

ARTICLE XV PERMITTING AND APPROVAL PROCESS

Section 280. Approvals

1. All departments, officials and agencies of Cecil County that are vested with the duty or authority to grant approvals or to issue permits or licenses shall conform to the provisions of this Ordinance, and shall grant no approval nor issue any permit or license for any use, building, or purpose which would constitute a violation of this Ordinance. Any approval, permit or license granted or issued in conflict with the provisions of this Ordinance shall be null and void.
2. Whenever, in the course of administration and enforcement of this Ordinance, it is necessary or desirable to make any administrative decision, then, unless other standards are provided in this Ordinance, the decision shall be made so that the result will not be contrary to the spirit and purpose of this Ordinance and the Comprehensive Plan.

Section 281. Zoning Certificates and Building Permits

1. No building or other structure, except public utility lines, shall be erected, moved, or altered, without a Building Permit first being obtained.
2. No building, or other structure, or land shall be used, nor shall any building, structure, or land be converted, wholly or in part, to any other use, except for agriculture, permitted under the provisions of this Ordinance, until a Zoning Certificate certifying compliance with these regulations, has been issued by the Zoning Administrator.
3. No zoning certificate or building permit shall be issued which is not in conformity with the provisions of this Ordinance, or other applicable regulations, except after written order from the Board of Appeals.
4. All applications for zoning certificates and building permits shall be accompanied by a plot plan in duplicate, detailing the information required for plot plans in Appendix A, and any other information that may be required by the Zoning Administrator to determine conformance with and to provide for enforcement of this Ordinance.
5. If the work described in any zoning certificate or building permit has not begun within one year from the date of issuance thereof, said certificate and permit shall expire. Further, if the work described has not been substantially completed within two years of the date of issuance, unless work is satisfactorily proceeding (in the opinion of the Zoning Administrator), the zoning certificate and building permit shall likewise expire. This shall not, in either instance, prevent the person affected from seeking a new zoning certificate and building permit insofar as the proposed work complies with all laws regarding the application that are applicable at that time.

Section 282. Adequate Public Facilities

Pursuant to Article B, Section 10.01, Cecil County maintains the authority to enact "Adequate Public Facilities" regulations, including but not limited to Water Supply, Sewers, Roads, Public Schools, Police, Fire and Rescue Services, Storm Drainage and Utilities.

Section 283. Severability

1. Nothing in this section or other sections of the Zoning Ordinance shall be construed to exempt any applicant for a permit from compliance with all local, state, and federal codes, statutes, and regulations.
2. No building permit which was lawfully issued prior to the original effective date of this Ordinance and which is in full force and effect at said date shall be invalidated by the passage of this Ordinance.

Section 284. Permit Application Requirements and Procedures

1. All applications for permits shall be accompanied by such plans and information as Cecil County deems to be necessary to determine compliance and provide for enforcement of this Zoning Ordinance. The application materials listed in Appendix A shall be the minimum. Additional information may be required.
2. After reviewing the application materials, the Zoning Administrator shall mark the application either as "Approved" or "Disapproved" and attest to the same by signature on such copy.

Section 285. Reconsideration of Board Action

1. Whenever the Board of Appeals disapproves an application for a special exception or a variance, on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the respective Board at a later time unless the applicant clearly demonstrates that:
 - a. Circumstances affecting the property that is the subject of the application have substantially changed, or
 - b. New information is available that could not with reasonable diligence have been presented at a previous hearing.
 - c. A court of competent jurisdiction has ordered a remand.
2. Notwithstanding Subsection 1, the Board of Appeals may at any time consider a new application affecting the same property as an application previously denied. A new

application is one that differs in some substantial way from the one previously considered.

Section 286. Maintenance of Common Areas, and Facilities

The recipient of any zoning certificate, building permit or other permit, or his successor, shall be responsible for maintaining all common areas, improvements, or facilities required by this Ordinance or any permit issued in accordance with its provisions, except those areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the County. As illustrations, and without limiting the generality of the foregoing, this means that private roads and parking areas, water and sewer lines, and recreational facilities must be properly maintained so that they can be used in the manner intended, and required vegetation and trees used for screening, landscaping, or shading must be replaced if they die or are destroyed.

Section 287. Records of Zoning Administrator

The Zoning Administrator shall keep records of all zoning permits issued under this Ordinance; maintain permanent and current records related to the Ordinance, including zoning maps, amendments, special exceptions, variances, appeals, and planned unit development site plans.

Section 288. Structures and Uses to be as Provided in Building Permits, Plans, and Zoning Certificates

1. Building permits or zoning certificates issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, arrangement, and construction set forth in such permits, plans, and certificates, and no other. The use, arrangement or construction at variance with that authorized shall be deemed a violation of this Zoning Ordinance.
2. Permits are issued under this Ordinance only when a review of the application submitted, including the plans contained therein, indicates that the development will comply with the provisions of this Ordinance if completed as proposed. Such plans and applications as are finally approved are incorporated into any permit issued and all development shall occur strictly in accordance with such approved plans and applications.

Section 289. Sketch Plat

A sketch plat prepared in accordance with Article IV of the Cecil County Subdivision Regulations and this Ordinance shall be required for all applications for Planned Unit Development.

Section 290. Minor Site Plans

1. The purpose of minor site plans is to assure that certain minor improvements are consistent with the applicable requirements of this Ordinance. Development requiring a minor site plan shall only be permitted in accordance with the approved plan.
2. Minor site plans shall be approved by the Office of Planning and Zoning. A proposed minor site plan may be attached by the applicant to the building permit application of the proposed improvement and shall be reviewed by the Office of Planning and Zoning concurrently with the building permit.
3. Minor site plans shall be prepared and certified by an engineer, architect, landscape architect, or land surveyor duly registered to practice in the State of Maryland.
4. All minor site plans shall clearly show the required information shown in Appendix A.

Section 291. Major Site Plans

1. The purpose of major site plans is to assure detailed compliance with applicable provisions of enacted regulations and to prescribe standards for the design and construction of site improvements.
2. Site plans for all residential development and manufactured home parks shall be prepared and approved as set forth in the Cecil County Subdivision Regulations, as amended, in addition to the requirements of this Ordinance.
3. Development requiring major site plan approval shall be permitted only in accordance with all specifications contained on an approved site plan, and shall not be undertaken until the site plan is approved and all required construction permits have been obtained subsequent to such approval.
4. Site plans for developments, where required in this Ordinance, shall be prepared and submitted as described in Appendix A and approved by the Office of Planning and Zoning. Such office may, at its discretion, waive or modify certain of the requirements stated below in cases where strict compliance with all the requirements would impose an unnecessary burden on the applicant.
5. Upon determination by the Zoning Administrator, in those cases where a field inspection indicates that the scope of the proposed building, addition, accessory use, or special exception is of such a nature that the provisions for the handling of natural and stormwater, sediment control, off-street parking, set-backs, water and sewerage, and other requirements cannot be adequately addressed with a building permit or minor site plan, a major site plan shall be required.

6. Information required to be included in a major site plan shall be as shown in Appendix A.
7. Major site plans shall be prepared and certified by an engineer, architect, landscape architect, or land surveyor duly registered to practice in the State of Maryland.
8. If such plans are prepared in more than one sheet, match lines shall clearly indicate where the several sheets join and an index sheet shall be required.
9. An appropriate number copies of all major site plans shall be submitted to the Office of Planning and Zoning. Such office may require that additional copies be provided when necessary.
10. The following procedure will be followed in the review of major site plans:
 - a. Upon receipt of the major site plan, the Office of Planning and Zoning shall review such plan, soliciting comments from other departments, agencies, and officials as such office may deem appropriate. The entity responsible for the preparation of the site plan shall provide verification to the Office of Planning & Zoning that all adjoining property owners to the subject property have been notified of the site plan submittal. Notification of adjoining property owners shall be made by certified mail and verification shall be made by presenting the return receipts to the County. The site plan shall be approved if it meets the requirements of this section, Appendix A, other requirements of this Ordinance and all other Federal, State, and County regulations. Notice of approval or disapproval of the site plan shall be given in writing to the applicant.
 - b. Where the Office of Planning and Zoning finds that, because of unusual circumstances of shape and topography or other features or conditions of the proposed development or because of the nature of adjacent development, extraordinary hardships may result from strict compliance with regulations for frontages, setbacks or buffers, the Office of Planning and Zoning may grant a modification of such regulations when requested by the developer. No such modification involving Critical Area Requirements is permitted inside the Chesapeake Bay Critical Area without review by the Chesapeake Bay Critical Area Commission. Nor shall any such modification be granted that will have the effect of nullifying the intent and purpose of the Comprehensive Plan, Subdivision Regulations, these regulations or any other pertinent rules, regulations or laws, of the County. In granting modifications, the Office of Planning and Zoning may require such conditions as will, in its judgment, secure substantially the objectives of the standards of the requirements so waived or modified. Any modification of these regulations for a particular development shall be noted on the final site plan and appear in the records of the Office of Planning and Zoning.

(Amended 7/22/2008)

11. Construction of required improvements.

- a.** Upon approval of a site plan, the applicant shall then secure the necessary construction permits from appropriate agencies before commencing work. The applicant may construct only such improvements as have been approved by the Office of Planning and Zoning.
- b.** After construction has been completed, inspection of site improvements shall be made by the departments certifying to the applicable requirements as shown on the site plan. The applicant shall then secure a certificate of occupancy before use of the site may commence.
- c.** For manufactured home parks, multi-family development, and campgrounds, the approved site plan shall be recorded in the office of the Clerk of the Court. Prior to such recordation a Public Works Agreement guaranteeing construction of required improvements shall be executed between the developer and the County through the Department of Public Works.
- d.** The installation of improvements as set forth in this Ordinance shall not bind the County to accept such improvements for the maintenance, repair and operation thereof; requirements for said improvements shall be in addition to (and not in lieu of) any other legal requirements.

12. Expiration and Extension

- a.** Approval of site plans shall be for a two (2) year period and shall expire at the end of such period unless building construction has begun.
- b.** Upon written request by the applicant, within thirty (30) days prior to the expiration of said approval, a one (1) year extension may be given by the Office of Planning and Zoning.
- c.** Such request shall be acknowledged and a decision rendered thereon not more than thirty (30) days after filing of said request.

13. The County Commissioners shall establish fees for the review of site plans.

Section 292. Manufactured Home - Single Wide - Licenses

A Cecil County Manufactured Home License shall be required on all single-wide manufactured homes located on individual lots, except where the single-wide manufactured homes are located in Manufactured Home Parks, Manufactured Home Subdivisions, or within the Manufactured Home District. This provision shall apply whether the said manufactured homes were located on land prior to or after the effective date of this section.

1. Single-wide manufactured homes, whether "non-conforming, farm help, or special exception", located on individual lots at the effective date of adoption of this section shall be licensed by the property owner on whose land the single-wide manufactured home sits, within six (6) months from the effective date of this section.
2. The fee for all single-wide manufactured homes shall be \$15.00 per annum.
3. Single-wide manufactured home licenses shall expire one (1) year from the date of issuance and shall be renewed for as long as the single-wide manufactured home remains legally on the lot.
4. Single-wide manufactured home licenses are non-transferable and shall expire upon removal of the single-wide manufactured home from the property.

Section 293. Property Disclosure and Hold Harmless Statement

Prior to the issuance of a building permit for landlocked property or property lacking public water or sewer lines along its frontage, the following document shall be signed by the property owner(s):

PROPERTY DISCLOSURE AND HOLD HARMLESS STATEMENT

THIS DISCLOSURE AND HOLD HARMLESS STATEMENT CONCERNS REAL PROPERTY LOCATED IN CECIL COUNTY, MARYLAND, DESCRIBED AS

THIS STATEMENT IS DISCLOSURE THAT THE SUBJECT PROPERTY DOES NOT HAVE FRONTAGE ON A PUBLICLY MAINTAINED ROAD. THIS STATEMENT IS A DISCLOSURE THAT THE SUBJECT PROPERTY DOES NOT HAVE PUBLIC WATER OR SEWER LINES AVAILABLE AT ITS FRONTAGE.

PROPERTY OWNER'S INFORMATION

You are hereby advised that it is the property owner's responsibility to obtain right-of-way

along paper street to gain access to the public road and you are further advised that this is a private matter between the landlocked property owner and the owner(s) of the paper street or property between the subject property and the public road. Affixing the property owner's signature acknowledges the aforesaid notification and holds the County harmless for the issuance of a building permit for the subject property.

You are hereby notified that it is the property owner's responsibility to obtain right-of-way along paper street to gain access for the water and sewer line and you are further notified that it is a private matter between the landlocked property owner and the owners(s) of the paper street and/or property between the subject property and the public water and sewer lines. Affixing the property owner's signature acknowledges the aforesaid notification and holds the County harmless for the issuance of a building permit for the subject property. The property owner further agrees that any interim septic system will be abandoned when the public sewer is extended and the interim well will be abandoned and sealed when the public system is extended.

I HAVE READ THIS DISCLOSURE STATEMENT AND HOLD HARMLESS AGREEMENT AND I ACKNOWLEDGE AND AGREE TO THE STATEMENTS CONTAINED HEREIN.

Date

Property Owner

Section 294. Reserved

(Amended 7/17/07)

ARTICLE XVI ADMINISTRATIVE MECHANISMS

Part I Planning Commission

Section 295. Planning Commission Established

- 1.** Pursuant to and in conformance with the provisions of Article 66B, Code of Public General Laws of Maryland, a Planning Commission is hereby established. The Commission shall consist of six (6) members plus an alternate who shall serve in the absence of a regular member, and a member of the Board of County Commissioners, which member shall serve as an ex-officio, non-voting member. In the appointment of members of the Planning Commission, the Board of County Commissioners shall solicit and consider recommendations from the Director Office of Planning and Zoning. Prior to assuming their duties, new members of the Planning Commission shall be required to read and understand applicable County laws and regulations, including the Cecil County Comprehensive Plan, Zoning Ordinance, and Subdivision Regulations.
- 2.** Beginning in August 1993, in order to stagger the terms of the Planning Commission members, two (2) regular members and the alternate member of the Planning Commission shall be appointed for one (1) year terms; two (2) regular members shall be appointed for two (2) year terms; and two (2) regular members shall be appointed for three (3) year terms. Each member shall then serve five (5) year terms. The terms of the ex-officio member shall run concurrent with his or her term of office. Vacancies occurring during a member's term shall be filled by appointment by the County Commissioners for the unexpired portion of the term.
- 3.** The Commission shall meet monthly and at other times at the call of the Chairman. The Office of Planning and Zoning shall be represented at all meetings of the Planning Commission, and shall provide such staff support as may be required by the Commission. Four voting members of the Commission shall constitute a quorum. A minimum of three (3) members voting shall be required to effect a decision of the Commission.
- 4.** Meetings of the Commission shall be conducted in accordance with Roberts Rules of Order. The staff of the Office of Planning and Zoning shall be present during all deliberations by the Planning Commission and shall answer such questions and render such advice and assistance as may be appropriate to the action being taken, but such staff shall not participate in the decision of the Commission beyond the submitting of a staff recommendation as to the action proposed to be taken in each case. The Commission may establish such other rules of procedure as deemed necessary, consistent with this Ordinance.

5. The deliberations of the Planning Commission shall be open to the public, but public participation shall be limited to periods during which testimony is permitted. Minutes shall be kept of all Planning Commission proceedings.
6. The Commission shall elect a Chairman from among the six (6) regular members. The term of Chairman shall be one (1) year, with eligibility for reelection.
7. A member of the Planning Commission may be replaced by the County Commissioners if such member fails to attend three (3) or more consecutive meetings of the Commission, or more than six (6) regular meetings in any calendar year.
8. The Planning Commission shall have the following powers and duties:
 - a. Review, evaluate, and approve or disapprove plans for subdivisions in accordance with this Ordinance and the Cecil County Subdivision Regulations;
 - b. Review and make recommendations to the Board of County Commissioners regarding:
 - (1) Proposed changes or amendments to the Cecil County Comprehensive Plan.
 - (2) Proposed amendments to the Cecil County Chesapeake Bay Critical Area Program.
 - (3) Proposed amendments to the Cecil County Zoning Ordinance.
 - (4) Proposed acquisition and development of lands for open space or recreation purposes.
 - (5) Proposed designation of historic sites or districts.
 - (6) Proposed changes or amendments to the County Subdivision Regulations.
 - (7) Proposed changes or amendments to the Cecil County Road Code.
 - (8) Proposed changes or amendments to the Cecil County Master Sewer and Water Plan.
 - (9) Proposed changes in land use or development arising from state or federal programs or policies.
 - (10) Proposed annexations.

- (11) Proposed amendments to the Cecil County Forest Conservation Regulations.
 - (12) Annual review of the Capital Improvement Program.
 - c. Make recommendations to the Board of Appeals regarding applications for Special Exceptions.
9. Appeals of Planning Commission decisions shall be taken to Circuit Court.

Section 296. Advisory Committees

- 1. From time to time, the County Commissioners may appoint one or more individuals to help the Planning Commission carry out its planning responsibilities with respect to a particular subject area. By way of illustration, without limitation, the County Commissioners may appoint advisory committees to consider such things as the comprehensive development plan, zoning ordinance, economic development plans, etc.
- 2. Members of such advisory committees shall sit as nonvoting members of the Planning Commission when such issues are being considered and lend their talents, energies, and expertise to the Planning Commission. However, all formal recommendations to the County Commissioners shall be made by the Planning Commission.
- 3. Nothing in this section shall prevent the County Commissioners from establishing independent advisory groups, committees, or commissions to make recommendations on any issue directly to the County Commissioners.

Section 297. Technical Advisory Committee

The Planning Commission may organize a Technical Advisory Committee composed of staff members of the Planning Office, the Public Works Department, the State Highway Administration, County Health Department, Board of Education, County Soil Conservation Department, and any other department or agency concerned with development; as well as a citizen at-large to be designated by the Planning Commission along with representatives of the local utility companies and the County Home Builders Association to assist developers in getting information and technical assistance in the review of development proposals. The authority granted the Technical Advisory Committee shall be as specified in the Cecil County Subdivision Regulations.

Part II Board of Appeals

Section 298. Board of Appeals Established

- 1.** Pursuant to Article 66 B, Code of Public General Laws of Maryland, a Board of Appeals is hereby established, which shall consist of five (5) members to be appointed by the County Commissioners.
- 2.** The County Commissioners shall designate one (1) alternate member for the Board of Appeals, who shall sit on the Board in the absence of any member of the Board.
- 3.** The terms of any existing Board of Appeals members duly appointed under the terms of a previous Zoning Ordinance shall continue for the duration of that term. However, beginning in August 1994, in order to stagger the terms of the Board of Appeals members, one (1) regular member and the alternate member of the Board of Appeals shall be appointed for one (1) year terms; two (2) regular members shall be appointed for two (2) year terms; and two (2) regular members shall be appointed for three (3) year terms. Each member shall then serve three (3) year terms. Vacancies shall be filled by appointment by the County Commissioners for the unexpired portion of the term. The Board shall elect one (1) of its five (5) regular members as Chairman, whose term as Chairman shall be three (3) years. A member of the Board of Appeals may be replaced by the County Commissioners if such member fails to attend three (3) or more consecutive meetings of the Board, or fails to attend six (6) meetings in any calendar year.
- 4.** The Board of Appeals shall have the following powers and duties:
 - a.** To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by the Zoning Administrator or any other administrative official in the enforcement of this ordinance.
 - b.** To hear and decide special exceptions as provided in Article XVII, Part II of this Ordinance.
 - c.** To authorize upon application a variance from the provisions of this Ordinance, as provided in Section 306 herein.

In exercising the above powers, the Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination which has been appealed from, to the extent that such action is consistent with the provisions of this Ordinance.

The applicant for a special exception or variance and the appellant in an appeal shall have the burden of proof (including the burden of going forward with the evidence and the burden of persuasion) of all questions of fact.

5. Proceedings of the Board of Appeals.

- a.** Meetings of the Board of Appeals shall be held as scheduled by the Chairman and at such other times as the Board may determine. The Chairman, or in his absence, the acting Chairman, may administer oaths and compel the attendance of witnesses.
- b.** The staff of the Office of Planning and Zoning shall be present during all deliberations by the Board of Appeals and shall answer such questions and render such advice and assistance as may be appropriate to the action being taken, but such staff shall not participate in the decision of the Board beyond the submitting of a staff recommendation as to the action proposed to be taken in each case.
- c.** The Board of Appeals shall adopt such other rules of procedure as it deems appropriate provided such rules are consistent with the provisions of this Ordinance and with applicable State enabling legislation.
- d.** The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon question, or if absent or failing to vote indicating such fact, and shall keep records of its official actions.
- e.** The deliberations of the Board of Appeals shall be open to the public, but public participation shall be limited to periods during which testimony is permitted.

6. Quorum and Voting.

- a.** Three (3) members of the Board shall constitute a quorum for the conducting of business.
- b.** A minimum vote of three (3) members of the Board shall be required to reverse any order, requirement, decision, or determination of the administrative official, or to decide in favor of the applicant on any manner upon which it is required to pass under this Ordinance, or to effect any variation in the application of this Ordinance.

7. Hearings, Appeals, Notices.

- a. Appeals to the Board of Appeals shall be filed within fifteen (15) days of the signing of the decision from which the appeal is taken. Appeals shall be filed with the Office of Planning and Zoning and with the Board of Appeals and shall specify the grounds thereof. The Office of Planning and Zoning shall forthwith transmit to the Board of Appeals all papers constituting the record upon which the action appealed was taken.
- b. The Board of Appeals shall fix a reasonable time for the hearing of appeals and requests for variances and special exceptions, give public notice thereof as well as due notice to the parties in interest, and hold the public hearing within sixty (60) days from the date of request of appeal notice was filed. At least fifteen (15) days notice of the time and place of such hearing shall be published in a newspaper of general circulation in the County. At the hearing, any party may appear in person or by agent or attorney. The Board shall then decide the matter within thirty-five (35) days from the time of hearing, such decision to become effective as of the date the decision is signed by the Chairman of the Board of Appeals or his designee; provided, however, that no application may be withdrawn once a hearing has begun before the Board concerning any such application.

Part III Other Administrative Provisions

Section 299. Zoning Administrator

1. The administration and enforcement of the provisions of this Ordinance shall be, except as otherwise specified in this Ordinance, within the scope of responsibility of the Director, Office of Planning and Zoning. Within this office, there is hereby established the position of County Zoning Administrator. The Director, Office of Planning and Zoning shall recommend a person to fill the position of County Zoning Administrator and the County Commissioners shall appoint a person to this position.
2. The Zoning Administrator shall be a regular County employee. He shall perform such duties and responsibilities in the administration and enforcement of this Ordinance as are hereinafter set forth, and such other duties as may be assigned by the Director.
3. The Zoning Administrator may be provided with such assistance in the carrying out of his responsibilities under this Ordinance as may be sanctioned by the County Commissioners.
4. It shall be the duty of the Zoning Administrator to administer and enforce the provisions of this Ordinance. If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land,

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buildings, or structures; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; he shall order discontinuance of any illegal work being done; and shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions, including the issuance of Stop Work Orders.

5. He shall be empowered to enter properties and make inspections to determine compliance with this Ordinance; and shall, pursuant to such duties, have the right to apply for and receive search warrants when they may be necessary to carry out his duties.
6. It is the intent of this Ordinance that all questions of interpretation and enforcement shall first be presented to the Zoning Administrator, that he shall render a decision thereon, and that such questions shall be presented to the Board of Appeals only on appeal from the decision of the Zoning Administrator.
7. The Zoning Administrator, or his representative, shall be required to attend all proceedings of the Planning Commission, Board of Appeals, and County Commissioners, at which matters of zoning are considered. He shall advise the Planning Commission on zoning matters related to the review, amending, or implementation of the Comprehensive Plan, on zoning implications of subdivision review, and on other matters as appropriate.
8. He shall issue Zoning Certificates, shall maintain records of all permits issued under this Ordinance, and shall maintain other records pertaining to this Ordinance including zoning maps, amendments, variances, conditional uses, appeals, and decisions. He shall receive and keep records of written complaints of violations of this Ordinance, shall investigate and verify all such complaints, and shall take appropriate action regarding complaints without undue delay.

Section 300. County Commissioners

The County Commissioners are the local elected legislative body. The County Commissioner's primary responsibility relative to this Ordinance shall be to make final decisions on zoning amendment applications and to make such appointments as identified in this Ordinance. In considering proposed changes in the text of this Ordinance or in the zoning map, the Commissioners act in their legislative capacity and must proceed in accordance with the requirements of Article XVII, Part IV.

Section 301. Fees and Charges

The County Commissioners shall establish a schedule of fees, charges, and expenses and a collection procedure, for zoning certificates, building permits, appeals, and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the offices of the Zoning

Administrator and may be altered or amended only by the County Commissioners, upon recommendation of the Office of Planning and Zoning.

Section 302. Legal Counsel

The County Commissioners shall appoint legal counsel to the Board of Appeals and Planning Commission. Said legal counsel shall be present at all meetings as necessary to give such legal advise as needed and as directed by the Commission or Board Chairman.

Section 303. Reserved

Section 304. Reserved

ARTICLE XVII APPEALS, VARIANCES, INTERPRETATIONS, SPECIAL EXCEPTIONS, AMENDMENTS AND PROCEDURES

Part I Appeals, Variances and Interpretations

Section 305. Appeals

1. An appeal from any final order or decision of the Zoning Administrator or Planning Commission, excluding subdivision approvals, may be taken to the Board of Appeals by any person aggrieved. An appeal is taken by filing with the Zoning Administrator and the Board of Appeals a written notice of appeal specifying the grounds therefore. A notice of appeal shall be considered filed with the Zoning Administrator and the Board of Appeals when delivered to the Department of Planning and Zoning and when the application fee is paid. The date and time of filing shall be entered on the notice by the Zoning Administrator or other staff members.
2. An appeal must be filed within fifteen (15) days after the date of the Planning Commission decision or Zoning Administrator's decision.
3. Whenever an appeal is filed, the Zoning Administrator shall forthwith transmit to the Board of Appeals all the papers constituting the record relating to the action appealed from.

Section 306. Variances

1. Variances, as defined in Article II, may be granted by the Board of Appeals. In addition, due to special features of a site or other circumstances where a literal enforcement of provisions relating to the Critical Area District would result in unwarranted hardship to a property owner, the Board of Appeals may grant a variance of the Critical Area District. An unwarranted hardship means that without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.
2. The Board shall examine all facts of the case and render a decision based on the following criteria:
 - a. The variance request is based on a situation where, because of special conditions, a literal enforcement of the provisions of the Ordinance would deprive the applicant of a right commonly enjoyed by other parties in the same zone under the terms of this Ordinance.
 - b. Special conditions and circumstances exist that are peculiar to the land, building or structure involved, and that are not applicable to other lands, buildings, or structures in the same zone, such conditions and circumstances not being the result of actions by the applicant.

(Amended 11/16/04)

- c. The granting of the variance will not confer on the applicant any special privileges that are denied by this Ordinance to other properties in the same zone.
- d. The variance request does not arise from any condition related to land or building use, either permitted or non-conforming, on any neighborhood property.
- e. Variance requests in the Critical Area District shall not be granted unless the decision is based on the following additional criteria:
 - (1) Special conditions or circumstances exist that are unique to the subject property or structure and a strict enforcement of the provisions within the Critical Area District would result in unwarranted hardship that is not generally shared by owners of property in similar management areas (i.e., IDA, LDA, RCA) of the Critical Area.
 - (2) Strict enforcement of the provisions within the Critical Area District would deprive the property owner of rights commonly shared by other owners of property in similar management areas within the Critical Area District.
 - (3) The granting of a variance will not confer upon an applicant any special privilege that would be denied to other owners of like property and/or structures within the Critical Area District.
 - (4) The variance request is not based upon conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming that are related to adjacent parcels.
 - (5) The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area District, and that the granting of the variance will be consistent with the spirit and intent of the County's Critical Area Program and associated ordinances as well as state law and regulations adopted under Subtitle 18 of the Natural Resources Article and COMAR 20.01.
 - (6) Greater profitability or lack of knowledge of the restrictions shall not be considered as sufficient cause for a variance.

- 3.** A variance in the Critical Area District will not be granted by the Board of Appeals unless and until:
- a.** A completed application form for a variance is submitted that demonstrates the applicability of the above criteria. In addition, requests for variance in the Critical Area District shall not be heard unless the state's Critical Area Commission has received a copy of the variance request prior to the scheduled public hearing.
 - b.** The Board of Appeals shall find that the reason set forth in the application justifies the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of land, building, or structures. In making this determination for variance requests in the Critical Area District, the Board of Appeals shall consider the following as tantamount to a minimum variance:
 - (1)** The granting of a variance to the yard and/or Buffer requirements results in new structures or impervious surfaces being located as far back from Mean High Water Line, tidal wetlands, or tributary streams in Critical Area as is feasible; and
 - (2)** The applicant takes steps to mitigate impacts, insofar as possible, including:
 - i.** Reforestation on the site to offset disturbed forested or developed woodlands on at least an equal area basis;
 - ii.** Afforestation of areas of the site so that at least fifteen (15) percent of the gross site is forested; and,
 - iii.** Implementation of any mitigation measures that relate to Habitat Protection Areas, Threatened or Endangered Species, or Species in Need of Conservation, and Plant and Wildlife Habitats, as delineated in the Cecil County Critical Area Program, recommended by state and/or County agencies, are included as conditions of approval.
 - (3)** The Board of Appeals shall further find that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, shall not result in a use not permitted in the zone in which the property subject to variance is located, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

- (4) For variances in the Critical Area District, the Board of Appeals shall find that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance and the Cecil County Critical Area Program shall not result in a use not permitted in the management area (i.e., IDA, LDA, RCA) or an increase in the number of permitted dwelling units (i.e., density limits) in which the property subject to the variance is located, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- (5) In addition and to the extent possible based on best available information, all property owners immediately contiguous to the application shall be notified by Certified Mail and furnished a copy of the said application.
- c. In granting a variance, the Board of Appeals may prescribe such conditions and safeguards as it deems appropriate that comply with the intent of this Ordinance and the Cecil County Critical Area Program. Violations of such conditions and safeguards, when made part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 340 of this Ordinance.
- d. In considering an application for a variance, the County shall presume that specific development activity in the Critical Area that is subject to the application and for which a variance is required does not conform with the general purpose and intent of Natural Resources Article, Title 8, Subtitle 18, COMAR Title 27, and the requirements of the County's Critical Area Program.
- e. If the variance request is based on conditions or circumstances that are the result of actions by the applicant, including commencement of development activity before an application for a variance has been filed, the County may consider that fact.
- f. An applicant has the burden of proof and the burden of persuasion to overcome the presumption of nonconformance established in paragraph d above.
- g. Based on competent and substantial evidence, the County shall make written findings as to whether the applicant has overcome the presumption of nonconformance as established above.
- h. With due regard for the person's experience, technical competence, and specialized knowledge, the written findings may be based on evidence introduced and testimony presented by:
 - (1) The applicant;
 - (2) The County or any other government agency; or

(Amended 11/16/04)

- (3) Any other person deemed appropriate by the County.

Part II Special Exceptions

Section 307. Initiation of Special Exceptions

1. The intent of this Article is to establish procedures and minimum standards to be used as guidelines for the consideration and authorization of those uses classified as special exceptions under the respective District regulations.
2. The granting of a special exception does not exempt the applicant from complying with all other requirements of this Ordinance or of the law.
3. Any property owner or other person with an enforceable legal interest in a property may file an application to use such land for one or more of the special exceptions provided in the zoning district in which the land is located.

Section 308. Application for Special Exception

Such application for special exception shall be filed with the Zoning Administrator on a form prescribed by the Zoning Administrator. The application shall be accompanied by such plans and/or data as necessary, and shall include a statement in writing by the applicant and adequate evidence showing that the proposed use will conform to the standards hereinafter set forth. Such application shall be forwarded from the Zoning Administrator to the Board of Appeals for review and decision in accordance with the Office and Planning and Zoning's submission deadlines and scheduling policies.

Section 309. Hearing on Application

1. The Board of Appeals shall hold a public hearing on each application for a special exception at such time and place as shall be established by the Board of Appeals. The hearing shall be conducted and a record of such proceedings and official action shall be preserved in the minutes of verbatim transcript taken by the Board of Appeals.
2. Notice is required as provided in Section 317.

Section 310. Authorization

For each application for a special exception, the Board of Appeals shall normally, conduct its public hearing and report its findings and decisions, including the stipulations or additional conditions and guarantees deemed necessary for the protection of the public interest.

Section 311. Standards - General

No special exception shall be approved by the Board of Appeals after considering all facts in the case unless such Board shall find:

1. Such use or any operations thereto will not be detrimental to or endanger the public health, safety, or general welfare.
2. The use will not be unduly injurious to the peaceful use and enjoyment of other property in the neighborhood, nor substantially diminish or impair property values in the neighborhood.
3. The establishment of the use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the zone.
4. The use will not, with respect to existing development in the area and development permitted under existing zoning, overburden existing public facilities, including schools, police and fire protection, water and sewer, public road, storm drainage, and other public improvements.
5. The use shall not adversely affect critical natural areas or areas of ecological importance.
6. The use shall, in all other respects, conform to the applicable regulations of the zone in which it is located.
7. That the particular use proposed at the particular location proposed, would not have any adverse effect above and beyond those inherently associated with such special exception use irrespective of its location in the zone. (Schultz v. Pritts, 291 MD.1)

8. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
9. That the proposed special exception is not contrary to the objectives of the current Comprehensive Plan for the County.

Section 312. Conditions and Guarantees

1. In granting any special exception, the Board of Appeals may prescribe such conditions and safe guards, including but not limited to time limitations, as it may deem appropriate which conform to the intent of this Ordinance and the Comprehensive Plan.
2. Violation of such conditions and safeguards when made a part of the terms under which the special exception is granted, shall be deemed a violation of this Ordinance and punishable under Section 314 or 340 of this Ordinance at the discretion of the Zoning Administrator.
3. The Board of Appeals may prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall render the special exception null and void.

Section 313. Approval of Special Exceptions

A special exception shall not be granted by the Board of Appeals unless and until:

1. A completed application form for a special exception is submitted indicating the section of this Ordinance under which the special exception is sought and stating the grounds on which it is requested.
2. The Office of Planning and Zoning and the Planning Commission have reviewed the application and have stated their recommendations to the Board.
3. Where requested by the Office of Planning and Zoning, the applicant has obtained written comments on the application from other agencies.
4. The public hearing shall be held and notice of hearing shall be given as per Section 317.
5. Any party may appear in person, or by agent or attorney.
6. The Board of Appeals shall make a finding that it is empowered under the section of

this Ordinance described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.

7. The decision of the Board on a special exception shall be effective as of the date such a decision is signed by the Chairman of the Board of Appeals or his designee; provided, however, that no application may be withdrawn once a hearing has begun before the Board with regard to any application submitted to the Board.

Section 314. Revocation

1. Failure to Comply with Conditions. Whenever the Zoning Administrator shall find, in case of any permit heretofore or hereafter granted pursuant to the provisions of this Article that any of the terms, conditions, or restrictions upon which such permit was granted are not being complied with the Zoning Administrator shall notify the Board of Appeals and all parties concerned. The Board is authorized, after due notice to all parties concerned and granting full opportunity for a public hearing, to suspend or revoke such permit or take other action as it deems necessary to ensure compliance. The Board is authorized to request and obtain investigations and reports as to compliance from such County or state agencies or administrative officers as may be appropriate.
2. Abandonment. Whenever the Zoning Administrator shall determine that a Special Exception appears to have been abandoned, the Zoning Administrator shall notify the Board of Appeals. Upon receipt of such notice the Board shall review the Zoning Administrator's determination at a public hearing. Notice thereof shall be given to the parties to whom the Special Exception has been granted and to all parties who would be entitled to receive notice of a new application for Special Exception concerning the property. The applicant shall show cause why the Special Exception shall not be revoked. The Board shall decide the matter and issue an opinion.

Section 315. Pre-existing Special Exception Use

1. Special exceptions granted by the Board of Appeals under the previous zoning ordinance shall continue in effect under this Ordinance only to the extent they are permitted as special exceptions under this Ordinance.
2. Where such previously granted special exceptions are not permitted as special exceptions under this Ordinance, such uses shall be considered as non-conforming uses.
3. A legal use existing at the time of adoption of this Ordinance, even though such use requires a special exception under this Ordinance, shall after adoption of this Ordinance be considered a conforming use. However, if such use ceases to exist for a period of ninety (90) consecutive days, any future use shall conform to the provisions of this Ordinance.

(Amended 12/19/06 and 5/1/07)

**Part III Hearing Procedures for Appeals, Variances, Special Exceptions or
Petitions of Revocation**

Section 316. Hearing Required on Appeals and Applications

1. Before making a decision on an appeal or an application for a variance, special exception, or a petition from the Zoning Administrator or Director of Planning to revoke a special exception, the Board of Appeals shall hold a hearing on the appeal or application in accordance with its policies for submission deadlines and scheduling.
2. Subject to Subsection 3, the hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments and ask questions of persons who testify.
3. The Board of Appeals may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the matter at issue may be heard and decided without undue delay.
4. The Board may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be published unless a period of six weeks or more elapses between hearing dates.

Section 317. Notice of Hearing

The Administrator shall give notice of any hearing required in Section 316 as follows:

1. Notice shall be given at least fifteen (15) days in advance of public hearing. Notice of such hearings shall be posted on the subject property and at the County Court House, and notice shall be published in a newspaper of general circulation in the County, at least fifteen (15) days prior to the public hearing.
2. Notice shall be given to the appellant or applicant and any other person who makes a written request for such notice by mailing to such persons a written notice before the hearing.

3. To the extent possible based on best available information, all property owners immediately contiguous to the application shall be notified by Certified Mail and furnished a copy of the said application.
4. The notice required by this section shall state the date, time, and place of the hearing, reasonably identify the lot that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

Section 318. Evidence

1. The provisions of this section apply to all hearings for which a notice is required by Section 316.
2. All persons who intend to present evidence to the Board, shall be sworn.
3. All findings and conclusions necessary to the issuance or denial of the requested permit or appeal (crucial findings) shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available, but in no case may crucial findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed.

Section 319. Modification of Application at Hearing

1. In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Board of Appeals, the applicant may agree to modify his application, including the plans and specifications submitted.
2. Unless such modifications are so substantial or extensive that the Board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the Board may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the planning staff.

Section 320. Record

Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the County.

Section 321. Written Decision

1. Any decision made by the Board of Appeals regarding an appeal or variance or issuance or revocation of a special exception shall be reduced to writing and served upon the applicant or appellant and all other persons who make a written request for a copy.
2. In addition to a statement of the Board's ultimate disposition of the case and any other information deemed appropriate, the written decision shall include an opinion that states the Board's findings and conclusions, as well as supporting reasons or facts, whenever this ordinance requires the same as a prerequisite to taking action.

Part IV Amendments

Section 322. Amendments In General

1. The regulations, restrictions, and boundaries set forth in this Ordinance may from time to time be amended, supplemented, changed or repealed, provided however, that no such action may be taken until after the Board of County Commissioners shall hold a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard.
2. Any application for a Comprehensive Plan or zoning amendment shall contain specific information setting forth the basis for the granting of the request.
3. Amendments affecting the Chesapeake Bay Critical Area shall be in conformance with Article XI, Part I, Section 203 and all applicable State rules and regulations.

Section 323. Initiation of Amendments

1. Proposed amendments may be originated by the Office of Planning and Zoning, the Planning Commission, or the owner(s) of the property(s) for which a zoning change is sought.
2. Proposed amendments shall first be submitted to the Office of Planning and Zoning. The applicant shall then present the proposed amendment for review by the Planning Commission which shall submit its recommendations to the County Commissioners for a public hearing.

Section 324. Hearing Required; Notice

1. All public hearings shall be conducted in accordance with the provision of Article 66B, Section 4.04, Annotated Code of Maryland. Specifically, the following procedures shall apply:

- a. The County shall provide for the manner in which such regulations and restrictions and the boundaries of such districts shall be determined, established, and enforced, and from time to time amended, supplemented, modified or repealed. However, a regulation, restriction, or boundary may not become effective until at least one (1) public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard and the decision with regard to said matter has been signed by the County Commissioners. Notwithstanding the foregoing, once a hearing has begun with regard to said amendment, supplementation, or modification, said request for amendment, supplementation, or modification may not be withdrawn.
- b. At least fifteen (15) days prior to the hearing notice of the time and place of such hearing shall be published in a newspaper of general circulation in the County, and posted on any property proposed to be rezoned. In addition and to the extent possible based on best available information, all property owners immediately abutting to the application shall be notified by Certified Mail and furnished a copy of the said application.

Section 325. Planning Commission Consideration of Proposed Amendments

- 1. The Planning Commission shall consider the application and shall conduct a public hearing regarding the application. The public hearing shall be conducted as follows:
 - a. The applicant shall be given ample time to present his case to the Planning Commission. In so doing the applicant may call on expert witnesses to support his request.
 - b. The Zoning Administrator shall present a staff report representing a review of the application
 - c. The Planning Commission shall ask such questions of either the applicant, any witnesses, or the staff as may be necessary in deciding its approval, denial, tabling, or continuance of the application.
 - d. The Public shall be given an opportunity to testify or ask questions of the applicant, his witnesses, or the planning staff. The Planning Commission may in turn question those testifying and may place a reasonable time limit for such testimony.
- 2. Within sixty (60) days from the Planning Commission's final hearing on the application, the Planning Commission shall transmit the application to the County Commissioners together with its recommendations for approval or disapproval. The Planning Commission shall concurrently transmit this information to the applicant.
- 3. The Planning Commission's formal recommendation on the application shall be presented to the Board of County Commissioners at the hearing on the application.

(Amended on 12/19/06 and 5/1/07)

Section 326. Board of County Commissioners Action on Amendments

1. Before approving or disapproving any application for amendment, the County Commissioners shall hold at least one (1) public hearing in relation to the application, at which parties in interest and citizens shall have an opportunity to be heard.
2. The County Commissioners shall hold a public hearing within sixty (60) days after receipt of the Planning Commission's recommendation.
3. In any action by the Board of County Commissioners to amend this Ordinance, the Zoning Administrator shall be present during all deliberations by the Commissioners and shall answer such questions and render such advice and assistance as may be appropriate to the action being taken, but Zoning Administrator shall not participate in the decision of the Commissioners beyond the submitting of a recommendation from the staff and from the Planning Commission as to the action proposed to be taken in each case.
5. In evaluating the proposed amendment, the County Commissioners shall make findings of fact in each specific case, including but not limited to the following matters, where applicable:
 - a. Population changes
 - b. Availability of public facilities
 - c. Present and future transportation and traffic patterns, character, and volume
 - d. Compatibility with existing and proposed developments in the area
 - e. Compatibility with the intent of the Comprehensive Plan
 - f. Compatibility with the purposes of any Special District in which the area requested to be rezoned is located.

The County Commissioners may grant the amendment on a determination that there was a substantial change in the character of the neighborhood where the property is located, or that there was an error or mistake in the existing zoning regulations.

6. In the granting of any amendment pursuant to this Ordinance, the Board of County Commissioners shall solicit and consider the recommendations of the Office of Planning and Zoning and those of the Planning Commission.
7. An amendment whereby any tract of land is rezoned shall allow for any uses that are permitted in that zone.

8. An application for Zoning Amendment shall not be accepted by the Zoning Administrator if the application is for a Zoning Amendment of the whole or any part of land which has been denied by the County Commissioners until twelve (12) months from the date of denial.
9. The applicant for a zoning amendment shall have the burden of proof (including the burden of going forward with the evidence and the burden of persuasion) of all questions of fact.
10. The record in all zoning cases shall include the application, all documents or communications submitted regarding the application, the recorded testimony received at the hearing, any reports or communications to or from any public officials or agency concerning the application, and the final decision of the County Commissioners. The record shall be open to public inspection and shall be maintained in the Office of the Zoning Administrator.

Section 327. Reserved

Section 328. Reserved

ARTICLE XVIII NONCONFORMING SITUATIONS

Section 329. Intent

It is the intent of this ordinance that lots, uses, or structures existing at the time of adoption of this ordinance or amendments thereto, and which are rendered non-conforming by such adoption, shall be permitted to continue until removed or abated, but shall not be encouraged to survive. Accordingly, such non-conformities shall not be enlarged, expanded, or extended. Further, if any such non-conformity ceases to exist for a period of ninety (90) days any subsequent use shall conform to the regulations for the zone in which the property is located. In cases where structures are damaged or destroyed by accident or natural causes, such period shall be one (1) year. Nonconforming dwelling units, including structures accessory thereto may be expanded provided that said expansion does not encroach or increase encroachment across any established setback line.

Section 330. Continuation of Nonconforming Situations and Completion of Nonconforming Projects

Unless otherwise specifically provided in this Ordinance and subject to the restrictions and qualifications set forth in Sections 331 through 334, nonconforming situations that were otherwise lawful on the effective date of this Ordinance may be continued.

Section 331. Nonconforming Lots

The following regulations shall apply to all lots of record which were existing prior to the effective date of this ordinance:

1. A dwelling unit may be erected in any zone permitting such residences on any lot of record, excluding agriculture transfers and add-ons, existing as of the date of adoption of this ordinance, even though such lot may not meet the requirements of this ordinance with respect to minimum lot size, width or depth, or maximum density, provided that all other regulations are met. In the case of such lots, the minimum yard requirements shall be determined by the Zoning Administrator based on the prevailing characteristics in the surrounding neighborhood for front and rear yards; for side yards, the minimum set back shall be five (5) feet.
2. This section applies only to undeveloped nonconforming lots. A lot is undeveloped if it has no principle building upon it or if there is a principle building upon it which is physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by a duly authorized official to be unsafe or unlawful by reason of physical condition.
3. The intent of this subsection is to require nonconforming lots to be combined with other undeveloped lots to create conforming lots under the circumstances specified

herein, but not to require such combination when that would be out of character with the way the neighborhood has previously been developed.

Section 332. Extension or Enlargement of Nonconforming Situations

1. Except as specifically provided in this section, no person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation. In particular, physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:
 - a. An increase in the total amount of space devoted to a nonconforming use, or
 - b. Greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations, or density requirements or other requirements such as parking requirements.
2. A nonconforming situation may be altered to decrease its nonconformity.

Section 333. Repair, Maintenance, Reconstruction

1. Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. Work may be done only in accordance with a zoning certificate issued pursuant to this section.
2. The Zoning Administrator shall issue a permit authorized by this section if he finds that, in completing the renovation, repair or replacement work:
 - a. No violation of Section 332 will occur, and
 - b. The permittee will comply to the extent reasonably possible with all provisions of this Ordinance applicable to the existing use (except that the permittee shall not lose his right to continue a nonconforming use).

Section 334. Abandonment and Discontinuance of Nonconforming Situation

When a structure or operation made nonconforming by this Ordinance is vacant or discontinued at the effective date of this Ordinance, the ninety (90) consecutive day period for purposes of this section begins to run on the effective date of this Ordinance.

Section 335. Reserved

Section 336. Reserved

ARTICLE XIX ENFORCEMENT AND REVIEW

Building permits or zoning certificates issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, arrangement and construction set forth in such permits, plans, and certificates, and no other. The use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Zoning Ordinance.

Section 337. Complaints Regarding Violations

Whenever the Zoning Administrator receives a complaint alleging a violation of this Ordinance, he shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken.

Section 338. Persons Liable

The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person(s) who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Ordinance may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

Section 339. Procedures Upon Discovery of Violations

1. Upon the finding by a zoning official that any provision of this Ordinance is being violated, the zoning official shall immediately send written notice to the person responsible for such violation, including the property owner(s), advising them of the nature of the violation and the action necessary to correct such violation. Such notice shall also advise that the decision of the zoning official may be appealed to the Board of Appeals in accordance with Section 305.

2. The zoning official may deliver a citation to a person believed to be committing a civil zoning violation. A copy of the citation shall be retained by the zoning official 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 and time where 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.
- 3. A pre-set fine, not exceeding \$500.00 may be imposed for each violation. Each day on which the violation continues shall constitute a separate offense.
- 4. If a person who receives a citation for a violation fails to pay the fine by the date of payment set forth on the citation and fails to file a notice of intention to stand trial, a 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 the notice, the person is liable for an additional fine equal to twice the amount of the original preset fine. If, after 35 days, the citation is not satisfied, the zoning official may request adjudication of the case through the District Court.
- 5. Enumeration of violations and pre-set fines - an act or conduct referred to in this subsection is a civil zoning violation:
 - a. An act which violates any covenant or condition of any approval given by the Planning Commission or Board of Appeals under this section or any prior Ordinance - Fine \$500.00.
 - b. An act which constitutes the continuance of a nonconforming use or structure after the time when this Ordinance requires that such use be terminated or discontinued. Fine \$250.00.
 - c. An act which constitutes the enlarging, extending or expanding of a nonconforming use or structure in a manner not authorized by this Ordinance. Fine \$250.00.
 - d. An act for which rezoning, special exception or variance is required, which is done without making application for and obtaining such permission as required by this Ordinance. Fine \$500.00.
 - e. Making a materially false writing on any application required by this Ordinance, knowingly making false or incomplete representations to the Boards, misrepresenting actions by other government entities. Fine \$100.00.
 - f. Willfully using a property for any purpose or in any manner which could not be authorized by a Zoning Certificate. Fine \$250.00.
 - g. Willfully providing false or incorrect information to zoning authority in connection with a determination of whether a use is legally non-conforming. Fine \$100.00.

- h.** Any act not referred to in the preceding paragraphs of this subsection which involves the use of property in any manner which is prohibited by this Ordinance. Fine \$250.00.

Section 340. Penalties and Remedies for Violations

- 1.** Violation of the provisions of this Ordinance, failure to comply with any of its requirements, or a person who commits or assists in the commission of any unlawful act is guilty of a criminal misdemeanor and subject to a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00) or to imprisonment for not more than 90 days, or both fine and imprisonment. In addition the person or persons shall pay all costs and expenses as well as any fair and reasonable legal fees incurred as a result of said action being brought.
- 2.** The procedure for the issuance of citations, collection of fines and trial with respect to disputed or unsatisfied citations shall be as prescribed in Section 7.01(c) of Article 66B of the Annotated Code of Maryland, as amended from time to time.
- 3.** Nothing herein contained shall prevent the County from taking such other lawful actions as is necessary to prevent or remedy any violation. The persons liable, as defined by Section 338 herein, shall be required to pay any and all fair and reasonable costs and expenses incurred by the County in its enforcement of this Ordinance, including but not limited to, attorneys' fees incurred by the County.

Section 341. Permit Revocation

- 1.** A zoning certificate or site plan may be revoked by the Zoning Administrator (in accordance with the provisions of this Section) if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this Ordinance, or any additional requirements lawfully imposed.
- 2.** Before a zoning certificate or site plan may be revoked, the Zoning Administrator shall give the recipient 10 days notice of intent to revoke the certificate or site plan and shall inform the recipient of the alleged reasons for the revocation. If the certificate is revoked, the Zoning Administrator shall provide to the permittee a written statement of the decision and the reasons therefor.
- 3.** No persons may continue to make use of land or buildings in the manner authorized by any zoning, or special exception after such permit has been revoked.

Section 342. Computation of Time

Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded.

(Amended 8/18/2009)

Section 343. Judicial Review

1. A decision of the Board of Appeals, and a decision of the County Commissioners in the granting or denial of a zoning amendment may be appealed to the Circuit Court in accordance with the Maryland Rules of Procedure.
2. A decision of the Planning Commission may be appealed to the Circuit Court in accordance with the Maryland Rules of Procedure.

Section 344. Reserved