

Part II Mineral Extraction District B - MEB

Section 216. Purpose

The purpose of the MEB overlay district is to identify areas of the County where mineral extraction may occur by Special Exception.

Section 217. Applicability

1. The MEB overlay designation shall only apply to those areas designated as Mineral Extraction District on the Land Use Plan of the 1990 Cecil County Comprehensive Plan.
2. It is intended that this overlay designation apply to those portions of the Mineral Extraction District where there is a potential for conflict between adjacent current and future land uses and the mineral extraction activity.

Section 218. Permitted Uses, Lot, Yard and Height Requirements

1. Permitted uses, uses permitted with site plan approval, uses permitted under certain conditions, uses permitted by special exception and uses permitted by special exception under certain conditions in the MEB District shall be those as specified for the underlying zone.
2. Lot, yard and height requirements for uses other than mineral extraction shall be those as specified in the underlying zone.

Section 219. Review Requirements and Conditions

Mineral extraction activities shall only be permitted in the MEB overlay zone as a Special Exception when the use can meet review requirements and conditions as listed in Section 67.

Section 220. Mineral Extraction in the Chesapeake Bay Critical Area

Mineral Extraction shall only be permitted in the MEB/Critical Area District as a Special Exception when the use can meet review requirements and conditions as listed in Section 67.

Section 221. State and County Coordination

1. It is the intent of these regulations not to duplicate the review of certain aspects of surface mining applications between state and county agencies. Therefore, the environmental impacts of the proposed surface mining activity, such as effects on ground and surface water, effects on wetlands, and proper post-excavation stabilization shall be reviewed by the applicable state agencies.

2. The issues in 1 above may be considered by the Board of Appeals to review whether or not the environmental impacts of the proposed mineral extraction operation in a particular location are either more or less detrimental than that same mineral extraction operation any where else in the MEB district.

Section 222. Reserved

Section 223. Reserved

Part III Floodplain District

Section 224. Purpose and General Provisions

1. The purposes of this Part are to protect human life and health, minimize property damage, encourage appropriate construction practices to minimize future damage, protect individuals from unwittingly buying land subject to flood hazards, and to protect water supply, sanitary sewage disposal, and natural drainage. The prevention of unwise development in areas subject to flooding will reduce financial burdens to the community and the State, and will prevent future displacement and suffering of its residents. This protection is achieved through the review of all activities proposed within identified floodplain and by the issuance of permits for those activities that comply with the objectives of this Ordinance.
2. Floodplains are an important asset to the community. They perform vital natural functions such as temporary storage of floodwater, moderation of peak flood flows, maintenance of water quality, groundwater recharge, prevention of erosion, habitat for diverse natural wildlife populations, recreational opportunities, and aesthetic quality. These functions are best served if floodplain are kept in their natural state. Wherever possible, the natural characteristics of floodplain and their associated wetlands and water bodies should be preserved and enhanced.
3. The Floodplain District provides a unified, comprehensive approach to floodplain management which addresses these natural floodplain functions and the Federal and State programs concerned with floodplain management. These programs are: the National Flood Insurance Program (44 CRF 59-79); the State's Waterway Construction Permit Program for non-tidal floodplain; the State's Tidal and Non-tidal Wetlands Permit Programs; the U. S. Army Corps of Engineers' Section 10 and 404 Permit Programs; and the State's Coastal Zone Management Program. Decisions to alter floodplain, especially floodway and stream channels, should be the result of careful planning processes which evaluate resource conditions and human needs.

Section 225. Abrogation and Greater Restrictions

This Part supersedes any Ordinance in effect in floodprone areas. However, any other Ordinance shall remain in full force to the extent that its provisions are more restrictive.

Section 226. Applicability

Any person or entity proposing to do any development within the floodplain zone regulated by this Part must first obtain a permit for that development and must comply with all provisions of this Ordinance.

Section 227. Partial Invalidity and Severability

If any part of this Part is declared invalid, the remainder of the Part shall not be affected and shall remain in force.

Section 228. Disclaimer of Liability

1. The degree of flood protection provided by this Part 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 Part does not imply that flooding will not occur outside of the delineated floodplain zone, nor that permitted development and land uses within the floodplain will be free of flooding and associated flood damage.
2. This Part 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 Ordinance.

Section 229. Definitions

In addition to the definitions in Article II, the following definitions pertain specifically to the Flood District:

Basement. An enclosed area which is below grade on all four sides.

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.

Elevation Certificate - form supplied by the Federal Emergency Management Agency (FEMA) to certify as-built elevations of structures above mean sea level (NGVD).

Flood Insurance Rate Map (FIRM) - map which depicts the minimum special flood hazard area to be regulated by this Part (unless a Floodway Map is available).

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.

Flood Protection Elevation (FPE) - the elevation of the base flood plus one foot freeboard.

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.

Floodway Map - map which depicts floodway and special flood hazard areas to be regulated by this Ordinance.

Floodway Fringe - that portion of the floodplain outside the floodway.

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.

Lowest Floor - the lowest floor of the lowest enclosed area, including 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.

NGVD - National Geodetic Vertical Datum of 1929 elevation reference points set by the National Geodetic Survey based on mean sea level.

New Construction - a structure for which the start of construction commenced on or after the effective date of the adoption of a Floodplain Management Ordinance, and includes any subsequent improvements.

Start of Construction - 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.

Structure - a walled and roofed building, including, but not limited to, manufactured homes, gas and liquid storage tanks, garages, barns, and sheds.

Substantial Damage - damage of any origin sustained by a structure whereby the cost of restoring the structure to its condition before damage would equal or exceed 50% of the market value of the structure before the damage occurred.

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: (a) before the improvement or repair is started; or (b) 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.

Temporary Structure - any structure to be completely removed within 180 days from issuance of the permit.

Variance - the grant of relief from a term or terms of this Ordinance.

Wetland - any land which is: (1) considered private wetland or State wetland pursuant to Title 9, Wetland and Riparian Rights, Natural Resources Article, Annotated Code of Maryland; or (2) defined as wetland under the procedures described in the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands" by the Federal Interagency Committee for Wetland Delineation, 1989, as amended.

Section 230. Permit Procedures

1. A permit is required for all development in any Floodplain Zone except where exempt as described in 2 and 3 below, they will however be required to submit plans described below. It shall be granted only after all necessary permit applications are submitted to Federal and State agencies. A permit issued by the Zoning Administrator under this Part is not valid until all necessary permits for development are obtained. Receipt of Federal or State permits does not exempt development from the provisions of this Part.
2. Accessory structures that are less than 300 square feet are exempted provided a "non-conversion agreement" is filed with the Office of Planning and Zoning.
3. Accessory structures and garages between 300 and 600 square feet are considered "conditioned permits" and should meet the requirements outlined in Section 234.
4. Applications for a Permit shall contain, at a minimum, the following information:
 - a. Name, address, and phone number of applicant (owner or agent of owner);
 - b. Name, address, and phone number of owner, if different;
 - c. Name, address, and phone number of contractor;
 - d. Tax map number and parcel number;
 - e. Proposed uses for the site;
 - f. Type, dimensions, and estimated cost of development proposed;
 - g. Site characteristics and improvements; and
 - h. Other information deemed appropriate by the Zoning Administrator.

5. All permit applications must have a site plan drawn to scale which shows:
 - a. dimensions of site;
 - b. size and location of existing and proposed structures or alterations;
 - c. setbacks;
 - d. elevation contours in mean sea level (NGVD);
 - e. delineation of the 100-year flood elevation and boundary; interpolation is satisfactory;
 - f. proposed elevation of the lowest floor and method of elevation, if applicable.
6. The Zoning Administrator may require plans for tree maintenance, stormwater management, revegetation, establishment of vegetated buffers, and final grading as part of the permit application process.
7. All applicants shall agree in writing to provide an Elevation Certificate completed by a registered professional engineer or surveyor to certify the as-built lowest floor of a structure which must be elevated to or above the Flood Protection Elevation. An Elevation Certificate must be submitted before a Certificate of Occupancy or Use may be issued. Work undertaken prior to submission of the certification is at the applicant's risk. For enclosed areas below the Flood Protection Elevation a Nonconversion Agreement may be required, in addition to an agreement to install water equalizing vents as specified in Section 243 of this Ordinance.
8. If an improvement to an existing structure is proposed, adequate information on the cost of the improvement and the market value of structure before the improvement must be supplied to the Zoning Administrator to allow a determination of substantial improvement. The Zoning Administrator may use tax assessment records to determine substantial improvement. In floodway permits shall be tracked by property location to determine if the cumulative value of improvements constitutes substantial improvement of a structure.

Section 231. Subdivision Proposals

1. In addition to the information required in Section 230, an applicant for subdivision in the non-tidal floodplain zone shall submit a plan to demonstrate that a building site for each lot is outside of the 100-year floodplain. The Zoning Administrator shall be assured that a plan for the perpetual protection of the floodplain areas in their natural state as required under Section 241.2.d is included.

2. Subdivision plans for the tidal floodplain zone shall be reviewed to assure that the provisions of Section 241.2.d are met, especially with regard to avoiding wetlands, low areas, and existing forest cover.
3. In all floodplain subdivisions, plans for maintenance of forest cover, revegetation, accommodation of stormwater runoff, prevention of erosion, and other plans required by this Ordinance must be submitted with subdivision proposals. The plans shall be evaluated as a whole to achieve maximum preservation of the natural and beneficial floodplain functions, desirable resources, and characteristics of each site. The plan for utility ingress, stormwater drainage structures, road access, and other rights of way shall be evaluated in light of the site characteristics.

Section 232. Issuance of Permit

1. Prior to issuance of a permit, the Zoning Administrator shall determine the location of the project relative to floodway or floodplain and shall note on the permit the proper elevation to which the lowest floor of proposed structures must be elevated. In approximate floodplain where an elevation is not available, the applicant shall be required to obtain such elevation. The applicant must agree to secure all other required permits, an Elevation Certificate, Floodproofing Certificate, engineering analysis, or other required verifications deemed appropriate by the Zoning Administrator.
2. Permits shall be granted by the Zoning Administrator only after determining that the proposed development will be in complete conformance with the requirements of this Part and all other applicable local codes and ordinances. All other necessary permits or approvals must be applied for or granted. Permits are valid only after all other necessary permits are granted.
3. Dam Safety. Caution should be exercised when approving development downstream of existing or proposed dams. The condition of the dam, as well as the design criteria, hazard class, and the danger reach, should be investigated to avoid increasing potential hazards. Dams must meet design criteria based on the potential impacts downstream of the dam. Downstream development within the dam break flood wave shall be denied unless the dam meets the design standards for a high hazard dam.
4. After issuance of a permit, no changes of any kind shall be made to the application, permit, or any of the plans, use specifications, or other documents submitted with the application without the written approval of the Zoning Administrator. A copy of the permit or other verification must be displayed at the construction site during construction activity.
5. Work on the permitted activity shall begin within 180 days of the issuance of the permit, or the permit shall expire, unless a written extension is granted by the Zoning

Administrator. Work shall be completed within one year of the date of the permit unless a greater time is specified in the permit or a written extension is granted.

6. During construction, the Zoning Administrator or an authorized representative shall inspect the site to determine that the work is in compliance with the permit.
7. Any work found to be not in compliance must be corrected before any additional work is undertaken.

Section 233. Record of Permits

1. The Zoning Administrator shall maintain a record of all floodplain permits which record shall be available upon request by the Federal Emergency Management Agency or its authorized agent (Water Resources Administration) during periodic assessments of this County's participation in the National Flood Insurance Program. All documents needed to support any permit action, such as Elevation Certificates, map amendments or revisions, variance actions, shall be maintained.

Section 234. Conditioned Permits For Accessory Structures and Garages

1. A conditioned permit may be issued at the discretion of the Zoning Administrator when the 300 square foot exemption is exceeded for accessory structures up to a total size of 600 square feet. In order to qualify, the structure's use must be incidental to the primary structure, and it can be used only for limited storage and parking of vehicles. The other provisions of this section must be met.
2. A conditioned permit is subject to the applicant's completion of a Nonconversion Agreement stating that the use of the accessory structure may not change from that permitted. A statement of the greater flood risk and possibly higher flood insurance premiums must be included.
3. In addition, a recordation on the deed or Memorandum of Land Restriction must be made as described in Section 244.2.c stating that the permitted structure may not be used for human habitation without first complying with the construction requirements of this Part and must be equipped with the proper water equalizing vents.

Section 235. Fees

A fee may be charged at the time of application. These fees shall be established by the Board of County Commissioners for Cecil County, and are subject to amendment from time to time.

Section 236. Penalties

1. A person who does not comply with the conditions of a permit issued pursuant to the provisions of this Part is guilty of a misdemeanor and subject to penalties as outlined in Article XIX. Each day a violation continues is a separate offense. A fine may be imposed for the violation, but does not excuse the violation. The violation must be corrected prior to any further work progressing on the project.
2. The Federal Insurance Administrator and the Water Resources Administration must be notified by the Zoning Administrator within 30 days after issuance of the citation of any violation which requires a fine or court appearance. New or renewal federal flood insurance may be denied any structure remaining in violation of this Ordinance. The violation may also violate State law, may be subject to action, and may incur a separate penalty.

Section 237. Identification of Flood Zones

The regulatory floodplain shall be those areas of Cecil County which are subject to the 100-year flood, delineated on the most recent revision of the County's Floodway Maps and Flood Insurance Rate Maps (FIRM) and described in the Flood Insurance Study (FIS) prepared by the Federal Emergency Management Agency (FEMA). Floodway Maps and the FIS, if available, must be used. Areas along non-tidal streams that do not have FEMA delineations as described above are subject to regulation by this Part and the State.

Section 238. Floodplain Zones

A community may have one or more of the following floodplain zones:

1. Non-tidal Floodplain consist of the Floodway and the Floodway Fringe. Non-tidal floodplain may have detailed engineering study data, profiles, and water surface elevations, or may have approximate delineations only.
2. Tidal Floodplain consist of areas subject to coastal or tidal flooding by the 100-year flood. These areas are flooded due to high tides, hurricanes, tropical storms, and steady on-shore winds.

Section 239. Floodplain Boundaries

1. Floodplain Zone Determination
 - a. The Zoning Administrator will determine the floodplain zone in which the development activity is proposed using the Floodway Maps and FIS if available, or, if not, by using the FIRM. Without prior approval from FEMA,

the County shall use no other data to enforce floodplain management regulations.

- b. Where map boundaries and elevations disagree, elevations prevail, with no approval from FEMA required.

2. Approximate Floodplain Determination

- a. 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 100-year flood and the extent of the floodway, and must delineate these on the site plan submitted for approval.
- b. For new subdivisions, the applicant may have the 100-year flood elevations certified by a registered professional engineer based on hydrologic and hydraulic analyses which include a floodway analysis if in the opinion of the Director of the Office of Planning and Zoning it is felt this is necessary.
- c. For individual lot development, if no data are available, the point-on-the-boundary method may be used. In this method, the distance is scaled from a reference point at the site to the edge of the 100-year floodplain boundary indicated on the FIRM. An elevation of the 100-year flood is determined at that point by survey.

Section 240. Development Regulations in Floodplain Zones

- 1. In order to prevent excessive flood damage and to allow for the protection of the natural and beneficial floodplain functions, the following provisions shall apply to all development, new construction, and substantial improvements to existing structures in all floodplain zones.
 - a. Watercourses
 - (1) In all floodplain zones, any development which proposes to alter a watercourse must obtain a variance.
 - (2) All conditions for encroachment in the floodway must be met and adverse impacts to aquatic resources must be minimized.
 - (3) FEMA, and the Maryland Water Resources Administration must be notified by the applicant before any modification may occur to watercourses.

- (4) Any activity falling within the 100-year non-tidal floodplain may require a waterway construction permit from the Water Resources Administration.

b. Wetlands

- (1) It is State and Federal policy that disturbance of wetlands shall be avoided.
- (2) Encroachment by development into wetlands and buffer areas is not allowed without State and Federal permits.
- (3) The applicant must demonstrate that no alternatives exist and the encroachment is the minimum necessary.
- (4) Mitigation may be required by the appropriate regulatory authorities.

c. Sediment and Stormwater Management

- (1) Any land disturbance permitted in the floodplain must have a stormwater management and sediment and erosion control plans as required by State and County regulations.
 - (2) The plan must include design of land contours that will not increase surface water runoff onto neighboring properties.
 - (3) Ground cover must be established immediately after disturbance, and a plan for permanent plantings, including trees, should provide for adequate vegetative cover within the perennial or ephemeral stream buffers as appropriate to prevent erosion.
2. If a structure is in more than one zone, the more stringent provisions shall apply to the entire structure.
 3. The specific requirements contained in Article V also apply to development in this Article.
 4. Any approved development shall comply with all other zoning, environmental, water quality and sanitary regulations, as well as applicable State and Federal requirements.

Section 241. Non-tidal and Tidal Floodplain Zones

- 1.** Development may not occur in the floodplain where alternative locations exist due to the inherent hazards and risks involved. 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.
- 2.** Elevation Requirements - New and Substantially Improved Structures
 - a.** Residential Structures
 - (1)** All new residential structures, including manufactured homes, shall have the lowest floor elevated to or above the Flood Protection Elevation.
 - (2)** Basements are not permitted.
 - (3)** In non-tidal floodplain horizontal expansion which increases the foot print and that is a substantial improvement to existing structures shall have the lowest floor elevated at least one (1) foot above the base flood protection elevation.
 - (4)** After the lowest floor is in place the elevation of the lowest floor shall be certified by a registered surveyor or professional engineer on the Elevation Certificate.
 - (5)** Enclosures below the Flood Protection Elevation must be constructed with water equalizing vents to meet the specifications of Section 243.2.
 - (6)** Improvements which are less than substantial shall be constructed to minimize damage during flooding or shall be elevated to the greatest extent possible.
 - b.** Nonresidential Structures
 - (1)** All new or substantially improved nonresidential structures shall be elevated as set forth above for residential structures.
 - (2)** State regulations do not allow basements in nonresidential buildings in the non-tidal floodplain.

c. Fill

- (1)** The placement of more than 600 cubic yards of fill per parcel/lot in the floodplain is prohibited except by variance.
- (2)** Elevating buildings by other methods must be considered unless 600 cubic yards or less of fill are required.
- (3)** An applicant shall demonstrate that fill is the best alternative to raising the building to at least the Flood Protection Elevation, and that the amount of fill used will not affect the flood storage capacity or increase flooding onto neighboring properties.
- (4)** In the event buildings on adjacent properties are known or determined to be subject to flooding under current conditions, the Zoning Administrator may require submission of hydrologic and hydraulic analyses to adequately demonstrate the effects of the proposed fill.
- (5)** The conditions described in Section 243.8 must be met whenever fill is used.

d. Subdivision Requirements

- (1)** To achieve long-term flood damage avoidance and protection of the natural and beneficial floodplain functions, creation of any new flood-prone building sites shall not be permitted in any new subdivisions regardless of size, number of lots, and location, except in tidal floodplain with a variance.
- (2)** Within new major subdivisions, consideration must be given for the preservation and dedication to natural buffer areas or open space of the floodplain areas and their natural vegetation, and if preserved or dedicated, a note must be present on any final record plat reflecting said preservation and/or dedication.

e. Non-tidal Floodplain

- (1)** In new subdivisions in non-tidal floodplain, each lot platted must have a suitable building site outside the floodplain.
- (2)** Consideration must be given to clustering development out of the floodplain.

- (3) An access road at or above the elevation of the 100-year flood shall be provided.

f. Tidal Floodplain

- (1) New subdivisions in tidal floodplain shall be designed to develop the highest natural land available before floodplain lots are platted.
- (2) High priority should be given to clustering development out of the floodplain while preserving the low lying land and forested areas in natural vegetation.

Section 242. Floodway

1. Floodway shall be preserved to carry the discharge of the 100-year flood. Floodway present increased risks to human life and property because of their relatively faster and deeper flowing waters.
2. Fill shall not be permitted.
3. New structures shall not be permitted except those described in Section 243 of this Part and those described in the Chesapeake Bay Critical Area Program as water dependent uses permitted under certain conditions within the Buffer.
4. New development shall not be permitted in the floodway where alternatives exist elsewhere or if any increase in water surface elevations will result from the 100-year flood.
5. Any development in the floodway which may result in any increase in water surface elevations or change to the floodway must be submitted to FEMA for a Conditional Letter of Map Revision.
6. Hydrologic and hydraulic analyses based 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 Letter shall be grounds for denial of the permit.
7. An alternative analysis must be prepared for any development in the floodway before a permit may be issued. The provisions of Section 241 above, as well as Section 242, apply to floodway.

8. Alternative Analysis Requirement. Before a permit may be issued, an applicant shall submit an alternative analysis which demonstrates that:

- a.** No reasonable alternatives exist outside the floodway;
- b.** Encroachment in the floodway is the minimum necessary;
- c.** The development will withstand the 100-year flood without significant damage; and
- d.** The development will not increase downstream or upstream flooding or erosion.

9. Existing Structures

- a.** Existing structures in the floodway shall be substantially improved only by variance and if they can be brought into conformance with this Part without increasing the footprint.
- b.** To be permitted, additions which are less than substantial must be elevated to the Flood Protection Elevation on pilings or columns.
- c.** In the event of substantial damage, the applicant shall submit an alternative analysis to determine if the structure can be relocated to a less hazardous site.
- d.** 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 Section 243.2 of this Part to the maximum extent practicable.
- e.** Permits for incremental improvements shall be tracked by Zoning Administrator, and if cumulative improvements constitute substantial improvement, no further permits may be issued unless the structure conforms to the provisions of this Ordinance.

9. Maintenance of Natural Channel

- a.** The natural watercourse shall be maintained for protection of aquatic resources.
- b.** A variance is required for alteration of watercourses.
- c.** 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.

- d. The provisions of Section 243 pertaining to altering a watercourse must be met.

10. Obstructions

- a. Structures or fill which may impede, retard, or change the direction of the flow of flood waters, or any materials that may be carried downstream to cause damage shall not be placed in the floodway.
- b. Fences, except one or two-wire fences, shall not be placed in the floodway.
- c. Bulkheading shall be exempt from Section 243.8 provided that the applicant meet all other regulatory requirements of Federal and State agencies.

Section 243. Specific Requirements for Floodplains/Floodways

In addition to other requirements outlined herein the following specific requirements must be applied.

1. Placement of Buildings and Materials

- a. In general, buildings and accessory structures should be located entirely out of the floodplain, or on land that is least susceptible to flooding.
- b. All structures permitted in the floodplain shall be oriented so as to offer the least resistance to the flow of flood waters.
- c. 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.

2. Enclosures Below Lowest Floor

- a. Buildings which have been elevated and have fully enclosed areas below the Flood Protection Elevation (other than basements) as well as garages and accessory structures which are not elevated (Subsection 6), shall be constructed with water equalizing vents which meet or exceed the following standards:
 - (1) A minimum of two openings on different walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - (2) The bottom of all openings shall be no higher than one foot above grade; and

4. Anchoring

- a.** All structures shall be firmly anchored in accordance with acceptable engineering practices to prevent flotation, collapse, and lateral movement during flooding.
- b.** All air ducts, large pipes, and storage tanks located below the Flood Protection Elevation shall be firmly anchored to resist flotation.

5. Utilities

a. Electric

- (1)** All electric utilities to the building side of the meter, both interior and exterior to the building, are regulated by this Ordinance.
- (2)** Distribution panel boxes must be at least 2 feet above the Flood Protection Elevation.
- (3)** All outlets and electrical installations, such as heat pumps, air conditioners, water heaters, furnaces, generators, distribution systems, must be installed at or above the Flood Protection Elevation.

b. Plumbing. Toilets, sinks, showers, water heaters, pressure tanks, furnaces, and other permanent plumbing installations must be installed at or above the Flood Protection Elevation.

c. Gas. Gas meters, distribution lines, and gas appliances must be installed at or above the Flood Protection Elevation.

d. Water Supply and Sanitary Facilities

- (1)** Water supply distribution and sanitary disposal collection systems must be designed to minimize or eliminate the infiltration of flood waters into the systems or discharges from the systems into flood waters and shall be located and constructed so as to minimize or eliminate flood damage.
- (2)** On-site sewage disposal systems shall meet these same standards.
- (3)** In any case, they must meet the standards as outlined in COMAR 26.04.02, restricting the installation of septic systems in floodplain soils and, COMAR 26.04.03, prohibiting sewage disposal areas from being located in a 50-year floodplain.

6. Accessory Structures and Garages

- a.** Where feasible, accessory structures and garages should be located out of the floodplain or elevated to or above the Flood Protection Elevation.
- b.** When these measures are not feasible the following apply:
 - (1)** the floor of the structure must be at or above grade;
 - (2)** the structure must be located, oriented, and constructed so as to minimize flood damage; and
 - (3)** the structure must be firmly anchored to prevent flotation.
- c. Attached Garages**
 - (1)** A garage attached to the main structure shall be elevated to the greatest extent possible, but may be permitted as an exemption to the strict elevation requirement if it is used solely for parking of vehicles, storage, or building access and is no more than 600 square feet in area.
 - (2)** Attached garages must meet the venting requirements of Section 243.2, have all interior walls, ceilings, and floors below the Flood Protection Elevation unfinished, and have no machinery or electric devices or appliances located below the Flood Protection Elevation.
 - (3)** A Nonconversion Agreement as described in Section 234 must be signed by the property owner stating that the garage may never be used for human habitation without first becoming fully compliant with this Ordinance.
- d. Detached Garages and Accessory Structures**
 - (1)** An accessory structure or detached garage may be permitted as an exemption to the elevation requirement if it is less than 300 square feet, used solely for parking of vehicles and limited storage, meets the venting requirements of Section 243.2 and has no machinery, electric devices, or appliances located below the Flood Protection Elevation.
 - (2)** A Nonconversion Agreement must be signed by the property owner.
 - (3)** An accessory structure or a detached garage between 300 square feet and 600 square feet may be permitted below the Flood Protection Elevation only by a conditioned permit described in Section 234.

- (4) An accessory structure or garage larger than 600 square feet in area must be elevated properly or be able to meet all applicable requirements under the variance procedure in Section 243.1 of this Ordinance.

7. Recreational Vehicles

- a. Recreational vehicles located within the floodplain may be exempted from the elevation and anchoring requirements provided they are:
 - (1) located on the site less than 180 consecutive days per year;
 - (2) fully licensed and ready for highway use; and
 - (3) 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.
- c. If it cannot meet all of these criteria, the recreational vehicle must be considered a manufactured home and is subject to the elevation and construction standards of this Ordinance.

8. Fill

- a. Fill is discouraged because storage capacity is removed from floodplain.
- b. Other methods of elevating structures should be considered first, and fill used only if other methods are not feasible.
- c. Fill may not be placed in the floodway.
- d. Fill may not be placed in tidal or non-tidal wetlands without the required State and Federal permits.
- e. Fill must consist of soil and rock materials only. Dredged material may be used as fill only upon certification of suitability by a registered professional engineer.
- f. Landfills, rubble fills, dumps and sanitary fills are not permitted in the floodplain.
- g. Fill used to support structures must 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.

- h. Fill slopes shall be no greater than two horizontal to one vertical. Flatter slopes may be required where velocities may result in erosion.
- i. The use of fill shall not increase flooding or cause drainage problems on neighboring properties.

Section 244. Variances

1. Reasons for Granting

- a. The Board of Appeals shall hear and decide appeals and requests for variances from the requirements of this Part.
- b. Conditions may be attached to the variance action, and variance actions must be consistent with sound floodplain management.
- c. Variances may not be issued except as specified below, nor shall variances be issued for any encroachment in floodway if any increase in the 100-year flood levels will result.
- d. Variances shall only be issued upon:
 - (1) a showing of good and sufficient cause;
 - (2) a determination that failure to grant a variance would result in exceptional hardship to the applicant; and
 - (3) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing local and State laws or ordinances.
- e. The variance action shall be the minimum necessary, considering the flood hazard, to afford relief.
- f. In considering a variance action, comments from the State Coordinating Office of the Water Resources Administration must be taken into account and maintained with the permit file.

2. Conditions

- a.** Variances may not be granted for the following:
 - (1)** placement of fill or any development in the floodway if any increase in flood levels would result;
 - (2)** placement of fill in the coastal high hazard area for structural support;
or
 - (3)** new buildings in the floodway.
- b.** For any variance issued, a letter shall be sent to the applicant indicating the terms and conditions of the variance, the increased risk to life and property in granting the variance, and the increased premium rates for National Flood Insurance coverage.
- c.** The applicant shall be notified in writing of the requirement for recordation of these conditions on the deed or Memorandum of Land Restriction prior to obtaining a permit, and of the need to secure all necessary permits as conditions for granting a variance. The Memorandum is described in Article 3-102 and 3-103 of the Real Property Article of the Annotated Code of Maryland.
- d.** The Zoning Administrator shall maintain a record of all variance actions and the justification for their issuance, as well as all correspondence. This record must be submitted as a part of the Biennial Report to FEMA, and be available for periodic review.
- e.** The number of variance actions shall be kept to a minimum.

3. Functionally Dependent Uses

- a.** Variances may be issued for new construction and substantial improvements for the conduct of a functionally dependent use.
- b.** A functionally dependent use cannot perform its intended purpose unless it is located or carried out in close proximity to water.
- c.** Functionally dependent uses include only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

- d. The variance may be issued only upon sufficient proof of the functional dependence.
- e. The provisions of subsections 1 and 2 must be met and the structure must be protected by methods that minimize flood damage up to the Flood Protection Elevation and must create no additional threats to public safety. This may require methods of "wet floodproofing" which allow the structure to flood without significant damage. Methods of floodproofing must not require human intervention.

Part IV Historic District

Section 245.

1. Purpose

It is the purpose of this Part to establish regulations and procedures necessary to preserve historic districts, landmarks, sites, or structures of historical, archeological, or architectural significance, with their appurtenances and environmental settings, for the public welfare of the residents of Cecil County, hereinafter referred to as "the County". Furthermore, the purpose of the Part shall be to:

- a. Safeguard the heritage of the County by preserving landmarks, sites, structures, or districts which reflect elements of cultural, social, economic, political, archeological, or architectural history;
- b. Implement the goals and objects of the Cecil County Historic Preservation Plan;
- c. Stabilize and improve property values of the County's historic landmarks, sites, structures, or districts;
- d. Foster civic pride in the beauty and accomplishments of the County;
- e. Promote the preservation, use, and appreciation of historic landmarks, sites, structures or districts for the education and welfare of the residents of the County; and
- f. Protect and enhance the County's historic landmarks, sites, structures, or districts as attractions for residents, tourists and visitors alike, which shall serve as a support and stimulus to business and industry.

2. Authority to Establish

This Part is enacted under the authority granted the Board of County Commissioners of Cecil County, hereinafter referred to as "the Board of County Commissioners", by the General

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Assembly of Maryland, as provided in Article 66B, Annotated Code of Maryland, Sections 8.01-8.17, as amended.

3. Definitions

Alteration: any exterior change that would affect the historic, archeological, or architectural significance of a designated site or structure, any portion of which is visible or intended to be visible from a public way, including, but not limited to construction, reconstruction, restoration, removal, moving, or demolition.

Appurtenances and Environmental Settings: all of the space of grounds and structures thereon which surrounds a designated site or structure and to which it relates physically or visually. Appurtenances and Environmental Settings shall include, but are not limited to, walkways and driveways (whether paved or unpaved), trees, landscaping, pastures, croplands, waterways, open space, setbacks, parks, and public spaces.

Certificate of Appropriateness: a certificate issued by the Historic District Commission indicating its approval of plans for construction, alteration, reconstruction, moving or demolition of an individually designated landmark, site, or structure or of a site or structure within a designated preservation district.

Demolition by Neglect: any willful neglect in the maintenance and repair of an individually designated landmark, site, or structure, or a site or structure within a designated district, not including appurtenances and environmental settings, that does not result from an owner's financial inability to maintain and repair such landmark, site, or structure, and which results in any of the following conditions:

- a. The deterioration of the foundation, exterior walls, roofs, chimneys, doors, or windows, so as to create or permit a hazardous or unsafe condition to exist; or
- b. The deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows, the lack of adequate waterproofing which will or could result in permanent damage, injury, or loss to foundations, exterior walls, roofs, chimneys, doors, or windows.

Designation: action by the Board of County Commissioners to create an official landmark or historic district that demonstrates historic, archeological, or architectural significance in conformance with Subsection 6 of the Part.

Exterior Features: the architectural style, design, and general arrangement of the exterior of an historic structure, including the nature and texture of building material, and the type and style of all windows, doors, light fixtures, signs, or similar items found on or related to the exterior of a historic structure.

Historic District: a significant concentration, linkage, or continuity of sites, structures, or objects united historically or aesthetically by plan or physical development. A “historic district” shall include all property within its’ boundaries as defined and designated by the Board of County Commissioners.

Historic Area Work Permit: a permit issued by the Cecil County Department of Permits and Inspections upon receiving a “Certificate of Appropriateness” from the Historic District Commission for all projects that the County conducts, assists, licenses, or permits that affect properties within a designated historic district or individually designated landmarks, sites or structures.

Landmark: any designated site, structure, or object that is of exceptional historic, archeological, or architectural significance.

Nomination: application to the Historic District Commission by a landowner proposing their property for designation as a landmark or historic district under the terms of this Part.

Ordinary Maintenance: work that does not alter the exterior fabric or features of a site or structure and has no material effect on the historical, archeological, or architectural significance of the historic site or structure. This definition of ordinary maintenance applies, whenever appropriate, to the appurtenances and environmental setting of the property, as well as the building, structure or object itself.

Specific items to be considered as ordinary maintenance include:

- a. Repair or replacement of roofs, gutters, siding, external doors and windows, trim, lights, and other appurtenant fixtures with like materials of like design.
- b. Landscaping
- c. Paving using like materials of like design.
- d. Repainting of surfaces using the same or substantially the same color.

Reconstruction: the process of reproducing by new construction the exact form and detail of a vanished structure, or part thereof, as it appeared at a specific period of time.

Restoration: the process of accurately recovering the form and details of a property as it appeared at a specific period of time by means of removal of later work and the replacement of work missing from that period.

Site: the location of an event of historic significance or a structure, whether standing or ruined, which possesses historic, architectural, archeological, or cultural significance.

Structure: a combination of material to form a construction that is stable, including among other things, buildings, stadiums, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks and towers, trestles, bridges, piers, paving, bulkheads, wharves, sheds, coal bins, shelters, fences and display signs visible or intended to be visible from the public way.

4. Establishment of Historic District Commission

- a. A Historic District Commission is hereby established which shall have a membership of seven (7) persons, all of whom shall possess a demonstrated special interest, specific knowledge, or professional or academic training in such fields as history, architecture, architectural history, planning, archeology, anthropology, curation, conservation, historic preservation, landscape architecture, urban design or related disciplines. All of the Historic District Commission members shall be residents of Cecil County. The Board of County Commissioners shall appoint two (2) members for terms of one (1) year, three members shall be appointed for a term of two (2) years, and two (2) members for a term of three (3) years. Members of the Historic District Commission are eligible for re-appointment for three (3) year terms. Any vacancy of the Historic District Commission shall be filled by the Board of County Commissioners for the unexpired term. The Historic District Commission shall organize annually and, by election, shall select from its members a chairperson and vice-chairperson.
- b. Five (5) members of the Historic District Commission shall constitute a quorum for the transaction of business, and a majority vote of the members present shall control the action of the Commission.
- c. Members of the Historic District Commission may, after written notice of the charges and a public hearing before the Board of County Commissioners, be removed by the Board of County Commissioners for inefficiency, neglect of duty, malfeasance in office, or other cause.
- d. Members of the Historic District Commission shall serve without compensation.
- e. The Historic District Commission shall hold such regular meetings and hearings as necessary to discharge its duties and shall hold special meetings at the call of the Chairperson of any five (5) members of the Commission. The Historic District Commission shall keep official records of its resolutions, proceedings, and actions.

5. Powers and Duties of the Historic District Commission

The Historic District Commission shall have the following powers and duties:

- a. To adopt its own procedural regulations pursuant to this Part;
- b. Upon receipt of a nomination by the owner(s) of record of a property, recommend to the Board of County Commissioners that properties, structures, or sites found to have historic, archeological, or architectural significance be designated as a historic district or landmark;

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- c. To recommend to the Board of County Commissioners that a historic district, site or landmark designation be rescinded or amended;
- d. To conduct an ongoing survey to identify historically and architecturally significant sites, properties, structures and areas that exemplify the cultural, social, economic, political or architectural history of the nation, state and county;
- e. To keep a register of all properties, sites and structures that have been designated as landmarks or historic districts, including all information for required for each designation;
- f. To determine an appropriate system of markers and make recommendation for the design and implementation of specific markings of the street and routes leading from one site, landmark, or historic district to another. To confer recognition upon the owners of landmarks, sites or property or structures within historic districts by means of certificates, plaques or markers;
- g. To advise and assist owners of landmarks, sites, historic properties or structures within historic districts on physical and financial aspects of preservation, reconstruction, restoration, renovation, rehabilitation, and reuse, and on procedures for inclusion on the National Register of Historic Places;
- h. With the written permission of the property owner(s), nominate landmarks, sites, and historic districts to the National Register of Historic Places and to review and comment on any National Register nominations submitted to the Commission for review;
- i. To inform and educate the citizens of the County concerning the historic and architectural heritage of the County.
- j. To hold public hearings and to review applications for construction, reconstruction, restoration, alteration, removal or demolition affecting designated landmarks, sites, or structures within historic districts and issue or deny certificates of appropriateness for such actions. Applicants may be required to submit plans, drawings, elevations, specifications, and other information as may be necessary to make decisions;
- k. To consider applications for economic hardship that would allow the performance of work for which a certificate of appropriateness has been denied;
- l. To adopt specific guidelines for the construction, reconstruction, restoration, alteration, removal or demolition of landmarks or property and structures within historic districts;

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- m. To call upon the staff of the Office of Planning, Zoning, Parks & Recreation, as well as other experts, for technical advice;
- n. To periodically review the County Zoning Ordinance and to recommend to the Office of Planning, Zoning, Parks & Recreation any amendments appropriate for the protection and continued use of landmarks, sites or property or structures within historic districts.
- o. To undertake any other action or activity necessary or appropriate to the implementation of its powers and duties or to the implementation of the purpose of this section;
- p. To recommend to the Board of County Commissioners the acceptance of any grant, loan or aid, in any form, from federal, state or private sources on behalf of the County;
- q. As deemed appropriate, designate the Maryland Historical Trust to make an analysis of and recommendations for the preservation of structures of historic and architectural value within the County; and
- r. To recommend that the Board of County Commissioners accept architectural easements in connection with structures located within Historic Districts. Such easements shall grant the Board of County Commissioners, the residents of historic districts, and the general public, the perpetual right to have the exterior appearance of any structure upon which it is applied retained in substantially the same character as when the easement took effect.

6. Procedure for Designation of Historic Districts

- a. Upon receipt of the written permission of the property owner(s), the Board of County Commissioners may designate historic landmarks, sites, and the boundaries of districts of historical, archeological, or architectural significance consistent with the criteria contained herein.
- b. Nominations shall be made to the Historic District Commission by the owner(s) of record of the nominated property.
- c. The Historic District Commission shall send a recommendation to the Board of County Commissioners for approval or disapproval as a designated landmark, site, structure, or district of historic, archeological, or architectural significance. In making this determination, the Historic District Commission may consider, but is not limited to, the following factors:

1. Historical or Archeological
 - (a) It has character, interest, or value as part of the development or cultural characteristics of the community, county, state or nation;
 - (b) It has location as a site of a significant local, county, state or national event; and/or
 - (c) It has been identified with a person or persons who significantly contributed to the development of the county, state, or nation.

2. Architectural
 - (a) It embodies distinguishing characteristics of an architectural style valuable for the study of a period, type, method of construction or use of indigenous materials;
 - (b) It has been identified as the work of a master builder, designer, architect or landscape architect whose individual work has influenced the development of the county, state or nation;
 - (c) It embodies elements of design, detailing, materials or craftsmanship that render it architecturally significant;
 - (d) It embodies design elements that make it structurally or architecturally innovative;
 - (e) It has a unique location or singular physical characteristics that make it an established or familiar visual feature; and/or
 - (f) It has character as a particularly fine or unique example of a utilitarian structure, with a high level of integrity or architectural significance.

- d. Any structure, property, site or area that meets the criteria listed above shall also have sufficient integrity of location, setting, design materials and workmanship to make it worthy of preservation or restoration.

- e. The Historic District Commission shall, upon receipt of a completed nomination in property form, determine that the nominated landmark, site, or historic district does or does not meet the criteria for designation.

- f. The determination shall be accompanied by a report to the Director of Planning, Zoning, Parks & Recreation containing the following information:
 1. An explanation of the significance or lack thereof of the nominated landmark or historic district as it relates to the criteria for designation;

2. An explanation of the integrity or lack thereof of the nominated landmark, site or historic district;
 3. In the case of a landmark found to meet the criteria for designation:
 - (a) The significant exterior features of the nominated landmark that should be protected; and
 - (b) The types of construction, reconstruction, restoration, alteration, demolition, and removal other than those requiring a building or demolition permit, that should be reviewed for appropriateness.
 4. In the case of a nominated historic district found to meet the criteria for designation:
 - (a) The types of significant exterior features of the structures within the nominated historic district that should be protected; and
 - (b) The types of alterations and demolitions that should be reviewed for appropriateness.
 5. Proposed design guidelines for applying the criteria for review of certificates of appropriateness to the nominated landmark or historic district.
 6. The relationship of the nominated landmark, site or historic district to the ongoing effort of the Historic District Commission to identify and nominate, with the property owner's written permission. All potential areas and structures that meet the criteria for designation;
 7. All landmarks, appurtenances and environmental settings appropriate to ensure preservation of character and historical integrity;
 8. Recommendations as to appropriate permitted uses, special uses, height and area regulations, minimum dwelling size, floor area, sign regulation and parking regulations necessary or appropriate to the preservation of the nominated landmark, site or historic district; and
 9. A map showing the location and boundaries of the nominated landmark, site, or historic district.
- g. The recommendation of the Historic District Commission shall be sent to the Office of Planning, Zoning, Parks and Recreation; and

- h. The Office of Planning, Zoning, Parks & Recreation shall forward the recommendation of the Historic District Commission to the Planning Commission for a recommendation. The Office of Planning, Zoning, Parks & Recreation shall forward the recommendations of the Historic District Commission and the Planning Commission to the Board of County Commissioners for approval or disapproval.

7. Notice

- a. The Office of Planning, Zoning, Parks & Recreation shall notify the Historic District Commission of the nomination upon receipt of the nomination from the property owner(s).
- b. The following notice shall be given prior to the date of the public hearing on the nomination.
 - 1. Notice of the date, time, place and purpose of the public hearing and a copy of the nomination shall be sent by certified mail to the owner(s) of record, as well as to the property owners adjoining the nominated landmark or historic district, at least fifteen (15) days prior to the hearing;
 - 2. Notice shall also be published in the newspaper of general circulation in the county at least fifteen (15) days prior to the hearing;
 - 3. The notice shall state the street address, property owner(s), and the boundaries of the nominated historic district.
- c. Upon designation by the Board of County Commissioners, the landmark, site, or historic district shall be classified by the Board of County Commissioners as a Historic District or Landmark. As appropriate, the record of the Board of County Commissioners' decision to designate a historic district, site or landmark shall describe the significant exterior architectural features; the types of construction, alteration, demolition, and removal other than those requiring a building or demolition permit, that should be reviewed for appropriateness; the design guidelines for applying the criteria for review of appropriateness; permitted uses; special uses; height and area regulations; minimum dwelling size; floor area; sign regulations; and parking regulations. The official zoning map for Cecil County shall be amended to show the boundaries of the Historic District or Landmark.

8. Amending and Rescinding Designation

In accordance with Section 5 of this Part, a designation may be amended or rescinded upon petition to the Historic District Commission in compliance with the same procedure and

according to the same criteria set forth herein for designation. The burden of proof is on the property owner to demonstrate that there is a justification for rescinding the designation.

9. Certificate of Appropriateness

A certificate of appropriateness shall be required from the Historic District Commission before the following actions affecting the exterior features of any landmark, site or property within a historic district, any portion of which is visible from a public way, may be undertaken:

- a. Any construction, reconstruction, restoration, alteration or removal requiring a building permit from the Department of Permits and Inspections;
- b. Any demolition, in which whole or in part requiring a permit from the Department of Permits and Inspections; and
- c. Any construction, reconstruction, restoration, alteration, demolition, or removal affecting a significant exterior feature as specified in the record of designation for the landmark or historic district.

10. Design Guidelines

Design guidelines for applying the criteria for review of certificates of appropriateness shall adhere to the United States Secretary of Interior's standards for historic preservation projects.

11. Applications

Every applicant for a demolition permit or a building permit within a designated historic district, hereinafter referred to as "historic area work permit", including the accompanying plans and specifications, affecting the exterior features of a designated landmark or the significant historic qualities of a property or site within a designated historic district shall be forwarded by the Office of Planning, Zoning, Parks & Recreation to the Historic District Commission. The Office of Planning, Zoning, Parks & Recreation shall not issue the historic area work permit until a certificate of appropriateness has been issued by the Historic District Commission before the application is sent by the Office of Planning, Zoning, Parks & Recreation to the Historic District Commission or during review of the application. Applications for review of construction, reconstruction, restoration, alteration, demolition or removal, not requiring a building permit for which a certificate of appropriateness is required, shall be made on a form prepared by the Historic District Commission and available in the Office of Planning, Zoning, Parks & Recreation. The Historic District Commission shall consider the completed application at its next regular meeting. A certificate of appropriateness may be issued upon the signature of five (5) members of the Historic District Commission.

12. Standards for Review

The Historic District Commission shall be strict in its judgment of plans for those structures or landmarks deemed to be valuable for historic, archeological, or architectural reasons. The Historic District Commission shall be lenient in its judgment of plans for structures of little historical value or for plans involving new construction, unless such plans would seriously impair the historic, archeological or architectural value of surrounding structures designated as landmarks or historic districts. The Historic District Commission is not required to limit review to new construction, alteration or repair to the architectural style of any one period. In reviewing applications, the Historic District Commission shall give consideration to:

- a. The historic, archeological, or architectural significance of the site or structure;
- b. The relationship of the exterior features of a structure to the remainder of the structure;
- c. The general compatibility of the exterior design, scale, proportion, arrangement, texture, and materials proposed to be used on the landmark, site or structure; and
- d. Any other factors including aesthetic factors, which the Commission deems pertinent.

13. Determination by Historic District Commission

The Historic District Commission shall review the application for a historic area work permit or for a certificate of appropriateness and issue, deny or recommend modifications to the certificate of appropriateness within forty-five (45) days of the receipt of the application. Written notice of the approval, conditional approval, or denial of the application for a certificate of appropriateness shall be provided to the applicant and the Department of Permits and Inspections, and in the case of approval, be accompanied by a certificate of appropriateness.

14. Denial

If an application is denied, the applicant may submit an amended application that takes into consideration and addresses the Historic District Commission's reasons for denial.

15. Automatic Approval

Failure of the Historic District Commission to act upon the application within forty-five (45) days of the receipt of the application shall be deemed to constitute automatic approval of the proposed changes unless an extension of this forty-five (45) day period is agreed upon mutually by the applicant and the Historic District Commission or the application is withdrawn.

16. No Work to Commence without Approval

The owner, lessee, or tenant of the property and premises shall not commence any proposed work or change until and unless he has received approval from the Department of Permits and Inspections and the Historic District Commission.

17. Ordinary Maintenance – Completion of Work Under a Prior Permit

Nothing in this section of the ordinance shall be taken or construed to prevent work or repairs on any structure coming under the heading of ordinary maintenance. Nothing in this subsection affects the right to complete any work covered by a permit or authorization issued prior to the adoption of this amendment, unless otherwise specified.

18. Special Circumstances

In the case of a designated historic site or structure, the Historic District Commission may approve the proposed reconstruction, restoration, alteration, moving, or demolition despite the provisions of subsection 12 provided:

- a. The site or structure is a deterrent to a major improvement program which will be of substantial benefit to the County.
- b. Retention of the site or structure would cause undue financial hardship to the owner; and/or
- c. The retention of the site or structure would not be in the best interest of the County.

19. Demolition by Neglect

In the event of demolition by neglect, or willful neglect in the maintenance and repair of an individually designated landmark, site or structure, not including any appurtenances and environmental settings and not resulting from the recorded property owner’s financial inability to maintain and repair said landmark, site or structure, the Historic District Commission shall undertake the following measures:

- a. The Historic District Commission may request the Department of Permits and Inspections to notify, in writing, the property owner(s) of record of the deterioration. The notice shall specify the minimum items of repair or maintenance necessary to correct the deterioration or prevent further deterioration.

- b. The notice shall provide for the commencement of corrective action within thirty (30) days of the receipt of said notice and shall be completed within a reasonable period of time after issuance of said notice. The notice shall state that the owner of record of the property may within ten (10) days of receipt of said notice, request a hearing on the necessity of the items and conditions in said notice. If a public hearing is requested, the Historic District Commission shall schedule the matter at its next regular meeting. Written notice shall be sent to the owner of record.
- c. After a public hearing, if the Historic District Commission determines that corrective action remains necessary, the Historic District Commission may request that the Department of Permits and Inspections issue a final notice of corrective action, which the property owner(s) shall comply within thirty (30) days of the receipt of said final notice.
- d. Upon failure, neglect, or refusal of the property owner, after being duly notified, to take corrective action within the time specified in said final notice, the Historic District Commission may request that the Department of Permits and Inspections institute penalties provided by law.

20. Meetings to be Public

All meetings of the Historic District Commission shall be open to the public. Any interested person or his representative is entitled to appear and be heard by the Historic District Commission. The Historic District Commission shall keep an open record of its resolutions, proceedings, and actions, which shall be kept available for public inspection.

21. Appeal

Any person aggrieved by a decision of the Historic District Commission may appeal the decision to the Circuit Court in accordance with the Maryland Rules of Procedure.

22. Violations

Violations of any of the provisions of this Part shall be subject to the enforcement provisions of Article XIX of this Ordinance.

Part V Transfer of Development Rights

Section 246.

1. Intent

- a. It is the intent of these regulations to encourage the preservation of natural resources and facilitate orderly growth in the County.
- b. It is also the intent of these regulations to provide more attractive living environment than would be possible through a strict application of SR, DR and TR requirements to encourage a more creative approach to development of land.

2. Authority

This section is enacted under the authority granted the Board of County Commissioners of Cecil County by the General Assembly of Maryland as provided in Article 66B, Annotated Code of Maryland, Section 11.01 as amended.

3. Residential Density Provisions

- a. The maximum residential density utilizing transferred development rights in the SR zone that may be permitted by the Planning Commission shall be four (4) dwelling units per acre.
- b. The maximum residential density utilizing transferred development rights in the DR zone that may be permitted by the Planning Commission shall be twelve (12) dwelling units per acre.
- c. The maximum residential density utilizing transferred development rights in the TR zone that may be permitted by the Planning Commission shall be six (6) dwelling units per acre.

4. Permitted Dwelling types in a development using TDR's

- a. Subject to b below, the following dwelling types may be permitted when utilizing transferred development rights:
 - 1. Detached
 - 2. Semi-detached
 - 3. Duplex
 - 4. Townhouse provided that:
 - (a) No more than four (4) townhouses shall be permitted in one building block in the SR and TR zones.
 - (b) No more than six (6) townhouses shall be permitted in one building block in the DR zone.

5. Apartments provided:

- (a) Maximum building length is no more than one hundred feet in all zones.
- (b) No apartment shall be constructed closer to any property line than a distance equal to the height of the building.
- (c) No apartment building shall be constructed closer to any other building on the same lot than a distance equal to the height of the higher of the two buildings. The space between the buildings may be reduced to a distance equal to half the taller of the two buildings provided:
 - (1) The spacing is approved by the Emergency Services representative to the Technical Advisory Committee;
 - (2) The apartment buildings are oriented side to side or corner to corner;
 - (3) The reduction in the building spacing requirement will allow for additional useable open space to be provided on the site; and
 - (4) The apartment buildings are designed in clusters rather than strips.

b. The maximum percentage of dwelling types permitted in a development utilizing TDR's shall be as follows:

<u>Zone</u>	<u>Detached</u>	<u>Semi-Detached/Duplex</u>	<u>Townhouse/Apartment</u>
SR	no limit	30%	20%
DR	no limit	60%	40%
TR	no limit	30%	30%

5. General Requirements

- a. The minimum parcel size for using TDR's in the SR, DR, and TR zones shall be ten (10) acres.
- b. All developments using TDR's shall be served by community facilities.
- c. The minimum common open space requirement in developments using TDR's shall be thirty (30) percent of the gross site area, with passive amenities. This percentage may be reduced to fifteen (15) percent by the Planning Commission when the developer proposes to improve the open space with active recreational amenities in addition to the passive amenities.
- d. A minimum of two (2) off street parking spaces must be provided for each dwelling unit on the lot the dwelling occupies.

6. Lot Size, Lot Dimension, Lot Coverage, Height and Yard Requirements

- a. It is the intent of these regulations to permit flexibility in lot, yard, and setback requirements and to encourage innovative and creative design without endangering the health, safety and welfare of the residents in and near the development.
- b. The setback, lot size, lot dimensions, height and yard requirements in developments using TDR's shall be established for each individual project by the Planning Commission. In establishing these requirements the Planning Commission shall consider such factors as the proposed intensity of the project and the existing character of the neighborhood.

7. Site design Standards

In addition to the design standards contained in Article IX, the TDR development shall comply with the following design standards:

- a. The proposal shall be designed with regard to the soils, topography, and natural features of the parcel.
- b. The proposal shall be designed to provide adequate pedestrian circulation.
- c. The proposal's roads shall be designed to provide a logical road network adequate for internal movement.
- d. The proposal shall be directly accessible from one (1) or more existing or planned arterial or collector roadways.

8. Administrative Procedures

a. Sending Areas shall meet the following criteria:

- (1) Only those zoning districts designated as Northern Agricultural Residential (NAR) and Southern Agricultural Residential (SAR) shall serve as sending areas.
- (2) The minimum parcel size for a sending parcel shall be fifty (50) acres.
- (3) Soils on sending parcels shall meet the following minimum criteria:
 - (a) At least 50% of the soils shall be classified as USDA Class I, II or III soils; or
 - (b) If the land is wooded, 50% of the land is classified as Woodland Group 1 or 2; or
 - (c) If the reason the land could not meet the above criteria was because of floodplain or wetland soils, those areas could be excluded as a percentage of land; or
 - (d) If there is an insufficient percentage of USDA I, II, or III soils alone and there is an insufficient percentage of Woodland Group 1 and 2 soils alone, the land would qualify if the two exceed 60%

- (4) The sending density for TDR's in areas zoned NAR shall be one (1) unit per five (5) acres.
- (5) The sending density for TDR's in areas zoned SAR shall be one (1) unit per three (3) acres.

b. Receiving Areas shall meet the following criteria:

- (1) Only those areas zoned Suburban Residential (SR, Development Residential (DR) and Town Residential (TR) shall serve as receiving areas.
- (2) The minimum parcel size for receiving parcels shall be ten (10) acres.
- (3) Receiving area parcels shall be currently served with water and sewer facilities, or be in an area planned to be served by the County in the next ten (10) years, or be serviced by a developer financed approved shared facility. The current Master Water and Sewer Plan for the County shall be used for this determination.
- (4) The density for receiving areas in the SR zone shall not exceed four (4) units per acre.
- (5) The density for receiving areas in the DR zone shall not exceed twelve (12) units per acre.
- (6) The density for receiving areas in the TR zone shall not exceed six (6) units per acre.

c. A concept plat shall be presented to the County's Technical Advisory Committee (TAC). The concept plat shall clearly state that TDR's are being used in the proposal and identify the sending parcel. The soils description shall be submitted along with a statement indicating the number of TDR's being utilized.

d. The Planning Commission will review the concept plat for conformance with this section and the subdivision regulations and approve or disapprove the plat.

e. A preliminary plat shall be submitted to the TAC for review and to the Planning Commission for approval or disapproval. The preliminary plat shall include the number of TDR's being utilized and identify the sending parcel.

f. A final plat shall be presented to the Planning Commission for approval or disapproval. Prior to the Planning Commission's review, a Transfer of Development Rights Conservation Easement shall be executed between the sending area parcel owner and the County and a Deed of Transfer of Development Rights shall be executed between the sending area parcel owner and the receiving area developer.

g. If the final plat is approved by the Planning Commission, the Transfer of Development Rights Conservation Easement and Deed of Transfer of Development rights shall be recorded in the Office of the Clerk of the Court for

Cecil County. The record plats shall not be signed by the Director of Planning and Zoning until the recordation of these documents occurs.

- h. If a property owner sells a development right on a sending parcel, no further subdivision can occur on the sending parcel, unless the acreage is withheld prior to the calculation of development rights.
 - i. The Cecil County Office of Planning and Zoning shall send a certificate of availability of development rights to property owners that qualify as a sending area upon request.
 - j. If a landowner who is eligible to sell development rights sells those rights, the landowner shall notify the Office of Planning and Zoning of the transaction and the number of development rights sold. The Office of Planning and Zoning shall be notified of future transfer of the development rights from purchaser to seller.
 - k. Development rights may be used by developments in incorporated municipalities provided the Towns adopt mechanisms to utilize these rights within the Towns.
9. Development proposals in the NAR and SAR zoning districts that have received concept plat approval prior to the adoption of this Transfer of Development Rights ordinance shall not have their approved density effected as long as the concept plats remain valid.

Section 247. Reserved

(Approved 8/14/06, Effective 1/1/07)