over a doorway or doorways.

8. Projecting Sign - A sign, other than a wall sign, which projects from and is supported by a wall of a *building* or *structure*. The term projecting sign includes a marquee sign.

9. Sign - Any letters, figures, design, symbol, trademark or illuminating device intended to attract attention to any place, subject, *person*, firm, corporation, public performance, article, machine, or merchandise, whatsoever out of doors for recognized advertising purposes. However, this shall not include any official court or public notices nor the flag, emblem or insignia of a government, school, or religious group when displayed for official purposes. Interior signs, if located on a window or within a distance equal to the greatest dimension of the window and if obviously intended for viewing from the exterior, shall be considered an exterior sign for the purposes of this Ordinance.

10. Sign Area - That area within a line including the outer extremities, letters, fixtures, characters, and delineations, or within a line including the outer extremities of the framework or background of the sign, whichever line includes the larger area.

The support for the sign, whether it be columns, a pylon, or a *building* or part thereof, shall not be included in a computation of sign area. Only one side of a double-faced sign shall be included in a computation of sign area. The area of a cylindrical sign shall be computed by multiplying one-half of the circumference by the height of the sign.

2.3 GENERAL

1. No sign shall be erected, hung, placed, or painted in any District except as herein provided, unless otherwise provided in this Ordinance.

2. No sign shall be erected, hung, affixed, painted or otherwise displayed or altered in size or location unless a permit has been issued by the Zoning Administrator.

3. Permitted signs for a nonconforming business or industry and *cottage industries* shall consist of those signs permitted in the "V," Village District.

4. Signs existing at the time of enactment of this Ordinance and not conforming to its provisions but which were constructed in compliance with previous *regulations* shall be regarding as nonconforming signs.

   Nonconforming signs that are structurally altered, relocated, or replaced shall comply immediately with all provisions of this Ordinance. Nonconforming signs destroyed or damaged by accident or Act of God shall comply immediately with all provisions of this Ordinance.

5. Area available for changeable letters shall be limited to 15% of the total sign area. This subsection is not applicable to volunteer fire companies.

2.4 EXEMPTIONS

1. Public signs of a noncommercial nature and in the public interest, erected by, or on the order of a public official such as safety signs, danger signs, trespassing, traffic, memorial plaques, signs of historic interest and the like.

2. Institutional signs setting forth the name or simple announcement for any public, charitable, educational, or religious institution, located entirely on the *premises* of that institution, up to an area of 25 square feet. Institutional signs setting forth the name or simple announcement for any public, charitable, educational, or religious institution, located on the *premises* of that institution are eligible for bonus sign area as described in Article VI, Section 2.7 of this Ordinance. Volunteer fire companies are permitted to have signs up to an area of 32 square feet.*

3. Real Estate signs limited in area to 6 square feet, advertising the sale, rental or lease of the *premises* on which the sign is displayed. Such signs shall be removed within 14 days of the sale or lease of the *site*. Open house directional signs are prohibited.

4. Construction signs that identify the architects, engineers, contractors and other individuals or firms involved in the construction, limited in area to 6 square feet. The sign shall be confined to the construction *site* and shall be removed within 14 days of the beginning of the intended use of the project or completion of construction.

* Amended 2/6/07

2.5 PERMITTED SIGNS

Incidental – The following signs are permitted in any district:

1. One na*MEP*late, limited in area to 2 square feet, to identify the owner or occupant of a dwelling.

2. One sign, limited in area to 2 square feet, to identify a permitted *home occupation*.

3. No trespassing or no hunting signs, without limitation on number or placement, limited in area to 2 square feet.

4. Directional signs, limited in area to 4 square feet.

5. One sign, limited in area to 10 square feet, to identify an approved *subdivision* except in AZD.

6. Three flags of any Nation, State, County or Municipality provided the flags are not used for commercial promotion or as an advertising device.

Agriculture – The following signs are permitted in the Agricultural Zoning District and on bona fide *farms* in any other district:

1. One sign, limited in area to 4 square feet, to identify a *farm* or approved *subdivision*.

2. One sign, limited in area to 16 square feet, advertising products raised on the *premises* and agricultural industries.

Village, Intense Village and Intense Village Critical Area – The following signs are permitted in the Intense Village, Intense Village *Critical Area* and Village District provided that the total sign area shall not exceed one and one half (1-1/2) square feet for each linear foot of building frontage and that the maximum total area shall not exceed 100 square feet.

1. One flat sign per establishment, limited in area to 25 square feet or 5% of the front facade of the establishment, whichever is the least *

OR

One projecting sign per establishment, limited in area to 5 square feet.

2. One detached sign, limited in area to 25 square feet. *

3. One flag in addition to the incidental flags provided the area of the flag does not exceed 15 square feet and the flag is mounted on the building facade (not roof) or approved flagpole.

4. One neon sign attached to a window or inside the *building*, limited to 2 square feet in Intense Village and Intense Village *Critical Area*.

5. The TOTAL SIGN AREA SHALL NOT EXCEED one and one-half square feet for each linear foot of building frontage. The maximum total area shall not exceed 100 square feet.

* Amended 3/15/16

Crossroads Commercial, Commercial, Commercial Critical Area, Industrial, Industrial Critical Area, Industrial Critical Area - LDA, Employment Center, and Marine – The following signs shall be permitted in the Commercial, Crossroads Commercial, Commercial *Critical Area*, Marine, Employment Center, Industrial, Industrial *Critical Area* - LDA, and Industrial *Critical Area* districts.

1. On buildings with a building size less than 20,000 square feet, one flat sign per establishment limited to 5% of the façade fronting the road, not to exceed 25 square feet or one projecting sign per establishment limited in are to 10 square feet.

   On buildings that exceed 20,000 square feet in size, one flat sign per establishment limited to one-half (½) square foot per linear foot of building frontage, not to exceed 100 square feet, provided the sign uses colors approved by the Planning Commission and is illuminated with steady external lighting (if illuminated at all). The bonus sign area section does not apply to signs approved under these criteria.*

OR

One projecting sign per establishment, limited in area to 10 square feet.

2. One detached sign per parcel, limited to 25 square feet and a height of 25 feet.

3. A waterfront business may have one detached or one attached sign to be read from the water, limited in area to 20 square feet and limited in height to 20 feet.

4. Directory signs identifying three or more establishments shall not exceed 65 square feet.

5. One flag in addition to the incidental flags provided the area of the flag does not exceed 15 square feet and the flag is mounted on the building facade (not roof) or approved flagpole.

6. One neon sign attached to a window or inside the *building*, limited to 2 square feet.

7. In no instance shall the total sign area on buildings less than 20,000 square feet exceed one-half (½) square foot per linear foot of building frontage.*

Prohibited Signs – The following signs are prohibited in all districts:

1. Prohibited signs existing as of August 1, 1989 shall be considered nonconforming signs.

2. Signs that are of a size, location, movement, content, coloring, or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic or *street* sign or signal.

3. Signs advertising an activity, business, product, or service no longer conducted on the *premises*.

4. Signs which contain or consist of banners, posters, pennants, ribbons, streamers, strings of light bulbs, spinners, or other moving devices.

5. Signs that may move or swing as a result of wind pressure, unless approved by the *Planning Commission*.

6. Flashing signs or exposed neon tubing, unless otherwise permitted by this Ordinance.

* Amended 11/1/05

7. Roof signs and signs fastened to or supported by the roof of a *building*; no projecting sign shall extend over or above the roofline.

8. Outdoor advertising *structures*, poster panels, billboards, or signs of any other type advertising products or services not available on the *premises*.

9. Signs painted on vehicles or parts of vehicles, i.e. tractor trailer bodies, that are not used regularly as a part of the business.

Illumination

1. The light from any illuminated sign shall be so shaded, shielded or directed that the light intensity or brightness will not be objectionable to surrounding areas.

2. No sign shall have blinking, flashing or fluttering lights or other illuminating device which has a changing light intensity, brightness or color. Beacon lights are not permitted.

3. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.

4. Neither the direct, nor the reflected light from primary light sources shall create a traffic hazard to operators of motor vehicles on public thoroughfares.

5. No exposed reflective type bulbs and no strobe light or incandescent lamp which exceeds 15 watts shall be used on the exterior surface of any sign so as to expose the face of the bulb, light or lamp to any public *street* or adjacent property.

2.6 INSPECTION, REMOVAL, AND SAFETY

1. Inspection – Signs for which a permit is required may be inspected periodically by the Zoning Administrator for compliance with this and other codes of the County.

2. Maintenance – All signs and components thereof shall be kept in good repair and in a safe, neat, clean and attractive condition.

3. Removal of Signs – The Zoning Administrator may order the removal of any sign erected or maintained in violation of this code. The Zoning Administrator shall give 30 days notice in writing to the owner of such signs, or of the *building*, *structure* or *premises* on which such sign is located, to remove the sign or to bring it into compliance. Upon failure to comply with this notice the Zoning Administrator or duly authorized representative may remove the sign at cost to the owner. The Zoning Administrator may remove a sign immediately and without notice if, in his opinion, the condition or location of the sign is such as to present an immediate threat to the safety of the public.

4. Abandoned Signs – A sign shall be removed by the owner or lessee of the *premises* upon which the sign is located when the business that it advertises is no longer conducted on the *premises*. If the owner or lessee fails to remove it, the Zoning Administrator shall give the owner fifteen (15) days written notice to remove it. Upon failure to comply with this notice, the Zoning Administrator, or the Zoning Administrator's duly authorized representative, may remove the sign at cost to the owner.

   Where a successor to a defunct business agrees to maintain the signs as provided in this code, this removal requirement shall not apply.

2.7 CRITERIA FOR BONUS SIGN AREA

To encourage design excellence, the maximum sign area for certain businesses (not including directional signs or signs for *home occupations*), industries, and agricultural uses, may be increased by the percentages herein. A separate bonus is granted for compliance with each of the criteria and the area is cumulative, but the percentage is based on the original sign area. In no instance shall the sign area exceed 32 square feet except for directory signs.

A. Detached signs may be increased as follows:

1. Twenty percent when the sign is constructed of solid wood and uses colors approved by the *Planning Commission*.

2. Ten percent when a directory sign utilizes uniform coloring and lettering for all establishments listed in the directory except the one major facility.

3. Twenty percent when the sign is installed in a landscaped planter having an area twice the area of the resultant sign and the entire area is approved by the *Planning Commission*.

4. Fifteen* percent when the sign is not designed or used with illumination, or the sign uses indirect lighting.

5. Twenty percent when the sign uses a pedestal or monument base and does not exceed 5 feet in height.

B. Attached signs may be increased as follows, but only if the projection does not exceed 12 inches:

1. Ten percent when all the lettering and background is uniform in style and color for signs in a *shopping center* or for any three consecutive separate establishments.

2. Fifteen* percent if the sign is not designed or used with any illumination or the sign uses indirect lighting.

3. Five percent if the sign design compliments and utilizes the architectural details of the facade, particularly with respect to historic *structures*.

* Amended 3/15/16

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SECTION 3. SUPPLEMENTARY REGULATIONS

3.1 STATEMENT OF INTENT

The purpose of this section is to set forth *regulations* to supplement the *regulations* appearing elsewhere in this Ordinance.

3.2 MODIFICATION OF HEIGHT REGULATIONS

1. Except within an area defined as an *Airport* Approach Zone by the Federal Aviation Agency or in the Kent County *Airport* Safety Area, the height limitations of this Ordinance shall not apply to:

Belfries	Ornamental towers and spires
Church spires	Public monuments
Conveyors	Silos and corn dryers
Elevator bulkheads	Stage towers or scenery lofts
Fire towers	Tanks
Flag poles	Water towers and stand pipes
Personal wireless facility, commercial radio, and television towers less than 200 feet in height	*Wind energy systems, small*, with a height not to exceed 80 feet unless a special exception is granted*

2. Except within an area defined as an *Airport* Approach Zone by the Federal Aviation Agency or the Kent County *Airport* Safety Area, public, semi-public or service *buildings*, hospitals, and institutions or schools, when permitted in a district, may be erected to a height not exceeding 60 feet and *houses of worship* may be erected to a height not exceeding 75 feet when the required *side* and *rear yards* are each increased by at least one foot for each one foot of additional building height above the height *regulations* for the district in which the *building* is located.

3.3 YARDS AND OPEN SPACE GENERALLY

1. Whenever a *lot* abuts upon a public *alley*, one-half of the *alley* width may be considered as a portion of the required *yard*.

2. Every part of a required *yard* shall be open to the sky, except as authorized by this Article, and except ordinary projections of sills, belt courses, window air conditioning units, chimneys, cornices, and ornamental features which may project to a distance not to exceed 24 inches into a required *yard* but not into a required *buffer*

3. More than one main *building* may be located upon a *lot* or *tract* in the following instances:
   a. Institutional *buildings*
   b. Public or semi-public *buildings*
   c. *Multi-family dwellings*
   d. Commercial or industrial *buildings*
   e. Homes for the aged.
   f. Permitted agricultural and marine uses

   The provisions of this exception shall not be construed to allow the location or erection of any *building* or portion of a *building* outside of the *buildable area* of the *lot*.

* Amended 9/6/11

3.4 FRONT YARDS

1. Where an official line has been established for the future widening or opening of a *street* or *major thoroughfare* upon which a *lot* abuts, then the depth of a *front* or *side yard* shall be measured from such official line. Unless otherwise provided, the *right of way* of any arterial *street*, so designated on the Major Thoroughfare Map shall be assumed to extend 40 feet on each side of the center line of the existing *right of way* for the purpose of measuring *front yards* required by this Ordinance.

2. On *through lots*, the required *front yard* shall be provided on each *street*.

3. There shall be a *front yard* of at least 15 feet on the side *street* of a *corner lot* in any district; provided, however, that the *buildable width* of a *lot* existing as of August 1, 1989 of this Ordinance shall not be reduced to less than 28 feet.

3.5 REAR YARDS

Open or lattice-enclosed fire escapes, outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues may project into the required *rear yard* for a distance of not more than 5 feet, but only where the same are so placed as not to obstruct light and ventilation.

3.6 ACCESSORY BUILDINGS AND STRUCTURES

Except as herein provided, no accessory *building* shall project beyond a required *yard* line along any *street*. Accessory *buildings* in the *rear yard* may be located 3 feet from the side line and 5 feet from the rear line. *Farm* accessory *buildings* shall be a minimum of twenty-five feet from the side and rear property lines.

3.7 SPECIAL REQUIREMENTS FOR WATER DEPENDENT USES

The following *regulations* shall apply to *boathouses*, boat docks, *piers*, and wharves, in any district:

1. *Boathouses* that extend channelward of mean high tide (*boathouses* over water) are prohibited. *Boathouses* shall not be permitted in areas where such would obstruct the view of those using the *waterway* so as to endanger navigation.

2. A *boathouse* may not be used as a dwelling, *guest house* or *servants' quarters*.

3. No *boathouse* or *pier* may be closer to the side property line than the required *side yard* width of the district in which it is located. A *pier* shall not be closer to the side line or its extension over water than the required *side yard* width of the district in which it is located.

4. Dwellings and other non-water dependent facilities are prohibited on piers.

5. Projections of docks, wharves, and *piers* into *waterways* beyond the *waterway line*, *lot lines*, or established bulkhead lines shall be limited by applicable county ordinances, state laws, and applicable *regulations* of the United States Army Corps of Engineers.

6. Groins, levees, bulkheads, pilings, breakwaters, and other similar *structures* shall be erected and maintained in accordance with applicable location and construction standards of the County, State, and the United States Army Corps of Engineers.

7. It shall be permissible for adjacent property owners to construct a single shared *pier*. The right of ownership and access to such *pier* shall be set forth in a property document that runs to the benefit of the owners of the *pier*, their heirs and assigns and shall be executed by the owners and recorded with the Kent County Clerk of Court and a copy filed with the Department of Planning and Zoning prior to such construction.

8. A *community pier*, for the use of three or more property owners, shall be permissible provided the *site plan* demonstrates that such *pier* does not adversely affect neighboring property owners or the public interest. The *site plan* must show all properties in the neighborhood, including the owners of the *community pier* and their access to such *pier*. The ownership and access shall further be set forth in a proper document that runs to the benefit of owners of the *pier*, their heirs and assigns, and shall be executed by all owners and recorded with the Kent County Clerk of Court and a copy filed with the Department of Planning and Zoning. Sanitary facilities approved by the Kent County Health Department shall be provided except where other acceptable facilities are available. For additional requirements see Article VI, Section 3.7.12 of this Ordinance.

9. If a shared *pier* or a *community pier* is allowed, then no other *piers* shall be permitted on the property of such owners. In the event such *piers* are removed or destroyed beyond use and not rebuilt or reestablished within one year, then the agreement for such *piers* shall become void. However, the one year requirement can be extended if hardship can be demonstrated.

10. It shall not be permitted for the owner or owners of a private *pier* or *boathouse* to receive compensation for use of their private *pier* or *boathouse*.

11. No private *pier* or *boathouse* shall occur within 100 feet of any other private *pier* or *boathouse* on the same side of a body of water except in the case where this would deny a property owner the right to a single *pier* or *boathouse*.

12. *Marinas* shall meet the sanitary requirements of the Maryland Department of the Environment.

13. The following shall apply to *community piers*, shared *slips*, and other related non-commercial boat docking and storage facilities:
    a. New or expanded *community piers*, shared *slips*, *marinas* and other non-commercial boat-docking and storage facilities may be permitted in the minimum 100-foot *buffer* subject to the requirements of this Section; and
    b. Provided that:
        i. These facilities may not offer food, fuel, or other goods and services for sale and shall provide adequate and clean sanitary facilities;
        ii. The facilities are community-owned and established and operated for the benefit of the residents of a platted and recorded riparian *subdivision*;
        iii. The facilities are associated with a residential *development* approved by Kent County for the *Critical Area* and consistent with all criteria and County *regulations* for the *Critical Area*;
        iv. Disturbance to the *buffer* is the minimum necessary to provide a single point of access to the facilities;
        v. If *community piers*, *slips*, or moorings are provided as part of the new *development*, private *piers* in the *development* are not allowed; and

vi. Sanitary Facilities and pump-outs shall be provided *on-site*, except where other acceptable facilities are available.

c. Provided that adverse effects on water quality, fish, plant and *wildlife habitat* are minimized; and

d. The number of *slips*, *piers*, or mooring buoys permitted at the facility shall be the lesser of (1) or (2) below:

(1) One *slip* for each 50 feet of shoreline in a *subdivision* in the IDA or LDA, one *slip* for 300 feet of shoreline in a *subdivision* in RCA.

(2) A density of *slips*, shared *slips*, or *piers*, to platted lots or dwellings within the *subdivision* in the *Critical Area* according to the following schedule:

Platted Lots or Dwellings in the *Critical Area*	*Slips*
5 to 15	One for each *lot*
16-40	15 or 75% whichever is greater
Over 40	30 or 50% whichever is less

14. Public beaches or other *public water-oriented recreation* areas including, but not limited to publicly owned boat launching and docking facilities and fishing *piers* may be permitted in the *buffer* provided:

a. Adequate sanitary facilities exist;

b. Service facilities are to the extent possible, located outside the *buffer*;

c. Permeable surfaces are used to the extent practicable, if no degradation of groundwater would result.

d. Disturbance to *natural vegetation* is minimized; and

e. Areas for passive recreation, such as nature study, and hunting and trapping, may be permitted in the *buffer* within Resource Conservation Areas, if service facilities for these uses are located outside of the *buffer*.

15. Water-dependent research facilities or activities operated by State, Federal, or local agencies, or water-dependent educational institutions, may be permitted in the *buffer*.

16. Commercial water-dependent fisheries facilities including, but not limited to, *structures* for crab shedding, fish off-loading docks, shellfish culture operations, and shore-based facilities necessary for *aquaculture* operations and *fisheries activities*, may be permitted in the *buffer*.

17. The Department of Planning and Zoning shall review all applications for water-dependent facilities to determine that:

a. The activities will not significantly alter existing water circulation patterns or salinity regimes;

b. The water body upon which these activities are proposed shall have adequate flushing characteristics in the area;

c. Disturbances to *wetlands*, submerged aquatic plant beds, or other areas of important aquatic habitats shall be minimized and mitigated;

d. *Adverse impacts* to water quality that may occur as a result of these activities, such as non-point source runoff, sewerage discharge from land activities or vessels, or from boat cleaning and maintenance operations shall be minimized;

e. Shellfish beds shall not be disturbed or be made subject to discharge that will render them unsuitable for harvesting;

f. Dredging shall be conducted in a manner, and using a method, which causes the least disturbance to water quality and aquatic and terrestrial habitats in the area immediately surrounding the dredging operation or within the *Critical Area* generally;

g. Dredged spoil shall not be placed within the *buffer* or elsewhere in that portion of the *Critical Area* which has been designated as a Habitat Protection Area unless the Board of Appeals grants a special exception and only as is necessary for:
   i. Backfill for permitted shore erosion protection measures;
   ii. Use in approved vegetated shore *erosion* projects;
   iii. Placement on previously approved channel maintenance spoil disposal areas; and
   iv. Beach nourishment.

h. Interference with the natural transport of sand shall be minimized;

i. Information necessary for evaluating dredge spoil applications if not available locally, shall be obtained from appropriate State and Federal agencies.

3.8 HABITAT PROTECTION AREAS

The following areas shall be considered habitat protection areas:

All designated Habitat Protection Areas, *buffer*s and protective zones including:

1. Colonial water bird nesting *sites*;

2. *Historic waterfowl staging and concentrations areas* in tidal water, *tributary streams* or tidal and *non-tidal wetlands*;

3. Riparian *forest*;

4. Forested areas of 50 acres or more and *forest* corridors connecting these areas;

5. *Anadromous fish spawning areas*;

6. Threatened and *endangered species* and *Species in Need of Conservation* with their habitat;

7. *Non-tidal wetlands*;

8. Minimum 100-foot *buffer*;

9. Other areas which because of their unique *wildlife habitat* types and plant communities are of local significance. These shall be managed to protect the unique habitat or community.
   a. Lloyd Creek Habitat for proposed State threatened species;
   b. Andover Branch
   c. Sandy Bottom - St. Paul's Lake
   d. Churn Creek (Still Pond Creek Headwaters)
   e. Big Marsh
   f. Swantown Creek
   g. Jacobs Creek
   h. Upper Sassafras
   i. Sassafras Lake
   j. Mill Creek (wooded swamp, 1118-555 on the Maryland Coordinated Grid System)
   k. Still Pond Creek (inland open fresh water, 1050-540 on the MCGS)
   l. East Langford Mill Pond (Shrub swamp, 1050-495 on the MCGS)

m. Langford Creek East Fork Head (inland shallow fresh marsh, 1055-499 on the MCGS)
n. N/W Fork Morgan Creek (inland shallow fresh marsh, 1077-536 on the MCGS)
o. Tavern Creek

10. Any *Natural heritage areas* as may be designated by the State of Maryland.

3.9 FOREST INTERIOR DWELLING BIRDS

The following shall be considered the "safe dates" or nesting times for breeding species of *forest interior dwelling birds*.

Common Name	Safe Dates/Nesting times
Creeper, brown	May 15 - August 31
Hawk, broad-winged	June 5 - August 31
Flycatcher, acadian	May 25 - August 5
Hawk, red-shouldered	May 1 - August 31
Ovenbird	May 20 - August 5
Owl, barred	January 15 - August 31
Parula, northern	June 1 - August 31
Redstart, American	June 10 - July 20
Tanager, scarlet	May 25 - August 10
Veery	June 10 - August 31
Vireo, red-eyed	June 1 - July 31
Vireo, yellow-throated	May 25 - August 15
Warbler, black-and-white	May 15 - July 25
Warbler, black-throated green	June 10 - August 5
Warbler, cerulean	May 25 - August 5
Warbler, hooded	May 25 - July 25
Warbler, Kentucky	May 25 - July 15
Warbler, prothonotary	May 10 - July 20
Warbler, Swainson's	April 20 - August 31
Warbler, worm-eating	May 20 - July 20
Waterthrush, Louisiana	May 1 - July 10
Whip-poor-will	May 10 - July 15
Woodpecker, hairy	April1 - August 31
Woodpecker, pileated	April 1 - August 31
Wood Thrush	May 25 - August 20

3.10 SHORE EROSION PROTECTION WORKS

The purpose of this section is to encourage the protection of rapidly eroding portions of the shoreline in the County by public and private landowners. When such measures can effectively and practically reduce or prevent shoreline erosion, the use of nonstructural shore protection measures shall be encouraged to conserve and protect plant, fish and wildlife habitat. The following criteria shall be followed when selecting shore erosion protection practices:

1. Nonstructural practices shall be used whenever possible.

2. Structural measures shall be used only in areas where nonstructural practices are impractical or ineffective.

3. Where structural measures are required, the measure that best provides for the conservation of fish and plant habitat and which is practical and effective shall be used.

4. If significant alteration of the characteristics of a shoreline occurs, the measure that best fits the change may be used for sites in that area.

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SECTION 4 SHORELINE CLIFF AREA

4.1 PURPOSE

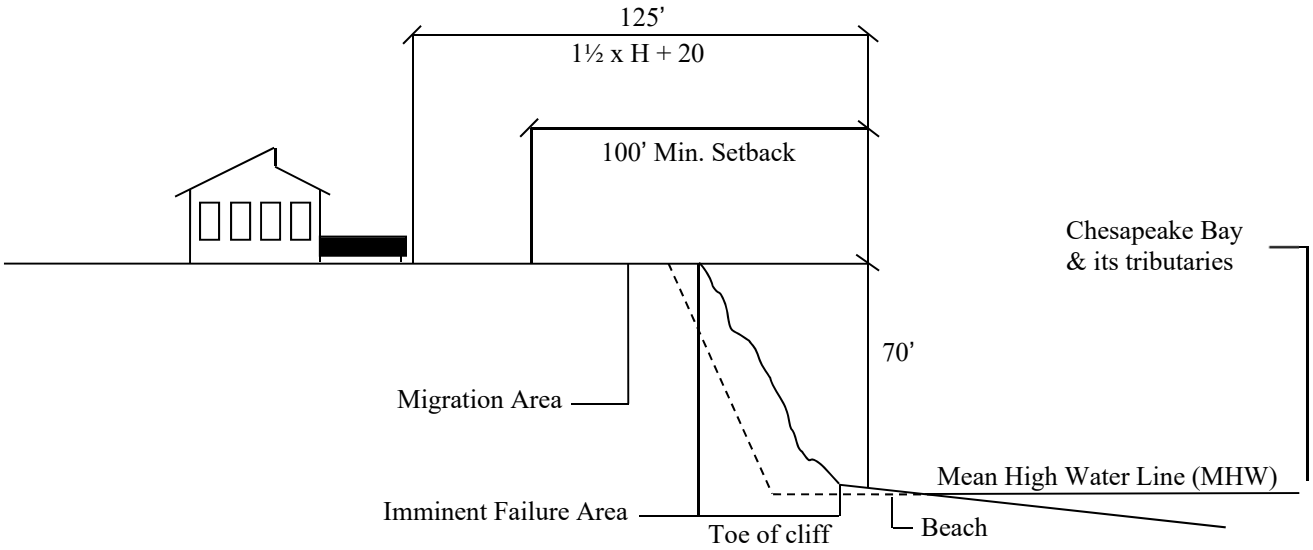
The *shoreline cliff* setback is designed to allow *development* in a manner that will protect the property and the lives of residents and protect the scenic integrity of the shoreline

4.2 CONDITIONS FOR NEW SUBDIVISIONS AND EXISTING LOTS OF THREE ACRES OR GREATER

1. All *structures* shall be a sufficient distance form the cliff to ensure protection of *structures* and to allow for natural *erosion* and/or cliff failure with enough setback to be able to employ the use of conventional *erosion* control measures.

2. The minimum setback for a *shoreline cliff* is as follows:

   For each foot of rise above the *mean high water line* (MHW), a one and one-half foot setback from the toe of the cliff measured landward plus 20 feet to the house *site* is required. The elevation measured will be the highest point on the *lot* fronting the water or measured in a direct line from the house placement to the cliff and water for large lots (one acre or more) with extensive water frontage.



3. When these conditions conflict with other waterfront *yard* requirements of this Ordinance, the stricter shall apply.

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SECTION 5 SITE PLAN REVIEW

5.1 STATEMENT OF INTENT

Site Development Plans are required to ensure that new *development* complies with the *Comprehensive Plan*, Land Use Ordinance, Village Master Plans and other agency requirements, thereby promoting the health, safety, and general welfare of Kent County residents.

5.2 GENERAL REQUIREMENTS

1. *Single family dwellings*, residential *accessory uses*, agricultural *buildings*, and alternations and remodeling of existing *structures* require *Plot Plan* Review. These projects have minor impact and thus, require less information. *Plot plans* are reviewed and approved by the Planning Director or the Planning Director's designee.

2. The following uses and developments require *Minor Site Plan* Review. These projects have less impact on the community, require less information and have a short review and approval process. The *Technical Advisory Committee* (TAC) reviews these projects. The Planning Director, or Planning Director's designee, may approve *minor site plans*. 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 plan review includes the following:
   a. Duplexes
   b. Non-residential *buildings* with a gross *floor area* less than 5,000 square feet.
   c. Non-residential additions that increase the size of the existing *building* by a maximum of 10%.
   d. Adaptive Reuse Projects
   e. Change of use that does not include additions that increase the size of each existing *building* by more than 10%.
   f. Change in vehicular access points in an existing non-residential or multi-family *development*.

3. All other commercial and industrial *development*, *multi-family dwellings*, special exceptions, public facilities, and quasi-public facilities require *Major Site plan* Review - Concept Plan, Preliminary Plan and Final Plan. The *Technical Advisory Committee* reviews these projects. The *Planning Commission* reviews and approves *major site plans*. Where deemed appropriate by the Planning Director, the final *site plan* may be combined with the preliminary *site plan*. In unusual cases with a minor impact on the community, and with approval of the Planning Director, the concept, preliminary and final *site plans* may be combined.

4. These procedures are to protect the health, safety, convenience, and general welfare of the inhabitants of the County. *Site plan* review regulates the *development* of *structures* and *sites* in a manner which considers the following concerns and, where necessary, requires modification of *development* proposals to eliminate or minimize potential problems and nuisances. The principal areas of concern are:
   a. The balancing of landowners' rights to use their land, with the corresponding rights of abutting and neighboring landowners to live without undue disturbances (e.g., noise, smoke, fumes, dust, odor, glare, *stormwater* runoff, etc.);
   b. The convenience and safety of vehicular and pedestrian movements within the *site*, and in relation to adjacent areas or *roads*;

c. The adequacy of disposal methods and protection from pollution of surface or groundwater;
d. The protection of historic, natural, and environmental features on the *site* under review, and in adjacent areas.

5. At each stage of review the *Planning Commission* shall review the *site plan* and supporting documents taking into consideration the reasonable fulfillment of the following objectives:
   a. Conformance with the *Comprehensive Plan* and, where applicable, the Village Master Plan.
   b. Conformance with the provisions of all applicable rules and *regulations* of county, state, and federal agencies.
   c. Convenience and safety of both vehicular and pedestrian movement within the *site* and in relationship to adjoining ways and properties.
   d. Provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishment, adequate lighting, and internal traffic control.
   e. Reasonable demands placed on public services and infrastructure.
   f. Adequacy of methods for sewage and refuse disposal, and the protection from pollution of both surface waters and groundwater. This includes minimizing *soil erosion* both during and after construction.
   g. Protection of abutting properties and County amenities from any undue disturbance caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, odors, glare, *stormwater* runoff, etc.
   h. Minimizing the area over which existing vegetation is to be removed. Where *tree* removal is required, special attention shall be given to planting of replacement trees.
   i. The applicant's efforts to integrate the proposed *development* into the existing landscape through design features such as vegetative buffers, roadside plantings, and the retention of *open space* and agricultural land.
   j. The building setbacks, area, and location of parking, architectural compatibility, signage, and landscaping of the *development*, and how these features harmonize with the surrounding townscape and the natural landscape.

6. *Site plans*, both *major* and *minor*, shall expire after 12 months unless otherwise extended. *Site plans* approved prior to the date of the adoption of this Ordinance shall expire 6 months after that date, unless otherwise extended.

   Site plans under appeal shall be automatically extended for 12 months. A *site plan* may receive more than one extension.

   When the applicant can show that the project is in the process of obtaining permits from a state, local or federal agency and that these permits have been pursued diligently, the *Planning Commission* shall grant a 12-month extension. A *site plan* may receive more than one extension.

7. Appeals – Within thirty days of the decision with respect to *minor site plans*, any *person* aggrieved by a decision of the Planning Director, or Planning Director's designee, may appeal the decision to the Kent County Planning Commission.

   Within thirty days of the decision, any *person* aggrieved by a decision of the *Planning Commission* may file a notice of appeal with the Circuit Court.

5.3 SITE PLAN REVIEW PROCEDURES

A. MINOR SITE PLAN

1. Applications for a *minor site plan* shall be filed with the Kent County Department of Planning and Zoning on the *site plan* review application form, together with the fee prescribed by the County Commissioners, the *site plan*, a narrative, and other supporting documents as required by this Ordinance. A pre-submission conference is recommended but not required.

2. The Kent County Department of Planning and Zoning shall schedule the project for the next meeting of the *Technical Advisory Committee* and shall circulate the completed application, the plat, and supporting documents to the members of the Technical Advisory Committee.

3. The Department of Planning and Zoning shall send notice of the proposed project to adjacent property owners using the last known address as found in the Kent County Treasurer's Office. Adjacent property owners shall have 10 days from the date of the notice to comment on the project.

4. The *Technical Advisory Committee* reviews the proposal and submits formal comments to the applicant.

5. The Planning Director, or Planning Director's designee, has the authority to approve, approve with conditions, or disapprove *minor site plans*. 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*.

6. The Planning Director, or Planning Director's designee, shall review the *site plan* and supporting documents, taking into consideration and prepare findings of fact concerning the reasonable fulfillment of the objectives listed below.
   a. Conformance with the *Comprehensive Plan* and, where applicable, the Village Master Plan.
   b. Conformance with the provisions of all applicable rules and *regulations* of county, state, and federal agencies.
   c. Convenience and safety of both vehicular and pedestrian movement within the *site* and in relationship to adjoining ways and properties.
   d. Provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishment, adequate lighting, and internal traffic control.
   e. Reasonable demands placed on public services and infrastructure.
   f. Adequacy of methods for sewage and refuse disposal, and the protection from pollution of both surface waters and groundwater. This includes minimizing *soil erosion* both during and after construction.
   g. Protection of abutting properties and County amenities from any undue disturbance caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, odors, glare, *stormwater* runoff, etc.
   h. Minimizing the area over which existing vegetation is to be removed. Where *tree* removal is required, special attention shall be given to planting of replacement trees.
   i. The applicant's efforts to integrate the proposed *development* into the existing landscape through design features such as vegetative buffers, roadside plantings, and the retention of *open space* and agricultural land.

j. The applicants efforts to design the *development* to complement and enhance the rural and historic nature of the County including incorporating into the project forms and materials that reflect the traditional construction patterns of neighboring communities

k. The building setbacks, area, and location of parking, architectural compatibility, signage, and landscaping of the *development*, and how these features harmonize with the surrounding townscape and the natural landscape.

7. The applicant shall submit to the Department of Planning and Zoning, three (3) copies of the approved *site plan* for signatures. One copy shall remain in the Department of Planning and Zoning with the other copies distributed to the Kent County Health Department and other applicable agencies. Where deemed necessary, the Planning Director may require additional copies of the signed plat.

B. MAJOR SITE PLAN

1. Applications for a *major site plan* shall be filed with the Kent County Department of Planning and Zoning on the *site plan* review application form, together with the fee prescribed by the County Commissioners, the *site plan*, the narrative, and other supporting documents as required by this Ordinance. A pre-submission conference is recommended but not required.

2. On the application, the Zoning Administrator shall certify that the proposed use is a permitted use.

3. The Kent County Department of Planning and Zoning shall schedule the project for the next meeting of the *Technical Advisory Committee* and shall circulate the completed application, the plat, and supporting documents to the members of the Technical Advisory Committee.

4. After determining that the application is substantially complete, the Department of Planning and Zoning shall place the project on the appropriate meeting of the Kent County Planning Commission for concept *site plan* review. The concept plan review process will review at a conceptual level, the feasibility, design, and environmental characteristics of the proposal based on the standards set forth in this Ordinance, the *Comprehensive Plan*, and, where applicable, the Village Master Plan, with the understanding that additional technical engineering design material, survey work, and preparation of other *site plan* documents will be submitted for review at latter steps in the *site plan* review process.

5. At least 20 days before the date of the *Planning Commission* meeting, the Department of Planning and Zoning shall send notice of the proposed project to adjacent property owners using the last known address as found in the Kent County Treasurer's Office. The notice shall include that the Zoning Administrator has determined that the proposed use is a permitted use.

6. The *Planning Commission* will comment and provide guidance as to the feasibility, design, and environmental characteristics of the proposal based on the standards set forth in this Ordinance, the Village Master Plans, and *Comprehensive Plan*.

7. After conceptual review of the *site plan*, the applicant shall submit to the Department of Planning and Zoning, the preliminary plan and supporting documents required by this Ordinance.

8. The Kent County Department of Planning and Zoning shall schedule the project for the next meeting of the *Technical Advisory Committee* and shall circulate the completed application, the plat, and supporting documents to the members of the Technical Advisory Committee.

9. In the case where a project has not appeared before the *Planning Commission* for 6 months, The Department of Planning and Zoning shall send notice of the proposed project to adjacent property owners using the last known address as found in the Kent County Treasurer's Office.

10. After determining that the preliminary plat application is substantially complete, the Department of Planning and Zoning shall place the project on the appropriate meeting of the Kent County Planning Commission for preliminary review. The preliminary review process will review the projects compliance with the Land Use Ordinance, Village Master Plan, and *Comprehensive Plan*, and its feasibility, design and environmental characteristics based on a specific *site plan* that complies the requirements for a preliminary plan. At this stage, the applicant must demonstrate adequate provisions for water supply and sewage disposal, proposed methods for fire protection, preliminary *stormwater management*, and *Forest Conservation Plans*.

11. The *Planning Commission* may approve, approve with conditions, or disapprove the preliminary *site plan*. Conditional approval of the preliminary plan shall include a complete list and clear explanation of all conditions. Denial of the preliminary plan shall include a listing of reasons for denial. If the *Planning Commission* determines that more information is required for a decision to be made on the proposal, the *Planning Commission* may table its consideration of the plan.

12. After approval or approval with conditions of the preliminary *site plan*, the applicant shall submit to the Department of Planning and Zoning, the final plan and supporting documents required by this Ordinance.

13. The Kent County Department of Planning and Zoning shall schedule the project for the next meeting of the *Technical Advisory Committee* and shall circulate the completed application, the plat, and supporting documents to the members of the Technical Advisory Committee.

14. In the case where a project has not appeared before the *Planning Commission* for 6 months, The Department of Planning and Zoning shall send notice of the proposed project to adjacent property owners using the last known address as found in the Kent County Treasurer's Office.

15. After determining that the final plat and supporting documents are substantially complete, the Department of Planning and Zoning shall place the project on the appropriate meeting of the Kent County Planning Commission for final review. The final review process will review the final plat and supporting documents for compliance with all applicable *regulations* and shall include approved final improvement plans, deed restrictions, *conservation easements*, irrevocable letters of credit or other surety acceptable to the County Commissioners of Kent County, and any other reports or studies as necessary.

16. The *Planning Commission* shall prepare findings of fact concerning the reasonable fulfillment of the objectives listed below.
    a. Conformance with the *Comprehensive Plan* and, where applicable, the Village Master Plan.
    b. Conformance with the provisions of all applicable rules and *regulations* of county, state, and federal agencies.
    c. Convenience and safety of both vehicular and pedestrian movement within the *site* and in relationship to adjoining ways and properties.
    d. Provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishment, adequate lighting, and internal traffic control.
    e. Reasonable demands placed on public services and infrastructure.

f. Adequacy of methods for sewage and refuse disposal, and the protection from pollution of both surface waters and groundwater. This includes minimizing *soil erosion* both during and after construction.

g. Protection of abutting properties and County amenities from any undue disturbance caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, odors, glare, *stormwater* runoff, etc.

h. Minimizing the area over which existing vegetation is to be removed. Where *tree* removal is required, special attention shall be given to planting of replacement trees.

i. The applicant's efforts to integrate the proposed *development* into the existing landscape through design features such as vegetative buffers, roadside plantings, and the retention of *open space* and agricultural land.

j. The applicant's efforts to design the *development* to complement and enhance the rural and historic nature of the County including incorporating into the project forms and materials that reflect the traditional construction patterns of neighboring communities.

k. The building setbacks, area, and location of parking, architectural compatibility, signage, and landscaping of the *development*, and how these features harmonize with the surrounding townscape and the natural landscape.

17. After approval of the final *site plan*, the applicant shall submit to the Department of Planning and Zoning, three (3) copies of the approved *site plan* for signatures. One copy shall remain in the Department of Planning and Zoning with the other copies distributed to the Kent County Health Department and other applicable agencies. Where deemed necessary, the Planning Director may require additional copies of the signed plat.

18. Where deemed appropriate by the Planning Director, the final *site plan* may be combined with the preliminary *site plan*. In unusual cases with a minor impact on the community, and with approval of the Planning Director, the concept, preliminary and final *site plans* may be combined.

5.4 PLAT REQUIREMENTS

A. *PLOT PLAN*

The following information may be required as determined by the Planning Director. The information shall be presented in a clear and legible manner but does not have to be to scale.

1. Plat showing existing and proposed *topography*, location and dimensions of the *lot*, *lot* and block number, and name of *subdivision*, if any.

2. Road name(s), width of *right of way*, centerline, road widths, and grades.

3. *Front*, *side*, and *rear yard* widths, and *easements*.

4. Sediment control measures and limit of work.

5. Discharge and storm drainage measures including rights and *easements*.

6. Legal restrictions (such as *easements*, existing covenants, zoning boundaries, etc.)

7. *Critical Area* boundary and acreage in the *Critical Area*

8. Location of existing and proposed *structures*, new construction, driveways, other access, septic systems and wells including the distance to all property lines.

9. Where applicable, areas of *afforestation* and/or *forest retention*.

10. Where applicable, the width of the *waterway*, location of the *channel*, extended property lines, tidal wetlands, state and private, and non-tidal wetlands.

11. Where applicable, existing and proposed *impervious surface* coverage, existing forest and proposed clearing, the minimum 100-foot buffer, topography and soils.

B. NARRATIVE

The applicant shall provide a narrative that addresses the following. The Planning Director may waive some elements of the narrative that are not applicable to the proposed project.

1. Name and address of the landowner, the *developer* and/or representative, if different from the owner.

2. *Street* address, tax map, parcel number, and *subdivision* if any.

3. Zoning of *site*.

4. Current and proposed use of the property.

5. An explanation of the viewshed, *open space*, and conservation analysis undertaken during the design of the *site plan*

6. How the proposed *development* complies with the *Comprehensive Plan* and the design and environmental standards of this Ordinance.

7. Proposed type of water and sewer service.

8. Number of employees.

9. The proposed *development* schedule and phases of *development* for all proposed construction.

10. Statement of provisions for ultimate ownership and maintenance of all parts of the *development* including *streets*, *structures,* and *open space*.

11. For water dependant uses in the *Critical Area*, the narrative shall include documentation that shows the following:
    a. That the activities will not significantly alter existing water circulation patterns or salinity regimes;
    b. That the water body upon which these activities are proposed has adequate flushing characteristics in the area of *development*.
    c. That disturbance to *wetlands*, submerged aquatic plant beds, or other areas of important aquatic habitats will be minimized.
    d. That *adverse impact* to water quality that may occur as a result of theses activities, such as non-point source runoff, sewage discharge from land activities or vessels, or from boat cleaning and maintenance operations, is minimized.

e. That shellfish beds will not be disturbed or be made subject to discharge that will render them unsuitable for harvesting.

f. That dredging shall be conducted in a manner, and using a method, which creates the least disturbance to water quality and aquatic and terrestrial habitats in the area immediately surrounding the dredging operation or within the *Critical Area*.

g. That dredge spoil will not be placed within the minimum 100-foot *buffer* or elsewhere in that portion of the *Critical Area* which has been designated as a Habitat Protection Area except as necessary for the following:

   i. Backfill for permitted shore *erosion* protection measures;

   ii. Use in approved vegetated shore *erosion* projects;

   iii. Placement on previously approved channel maintenance spoils disposal area

   iv. Beach nourishment

h. That interference with the natural transport of sand will be minimized.

i. That in the context of existing uses, the proposed use will result in only minimal individual and cumulative impact on water quality and fish, wildlife and *plant habitat* in the *Critical Area*.

j. That the activity meets all required environmental standards.

12. Critical Area density calculations based on the original parcel.

13. Citizen Participation Plan*

C. MINOR SITE PLAN

1. Scale – 1 inch = 100 feet or greater detail. The Planning Director may authorize the use of a different scale or waive the requirement for a scale drawing, if, in the Director's opinion, the information shown on the plat can be presented with equal clarity by the use of a different scale or drawing.

2. North arrow

3. Vicinity Map, with site location clearly marked.

4. Title Block that includes:

   a. Names of owners of record and where applicable, names of *developer*, *architect*, surveyor, planner, and/or *engineer*.

   b. Location by *Street* Address, Election District, County and State.

   c. Date of plan and all revisions

5. Signature Blocks for Director of Planning, Kent County *Health Officer*, and where applicable, the Director of Water and Wastewater Services.

6. Names of adjoining property owners with Liber and Folio or name, recording reference, and *lot* numbers of adjoining recorded *subdivision*.

7. Property boundaries

8. Where applicable, the *Critical Area* boundary and minimum 100-foot *buffer*; *Stream Protection Corridor*; Habitat Protection Area; *Forest Stand Delineation* and *Forest Conservation Plan*; and *100-year floodplain* boundary and *flood* elevation.

* Amended 11/14/06

9. Existing features, whether natural or manmade, that may influence the design of the project including but not limited to the following:
   a. *Natural features* to be preserved in accordance with these *regulations*
   b. *Slopes* in excess of 15% separate from those in excess of 25%
   c. *Watercourses*, including both *perennial* and *intermittent streams*
   d. *Forest*, *tree* groves, and significant trees
   e. Outstanding natural topographic features
   f. Tidal, state and private, and *non-tidal wetlands*
   g. Scenic, cultural and/or historic areas
   h. Existing *buildings*, parking, and other *impervious surfaces*
   i. *Easements*, covenants, *right of ways*, P.D.A. ditches, and *stormwater management structures* and devices and the purpose for which these *easements*, covenants and rights-of way were established
   j. Existing and proposed *impervious surface* coverage, existing forest and proposed clearing and soils.

10. The layout of all the proposal with the following:
   a. Location, height and dimensions of *buildings* and lots
   b. The proposed use
   c. Proposed setbacks
   d. Proposed driveways, parking, and loading areas including the number of spaces
   e. Areas reserved for public use, recreation, *open space*, utilities, other *easements*
   f. *Stormwater* management areas
   g. *Signs* and lighting

11. A tabulation of the following:
   a. Total acreage
   b. Acreage in *100-year floodplain*
   c. Acreage in the *Critical Area*
   d. Acreage in recreation and *open space*
   e. Acreage of *impervious surfaces*
   f. The total number of *dwelling units* or *building* types
   g. Total area of *buildings*
   h. The number and type of multi-family units for each *structure* and the total number of units with the subtotal of each type
   i. The total number of parking and *loading spaces*, the number of parking and *loading spaces* in each *off-street parking* area, and total of number of handicap parking spaces
   j. Where applicable, maximum number of employees

12. Location of any municipal or corporate limits, election district line, or *Critical Area* boundary close to or crossing the *tract*.

13. Proof that the required utilities, i.e. electric and telephone are available to the proposed *development*

14. The method and type of sewer and water service.

15. The current zoning classifications.

16. Width of *waterway*, depth measurements, *channel*, adjacent *piers* or landings, and 25% of the *waterway*

17. Front, side and rear elevations of all exterior walls, where applicable.

D. CONCEPT PLAN

1. Scale – 1 inch = 100 feet or greater detail. The Planning Director may authorize the use of a different scale or waive the requirement for a scale drawing, if, in the Director's opinion, the information shown on the plat can be presented with equal clarity by the use of a different scale or drawing.

2. North arrow

3. Vicinity map, with site location clearly marked.

4. Title Block that includes:
   a. Names of owners of record and where applicable, names of *developer*, *architect*, surveyor, planner, and/or *engineer*
   b. Location by *Street* Address, Election District, County and State
   c. Date of plan and all revisions

5. Names of adjoining property owners with Liber and Folio or name, recording reference, and *lot* numbers of adjoining recorded *subdivision*.

6. Property boundaries

7. Where applicable, the *Critical Area* boundary and minimum 100-foot *buffer*; *Stream Protection Corridor*; Habitat Protection Area; *Forest Stand Delineation*; *100-year floodplain* boundary and *flood* elevation.

8. Existing features, whether natural or manmade, that may influence the design of the project including but not limited to the following:
   a. *Natural features* to be preserved in accordance with these *regulations*
   b. *Slopes* in excess of 15% separate from those in excess of 25%
   c. *Watercourses*, including both *perennial* and *intermittent streams*
   d. *Forest*, *tree* groves, and significant trees
   e. Outstanding natural topographic features
   f. Tidal, state and private, and *non-tidal wetlands*
   g. Scenic, cultural and/or historic areas
   h. Existing *buildings*, parking, and other *impervious surfaces*

9. Proposed use, *street* layout, parking and loading areas, building *setback* lines, building location, if known, and recreation and *open space* areas.

10. Conceptual *stormwater management*.

E. PRELIMINARY PLAN

1. Scale – 1 inch = 100 feet or greater detail. The Planning Director may authorize the use of a different scale or waive the requirement for a scale drawing, if, in the Director's opinion, the information shown on the plat can be presented with equal clarity by the use of a different scale or drawing.

2. North arrow

3. Vicinity map, with site location clearly marked.

4. Title Block that includes:
   a. Names of owners of record and where applicable, names of *developer*, *architect*, surveyor, planner, and/or *engineer*
   b. Location by *Street* Address, Election District, County and State
   c. Date of plan and all revisions

5. Names of adjoining property owners with Liber and Folio or name, recording reference, and *lot* numbers of adjoining recorded *subdivision*.

6. Property boundaries

7. Field *topography* and a boundary survey. The Planning Director may waive field *topography*.

8. Where applicable, the *Critical Area* boundary and minimum 100-foot *buffer*; *Stream Protection Corridor*; Habitat Protection Area; *Forest Conservation Plan*; and *100-year floodplain* boundary and *flood* elevation.

9. Existing features, whether natural or manmade, that may influence the design of the project including but not limited to the following:
   a. *Soil* classifications mapped
   b. *Natural features* to be preserved in accordance with these *regulations*
   c. *Slopes* in excess of 15% separate from those in excess of 25%
   d. *Watercourses*, including both *perennial* and *intermittent streams*
   e. *Forest*, *tree* groves, and significant trees
   f. Outstanding natural topographic features
   g. Tidal, state and private, and *non-tidal wetlands*
   h. Scenic, cultural and/or historic areas
   i. Existing *buildings*, parking, and other *impervious surfaces*
   j. *Easements*, covenants, *right of ways*, P.D.A. ditches, and *stormwater management structures* and devices and the purpose for which these *easements* covenants and rights-of way were established.
   k. Sewer, water mains, culverts, fire hydrants, power transmission towers and the approximate location, pipe size, and direction of flow of each underground utility that exists in or is contiguous to the property.

10. The layout of all the proposal with the following:
    a. Location, height and dimensions of *buildings* and lots
    b. The proposed use
    c. Proposed setbacks
    d. Proposed driveways, parking, and loading areas including the number of spaces

e. Areas reserved for public use, recreation, *open space*, utilities, and other *easements*
f. *Stormwater* management areas
g. *Signs* and lighting
h. Where applicable, approved septic and septic reserve areas and well locations

11. The location, width, and name of each existing improved or unimproved *street* or *alley* within 200 feet of the proposal.

12. A tabulation of the following:
    a. Total acreage
    b. Acreage in *100-year floodplain*
    c. Acreage in *Critical Area*
    d. Acreage in recreation and *open space*
    e. Acreage of *impervious surfaces*
    f. The total number of *dwelling units* or building types
    g. Total area of *buildings*
    h. The number and type of multi-family units for each *structures* and the total number of units with the subtotal of each type
    i. The total number of parking and *loading spaces*, the number of parking and *loading spaces* in each *off-street parking* area, and total number of handicap parking spaces
    j. Where applicable, maximum number of employees

13. Conceptual and schematic plans for:
    a. Water and sewer services
    b. The storm drainage system, including the overall *drainage area*.
    c. *Grading* and sediment control measures
    d. Landscaping

14. Location of any municipal or corporate limits, election district line, or *Critical Area* boundary, close to or crossing the *tract*.

15. Proof that the required utilities, i.e. electric and telephone are available to the proposed *development*.

16. The method and type of sewer and water service.

17. The current zoning classifications.

18. Width of *waterway*, depth measurements, *channel*, adjacent *piers* or landings, property lines extended, and 25% of the *waterway*

19. Front, side and rear elevations of all exterior walls, where applicable.

20. Delineation of *development* staging, if any.

F. FINAL PLAN

1. Scale – 1 inch = 100 feet or greater detail. The Planning Director may authorize the use of a different scale or waive the requirement for a scale drawing, if, in the Director's opinion, the information shown on the plat can be presented with equal clarity by the use of a different scale or drawing.

2. North arrow

3. Vicinity map, with site location clearly marked.

4. Title Block that includes:
   a. Names of owners of record and where applicable, names of *developer*, *architect*, surveyor, planner, and/or *engineer*
   b. Location by *Street* Address, Election District, County and State
   c. Date of plan and all revisions

5. Signature Blocks for the *Planning Commission*, Director of Planning, *Health Officer*, and where applicable, Director of Water and Wastewater Services.

6. Names of adjoining property owners with Liber and Folio or name, recording reference, and *lot* numbers of adjoining recorded *subdivision*.

7. Location and description of all monuments as may be required.

8. No distances marked "approximate" except mean high water.

9. Where applicable, the *Critical Area* boundary and minimum 100-foot *buffer*; *Stream Protection Corridor*; Habitat Protection Area; *Forest Conservation Plan*; and *100-year floodplain* boundary and *flood* elevation.

10. Existing features, whether natural or manmade, that may influence the design of the project including but not limited to the following:
    a. *Natural features* to be preserved in accordance with these *regulations*
    b. *Slopes* in excess of 15% separate from those in excess of 25%
    c. *Watercourses*, including both *perennial* and *intermittent streams*
    d. *Forest*, *tree* groves, and significant trees
    e. Outstanding natural topographic features
    f. Tidal, state and private, and *non-tidal wetlands*
    g. Scenic, cultural and/or historic areas
    h. Existing *buildings*, parking, and other *impervious surfaces*

11. The exact dimensional layout of the project including *buildings*, parking, *loading spaces*, driveways, use, all *easements*, etc.

12. Registered surveyor's, *architect*'s, and/or *engineer's* signature and seal

13. Landscaping, lighting, and *signs*

14. Renderings and elevations, if applicable

15. Deed restrictions, bonds, irrevocable letter of credit, or other surety accepted by the County Commissioners of Kent County

5.5 SITE PLAN AMENDMENT

A *site plan* approved under this Ordinance or under any prior Ordinance, including any conditions or guarantees attached to its approval, may be amended in accordance with this section. If the Planning Director determines that the amendment does not represent a significant change from the use or character of the *site plan* as originally approved or in previously approved amendments, the Planning Director may approve the amendment after the amendment is reviewed by the Technical Advisory Committee.

If the Planning Director determines that the amendment represents a significant change from the use or character of the original *site plan* and previously approved amendments or that the amendment requires more detailed review, the proposed amendment shall be regarded as an original application for a *site plan* and follow the procedures for review for a new *site plan*.

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SECTION 6 SUBDIVISION

6.1 STATEMENT OF INTENT

Subdivision review has been established for the purpose of guiding and accomplishing the coordination and harmonious *development* of the unincorporated area of Kent County, in order to promote the health, safety, and welfare of the citizens of the county. *Subdivision* review is required to ensure that new *development* complies with the *Comprehensive Plan*, Land Use Ordinance, Village Master Plan, and other agency requirements.

6.2 GENERAL REQUIREMENTS

1. Adjustment of *lot lines* between adjoining property owners that do not create additional building lots are reviewed and may be approved by the Planning Director, or Planning Director's designee, and are subject to the following rules:
   a. Transfer of these lots is not counted in determining the number of lots in a *subdivision*.
   b. Plat requirements are at the discretion of the Planning Director but may not exceed those required for a minor *subdivision*.
   c. Procedures shall be the same as that for a minor *subdivision*.

2. Minor subdivisions contain seven or fewer lots, *sites*, parcels, tracts, or other divisions of land. The Planning Director, or Planning Director's designee, may approve minor subdivisions. At the Director's discretion, a minor *subdivision* 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 subdivisions. All lots, parcels, tracts, *sites*, and other divisions of land recorded after December 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 a *subdivision*. The original *lot* is also counted in determining the number of lots.*

3. Major subdivisions contain six or more lots, parcels, *sites*, tracts, or other divisions of land. The *Technical Advisory Committee* reviews and the *Planning Commission* approves major subdivisions at three stages - Concept, Preliminary, and Final. Where deemed appropriate by the Planning Director, the final plat may be combined with the preliminary plat and in unusual cases, the concept, preliminary, and final plat may be combined. All lots, parcels, tracts, *sites*, and other divisions of land recorded after December 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 a *subdivision*. The original *lot* is also counted in determining the number of lots.

4. These procedures are to protect the health, safety, convenience, and general welfare of the inhabitants of the County. *Subdivision* review regulates the *development* of *sites* in a manner which considers the following concerns and, where necessary, requires modification of *development* proposals to eliminate or minimize potential problems and nuisances. The principal areas of concern are:
   a. The balancing of landowners' rights to use their land, with the corresponding rights of abutting and neighboring landowners to live without undue disturbances (e.g., noise, smoke, fumes, dust, odor, glare, *stormwater* runoff, etc.);
   b. The convenience and safety of vehicular and pedestrian movements within the *site*, and in relation to adjacent areas or *roads*;
   c. The adequacy of disposal methods and protection from pollution of surface or groundwater; and;

* Amended 10/16/12

d. The protection of historic, natural, and environmental features on the *site* under review and in adjacent areas.

5. At each stage of review the *Planning Commission* shall review the *subdivision* and supporting documents taking into consideration the reasonable fulfillment of the following objectives:
   a. Conformance with the *Comprehensive Plan* and, where applicable, the Village Master Plan.
   b. Conformance with the provisions of all applicable rules and *regulations* of county, state, and federal agencies.
   c. Convenience and safety of both vehicular and pedestrian movement within the *site* and in relation to adjoining ways and properties.
   d. Provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishment, adequate lighting, and internal traffic control.
   e. Reasonable demands placed on public services and infrastructure.
   f. Adequacy of methods for sewage and refuse disposal, and the protection from pollution of both surface waters and groundwater. This includes minimizing *soil erosion* both during and after construction.
   g. Protection of abutting properties and County amenities from any undue disturbance caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, odors, glare, *stormwater* runoff, etc.
   h. Minimizing the area over which existing vegetation is to be removed. Where *tree* removal is required, special attention shall be given to planting of replacement trees.
   i. The applicant's efforts to integrate the proposed *development* into the existing landscape through design features such as vegetative buffers, roadside plantings, and the retention of *open space* and agricultural land.
   j. The building setbacks, area, and location of parking, architectural compatibility, signage, and landscaping of the *development*, and how these features harmonize with the surrounding townscape and the natural landscape.

6. Subdivisions, both major and minor, shall be recorded within six months of approval or shall expire after six months unless otherwise extended. Subdivisions approved prior to the date of the adoption of this Ordinance shall be recorded six months after that date or expire unless otherwise extended.

   Subdivisions under appeal shall be automatically extended for twelve months. A *subdivision* may receive more than one extension.

   When the applicant can show that the project is in the process of obtaining permits from county, state, or federal agencies and that these permits have been pursued diligently, the *Planning Commission* shall grant a 12-month extension. A *subdivision* may receive more than one extension.

7. Appeals - Within thirty days of the decision with respect to a minor *subdivision*, any *person* aggrieved by a decision of the Planning Director, or Planning Director's designee, may appeal the decision to the Kent County Planning Commission.

   Within thirty days of the decision, any *person* aggrieved by a decision of the *Planning Commission* may file a notice of appeal with the Circuit Court.

6.3 SUBDIVISION REVIEW PROCEDURES

A. MINOR SUBDIVISION

1. Applications for a minor *subdivision* shall be filed with the Kent County Department of Planning and Zoning on the *subdivision* application form, together with the fee prescribed by the County Commissioners, the *subdivision* plat, proposed deed restrictions, a narrative, sureties, and other supporting documents as required by this Ordinance. A pre-submission conference is recommended but not required.

2. The Kent County Department of Planning and Zoning shall schedule the project for the next meeting of the *Technical Advisory Committee* and shall circulate the completed application, the plat, and supporting documents to the members of the Technical Advisory Committee.

3. The Department of Planning and Zoning shall send notice of the proposed project to adjacent property owners using the last known address as found in the Kent County Treasurer's Office. Adjacent property owners shall have ten days from the date of the notice to comment on the project.

4. The *Technical Advisory Committee* shall review the proposal and submit formal comments to the applicant.

5. The Planning Director, or Planning Director's designee, has the authority to approve, approve with conditions, or disapprove minor subdivisions. At the Director's discretion, a minor *subdivision* 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 subdivisions.

6. The Planning Director, or Planning Director's designee, shall consider and prepare findings of fact concerning the reasonable fulfillment of the objectives listed below.
   a. Conformance with the *Comprehensive Plan* and, where applicable, the Village Master Plan.
   b. Conformance with the provisions of all applicable rules and *regulations* of county, state, and federal agencies.
   c. Convenience and safety of both vehicular and pedestrian movement within the *site* and in relation to adjoining ways and properties.
   d. Reasonable demands placed on public services and infrastructure.
   e. Adequacy of methods for sewage and refuse disposal, and the protection from pollution of both surface waters and groundwater. This includes minimizing *soil erosion* both during and after construction.
   f. Minimizing the area over which existing vegetation is to be removed. Where *tree* removal is required, special attention shall be given to planting of replacement trees.
   g. The applicant's efforts to integrate the proposed *development* into the existing landscape through design features such as vegetative buffers, roadside plantings, and the retention of *open space* and agricultural land.

7. The applicant shall submit to the Department of Planning and Zoning, two mylar and three paper copies of the approved plat for signatures and a copy of the deed restrictions. The *Planning Commission* attorney shall sign approved deed restrictions. One copy of the approved plat shall remain in the Department of Planning and Zoning with the other copies distributed to the Kent County Health Department and other applicable agencies. Where deemed necessary, the Planning Director may require additional paper copies of the signed plat.

B. MAJOR SUBDIVISION

1. Applications for a major *subdivision* shall be filed with the Kent County Department of Planning and Zoning on the *subdivision* application form, together with the fee prescribed by the County Commissioners, the plat, the narrative, and other supporting documents as required by this Ordinance. A pre-submission conference is recommended but not required.

2. The Kent County Department of Planning and Zoning shall schedule the project for the next meeting of the *Technical Advisory Committee* and shall circulate the completed application, the plat, and supporting documents to the members of the Technical Advisory Committee.

3. After determining that the application is substantially complete, the Department of Planning and Zoning shall place the *subdivision* on the appropriate meeting of the Kent County Planning Commission for concept review. The concept review process will review at a conceptual level, the feasibility, design, and environmental characteristics of the proposal based on the standards set forth in this Ordinance, the *Comprehensive Plan*, and, where applicable, the Village Master Plan, with the understanding that additional technical engineering, design material, survey work, and preparation of other *subdivision* documents will be submitted for review at later steps in the *subdivision* review process.

4. At least twenty days before the date of the *Planning Commission* meeting, the Department of Planning and Zoning shall send notice of the proposed *subdivision* to adjacent property owners using the last known address as found in the Kent County Treasurer's Office.

5. The *Planning Commission* will comment and provide guidance as to the feasibility, design, and environmental characteristics of the proposal based on the standards set forth in this Ordinance, the *Comprehensive Plan*, and where applicable, the Village Master Plan.

6. After conceptual review of the *subdivision*, the applicant shall submit to the Department of Planning and Zoning, the preliminary plat and supporting documents required by this Ordinance.

7. The Kent County Department of Planning and Zoning shall schedule the *subdivision* for the next meeting of the *Technical Advisory Committee* and shall circulate the completed application, the plat, and supporting documents to the members of the Technical Advisory Committee.

8. In the case where a *subdivision* has not appeared before the *Planning Commission* for six months, the Department of Planning and Zoning shall send notice of the proposed project to adjacent property owners using the last known address as found in the Kent County Treasurer's Office.

9. After determining that the preliminary *subdivision* application is substantially complete, the Department of Planning and Zoning shall place the *subdivision* on the appropriate meeting of the Kent County Planning Commission for preliminary review. The preliminary review process will review the *subdivision* for compliance with the Land Use Ordinance, *Comprehensive Plan*, and where applicable the Village Master Plan, and its feasibility, environmental, and design

characteristics based a specific *subdivision* that complies the requirements for a preliminary plan. At this stage, the applicant must demonstrate adequate provisions for water supply and sewage disposal, proposed methods for fire protection, preliminary *stormwater management*, and *Forest Conservation Plans*.

10. The *Planning Commission* may approve, approve with conditions, or disapprove the preliminary *subdivision*. Conditional approval of the preliminary plan shall include a complete list and clear explanation of all conditions. Denial of the preliminary plan shall include a listing of reasons for denial. If the *Planning Commission* determines that more information is required for a decision to be made on the proposal, the *Planning Commission* may table its consideration of the plan.

11. After approval or approval with conditions of the preliminary *subdivision*, the applicant shall submit to the Department of Planning and Zoning, the final plat, deed restrictions, sureties and other supporting documents required by this Ordinance.

12. The Kent County Department of Planning and Zoning shall schedule the *subdivision* for the next meeting of the *Technical Advisory Committee* and shall circulate the completed application, the plat, and supporting documents to the members of the Technical Advisory Committee.

13. When a project has not appeared before the *Planning Commission* for six months, the Department of Planning and Zoning shall send notice of the proposed *subdivision* to adjacent property owners using the last known address as found in the Kent County Treasurer's Office.

14. After determining that the final plat and supporting documents are substantially complete, the Department of Planning and Zoning shall place the *subdivision* on the appropriate meeting of the Kent County Planning Commission for final review. The Planning Commission will hold a public hearing prior to granting approval of the final *subdivision* in areas which are Tier III as designated on the Kent County Tier Map. The final review process will review the final plat and supporting documents for compliance with all applicable *regulations* and shall include approved final improvement plans, deed restrictions, *conservation easements*, irrevocable letters of credit or other surety acceptable to the County Commissioners of Kent County, and any other reports or studies as necessary.*

15. The *Planning Commission* shall prepare findings of fact concerning the reasonable fulfillment of the objectives listed below.
    a. Conformance with the *Comprehensive Plan* and, where applicable, the Village Master Plan.
    b. Conformance with the provisions of all applicable rules and *regulations* of county, state, and federal agencies.
    c. Convenience and safety of both vehicular and pedestrian movement within the *site* and in relation to adjoining ways and properties.
    d. Reasonable demands placed on public services and infrastructure.
    e. Adequacy of methods for sewage and refuse disposal, and the protection from pollution of both surface waters and groundwater. This includes minimizing *soil erosion* both during and after construction.
    f. Minimizing the area over which existing vegetation is to be removed. Where *tree* removal is required, special attention shall be given to planting of replacement trees.
    g. The applicant's efforts to integrate the proposed *development* into the existing landscape through design features such as vegetative buffers, roadside plantings, and the retention of *open space* and agricultural land.

* Amended 10/16/12

16. After approval of the final *subdivision*, the applicant shall submit to the Department of Planning and Zoning, two mylar and three paper copies of the approved *subdivision* for signatures and a copy of the deed restrictions. The *Planning Commission* attorney shall sign approved deed restrictions. One copy of the signed plat shall remain in the Department of Planning and Zoning with the other copies distributed to the Kent County Health Department and other applicable agencies. Where deemed necessary, the Planning Director may require additional paper copies of the signed plat.

17. Where deemed appropriate by the Planning Director, the final *subdivision* may be combined with a preliminary *site plan*. In unusual cases with a minor impact on the community, and with approval of the Planning Director, the concept, preliminary, and final *subdivision* plats may be combined.

6.4 PLAT REQUIREMENTS

A. NARRATIVE

The applicant shall provide a narrative that addresses the following. The Planning Director may waive some elements of the narrative that are not applicable to the proposed *subdivision*.

1. Name and address of the landowner, the *developer* and/or representative, if different from the owner.

2. *Street* address, tax map, parcel number, and *subdivision* if any.

3. Zoning of the *site*.

4. Current and proposed use of the property.

5. An explanation of the viewshed, *open space*, and conservation analysis undertaken during the design of the *site plan*

6. How the proposed *development* complies with the *Comprehensive Plan*, the Village Master Plan, and the design and environmental standards of this Ordinance.

7. Proposed type of water and sewer service.

8. The proposed *development* schedule and phases of *development* for all proposed construction.

9. A statement of provisions for ultimate ownership and maintenance of all parts of the *development* including *streets*, *structures*, and *open space*.

10. Critical Area density calculations based on the original parcel and subdivision history of the original parcel dating back to December 23, 1969.

11. Proposed *impervious surface* coverage for the subdivision and where applicable, *impervious surface* coverage allotted to each lot.

12. Citizen Participation Plan*

13. Analysis of the cost of providing local government services to the proposed *subdivision*.**

* Amended 11/14/06; ** Amended 10/16/12

B. MINOR SUBDIVISION

1. Scale – 1 inch = 100 feet or greater detail. The Planning Director may authorize the use of a different or waive the requirement for a scale drawing, if, in the Director's opinion, the information shown on the plat can be presented with equal clarity by the use of a different scale or drawing.

2. North arrow

3. Vicinity Map, with site location clearly marked.

4. Surveyor's signature and seal.

5. Title Block that includes:
   a. *Subdivision* name
   b. Names of owners of record and where applicable, names of *developer*, *architect*, surveyor, planner, and/or *engineer*
   c. Location by *Street* Address, Election District, County and State
   d. Date of plan and all revisions

6. Signature Blocks for Director of Planning, Kent County *Health Officer*, and where applicable, the Director of Water and Wastewater Services.

7. Names of adjoining property owners with Liber and Folio or name, recording reference, and *lot* numbers of adjoining recorded *subdivision*.

8. Property boundaries

9. Where applicable, the *Critical Area* boundary and minimum 100-foot *buffer*; *Stream Protection Corridor*; Habitat Protection Area; *Forest Stand Delineation* and *Forest Conservation Plan*; *100-year floodplain* boundary, *flood* elevation and the *Airport* Safety Zone.

10. Existing features, whether natural or manmade, that may influence the design of the project including but not limited to the following:
    a. *Natural features* to be preserved in accordance with these *regulations*
    b. *Slopes* in excess of 15% separate from those in excess of 25%
    c. *Watercourses*, including both *perennial* and *intermittent streams*
    d. *Forest*, *tree* groves, and significant trees
    e. Outstanding natural topographic features
    f. Tidal, state and private, and *non-tidal wetlands*
    g. Scenic, cultural and/or historic areas
    h. Existing *buildings*, parking, and other *impervious surfaces*
    i. *Easements*, covenants, *right of ways*, P.D.A. ditches, and *stormwater management structures* and devices and the purpose for which these *easements*, covenants, and rights-of way were established

11. Boundary of *subdivision* shown in heavy outline

12. Distances of courses to hundredths of a foot.

13. Bearings accurate to 10 seconds.

14. Location, width, and names of existing or proposed *roads* within or abutting the *subdivision*

15. Identification of *private roads*.

16. Curve data in tabular form, if applicable

17. Area of each *lot* in acres and thousandths

18. No distance marked "more or less" except mean high water.

19. Location and description of all monuments and markers as required

20. Location of water and sewer, or septic reserve area and well, where applicable.

21. Where applicable, statement: "*Private roads* are not the responsibility of Kent County."

22. A tabulation of the following:
    a. Total acreage
    b. Acreage in *100-year floodplain*
    c. Acreage in *Critical Area*
    d. Acreage in recreation and *open space*
    e. Acreage in *forest*
    f. Acreage in lots and *streets*

23. Location of any municipal or corporate limits, election district line, or *Critical Area* boundary close to or crossing the *tract*.

24. Width of *waterway*, depth measurements, *channel*, adjacent *piers* or landings, and 25% of the *waterway*, where applicable.

25. The Director may require *topography*.

C. CONCEPT PLAN

1. Scale – 1 inch = 100 feet or greater detail. The Planning Director may authorize the use of a different or waive the requirement for a scale drawing, if, in the Director's opinion, the information shown on the plat can be presented with equal clarity by the use of a different scale or drawing.

2. North arrow

3. Vicinity Map, with site location clearly marked.

4. Surveyor's signature and seal.

5. Title Block that includes:
   a. *Subdivision* name, section, and *lot* number, where applicable
   b. Names of owners of record and where applicable, names of *developer*, *architect*, surveyor, planner, and/or *engineer*
   c. Location by *Street* Address, Election District, County and State
   d. Date of plan and all revisions

6. Names of adjoining property owners with Liber and Folio or name, recording reference, and *lot* numbers of adjoining recorded subdivisions.

7. Property boundaries and boundary survey.

8. Where applicable, the *Critical Area* boundary and minimum 100-foot *buffer*; *Stream Protection Corridor*; Habitat Protection Area; *Forest Stand Delineation*; *100-year floodplain* boundary, *flood* elevation, and the *Airport* Safety Zone.

9. Existing features, whether natural or manmade, that may influence the design of the project including but not limited to the following:
   a. *Natural features* to be preserved in accordance with these *regulations*
   b. *Slopes* in excess of 15% separate from those in excess of 25%
   c. *Watercourses*, including both *perennial* and *intermittent streams*
   d. *Forest*, *tree* groves, and significant trees
   e. Outstanding natural topographic features
   f. Tidal, state and private, and *non-tidal wetlands*
   g. Scenic, cultural and/or historic areas
   h. Existing *buildings*, parking, and other *impervious surfaces*

10. Proposed layout of *streets*, lots (including estimate dimensions and *lot area*), *stormwater management* areas, *forest conservation* areas, and *open space*.

11. A tabulation of the following:
   a. Total acreage
   b. Acreage in *100-year floodplain*
   c. Acreage in *Critical Area*
   d. Acreage in recreational and *open space*
   e. Acreage of *forest*
   f. Acreage in lots and *streets*

12. Location of any municipal or corporate limit close to or crossing the *tract*.

D. PRELIMINARY PLAT

1. Scale – 1 inch = 100 feet or greater detail. The Planning Director may authorize the use of a different or waive the requirement for a scale drawing, if, in the Director's opinion, the information shown on the plat can be presented with equal clarity by the use of a different scale or drawing

2. North arrow

3. Vicinity Map, with site location clearly marked.

4. Surveyor's signature and seal

5. Title Block that includes:
   a. *Subdivision* name, section, and *lot* number
   b. Names of owners of record and where applicable, names of *developer*, *architect*, surveyor, planner, and/or *engineer*
   c. Location by *Street* Address, Election District, County and State
   d. Date of plan and all revisions

6. Names of adjoining property owners with Liber and Folio or name, recording reference, and *lot* numbers of adjoining recorded *subdivision*.

7. Boundary of *subdivision* in heavy outline

8. Field *topography*. The Planning Director may waive field *topography*. When the Planning Director grants a waiver, a written explanation must accompany the plat.

9. Where applicable, the *Critical Area* boundary and minimum 100-foot *buffer*; *Stream Protection Corridor*; Habitat Protection Area; *Forest Conservation Plan*; *100-year floodplain* boundary, *flood* elevation, and Airport Safety Zone.

10. Existing features, whether natural or manmade, that may influence the design of the project including but not limited to the following:
    a. *Soil* classification mapped
    b. *Natural features* to be preserved in accordance with these *regulations*
    c. *Slopes* in excess of 15% separate from those in excess of 25%
    d. *Watercourses*, including both *perennial* and *intermittent streams*
    e. *Forest*, *tree* groves, and significant trees
    f. Outstanding natural topographic features
    g. Tidal, state and private, and *non-tidal wetlands*
    h. Scenic, cultural and/or historic areas
    i. Existing *buildings*, parking, and other *impervious surfaces*
    j. *Easements*, covenants, *right of ways*, P.D.A. ditches, and *stormwater management structures* and devices and the purpose for which these *easements*, covenants, and rights-of way were established
    k. Sewer, water mains, culverts, fire hydrants, power transmission towers and the approximate location, pipe size, and direction of flow of each underground utility that exists in or is contiguous to the property

11. The location, width, and name of each existing or proposed *street* or *alley* within or abutting the *subdivision*.

12. Layout of all existing and proposed lots including:
    a. *Lot* numbers
    b. Scaled areas
    c. Scaled dimensions

13. Location, dimension and areas of property reserved for public or community use, where applicable

14. Location of any municipal or corporate limit or election district close to or crossing the *tract*.

15. A tabulation of the following:
    a. Total number of lots
    b. Acreage of each *lot*
    c. Acreage in *100-year floodplain*
    d. Acreage in *Critical Area*
    e. Acreage in recreation and *open space*
    f. Acreage in *forest*
    g. Acreage of existing and proposed *forest*
    h. Total area of *roadways* and other lands to be dedicated.
    i. Total acreage of *subdivision*

16. Conceptual and schematic plans for:
    a. Water and sewer services
    b. The storm drainage system, including the overall *drainage area*.
    c. *Grading* and sediment control measures
    d. Landscaping
    e. *Forest Conservation Plan*

17. Proof that the required utilities, i.e., electric and telephone, are available to the proposed *development*.

18. The method and type of sewer and water service.

19. Where applicable, the width of *waterway*, depth measurements, *channel*, adjacent *piers* or landings, and 25% of the *waterway*.

20. Delineation of *development* staging, if any.

E. FINAL PLAT

1. Scale – 1 inch = 100 feet or greater detail. The Planning Director may authorize the use of a different or waive the requirement for a scale drawing, if, in the Director's opinion, the information shown on the plat can be presented with equal clarity by the use of a different scale or drawing.

2. North arrow

3. Vicinity Map, with site location clearly marked.

4. Surveyor's signature and seal

5. Title Block that includes:
    a. *Subdivision* name, section, and *lot* number
    b. Names of owners of record and where applicable, names of *developer*, *architect*, surveyor, planner, and/or *engineer*
    c. Location by *Street* Address, Election District, County and State
    d. Date of plan and all revisions

6. Names of adjoining property owners with Liber and Folio or name, recording reference, and *lot* numbers of adjoining recorded *subdivision*.

7. Boundary of *subdivision* in heavy outline

8. Signature Blocks for the Chairman of the *Planning Commission*, Director of Planning, *Health Officer*, and where applicable, Director of Water and Wastewater Services

9. Owner's *certification* and dedication.

10. Location and description of all monuments as may be required.

11. No distances marked "approximate" except mean high water.

12. Where applicable, the *Critical Area* boundary and minimum 100-foot *buffer*; *Stream Protection Corridor*; Habitat Protection Area; *Forest Conservation Plan*; *100-year floodplain* boundary, *flood* elevation, and the *Airport* Safety Zone.

13. Existing features, whether natural or manmade, that may influence the design of the project including but not limited to the following:
    a. *Natural features* to be preserved in accordance with these *regulations*
    b. *Slopes* in excess of 15% separate from those in excess of 25%
    c. *Watercourses*, including both *perennial* and *intermittent streams*
    d. *Forest*, *tree* groves, and significant trees
    e. Outstanding natural topographic features
    f. Tidal, state and private, and *non-tidal wetlands*
    g. Scenic, cultural and/or historic areas
    h. Existing *buildings*, parking, and other *impervious surfaces*

14. Distances of courses to hundredths of a foot.

15. Bearings accurate to 10 seconds.

16. Curve data in tabular form, if applicable.

17. Area of each *lot* in acres and thousandths

18. Location and description of all monuments and markers as required

19. A tabulation of the following:
    a. Total acreage
    b. Acreage in *100-year floodplain*
    c. Acreage in *Critical Area*
    d. Acreage in recreation and *open space*
    e. Acreage of *forest*
    f. Acreage in lots, and *streets*

20. Location of any municipal or corporate limit, election district line, or *Critical Area* boundary close to or crossing the *tract*.

21. Location, width, and names of existing or proposed *roads* within or abutting the *subdivision*.

22. Final landscape, *forest conservation*, *stormwater management*, sediment control and other applicable improvement plans.

6.5 SUBDIVISION AMENDMENT

A *subdivision* approved under this Ordinance or under any prior Ordinance, including any conditions or guarantees attached to its approval, may be amended in accordance with this section. If the Planning Director determines that the amendment does not represent a significant change from the use or character of the *subdivision* as originally approved or in previously approved amendments, the Planning Director may approve the amendment after the amendment is reviewed by the Technical Advisory Committee.

If the Planning Director determines that the amendment represents a significant change from the use or character of the original *subdivision* and previously approved amendments or that the amendment requires more detailed review, the proposed amendment shall be regarded as an original application for a *subdivision* and follow the procedures for review of a new *subdivision*.

6.6 INTRAFAMILY TRANSFER IN THE CRITICAL AREA

1. A bona fide *intrafamily transfer* shall be permitted only from parcels of land in the Resource Conservation District that:
   a. Were of record on March 1, 1986;
   b. Are seven (7) acres or more and less than sixty (60) acres in size.

2. Land shall be subdivided as indicated:
   a. A parcel that is seven (7) acres or more and less that twelve (12) acres in size may be subdivided into two lots;
   b. A parcel that is twelve (12) acres of more and less than sixty (60) acres in size may be subdivided into three lots. The lots may be created at different times.

3. As a condition of approval, the following shall be required:
   a. The owner of the subdivided parcel attests to the bona fide family relationship and that the intent is not for ultimate transfer to a third party.
   b. Any deed for a *lot* that is created by a bona fide *intrafamily transfer* shall contain a covenant stating that the *lot* is created subject to the provisions of this section.
   c. A *lot* created by a bona fide *intrafamily transfer* shall not be conveyed subsequently to any *person* other than a member of the owner's immediate family except under procedures established pursuant to Article VI, Section 6.6.4 of this Ordinance.
   d. This subsection does not prevent the conveyance of the *lot* to a third party as security for a mortgage or a deed of trust, or subsequent conveyance resulting from a foreclosure.

4. Subsequent conveyance of lots to *persons* other than immediate family members:
   a. The *lot* was created as a part of a bona fide *intrafamily transfer* and not with the intent of subdividing the original parcel of land for purposes of ultimate transfer to a third party; and
   b. The owner of the transferred property dies; or
   c. (i) A change in circumstances has occurred since the original transfer was made that is not inconsistent with the *Critical Area* Law and that warrants an exception, or (ii) other circumstances that are consistent with the *Critical Area* Law and the *Critical Area* Law Criteria to maintain land areas necessary to support the protective uses of *agriculture*, forestry, *open space*, and natural habitats in Resource Conservation Areas warrant an exception as determined and approved by the *Planning Commission*.

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SECTION 7 FLOODPLAIN MANAGEMENT

7.1 STATEMENT OF INTENT

The purpose of the *floodplain* management section is to provide a unified, comprehensive approach to *floodplain* management which addresses the natural *floodplain* functions and encourages the use of appropriate construction practices that prevent or minimize *flood* damage. In combination with the *floodplain* design standards found in Article V of this Ordinance, these *regulations* address the requirements of the Federal and State programs concerned with *floodplain* management; namely: the National Flood Insurance Program (44 CFR 59-79), the Maryland Waterway Construction Permit Program for Non-tidal Floodplains, the Maryland Tidal and Non-tidal Wetlands Permit Programs, the U.S. Army Corps of Engineers' Section 10 and 404 Permit Programs, and the Maryland Coastal Zone Management Program.

7.2 ESTABLISHMENT OF FLOODPLAIN DISTRICT

1. Identification of *flood* zones. The regulatory *floodplain* shall be those areas of Kent County, Maryland, which are subject to the *1-percent annual chance (100-year) flood* as delineated on the most recent revision of the community's *Flood Insurance Rate Maps* (*FIRMs*) and *Flood Insurance Study (FIS)* for Kent County, Maryland and incorporated areas dated June 9, 2014 prepared by the Federal Emergency Management Agency (FEMA). Areas along non-tidal streams that do not have FEMA delineations as described above are subject to regulation by this Ordinance and the State.*

2. The *Flood Insurance Rate Maps* (*FIRMs*) and *Flood Insurance Studies (FIS)*, and all notations, dimensions, references, and symbols thereon, shall be considered a part of this Ordinance and shall be filed as a part of this Ordinance with the Kent County Department of Planning and Zoning. Copies of the *FIRMs* and *FIS* shall be available for inspection in the Department of Planning and Zoning.

3. The *floodplain* shall be comprised of the following subdivisions:
   a. *Non-tidal floodplains*: These 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. For development in *Special Flood Hazard Areas* of non-tidal waters of the State with *Base Flood Elevations (BFE)* but no designated floodways, the cumulative effect of all past and projected development will not increase the BFE by more than 1 foot.*
   b. Tidal *floodplains*: Those areas subject to coastal or tidal flooding by the *1-percent annual chance (100-year) flood*. These areas are flooded due to high tides, hurricanes, tropical storms and steady on-shore winds.*
   c. *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 V-Zones on the *Flood Insurance Rate Maps*.
   d. Shallow Flood Zones (Zone AO): Those areas of shallow flooding, with flood depths of 1 to 3 feet (usually areas of ponding or sheet flow on sloping terrain), with or without BFEs of designated flood depths.*

4. *Floodplain* Zone Determination. The Planning Director or Planning Director's designee will determine the *floodplain* zone in which the *development* activity is proposed using the *FIRMs* and *FIS* if applicable. Without prior approval from FEMA, the community shall use no other data to enforce *floodplain* management *regulations*. Where map boundaries and elevations disagree, elevations prevail, with approval from FEMA through the issuance of a Letter of Map Change or Amendment.

* Amended 6/3/14

The Planning Director of the Planning Director's designee shall submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for Kent County, within six months after such data and information becomes available if the analyses indicate changes in *Base Flood Elevations* or boundaries.*

5. Approximate *Floodplain* Determination. For *development* proposed in the approximate *floodplain* (no water surface elevations or *floodway* data provided), the applicant must use the best available information to determine the elevation of the *1-percent annual chance (100-year) flood* and the extent of the *floodway*, and must delineate these on the *site plan* submitted for approval. For new subdivisions, the applicant must have the *1-percent annual chance (100-year) flood* elevations certified by a registered professional *engineer* based on hydrologic and hydraulic analyses which include a *floodway* analysis.*

6. Unmapped Streams. In cases in which *development* is proposed in the vicinity of unmapped streams which have no delineated *1-percent annual chance (100-year) floodplain*, a 100-foot *flood* protection setback from the banks of the stream shall be used. State permits may be required and applicants are advised to seek a determination from the State.*

7.3 DEVELOPMENT REGULATIONS*

1. General
In order to prevent excessive *flood* damage, to determine whether proposed activities will be reasonably safe from flooding, to implement construction methods and practices which minimize flood damge, and to allow for the protection of the natural and beneficial *floodplain* functions, all *development*, *new construction*, and *substantial improvements* to existing *structures* in all *floodplain* zones shall comply with the requirements of Article VI, Section 7 and those found in Article V of this Ordinance. In the event that a *structure* is in more than one (1) zone, the more stringent provision shall apply to the entire *structure*.

2. *Watercourses*
In all *floodplain* zones, any *development* which proposes to alter a *watercourse* shall obtain a *variance*. All conditions for encroachment in the *floodway* shall be met and *adverse impacts* to aquatic resources shall be minimized. Adjacent communities and property owners, the U.S. Army Corps of Engineers, FEMA, and MDE shall be notified by the applicant prior to any modification of a *watercourse*. Any activity falling within the 100-year non-tidal floodplain may require a *waterway* construction permit from the Maryland Department of the Environment.

3. *Non-tidal* and Tidal *Floodplains* (Zones A, AE, and A1-30)
   a. General *development* shall not occur in the *floodplain* where alternative locations exist. Before a permit is issued, the applicant shall demonstrate that new *structures* cannot be located out of the *floodplain* and that encroachments onto the *floodplain* are minimized
   b. Elevation Requirements, Residential *Structures*.
      i. *Basements* are prohibited. Enclosures below the *Flood Protection Elevation* (two feet above the elevation of the *1-percent annual chance (100-year) flood*) shall be constructed with water equalizing vents to meet the specification found in Article VI, Section 7.4 of this Ordinance.

* Amended 6/3/14

ii. The elevation of the *lowest floor* of all new or substantially improved *structures*, including *manufactured homes*, shall be elevated to or above the *Flood Protection Elevation* (two feet above the elevation of the *1-percent annual chance (100-year) flood*). In *non-tidal floodplains*, horizontal expansions which increase the footprint and that are less than substantial shall also have the *lowest floor* elevated to or above the *Flood Protection Elevation*. A registered surveyor or professional *engineer* shall certify elevation of the *lowest floor* on the *Elevation Certificate* after the *lowest floor* is in place.

iii. Improvements in tidal *floodplains* which are less than substantial shall be constructed to minimize damage during flooding or shall be elevated to the greatest extent possible.

c. Elevation Requirements, Non-residential *Structures*.

i. All new or substantially improved non-residential *structures* shall either be elevated as required for residential *structures* or shall be floodproofed. *Basements* are prohibited. Enclosures below the *Flood Protection Elevation* (two feet above the elevation of the *1-percent annual chance (100-year) flood*) shall be constructed with water equalizing vents to meet the specification found in Article VI, Section 7.4 of this Ordinance.

ii. Horizontal expansions in the *non-tidal floodplain* which increase the footprint and that are less than substantial shall also have the *lowest floor* elevated to two feet above the *Flood Protection Elevation* (two feet above the elevation of the *1-percent annual chance (100-year) flood*).

iii. In *non-tidal floodplains*, *basements* and *floodproofing* are prohibited.

iv. *Floodproofing* designs must insure that areas below the *Flood Protection Elevation* (two feet above the elevation of the *1-percent annual chance (100-year) flood*) are watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

v. When the *floodproofing* option is chosen, a *Floodproofing Certificate* must be completed by a registered professional *engineer* or *architect*. If a *Floodproofing Certificate* is not provided, then an *Elevation Certificate* must be completed by a registered *surveyor* or professional *engineer*.

d. *Fill*

i. An applicant shall demonstrate that the *fill* will not affect the *flood* storage capacity or increase flooding onto neighboring properties.

ii. In the event that *structures* on adjacent properties are known or determined to be subject to flooding under current conditions, the Planning Director or the Planning Director's designee may require submission of hydrologic and hydraulic analysis of the affects of the proposed *fill*. All *fill* shall meet the standards set forth in this Ordinance.

e. Subdivisions

i. *Non-tidal floodplains*. To avoid *flood* damage and to protect the natural and beneficial *floodplain* functions, new floodprone building *sites* shall not be permitted in *non-tidal floodplains*. Each new *lot* shall have a suitable building *site* outside the *floodplain*. Whenever possible, *development* should be located outside the *floodplain*. An access road, constructed above the elevation of the *1-percent annual chance (100-year) floodplain* shall be provided.

ii. The applicant shall submit a plan which demonstrates that all building *sites* located outside of the 100- year *floodplain*, and that the *floodplain* areas are protected in their natural state.

iii. Tidal floodplains. New subdivisions in tidal floodplains shall be designed to develop land outside the *floodplain* whenever possible. An access road constructed above the elevation of the *1-percent annual chance (100-year) flood* shall be provided whenever possible.

iv. Subdivision proposals and development proposals shall minimize flood damage and have adequate drainage paths provided to reduce exposure to flood hazards and to guide floodwaters around and away from proposed structures.

4. *Floodway*

a. *Floodways* shall be preserved to carry the discharge of the *1-percent annual chance (100-year) flood*. *Floodways* present increased risks to human life and property because of their relatively faster and deeper flowing waters. In a regulatory floodway, any encroachment is prohibited which would cause any increase in the *base flood* level unless hydrologic and hydraulic analyses prove that the proposed encroachment would not increase flood levels during the *base flood* discharge.

b. *Fill* shall not be permitted.

c. New *structures* shall not be permitted.

d. New *development* shall not be permitted where alternatives exist elsewhere or if any increase in the water surface elevations of the *1-percent annual chance (100-year) flood* will occur.

e. *Development* in the *floodway* which may result in any increase in water surface elevations or change to the *floodway* shall be submitted to FEMA for a conditional letter of map revision. Hydrologic and hydraulic analysis on existing *floodway* models and performed in accordance with standard engineering practices and certified by a registered professional *engineer* must be submitted. Failure to receive this conditional letter of map revision shall be grounds for denial of a permit.

f. Alternative analysis requirement. An alternative analysis shall be submitted to the Department of Planning and Zoning before a permit shall be issued. The alternative analysis shall demonstrate that:

i. No reasonable alternative exists outside the *floodway*.

ii. Encroachment in the *floodway* is the minimum necessary.

iii. The *development* will withstand the *1-percent annual chance (100-year) flood* without significant damage.

iv. The *development* will not increase downstream or upstream flooding or *erosion*.

g. Existing *structures*. Existing *structures* in the *floodway* shall be substantially improved only by *variance* and if they can be brought into conformance with this Ordinance without increasing the footprint. Minor additions (less than substantial) must be elevated to the *Flood Protection Elevation* (two feet above the *flood* elevation) on pilings or columns. In the event of *substantial damage* or replacement, the applicant shall submit an alternative analysis to determine if the *structure* can be relocated to a less hazardous *site*. Where replacement *structures* cannot be relocated, they shall be limited to the footprint of the previous *structure* and must comply with the elevation requirements of this Ordinance. Permits for incremental improvements and additions shall be tracked by the Department of Planning and Zoning, and if cumulative improvements constitute *substantial improvement*, no further permits may be issued unless the *structure* conforms to the provisions of this Ordinance.

h. Maintenance of natural *channel*. The natural *watercourse* shall be maintained for protection of aquatic resources. A *variance* is required for alteration of *watercourses*. Any *variance* issued must assure that the conditions for encroachment in the *floodway* are met, *adverse impacts* to aquatic resources are minimized, and the public good outweighs the

adverse impacts. The provisions of Article VI, Section 7.3.2 of this Ordinance pertaining to altering a *watercourse* must be met.

i. Obstructions. *Structures* or *fill* which may impede, retard, or change the direction of the flow of floodwaters, or any materials that may be carried downstream to cause damage shall not be placed in the *floodway*. Fences, except two wire fences, shall not be placed in the *floodway*.

j. Construction of roads, bridges, culverts, dams and in-stream ponds. Construction of roads, bridges, culverts, dams and in-stream ponds in non-tidal waters of the State shall not be approved unless they comply with this section and the applicant has received a permit from MDE.

5. *Coastal high hazard areas* (V-Zones and *Coastal A Zones*)

a. New *development* shall not be permitted in the Coastal High Hazard Area where the action of wind and waves, in addition to tidal flooding, is a factor unless the applicant demonstrates that:

i. No reasonable alternative exists outside the Coastal High Hazard Area;

ii. The encroachment into the Coastal High Hazard Area is the minimum necessary;

iii. The *development* will withstand the 100-year wind and water loads without damage;

iv. The *development* will not create an additional hazard to existing *structures*; and

v. Any natural dune system will not be disturbed.

b. New and substantially improved *structures*.

i. All new or substantially improved *structures* shall be elevated on adequately anchored pilings or columns to resist flotation, collapse, and lateral movement due to the effects of the one-hundred-year water loads and wind loads acting simultaneously on all building components. Water loading values shall be those associated with the *base flood*, and wind loading values shall be those required by local building standards. The bottom of the lowest horizontal structural member supporting the *lowest floor* shall be elevated to two feet above the *Base Flood Elevation*. A registered professional *engineer* or *architect* must certify that building designs, elevations and anchoring have been designed to withstand the water and wind loads. The use of slabs or other at grade foundation systems shall be prohibited.

ii. The space below the *Flood Protection Elevation* (two feet above the elevation of the *1-percent annual chance (100-year) flood*) shall be free of obstruction or may be enclosed with open wood lattice, insert screening or *breakaway walls*.

iii. *Breakaway walls* shall be designed to collapse under a wind and water load less than would occur during the *1-percent annual chance (100-year) flood*, and have a design safe loading resistance of not less than ten pounds and no more than twenty pounds (20) per square foot. Glass walls shall not be considered *breakaway walls*. Enclosed areas below the *Flood Protection Elevation* shall be used solely for the parking of vehicles, limited storage, and building access. If such areas are enclosed, a *Declaration of Land Restrictions* shall be signed. Electrical, mechanical, and plumbing system components shall not be mounted on or penetrate through walls that are designed to break away under flood loads.

c. *Manufactured homes* and *recreational vehicles*. *Manufactured homes* shall not be permitted in the Coastal High Hazard Area. *Recreational vehicles* shall meet the requirements of Article VI, Section 7.5.6 of this Ordinance.

d. *Fill* and *excavation*. *Fill* shall not be used for the structural support of *buildings*. *Excavation* under existing *structures* or *excavation* within any enclosed space shall be prohibited. Minor grading, and the placement of minor quantities of fill, shall be permitted

for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.

e. Location of *structures*. *New construction* within the reach of mean high tide is prohibited. Alteration of the dune system is prohibited.

f. Existing *structures*. Existing *structures* shall not be substantially improved or expanded vertically or horizontally unless the entire foundation system is certified by a professional *engineer* or *architect* as capable of supporting the existing *building* and the proposed improvement during the *1-percent annual chance (100-year) flood* as specified in Article VI, Section 7.3.5b of this Ordinance. Permits for incremental improvements shall be tracked, and when cumulative improvements constitute *substantial improvement*, the entire *building* shall comply with Article VI, Section 7.3.5b of this Ordinance.

g. Decks and patios. In addition to the requirements of the building code or the residential code, decks and patios shall be located, designed, and constructed in compliance with the following:

i. A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the *Flood Protection Elevation* and any supporting members that extend below the design flood elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck.

ii. A deck or patio that is located below the *Flood Protection Elevation* shall be structurally independent from structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during *base flood* conditions or to break apart into small pieces that will not cause structural damage to adjacent elevated structures.

iii. A deck or patio that has a vertical thickness of more than 12 inches or that is constructed with more than the minimum amount of fill that is necessary for site drainage shall not be approved unless an analysis demonstrates no harmful diversion of floodwaters or wave run-up and wave reflection that would increase damage to adjacent elevated structures.

A deck or patio that has a vertical thickness of 12 inches or less and that is at natural grade or on fill material that is similar to and compatible with local soils and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave run-up and wave reflection.

6. Areas of shallow flooding (Zone AO)

In areas of shallow flooding (Zone AO), have the lowest floor (including basement) elevated at least as high above the *highest adjacent grade* as the depth number specified in feet on the FIRM plus two (2) feet, or at least four (4) feet if a depth number is not specified; and

a. Have enclosures below the lowest floor, if any, that comply with the requirements of Section 7.4; or

b. If proposed to be elevated on fill, meet the limitations on fill in Section 7.3.3.d

7. Critical and Essential Facilities

Critical and essential facilities shall:

a. Not be located in *coastal high hazard areas* (V Zones), *Coastal A Zones* or *floodways*.

b. If located in flood hazard areas other than *coastal high hazard areas*, *Coastal A Zones* and *floodways*, be elevated to the higher of the elevation required by these regulations plus one (1) foot, the elevation required by the *building code*, or the elevation of the 0.2 percent chance (500-year) flood.

7.4 DESIGN STANDARDS*

1. Placement of *Buildings* and Materials – In general, *buildings* and *accessory structures* should be located entirely out of the *floodplain*, out of the *flood* protection setback, or on land that is least susceptible to flooding. All *structures* permitted in the *floodplain* shall be oriented so as to offer the least resistance to the flow of floodwaters. Materials which are buoyant, flammable, explosive, hazardous to health, or which at times of flooding may be injurious to human, animal, or plant life, shall not be stored below the *Flood Protection Elevation* (two feet above the elevation of the *1-percent annual chance (100-year) flood*).

2. Enclosures below *Lowest floor* – *Buildings* which have been elevated and have fully enclosed areas below the *Flood Protection Elevation* (two feet above the elevation of the *1-percent annual chance (100-year) flood*), as well as garages and *accessory structures* which are not elevated shall be constructed with water equalizing vents which meet or exceed the following standards:
   a. A minimum of two (2) openings on different walls having a total net area of not less than one square (1) inch for every square foot of enclosed area subject to flooding or an engineered opening certified by a licensed professional;
   b. The bottom of all openings shall be no higher than two feet above *grade*; and
   c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters to equalize hydrostatic forces on the walls.
   d. Fully enclosed areas below the *Flood Protection Elevation* (two feet above the elevation of the *1-percent annual chance (100-year) flood*) shall be used solely for parking of vehicles, access to the *building*, or limited storage. If such areas are enclosed, a *Declaration of Land Restriction* shall be signed by the applicant.
   e. In *coastal high hazard areas*, enclosures below the *Flood Protection Elevation* (two feet above the elevation of the *1-percent annual chance (100-year) flood*) shall comply with the provisions of Article VI, Section 7.3.5 of this Ordinance.

3. *Manufactured homes* and Manufactured Home Parks – New *manufactured homes* and manufactured home parks shall be prohibited in the Coastal High Hazard Area and in the *floodway*. In other *floodplain* zones, all new, replacement, or substantially improved *manufactured homes*, whether in a manufactured home park or not, shall comply with Article VI, Section 7.3 of this Ordinance.
   a. Methods of anchoring shall include the use of over the top and frame ties to ground anchors. Pilings or columns shall be used to maintain the storage capacity of the *floodplain*. Concrete block support pilings shall be reinforced by placing reinforcing bars inside and extending them into the footing, filling the hollows with cement, and using mortar to cement the blocks together. FEMA Publication 85, "Protecting Manufactured Homes from Floods and Other Hazards," should be consulted for specific recommendations.
   b. *Manufactured homes* repaired or replaced due to substantial flooding or other causes shall be considered new *structures* and shall fully comply with Article VI, Section 7.3 of this Ordinance.
   c. Owners of manufactured home parks or subdivisions that are partially or fully within the *floodplain* shall file an evacuation plan with the Director of Emergency Management. New manufactured home parks shall provide an access road elevated to the *Flood Protection Elevation* (two feet above the elevation of the *1-percent annual chance (100-year) flood*).

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4. Anchoring – All *structures* shall be firmly anchored in accordance with acceptable engineering practices to prevent flotation, collapse, and lateral movement during flooding. All air ducts, large pipes and storage tanks located below the *Flood Protection Elevation* (two feet above the elevation of the *1-percent annual chance (100-year) flood*) shall be firmly anchored to resist flotation.

5. Utilities
   a. Electric. Distribution panel boxes shall be installed at least two (2) feet above the *Flood Protection Elevation*. All outlets and electrical installations, such as heat pumps, air conditioners, water heaters, furnaces, generators, and distribution systems shall be installed at or above the *Flood Protection Elevation* (two feet above the elevation of the *1-percent annual chance (100-year) flood*).
   b. Plumbing. Toilets, sinks, showers, water heaters, pressure tanks, furnaces, and other permanent plumbing installations shall be installed at or above the *Flood Protection Elevation* (two feet above the elevation of the *1-percent annual chance (100-year) flood*).
   c. Gas and liquid storage. Meters and appliances shall be installed at or above the *Flood Protection Elevation* (two feet above the elevation of the *1-percent annual chance (100-year) flood*).
      i Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the *base flood*.
      ii Above-ground tanks in flood hazard areas shall be anchored to a supporting structure and elevated to or above the *Base Flood Elevation*, or shall be anchored or otherwise designed and constructed to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the *base flood*.
      iii In flood hazard areas, tank inlets, fill openings, outlets and vents shall be:
         a) At or above the *Base Flood Elevation* or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the base flood; and
         b) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the *base flood*.

   d. Water supply and sanitary facilities. Water supply distribution and sanitary disposal collection systems shall be designed to minimize or eliminate the *infiltration* and to avoid impairment or contamination of floodwaters into the systems or discharges from the systems into floodwaters and shall be located and constructed so as to minimize or eliminate *flood* damage. *On-site* sewage disposal systems shall meet these same standards.
   e. Other service facilities. In addition to utilities noted in this section, all other service facilities must be designed and/or located to prevent water entry or accumulation.

7.5 ACCESSORY STRUCTURES*

1. Where feasible, *accessory structures* and garages shall be located out of the *floodplain* or elevated to or above the *Flood Protection Elevation* (two feet above the elevation of the *1-percent annual chance (100-year) flood*). When these measures are not feasible the following shall apply:
   a. The floor of the *structure* shall be at or above *grade*;

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b. The *structures* shall be located, oriented, and constructed so as to minimize *flood* damage;
c. The *structure* shall be firmly anchored to prevent flotation; and
d. Be constructed with flood damage-resistant materials below the *Base Flood Elevation*.

2. *Accessory structures* or detached garages, that do not exceed six hundred (600) square feet in size, and used solely for the parking of vehicles and limited storage may be constructed below the *Flood Protection Elevation* (two feet above the elevation of the *1-percent annual chance (100-year) flood)* under the conditions of Article VI, Section 7.8 of this Ordinance. No machinery, electric devices, or appliances shall be located below the *Flood Protection Elevation* (two feet above the elevation of the *1-percent annual chance (100-year) flood*). All interior walls, ceilings and floors located below the *Flood Protection Elevation* (two feet above the elevation of the *1-percent annual chance (100-year) flood*) shall remain unfinished. A *Declaration of Land Restriction* shall be signed by the property owner and recorded with the Kent County Clerk of Court. A copy of the recorded document shall be attached to the building permit.

3. An *accessory structure* or garage larger than six hundred (600) square feet in size shall be elevated to the proper *Flood Protection Elevation* (two feet above the elevation of the *1-percent annual chance (100-year) floodplain*).

4. Attached Garages.
   a. Attached garages, used solely for the parking of vehicles, storage or building access and no more than six hundred (600) square feet in size, are exempt from the elevation requirement but shall be elevated to the greatest extent possible. Attached garages shall meet the venting requirements found in Article VI, Section 7.4.2 of this Ordinance. All interior walls, ceilings, and floors below the *Flood Protection Elevation* (two feet above the elevation of the *1-percent annual chance (100-year) flood*) shall be unfinished.
   b. No machinery, electrical devices, or appliances shall be located below the *Flood Protection Elevation* (two feet above the elevation of the *1-percent annual chance (100-year) flood*). A *Declaration of Land Restriction* shall be signed by the property owner and recorded with the Kent County Clerk of Court. A copy of the recorded document shall be attached to the building permit.

5. *Recreational vehicles*
   a. *Recreational vehicles* located within the *floodplain* may be exempt from the elevation and anchoring requirements provided they are:
      i. Located on the *site* less than one-hundred eighty (180) consecutive days per year;
      ii. Fully licensed and ready for highway use; and
      iii. Properly permitted.
   b. A *recreational vehicle* is ready for highway use if it is on its wheels and jacking system, is attached to the *site* only by quick disconnect type utilities and securing devices, and has no permanently attached additions. If it cannot meet all of these criteria, the *recreational vehicle* shall be considered a *manufactured home* and is subject to the elevation and construction standards of this Ordinance.

6. *Fill*
   a. *Fill* shall not be placed in the *floodway*. *Fill* shall not be used for structural support in the Coastal High Hazard Area.
   b. *Fill* shall consist of *soil* and rock materials only. Dredge material shall be used as *fill* only upon *certification* of suitability by a registered professional geo-technical *engineer*. Landfills, rubble fills, dumps, and sanitary fills shall not be permitted in the *floodplain*.

c. *Fill* used to support *structures* shall be compacted to 95% of the maximum density obtainable by the Standard Proctor Test (*ASTM* Standard D-698), and its suitability to support *structures* certified by a registered professional *engineer*. *Fill slopes* shall be no greater than two horizontal to one vertical. Flatter *slopes* may be required where velocities may result in *erosion*.

d. The use of *fill* shall not increase flooding onto or interfere with drainage from neighboring properties.

e. In the event that *structures* on adjacent properties are known or determined to be subject to flooding under current conditions, the Planning Director or the Planning Director's designee may require submission of hydrologic and hydraulic analysis of the affects of the proposed *fill*. All *fill* shall meet the standards set forth in this Ordinance.

7.6 PERMITS

1. No *development* shall occur without first obtaining a permit form the Department of Planning and Zoning. This permit shall not be valid until all applicable federal or state permits are obtained.

2. Application for a permit shall contain, at a minimum, the following information.
   a. Name, address, and phone number of the applicant
   b. Name, address, and phone number of the property owner, if different from that of the applicant
   c. Name, address, and phone number of the contractor
   d. Legal description of the *site*
   e. Proposed use of the *site*
   f. Type, dimensions, and estimated cost of the improvement
   g. *Site* characteristics and improvements
   h. *Site plan* drawn to scale which shows:
      i. Dimensions of the *site*
      ii. Size and location of existing and proposed *structures* or *alterations*
      iii. Setbacks
      iv. Elevation contours in mean sea level (*NAVD*)*
      v. Delineation of the *1-percent annual chance (100-year) flood* boundary.*
      vi. Proposed elevation of the *lowest floor* and method of elevation, if applicable.
   i. A signed agreement stating that the applicant will supply an *Elevation Certificate*.
   j. For additions or improvements, market value or assessed value of *structures* before improvement.
   k. *Declaration of Land Restriction* where applicable.*

3. General permits shall be granted only after determining that the proposed *development* will be in compliance with this Ordinance.

4. After approval of a permit, no changes of any kind shall be made to the application, permit, plans, specifications, or other documents submitted with the application without the written approval of the applicable county official. A copy of the permit shall be displayed at the construction *site*.

5. During construction, the building inspector will inspect the *site* to determine that work is in compliance with the permit. Any work not in compliance with the permit shall be corrected before any additional work is undertaken.

6. A record of all *floodplain* permits shall be maintained and be available upon request by the Federal Emergency Management Agency or its authorized agent during periodic assessments of the

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County's participation in the National Flood Insurance Program. All documents needed to support permit action, such as *Elevation Certificates*, map amendments or revisions, or *variance* actions shall be available for review during these assessments.

7.7 DAM SAFETY

The condition design criteria, hazard class and danger reach of the dam shall be considered when reviewing *development* downstream of existing or proposed dams. *Development* within the dam break *flood* wave shall be denied unless the dam meets the standards for a high hazard dam.

7.8 CONDITIONAL PERMITS

A conditional permit may be issued for garages and *accessory structures* less than six hundred (600) square feet in size, provided:

a. The *structure* is incidental to the primary *structure*.
b. It is used solely for limited storage and parking of vehicles.
c. The floor of the *structure* is constructed at or above *grade*.
d. The *structure* is located, oriented, and constructed so as to minimize *flood* damage.
e. The *structure* is firmly anchored to prevent flotation.
f. The *structure* meets the requirements of Article VI, Section 7.4 of this Ordinance.
g. A *Declaration of Land Restriction* is recorded with the Kent County Clerk of Court. A copy of the recorded document shall be attached to the building permit.*

7.9 ENFORCEMENT

1. It shall be the duty of the Planning Director of the Planning Director's designee to perform the function of the Floodplain Administrator and to enforce the provisions of this Ordinance and to refuse to issue any permit or approve any *development* that would violate the provisions of this Ordinance. It shall be the duty of all officers and employees of Kent County to assist in the enforcement of this Ordinance by reporting seeming *violations*.*

2. The Planning Director of the Planning Director's designee is authorized and directed to institute any appropriate action to correct *violations* of this Ordinance.*

3. Any *violation* of Article VI, Section 7 of this Ordinance shall be subject to the fines and penalties established in Article XII of this Ordinance.

4. The Federal Insurance Administrator and the State of Maryland shall be notified immediately in writing of any *structure* or property in *violation* of Article VI, Section 7 of this Ordinance.

7.10 LIABILITY

The degree of *flood* protection provided by this chapter is considered reasonable for regulatory purposes and is based on engineering experience and scientific methods of study. Floods of greater magnitude may occur or *flood* heights may be increased by man-made or natural causes. This section does not imply that flooding will not occur outside of delineated *floodplain* zones, nor that the permitted *development* and land uses within the *floodplain* will be free of flooding and associated *flood* damage. This section does not create liability on the part of the County, any officer, or employee thereof for any damage which may result from reliance on this Section.

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The degree of the flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur, and flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside of the *Special Flood Hazard Areas* or uses that are permitted within such areas will be free from flooding or flood damage.*

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SECTION 8 FOREST CONSERVATION

8.1 STATEMENT OF INTENT

The purpose of this Section is to conserve the forests of Kent County. Forests and individual trees greatly contribute to the quality of life in Kent County, the health of the natural *ecosystem*, and the health and welfare of the citizens of Kent County. The County's economic health depends heavily on its natural resources of which forests are a major component. It is not the intent of the law to place unreasonable restrictions on *development*. Rather it aims to maximize the benefits of *forest* in a cooperative effort with *development*, thereby limiting the loss of forested land in Kent County and improving the environment of both developed and undeveloped areas.

8.2 APPLICABILITY

This Section applies to *minor* and *major site plans*, subdivisions, *public utilities* not exempt under this section and all *grading* permits for a disturbed area over 40,000 square feet excluding those areas governed by the Chesapeake Bay *Critical Area* Protection Law (Natural Resources Article, Section 8-1801-1816, Annotated Code of Maryland). This Section also does not apply to the following:

1. Highway construction activities under Natural Resources Article, Section 5-103, Annotated Code of Maryland.

2. *Commercial logging* and *timber harvesting operations*, including harvesting conducted subject to the *Forest Conservation* and Management Program under Tax Property Article, Section 8-211, Annotated Code of Maryland, that are completed after July 1, 1991 on property which:
   a. Has not been the subject of application for a *grading* permit for *development* within five years after the logging or harvesting operation; and
   b. Is the subject of a *Declaration of Intent* as provided for in Section 8.3 of this Ordinance.

3. Agricultural activities, not resulting in a change in land use category, including agricultural support *buildings* and other related activities constructed using *best management practices* provided that no more than 40,000 square feet of *forest* is cleared within a one year period. A *person clearing* 40,000 square feet or greater of *forest* within a one year period may not receive an exemption unless the *person* files a *Declaration of Intent* which includes:
   a. A statement that the landowner or the landowner's agent will practice *agriculture* on that portion of the property for five years from the date of the declaration; and
   b. A sketch of the property which shows the area to be cleared.

4. The cutting or *clearing* of a public utility *right of way* licensed under Article 78, Section 54A and 54B or 54I, Annotated Code of Maryland, or land for electric generating stations licensed under Article 78, Section 54A and 54B or 54I Annotated Code of Maryland, provided:
   a. Certificates of public conveniences and necessity have been issued in accordance with Natural Resources Article 78, Section 5-1603(f), Annotated Code of Maryland; and
   b. Cutting or *clearing* of the *forest* is conducted to minimize the loss of *forest*.

5. Routine maintenance or emergency repairs of the pubic utility *right of way* licensed under Article 78, Section 54A or 54 -I of the Annotated Code of Maryland.

6. Routine maintenance or emergency repairs of public utility *right of way* not subject to Section 8.2 (4) of this Ordinance, provided:
   a. The *right of way* existed prior to January 5, 1993; or
   b. The *right of way's* initial construction was approved after January 5, 1993.

7. Non-coal surfacing mining regulated under Natural Resources Article, Title 7, Subtitle 6A, Annotated Code of Maryland.

8. An activity required for the purpose of constructing a dwelling intended for the use of the owner, or a child or a grandchild of the owner, if the activity:
   a. Does not result in the cutting, *clearing*, or *grading* of more than 40,000 square feet of *forest*; and
   b. Is the subject of a *Declaration of Intent* filed in the Department of Planning and Zoning which states that a transfer in ownership may result in the loss of the exemption.

9. A real estate transfer to provide a security, leasehold, or other legal or equitable interest, including a transfer of title, of a portion of a *lot* or parcel if:
   a. The transfer does not involve a change in land use, or new *development* or *redevelopment* with associated land disturbing activities.
   b. Both the grantor and grantee file a *Declaration of Intent*.

10. An activity on a property that has more than 50% of its acreage within the Chesapeake Bay *Critical Area*.

8.3 GENERAL REQUIREMENTS

A. <u>Declaration of Intent</u>

1. A *person* seeking an exemption under Section 8.2 of this Ordinance shall file a *Declaration of Intent* with the Kent County Department of Planning and Zoning.

2. A *Declaration of Intent* is effective for five years.

3. The existence of a *Declaration of Intent* does not preclude:
   a. An exempted activity on a property subject to a *Declaration of Intent* if the activity:
      i. Does not conflict with the purpose of any existing *Declaration of Intent*, and
      ii. Complies with the applicable requirements for an exempted activity.
   b. A *regulated activity* on the area covered by the *Declaration of Intent*. However, if the activity occurs within five years of the effective date of the *Declaration of Intent*:
      i. There shall be an immediate loss of exemption, or
      ii. There may be a non-compliance action take by the Department of Planning and Zoning, as appropriate, under this Ordinance, or
   c. A *regulated activity* on that area of the property not covered under the *Declaration of Intent* if the requirements of this Ordinance are satisfied.

B. *Forest Stand Delineation*

1. Simplified *Forest Stand Delineation*
   a. A simplified *Forest Stand Delineation* (SFSD) may be submitted when *forest cover* is not disturbed during a construction activity and the area is under a long-term protective agreement.
   b. A simplified *Forest Stand Delineation* shall be submitted at the time of concept *site plan* and concept *subdivision* review. A SFSD shall be used to determine the most suitable and practical areas for conservation.
   c. The delineation shall be prepared by a registered surveyor, licensed forester, licensed landscape architect, or other qualified professional who meets the requirements of COMAR 08.19.06.01B. A simplified *Forest Stand Delineation* shall meet the requirements found in Article VI, Section 8.4 of this Ordinance. The Planning Director may permit the *Forest Stand Delineation* to be combined with the *site* or *subdivision* plan.

2. *Forest Stand Delineation*
   a. A *Forest Stand Delineation* (FSD) shall be submitted at preliminary *site plan* or *subdivision* review, and before application for a *grading* or *sediment control permit* unless Section 8.3.B.1 applies. A FSD shall be submitted with the application for *minor site plan* or minor *subdivision* approval unless Article VI, Section 8.3.B.1 of this Ordinance applies.
   b. The delineation shall be prepared by a licensed forester, licensed landscape architect or other qualified professional who meets the requirements of COMAR 08.19.06.01B and shall meet the requirements of Article VI, Section 8.4 of this Ordinance.
   c. The delineation shall be used to determine the most suitable and practical areas for *forest conservation*.

C. *Forest Conservation Plans*

1. At the time of application for preliminary *subdivision* and *site plan* review, the applicant shall submit a preliminary *Forest Conservation Plan*. The review of the *Forest Conservation Plan* shall be concurrent with the review of the preliminary *subdivision* or *site plan*.

2. A final conservation plan shall be submitted with:
   a. Minor and final *subdivision* plan
   b. *Minor* and final *site plan*
   c. Application for a *grading* and *sediment control permit*

3. Both preliminary and final *Forest Conservation Plans* shall be prepared by a licensed forester, licensed landscape architect or other qualified professional who meets the requirements of COMAR 08.19.06.01B. If *forest* is not going to be disturbed, a registered surveyor may prepare preliminary and final *Forest Conservation Plans*. Preliminary and final *Forest Conservation Plans* shall meet the requirements of Article VI, Section 8.4 of this Ordinance.

4. The preliminary *Forest Conservation Plan* may be modified during the review process.

5. Where deemed appropriate by the Planning Director, the preliminary and final conservation plans may be incorporated into other plans and plats required by this Ordinance.

6. If existing *forest* on the *site* subject to a *Forest Conservation Plan* can not be retained, the applicant shall demonstrate to the satisfaction of the Department of Planning and Zoning:
   a. How techniques for *forest retention* have been exhausted;
   b. Why the priority forests and priority areas specified in the design standards of the zoning districts cannot be left in an undisturbed condition.

7. If the applicant proposes to make a payment into the local *forest conservation* fund instead of *afforestation* or *reforestation*, the applicant shall demonstrate to the satisfaction of the Department of Planning and Zoning that the requirements for *afforestation* or *reforestation on-site* or *off-site* cannot be reasonably accomplished

8.4 PLAN REQUIREMENTS

A. Simplified *Forest Stand Delineation*

A simplified *Forest Stand Delineation* shall include:

1. Topographic map delineating *intermittent* and *perennial streams* and *steep slopes* over twenty-five percent (25%).

2. *Soils* map delineating *soils* with structural limitations, such as, *hydric soils*, or *soils* with a *soil K Value* greater than 0.35 on *slopes* of fifteen percent (15%), or more.

3. Location of 100-year *non-tidal floodplains*.

4. Property boundaries

5. Map showing existing *forest cover* verified by field inspection.

6. Other information that the Department of Planning and Zoning determines is necessary to implement *forest conservation*.

B. *Forest Stand Delineation*

A *Forest Stand Delineation* shall include the following:

1. Stand summary sheets that include a summary of the data collected at individual sampling *sites* including the following:
   a. Dominant species and *forest* association
   b. *Site* class of dominant *tree*
   c. Total number of *tree* species
   d. Number of trees per acre
   e. Common understory species
   f. *Forest structure* rating

2. A *Forest Stand Delineation* Map
   a. North arrow
   b. Property boundaries
   c. *Perennial* and *intermittent streams* and their required *stream protection corridors*
   d. *Topography*

e. *Soils*, highlighting hydric and *soils* with a *K Value* over 0.35 on *slopes* of fifteen percent (15%) or more.
f. Current *forest* and unforested areas, including species, location, size of trees and showing dominant and co-dominant *forest* types
g. *Forest* stand locations
h. *Tree* lines extending *off-site*
i. *Steep slopes*
j. Field sampling points
k. Prime agricultural *soils*
l. Critical habitats
m. Adjacent land uses
n. Cultural features
o. Historic *sites*
p. *Non-tidal 100-year floodplain*
q. *Non-tidal wetlands*
r. Vicinity Map at a scale of 1:2000 which indicates major *roads*, land uses, and *forest cover* within one square mile of the *site*.

3. A written summary of *forest* stand conditions
   a. Stand Condition
      i. Stand *structure* (dominant species and understory species)
      ii. *Forest structure*
      iii. *Retention* potential
      iv. Comments on evidence of past management
   b. Environmental Features
      i. *Non-tidal floodplains*
      ii. *Hydric soils*
      iii. *Non-tidal wetlands*
      iv. *Stream protection corridors*
      v. Critical habitats
      vi. *Steep slopes* and *soils* with a *K Value* which exceeds 0.35 on *slopes* of fifteen percent (15%) or more
      vii. Cultural features
      viii. Historic *sites*
      ix. Adjacent land uses
      x. Specimen trees and *champion tree*s

4. Other information may be required if the Department of Planning and Zoning determines it is necessary to implement this Ordinance.

C. <u>Preliminary *Forest Conservation Plan*</u>

A preliminary *Forest Conservation Plan* shall include the following:

1. The approved *Forest Stand Delineation*

2. A table listing:
   a. *Net tract area*
   b. Area of *forest conservation* required
   c. Area of *forest conservation*, both on- and *off-site* provided by the *developer*
   d. *Afforestation* and *reforestation* plan

e. Plat, drawn at the same scale as the preliminary plan which indicates:
   i. Areas designated for *forest retention*
   ii. Areas designated for *reforestation*
   iii. Areas designated for *afforestation*
   iv. Limits of disturbance
   v. Stockpile areas
f. Construction schedule, showing the sequence of *forest conservation*
g. Two-year *maintenance agreement*
h. A narrative on how the requirements for *forest conservation* have been addressed
i. *Forest Conservation* Worksheet
j. Other information the Department of Planning and Zoning determines is necessary to implement *forest conservation*.

D. Final *Forest Conservation Plan*

A final *Forest Conservation Plan* shall include the following:

1. The approved *Forest Stand Delineation*

2. A *Forest Conservation* Worksheet. A worksheet and instructions for its completion may be found in the *Forest Conservation Technical Manual*.

3. A *Forest Conservation* Map which clearly indicates the following:
   a. *Forest retention* areas (with priority rating)
   b. *Reforestation* areas
   c. *Afforestation* areas
   d. Protective devices, including specifications
   e. Limits of disturbance
   f. Stockpile areas

4. Construction Schedule, including the sequence of *reforestation* areas, *afforestation* areas, maintenance and protective measures to be employed at the *site*.

5. *Forest* Protection Plan that addresses:
   a. Pre-construction activities including stress reduction and temporary and permanent protective devices.
   b. Future protection measures

6. *Reforestation* and *Afforestation* Plans, which include:
   a. Narrative evaluation of sequential analysis of *reforestation* and *afforestation* methods.
   b. Planting plan which includes:
      i. Summary of *site* assessment and preparation
      ii. Target species for *reforestation*
      iii. Plant materials table including plant material source, species, number of plants, size of plants. Methods found in the *Forest Conservation Technical Manual* shall be used to determine species selection and *site* stocking.

7. A 2-year *maintenance agreement* which includes:
   a. Watering plans
   b. Fertilizing plans
   c. Control of competing vegetation
   d. Protection from disease, pest, and mechanical injury
   e. Replanting provisions when survival goal falls below acceptable levels
   f. Name of company or individual responsible for *tree* care

8. Long term binding protective agreement, that:
   a. Provides protection for areas of *forest conservation*, including areas of *afforestation*, *reforestation*, and *retention*, and
   b. Limits uses in areas of *forest conservation* to those uses designated and consistent with *forest conservation* including recreational activities and *forest management* practices used to preserve *forest*.
   c. A narrative on how the general provisions of *forest conservation* found in this Ordinance have been addressed.

9. Table listing:
   a. *Net tract area*
   b. Area of *forest conservation* required
   c. Area of *forest conservation* provided both on and *off-site*

10. Other information that the Department of Planning and Zoning determines is necessary to implement *forest conservation*.

E. <u>Forest Conservation Fund</u>

1. A *forest conservation* fund is established.

2. When the Kent County Department of Planning and Zoning determines that the requirements for *reforestation* or *afforestation on-site* or *off-site* cannot be reasonably accomplished, the applicant shall contribute money into the *forest conservation* fund.

3. Money contributed to this fund instead of *afforestation* or *reforestation* shall be paid at a rate of 10 cents per square foot of required planting area.

4. The money shall be paid prior to final approval.

5. Money deposited in the local *forest conservation* fund:
   a. May be spent on the costs directly related to *reforestation* and *afforestation*, including *site* identification, acquisition, and preparation.
   b. Shall be deposited in a separate *forest conservation* fund; and
   c. May not revert to the general fund

6. The County shall accomplish the *reforestation*, *afforestation*, or *forest* land acquisition for which the money is deposited within two years or four *growing seasons*, whichever is the greater time period after receipt of the money.

7. *Reforestation*, *afforestation*, *forest easement* purchase, or *forest* land acquisition paid for by this fund shall occur in Kent County or its municipalities and in the same *watershed* in which the project is located.

8. If the *reforestation*, *afforestation*, *forest easement* purchase, or *forest* land acquisition cannot be reasonably accomplished in the same *watershed* in which the project is located, the *reforestation*, *afforestation*, *forest easement* purchase, or *forest* land acquisition shall occur within the same county or *watershed* in the state in which the project is located.

F. Forest Protective Devices

1. Before cutting, *clearing*, *grading*, or construction begins on a *site*, the applicant shall demonstrate to the Department of Planning and Zoning that protective devices have been established.

2. Protective device standards are found in the *Forest Conservation Technical Manual*.

G. Bonds

1. A *person* required to conduct *afforestation* or *reforestation* shall furnish financial security in the form of a bond, an irrevocable letter of credit, or other security approved by the County Commissioners of Kent County. The surety shall:
   a. Assure that the *afforestation*, *reforestation*, and the associated *maintenance agreement* are conducted and maintained in accordance with the approved *Forest Conservation Plan*.
   b. Be in an amount that is 125% of the estimated cost of *reforestation* or *afforestation* as determined by the Department of Planning and Zoning.
   c. Be in a form and content approved by the Department of Planning and Zoning.

2. After one *growing season*, an applicant may request reduction of the amount of the bond or other financial security by submitting a written request to the Department of Planning and Zoning with a justification for reducing the bond or other financial surety amount, including estimated or actual costs to ensure *afforestation* or *reforestation* requirements are met.

3. The Department of Planning and Zoning shall determine whether a lesser amount is sufficient to cover the cost of *afforestation* or *reforestation*, taking into account such factors as the number of acres, proposed method of *afforestation* or *reforestation*, cost of planting materials, and maintenance costs.

4. If after two *growing seasons* the plantings associated with the *afforestation* or *reforestation* meet or exceed the standards of the Kent County *Forest Conservation Technical Manual*, the amount of the bond, letter of credit, surety bond, or other security shall be returned or released.

H. *Non-tidal wetlands*

A *regulated activity* is subject to the following requirements:

1. For the purposes of delineation, permitting, and mitigation, areas determined to be *non-tidal wetlands* under COMAR 08.05.04 shall be regulated under COMAR 08.05.04 or this ordinance, whichever is more stringent.

2. For the purposes of calculating *reforestation* mitigation under this Ordinance, a forested *non-tidal wetland* permitted to be cut or cleared and required to be mitigated under COMAR 08.05.04 shall be shown on the *Forest Conservation Plan* and subtracted on an acre for acre basis from the total amount of *forest* to be cut or cleared as part of a *regulated activity*.

3. *Non-tidal wetlands* shall be considered priority areas for *retention* and replacement.

4. Forested *non-tidal wetland* identification and delineation should be included at the earliest stage of planning to assist the applicant in avoidance and reduction of impacts to the *non-tidal wetlands* and to avoid delay in the approval process.

I. State Funds

1. A local agency or *persons* using state funds making application to conduct a *regulated activity* shall submit the *subdivision*, construction, *grading*, or sediment control plan to the Department of Planning and Zoning who shall notify the Department of Natural Resources within fifteen (15) days of receipt of the plan or project.

2. Within fifteen (15) days of receipt of notice from the Department of Planning and Zoning, the Department of Natural Resources shall:
   a. Determine whether the project has impact on significant *forest* resources; and
   b. Notify the Department of Planning and Zoning whether the project is subject to the State Program.

3. If the Department of Natural Resources determines that the project is subject to the State program:
   a. The time limit for approval of the *Forest Stand Delineation* and preliminary and final *Forest Conservation Plan* shall begin when the Department of Natural Resources receives the necessary documents from the Department of Planning and Zoning;
   b. The Department of Planning and Zoning may not approve a *subdivision* or *site plan* or issue the *grading* or *sediment control permit* until the Maryland Department of Natural Resources notifies the county that the standards and requirements of the State program have been satisfied.

4. If the Department of Natural Resources determines the project need not be reviewed under the state program, the time limit for approval of the *Forest Stand Delineation* and *Forest Conservation Plan* under the Kent County Plan begins when the Department of Planning and Zoning receives notice from the Department of Natural Resources.

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SECTION 9 EROSION AND SEDIMENT CONTROL

9.1 STATEMENT OF INTENT*

The purpose of this Ordinance is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with land disturbances. The goal is to minimize soil erosion and prevent off-site sedimentation by using soil erosion and sediment control practices designed in accordance with the Code of Maryland Regulations (COMAR) 26.17.01, the 2011 Maryland Standards and Specifications and the Stormwater Management Act of 2007. Implementing this Ordinance will help reduce the negative impacts of land development on water resources, maintain the chemical, physical, and biological integrity of streams, and minimize damage to public and private property.

The provisions of this Ordinance pursuant to Title 4, Environment Article, Subtitle 1, Annotated Code of Maryland are adopted under the authority of the Code of Public Local Laws of Kent County and shall apply to all land grading occurring within Kent County. The application of this Ordinance and the provisions expressed herein shall be the minimum erosion and sediment control requirements and shall not be deemed a limitation or repeal of any other powers granted by State Statute.

No person shall disturb land without implementing soil erosion and sediment controls in accordance with the requirements of this Ordinance and the Standards and Specifications except as provided within this section.

9.2 APPLICABILITY

1. A permit shall be obtained for any *grading*, *clearing*, *stripping*, excavating, filling of land, or *forest* harvesting. A permit shall also be obtained for the creation of borrow pits, spoil areas, quarries, material processing facilities, or any other facilities.

2. A permit shall not be required for the following, subject to compliance with the requirements of the Department of the Environment, relating to sediment control plans approved by the Kent Soil and Water Conservation District:
   a. Outside the Chesapeake Bay *Critical Area*, *agricultural land management* operating according to *best management practices* in Maryland.
   b. In the Chesapeake Bay *Critical Area*, *agricultural land management* operating according to an approved *soil* and water conservation plan approved by the Kent Soil and Water Conservation District. Landowners who have signed up as conservation district cooperators but do not have a conservation plan developed for them by the District shall be exempt from the requirements of this Section if *best management practices* are used.
   c. *Clearing* or *grading* of land, provided that:
      i. The aggregate of area(s) affected or bared at any one time does not exceed five thousand (5,000) square feet; and
      ii. The *grading* does not involve a quantity of materials in excess of one hundred (100) cubic yards.
   d. State and federal projects that are reviewed and enforced by the Maryland Department of the Environment.

9.3 PROCEDURES

A *person* making an application for a *Sediment Control Permit* shall submit to the Department of Planning and Zoning the following:

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1. Application
2. One original and five copies of the erosion and sediment control plan, including specifications and timing schedules.*
3. Fee
4. A bond if required under Article VI, Section 9.10 of this Ordinance.

9.4 GENERAL REQUIREMENTS

1. Permits issued under this Section do not relieve the owner of responsibility for securing required permits for work to be done which is regulated by any other applicable code, act, or County ordinance. This Section shall not preclude the inclusion in other permits of more stringent *regulations* or requirements concerning sediment control.

2. Standard sediment control plans and provisions may be approved for *single family dwellings* and other minor projects. A plan shall be approved prior to the issuance of a *grading* or building permit.

3. The Kent County Soil and Water Conservation District may prepare sediment control plans for agricultural projects such as barns, chicken houses, dairy operations or other agricultural *buildings*.

4. A copy of the current approved plan shall be kept at the construction *site*.

5. Prior to the issuance of a *grading* permit, copies of the plan shall be referred by the Department of Planning and Zoning to the Kent Soil and Water Conservation District for approval. Where applicable, the Maryland Department of the Environment may also review any plans that may require a water resources permit. Where deemed necessary, the Maryland Department of the Environment may also serve Kent County and the Kent Soil and Water Conservation District as a technical authority in *erosion* and sediment control. The Soil and Water Conservation District shall notify the Department of Planning and Zoning of its recommendations and/or approval.

6. Major modifications of the approved *grading* plans shall be submitted to the Department of Planning and Zoning and reprocessed in the same manner as the original plan. Field modifications of a minor nature may be authorized by the Department of Planning and Zoning provided that written authorization is given to the applicant performing work pursuant to this Section, with copies forwarded in a timely manner to the Kent Soil and Water Conservation District.

7. The permit and inspection fee shall be paid to the Department of Planning and Zoning and shall be determined by the *Sediment Control Officer* after consultation with the Kent Soil and Water Conservation District. The fee for a permit authorizing additional work shall be the difference between the fee paid for the original permit and the fee required for the entire sediment control project.

8. If the land area for which the *grading* is proposed lies within the *floodway* of any stream or *watercourse*, the Kent County Department of Planning and Zoning shall deny a *sediment control permit*, unless such *grading* is authorized or permitted by the Maryland Department of the Environment in accordance with its rules and *regulations*.

* Amended 5/21/13

9. In granting any permit pursuant to this Section, the Kent County Department of Planning and Zoning may impose conditions that may be reasonably necessary to prevent the creation of a nuisance or unreasonable hazard to *persons* or to public or private property. Such conditions include but are not limited to:
   a. Improvement of any existing *grading* to meet the standards required under this Section for new *grading* and for sediment control.
   b. Designation of *easements* for drainage facilities and for the maintenance of *slopes*, *erosion* control facilities, and storm water management *structures* or devices.
   c. Adequate control of dust by watering or other control methods acceptable to the Kent County Department of Planning and Zoning and in conformance with applicable air pollution ordinances.

10. The Department of Planning and Zoning shall have the right to deny issuance of a *grading* permit when the proposed *grading* would cause hazards adverse to the public safety and welfare.

11. For steep banks along the shorelines that are actively eroding and ten feet in height or more, the Kent County Department of Planning and Zoning may elect not to issue a permit for the construction of a dwelling or any other substantial *building*.

12. *Sediment control permits* expire after one year unless construction of the project has begun.

13. Sediment control plans expire after two years.

14. Following initial disturbance or redisturbance, permanent or temporary *stabilization* on areas not under active grading shall be completed within:*
   a. Three calendar days as to the surface of all perimeter dikes, swales, ditches, perimeter *slopes*, and all *slopes* greater than three horizontal to one vertical (3:1).*
   b. Seven days as to other disturbed or graded areas on the project *site*.*

15. The *permittee* shall fully perform and complete all of the work required to be done pursuant to the *grading* within the time limit specified in the *grading* permit. If an applicant is unable to complete the work in the specified time, the applicant shall submit a written request for an extension to the Department of Planning and Zoning that explains the need for the requested extension.

16. All permits issued for sand, gravel, or clay pits and rock quarries or any other mining or material processing operations involving *excavation* and/or stockpiling of *soil*, rock, or other materials shall lapse one year after termination of active, productive (i.e. actually removing material whether at a profit or not and whether stockpiled or sold) and continuous operations as determined by the Department of Planning and Zoning. Said permits shall be reviewed annually by the Department of Planning and Zoning for compliance in accordance with the approved *grading* plan.

17. Neither the issuance of a permit under the provisions of this Section nor the compliance with the provisions hereto or with any condition imposed by the Department of Planning and Zoning shall relieve any *person* from any responsibility for damage to *persons* and/or property.

18. During *grading* control operations the *permittee* shall be responsible for the prevention of damage to any *public utilities* or services within the limits of *grading* and along any routes of travel of equipment. No *person* shall grade on land so close to property lines as to endanger any adjoining public *street*, sidewalk, *alley*, or any other public or private property without supporting and

* Amended 5/21/13

protecting such property from settling, cracking, or other damage. *Grading* can occur on adjacent property if *grading* rights are secured from the property owner. Storm drains must terminate in an *acceptable outfall*. Kent County, Maryland shall not be responsible for any drainage damage to downstream properties for failure of any work to be done pursuant to this Section.

19. No *soil*, miscellaneous debris, or other spilled or dumped material is to be deposited in floodplains, *watercourses*, public *streets*, highways, sidewalks, or other public thoroughfares during transit or operation.

20. The owner of any property on which *grading* or other work has been done under the provisions of this Section shall maintain and/or promptly repair or restore all graded surfaces, *erosion* control measures, vegetative covers and/or other protective measures if disturbed or destroyed during the course of operations. Repair and restoration shall be in conformance with the approved plans until permanent measures are accepted by the Department of Planning and Zoning.

9.5 STEEP SLOPE REQUIREMENTS

1. *Development* may occur within steep slope areas provided that a minimum of 30% of the *lot* or parcel upon which the principal *structure* is to be situated is less than 10% grade and is contiguous to a road meeting Kent County design standards. The extent of cutting and filling that will be permitted on any *lot* will be based on the *soil* conditions at the *site* and as determined by the Department of Planning and Zoning upon recommendation of the Kent Soil and Water Conservation District. Construction on piling and/or supports shall be permitted.

2. All *roads* and *streets* shall be placed as close to the contour as possible, to minimize cutting and filling.

3. The construction of all *structures* shall be preceded by the installation of storm drainage system(s) and *stabilization* measures.

4. In the case of a single *lot development* within such areas where no central storm drainage system exists, runoff from driveways, roofs, and other improved surfaces shall be diverted and carried to an acceptable outlet by one or a combination of the following methods: filtration beds, subsurface dry wells, storm drainage systems and/or underground conduit systems or other adequate or protected outlets.

9.6 VEGETATIVE REQUIREMENTS

Vegetative *erosion* and sediment control measures shall include, but not be limited to, the following:

1. Following initial *soil* disturbance or redisturbance, permanent or temporary *stabilization* on areas not under active grading shall be completed within:*
   a. Three calendar days as to the surface of all perimeter dykes, swales, ditches, perimeter *slopes*, and all *slopes* greater than three to one (3:1).*
   b. Seven days as to all other disturbed or graded areas on the project *site*.*

2. Temporary Vegetative *Stabilization*. Areas where *grading* or cutting and filling operations are carried out in several stages that expose *soil* to *erosion* for six months shall be temporarily stabilized by seeding.* The necessary steps to be followed to attain adequate *erosion* control coverage with temporary seeding shall be as follows:
   a. Necessary *erosion* control practices

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b. Seedbed preparation
c. Lime and fertilizer as required
d. Seeding
e. Mulching and mulch anchoring as required

3. Temporary Mulch *Stabilization*. The necessary steps to attain effective *erosion* control with mulch for short periods of time (less than six months) shall be as follows:
   a. Necessary *erosion* control practices
   b. Mulching placed on a friable *soil*
   c. Mulch anchoring as required

4. Mulching Final Grade. The necessary steps to protect *soil* from *erosion* after final *grading* where permanent seeding is delayed until the next season shall be as follows:
   a. Installation of *erosion* control practices as previously provided or required.
   b. Application of required lime or fertilizer.
   c. Preparation of final seedbed.
   d. Mulching as required.
   e. Mulch anchoring as required.
   f. Secondary seeding shall be established during the first season following mulching.

5. Permanent Vegetative *Stabilization*. Adapted grasses, legumes, and other plants are available for stabilizing exposed areas. The final choice of species should be determined by considering such factors as adaptability to climate, *soils* and terrain and degree of maintenance. Steps necessary to establish permanent vegetative *stabilization* are as follows:
   a. Install required *erosion* control practices.
   b. Apply required lime and fertilizer
   c. Prepare adequate seedbed.
   d. Seed or sod.
   e. Apply mulch and anchor for seed and sod.

9.7 STRUCTURAL REQUIREMENTS

Structural *erosion* and sediment control measures shall include, but not be limited to, those described and depicted in the "Standards and Specifications for Soil Erosion and Sediment Control" booklet as approved, adopted, and as may be amended by the Maryland Department of the Environment.

1. Fills and Classifications. The *grading* plans and specifications shall specify and delineate the use and extent of fills in accordance with the following classifications:
   a. Type I *Fill*. *Load-bearing fills* proposed for support of *buildings*, walls, and other *structures*, the function thereof which would not be especially impaired by moderate settlement.
   b. Type II *Fill*. *Load-bearing fills* proposed for support of *roadways*, pavements, utility lines and *structures* that would not be especially impaired by moderate settlement.
   c. Type III *Fill*. Common fills proposed for landscaping or for other non-load bearing usage.

2. Materials. All *load-bearing fills* shall meet the following requirements:
   a. No inclusions of organic or other deleterious materials which may be subject to decay shall be permitted. All fills shall also be free of inclusions of ice or snow.
   b. No rock or similar irreducible material with a maximum dimension greater than eight inches shall be buried or placed in any *load-bearing fill* within two feet of *finished grade* or within two feet of foundation base elevation. When such material is placed in fills, it shall be done under the direction and supervision of an *engineer*.

3. Preparation of Ground. The natural ground surface shall be prepared to receive *fill* by removing all organic surface materials, non-complying *fill* and unsuitable *soils* in accordance with the following provisions, except as otherwise approved by the Department of Planning and Zoning:
   a. Prior to placing Type I and Type II fills, the ground surface, if within five feet of *finished grade* or foundation base, elevations shall be compacted so as to achieve a density of not less than 90% of maximum density as defined under Article VI, Section 9.6.4 of this Ordinance within the top six inches.
   b. No Type I and Type II *fill* shall be placed on frozen ground.

4. *Compaction*. All fills will be compacted in accordance with the following provisions:
   a. All Type I and Type II fills shall be compacted to a minimum of 95% and 90%, respectively, and maximum density as determined in the laboratory of *ASTM* Test Method D1557-66T, also known as the proctor test. Type III *fill* shall be compacted sufficiently so as to be stable and to prevent an *erosion* hazard.
   b. In place (field) density shall be determined by *ASTM* Test of American Society of Highway Officials Equivalent Test Method D1556-64 or by an equivalent test approved by the Kent County Department of Planning and Zoning.
   c. Fills shall be placed in approximately horizontal layers, each layer having a loose thickness of not more than eight inches.

5. Structural Rock. Fills constructed predominately of large rock (such as sandstone and iron concretions) will be permitted only if the specifications for such *fill* are prepared by and construction done under the direction and supervision of an *engineer*.

6. Maximum *Slope* for Fills.
   a. No *fill* shall be made which creates an exposed surface steeper in *slope* than two horizontal to one vertical (2 to 1), unless special approval is granted by the Kent County Soil and Water Conservation District.
   b. The Department of Planning and Zoning may require that the *fill* be constructed with an exposed surface with a grade flatter than 2 to 1 or may require such other measures it deems necessary for stability, vegetative establishment and maintenance, and safety.
   c. Fills toeing out on natural *slopes* at a grade steeper than three horizontal to one vertical (3 to 1) shall not be made unless approved by the Department of Planning and Zoning.

7. Maximum *Slope* for Cuts.
   a. Cuts shall not be made with a *slope* steeper than 2 to 1.
   b. The Department of Planning and Zoning shall require at any time that the *excavation* be made with a *cut* face with a grade flatter than 2 to 1 or may require other such measures for stability, vegetative establishments, and safety.

8. *Cut* and *Fill Slopes - Bench terrace*s.
   a. *Cut* and *fill slopes* in excess of 30 feet but not more than 40 feet in vertical height shall be terraced at approximate mid-height. Terraces in *slopes* with a vertical height greater than 40 feet shall be made at equal vertical intervals not more than 20 feet apart. Depending upon *soil* conditions, terraces may be required of closer intervals by the Department of Planning and Zoning as it deems necessary for stability, vegetative establishment and maintenance, and safety. *Bench terrace*s shall be a minimum of 6 feet wide with an absolute minimum invert gradient between 2 and 3%, with a six to one, or flatter, lateral *slope* towards the toe of the upper bank, and must convey water with minimum six inch free-board to an acceptable outlet.

b. Cuts and fills shall be set back from property lines and *buildings* shall be set back from *cut* or *fill slopes* in accordance with the diagrams entitled "*Slope* Setback From Property Line" and a certified copy of which shall permanently be kept on file with the Department of Planning and Zoning.

c. *Fill* placed above the top of an exiting or proposed surface with a *slope* steeper than three horizontal to one vertical shall be set back from the top of the *slope* a minimum distance of six feet.

d. The setbacks established by Article VI, Section 9.7.8 of this Ordinance are minimum and, depending on *soil* conditions, may be increased by the Department of Planning and Zoning if deemed necessary for safety or stability or to prevent damage from water, *soil*, or debris.

e. Notwithstanding anything to the contrary, the Department of Planning and Zoning may reduce the required setback where the necessity for the setback may be eliminated or reduced by the construction of retaining walls or if the owner has a letter of authorization to extend *slopes* onto the adjacent property.

9. Existing natural and man-made features, such as *streets*, *watercourses*, falls, beaches, vistas, historic or architecturally significant *buildings*, and similar irreplaceable assets, should be preserved through harmonious and careful *development*, insofar as possible.

10. Drainage. The following provisions apply to the conveyance and disposal of surface water runoff:

a. Disposal - all drainage facilities shall be designed to convey surface water in such a manner as to prevent *erosion*, overflow or ponding. Said water shall be conveyed to an acceptable outlet in accordance with such applicable design, criteria standards and procedures as required by the Department of Planning and Zoning. The ponding of water shall not be permitted above the *cut* and *fill slopes* or on drainage terraces. Adequate drainage facilities shall be provided to prevent such ponding.

b. *Erosion* Prevention - The *permittee* and the owner shall make adequate provisions to prevent any surface and/or groundwater from materially damaging the face of any *cut* or *fill*. All *slopes* shall be protected from surface runoff from above by *berms*, swales, or brow ditches.

c. *Grading* Around *Buildings* - All areas shall be graded to provide for positive drainage away from the *building* toward the approved disposal area.

d. Retention and *Infiltration* - Subject to the requirements and recommendations of the Kent County Soil and Water Conservation District and the Department of the Environment, measures such as *infiltration* beds, dry walls, and retention ponds may be used to allow storm water runoff to percolate into the *soil*.

9.8 REVIEW AND APPROVAL OF EROSION AND SEDIMENT CONTROL PLANS*

1. A person may not grade land without an erosion and sediment control plan approved by the *approving agency*.

2. The *approving agency* shall review erosion and sediment control plans to determine compliance with this Ordinance and the Standards and Specifications prior to approval. In approving the plan, the *approving agency* may impose such conditions that may be deemed necessary to ensure compliance with the provisions of this Ordinance, COMAR 26.17.01, the Standards and Specifications, and the preservation of public health and safety.

* Amended 5/21/13

3. At a minimum, a concept plan must include the mapping of natural resources and sensitive areas including highly erodible soils and slopes greater than 15% as well as information required under Stormwater Management. These areas are to remain undisturbed or an explanation must be included with either the concept or site development plan describing enhanced protection strategies for these areas during construction.

4. A site development plan submittal must include all concept plan information and indicate how proposed erosion and sediment control practices will be integrated with proposed stormwater management practices. The latter is to be done through a narrative and an overlay plan showing both Environmental Site Design (ESD) and erosion and sediment control practices. An initial sequence of construction and proposed project phasing to achieve the grading unit restriction should be submitted at this time.

5. An applicant shall submit a final erosion and sediment control plan to the *approving agency* for review and approval. The plan must include all of the information required by the concept and site development plans as well as any information in Section 9.9 not already submitted.

6. A final erosion and sediment control plan shall not be considered approved without the inclusion of the signature and date of signature of the *approving agency* on the plan.

7. Approved plans remain valid for three (3) years from the date of approval unless extended or renewed by the *approving agency*. **

8. Grandfathering of Approved Plans:
   a. Any plans that receive final approval after January 9, 2013, must be in compliance with the requirements of this Section and the Standards and Specifications.
   b. A plan that receives final approval by January 9, 2013, may be reapproved under its existing conditions if grading activities have begun on the site by January 9, 2015, with the exception of stabilization requirements.
   c. Stabilization practices on all sites must be in compliance with the requirements of this Section and the Standards and Specifications by January 9, 2013, regardless of when an approved erosion and sediment control plan was approved.

9.9 CONTENTS OF EROSION AND SEDIMENT CONTROL PLANS*

1. An applicant is responsible for submitting erosion and sediment control plans that meet the requirements of the *approving agency*, this Section, Stormwater Management, and the Standards and Specifications. The plans shall include sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed grading on water resources, and the effectiveness and acceptability of measures proposed to minimize soil erosion and off-site sedimentation.

2. At a minimum, applicants shall submit the following information:
   a. A letter of transmittal and/or application;
   b. Name, address, and telephone number of:
      i. The owner of the property where the grading is proposed;
      ii. The developer; and
      iii. The applicant;
   c. A vicinity map indicating north arrow, scale, site location, and other information necessary to easily locate the property;

* Amended 5/21/13; ** Amended 9/3/19

d. Drainage area map(s) at a 1" = 200' minimum scale showing existing, interim, and proposed topography, proposed improvements, standard symbols for proposed sediment control features, and pertinent drainage information including provisions to protect downstream areas from erosion for a minimum of 200 feet downstream or to the next conveyance system;

e. The location of natural resources, wetlands, floodplains, highly erodible soils, slopes 15% and steeper, and any other sensitive areas;

f. A general description of the predominant soil types on the site, as described by the appropriate soil survey information available through the local soil conservation district or the USDA Natural Resources Soil Conservation Service;

g. Proposed stormwater management practices;

h. Erosion and sediment control plans including:

i. The existing topography and improvements as well as proposed topography and improvements at a scale between 1" = 10' and 1" = 50' with 2 foot contours or other approved contour interval. For projects with more than minor grading, interim contours may also be required;

ii. Scale, project and sheet title, and north arrow on each plan sheet;

iii. The limit of disturbance (LOD) including:

a) Limit of grading (grading units, if applicable); and

b) Initial, interim, and final phases;

iv. The proposed grading and earth disturbance including:

a) Total disturbed area;

b) Volume of cut and fill quantities; and

c) Volume of borrow and spoil quantities;

v. Storm drainage features, including:

a) Existing and proposed bridges, storm drains, culverts, outfalls, etc.;

b) Velocities and peak flow rates at outfalls for the two-year and ten-year frequency storm events; and

c) Site conditions around points of all surface water discharge from the site;

vi. Erosion and sediment control practices to minimize on-site erosion and prevent off-site sedimentation including:

a) The salvage and reuse of topsoil;

b) Phased construction and implementation of grading unit(s) to minimize disturbances, both in extent and duration;

c) Location and type of all proposed sediment control practices;

d) Design details and data for all erosion and sediment control practices; and

e) Specifications for temporary and permanent stabilization measures including, at a minimum:

(i) The "Standard Stabilization Note" on the plan stating:
"Following initial soil disturbance or re-disturbance, permanent or temporary stabilization must be completed within:

(a) Three calendar days as to the surface of all perimeter dikes, swales, ditches, perimeter slopes, and all slopes steeper than 3 horizontal to 1 vertical (3:1); and

(b) Seven calendar days as to all other disturbed or graded areas on the project site not under active grading."

(ii) Details for areas requiring accelerated stabilization; and

(iii) Maintenance requirements as defined in the Standards and Specifications;

vii. A sequence of construction describing the relationship between the implementation and maintenance of controls, including permanent and temporary stabilization, and the various stages or phases of earth disturbance and construction. Any changes or revisions to the sequence of construction must be approved by the *approving agency* prior to proceeding with construction. The sequence of construction, at a minimum, must include the following:

a) Request for a pre-construction meeting with the appropriate enforcement authority;
b) Clearing and grubbing as necessary for the installation of perimeter controls;
c) Construction and stabilization of perimeter controls;
d) Remaining clearing and grubbing within installed perimeter controls;
e) Road grading;
f) Grading for the remainder of the site;
g) Utility installation and connections to existing structures;
h) Construction of buildings, roads, and other construction;
i) Final grading, landscaping, and stabilization;
j) Installation of stormwater management measures;
k) Approval of the appropriate enforcement authority prior to removal of sediment controls; and
l) Removal of controls and stabilization of areas that are disturbed by removal of sediment controls.

viii. A statement requiring the owner/developer or representative to contact the inspection agency or its agent at the following stages of the project or in accordance with the approved erosion and sediment control plan, grading permit, or building permit:

a) Prior to the start of earth disturbance;
b) Upon completion of the installation of perimeter erosion and sediment controls, but before proceeding with any other earth disturbance or grading;
c) Prior to the start of another phase of construction or opening of another grading unit; and
d) Prior to the removal of sediment control practices;

ix. Certification by the owner/developer that any clearing, grading, construction, or *development* will be done pursuant to the approved erosion and sediment control plan. The certification must also require that the responsible personnel involved in the construction project have a Certificate of Training at an MDE approved training program for the control of erosion and sediment prior to beginning the project. The Certificate of Training for Responsible Personnel may be waived by the *approving agency* on any project involving four or fewer residential lots. Additionally, the owner/developer shall allow right of entry for periodic on-site evaluation by the *approving agency*, Department of Planning and Zoning, the inspection agency, and/or MDE; and

x. Certification by a professional engineer, land surveyor, landscape architect, architect, or forester (for forest harvest operations only) registered in the State that the plans have been designed in accordance with erosion and sediment control laws, regulations, and standards, if required by the *approving agency* or the Maryland Water Management Administration.

i. Any additional information or data deemed appropriate by the *approving agency*.

3. All plans shall conform to the following terms and conditions:
   a. The *development* shall be fitted to the *topography* and *soils* so as to create the least *erosion* potential.
   b. *Natural vegetation* shall be retained and protected wherever possible.
   c. Only the smallest practical area shall be exposed for the shortest practical period of time.
   d. *Erosion* control practices (such as interceptor ditches, *berms*, terraces, contour ripping, *soil erosion* checks and sediment basins) shall be installed to minimize *soil* and water losses.
   e. Temporary vegetation and/or mulching shall be used to protect critical areas exposed during the time of *development*.
   f. During and after *development*, provisions shall be made to effectively accommodate the increased runoff caused by changeable *soil* and surface conditions and not cause siltation, destruction, or deterioration of the receiving stream.
   g. Permanent vegetation and *structures* shall be installed in the *development* as soon as the season permits.

9.10 SECURITIES

1. Bonds.
   a. A *grading* permit shall not be issued for *grading* involving the movement of more than 1,000 cubic yards of *soils* unless the *permittee* shall post with the Department of Planning and Zoning a performance bond, letter of credit or other surety. The bond, irrevocable letter of credit or other surety shall be in a form approved by the County Attorney and in an amount not less than the total estimated cost of the *erosion* control and *stabilization* of the *site*. Said estimated cost shall be that which is approved by the Department of Planning and Zoning or in consultation with the Kent Soil and Water Conservation District after reviewing the cost estimates proposed by the applicant's acceptable *engineer*, *land surveyor*, or *architect* and submitted with the *grading* permit application.
   b. The bond, irrevocable letter of credit or other surety shall include the following provisions:
      i. The applicant shall comply with all of the provisions of this Ordinance and all other applicable laws and ordinances.
      ii. The applicant shall comply with all of the terms and conditions of the *grading* permit.
      iii. Any extension of completion time under Article VI, Section 9.4.15 of this Ordinance shall not release the applicant or surety on the bond, irrevocable letter of credit, or other surety.
      iv. Upon default, the applicant and surety shall continue to be firmly bound under a continuing obligation for payment of one of the following at the election of the surety:
         a) All costs and expenses necessary to complete the work in accordance with the approved plans and specifications (or any approved modification thereof).
         b) All necessary costs and expenses or liabilities which may be incurred to stabilize in accordance with a *stabilization* plan for *erosion* control presented by the surety and approved by Kent County.
         c) Payment of the full amount of the bond to Kent County to perform the work necessary. If the cost for restoration of the *site* to meet the minimum requirements of this Section (with particular emphases on stability, safety, drainage, and *erosion* control) exceeds the amount of the bond, the *permittee* shall continue to be firmly bound under a continuing obligation for payment of all excess cost and expenses incurred by the county.

c. The bond, irrevocable letter of credit or other surety shall remain in full force and effect until the completion of the work to the specifications required. If all work of the permit is not completed within the time specified therein, or as otherwise provided for in Article VI, Section 9.4.15 of this Ordinance or violates any other term or condition, payment in full to Kent County may be ordered. The funds so received shall be used by the County for defraying the cost of restoration of the *site*. Upon approval of a certificate of completion, the bond, irrevocable letter of credit or other surety shall be released.

9.11 HAZARDOUS CONDITIONS

1. If the Department of Planning and Zoning determines that an *excavation*, *embankment*, or a *fill* endangers or adversely affects the safety or stability of any public or private property, as determined from the guidelines of this Ordinance, the Planning Director, or the Planning Director's designee, shall promptly notify in writing the owner (or other *persons* in control) of the property upon which the condition exists.

2. If the correction is not commenced in accordance with the provisions of the Ordinance within the period of time specified in the notice, the owners (or other *persons* in control) shall be subject to the penalties set forth in Article XII of this Ordinance.

9.12 INSPECTIONS

1. All work shall be inspected by the Department of Planning and Zoning according to the following schedule.
   a. *Clearing* and grubbing for those areas necessary for installation of perimeter controls.
   b. Completion of perimeter controls.
   c. Remaining *clearing* and grubbing.
   d. Road *grading*
   e. *Grading* for remainder of the *site*.
   f. Utility and storm drain installation.
   g. Final *grading*, landscaping, or *stabilization*.
   h. Removal of controls and maintenance.
   i. At other times determined by the Department of Planning and Zoning.
   j. Every two weeks, for compliance with approved sediment control plans.

2. It shall be a condition of every *grading* or building permit that the inspection agency has the right to enter the property periodically to inspect for compliance with the approved erosion and sediment control plan and this Ordinance.

3. Inspection Procedure. Work approved shall not proceed until the Department of Planning and Zoning inspects the *site* and approves the work previously completed or notifies the *permittee* otherwise. Upon notification from the *permittee*, the Department of Planning and Zoning shall inspect the *site* and notify the *permittee* of its approval or rejection within forty-eight (48) hours (exclusive of Saturdays, Sundays, and Holidays). If the inspector does not make an inspection within the specified time period, work may proceed without presumption of approval at the risk of the *permittee*. The Department of Planning and Zoning shall have the right to waive inspections except final inspection as necessary.

4. Inspection Reports.
   a. Written reports: Structural *erosion* and sediment control measures shall include, but not be limited to, those described and depicted in the booklet entitled "Standards and Specifications for Soil Erosion Control" as approved by the Maryland Department of the Environment. This booklet, as currently amended, is readily available at offices of the Kent County Department of Planning and Zoning, 400 High Street, Chestertown, Maryland; Kent County Soil and Water Conservation District, Chestertown, Maryland; Natural Resources Conservation Service, Chestertown, Maryland; and the Maryland Department of the Environment.
   b. Written inspection reports shall be completed by the inspector for all inspections. The reports shall include, at minimum:
      i. Date and location of *site* inspection
      ii. Degree of plan implementation
      iii. Deficiencies of plan or practice
      iv. Enforcement action taken, if any
      v. A time frame for corrective measures

5. When required by the Kent County Department of Planning and Zoning, inspections and testing shall be performed under the direction of an *engineer*, *land surveyor* or *architect* who shall certify all inspection reports and tests results. Such reports shall include *certification* by an *engineer* for the adequacy of:
   a. Cleared areas and benched or keyed surfaces prepared to receive fills.
   b. Removal of unsuitable materials.
   c. Construction of *erosion* control or drainage devices, buttress fills, under-drains, retaining walls, and other *grading* appurtenances.
   d. The degree of *compaction* where tests are performed.

6. All certified inspection reports and certified test results shall be periodically submitted to the Department of Planning and Zoning, during the performance of the work.

7. Final Reports. The Department of Planning and Zoning shall maintain permanent files on their respective inspections. Upon completion of permitted work, the Department of Planning and Zoning shall require the following for these files and shall also require copies for the Kent County Soil and Water Conservation District.
   a. An as-built original plan by a *land surveyor* or *engineer* and showing all improvements and final grades with red line alterations allowed.
   b. *Certification* by the owner that all *grading*, drainage, *erosion* control measures, and facilities and vegetative measures have been completed in conformance with the approved plans and specifications.
   c. A report summarizing the inspection reports, field and laboratory tests and locations of tests.

8. Final Inspection Request
   The *permittee* or the *permittee's* agent shall notify the Department of Planning and Zoning when the *grading* operation is ready for final inspection. Final approval shall be given in a timely manner when all work (including installation of all drainage *structures* and *erosion* protective devices) has been completed as well as the required vegetative *stabilization* and the required reports have been submitted.

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SECTION 10 *STORMWATER* MANAGEMENT *

10.1 INTENT

The purpose of this ordinance is to protect, maintain and enhance the public health, safety and general welfare by establishing minimum requirements and procedures to control the *adverse impacts* associated with increased *stormwater* runoff. The goal is to manage *stormwater* by using *environmental site design* (*ESD*) to the *maximum extent practicable* (*MEP*) to maintain after *development* as nearly as possible, the predevelopment runoff characteristics, and to reduce stream channel erosion, pollution, siltation, and sedimentation, and local flooding, and use appropriate structural *best managment practices* (*BMP*) only when necessary. This will restore, enhance, and maintain the chemical, physical, and biological integrity of streams, minimize damage to public and private property and reduce the impacts of land development.

10.2 AUTHORITY; EXPLANATION OF PROVISIONS

The provisions of this ordinance pursuant to the Environment Article, Title 4, Subtitle 2, Annotated Code of Maryland, 2009-replacement volume, are adopted under the Code of Public Local Laws of Kent County and shall apply to all *development* or *redevelopment* occurring within the unincorporated area of Kent County. The application of this ordinance and the provisions expressed herein shall be the minimum *stormwater* management requirements and shall not be deemed a limitation or repeal of any other powers granted by state statute. The County shall be responsible for the coordination and enforcement of the provisions of this Ordinance. Any *development* that has not received final approval for erosion and sediment control and *stormwater* management plans by May 4, 2010 shall comply with the 2010 revised Ordinance, unless the *development* or *redevelopment* is granted an administrative *waiver* under Article VI, Section 10.4 of this Ordinance.

10.3 INCORPORATION BY REFERENCE

The 2000 Maryland *Stormwater* Design Manual, Volumes I & II (Maryland Department of the Environment, April 2000 and as may be amended), shall be incorporated by reference and shall serve as the official guide for *stormwater* management principles, methods, and practices.

The USDA Natural Resources Conservation Service Maryland Conservation Practice Standard Pond Code 378 (January 2000 and as may be amended) shall be incorporated by reference.

10.4 GRANDFATHERING

A. DEFINITIONS APPLICABLE TO THE GRANDFATHERING

For the purpose of determining the grandfathering of development *stormwater* management plans as set forth in Article VI, Section 10.4B of this Ordinance certain words are hereby defined.

1. Administrative *Waiver*: A decision by Kent County pursuant to this Ordinance to allow the construction of a *development* to be governed by the *stormwater* management ordinance in effect as of May 4, 2009. An administrative *waiver* is distinct from a *waiver* granted pursuant to Article IX, Section 3.2 of this Ordinance.

2. Approval: A documented action by Kent County following a review to determine and acknowledge the sufficiency of submitted material to met the requirements of a specified stage in a local development review process. Approval does not mean acknowledgment by Kent County that material has been received for review.

* Amended 11/16/10

3. Final Project Approval: Approval of the *final stormwater management plan* and erosion and sediment control plan required to construct a project's *stormwater* management facilities. Final approval also includes securing the bonding or financing for final development plans if required as a prerequisite for approval.

4. Preliminary Project Approval: Approval of the preliminary development plan that includes at a minimum:
   a. The number of planned dwelling units or lots
   b. The proposed project density
   c. The proposed size and location of all land uses for the project
   d. A plan that identifies:
      i. The proposed drainage patterns;
      ii. The location of all points of discharge from the *site*; and
      iii. The type, location, and size of all *stormwater* management measures based on *site*-specific *stormwater* management requirement computations.
   e. Any other information required by Kent County including but not limited to:
      i. The proposed alignment, location and construction type and standard for all roads, access ways, and areas of vehicular traffic;
      ii. A demonstration that the methods by which the *development* will be supplied with water and wastewater services are adequate; and
      iii. The size, type, and general location of all proposed wastewater and water system infrastructure.

B. ADMINISTRATIVE *WAIVERS*

Kent County may grant an administrative *waiver* to a *development* that received a preliminary project approval prior to May 4, 2010. Administrative *waivers* expire according to Article VI, Section 10.4C of this Ordinance and may be extended according to Article VI, Section 10.4D of this Ordinance. Kent County may impose such conditions upon the approval of an administrative *waiver* deemed necessary to secure compliance with the spirit and intent of this Ordinance.

C. EXPIRATION OF ADMINISTRATIVE *WAIVERS*

Except as provide for in Article VI, Section 10.4D of this Ordinance, an administrative *waiver* shall expire on May 4, 2013 if the *development* does not receive final project approval prior to May 4, 2013 or May 4, 2017 if the *development* receives final approval prior to May 4, 2013. All construction authorized pursuant to an administrative *waiver* must be completed by May 4, 2017 unless otherwise extended according to Article VI, Section 10.5D of this Ordinance. Administrative *waivers* which receive an extension shall expire according to the requirements of Article VI, Section 10.4D of this Ordinance.

D. EXTENSION OF ADMINISTRATIVE *WAIVERS*

1. In order to grant an extension to an administrative *waiver*, Kent County shall find the following:
   a. The project received preliminary project approval prior to May 4, 2010; and
   b. The project was subject to a Development Rights and Responsibilities Agreement, a Tax Increment Financing Approval, or an annexation agreement.

2. Administrative *waivers* which receive an extension shall expire with the expiration of the Developers Rights and Responsibilities Agreement, the Tax Increment Financing approval or the Annexation agreement.

10.5 SCOPE

No person shall develop any land for residential, commercial, industrial, or institutional uses or redevelop land without having provided for appropriate *stormwater* management measures that control or manage runoff from such developments, except as provided in this section. *Stormwater* management measures must be designed consistent with the Design Manual and constructed according to an approved plan for new *development* or polices stated in Article VI, Section 10.7 of this Ordinance for *redevelopment*.

10.6 *EXEMPTIONS*

The following *development* activities are exempt from the provisions of this Section and the requirements of providing *stormwater* management:

1. Normally accepted agricultural land management activities and *BMP*s, (i.e. waterways, ponds, etc.)

2. Additions or modifications to existing single family detached residential *structures* provided that these additions or modifications do not disturb over 5,000 square feet of land.

3. Developments that do not disturb over 5,000 square feet of land.

4. Land development activities that the Maryland Department of the Environment determines will be regulated under specific state laws, which provide for managing *stormwater* runoff.

10.7 *REDEVELOPMENT*

This section applies to any construction, alteration, or improvement performed on sites where existing land use is commercial, industrial, institutional, or multi-family residential and existing *site* impervious area exceeds forty (40) percent.

1. *Stormwater* management plans are required by Kent County for all *redevelopment*, unless otherwise specified by *watershed* management plans developed according to this Ordinance. *Stormwater* management measures shall be consistent with the Design Manual.

2. All *redevelopment* designs shall:
   a. Reduce *impervious surface* area within the limit of disturbance (LOD) by at least 50% according to the Design Manual;
   b. Implement *ESD* to *MEP* to provide water quality treatment for at least 50% of the existing *impervious surface* area within the limit of disturbance; or
   c. Use a combination of 10.7 2a and 2b of this Ordinance for at least 50% of the existing *site* impervious area.

3. Alternative *stormwater* management measures may be used to meet the requirements of Article VI, Section 10.7.2 of this Ordinance if the *applicant* satisfactorily demonstrates to the County that impervious area reduction has been maximized and *ESD* has been implemented to the *MEP*. Alternative *stormwater* management measures include, but are not limited to:
   a. An on-*site* structural *BMP*;
   b. An off-*site BMP* to provide water quality treatment for an area equal to or greater than 50% of the existing impervious area; or

c. A combination of impervious area reduction, *environmental site design* implementation, and an on-*site* or off-*site* structural Best Management Practice for an area equal to or greater than 50% of the existing *site impervious surface* area within the limit of disturbance.

4. Kent County may develop separate policies for providing water quality treatment for *redevelopment* projects if the requirements of Article VI, Section 10.7.1 and 10.7.2 of this Ordinance cannot be met. Any separate *redevelopment* policy shall be reviewed and approved by the Maryland Department of the Environment and may include but not be limited to:
   a. A combination of *ESD* and an on-*site* or offsite structural *BMP*;
   b. *Retrofitting* including existing *BMP* upgrades, filtering practices and offsite *ESD* implementation;
   c. Stream restoration in the same 12-digit *watershed* as the proposed *development* and an area restored equivalent to the area required for treatment.
   d. Pollution trading with another entity.
   e. Payment of a fee in lieu; or
   f. A partial *waiver* of the treatment requirements if *ESD* is not practicable.

5. The determination of alternatives available may be made by Kent County at the appropriate stage in the development review process. Kent County shall consider the prioritization of alternatives in Article VI, Section 10.7.4 of this Ordinance after it has been determined that it is not practicable to meet the 2009 regulatory requirements using *ESD*. In deciding the alternatives that may be required, Kent County may consider factors including but not limited to the following:
   a. Whether the project is in an area targeted for development incentives such as a Priority Funding Area;
   b. Whether the project is necessary to accommodate growth consistent with the Comprehensive Plan; or
   c. Whether bonding or other financing mechanisms have been secured based on an approved development plan.

6. *Stormwater* management shall be addressed according to the new *development* requirements in the Design Manual for any net increase in impervious areas.

10.8 *STORMWATER* MINIMUM CONTROL STANDARDS

Stormwater management shall be accomplished for all new *development* according to the minimum requirements established in this section and the Design Manual as follows:

1. All *planning techniques*, nonstructural practices, and design methods specified in the Design Manual shall be used to implement *ESD* to the *MEP*. The use of *environmental site design planning techniques* and treatment practices shall be exhausted before any structural *BMP* is implemented. *Stormwater* management plans for *development* projects subject to this Ordinance shall be designed using *ESD* sizing criteria, *recharge volume*, *water quality volume*, and *channel protection storage volume* criteria according to the Design Manual. The *MEP* standard is met when channel stability is maintained, predevelopment groundwater recharge is replicated, nonpoint source pollution is minimized, and structural *stormwater* management practices are used only if determined to be absolutely necessary.

2. Control of the 10-year frequency storm event is required according to the Design Manual if the County determines that additional *stormwater* management is necessary because historical flooding problems exist and downstream floodplain development and conveyance system design cannot be controlled.

3. Kent County may require more than the minimum control requirements specified in this Ordinance if hydrologic or topographic conditions warrant or if flooding, stream channel erosion, or water quality problems exist downstream from a proposed project.

4. Alternate minimum control requirements may be adopted subject to approval by the Maryland Department of the Environment. The Maryland Department of the Environment shall require a demonstration that alternative requirements will implement *ESD* to the *MEP* and control flood damages, accelerated stream erosion, water quality and sedimentation. Comprehensive *watershed* studies may also be required.

5. *Stormwater* management and development plans where applicable, shall be consistent with adopted and approved *watershed* management plans or flood management plans as approved by the Maryland Department of the Environment in accordance with the Flood Hazard Management Act of 1976.

10.9 *STORMWATER* MANAGEMENT MEASURES

The *ESD planning techniques* and practices and structural *stormwater* management measures established in this Ordinance and the Design Manual shall be used, either alone or in combination in a *stormwater* management plan. The *applicant* shall demonstrate that *ESD* has been implemented to the *MEP* before the use of a structural Best Management Plan is considered in developing the *stormwater* management plan.

A. *ENVIRONMENTAL SITE DESIGN* TECHNIQUES AND PRACTICES

1. The following *planning techniques* shall be applied according to the Design Manual to satisfy the applicable minimum control requirements established in Article VI, Section 10.8 of this Ordinance:
   a. Preserving and protecting natural resources
   b. Conserving natural drainage patterns
   c. Minimizing impervious areas
   d. Reducing runoff volume
   e. Using *ESD* practices to maintain 100% of the annual predevelopment groundwater *recharge volume*.

2. The following *ESD* practices shall be designed according to the Design Manual to satisfy the applicable minimum control requirements established in Article VI, Section 10.8 of this Ordinance.
   a. Disconnection of rooftop runoff
   b. Disconnection of non-rooftop runoff
   c. Sheet flow to conservation areas
   d. Rainwater harvesting, including rain barrels, rainwater tanks, and cisterns.
   e. Submerged gravel wetlands
   f. Landscape infiltration
   g. Infiltration berms
   h. Dry wells
   i. Micro-bioretention
   j. Rain gardens

k. Swales
l. Enhanced Filters
m. Any practice approved by the Maryland Department of Environment

3. The use of *ESD planning techniques* and treatment practices specified in this section shall not conflict with existing State law or local ordinances, regulations, or policies. The County shall modify ordinances and codes to eliminate any impediments to implementing *ESD* to the *MEP* according to the Design Manual.

B. STRUCTURAL *STORMWATER* MANAGEMENT MEASURES

1. The following structural *stormwater* management practices shall be designed according to the Design Manual to satisfy the applicable minimum control requirements established Article VI, Section 10.8 in this Ordinance:
   a. *Stormwater* management ponds
   b. *Stormwater* management wetlands
   c. *Stormwater* management infiltration
   d. *Stormwater* management filtering systems
   e. *Stormwater* management open channel systems

2. When selecting structural *stormwater* management practices, the *applicant* shall consider the performance criteria specified in the Design Manual with regard to general feasibility, conveyance, pretreatment, treatment and geometry, environment and landscaping, and maintenance.

3. Structural *stormwater* management practices shall be selected to accommodate the unique hydrologic or geologic regions of the State.

C. ALTERNATIVE PRACTICES AND MEASURES

Alternative *ESD planning techniques* and treatment practices and structural *stormwater* measures may be used for new development runoff control if the practices and measures meet the performance criteria in the Design Manual and all subsequent revisions and are approved by the Maryland Department of Environment. Practices used for *redevelopment* projects shall be approved by the County.

D. RECORDATION OF PRACTICES AND MEASURES

ESD techniques and treatment practices and structural *stormwater* management measures used to satisfy the minimum requirements in Article VI, Section 10.8 of this Ordinance must be recorded in the land records of Kent County and remain unaltered by subsequent property owners. Prior approval from the County shall be obtained before any *stormwater* management practice is altered.

E. MODIFICATION

For purposes of modifying the minimum control requirements or design criteria, the *applicant* shall submit an analysis to the County of the impacts of *stormwater* flows downstream in the *watershed*. The analysis shall include hydrologic and hydraulic calculations necessary to determine the impact of hydrographic timing modifications of the proposed *development* upon a dam, highway, *structure*, or natural point of restricted stream flow. The point of investigation shall be established with the concurrence of the County downstream of the first downstream tributary whose *drainage area* equals or exceeds the contributing area to the project or *stormwater* management facility.

10.10 SPECIFIC DESIGN CRITERIA

The basic design criteria, methodologies, and construction specifications, subject to the approval of Kent County and the Maryland Department of Environment shall be those of the Design Manual.

10.11 *STORMWATER* MANAGEMENT PLANS - REVIEW AND APPROVAL

1. For any proposed *development* a phased *stormwater* management plan shall be submitted to the County for review and approval. Unless otherwise determined by the County, plans shall be submitted for the concept, site design, and final *stormwater* management construction. When deemed appropriate by the County due to minor cumulative impacts of the *development* and when the *applicant* has demonstrated that *ESD* standards have been met to the *MEP*, the site design and final *stormwater* management construction may be combined. Site plans, subdivisions, and building permits with a total proposed lot coverage of 15% and total land disturbance less than 20,000 square feet may combine all review phases when the *applicant* has demonstrated that *ESD* standards have been met to the *MEP* using the Standard Plan. Sites Plans and building permits that meet the criteria outlined on the Standard *Stormwater* Plan may utilize the Standard *Stormwater* Management Plan.

2. Conceptual *stormwater* management plans should be submitted with conceptual site or subdivision plans and shall include sufficient information for an initial assessment of the proposed project and proposed *stormwater*. The concept review process will review at a conceptual level, the feasibility, design and environmental characteristics of the proposal with a goal to ensure that significant natural areas are protected and to determine if *stormwater* management can be provided according the *Stormwater* Management Measures identified in Article VI, Section 10.9 of this Ordinance.

3. Following conceptual approval and where applicable in conjunction with the preliminary site or subdivision plan, the *applicant* shall submit a *site development plan*. The *site development plan* shall include detailed designs for *stormwater* management and erosion and sediment control. The *site development plan* process will review the plan to ensure that all options for implementing *ESD* have been exhausted and comments received during conceptual review have been incorporated into the *site development plan*.

4. Following *site development plan* approval and where applicable in conjunction with the final site or subdivision plan and the sediment and erosion control plan, the *applicant* shall submit a *final stormwater management plan*. The *final stormwater management plan* shall include *stormwater* construction drawings accompanied by a report that includes sufficient information to evaluate the effectiveness of the proposed runoff control design. The final *stormwater* plan process will review the plan and supporting documents for compliance with all applicable regulations and to ensure that when structural practices are used, all reasonable options for implementing *ESD* have been exhausted.

5. The County shall perform a comprehensive review of the *stormwater* management plans for each phase of the site design. Coordinated comments will be provided for each plan phase that reflects input from all appropriate agencies including but not limited to the Kent Soil and Water Conservation District, the Department of Planning, Housing, and Zoning, and the Department of Public Works. All comments shall be addressed and reflected in the next phase of project design.

6. The *stormwater* management plan shall not be considered approved without the inclusion of the signature and date of the signature of the Kent County designee for approval of *stormwater* management plans.

10.12 CONTENTS OF *STORMWATER* MANAGEMENT PLANS

A. *CONCEPT PLAN*

A concept *stormwater* management plan shall include:

1. Scale of 1 inch = 100 feet or greater detail

2. Vicinity map with *site* location clearly marked

3. North arrow

4. Existing natural features, water and other sensitive resources

5. *Topography*

6. Natural drainage patterns

7. Anticipated location of all proposed impervious areas, buildings, roadways, parking, sidewalks, utilities, and other *site* improvements

8. Location of the proposed limit of disturbance, erodible soils, steep slopes, and areas to be protected during construction

9. Preliminary estimates of *stormwater* management requirements, the selection and location of *ESD* practices to be used, and the location of all points of discharge from the *site*

10. A narrative that supports the concept design and describes how *ESD* will be implemented to the *MEP*

11. Any other information required by the County

B. *SITE DEVELOPMENT PLAN*

A *site development plan* shall include:

1. Scale of 1 inch = 100 feet or greater detail

2. Vicinity map with *site* location clearly marked

3. North arrow

4. All the information provided in the concept *stormwater* management plan

5. Final layout

6. Exact impervious area locations and acreages

7. Proposed *topography*

8. Delineated *drainage areas* at all points of discharge from the *site*

9. *Stormwater* volume computations for *ESD* and quantity control

10. Preliminary erosion and sediment control plan that contains the construction sequence, any phasing necessary to limit earth disturbances and impacts to natural resources and an overlay showing the types and locations of *ESD* and erosion and sediment control practices to be used

11. A narrative that supports the *site* development design, describes how *ESD* will be used to meet the minimum control requirements, and justifies any proposed structural *stormwater* management measures

12. Any other information required by the County

C. FINAL *STORMWATER* PLAN

A final *stormwater* plan shall be of sufficient detail to permit all *stormwater* management approvals and permits to be issued and shall include:

1. Final erosion and sediment control plans submitted according to COMAR 26.17.01.05

2. Include construction drawings

3. A report that includes sufficient information to evaluate the effectiveness of the proposed runoff and control design. The report shall include but is not limited to the following:
   a. Geotechnical investigations including soil maps, borings, *site* specific recommendations, and any additional information necessary for the final *stormwater* management design
   b. *Drainage area* maps depicting predevelopment and post development runoff flow path segmentation and land use
   c. Hydrologic computations of the applicable *ESD* and unified sizing criteria according to the Design Manual for all points of discharge from the *site*
   d. Hydraulic and structural computations for all *ESD* practices and structural *stormwater* management measures to be used
   e. Narrative that supports the final *stormwater* management design
   f. Any other information required by the County

4. Construction drawings that include but are not limited to the following:
   a. Vicinity Map
   b. North arrow
   c. Existing and proposed *topography*
   d. Proposed *drainage areas* including areas necessary to determine downstream analysis for proposed *stormwater* management facilities
   e. Proposed improvements including the location of buildings and other *structures*, *impervious surfaces*, storm drainage facilities, and all grading
   f. Location of existing and proposed *structures* and utilities
   g. Existing and proposed *easements* and rights-of-ways
   h. Delineation of 100 year floodplains and onsite *tidal* and *non tidal wetlands*, where applicable

i. Structural and construction details including representative cross sections for all components of the proposed drainage system or systems and *stormwater* management facilities
j. All necessary construction specifications
k. h) Sequence of construction
l. Data for total *site* area, disturbed area, new impervious areas, and total impervious areas
m. Table showing the *ESD* and unified sizing criteria volumes required in the Design Manual
n. Table of materials to be used for *stormwater* management facility planting
o. All soil boring logs and locations
p. Inspection and maintenance schedule
q. Owner's certification that all *stormwater* management construction will be done according to the approved *stormwater* management plan.
r. As-built certification signature block to be executed after project completion
s. Any other information required by the County

5. When the *stormwater* management plan involves direction of some or all runoff off the *site*, it is the responsibility of the *applicant* to obtain from the adjacent property owners any *easements* or other necessary property interests concerning flowage of water. Approval of a *stormwater* management plan does not create or affect any right to direct runoff onto adjacent property without the property owner's permission.

10.13 PREPARATION OF *STORMWATER* MANAGEMENT PLANS

1. *Stormwater* management plans shall be prepared by a professional engineer, professional land surveyor, or landscape architect licensed in the State of Maryland.

2. If a *stormwater BMP* requires either a dam safety permit from the Maryland Department of the Environment or small pond approval by the Kent Soil and Water Conservation District, the *stormwater* management plan shall be prepared by a professional engineer licensed in Maryland.

10.14 PERMITS

A grading or building permit may not be issued for any parcel or lot unless final erosion and sediment control and *stormwater* management plan has been approved County as meeting all the requirements of this Ordinance and the Design Manual. Where appropriate, a building permit may not be issued without:

1. Recorded *easements* for the *stormwater* management facility and *easements* to provide adequate access for inspection and maintenance from a public right of way.

2. A recorded *stormwater* management *maintenance agreement* as described in Article VI, Section 10.22.B of this Ordinance.

3. A performance bond, an irrevocable letter of credit or other surety; as described in this Ordinance.

4. Permission from adjacent property owners, as may be required.

10.15 PERMIT AND REVIEW FEES

1. The County Commissioners shall establish a schedule of fees and collection procedure for *stormwater* management review and permits. Permits fees will be based on the relative complexity of the project and may cover the cost of plan review, administration and management of the permit process, and inspection of all projects subject to this Ordinance.

2. No permits shall be issued nor action taken on amendments or other matters pertaining to this Ordinance until the fee has been paid in full.

10.16 SUSPENSION AND REVOCATION

Any grading or building permit issued by Kent County may be suspended or revoked after written notice is given to the permittee for any of the following reasons:

1. Any violation(s) of the conditions of the *stormwater* management plan approval.

2. Changes in *site* runoff characteristics upon which an approval or *waiver* was granted.

3. Construction is not in accordance with the approved plans.

4. Non-compliance with correction notice(s) or stop-work order(s) issued for the construction of the *stormwater* management practice.

5. An immediate danger exists in a downstream area in the opinion of the County.

10.17 CONDITIONS FOR APPROVAL

In granting the plan approval, the County may impose such conditions thereto as may be deemed necessary to ensure compliance with the provisions of this Ordinance and the preservation of the public health and safety.

10.18 PERFORMANCE BONDS

The developer is required to obtain a surety, irrevocable letter of credit, or other means of security acceptable to Kent County and payable to the County Commissioners of Kent County, prior to the issuance of any building and/or grading permit for construction of a *development* requiring *stormwater* management. The amount of the security shall not be less than 125% of the total estimated construction cost of all *stormwater* management facilities and practices. The security so required in this Section shall include provisions relative to forfeiture for failure to complete work specified in the approved *stormwater* management plan, compliance with all the provisions of this Section and other applicable laws and regulations, and any time limitations. The security shall not be fully released without a final inspection of the completed work by Kent County, submission of "as-built" plans, and certification of completion by the County, that all *stormwater* management facilities and practices as being in compliance with the approved plan and the provisions of this Section. A provision may be made for partial release of the amount of the bond pro-rata upon completion and acceptance of the various stages of *development* as specifically delineated, described, and scheduled on the required plans and specifications. The provision for partial release of the surety shall be specified by Kent County in writing prior to *stormwater* management plan approval. The developer shall notify the County upon completion of each stage that is ready for inspection.

10.19 INSPECTIONS

A. INSPECTION SCHEDULE AND REPORTS

1. The owner/developer shall notify the County at least 48 hours before beginning any work in conjunction with *site* development, the *stormwater* management plan and completion of construction.

2. Regular inspections shall be made and documented for each *ESD* planning technique and practice at the stages of construction specified in the Design Manual by Kent County, its authorized representative, or a certified engineer license in the State of Maryland. At a minimum, all *ESD* and other nonstructural practices shall be inspected upon completion of final grading, the establishment of permanent *stabilization*, and before issuance of use and occupancy approval.

3. Written reports shall be prepared for every inspection and shall include:
   a. The date and location of the inspection
   b. Whether construction was in compliance with the approved *stormwater* management plan
   c. Any variations from the approved construction specifications
   d. Any violations that exist

4. The owner/developer and on-*site* personnel shall be notified in writing when violations are observed. Written notification shall describe the nature of the violation and the required corrective action.

5. Work shall not proceed until the work previously complete is approved by the appropriate inspector and the inspector furnishes the developer with the results of the inspection reports. The inspector should provide copies of the inspection report to the developer as soon as possible after completion of each required inspection.

B. INSPECTION REQUIREMENTS DURING CONSTRUCTION

At a minimum, regular inspections shall be made and documented at the following specific stages of construction:

1. Ponds:
   a. Upon completion of excavation to sub-foundation and when required, installation of structural supports or reinforcement for *structures* including but not limited to:
      i. Core trenches for structural embankments
      ii. Inlet and outlet *structures*, anti-seep collars or diaphragms, and watertight connectors
      iii. Trenches for enclosed storm drainage facilities
   b. During placement of structural fill, concrete, and installation of piping and catch basins
   c. During backfill of foundations and trenches
   d. During embankment construction
   e. Upon completion of final grading, establishment of permanent *stabilization*

2. *Wetlands* - At all stages specified for pond construction, during and after wetlands reservoir planting, and during the second growing season to verify a vegetation survival rate of at least 50%.

3. Infiltration trenches:
   a. During excavation to subgrade
   b. During placement and backfill of under drain systems and observation wells
   c. During placement of geotextiles and all filter media
   d. During construction of appurtenant conveyance systems such as diversion *structures*, pre-filters and filters, inlets, outlets, and flow distribution *structures*
   e. Upon completion of final grading and establishment of permanent *stabilization*

4. Infiltration basins - At all stages specified for pond construction, during placement of and backfill of under drainage system.

5. Filtering Systems:
   a. During excavation to subgrade
   b. During placement and backfill of under drain systems
   c. During placement of geotextiles and all filter media
   d. During construction of appurtenant conveyance systems such as diversion *structures*, pre-filters, and filters, inlets, outlets, and flow distribution *structures*
   e. Upon completion of final grading and establishment of permanent *stabilization*

6. Open Channel Systems:
   a. During excavation to subgrade
   b. During placement and backfill of under drain systems for dry swales
   c. During installation of diaphragms, check dams, or weirs
   d. Upon completion of final grading and establishment of permanent *stabilization*

7. *Environmental Site Design* Practices – At the stage of construction specified in the Design Manual for each *ESD* planning technique and practice and at a minimum upon completion of final grading, the establishment of permanent *stabilization* and before issuance of use and occupancy approval.

10.20 AS-BUILT PLANS

Once construction is complete, "as-built" plan certification shall be submitted by a professional engineer or professional land surveyor licensed in the State of Maryland to ensure that *ESD* techniques, treatment practices ,and structural *stormwater* management practices and conveyance systems comply with the specifications contained in the approved plan. At a minimum, "as-built" certification shall include a set of drawings comparing the approved plan with what was constructed. Other information shall be submitted as required by the County.

10.21. NOTICE TO THE MARYLAND DEPARTMENT OF THE ENVIRONMENT

Within 45 days of construction, the County shall submit a notice of construction completion to the Maryland Department of the Environment on a form supplied by the Maryland Department of the Environment for each structural *stormwater* management practice. The type, number, total *drainage area*, and total impervious area treated by all *ESD* techniques and practices shall be reported to the Maryland Department of the Environment. A notice of construction completion shall be sent to the Kent Soil and Water Conservation District when *BMP*s requiring District approval are constructed.

10.22 MAINTENANCE

A. MAINTENANCE INSPECTION

1. The County shall ensure that preventive maintenance is preformed by inspecting all *ESD* treatment systems and structural *stormwater* management measures. Inspections shall occur during the first year of operation and then at least once every three years thereafter. A *maintenance agreement* between the property owner and Kent County shall be executed for privately owned *ESD* treatment practices and structural *stormwater* management measures as described Article VI, Section 10.22B of this Ordinance.

2. Inspection reports shall be maintained by the County for all *ESD* treatment systems and structural *stormwater* management measures. Inspection reports shall include the following:
   a. Date of inspections
   b. Name of inspector
   c. An assessment of the quality of the *stormwater management system* related to *ESD* treatment practice efficiency and the control of runoff to the *MEP*
   d. The condition of:
      i. Vegetation or filter media
      ii. Fences or other safety devices;
      iii. Spillways, valves, or other control *structures*
      iv. Embankments, slopes, and safety benches
      v. Reservoir or treatment areas
      vi. Inlet and outlet channels or *structures*
      vii. Underground drainage
      viii. Sediment and debris accumulation in storage or forebay areas
      ix. Any nonstructural practice to the extent possible
      x. Any other item that could affect the proper function of the *stormwater management system*
   e. Description of needed maintenance

3. After notification is provided to the owner of the inspection results, the owner shall have 30 days, or other time frame to which the County, and the owner mutually agree to correct the deficiencies. The County shall then conduct an inspection to ensue completion of the repairs.

4. Failure to complete the repairs or repairs found to be improperly completed shall be considered violations and subject to the provisions of Article XII, Section 4 of this Ordinance.

5. If, after an inspection by the County, the condition of a *stormwater* management facility presents an immediate danger to the public health or safety, because of an unsafe condition or improper construction, or poor maintenance, the County, shall take such action as may be necessary to protect the public and make the facility safe. Any cost incurred by the County shall be assessed against the owner(s).

B. *MAINTENANCE AGREEMENT*

1. Prior to the issuance of any building permit for which *stormwater* management is required, the County shall require the *applicant* or owner to execute an inspection and *maintenance agreement* binding on all subsequent owners of land served by the private *stormwater* management facility. Such agreement shall provide for access to the facility at reasonable times for regular inspection by

the County, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any provisions established.

2. The agreement shall be recorded by the *applicant* and/or owner with the Kent County Clerk of Court. A copy of the recorded agreement shall be returned to the Department of Planning and Zoning.

3. The agreement shall also provide that if, after notice by the County, to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) within a reasonable period of time (thirty (30) days maximum), the County, may perform all necessary work to place the facility in proper working condition. The owner(s) of the facility shall be assessed the cost of the work and any penalties, and there shall be a lien on the property, which may be placed on the tax bill and collected as ordinary taxes by Kent County.

C. MAINTENANCE RESPONSIBILITY

1. The owner of the property on which work has been done pursuant to this Ordinance for private *stormwater* management facilities, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all *ESD* practices, state grade surfaces, walls, drains, dams and *structures*, vegetation, erosion and sediment control measures, and other protective devices in perpetuity. Such repairs or restoration and maintenance shall be in accordance with previously approved or newly submitted plans.

2. A maintenance schedule shall be developed for the life of any *stormwater* management facility or system of *ESD* practices and shall state the maintenance to be completed, the time period for completion and who shall perform the maintenance. This maintenance schedule shall be on the *stormwater* management plan.

10.23 APPEALS

Any person aggrieved by the action of any official charged with the enforcement of this Ordinance as the result of the disapproval of a properly filed application for a permit, issuance of a written notice of violation or an alleged failure to properly enforce the Ordinance in regard to a specific application shall have the right to appeal the action to the Kent County Board of Appeals. The appeal shall be filed, in writing, within thirty (30) days of the date of official transmittal of the final decision or determination to the *applicant* and shall state clearly the grounds on which the appeal is based.

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ARTICLE VII. SPECIAL EXCEPTIONS

SECTION 1. STATEMENT OF INTENT

The purpose of this Article is to provide for certain uses, which because of their unique characteristics cannot be distinctly listed as a permitted use in a particular District. These special exceptions may be approved by the Board of Zoning Appeals, or where applicable the Planning Director, after consideration in each case of the impact of such uses upon neighboring uses, the surrounding area and the public need for the particular use at the particular location. Limitations and standards are herein established to insure the use's consistency with the character, uses and activities in the District.

SECTION 2. STANDARDS

The Board of Zoning Appeals, or where applicable the Planning Director, in accordance with the procedures and standards of this Ordinance may authorize *buildings*, *structures*, and uses as special exceptions in the specific instances and particular Districts set forth provided that the location is appropriate and consistent with the *Comprehensive Plan*, that the public health, safety, morals, and general welfare will not be adversely affected, and that necessary safeguards will be provided to protect surrounding property, *persons*, and neighborhood values, and further provided that the additional standards of this Article are specified as a condition of approval. Unless otherwise specified in this Article or as a condition of approval, the height, *yard*, *lot area*, design, environmental, parking, and *sign* requirements shall be the same as other uses in the district in which the special exception is located.

No special exception shall be authorized unless the Board, or where applicable the Planning Director, finds that the establishment, maintenance, or operation of the special exception meets the standards set forth in this Article. The burden of proof is on the applicant to bring forth the evidence and the burden of persuasion on all question of fact which are determined by the Board or where applicable the Planning Director.

The Board, or where applicable the Planning Director, shall make findings on the following where appropriate:

1. The nature of the proposed *site*, including its size and shape and the proposed size, shape, and arrangement of *structures*;

2. Traffic Patterns;

3. Nature of surrounding area;

4. Proximity of dwellings, *houses of worship*, schools, public *structures*, and other places of public gathering;

5. The impact of the *development* or project on community facilities and services;

6. Preservation of cultural and historic landmarks, significant *natural features* and trees;

7. Probable effect of noise, vibration, smoke and particulate matter, toxic matter, odor, fire or explosion hazards, or glare upon surrounding properties;

8. The purpose and intent of this Ordinance as set forth in Article II;

9. Design, environmental, and other standards of this Ordinance as set forth in Article V;

10. The most appropriate use of land and *structure*;

11. Conservation of property values;

12. The proposed *development's* impact on water quality;

13. Impact on fish, wildlife and *plant habitat*;

14. Consistency with the *Comprehensive Plan*, Land Use Ordinance, and where applicable the Village Master Plan;

15. Consistency with the *Critical Area* Program; and

16. Compatibility with existing and planned land use as described in the *Comprehensive Plan*, Land Use Ordinance, and where applicable the Village Master Plan.

SECTION 3 CONDITIONS AND GUARANTEES

Prior to the granting of any special exception, the Board, or where applicable the Planning Director, may impose such conditions and restrictions upon the establishment, location, construction, maintenance, and operation thereof as deemed necessary to reduce or minimize any effect of such use upon other property in the neighborhood, and to secure compliance with the standards and requirements specified in this Ordinance. These conditions or restrictions may include but are not limited to the following:

1. Hours of operation
2. Permitted expansion
3. On-premise sales
4. Exterior display, lighting, storage, *signs*, and other indicators or appearance of a business that may detract from the general character of the area
5. Location of parking
6. Increased setbacks and screening
7. Landscaping
8. The size and type of equipment
9. The number of clients allowed on *premises* at one time or class size
10. Accessory vehicles
11. *Accessory uses*
12. Letters of credit, bonds, or other surety

The Board, or where applicable the Planning Director, may require such evidence and guarantees as it deems necessary as proof that the conditions imposed in connection with a special exception shall be implemented. Failure to comply with such conditions or restrictions imposed shall constitute a violation of this Ordinance and the Zoning Administrator may revoke permits issued under the special exception.

SECTION 4 APPROVAL VALID FOR ONE YEAR

Approval of a special exception granted under this Article shall be valid for one year after the date of approval and thereafter shall become null and void unless construction or use is substantially underway during said one year period, or unless the Board of Appeals, or where applicable the Planning Director, approves an extension before the expiration of said one year period. When provided with sufficient evidence, the Board, or where applicable the Planning Director, may grant a special exception for a longer period.

SECTION 5 RECONSIDERATION, ONE YEAR LIMIT

Whenever an application for a special exception has been denied by the Board, such application, or one substantially similar, shall not be reconsidered sooner than one year after the previous denial.

SECTION 6 PROCEDURES

The application for a special exception shall include a *site plan* together with such data and information as may be required for a determination of the nature of the proposed use and its effect on the *Comprehensive Plan*, the neighborhood, and surrounding properties.

The Planning Director may hear and decide the following special exceptions:

1. Accessory storage *structures*
2. *Accessory structures* in the *front yard* requirement of waterfront parcels
3. *Accessory structures* in the *front yard* of a *through lot* or *corner lot**
4. Assisted living facilities with five to eight beds**
5. *Day care group*

The *Planning Commission* shall review and send a recommendation to the Board of Appeals on the following special exceptions:

1. *Aquaculture*
2. Adaptive reuse of historic *structures*
3. *Airport*, landing field, heliport, or helistop, public or private
4. Attached retail businesses
5. *Automobile repair*
6. *Automobile service station*s
7. Boat building and sales
8. Car wash
9. Cemetery, including crematorium and mausoleum
10. *Conference center*
11. Convalescent, nursing, or group homes for the aged with five or more beds
12. *Cottage industries*, tradesmen and artisan shops
13. *Country inn*
14. *Country stores*
15. Dredge spoil *site*
16. *Excavation contractor's yard*
17. *Feedlot* or confinement dairy
18. Golf courses, public or private
19. Hospitals, rehabilitation facilities, or other similar institutions for human care
20. *Houses of worship*

* Amended 11/1/05;
**Amended 11/3/09 and 2/3/10 for CAR

20.5 The manufacture, processing, and assembling of food products to include baked and confectioners' goods, frozen food processing, fruit and vegetable processing, canning and storage, or businesses of a similar nature, excluding animal and seafood processing. ++

21. Migrant labor camps
22. *Mobile home parks*
23. Multi-level boat storage
24. Outdoor entertainment
25. Outdoor recreation, miniature golf, but not golf courses
26. *Personal wireless facility tower*
27. Poultry houses on parcels where the owner cannot handle the waste generated
28. Printing and publishing
29. Private schools

29.5 Production of biofuels*

30. *Public utilities* and *structures*
31. Pubs, taverns and bars
32. Radio and television tower, commercial
33. Raising of livestock and fowl
34. Recreational facilities
35. *Resort*
36. *Retreat*

36.5 *Rural Inn****

37. Sand and gravel pits
38. *Sanitary landfill* or rubblefill

38.5 School bus parking lot ++

39. Seafood processing
40. *Sewage sludge land application*
41. *Shopping centers*

41.25 *Solar energy systems, utility***

41.5 *Solar energy systems, utility scale* on farms**

42. *Structures* for the buying, processing, and sale of animal products

42.5 Tie-out pilings of private piers, *community piers*, and private shared piers, installed at a distance not to exceed 25% of the width of the waterway, the edge of the channel, or 180 feet from the mean high water mark, whichever is less, for the exclusive mooring use by tall ships as safe-harbors from hurricanes and other severe weather-related threats. +

43. Truck parking lot
44. *Truck stops*
45. *Truck terminals*
46. *Wind energy systems, small***
47. *Wind energy systems, small,* with a height that exceeds 80 feet or on a lot less than 20 acres**

The following special exceptions shall be forwarded directly to the Board of Appeals:

1. *Dog kennels*, commercial
2. Dormitories for employees
3. Exposition center or fairgrounds
4. Farm employee housing
5. More than four horses and mules on land less than 20 acres in size
6. *Private club*s
7. *Public landings*
8. Raising of small animals
9. Rifle and pistol ranges
10. *Single family dwellings*
11. *Structures* for the buying, processing, and sale of farm products in *structures* that exceed 10,000 square feet but are less than 25,000 square feet

* Amended 11/21/06; ** Amended 9/6/11; ***Amended 4/8/15; +Amended 6/20/17; ++ Amended 4/3/18

The Board of Appeals may hire expertise as shall be needed to provide advice and assist in its decision-making. In its recommendation, the *Planning Commission* may recommend that additional expertise is warranted.

Within thirty days of the decision, with respect to special exceptions approved by the Planning Director, any *person* aggrieved by the decision of the Planning Director may appeal the decision to the Board of Appeals.

Within thirty days of the decision, any *person* aggrieved by a decision of the Board of Appeals may file a notice of appeal with the Circuit Court.

SECTION 7. SPECIAL EXCEPTIONS

Buildings, *structures*, and uses for which special exceptions may be authorized and the additional standards relative thereto are as follows:

1. Accessory storage *structures* with a *floor area* of more than 1,200 square feet or a height that exceed 17 feet on parcels less than 5 acres in AZD, RCD, RC, RR, CAR, and CR.

2. *Accessory structures* in the *front yard* of *through* or *corner lots* in AZD, RCD, RC, RR, CAR, CR. V, IV, and IVCA.*

3. *Accessory structures* in the *front yard* requirement of waterfront parcels in RCD and CAR.

4. Adaptive reuse of historic *structures* in AZD, RCD, RC, RR, CR, V, IV, IVCA, and M provided:
   a. *Structures* shall be listed in the Kent County Historic *Site* Survey or approved as a historically significant *structure* by the *Planning Commission*.
   b. It is shown that exterior changes to *site structures* will be minimized. Extensions or enlargement of the principal and *accessory structures* may not exceed 25% of the gross *floor area* of each individual *building* above that which existed as of August 1, 1989. Enlargements shall be designed in keeping with the character of the *building*.
   c. Landscaping is in keeping with the character of the *building*.
   d. The *site* must have access to a public road adequate to handle traffic generated. The proposed use shall not generate traffic of a type or amount inappropriate for all access *roads* and the surrounding area. The use does not require road improvements detrimental to the character of the area.
   e. The number of dwellings shall not exceed the *density* permitted in the district in which the *structure* is located.
   f. The proposed use does not create an unacceptable impact by way of noise, odor, noxious materials or other nuisances.
   g. In RCD, adaptive reuse projects shall be limited to non-commercial and non-industrial uses.

5. *Airport*, landing field, heliport, or helistop in AZD, RC, RR, CAR, CR, and M provided:
   a. Flight obstructions, such as towers, chimneys, other tall *structures*, or natural obstructions, do not fall within the approach zone to any proposed runway or landing strips of the landing field or *airport*
   b. The use complies with the recommendations of the Federal and State Aviation Authorities.
   c. Runways are designed to minimize the approach and takeoff areas over residential areas.
   d. Applications for special exceptions for private airstrips, heliports and helistops shall comply with the following:

* Amended 11/1/05

i. The takeoff and landing flight path shall be a minimum of 1,000 feet in any direction from any residence or public *building*.
ii. The takeoff and landing path of the aircraft shall have a minimum of 250 feet vertical clearance over surrounding property unless a navigation *easement* is reached with the affected property owners for a lesser clearance.
iii. No business such as the sale or leasing of aircraft, maintenance, or flight instructions shall be permitted.
iv. The applicant shall maintain a flight operation's log that shall be open for inspection by representatives of the Department of Planning and Zoning.
v. Approvals shall be for a period not to exceed 5 years.

6. *Aquaculture* including accessory processing and sales in CAR and RR provided:
   a. Open or uncovered storage of shells, bones, and refuse does not occur on *site*.
   b. No curing or smoking occurs on *site*.
   c. All *structures* for processing and all disposal areas for materials and byproducts of processing are a minimum of 600 feet from all property lines.
   d. Seafood processing facilities and disposal areas are not in the *100-year floodplain*
   e. The operation is managed according to a management plan approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department
   f. Parking, processing and disposal areas are screened from adjacent properties and public *roads*.
   g. Access *roads* are capable of handling the type of traffic generated by the operation.

6.5 Assisted living facilities with five to eight beds in AZD, RC, RR, CAR** and CR provided:*
   a. The property owner resides on the premises.
   b. The assisted living facility is subordinate and accessory to the principal dwelling in size and appearance and is in the same *structure* as the principal dwelling unit. Expansions shall be designed in keeping with or to enhance the character of the other buildings.
   c. The rooms for the use are not designed or constructed to be separate dwelling units and may not be sold as separate dwelling units.
   d. The appearance of the *structure* and property remain that of a single family dwelling so that the average neighbor is unaware of the assisted living facility's existence.
   e. The *structure* meets all applicable Kent County Codes, including the building code, and Health Department requirements.
   f. The applicant has received approval from the appropriate State of Maryland agencies.
   g. The facility does not create an unacceptable environmental impact by way of noise, odor, noxious materials, or other nuisances.

7. Attached retail businesses in CC provided proposed *buildings* are in harmony with the scale, *bulk*, and character of the area

8. *Automobile repair* in IV and IVCA provided automobiles waiting for repair are stored in a *building* or in the *rear yard* screened from adjacent properties.

9. *Automobile service station*s in V, provided major repairs and bodywork is not conducted *on-site*.

10. Boat building and sales in CC, C, and CCA provided construction areas are at least 100 feet from any residential district.

* Amended 11/3/09; ** Amended 2/3/10

11. Car Wash in IV and IVCA provided:
    a. The car wash is designed to allow adequate traffic flow for cars to enter and exit the facility safely.
    b. Single bay facilities with automated brushes and multiple bay self service facilities shall provide a space for the parking of one car per bay to be used as a dry down area. Facilities using a conveyor or chain drag system for moving motor vehicles through the washing area shall provide space at the *building* exit for three times the number of vehicles that can be accommodated at one time within the *structure*.
    c. Vacuum facilities shall comply with the setbacks for a primary *structure* in the applicable zoning district.
    d. Appropriate permits are obtained from the State of Maryland.
    e. Wastewater is recycled.

12. Cemetery, including crematorium and mausoleum in AZD, RC, RR, CAR, CR, and V provided:
    a. Burial plots shall be 10 feet from all property lines. *Buildings* shall comply with the *yard* requirements for the applicable zoning district.
    b. Mausoleums shall be a minimum of 75 feet from a public road and 50 feet from the side and rear property lines.
    c. Crematoriums shall be 200 feet from all property lines.

13. *Conference center* in RCD, RC, RR, CAR, CR, IV, and IVCA provided:
    a. In IV and IVCA, the project shall collectively consist of 15 acres but not more than 750 acres. In RCD, RR, RC, and CAR the project shall collectively consist of at least 50 acres but not more than 750 acres.
    b. The *conference center* shall consist of 100 but not more than 225 guest rooms.
    c. At least 100 square feet of meeting space shall be provided per guest room.
    d. Permanent theme parks, amusement parks, and/or stadiums are prohibited.
    e. Where applicable, the applicant has applied for growth allocation from the County. Special exception approval will not be valid without the granting of growth allocation.
    f. The Board shall make specific findings on the availability of public and governmental services. Proposed improvements shall be appropriate to the character of the area.
    g. Where they exist, historic *structures* shall be incorporated into the overall project.
    h. Significant view corridors, both from the *site* and onto the *site* shall be preserved in so much as possible.
    i. The height of all *structures* shall not exceed 38 feet.
    j. The design of the *conference center* and *accessory uses* shall reflect and complement the rural character of the area or neighborhood.
    k. The number of *dwelling units* shall not exceed that which is permitted in the applicable zoning district. *Dwelling units* may be detached or attached.
    l. Continuous residential *lot development* aligned with golf course fairways shall be prohibited within the *Critical Area* and discouraged elsewhere.
    m. Parking lots shall be landscaped as required for commercial developments in Article V, Section 11 of this Ordinance.
    n. Permitted *accessory uses*, subject to the approval of the Board of Appeals, including *restaurants*; recreational facilities such as tennis courts and *swimming pools*; spas; retail use provided the establishments are in the main *building* with the entrance to the retail use from the inside the *building*; stables but not an equestrian center; other recreation amenities but not including trap, skeet, clay birds, paint ball or other similar firearm activities; *piers*; and other *accessory uses* that are customarily associated with a *conference center*. The applicant shall describe all proposed *accessory uses* in the application for a special exception. The Board of Appeals may deny or limit the size and extent of *accessory uses*.

o. The number of *slips* on the accessory *pier* shall not exceed 20% of the number of guest rooms and the use of the *slips* shall be limited to use by those using the conference facilities. Accessory *piers* must meet all requirements applicable to *marinas* such as pumpouts, restrooms, and showers.

p. All *structures* shall comply with the minimum 100-foot *buffer* and shall be 200 feet from all side and rear property lines whichever is greater.

q. A golf course shall meet all the requirements found in Article VII, Section 7.26 of this Ordinance.

r. In RCD, RC, RR, and CAR at least 60% of the property shall be in *open space*.

s. The Board of Appeals may place additional restrictions on the following:

   i. Additional *yard* requirements for all *structures*, including patios and places of public assembly

   ii. Lighting

   iii. Landscaping and screening

   iv. Outdoor activities, outdoor music and their hours of operation

   v. Access

t. Application for a *conference center* shall include a sketch plan and renderings of all primary and each type of *accessory structure*.

14. Convalescent, nursing, or group homes for the aged with five or more beds in V, IV, and IVCA.

15. *Cottage industries*, tradesmen and artisan shops in AZD, RC, RR, CAR, CR, IV, IVCA, CC, C, CCA provided:

a. Except on *farms*, the *cottage industry* shall be secondary to the use of the property for dwelling purposes and shall be less than 60% of the living area, 1,200 square feet, or in an existing *accessory structure*, whichever is greater. The square footage limitation includes outdoor storage areas but not required parking.

b. On *farms*, the *cottage industry* shall be secondary to the *farm*. The *cottage industry* is limited to 4,000 square feet in size or an existing *building*, whichever is greater. The square footage limitation includes outdoor assembly and storage areas but not required parking.

c. The use is secondary in size and scope to the residential or agricultural use of the property.

d. The *buildings* associated with the use are not visually intrusive or inappropriate to their setting. New *buildings* and expansions shall be designed in keeping with or to enhance the character of the other *buildings*.

e. The *cottage industry* does not create an unacceptable environmental impact by way of noise, odor, noxious materials, or other nuisances.

f. The *cottage industry* does not generate traffic of a type or amount inappropriate for all access *roads* and the surrounding area. It does not require road improvements detrimental to the character of the area.

g. The following uses shall not be allowed:

   i. Any activity that may reasonably be expected to result in excessive noise, smoke, dust, odors, heat, or glare beyond that which is common to the zoning district. The proposed use shall conform to the maximum permissible sound levels under Article V, Section 14.6.1 of this Ordinance.

   ii. Use or manufacture of products or operations that are dangerous in terms of risk of fire, explosion, or hazardous emissions;

   iii. Any other use deemed incompatible with a residential or agricultural area.

16. *Country inn* in AZD, RCD, RC, RR, CAR, CR, and M provided:
    a. Such *structures* have existed prior to August 1, 1989, except on properties with more than 25 acres in the Marine District.*
    b. The number of rooming units provided on the *site* is limited to fifteen excluding resident management quarters.
    c. Boarding and dining facilities in AZD, RC, RR, and CAR, may be permitted only when attendant to rooming units and further provided that such facilities are limited to a maximum seating capacity of forty persons. Such dining facilities may be provided to patrons other than boarders. No dining facility shall be permitted in RCD.
    d. The *site* has access to a public road. This access must be capable of supporting the passage of emergency vehicles. The Board may require improvements to existing access *roads*.
    e. There shall be sufficient acreage for the proposed use and activities.
    f. Extension or enlargement of principal and *accessory structures* should maintain features and character that are consistent with the *structures* that existed as of August 1, 1989.**
    g. Adequate landscaping shall be provided to *screen* all parking areas from adjoining residential properties. Landscaping or screening proposed shall be shown on a *site plan* as required by this Ordinance.

17. *Country stores* on *primary* and *secondary roads*, in AZD, RC, RR, and CR provided:
    a. The *structure* existed prior to August 1, 1989.
    b. Property on which the store is located must abut upon and have safe access to a *primary* or *secondary road* as shown on the Major Thoroughfare Map.
    c. Extension or enlargement of the principal and *accessory structures* does not exceed 50% of the gross *floor area* of each *building* above that which existed as of August 1, 1989.

18. *Day care group* in AZD, RCD, RC, RR, CAR, CR, V, IV and IVCA provided:
    a. Outdoor activity areas are fenced and screened.
    b. Two drop-off/pick-up parking spaces are provided.
    c. Structured play areas for active play or play *structures* are not in the *front yard* and are 10 feet from the side or rear property line.
    d. The *structure* retains its residential character.
    e. Day care in the RCD shall be in dwellings existing prior to December 1, 1985.

19. *Dog kennels*, commercial in RC, RR and CAR provided that any open dog pens, runs, cages, or kennels shall be at least 200 feet from any side or rear *lot line*.

20. Dormitories for employees in M provided:
    a. The *structure* meets the design standards for multi-family residential *development* as set forth in Article V, Section 7 of this Ordinance.
    b. The *structure* is screened, if possible, from adjacent *roads*, *waterways*, and properties.
    c. The applicant proves that the *structure* is necessary to house employees.
    d. Residents are limited to employees of the *marina*.
    e. Dormitories are not in the minimum 100-foot *buffer*.

21. Dredge spoil *site* in M provided:
    a. The *site* does not exceed 100,000 cubic yards per existing parcel as of the date of the adoption of this ordinance unless used in conjunction with an approved surface mine *reclamation*. The disposition of dredge spoils used in conjunction with a surface mine *reclamation* shall have all permits required by the State of Maryland and the application shall demonstrate that measures are provided to protect the groundwater, stabilize pH, and to generally protect the environment of the area.

* Amended 11/1/05; ** Amended 3/19/19

b. Material is limited to clean dredge spoil which is tested according to the *regulations* of the State of Maryland.
c. Prime farmland is not used for a dredge spoil *site*.

22. *Excavation contractor's yard* in AZD, including outdoor storage of the contractor's equipment and equipment parts; temporary stockpiling of *soils*, sand, gravel, stone, recyclable brick, concrete, blacktop materials, pipes, iron, tires, and tanks provided:
    a. The contractor has an approved sand and gravel pit on the same parcel of land or on an adjacent parcel of land owned by the contractor upon which the contractor's excavation business is located.
    b. The *contractor's yard* area and gravel pit area must be separately designated and permitted. None of the activities permitted by this subsection may occur within the sand and gravel pit area.
    c. The *contractor's yard* permit area must be larger than two (2) acres and smaller than twenty (20) acres.
    d. The *contractor's yard* must not be visible year round from an adjacent parcel of land or public road. The contractor may use natural *topography* and vegetation or may construct *berms* or plant vegetation to satisfy this requirement.
    e. Storage of tires and equipment must be limited to contractor's own excavation *yard* use.
    f. Temporary storage of pipe, iron, and tanks, which are not part of the contractor's equipment, shall not exceed two years.
    g. The special exception shall be for a period not to exceed five years.

23. Exposition center or fairgrounds in AZD, RCD, and RC provided the fair ground or exposition center does not result in the *development* of a major sports arena for football, baseball, drag racing, motor cross, auto racing, or other major sports activities.

24. Farm employee housing in AZD and RCD provided:
    a. There are 50 acres of tillable land on the *farm*.
    b. All farm employee houses share access from the public road.
    c. It is occupied by permanent employees of the *farm* who earn the majority of their income from the *farm* or by members of the immediate *family* owning or operating the *farm*.
    d. The farm employee houses shall not be *mobile homes*.
    e. In RCD, farm employee housing shall meet the density requirement.

25. *Feedlot* or confinement dairy in AZD provided:
    a. All *buildings*, corals, and waste management *structures* are 600 feet from the nearest property line.
    b. No part of the operation shall be in the *100-year floodplain*.
    c. The operation is managed according to a waste and nutrient management plan approved by the Natural Resources Conservation Service, the University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that phosphorus is a problem or is likely to become a problem, the plan shall use phosphorus based nutrient management. When in the opinion of the Board of Appeals, *Planning Commission*, or Planning Director additional review is needed by an outside agency, the application and waste and nutrient management plan may be forwarded to the Maryland Department of the Environment or any other appropriate agency.

d. Sediment and *stormwater management plans* are approved by the appropriate agency and are implemented.

e. The applicant shall prepare a management plan that demonstrates that the *feedlot* or confinement dairy will be operated in a safe and environmentally sound manner and will not create a hazard to the surrounding area and *waterways*.

f. To assure continued compatibility with the surrounding area, the Board may place additional restrictions on the following:

   i. Screening and landscaping from adjacent properties and public *roads*
   ii. Exterior displays, lighting, and *signs*
   iii. The location of access routes to the *site*, both on and *off-site*
   iv. The type of waste disposal, e.g. injection, disk etc.
   v. Monitoring wells and surface water testing where appropriate
   vi. Manner and route of moving waste from one *site* to another
   vii. Waste and nutrient management plans for properties receiving waste

26. Golf courses, public or private, in AZD, RCD, RC, RR, CAR, and CR provided:

a. The golf course is at least a regulation par 72, 18-hole golf course.

b. The course is managed according to a water conservation plan that addresses water use, including irrigation, and the recapture and reuse of water sources. Irrigation shall be the minimum necessary for the operation and maintenance of the course and associated facilities.

c. The course is managed according to integrated pest management and nutrient management plans approved by the University of Maryland Extension Service and the Natural Resources Conservation Service.

d. The *site* must have access to a public road that can handle the traffic generated by the operation and emergency vehicles. The Board may require improvements to existing access *roads*. Should improvements be required, a bond, irrevocable letter of credit, or other surety shall be posted running to the County Commissioners.

e. The course, including the layout and routing of holes, shall be designed to preserve and maintain to the extent possible natural *topography*, significant trees and landmarks, vegetation, and cover. *Wildlife corridors* shall be preserved and enhanced whenever possible.

f. Buffers, no-mow, and no-spray zones shall be adjacent to existing or created *wetlands*, water bodies, and habitat areas. Native grasses and vegetation shall be used within these zones.

g. A 100-foot landscaped area from tees, greens, and fairways shall be provided along adjacent property lines. Landscaping shall be designed to complement other landscaping occurring naturally on the *site*. Whenever possible, existing vegetation shall be incorporated into the *landscape plan*.

h. The golf course and driving range shall not include lighting. Lighting of the clubhouse, parking and other areas shall be that necessary for the safety and security of the operation, its employees and its customers. Lighting shall not exceed 18 feet in height unless mounted on a *building* and shall be designed to avoid glare onto adjacent properties and *roadways* and shall not interfere with traffic or create a traffic hazard. Lighting shall be color corrected.

i. Parking lots shall comply with the landscaping and screening standards in Article V, Section 11 of this Ordinance.

j. Whenever possible, historic *buildings* should be restored and used as a part of the operation.

k. To assure continued compatibility with the surrounding area, the Board may place additional restrictions on the following:

i. Proposed method of irrigation
ii. The location of the driving range, holes, cart ways, tees, fairways, roughs, water hazards, maintenance facilities, irrigation, and pumping station
iii. *Accessory uses* such as clubhouses, *restaurants*, bars, day care, pro shops, pools, tennis courts, comfort facilities, maintenance facilities, golf cart storage, driving range, sod farm for golf course, practice holes, practice putting green, and parking. In RCD the following accessory uses shall require growth allocation: clubhouses, restaurants, bars, day care, pro shops, pools, tennis courts, comfort facilities, golf cart storage and parking.

27. Hospitals, rehabilitation facilities, and similar institutions for human care but not including animal hospitals in IV and IVCA

28. *Houses of worship* in RR and CR provided:
a. Outdoor public announcement systems and drive in facilities are prohibited.
b. The Board specifically approves *accessory uses*. In no case shall an *accessory use* be of a type and scale that is normally found in commercial operations.
c. Parking areas shall be screened and landscaped according to the standards found in Article V, Section 11 of this Ordinance.

28.5 The manufacture, processing, and assembling of food products to include baked and confectioners' goods, frozen food processing, fruit and vegetable processing, canning and storage, or businesses of a similar nature, excluding animal and seafood processing, provided: *
a. That in reviewing the site plan and determining the suitability of the proposed location, the Planning Commission must find all of the following:
i. Existing or planned public facilities are adequate to handle the usage generated by the business. The use does not require improvements to public facilities detrimental to the character of the area.
ii. The proposed use does not create an unacceptable impact on the surrounding area by way of noise, odor, noxious materials, or other nuisances. The Planning Commission may require a Certified Engineer's Report describing the proposed operation, all machines, processes, products and byproducts, stating the nature and expected levels of emissions or discharge to land, air, water or liquid, solid, or gaseous effluent and electrical impulses, vibrations and noise under normal business and the specifications or treatment methods and mechanisms to be used to control such emissions or discharge.
iii. The health, safety, and welfare of employees and residents of the neighborhood will be protected.
b. All uses shall be conducted within a completely enclosed structure. Outdoor storage of materials and unfinished products is prohibited.
c. The business does not exceed 10,000 square feet of gross floor area.

29. Migrant labor camps in AZD

30. *Mobile home park* in V provided:
a. The property is served by public water and sewer.
b. The overall *density* of the park does not exceed 10 *dwelling units* per acre.
c. Each *mobile home* space shall have a minimum area of 4,000 square feet with a minimum width of 40 feet.
d. Each *mobile home* space shall provide the following *yards*:
i. *Front yard* – 20 feet

* Amended 4/3/18

ii. *Side yards* – 8 feet
iii. *Rear yard* – 10 feet

e. The minimum area of the *mobile home park* including *roads* and *open space* shall be 5 acres.
f. The maximum area of the *mobile home park* including *roads* and *open space* shall not exceed 25 acres.
g. All utilities within the *mobile home park* shall be underground.
h. A minimum of 4,000 square feet or 100 square feet per unit of common recreation area, whichever is greater, shall be provided.
i. No individual *mobile home* space shall have direct access onto a public or *private road* outside the *mobile home park*. Each *mobile home* space shall have direct access to an internal road.
j. Storage of unoccupied and/or damaged *mobile homes* is prohibited.
k. The *mobile home park* must not be visible year round from adjacent properties and the public road.
l. A minimum 20-foot vegetative screen is provided between the *mobile home park* and adjacent properties and the public road.
m. The *mobile home park* has direct access onto a public road.

31. More than four horses and mules on land less than 20 acres in size in AZD, RCD, RC, RR, and CAR provided:
    a. There shall be no more than 1 horse or mule per acre of available pasture on the *site*.
    b. No waste management facility or *structure* for the keeping of animals is in the *100-year floodplain*.
    c. The feeding and watering of animals are conducted a minimum of 50 feet from any body of water, including *tributary streams* and *wetlands*.
    d. The operation is managed according to a waste and nutrient management plan approved by the Natural Resources Conservation Service, the University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that phosphorus is a problem or is likely to become a problem, the plan shall use phosphorus based nutrient management. When in the opinion of the Board of Appeals, *Planning Commission*, or Planning Director additional review is needed by an outside agency, the application and waste and nutrient management plan may be forwarded to the Maryland Department of the Environment or any other appropriate agency.

32. Multi-level boat storage in M provided:
    a. The *building* is enclosed on three sides.
    b. The open end of the *building* does not face the road.
    c. The *building* is 100 feet from all property lines.
    d. The *building* does not exceed 55 feet in height, 100 feet in length, and 6,000 square feet in size.
    e. Trailers are not stored on the *premises*.
    f. Appropriate sanitary and pump out facilities are available on *site*.
    g. Boat ramps, lifts, railways, or other facilities for access to the water are available on *site*. In no case shall a boat cross a public road to access the water.

33. Outdoor entertainment in IV and IVCA

34. Outdoor recreation, miniature golf, but not golf courses, in V, IV, and IVCA.

35. *Personal wireless facility tower* in AZD, RCD, RC, CC, C, CCA, EC, and I provided:

a. The applicant demonstrates alternatives of consolidating the facility on an existing tower *structure* or incorporating the facility on a *structure* or water tower have been fully exhausted.

b. The applicant demonstrates a public need for the tower.

c. The applicant demonstrates a comprehensive approach to facilities with a goal of minimizing the number of *sites* required.

d. The height of the tower, including antennas and appurtenances shall not exceed 199 feet unless a *variance* is granted.

e. All towers and their accessory *buildings* shall comply with the building setback provisions of the applicable zoning district. In addition, the minimum from the ground base of any tower to any property line, road, or public recreational area shall be the height of the tower including any antennas or other appurtenances. This setback is considered a "fall zone." The Board of Appeals may reduce the fall zone by 50% of the required distance if it finds that a substantially better design will result from such a reduction. In making such a finding, the Board shall consider both the visual and safety impacts of the proposed use.

f. Monopoles or lattice towers shall be the preferred tower *structure* in the County.

g. The appearance of the tower *structure* shall be minimized by the reasonable use of commercially available technology to reduce visual impact, with specific reference to size, color, and silhouette properties.

h. Equipment shelters shall be designed consistent with traditional Eastern Shore architectural styles and materials with a pitched roof of at least 10/12. The shelters shall be camouflaged behind an effective year round buffer of existing dense vegetation that exceeds the height of the proposed *buildings*. The *Planning Commission* may waive the requirements for shelter design when it finds that the existing vegetation will provide adequate year round screening of the *buildings*.

i. The tower shall be sited within or adjacent to mature dense *tree* growth and understory vegetation that provides an effective year round visual buffer and should only be considered elsewhere on the property when technical or aesthetic reasons indicate there are no other preferable locations. Where necessary, the Board shall require the installation of a vegetated buffer of sufficient height and depth to create to an effective year round visual buffer.

j. Towers shall be lighted only if required by the FAA. Lighting of equipment shelters and other facilities on *site* shall be shielded from other properties.

k. *Signs* shall be limited to identify the property owner, emergency contact, and to warn of danger.

l. A tower shall not be within a 5-mile radius of any existing towers used for *personal wireless facilities* unless the applicant demonstrates a public need due to capacity or other service limitations.

m. The special exception shall be valid for a period of five years from the date that the decision of the Board of Appeals is signed.

n. The tower shall be used continuously for personal wireless comminations. In the event the tower ceases to be used for personal wireless communications for a period of six months, the approval will terminate. The property owner shall insure the tower removal within ninety days after the termination.

o. After the personal wireless facility is operational, the applicant shall submit, within 90 days of beginning operations, and at annual intervals from the date of approval of the special exception, a report listing the carriers using the facility.

p. The facility shall comply with all FCC and ANSI standards.

q. The applicant shall demonstrate that a tower shall not unreasonably interfere with the view of, or from, *sites* of significant public interest such as public parks, a national or state

designated scenic byway, a *structure* listed in the Kent County Historic *Site*'s survey, an historic district, or the Chesapeake Bay and its tributaries.

r. All applications for approval of a *personal wireless facility tower* shall include:
   i. A description of the facility and proposed licensed carriers. A licensed carrier shall be the applicant, the co-applicant or have a binding agreement with the tower company.
   ii. Coverage maps showing the area to be served by the proposed facility and the coverage available under existing facilities, approved facilities, and other appropriate *structures*.
   iii. A master plan of the applicants proposed communication's network for the entire county.
   iv. Siting elevations, existing photography, and a photo simulation from all directions.
   v. A coverage, interference, and capacity analysis. The Director of Emergency Management shall review the interference analysis.
   vi. A copy of all reports required by or provided to the Federal Communications Commission including, but not limited, to the Environmental Assessment, NEPA Review, and SHPO Review.
   vii. Computer modeling used in selecting the *site*.
   viii. A narrative that explains how the *site* will not unreasonably interfere with the view of, or from, *sites* of significant public interest such as public parks, a national or state designated scenic byway, a *structure* listed in the Kent County Historic *Site*'s survey, an historic district, or the Chesapeake Bay and its tributaries.

36. Poultry houses on parcels where the owner cannot handle the waste generated by the poultry houses in AZD provided:
   a. All *buildings* and waste management *structures* are 600 feet from the nearest property line.
   b. No part of the operation shall be in the *100-year floodplain*.
   c. The operation is managed according to a waste and nutrient management plan approved by the Natural Resources Conservation Service, the University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that phosphorus is a problem or is likely to become a problem, the plan shall use phosphorus based nutrient management. When in the opinion of the Board of Appeals, *Planning Commission*, or Planning Director additional review is needed by an outside agency, the application and waste and nutrient management plan may be forwarded to the Maryland Department of the Environment or any other appropriate agency.
   d. Sediment and *stormwater management plans* are approved by the appropriate agency and are implemented.
   e. The applicant shall prepare a management plan that demonstrates that the poultry houses will be operated in a safe and environmentally sound manner and will not create a hazard to the surrounding area and *waterways*.
   f. To assure continued compatibility with the surrounding area, the Board may place additional restrictions on the following:
      i. Screening and landscaping from adjacent properties and public *roads*
      ii. Exterior displays, lighting, and *signs*
      iii. The location of access routes to the *site*, both on and *off-site*
      iv. The type of waste disposal, e.g. injection, disk, etc.
      v. Monitoring wells and surface water testing where appropriate
      vi. Manner and route of moving waste from one *site* to another
      vii. Waste and nutrient management plans for properties receiving waste

37. Printing and publishing in V, IVCA, and IV provided that the operation is in compliance with the *regulations* of the State of Maryland.

38. *Private club*s in RCD, RC, RR, CAR, CR, V, IV, IVCA, and M
In RCD, private clubs shall be limited to 15% *impervious surface*.

39. Private schools in AZD, RC, RR, CAR, CR, V, IV, and IVCA

39.5 Production of biofuels in I provided:*
- a. The facility shall be located within 2½ miles of US Route 301
- b. The applicant demonstrates a clear, identifiable market for the byproducts of the facility
- c. The operation does not disturb the minimum 100-foot buffer or stream protection corridor
- d. The operation does not adversely affect a non-tidal wetland directly or hydrologically
- e. To assure continued compatibility with the surrounding area, the Board may place additional restrictions on the following:
  - i. Screening and landscaping from adjacent properties and public roads
  - ii. Exterior displays, lighting and signs
  - iii. The location of access routes to the site, both and off-site

40. *Public landings* in AZD, RCD, RC, RR, CAR, CR, and IVCA provided:
- a. Adequate sanitary facilities exist.
- b. Service facilities are to the extent possible outside the 100-foot *buffer*.
- c. Permeable surfaces are used to extent practicable, if no degradation of groundwater would result.
- d. Disturbance to *natural vegetation* is minimized.
- e. Areas for passive recreation, such as nature study, and for education, may be permitted in the *buffer* within the Resource Conservation Areas, if service facilities for these uses are outside the *buffer*.

41. *Public utilities* and *structures* as defined in Article XI of this Ordinance in AZD, RCD, RC, RR, CAR, and CR.

42. Pubs, taverns and bars in IV, IVCA, and M provided:
- a. The project is designed to minimize impact on neighboring properties, particularly residential properties either with *open space*, landscaping, or *structure* design.
- b. Measures are taken to limit any adverse effects of the use on *development* of the surrounding area due to noise, odor, traffic, lights, or any other reason.
- c. Loading areas, dumpsters, and other unsightly *site* elements shall be screened from adjacent properties and the public view.

43. Radio and television towers, commercial in C, EC and I provided:
- a. The applicant demonstrates alternatives of consolidating the facility on an existing tower *structure* or incorporating the facility on a *structure* or water tower have been fully exhausted.
- b. The applicant demonstrates a public need for the tower.
- c. The height of the tower, including antennas and appurtenances shall not exceed 199 feet unless a *variance* is granted.
- d. All towers and their accessory *buildings* shall comply with the building setback provisions of the applicable zoning district. In addition, the minimum from the ground base of any tower to any property line, road, or public recreational area shall be the height of the tower including any antennas or other appurtenances. This setback is considered a "fall zone."

* Amended 11/21/06

The Board of Appeals may reduce the fall zone by 50% of the required distance if it finds that a substantially better design will result from such a reduction. In making such a finding, the Board shall consider both the visual and safety impacts of the proposed use.

e. Monopoles or lattice towers shall be the preferred tower *structure* in the County.

f. The appearance of the tower *structure* shall be minimized by the reasonable use of commercially available technology to reduce visual impact, with specific reference to size, color, and silhouette properties.

g. Equipment shelters shall be designed consistent with traditional Eastern Shore architectural styles and materials with a pitched roof of at least 10/12. The shelters shall be camouflaged behind an effective year round buffer of existing dense vegetation that exceeds the height of the proposed *buildings*. The *Planning Commission* may waive the requirements for shelter design when it finds that the existing vegetation will provide adequate year round screening of the *buildings*

h. The tower shall be sited within or adjacent to mature dense *tree* growth and understory vegetation that provides an effective year round visual buffer and should only be considered elsewhere on the property when technical or aesthetic reasons indicate there are no other preferable locations. Where necessary, the Board shall require the installation of a vegetated buffer of sufficient height and depth to create to an effective year round visual buffer.

i. Towers shall be lighted only if required by the FAA. Lighting of equipment shelters and other facilities on *site* shall be shielded from other properties.

j. *Signs* shall be limited to identify the property owner, emergency contact, and to warn of danger.

k. The special exception shall be valid for a period of five years from the date that the decision of the Board of Appeals is signed.

l. The tower shall be used continuously. In the event, the tower ceases to be used for a period of six months, the approval will terminate. The property owner shall insure the tower removal within ninety days after the termination.

m. The facility shall comply with all FCC and ANSI standards.

n. The applicant shall demonstrate that a tower shall not unreasonably interfere with the view of, or from, *sites* of significant public interest such as public parks, a national or state designated scenic byway, a *structure* listed in the Kent County Historic *Site*'s survey, an historic district, or the Chesapeake Bay and its tributaries.

o. All applications for approval of radio and television towers shall include:

   i. A description of the facility and proposed licensed carriers. A licensed carrier shall be the applicant, the co-applicant or have a binding agreement with the tower company.

   ii. Coverage maps showing the area to be served by the proposed facility and the coverage available under existing facilities, approved facilities, and other appropriate *structures*.

   iii. A master plan of the applicants proposed communication's network for the entire county.

   iv. Siting elevations, existing photography, and a photo simulation from all directions.

   v. A coverage, interference, and capacity analysis. The Director of Emergency Management shall review the interference analysis.

   vi. A copy of all reports required by or provided to the Federal Communications Commission including, but not limited, to the Environmental Assessment, NEPA Review, and SHPO Review.

   vii. Computer modeling used in selecting the *site*.

   viii. A narrative that explains how the *site* will not unreasonably interfere with the view of or from *sites* of significant public interest such as public parks, a national or

state designated scenic byway, a *structure* listed in the Kent County Historic *Site*'s survey, an historic district, or the Chesapeake Bay and its tributaries.

44. Raising of livestock and fowl but not including commercial *feedlots*, confinement dairies, or poultry houses in RC and RR provided:
    a. All *buildings* for the housing of animals are 200 feet from the property line.
    b. Waste management *structures* are 600 feet from the nearest property line.
    c. No part of the operation shall be in the *100-year floodplain*.
    d. The operation is managed according to a waste and nutrient management plan approved by the Natural Resources Conservation Service, the University of Maryland Extension Service, and the Kent County Health Department. Where the phosphorus index, developed by the University of Maryland, indicates that phosphorus is a problem or is likely to become a problem, the plan shall use phosphorus based nutrient management. When in the opinion of the Board of Appeals, *Planning Commission*, or Planning Director additional review is needed by an outside agency, the application and waste and nutrient management plan may be forwarded to the Maryland Department of the Environment or any other appropriate agency.
    e. Sediment and *stormwater management plans* are approved by the appropriate agency and are implemented.
    f. The applicant shall prepare a management plan that demonstrates that the facility will be operated in a safe and environmentally sound manner and will not create a hazard to the surrounding area and *waterways*.
    g. To assure continued compatibility with the surrounding area, the Board may place additional restrictions on the following:
        i. Screening and landscaping from adjacent properties and public *roads*
        ii. Exterior displays, lighting, and *signs*
        iii. The location of access routes to the *site*, both on and *off-site*
        iv. The type of waste disposal, e.g. injection, disk, etc.
        v. Monitoring wells and surface water testing where appropriate
        vi. Manner and route of moving waste from one *site* to another
        vii. Waste and nutrient management plans for properties receiving waste

45. Raising of small animals, commercial, including birds, bees, fish, rabbits or other creatures but not including dog kennels in RC, RR, CAR, and CR.

46. Recreational facilities, privately or commercially owned, but not including major sports arenas for football, baseball, drag racing, motocross, or other major sports activities in RC, RR, CAR, CR, CC, C, and CCA.

47. *Resort* in RCD, RC, RR, CAR, CR, IV, and IVCA provided:
    a. The parcel(s) on which the *resort* is proposed shall be at least 250 acres.
    b. The *resort* shall not exceed 750 acres.
    c. The *resort* has at least 40 but not more than 225 guest rooms.
    d. The project includes a regulation par 72, 18-hole golf course. The golf course shall meet all the requirements found in Article VII, Section 7.26 of this Ordinance.
    e. Permanent theme parks, amusement parks, and/or stadiums are prohibited.
    f. Where applicable, the applicant has applied for growth allocation from the County. Special exception approval will not be valid without the granting of growth allocation.
    g. The Board shall make specific findings on the availability of public and governmental services.
    h. Where they exist, historic *structures* shall be incorporated into the overall project.

i. Significant view corridors, both from the *site* and onto the *site* shall be preserved in so much as possible.

j. The height of all *structures* shall not exceed 38 feet.

k. The design of the *resort* and *accessory uses* shall reflect and complement the rural character of the area.

l. The number of *dwelling units* shall not exceed that which is permitted in the applicable zoning district. *Dwelling units* may be detached or attached.

m. Continuous residential *lot development* aligned with golf course fairways shall be prohibited within the *Critical Area* and discouraged elsewhere.

n. Parking lots shall be landscaped as required for commercial developments in Article V, Section 11 of this Ordinance.

o. Permitted *accessory uses* include *restaurants*, recreational facilities such as tennis courts and *swimming pools*; spas; retail use provided the establishments are in the main *building* with the entrance to the retail use from the inside the *building*; stables, equestrian center, other recreation amenities but not including trap, skeet, clay birds, paint ball or other similar firearm activities, *piers* and; other *accessory uses* that are customarily associated with a *resort*. The applicant shall describe all proposed *accessory uses* in the application for a special exception. The Board of Appeals may deny or limit the size and extent of *accessory uses*.

p. The number of *slips* on the accessory *pier* is limited to 25% of the number of guest rooms and is limited to use by those using the *resort* facilities. Accessory *piers* must meet all requirements applicable to *marinas* such as pumpouts, restrooms, and showers.

q. All *structures* shall comply with the minimum 100-foot *buffer* from mean high tide and 500 feet from all side and rear property lines whichever is greater.

r. In RCD, RC, RR, and CAR at least 60% of the property shall be in *open space*. A golf course shall be considered *open space*. However, additional *open space* beyond that provided by the golf course is required.

s. The Board of Appeals may place additional restrictions on the following:

   i. Additional *yard* requirements for all *structures*, including patios, and places of public assembly

   ii. Lighting

   iii. Landscaping and screening

   iv. Outdoor activities, outdoor music, and their hours of operation

   v. Access

t. Application for a *resort* shall include a sketch plan and renderings of all primary and each type of *accessory structure*.

48. Retail businesses, supplying on the *premises*, household goods, new automotive parts, agricultural supplies and commodities, sporting goods, and the like, including department, outlet and discount stores with a gross *floor area* that exceeds 60,000 square feet in C provided:

a. The proposed *development* will not adversely affect existing commercial centers and businesses as demonstrated by an economic impact study.

b. The traffic impact will not lower the level of service more than one level of service or in any case below Level of Service C as demonstrated by a traffic impact study.

c. The proposed *development* will not adversely affect the environment as demonstrated by an environmental impact study.

d. All retail sales and/or storage shall be conducted entirely within a *building* except where otherwise approved by the *Planning Commission*

e. The *Planning Commission* has reviewed the preliminary *site plan*.

f. The Board of Appeals may place additional restrictions on the following:

   i. Additional *yard* requirements for all *structures*.

ii. Lighting
iii. Landscaping and screening
iv. Access

g. The application shall include a preliminary plan and renderings of all primary and *accessory structures*.

49. *Retreat* in AZD, RCD, RC, RR, CAR, CR, and V provided:*

a. The project shall collectively consist of at least 15 acres.
b. In AZD, the *retreat* uses *buildings* that existed prior to August 1, 1989. *Buildings* are limited to a 50% expansion of the gross *floor area* of each individual *building* above that which existed as of August 1, 1989.
c. The *retreat* has at least 10 but not more than 40 guest rooms.
d. Permanent theme parks, amusement parks, and/or stadiums are prohibited.
e. Where applicable, the applicant has applied for growth allocation. Special exception approval will not be valid without the granting of growth allocation.
f. The Board shall make specific findings on the availability of public and governmental services.
g. Where they exist, historic *structures* shall be incorporated into the overall project.
h. Significant view corridors, both from the *site* and onto the *site* shall be preserved in so much as possible.
i. The height of all *structures* shall not exceed 38 feet.
j. The design of the *retreat* and *accessory uses* shall reflect and complement the rural character of the area.
k. One residential unit for use by an employee of the *retreat* may be provided.
l. Permitted *accessory uses* include kitchen and dining facilities for guests only, recreational facilities such as tennis courts and *swimming pools*; spas; other recreation amenities but not including trap, skeet, clay birds, paint ball or other similar firearm activities, *piers*; and other *accessory uses* that are customarily associated with a *retreat*. The applicant shall describe all proposed *accessory uses* in the application for a special exception. The Board of Appeals may deny or limit the size and extent of *accessory uses*.
m. The number of *slips* on an accessory *pier* may not exceed 5.
n. The *retreat* shall be limited to 10 *buildings*. In AZD, the *retreat* is limited to existing *buildings*.
o. All *structures* shall comply with the minimum 100-foot *buffer*. Primary *buildings* shall be 100 feet from all property lines or comply with the minimum 100-foot *buffer*, whichever is greater. *Accessory structures* may be 5 feet from the rear or side property line.
p. At least 60% of the property shall be in *open space*.
q. Parking lots shall be landscaped as required for commercial developments in Article V, Section 11 of this Ordinance.
r. The Board of Appeals may place additional restrictions on the following:
   i. Additional *yard* requirements for all *structures*, including patios and places of public assembly
   ii. Lighting
   iii. Landscaping and screening
   iv. Outdoor activities and outdoor music and their hours of operation
   v. Access
s. The application for a *retreat* shall include a sketch plan and renderings of all primary and each type of *accessory building* and *structure*.

* Amended 11/1/05

50. Rifle and pistol ranges, trap and skeet shooting, sporting clays or similar activities such as paint ball, including accessory snack bars and retail sales of shooting supplies and equipment, commercial or *private club* in AZD provided:
    a. The surrounding area is predominately undeveloped.
    b. Such uses shall be for the period of time as determined by the Board. However, outdoor night shooting is prohibited at rifle and pistol ranges.
    c. Proposed *accessory uses*, such as stores, snack bars, and *recreational vehicle* parking are included in the application and specifically approved by the Board.

51. Rural Inn in AZD, RC, RR, CR, and V provided:*

    a. The project shall collectively consist of at least 20 acres.
    b. In AZD, the Rural Inn uses buildings that existed prior to August 1, 1989. Buildings are limited to a 50% expansion of the gross floor area of each individual building above that which existed as of August 1, 1989.
    c. The Rural Inn has at least 10 but not more than 25 guest rooms. Overnight lodging shall not exceed 45 consecutive days.
    d. Permanent theme parks, amusement parks, and/or stadiums are prohibited.
    e. The Board shall make specific findings on the availability of public and governmental services.
    f. Where they exist, historic structures shall be incorporated into the overall project.
    g. Significant view corridors, both from the site and onto the site shall be preserved in so much as possible.
    h. The height of all structures shall not exceed 38 feet.
    i. The design of the Rural Inn and accessory uses shall reflect and complement the rural character of the area.
    j. Two residential units for use by employees of the Rural Inn may be provided.
    k. Permitted accessory uses include kitchen and dining facilities. Dining facilities may be provided to patrons in addition to guests registered for overnight lodging provided seating 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; recreational facilities such as tennis courts and swimming pools; other recreational amenities but not including trap, skeet, clay birds, paint ball or other similar firearm activities; and other accessory uses that are customarily associated with a Rural Inn. The applicant shall describe all proposed accessory uses in the application for a special exception. The Board of Appeals may deny or limit the size and extent of accessary uses.
    l. The Rural Inn may not exceed 15 buildings. In AZD, the Rural Inn is limited to existing buildings.
    m. At least 60% of the property shall be in open space.
    n. Parking lots shall be landscaped as required for commercial developments in Article V, Section 11 of this Ordinance.
    o. All building associated with the principal uses of the Rural Inn, as well as the permitted accessory uses listed in paragraph (k) of this subsection, shall be a minimum of 100 feet from all property lines.
    p. The Board of Appeals may place additional restrictions on the following:
        i. Additional yard requirements for all structures, including patios and places of public assembly
        ii. Lighting
        iii. Landscape and screening
        iv. Outdoor activities and outdoor music and their hours of operation
        v. Access

* Amended 4/8/15

vi. Location and hours of operation of kitchen and dining facilities open to the public

q. The application for a Rural Inn shall include a sketch plan and renderings of all primary and each type of accessory building and structure.

52. Sand and gravel pits, *excavation* or extraction (not including the removal of sod, and *excavation* for foundations, *swimming pools*, *soil* and water conservation practices, and those removals approved in connection with farm use, *street* construction, *subdivision* or planned residential *development*) in AZD, RCD, RC, RR and CAR provided:

a. The special exception shall be for a period not to exceed five years

b. Material is not brought from *off-site* for processing, mixing, or similar uses

c. The *excavation* or extraction operation shall be controlled to offer reasonable protection to surrounding properties and the neighborhood, particularly as regards to use of residential *streets* for access to the *site*

d. There are no known threatened or *endangered species*, areas of specific value, or rare assemblages of species or other vital habitat at the *site*

e. In RCD and CAR, *highly erodible soils* are not disturbed at the *site*

f. The operation will not disturb for future use prime agricultural lands or *forest* and *developed woodlands* of more than one acre

g. The operation will not degrade water quality

h. The operation does not disturb the minimum 100-foot *buffer* or *stream protection corridor*

i. The operation is under an approved operating and restoration plan from the State of Maryland

j. The operation does not adversely affect a *non-tidal wetland* directly or hydrologically

k. The location of the *excavation* or extraction with respect to property lines, the depth of *excavation*, and relation to the water table or *flood* criteria and the *slope* of the sides of the *excavation* shall be controlled to prevent a continuing, unsightly, hazardous, or wasteful condition of the land.

53. *Sanitary landfill* or rubblefill owned or managed by Kent County in AZD provided a 100-foot vegetative *screen* is provided along all property lines.

53.5 School bus parking lot in V, IV, and C provided:*

a. No part of the school bus parking facility shall be in the *100-year floodplain*.

b. Areas for school bus parking, fueling, or repair are a minimum of 100 feet from any residence.

c. Areas for school bus parking are 100 feet from *wetlands*.

d. Areas for school bus repair are enclosed in a *building*. Outdoor repair or storage of materials or products is prohibited.

e. All buses must have current licenses and be operable.

f. The Board determines that all access *roads* are capable of handling the traffic generated and that a safe route for school buses traveling to and from the facility is provided.

g. Areas for parking and cartways are paved.

h. The site is screened from adjacent properties and public *roads*.

i. Adequate rest room facilities shall be provided.

54. Seafood processing, including wholesale and retail sales in M provided:

a. Open or uncovered storage of shells, bones, and refuse does not occur on *site*.

b. No curing or smoking occurs on *site*.

c. All *structures* for processing and all disposal areas for materials and byproducts of processing are a minimum of 300 feet from all property lines and 600 feet from residential district boundaries.

d. Seafood processing facilities and disposal areas are not in the *100-year floodplain*.

* Amended 4/3/18

e. The operation is managed according to a management plan approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department.

f. Parking, processing and disposal areas are screened from adjacent properties and public *roads*.

g. Access *roads* are capable of handling the type of traffic generated by the operation.

55. *Sewage sludge land application* in AZD provided:

a. Prior approval by the Maryland Department of the Environment pursuant to the Annotated Code of Maryland and the COMAR *regulations*, as amended, shall be obtained. Any conditions imposed by the Maryland Department of the Environment shall be made a part of any approval by the Board of Appeals.

b. No land application shall be permitted within the environmental quality corridor designated on the Land Suitability Maps of Kent County, Maryland. (These maps are on file in the Kent County Department of Planning and Zoning.)

c. An approved conservation plan for such sludge application, using the universal *soil* loss equation for computation of *soil* loss, shall be on file with the Natural Resources Conservation Service of Kent County and implemented.

d. The applicant shall prepare an environmental impact statement and submit it with the application. This statement shall include, but is not limited to:

i. A site plan as required in Article VI, Section 5 of this Ordinance.

ii. Description of the project, including application rates, soil conservation measures, sludge source, means of transportation to the site(s), biological and chemical composition of the sludge as determined by the State Department of Agronomy and a comparison to the existing maximum concentrations and limits of its contents according to the Maryland Department of the Environment permissible limits, applicable methods, and the name of the contractor who will apply the sludge.

iii. An analysis of the project's short and long term positive and negative environmental impacts relating to but not limited to ground water quality, surface water runoff, sediment transport, *soil* chemistry, heavy metals, pathogens, toxic organic, odor and wildlife.

iv. A monitoring program to assure uniform methods of application and the nature of sludge material as approved by the Board. The program must also provide data on *soil* pH, ground water, and surface water conditions using the American Water Works Association method or other approved standard or scientific method.

v. Description of all permits required by federal, state and local agencies and their status.

e. A system of test wells and surface water testing stations is installed to provide data on surface water and ground water conditions. A surface and ground water monitoring program is to be initiated prior to land application to provide base line data. There shall be a minimum of one ground water monitoring well and one surface water quality testing station per drainage sub-basin. The Board may require additional wells or stations. The adequacy of all monitoring facilities is to be determined by the Board who may request the assistance of the County's technical planning staff. The applicant shall provide suggested locations and number of monitoring facilities which the applicant feels are adequate and in the best interest of pursuing the monitoring function outlined in this section.

f. Land application shall be carried out using only those types of equipment which will result in a uniform application of sludge. Any such equipment must have calibration capability.

g. A sludge storage facility may be approved when the capacity of the storage facility does not exceed one half (½) of the annual total volume approved by the Maryland Department of the Environment. The facility may only be used for the storage of *sewage sludge* to be applied on the fields delineated within the application. The storage facility shall be a minimum of 1,000 feet from the nearest residence and 200 feet from the property lines.

h. The Zoning Administrator may take *on-site* samples of sludge from transport trucks or the land. The Zoning Administrator is to be notified at least 3 days prior to the initiation of the land application of sludge.

i. A manifest is to accompany each truck load of *sewage sludge* and shall include the following information:

   i. Origin of sludge
   ii. Amount of sludge
   iii. Most recent official analysis of sludge

   The manifest shall be delivered to the Zoning Administrator within 7 days of delivery of the sludge to the *site*.

j. The special exception shall be reviewed on a yearly basis.

56. *Shopping centers* in C provided:

a. All retail sales shall be conducted within a *building* except where otherwise approved by the *Planning Commission*.

b. A traffic study shows that the traffic generated will not cause the level of service on adjacent roads to drop below Level C.

57. *Single family dwellings* in CC, C, and CCA

57.25 *Solar energy systems, utility scale*, on farms in AZD and RCD provided:*

a. A solar collection device or combination of devices are designed and located to avoid glare or reflection onto adjacent properties and adjacent roadways and shall not interfere with traffic or create a safety hazard.

b. Screening, capable of providing year-round screening, is provided along all sides that do not collect energy.

c. Roof mounted solar collection devices shall not extend more than 10 feet from the top of the roof. The total height of the *building*, including the solar collection devices, shall comply with the height regulations established for each zoning district.

d. Solar collection devices shall not exceed 38 feet in height.

e. The solar collection system shall be incidental to the use of the farm.

f. Installation of the solar collection system shall not adversely impact adjacent properties.

g. All *structures* associated with the solar collection system shall be neither visually intrusive nor inappropriate to their setting.

h. All solar collection devices shall register with the Department of Emergency Services and shall submit a map noting the location of the solar collection devices and the panel disconnect.

i. Other than wire size, there shall be no alteration of utility infrastructure to accommodate the system.

j. The area of use may not exceed 5 acres onsite. Adjacent properties shall not aggregate solar collection panels to achieve an area exceeding 5 acres.

k. In AZD, the area developed by a utility scale solar energy system is considered *development* and counted toward the maximum percentage of the property in lots.

l. Tree removal shall be minimized and any removal shall be mitigated in accordance with the Critical Area Program requirements.

m. The applicant shall demonstrate that a utility scale solar energy system shall not unreasonably interfere with the view of, or from, sites of significant public interest such as public parks, a national or state designated scenic byway, a *structure* listed in the Kent County Historic Site Survey, an historic district, or the Chesapeake Bay and its tributaries.

* Amended 9/6/11

57.5 *Solar energy systems, utility scale*, in CC, C, and CCA provided:*

a. A solar collection device or combination of devices are designed and located to avoid glare or reflection onto adjacent properties and adjacent roadways and shall not interfere with traffic or create a safety hazard.

b. Screening, capable of providing year-round screening, is provided along all sides that do not collect energy.

c. Roof mounted solar collection devices shall not extend more than 10 feet from the top of the roof. The total height of the *building*, including the solar collection devices, shall comply with the height regulations established for each zoning district.

d. Solar collection devices shall not exceed 45 feet in height

e. All solar collection devices shall register with the Department of Emergency Services and shall submit a map noting the location of the solar collection devices and the panel disconnect.

f. The applicant shall demonstrate that a utility scale solar energy system shall not unreasonably interfere with the view of, or from, sites of significant public interest such as public parks, a national or state designated scenic byway, a *structure* listed in the Kent County Historic Site Survey, an historic district, or the Chesapeake Bay and its tributaries.

58. *Structures* for the buying, processing, and sale of animal products in AZD, commercial, provided:

a. *Structures*, retention, and disposal areas shall be 600 feet from the nearest property line.

b. The front of the *site* shall be appropriately landscaped.

c. All activities shall be completely enclosed.

d. The operation is managed according to a waste management plan approved by the Natural Resources Conservation Service, University of Maryland Extension Service, and the Kent County Health Department.

59. *Structures* for the buying, processing, or sale of farm products related to agriculture, including the sale of fertilizer and seed but not including animal products, in *structures* that exceed 10,000 square feet but are less than 50,000 square feet in AZD ***

59.5 Tie-out pilings of private piers, *community piers*, and private shared piers, installed at a distance not to exceed 25% of the width of the waterway, the edge of the channel, or 180 feet from the mean high water mark, whichever is less, for the exclusive mooring use by tall ships as safe-harbors from hurricanes and other severe weather-related threats in RCD and CAR provided: **

a. Private piers, *community piers*, and private shared piers in RCD and CAR are subject to the stipulations and *regulations* of Article VI, Section 3.7 of this Ordinance.

b. No portion of a pier consisting of any combination of nonfloating fixed platforms, and/or floating structures, with decking extending out over the water to provide pedestrian access, may exceed 25% of the width of the waterway, the edge of the channel, or 150 feet in length, whichever is less.

c. Any tie-out pilings installed more than 150 feet from the mean high water mark shall be for the exclusive mooring use by tall ships and for no other use.

d. The term "tall ships" means any large traditionally-rigged sailing vessels, including schooners, which are federally documented with home ports located in Kent County, Maryland.

e. The term "hurricanes and other severe weather-related threats" means weather events which are the subjects of a Tropical Storm Watch, Tropical Storm Warning, Hurricane Watch, or Hurricane Warning issued by the National Oceanic and Atmospheric Administration.

* Amended 9/6/11; ** Amended 6/20/17;
*** Amended 9/3/19

60. Truck parking lot in CC and C provided:
   a. No part of the truck parking facility shall be in the *100-year floodplain*.
   b. Areas for truck parking, fueling, or repair are a minimum of 100 feet from any residential district.
   c. Areas for truck parking are 100 feet from *wetlands*.
   d. Areas for truck repair are enclosed in a *building*.
   e. The Board determines that all access *roads* are capable of handling the traffic generated and that a safe route for trucks traveling to and from the facility is provided.
   f. Areas for parking and cartways are paved.
   g. The *site* is screened from adjacent properties and public *roads*.
   h. Adequate rest room facilities shall be provided.

61. *Truck stops* in C and CCA provided:
   a. No part of the truck parking facility shall be in the *100-year floodplain*.
   b. Areas for truck parking, fueling, or repair are a minimum of 300 feet from any residential district.
   c. Areas for truck parking are 100 feet from *wetlands*.
   d. Areas for truck repair are enclosed in a *building*.
   e. The Board determines that all access *roads* are capable of handling the traffic generated and that a safe route for trucks traveling to and from the facility is provided.
   f. Areas for parking and cartways are paved.
   g. The *site* is screened from adjacent properties. The *front yard* and all areas adjacent to public *roads* shall be extensively landscaped.
   h. Adequate rest room facilities, driver rooms, and telephones shall be provided.

62. *Truck terminals* in C provided:
   a. No part of the truck parking facility shall be in the *100-year floodplain*.
   b. Areas for truck parking, fueling, or repair are a minimum of 100 feet from any residential district.
   c. Areas for truck parking are at least 100 feet from *wetlands*.
   d. Areas for truck repair are enclosed in a *building*.
   e. The Board determines that all access *roads* are capable of handling the traffic generated and that a safe route for trucks traveling to and from the facility is provided.
   f. Areas for parking and cartways are paved.
   g. The *site* is screened from adjacent properties and public *roads*.
   h. Adequate rest room facilities shall be provided.

63. *Wind energy systems, small*, with a height that exceeds 80 feet or on parcels less than 20 acres in AZD, RCD, RC, RR, CAR and CR provided:*
   a. If an alternative energy source can produce equal energy, then that should be used rather than a tall tower which impacts the landscape.
   b. If co-location with a *personal wireless facility* is proposed, then a need for a *personal wireless facility tower* must be documented and all appropriate studies submitted. In addition, the proposed tower must comply with all standards for both wind turbines and personal wireless facilities.
   c. The applicant shall provide a report documenting that the wind energy system does not significantly impact migratory bird pathways.
   d. The wind energy system shall not be located within the air path of a private or public airstrip.

* Amended 9/6/11

e. The height of the *structure* to the tip of the blade at its highest point does not exceed 120 feet.
f. A small energy system shall not have more than one wind turbine per parcel.
g. Monopoles or lattice towers shall be the preferred tower *structure* in the county.
h. Guy wires are strictly prohibited.
i. Small wind energy systems may not be located within the *buffer* or within a *stream protection corridor*.
j. Small wind energy systems shall not be artificially lit unless such lighting is required by the Federal Aviation Administration.
k. Small wind energy systems shall be galvanized steel, brushed aluminum finish, or a non-garish color or finish that conforms to the environment and architecture of the community, unless Federal Aviation Administration regulations require otherwise.
l. All *signs*, including flags, streamers and decorative items, both temporary and permanent, are prohibited on a small wind energy system except the manufacturer or installer's identification or appropriate warning signs or placards.
m. Any free standing *structure* is located a minimum of 1.5 times its total height from a property line.
n. Either towers are not readily climbable from the ground up to 12 feet or are fenced.
o. All access doors to towers and electrical equipment shall be lockable.
p. Appropriate warning signage is placed on the tower and electrical equipment.
q. The blade tip at its lowest point has a ground clearance of at least 25 feet.
r. Any small wind energy system that is not operable for a period of 12 consecutive months or more shall be removed at the landowner's expense.
s. Small wind energy systems shall be sited in a manner that does not result in significant *shadow flicker*.
t. Small wind energy systems, including wind turbine and tower, shall comply with all applicable construction and electrical codes.
u. Audible sound due to wind turbine operations shall not exceed 55 dB(A) except during short-term events such as utility outages and/or severe windstorms. The sound level shall be measured at ground level at the property line.
v. Any small wind energy system found to be unsafe shall be repaired by the property owner to meet these regulations and any applicable federal, state and local safety standards or be physically removed within 90 days.
w. The applicant shall demonstrate that a small wind energy system shall not unreasonably interfere with the view of, or from, sites of significant public interest such as public parks, a national or state designated scenic byway, a *structure* listed in the Kent County Historic Sites Survey, an historic district, or the Chesapeake Bay and its tributaries.
x. The following submittals are required for approval:
    i. *Site plan*, at a standard scale, to adequately show:
        1. Property lines and dimensions of subject property.
        2. Property lines and owner information for all abutting properties.
        3. Locations of all existing *buildings*, *structures*, and underground and overhead utilities on the subject property.
        4. Locations of all existing *buildings* on abutting properties.
        5. Location of the proposed small wind energy system with distances to show required setbacks.
        6. Certification by a licensed professional engineer or property owner that the information shown on the *site plan* is accurate.
        7. A *shadow flicker* study documenting compliance with the *shadow flicker* impact definition per Article VII, Section 7.63.s.

ii. The small wind energy system manufacturer's specification sheet, including photograph, sound analysis and mounting recommendations.

iii. Engineered drawings showing the small wind energy system *structure*, including the tower, turbine, base and footings, and an engineering analysis showing compliance with the International Building Code certified by a licensed professional engineer. This analysis may be supplied by the manufacturer.

iv. Siting elevations, existing photography, and a photo simulation from all directions.

v. Any additional information as may be required by the Board of Appeals as appropriate to demonstrate compliance with the regulations.

vi. A narrative that explains how the site will not unreasonably interfere with the view or, or from, sites of significant public interest such as public parks, a national or state designated scenic byway, a *structure* listed in the Kent County Historic Sites Survey, an historic district, or the Chesapeake Bay and its tributaries.

64. *Wind energy systems, small*, in V, IV, IVCA provided:*

a. If an alternative energy source can produce equal energy, then that should be used rather than a tall tower which impacts the landscape.

b. If co-location with a *personal wireless facility* is proposed, then a need for a *personal wireless facility tower* must be documented and all appropriate studies submitted. In addition, the proposed tower must comply with all standards for both wind turbines and personal wireless facilities.

c. The applicant shall provide a report documenting that the wind energy system does not significantly impact migratory bird pathways.

d. The wind energy system shall not be located within the air path of a private or public airstrip.

e. The height of the *structure* to the tip of the blade at its highest point does not exceed 120 feet.

f. A small energy system shall not have more than one wind turbine per parcel.

g. Monopoles or lattice towers shall be the preferred tower *structure* in the county.

h. Guy wires are strictly prohibited.

i. Small wind energy systems may not be located within the *buffer* or within a *stream protection corridor*.

j. Small wind energy systems shall not be artificially lit unless such lighting is required by the Federal Aviation Administration.

k. Small wind energy systems shall be galvanized steel, brushed aluminum finish, or a non-garish color or finish that conforms to the environment and architecture of the community, unless Federal Aviation Administration regulations require otherwise.

l. All *signs*, including flags, streamers and decorative items, both temporary and permanent, are prohibited on a small wind energy system except the manufacturer or installer's identification or appropriate warning signs or placards.

m. Any free standing *structure* is located a minimum of 1.5 times its total height from a property line.

n. Either towers are not readily climbable from the ground up to 12 feet or are fenced.

o. All access doors to towers and electrical equipment shall be lockable.

p. Appropriate warning signage is placed on the tower and electrical equipment.

q. The blade tip at its lowest point has a ground clearance of at least 25 feet.

r. Any small wind energy system that is not operable for a period of 12 consecutive months or more shall be removed at the landowner's expense.

* Amended 9/6/11

s. Small wind energy systems shall be sited in a manner that does not result in significant *shadow flicker*.

t. Small wind energy systems, including wind turbine and tower, shall comply with all applicable construction and electrical codes.

u. Audible sound due to wind turbine operations shall not exceed 55 dB(A) except during short-term events such as utility outages and/or severe windstorms. The sound level shall be measured at ground level at the property line.

v. Any small wind energy system found to be unsafe shall be repaired by the property owner to meet these regulations and any applicable federal, state and local safety standards or be physically removed within 90 days.

w. The applicant shall demonstrate that a small wind energy system shall not unreasonably interfere with the view of, or from, sites of significant public interest such as public parks, a national or state designated scenic byway, a *structure* listed in the Kent County Historic Sites Survey, an historic district, or the Chesapeake Bay and its tributaries.

x. The following submittals are required for approval:

i. *Site plan*, at a standard scale, to adequately show:

1. Property lines and dimensions of subject property.
2. Property lines and owner information for all abutting properties.
3. Locations of all existing *buildings*, *structures*, and underground and overhead utilities on the subject property.
4. Locations of all existing *buildings* on abutting properties.
5. Location of the proposed small wind energy system with distances to show required setbacks.
6. Certification by a licensed professional engineer or property owner that the information shown on the site plan is accurate.
7. A *shadow flicker* study documenting compliance with the *shadow flicker* impact definition per Article VII, Section 7.63.s.

ii. The small wind energy system manufacturer's specification sheet, including photograph, sound analysis and mounting recommendations.

iii. Engineered drawings showing the small wind energy system *structure*, including the tower, turbine, base and footings, and an engineering analysis showing compliance with the International Building Code certified by a licensed professional engineer. This analysis may be supplied by the manufacturer.

iv. Siting elevations, existing photography, and a photo simulation from all directions.

v. Any additional information as may be required by the Board of Appeals as appropriate to demonstrate compliance with the regulations.

vi. A narrative that explains how the site will not unreasonably interfere with the view or, or from, sites of significant public interest such as public parks, a national or state designated scenic byway, a *structure* listed in the Kent County Historic Sites Survey, an historic district, or the Chesapeake Bay and its tributaries.

65. *Wind energy systems, small*, with a height that exceeds 80 feet in CC, C, CCA, EC, I, ICA-LDA and ICA provided:*

a. If an alternative energy source can produce equal energy, then that should be used rather than a tall tower which impacts the landscape.

b. If co-location with a *personal wireless facility* is proposed, then a need for a *personal wireless facility tower* must be documented and all appropriate studies submitted. In addition, the proposed tower must comply with all standards for both wind turbines and personal wireless facilities.

* Amended 9/6/11

c. The applicant shall provide a report documenting that the wind energy system does not significantly impact migratory bird pathways.
d. The wind energy system shall not be located within the air path of a private or public airstrip.
e. The height of the *structure* to the tip of the blade at its highest point does not exceed 120 feet.
f. A small energy system shall not have more than one wind turbine per parcel.
g. Monopoles or lattice towers shall be the preferred tower *structure* in the county.
h. Guy wires are strictly prohibited.
i. Small wind energy systems may not be located within the *buffer* or within a *stream protection corridor*.
j. Small wind energy systems shall not be artificially lit unless such lighting is required by the Federal Aviation Administration.
k. Small wind energy systems shall be galvanized steel, brushed aluminum finish, or a non-garish color or finish that conforms to the environment and architecture of the community, unless Federal Aviation Administration regulations require otherwise.
l. All *signs*, including flags, streamers and decorative items, both temporary and permanent, are prohibited on a small wind energy system except the manufacturer or installer's identification or appropriate warning signs or placards.
m. Any free standing *structure* is located a minimum of 1.5 times its total height from a property line.
n. Either towers are not readily climbable from the ground up to 12 feet or are fenced.
o. All access doors to towers and electrical equipment shall be lockable.
p. Appropriate warning signage is placed on the tower and electrical equipment.
q. The blade tip at its lowest point has a ground clearance of at least 25 feet.
r. Any small wind energy system that is not operable for a period of 12 consecutive months or more shall be removed at the landowner's expense.
s. Small wind energy systems shall be sited in a manner that does not result in significant *shadow flicker*.
t. Small wind energy systems, including wind turbine and tower, shall comply with all applicable construction and electrical codes.
u. Audible sound due to wind turbine operations shall not exceed 55 dB(A) except during short-term events such as utility outages and/or severe windstorms. The sound level shall be measured at ground level at the property line.
v. Any small wind energy system found to be unsafe shall be repaired by the property owner to meet these regulations and any applicable federal, state and local safety standards or be physically removed within 90 days.
w. The applicant shall demonstrate that a small wind energy system shall not unreasonably interfere with the view of, or from, sites of significant public interest such as public parks, a national or state designated scenic byway, a *structure* listed in the Kent County Historic Sites Survey, an historic district, or the Chesapeake Bay and its tributaries.
x. The following submittals are required for approval:
    i. *Site plan*, at a standard scale, to adequately show:
        1. Property lines and dimensions of subject property.
        2. Property lines and owner information for all abutting properties.
        3. Locations of all existing *buildings*, *structures*, and underground and overhead utilities on the subject property.
        4. Locations of all existing buildings on abutting properties.
        5. Location of the proposed small wind energy system with distances to show required setbacks.

6. Certification by a licensed professional engineer or property owner that the information shown on the site plan is accurate.
7. A *shadow flicker* study documenting compliance with the *shadow flicker* impact definition per Article VII, Section 7.63.s.

ii. The small wind energy system manufacturer's specification sheet, including photograph, sound analysis and mounting recommendations.

iii. Engineered drawings showing the small wind energy system *structure*, including the tower, turbine, base and footings, and an engineering analysis showing compliance with the International Building Code certified by a licensed professional engineer. This analysis may be supplied by the manufacturer.

iv. Siting elevations, existing photography, and a photo simulation from all directions.

v. Any additional information as may be required by the Board of Appeals as appropriate to demonstrate compliance with the regulations.

vi. A narrative that explains how the site will not unreasonably interfere with the view or, or from, sites of significant public interest such as public parks, a national or state designated scenic byway, a *structure* listed in the Kent County Historic Sites Survey, an historic district, or the Chesapeake Bay and its tributaries.

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ARTICLE VIII. NONCONFORMITIES

SECTION 1. NONCONFORMING USES

1.1 CONTINUANCE

The lawful use of land, including existing nonconforming uses, existing on the effective date of this Ordinance, although such use does not conform to the *regulations* specified for the district in which such land is located, may be continued provided:

a. The use is not enlarged, increased, or extended to occupy a greater area than that occupied by such use on the effective date of this Ordinance.

b. That if any use ceases for a period of two years the subsequent use of such lands shall be in conformity to the *regulations* specified for the district in which the land is located.

1.2 DISCONTINUANCE OF NONCONFORMING USE

No *building* or portion thereof used in whole or in part for a nonconforming use which remains idle or unused for a continuous period of two years whether or not the fixtures or equipment are removed, shall not again be used except in conformity with the *regulations* of the district in which such *building* or land is located. Whether a nonconforming use has ceased is a question of fact and shall be decided by the Zoning Administrator. At the Zoning Administrators discretion, a review of a nonconforming use may be submitted to the Board of Appeals for a determination of whether a nonconforming use has ceased.

1.3 NONCONFORMING USES IN THE CRITICAL AREA

Any lawful use existing on April 12, 1988 may continue unless the use is abandoned for more than one year.

1.4 RESTORATION AFTER DAMAGE OR RECONSTRUCTION

Nothing in these *regulations* shall prevent the continuance of a use or the reconstruction of a *structure* occupied by a lawful nonconforming use destroyed by fire, explosion, act of God or act of the public enemy as it existed at the time of such destruction provided that a permit is obtained and reconstruction begun within two years after the occurrence. This provision does not apply to *structures* that are voluntarily removed or destroyed by the property owner or the property owner's agent.

1.5 INTERMITTENT USE

The casual, intermittent, or illegal use of the land or *buildings* shall not be sufficient to establish the existence of a nonconforming use. The existence of a nonconforming use on a part of a *lot* or *tract* shall not be construed to establish a nonconforming use on the entire *lot* or *tract*.

1.6 ORDINARY REPAIR AND MAINTENANCE

The normal maintenance and repair or the replacement, installation, or relocation of nonbearing partitions, fixtures, wiring, or plumbing may be performed on any *structure* that is devoted in whole or in part to the nonconforming use. Neither this nor any other provision of this section shall be interpreted to authorize any increase in the size or degree of the nonconforming use in violation of the provisions of any subsection of this section.

Nothing in this section shall be deemed to prevent the strengthening or restoring of a *structure* to a safe condition by order of a public official who is charged with protecting the public safety and who declares such *structure* to be unsafe and orders its restoration to a safe condition.

1.7 EXISTENCE OF A NONCONFORMING USE

Whether a nonconforming use exists is a question of fact and shall be decided by the Zoning Administrator after public notice. At the Zoning Administrator's discretion, a review of a nonconforming use may be submitted to the Board of Appeals for a determination of whether a nonconforming use exists. Those nonconforming uses in existence prior to November 18, 1969 are hereby validated, albeit the nonconforming use failed to obtain a *certification* from the *Administrator*.

1.8 PRIVATE SCHOOLS AND *HOUSES OF WORSHIP*

Private schools and *houses of worship* that existed prior to April 12, 1988 may be enlarged or expanded notwithstanding the provisions of Section 1.1 of this Article.

SECTION 2 NONCONFORMING STRUCTURES

2.1 CONTINUANCE

A lawful nonconforming *structure*, including existing nonconforming *structures*, existing on the effective date of this Ordinance may be continued, repaired, maintained, or altered, subject to the provisions of this section.

2.2 ADDITIONS OR ENLARGEMENTS TO NONCONFORMING *STRUCTURES*

A lawful nonconforming *structure* may be altered or enlarged if the addition satisfies one or more of the following:

a. The proposed addition when considered independently of the existing *structure* complies with the standards and *regulations* of this Ordinance.
b. The nonconforming *structure* is not expanded beyond its current footprint, including adjoining patios, driveways, and sidewalks. *Impervious surfaces* on the *site* shall not be increased as a result of the addition. The *structure*, after the addition, conforms to the height *regulations* applicable to its zoning district.
c. The addition does not project any further into a required *side yard* setback than the existing *structure* and the enlarged *building* complies with the *impervious surface* and height *regulations*. This provision does not apply to additions in the *Critical Area buffer*.
d. The addition is permitted by other provisions of this Ordinance.
e. The Board of Appeals grants a *variance*.

2.3 EXPANSION OF EXISTING DWELLINGS IN THE *MODIFIED BUFFER*

Dwellings existing as of April 12, 1988 and in the *modified buffer* may be expanded provided:

a. All opportunities for expansion outside the minimum 100-foot *buffer* are exhausted.
b. An area of *natural vegetation* equal to 3 times the footprint of the expansion shall be planted in the 100-foot *buffer*. If there is not enough area in the *buffer* to accommodate the required planting, the required planting shall occur on the same property.

2.4 MOVING OF NONCONFORMING *STRUCTURES*

A lawful nonconforming *building* or *structure* shall not be moved in whole or part to another location on its *lot* unless every part of the *structure* conforms to all applicable *site development regulations* or unless a *variance* is granted by the Board of Appeals

2.5 REPAIR OR RECONSTRUCTION OF NONCONFORMING *STRUCTURES*

Nothing in these *regulations* shall prevent the repair or reconstruction of a lawful nonconforming *structure* damaged by fire, explosion, act of God, or act of the public enemy provided that the degree of nonconformity is not increased, that a permit is obtained, and construction is begun within two years after the occurrence. This does not apply to *structures* removed or destroyed voluntarily by the property owner or property owner's agent.

2.6 EXISTENCE OF A NONCONFORMING *STRUCTURE*

Whether a *structure* is nonconforming, shall be a question of fact and shall be decided by the Zoning Administrator. At the Zoning Administrator's discretion, a review of a nonconforming use may be submitted to the Board of Appeals for a determination of whether a nonconforming *structure* exists.

2.7 PRIVATE SCHOOLS AND *HOUSES OF WORSHIP*

Private schools and *houses of worship* that existed prior to April 12, 1988 may be enlarged or expanded notwithstanding the provisions of Section 1.1 of this Article.

SECTION 3 NONCONFORMING LOTS

Nonconforming lots of record existing at the time of the adoption of this Ordinance shall be exempt, unless otherwise provided, from the minimum *lot area* and *lot width* requirements of each zoning district. Such lots may be developed with any use allowed by the *regulations* for the district and must comply with all other *site development regulations* set forth by this Ordinance. Whether a *lot* is nonconforming shall be a question of fact and shall be decided by the Zoning Administrator.

SECTION 4 NONCONFORMING SIGNS

Regulations concerning nonconforming *signs* may be found in Article VI, Section 2 of this Ordinance.

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ARTICLE IX. VARIANCES AND WAIVERS

SECTION 1. STATEMENT OF INTENT

The purpose of this section is to set forth the procedures and standards for *variances* and waivers from certain enumerated provisions of this Ordinance.

SECTION 2. *VARIANCES*

2.1 Administrative *Variances*

1. The Planning Director, or Planning Director's designee, may authorize, upon application, *variances* from the *yard* (*front*, *side*, or *rear*), but not *buffer*, except as provided below, height, parking, and loading requirements, in an amount that does not exceed 50% of the required *yard* for the applicable zoning district so as to relieve practical difficulties or other injustices arising out of the strict application of the provisions of this Ordinance. At the Director's discretion, a *variance* of this nature may be submitted to the Board of Appeals for approval.

   The Planning Director, or Planning Director's designee, may authorize, upon application, *variances* from the *buffer* requirements on parcels that existed on or before December 1, 1985, in order to repair, replace, or install septic systems for the applicable zoning district so as to relieve unwarranted hardships or other injustices arising out of the strict application of the provisions of this Ordinance. At the Director's discretion, a *variance* of this nature may be submitted to the Board of Appeals for approval.*

2. Upon application for an administrative *variance*, the Planning Director or the Planning Director's designee shall hold a public hearing on the application. At least 15 days before the hearing, the Department of Planning and Zoning shall send a notice to adjacent property owners using the most recent address as found in the records of the Kent County Treasurer's Office and shall post the property.

3. The *variance* shall comply, as nearly as possible, in every respect to the spirit, intent, and purpose of this Ordinance; it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable practical difficulties as distinguished from variations sought by applicants for purposes or reasons of convenience, profit, or caprice.

4. In order to grant a *variance*, the Planning Director, or Planning Director's designee, must find all of the following:
   a. That the *variance* will not cause a substantial detriment to adjacent or neighboring property.
   b. That the *variance* will not change the character of the neighborhood or district.
   c. That the *variance* is consistent with the *Comprehensive Plan* and the general intent of this Ordinance.
   d. That the practical difficulty or other injustice was caused by the following:
      i. Some unusual characteristic of size or shape of the property.
      ii. Extraordinary topographical or other condition of the property.
      iii. The use or *development* of property immediately adjacent to the property, except that this criterion shall not apply in the *Critical Area*.
   e. That the practical difficulty or other injustice was not caused by the applicants own actions.

* Amended 10/16/12

f. That within the Critical Area for *variances* from the *buffer* requirements on parcels that existed on or before December 1, 1985, in order to repair, replace, or install septic systems:
   i. The granting of a *variance* will be in harmony with the general spirit and intent of the *Critical Area* Law and the *regulations* adopted by Kent County.
   ii. That the granting of a *variance* will not adversely affect water quality or adversely impact fish, wildlife, or *plant habitat*.
   iii. That the application for a *variance* will be made in writing with a copy provided to the *Critical Area* Commission.
   iv. That the strict application of the Ordinance would produce an *unwarranted hardship*.
   v. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
   vi. The authorization of such *variance* will not be a substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the *variance*.
   vii. That a literal interpretation of this Ordinance deprives the applicant of rights commonly enjoyed by other properties in similar areas within the *Critical Area* of Kent County.
   viii. That the granting of a *variance* will not confer upon an applicant any special privilege that would be denied by this Ordinance to other lands or *structures*.
   ix. Due to special features of a site, or special conditions or circumstances peculiar to the applicant's land or *structure*, a literal enforcement of this Ordinance would result in *unwarranted hardship* to the applicant.
   x. The Planning Director, or Planning Director's designee, finds that the applicant has satisfied each one of the *variance* provisions.
   xi. Without the *variance*, the applicant would be deprived of a use of land or a *structure* permitted to others in accordance with the provisions of the critical area program.

g. In considering an application for a *variance*, the Planning Director, or Planning Director's designee, shall consider the reasonable use of the entire parcel or lot for which the *variance* is requested.

h. In considering an application for a *variance*, the Planning Director, or Planning Director's designee, shall presume that the specific *development* activity in the Critical Area that is subject to the application and for which a *variance* is required does not conform with the general purpose and intent of this Ordinance and the Critical Area Law.*

i. The Planning Director, or Planning Director's designee, may consider the cause of the *variance* request and if the *variance* request is the result of actions by the applicant, including the commencement of *development* activity before an application for a *variance* has been filed.*

5. Conditions Attached to Approvals

In the granting of *variances*, the Planning Director, or Planning Director's designee, may limit the approval by such conditions as the case may require, including but not limited to, the imposition of the following specifications:

a. No outside *signs* or advertising *structures* except professional or directional *signs*.
b. Limitation of *signs* as to size, type, color, location, or illumination.
c. Amount, direction, and location of outdoor lighting.
d. Amount and location of *off-street parking* and *loading spaces*.

* Amended 10/16/12

e. Cleaning or painting.
f. Gable roof or other type.
g. Construction and materials.
h. Connected or disconnected to other *buildings*.
i. Exits or entrances, doors and windows.
j. Paving, shrubbery, landscaping, ornamental or screening fences, walls, or hedges.
k. Time of day or night for operating.
l. No structural changes.
m. Control or elimination of smoke, dust, gas, noise, or vibration caused by operations.
n. Requirements for termination of a use based on lapse of time or such other conditions as the Planning Director, or Planning Director's designee, may specify.

6. Decision and Order

Each case shall be decided and a decision and order issued no later than 30 days after the hearing is concluded. The decision and order granting or denying the administrative *variance* shall be in writing and shall be signed by the Planning Director or Planning Director's designee. This decision and order shall contain a summary of the hearing testimony, findings of fact, conclusions of law, and the final order. The Department of Planning and Zoning shall mail a copy of the decision to the applicant. The decision and order shall be made a part of the public record of the proceedings on file in the Department of Planning and Zoning.

7. Lapse of Administrative *Variance*

After the Planning Director has granted a *variance*, the *variance* so granted shall lapse after the expiration of one year if no substantial construction has taken place in accordance with the plans for which such *variance* was granted or if the order does not specify a longer period than one year for good cause shown.

8. Amendment of Administrative *Variance*

The procedure for amendment of a *variance* already approved or a request for a change of conditions attached to an approval, shall be the same as for a new application.

9. Appeals

Within thirty days of the decision, any *person* aggrieved by the decision of the Planning Director, or Planning Director's designee, may appeal the decision to the Kent County Board of Appeals.

2.2 *Variances*

1. The Kent County Board of Appeals may authorize, upon application, *variances* from the *yard* (*front*, *side*, or *rear*), height, *bulk*, parking, loading, *shoreline cliff*, 15% *slope*, *pier length*, *impervious surface*, *stream protection corridor*, and *buffer* requirements so as to relieve practical difficulties or other injustices arising out of the strict application of the provisions of this Ordinance.

Such granting of a *variance* shall comply, as nearly as possible, in every respect to the spirit, intent, and purpose of this Ordinance; it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable practical difficulties as distinguished from variations sought for purposes or reasons of convenience, profit, or caprice.

In the *Critical Area*, for a *variance* of 15% *slope*, *impervious surface*, or *buffer* requirements, it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable and exceptional *unwarranted hardship* as distinguished from variations sought by applicants for purposes or reasons of convenience, profit, or caprice.

2. Upon receiving a substantially complete application for a *variance*, the Department of Planning and Zoning shall schedule the *variance* for review by the *Planning Commission* and at least 15 days before the meeting, shall send a notice to adjacent property owners using the most recent address as found in the records of the Kent County Treasurer's Office and shall post the property.

   The Department of Planning and Zoning shall schedule the *variance* for review by the Board of Appeals and at least 15 days before the hearing, shall send a notice to adjacent property owners using the most recent address as found in the records of the Kent County Treasurers Office and shall post the property.

3. In order to grant a *variance*, the Board of Appeals must find all of the following:
   a. That the *variance* will not cause a substantial detriment to adjacent or neighboring property.
   b. That the *variance* will not change the character of the neighborhood or district.
   c. That the *variance* is consistent with the *Comprehensive Plan* and the general intent of this Ordinance.
   d. That the practical difficulty or other injustice was caused by the following:
      i. Some unusual characteristic of size or shape of the property.
      ii. Extraordinary topographical or other condition of the property.
      iii. The use or *development* of property immediately adjacent to the property, except that this criterion shall not apply in the *Critical Area*.
   e. That the practical difficulty or other injustice was not caused by the applicants own actions.
   f. That within the *Critical Area* for *variances* of 15% *slope*, *impervious surface*, or *buffer* requirements:
      i. The granting of a *variance* will be in harmony with the general spirit and intent of the *Critical Area* Law and the *regulations* adopted by Kent County
      ii. That the granting of a *variance* will not adversely affect water quality or adversely impact fish, wildlife, or *plant habitat*.
      iii. That the application for a *variance* will be made in writing with a copy provided to the *Critical Area* Commission.
      iv. That the strict application of the Ordinance would produce an *unwarranted hardship*.
      v. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
      vi. The authorization of such *variance* will not be a substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the *variance*.
      vii. That a literal interpretation of this Ordinance deprives the applicant of rights commonly enjoyed by other properties in similar areas within the *Critical Area* of Kent County.
      viii. That the granting of a *variance* will not confer upon an applicant any special privilege that would be denied by this Ordinance to other lands or *structures*.

ix. Due to special features of a site, or special conditions or circumstances peculiar to the applicant's land or *structure*, a literal enforcement of this Ordinance would result in *unwarranted hardship* to the applicant.

x. The Board of Appeals finds that the applicant has satisfied each one of the *variance* provisions.

xi. Without the *variance*, the applicant would be deprived of a use of land or a *structure* permitted to others in accordance with the provisions of the critical area program.

g. In considering an application for a *variance*, the Board shall consider the reasonable use of the entire parcel or lot for which the *variance* is requested.

h. In considering an application for a *variance*, the Board of Appeals shall presume that the specific *development* activity in the Critical Area that is subject to the application and for which a *variance* is required does not conform with the general purpose and intent of this Ordinance and the Critical Area Law.*

i. The Board may consider the cause of the *variance* request and if the *variance* request is the result of actions by the applicant, including the commencement of *development* activity before an application for a *variance* has been filed.*

4. Conditions Attached to Approvals

In the granting of *variances*, the Board may limit the approval by such conditions as the case may require, including but not limited to, the imposition of the following specifications:

a. No outside *signs* or advertising *structures* except professional or directional *signs*.
b. Limitation of *signs* as to size, type, color, location, or illumination.
c. Amount, direction, and location of outdoor lighting.
d. Amount and location of *off-street parking* and *loading spaces*.
e. Cleaning or painting.
f. Gable roof or other type.
g. Construction and materials.
h. Connected or disconnected to other *buildings*.
i. Exits or entrances, doors and windows.
j. Paving, shrubbery, landscaping, ornamental or screening fences, walls, or hedges.
k. Time of day or night for operating.
l. No structural changes.
m. Control or elimination of smoke, dust, gas, noise, or vibration caused by operations.
n. Requirements for termination of a use based on lapse of time or such other conditions as the Board may specify.

5. Decision and Order

Each case shall be decided and a decision and order issued no later than 30 days after the hearing is concluded. The decision and order granting or denying the *variance* shall be in writing and shall be signed by the Board of Appeals. This decision and order shall be based on competent and substantial evidence and when applicable shall contain findings as to whether the applicant has overcome the presumption established in Article IX, Section 2.2.3h of this Ordinance. With due regard of the person's experience, technical competence, and specialized knowledge, the written findings may be based on evidence introduced and testimony presented by the applicant, any government agency, or any other person deemed appropriate by the Board. The Department of Planning and Zoning shall mail a copy of the decision to the applicant. The decision and order shall be made a part of the public record of the proceedings on file in the Department of Planning and Zoning.*

* Amended 9/7/04

6. Lapse of *Variance*

After the Board of Appeals has granted a *variance*, the *variance* so granted shall lapse after the expiration of one year if no substantial construction has taken place in accordance with the plans for which such *variance* was granted or if the order does not specify a longer period than one year for good cause shown.

7. Amendment of *Variance*

The procedure for amendment of a *variance* already approved or a request for a change of conditions attached to an approval shall be the same as for a new application.

8. Appeals

Appeals to courts from a decision of the Board may be filed in the manner prescribed by law.

2.3 *Floodplain Variance*

1. The Kent County Board of Appeals may authorize, upon application, *variances* from the *floodplain* provisions of this Ordinance. Such granting of a *variance* shall comply, as nearly as possible, in every respect to the spirit, intent, and purpose of the *floodplain regulations* and sound *floodplain* management, it being the purpose of this provision to authorize the granting of a *variance* only for reasons of *unwarranted hardship* as distinguished from variations sought for purposes of convenience, profit or caprice.

2. Upon receiving a substantially complete application for a *variance*, the Department of Planning and Zoning shall schedule the *variance* for review by the Board of Appeals. At least 15 days before the meeting, the Department of Planning and Zoning shall send a notice to adjacent property owners using the most recent address as found in the records of the Kent County Treasurer's Office and shall post the property. The Department of Planning and Zoning shall send a copy of the application to the Maryland Department of the Environment for comment.

3. In order to grant a *variance*, the Board must find:
   a. There is a good and sufficient cause for granting the *variance*.
   b. That the failure to grant a *variance* would result in exceptional hardship (not economic) to the applicant.
   c. That the granting of the *variance* would not result in increased *flood* heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud, or victimization of the public.
   d. That any *variance* including the placement of *fill* which encroaches on the *floodway* will not result in any increase in the 100-year *flood* levels.
   e. That the *variance* is the minimum necessary, considering the *flood* hazard, to afford relief.
   f. That the Board has received comments from the Maryland Department of the Environment.
   g. That no new *buildings* will be constructed in the *floodway*.
   h. That in the Coastal High Hazard Area, no *fill* for structural support is proposed.
   i. For a functionally dependant use that there is sufficient proof that the *structure* cannot perform its intended function unless it is in close proximity to the water and may require wet *floodproofing* which allows the *structure* to *flood* without significant damage.
   j. Reconstruction, rehabilitation, or restoration of *historic structures*, provided the *variance* is the minimum necessary and the *structure* will retain its listing on the Historic Register, Inventory, or Survey.

4. Conditions Attached to *Variances*

In the granting of a *variance*, the Board may limit the approval by such conditions as the case may require. Conditions include but are not limited to the following:

a. That a record of the *variance* and any conditions are recorded with the Kent County Clerk of Court.

b. That a letter shall be sent to the applicant which explains the increased risk of life and property as a result of the *variance* and that the cost of Federal Flood Insurance will be commensurate with the increased risk, with rates up to $25 per $100 of insurance coverage.**

5. Decision and Order

Each case shall be decided and a decision and order issued no later than 30 days after the hearing is concluded. The decision and order granting or denying the administrative *variance* shall be in writing and shall be signed by the Board of Appeals. This decision and order shall contain a summary of the hearing testimony, findings of fact, conclusions of law, and the final order. The Department of Planning and Zoning shall mail a copy of the decision to the applicant. The decision and order shall be made a part of the public record of the proceedings on file in the Department of Planning and Zoning. The Board shall maintain a record of all *variance* procedures which shall be available for review by FEMA

The Planning Director, or the Planning Director's designee, shall notify, in writing, any applicant to whom a variance is granted to construct or substantially improve a building or structure with its lowest flood below the elevation required by these regulations that the variance is to the floodplain management requirements of these regulations only and that the cost of Federal Flood Insurance will be commensurate with the increased risk, with rates up to $25 per $100 of insurance coverage.**

6. Lapse of *Floodplain Variance*

After the Board of Appeals has granted a *variance*, the *variance* so granted shall lapse after the expiration of one year if no substantial construction has taken place in accordance with the plans for which such *variance* was granted or if the order does not specify a period longer than one year for good cause shown.

7. Amendment of *Variance*

The procedure for amendment of a *variance* already approved or a request for a change of conditions attached to an approval shall be the same as for a new application.

8. Appeals

Appeals to courts from a decision of the Board may be filed in the manner prescribed by law.

2.4 <u>*Stormwater* Management *Variances*</u> *

1. The County, may grant, upon application a written *variance* from the *stormwater* requirements found in Articles V and VI, Section 10 of this Ordinance. A written request for *variance* shall be provided to the County and shall state the specific *variances* sought and reasons for their granting.

* Amended 11/16/10; ** Amended 6/3/14

2. The *variance* shall comply, as nearly as possible, in every respect to the spirit, intent, and purpose of this Ordinance; it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable *unwarranted hardship* as distinguished from variations sought by *applicants* for purposes or reasons of convenience, profit, or caprice.

3. The County shall evaluate the cumulative effects of other developments that are relinquished from the requirements of *stormwater management*.

4. In order to grant a *variance*, the County must find the following:
   a. Exceptional circumstances exist applicable to the *site* such that strict adherence to the provisions of this ordinance will result in unnecessary hardship and not fulfill the intent of the Ordinance.
   b. Implementation of *ESD* to the *MEP* has been investigated thoroughly.

5. Decision

   The decision granting or denying the *variance* shall be in writing and shall be signed by the County. The County shall mail a copy of the decision to the *applicant*. The decision shall be made a part of the public record of the proceedings on file in the Department of Planning, Housing and Zoning.

6. Lapse of *Variance*

   After the County has granted a *variance*, the *variance* so granted shall lapse after the expiration of one year if no substantial construction has take place in accordance with the approved plan for which such *variance* was granted or if the decision does not specify a period longer than one year for good cause shown.

7. Amendment of *Variance*

   The procedure for amendment of a *variance* already approved or a request for a change of conditions attached to an approval shall be the same as for a new application.

8. Appeals

   Within thirty days of the decision, any *person* aggrieved by the decision of the County may appeal the decision to the Kent County Board of Appeals.

SECTION 3. WAIVERS

3.1 <u>*Subdivision*/*Private roads*/Road Front Lots/ Designated Design Standards</u>

1. The Kent County Planning Commission may authorize waivers of the *subdivision*, *private road*, road front lots, *protected lands* lot line setback, and certain designated design standard provisions of this Ordinance so as to relieve extraordinary hardship or other injustices arising out of the strict application of these provisions.

   Such granting of a waiver shall comply, as nearly as possible, in every respect to the spirit, intent, and purpose of this Ordinance; it being the purpose of this provision to authorize the granting of

variation only for reasons of demonstrable extraordinary hardship as distinguished from variations sought for purposes or reasons of convenience, profit, or caprice.

Such granting of a waiver shall not have the effect of nullifying the intent and purpose of these provisions or be contrary to the goals and objectives of the Kent County *Comprehensive Plan* and, where applicable, the Village Master Plans. In no case shall any waiver be more than a minimum easing of the requirements, and shall not result in a conflict with the proposals of the adopted Major Thoroughfare Map for the County or other provisions of this Ordinance.

2. Upon receiving a substantially complete application for a waiver, the Department of Planning and Zoning shall schedule the waiver for review by the *Planning Commission*. At least 20 days before the meeting, the Department of Planning and Zoning shall send a notice to adjacent property owners using the most recent address as found in the records of the Kent County Treasurer's Office and shall post the property.

3. In order to grant a waiver, the *Planning Commission* must find all of the following:

   a. That the waiver will not cause a substantial detriment to adjacent or neighboring property.
   b. That the waiver is consistent with the *Comprehensive Plan*, the Village Master Plan, and the general intent of this Ordinance.
   c. That the extraordinary hardship or other injustice was caused by the following:
      i. Unusual *topography*.
      ii. The strict application of these provisions would result in inhibiting the achievement of the goals and objectives of the *Comprehensive Plan*, the Village Master Plan, and this Ordinance.
   d. That the extraordinary hardship or other injustice was not caused by the applicants own actions.

4. Conditions

   In granting waivers, the *Planning Commission* may require such conditions as will, in its judgement, substantially secure the objectives of the provisions so waived.

6. Decision

   Waivers from the *subdivision* provision of this Ordinance shall be granted only by the affirmative vote of two-thirds of the members of the *Planning Commission*. Each case shall be decided and a decision issued no later than 30 days after the meeting is concluded. The decision granting or denying the waiver shall be in writing and shall be signed by the Chairman of the *Planning Commission*. The Department of Planning and Zoning shall mail a copy of the decision to the applicant. The decision shall be made a part of the public record of the proceedings on file in the Department of Planning and Zoning.

7. Lapse of Waiver

   After the *Planning Commission* has granted a waiver, the waiver so granted shall lapse after the expiration of one year if no substantial construction has taken place in accordance with the approved *subdivision* for which such waiver was granted or if the decision does not specify a period longer than one year for good cause shown.

8. Amendment of Waiver

The procedure for amendment of a waiver already approved or a request for a change of conditions attached to an approval shall be the same as for a new application.

9. Appeals

Appeals to courts from a decision of the *Planning Commission* may be filed in the manner prescribed by law.

3.2 *Stormwater* Management Waivers *

1. The County may grant a *waiver* of the *stormwater management* requirements for individual developments based on a case by case review. A written *waiver* request shall be submitted by the *applicant* containing descriptions, drawings and any other information that is necessary to evaluate the proposed *development* and demonstrate that *ESD* has been implemented to the *MEP*. A separate written request shall be required in accordance with the provisions of this section if there are subsequent additions, extensions or modifications to a *development* receiving a *waiver*.

2. Except as provided in Article VI, Section 10.4 of this Ordinance, *waivers* of *stormwater* quantitative control may be granted only to those projects that can conclusively demonstrate that:
   a. The project is within an area where a *watershed* management plan has been developed consistent with this Ordinance.
   b. If the project is not in an area where a *watershed* management plan has been developed consistent with this Ordinance, *waivers* may be granted to proposed *development* projects provided the *applicant* has demonstrated that *ESD* has been implemented to the *MEP*:
      i. That have *direct discharges* to tidally influenced receiving waters
      ii. When the County determines that circumstances exist that prevent the reasonable implementation of quantity control practices.

3. Except as provided in Article VI, Section 10.4 of this Ordinance, if watershed management plans consistent with Article VI, Section 10.4 of this Ordinance have not been developed, *stormwater* management quantitative control *waivers* may be granted to the following projects provided the *applicant* has demonstrated that *ESD* has been implemented to the *MEP*:
   a. Projects that have direct discharge to tidally influenced receiving waters:
   b. Infill *development* located in a Priority Funding Area where the economic feasibility of the project is tied to the planned density, and where implementation of the 2009 regulatory requirements would result in a loss of the planned *development* density provided that:
      i. Public water and sewer and *stormwater* conveyance exist;
      ii. The quantitative *waiver* is only applied to the project for the impervious cover that previously existed on the *site*;
      iii. *ESD* to the *MEP* is used to meet the full water quality treatment requirements for the entire *development*; and
      iv. *ESD* to the *MEP* is used to provide full quantity control for all new *impervious surfaces*: or

4. When the *approving agency* determines that circumstances exist that prevent the reasonable implementation of quantity control practices.

* Amended 11/16/10

5. Except as provided in Article VI, Section 10.4 of this Ordinance, *waivers* of *stormwater management* qualitative control may be granted only to those projects that can conclusively demonstrate that:
   a. The project is an in-fill *development* where *ESD* has been implemented to the *MEP* and other *BMP*s are not feasible.
   b. The project is a *redevelopment* that satisfies the requirements of this Ordinance; or
   c. Sites where the County determines that circumstances exist that prevent the reasonable implementation of *ESD* to the *MEP*.

6. *Stormwater* management quantitative and qualitative control *waivers* may be granted for phased *development* projects if a system designed to meet the 2000 regulatory requirements and the Kent County *Stormwater* Management Ordinance for multiple phases has been constructed by May 4, 2010. If the 2009 regulatory requirements cannot be met for future phases constructed after May 4, 2010, all reasonable efforts to incorporate *ESD* in future phases shall be demonstrated.

7. *Waivers* shall only be granted when it has been demonstrated that *ESD* has been implemented to the *MEP* and shall:
   a. Be on a case by case basis;
   b. Consider the cumulative effects of the Kent County *waiver* policy.
   c. Reasonably assure the *development* will not adversely impact stream quality.

8. Kent County may develop quantitative *waiver* and *redevelopment* provisions for *stormwater management* that differ from the requirements of this Ordinance as a part of an overall *watershed* management plan. *Watershed* management plans developed for this purpose shall, at a minimum:
   a. Include detailed hydrologic and hydraulic analyses to determine hydrographic timing;
   b. Evaluate both quantity and quality management and opportunities for *ESD* implementation;
   c. Include cumulative impact assessment of current and proposed *watershed development*;
   d. Identify existing flooding and receiving stream channel conditions;
   e. Be conducted at a reasonable scale determined by the County;
   f. Specify where *on-site* or *off-site* quantitative and qualitative *stormwater management* practices are to be implemented;
   g. Be consistent with the General Performance Standards for *Stormwater* Management in Maryland found in the Design Manual; and
   h. Be approved by the Maryland Department of the Environment

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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.*

* Amended 11/16/10

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.

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

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.

* Amended 11/16/10; ** Amended 5/21/13; *** Amended 6/3/14

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 x 18)]. The buffer is measured horizontally from mean high tide, the edge of *tidal wetlands* or *tributary streams*.

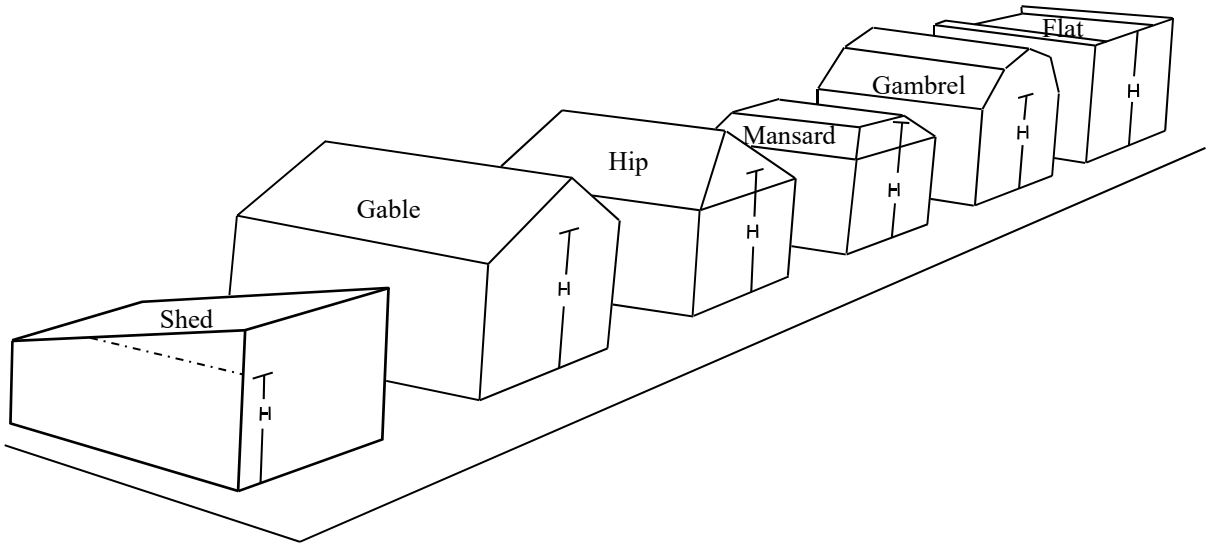
36. Buildable Area - The area of that part of the *lot* not included within the *yards*, open space, or environmental areas herein required.

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.

* Amended 3/3/20

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 tree*s.

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 *FIRM*s 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 - A commercial operation that would alter the existing composition or profile, or both, of a *forest*, including 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.

* Amended 11/16/10; ** Amended 6/3/14

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 as indicated on the State *wetlands* maps, and all state and private *wetlands* designated under Title 9 of the Natural Resources Article, 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 9 of the Natural Resources Article, 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 -04, Annotated Code of Maryland.

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.*

* Amended 12/2/08; ** Amended 6/3/14

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, Subsection 5 -103;

ii. Does not circumvent the requirements of this Ordinance or Natural Resources Article, Subsection 5-103; 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 of 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*.

* Amended 6/7/11; ** Amended 6/3/14

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.**

* Amended 9/7/04: **Amended 11/16/10

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 theses 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:
   a. An increase in the imperviousness of the site, including all additions to buildings, roads, and parking lots;
   b. Changes in permeability caused by compaction during construction or modifications in contours, including the filling or drainage of small depression areas;
   c. Alteration of *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*.

*Amended 11/16/10; ** Amended 5/21/13; *** Amended 6/3/14

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.

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

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 vegetation, including areas that have been cut but not cleared, but not including orchards.

* Amended 6/3/14

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.

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.***

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

*Amended 6/7/11; ** Amended 5/21/13;
*** Amended 6/3/14; **** Amended 9/3/19

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.*

* Amended 11/16/10

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.

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 *reforestation* 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*.

175.5 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.

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

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. *

* Amended 11/16/10; ** Amended 9/6/11; *** Amended 3/5/13

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.

* Amended 9/3/13

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, *floodplain*s, 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 found to be within the boundaries of the *non-tidal 100-year floodplain*.
   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 found to be within the boundaries of the *non-tidal 100-year floodplain*.

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.

* Amended 6/3/14

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 Article IX of the Natural Resources Article, 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.

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.

* Amended 6/3/14

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.

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.

246.5 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.***

* Amended 9/5/08; ** Amended 11/16/10; *** Amended 10/16/12

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.

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.

* Amended 11/16/10; ** Amended 6/3/14

260. Reforestation - The establishment of a *forest* through artificial reproduction or *natural regeneration* and including for *forest conservation* purposes:
   a. The creation of a biological community dominated by trees and woody plants containing at least one hundred live trees that have the potential of obtaining a two-inch or greater diameter measured at 4.5 feet above the ground within seven years.
   b. Establishment of a *forest* according to the *Forest Conservation Technical Manual*.
   c. 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.

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:
   a. *Subdivision*
   b. *Grading*
   c. An activity that requires a *sediment control permit*; or
   d. 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.

* Amended 5/21/13

272. Retrofitting - The implementation of *ESD* practices, the construction of a structural *BMP*s 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
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.

* Amended 11/16/10; **Amended 4/8/15

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 2 inches 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. **

* Amended 9/6/11; ** Amended 11/16/10; *** Amended 5/21/13

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.

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:

a. How the landowner plans to treat a farm unit;
b. Which *best managment practices* the landowner plans to install to treat undesirable conditions; and
c. The schedule for applying those *best managment 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 or 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.***

* Amended 8/3/10; ** Amended 9/6/11; *** Amended 6/3/14

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 *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*.

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

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*.

319. Structural Alteration - Any change in the supporting members of a *building*, footings, bearing walls or petitions, 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.

* Amended 10/16/12

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.

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

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 steams* 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. **

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

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.

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 State of Maryland.

353. Waterway - Any body of water, including any creek , canal , river, lake, or bay

* Amended 6/3/14

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.

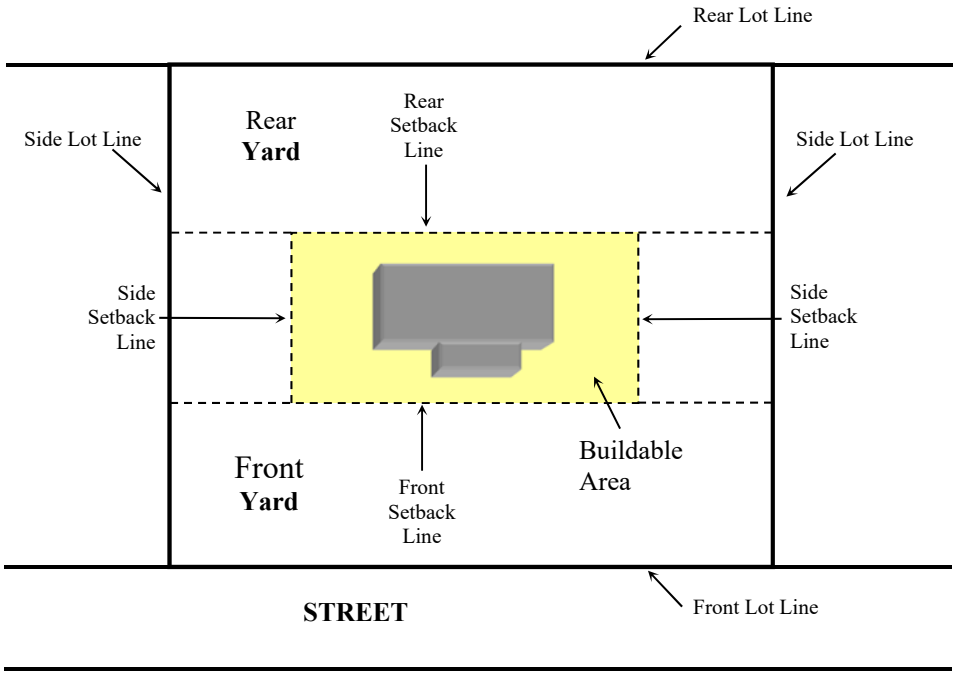
358. Wildlife Corridor - A strip of land having vegetation that provides habitat and a safe passageway for wildlife.

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.



* Amended 9/6/11

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.

* Amended 6/7/11

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.

* Amended 6/7/11

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.

* Amended 6/7/11

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.

* Amended 9/7/04; ** Amended 11/16/10; *** Amended 5/21/13

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.

* Amended 11/16/10

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 Ordnance 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 Ordnance 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 3rd day of December, 2002, however the provisions of this Act shall take effect on the 17th 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