DRAFT CHAPTER 340 ZONING, TOWN OF ST. MICHAELS CODE

Article I. General Provisions..... 9

§ 340-1. Title..... 9

§ 340-2. Authority..... 9

§ 340.3. Purpose..... 9

§ 340.4. Severability..... 9

§ 340-5. Official Zoning Map..... 9

§ 340-6. Replacement of Official Zoning Map..... 10

§ 340-7. Official Critical Area Overlay District Maps..... 11

§ 340-8. Rules for interpretation of zone boundaries..... 11

§ 340-9. Conflict with other laws..... 13

Article II. Definitions..... 13

§ 340-10. Interpretations..... 13

§ 340-11. Definitions..... 14

Article III. Designation of Districts..... 34

§ 340-12 Enumeration of districts..... 34

§ 340-13. Purpose of Districts..... 35

Article IV. The Chesapeake Bay Critical Area Overlay District..... 39

§ 340-14. Implementation of Critical Area Regulation..... 39

§ 340-15. Intensely Developed Areas (IDA)..... 41

§ 340-16. Administrative Enforcement (see § 340-120)..... 44

§ 340-17. Limited Development Areas (LDA)..... 44

§ 340-18. Resource Conservation Areas (RCA)..... 48

§ 340-19. Land use and density in the RCA..... 49

§ 340-20. Grandfathering..... 51

§ 340-21. Variances from Critical Area Overlay District provisions. (See § 340-136)..... 52

§ 340-22. Lot Consolidation and Reconfiguration..... 52

§ 340-23. Accommodations for the needs of the disabled in the Critical Area. (See § 340-137) 52

§ 340-24. One-hundred-foot Buffer..... 52

§ 340-25. Buffer Management Area (BMA) provisions..... 58

DRAFT

§ 340-26. Other Habitat Protection Areas. 62
§ 340-27. Environmental impact assessment (EIA). 63
§ 340-28.Water Dependent Facilities. 63
§ 340-29. Nonwater-dependent structures on piers. 68
§ 340-30. Reserved. 70
Article V. Historic Overlay District. 70
§ 340-31. Review certificate required. 70
§ 340-32. Definitions. 70
§ 340-33. Powers and duties of Commission. 72
§ 340-34. Demolition by neglect. 74
§ 340-35. Approval by Commission. 75
§ 340-36. Disapproval by Commission. 75
§ 340-37. Appeal from decisions of Commission. 76
§ 340-38. Enforcement. 76
Article VI. Floating Zone Districts. 76
§ 340-39. GA Growth Allocation Floating Zone District. 76
§ 340-40. PR Planned Redevelopment Floating Zone District. 95
§ 340-41. Reserved. 101
§ 340-42. Reserved. 101
Article VII. Permitted Uses. 102
§ 340-43. Use Categories. 102
§ 340-44. Agricultural Use Category. 103
§ 340-45. Residential Use Category. 104
§ 340-46. Public, civic, and institutional use category. 107
§ 340-47. Commercial use category. 110
§ 340-48. Wholesale, distribution, and storage use category. 117
§ 340-49. Industrial use category. 118
§ 340-50. Other use category. 119
§ 340-51. Accessory use category. 120
§ 340-52. Number of principal structures on a lot. 120
§ 340-53. Permissible uses not requiring permits. 121

DRAFT

§ 340-54. Use of the designations P and SE in the Table of Permissible Uses..... 121
§ 340-55. Table of Permitted Uses..... 121
§ 340-56. Reserved..... 126
Article VIII. Supplemental Use Regulations. 127
§ 340-57. Special regulations for duplex, townhouse, and multifamily dwellings..... 127
§ 340-58. Accessory dwelling unit..... 128
§ 340-59. Group domiciliary care home. 130
§ 340-60. Public utilities and essential services..... 130
§ 340-61. Maritime Museum..... 130
§ 340-62. Solar energy system. 133
§ 340-63. Antennas and/or antenna towers. 134
§ 340-64. Small wireless facilities. 135
§ 340-65. Adult-oriented businesses (AOB)..... 137
§ 340-66. Veterinary care..... 139
§ 340-67. Marine Services. 139
§ 340-68. Day Care Center..... 139
§ 340-69. Restaurants, outdoor seating. 140
§ 340-70. Bed-and-breakfast (also referred to as "B&B") 142
§ 340-71. Hotel, Motel. 143
§ 340-72. Historic vacation cottages in the R-2 Zone..... 144
§ 340-73. Short term rentals (STR)..... 145
§ 340-74. Parking Structures, non-accessory..... 146
§ 340-75. Self-service storage facility..... 146
§ 340-76. Fueling Station..... 146
§ 340-77. Personal motor vehicle repair and maintenance. 148
§ 340-78. Contractor's shop..... 148
§ 340-79. Micro-producers..... 148
§ 340-80. Home occupation. 149
§ 340-81. Portable storage containers. 151
§ 340-82. Roll-off trash containers. 152
§ 340-83. Temporary uses and structures..... 153

DRAFT

§ 340-84. Reserved. 154
§ 340-85. Development standards Historic Redevelopment Zone (HR). 154
§ 340-86. Development standards SLC Select Limited Commercial zone. 155
§ 340-87. Development standards GC Gateway Commercial zone. 156
§ 340-88. Outdoor storage and display. 156
§ 340-89. Performance standards for uses in the industrial use category. 158
§ 340-90. Reserved. 159
§ 340-91. Reserved. 159
§ 340-92. Reserved. 159
§ 340-93. Reserved. 159
Article IX. Density and Dimensional Regulations. 159
§ 340-94. Minimum lot size and residential density. 159
§ 340-95. Minimum lot widths and depths. 160
§ 340-96. Building setback requirements. 160
§ 340-97. Context Street Setbacks. 161
§ 340-98. Structure height. 162
§ 340-99. Fences and arbors. 162
§ 340-100. Visibility at intersections. 163
§ 340-101. Accessory structures in residential districts. 163
§ 340-102. Accessory structures in nonresidential districts. 165
§ 340-103. Swimming Pools. 165
§ 340-104. Table of lot, height, area, and bulk requirements. 167
§ 340-105. Table of coverage limits. 168
§ 340-106. Reserved. 169
§ 340-107. Reserved. 169
Article X. Nonconforming Lots, Uses of Land, Structures, and Premises. 174
§ 340-108. Intent. 174
§ 340-109. Nonconforming lots of record. 175
§ 340-110. Nonconforming structures. 175
§ 340-111. Nonconforming use of land (not within structures). 176
§ 340-112. Nonconforming accessory structures. 177

DRAFT

§ 340-113. Nonconforming uses of structures. 177
§ 340-114. Repairs and maintenance. 178
§ 340-115. Certain special exception uses considered conforming. 178
§ 340-116. Nonconforming uses in the Critical Area. 178
§ 340-117. Reserved. 178
§ 340-118. Reserved. 178
Article XI. Administration and Enforcement. 178
§ 340-119. Zoning Inspector. 178
§ 340-120. Administrative Enforcement, Critical Area. 180
§ 340-121. Required permits. 187
§ 340-122. Plans required. 187
§ 340-123. Other approvals for certain commercial, industrial, and residential uses. 188
§ 340-124. Publication of permits. 188
§ 340-125. Zoning occupancy permits for new, altered, or nonconforming uses. 189
§ 340-126. Expiration of zoning certificate. 189
§ 340-126. Limit on authorization implied from the issuance of certificates and permits. 190
§ 340-127. Reserved. 190
§ 340-128. Reserved. 190
§ 340-129. Reserved. 190
Article XII. Board of Zoning Appeals Powers and Duties. 190
§ 340-130. Powers and duties. 190
§ 340-131. Appeals from decisions of the Zoning Inspector and Planning Commission. 190
§ 340-132. Appeals from decisions of Historic District Commission. 191
§ 340-133. Interpretation. 192
§ 340-134. Special exceptions. 193
§ 340-135. Variances. 197
§ 340-136. Variance from Critical Area Overlay District provisions. 197
§ 340-137. Accommodations for needs of disabled in the Critical Area. 200
§ 340-138. Public notice, Board of Appeals proceedings. 201
§ 340-139. Decisions of Board of Zoning Appeals. 202
§ 340-140. Appeals from the Board of Zoning Appeals. 203

DRAFT

§ 340-141. Reserved. 203
Article XIII. Schedule of Fees, Charges, and Expenses. 203
§ 340-142. Policy. 203
§ 340-143. Schedule of fees. 203
Article XIV. Off-Street Parking, Loading, and Unloading. 204
§ 340-144. Purpose. 204
§ 340-145. Definitions. 204
§ 340-146. Minimum required parking ratios. 208
§ 340-147. Unlisted uses and establishment of other parking ratios. 212
§ 340-148. Shared parking. 212
§ 340-149. Location of off-street parking. 214
§ 340-150. Use of off-street parking areas. 215
§ 340-151. Parking of recreational vehicles and equipment. 216
§ 340-152. Commercial vehicle parking. 216
§ 340-153. On-site parking space specifications. 217
§ 340-154. Accessible parking for people with disabilities. 221
§ 340-155. Drive-through and drive-in facilities. 223
§ 340-156. Pedestrian Circulation. 224
§ 340-157. On-site loading spaces required. 227
Article XV. Signs. 228
§ 340-158. Definitions. 228
§ 340-159. Purpose and Intent. 233
§ 340-160. Permit required. 233
§ 340-161. Permitted Signs. 233
§ 340-162. Temporary Signs. 241
§ 340-163. Limited Duration Signs. 242
§ 340-164. Portable Signs. 244
§ 340-165. Off-premises signs. 245
§ 340-166. Prohibited Signs. 246
§ 340-167. Historic District Commission review. 247
§ 340-168. Unsafe signs. 247

DRAFT

§ 340-169. Signs Exempt from Permit Requirements. 248
§ 340-170. Abandoned signs. 250
§ 340-171. Nonconforming Signs. 251
Article XVI. Landscaping, Environmental Standards, and Lighting. 251
§ 340-170. Scope. 251
§ 340-171. Purpose. 251
§ 340-172. Landscape plans. 252
§ 340-173. Minimum plant material specifications. 254
§ 340-174. Warranty of landscape improvements. 255
§ 340-175. Forest conservation overlapping requirements. 256
§ 340-176. Landscape Improvements. 256
§ 340-177. Screening. 259
§ 340-178. Environmental Standards. 261
§ 340-179. Site lighting standards. 262
§ 340-180. Reserved. 263
Article XVII. Design. 263
§ 340-181. Statement of intent. 263
§ 340-182. Applicability. 263
§ 340-184. Compatibility standards. 264
§ 340-185. Findings required and conditions of approval. 268
§ 340-186. Application process. 268
§ 340-186. Remedies. 270
§ 340-187. Reserved. 270
Article XVIII. Amendments in Critical Area District. 270
§ 340-188. Applicability. 270
§ 340-189. Amendment of Critical Area program elements. 271
§ 340-190. Amendment procedures. 272
Article XIX. Amendments. 273
§ 340-191. Power to amend. 273
§ 340-192. Exclusions. 274
§ 340-193. Text amendments. 274

DRAFT

§ 340-194. Map amendments for piecemeal rezoning. 276
§ 340-195. Map amendments for comprehensive rezoning. 278
§ 340-196. Zoning map amendments in the Critical Area. 279
§ 340-197. Amendments for floating zones. 280
§ 340-198. Public hearings. 280
Article XX. Development Rights and Responsibilities Agreements. 281
§ 340-199. Authority. 281
§ 340-200. Purposes. 281
§ 340-201. Applicability. 282
§ 340-202. Grant of authority. 282
§ 340-203. Contents of development rights and responsibilities agreements. 283
§ 340-204. Procedures. 285
§ 340-205. Amendment of agreements. 286
§ 340-206. Termination and suspension of agreements. 286
§ 340-207. Applicable laws, regulations, and policies. 286
§ 340-208. Enforcement by interested parties. 286
Article XXI. Violations and Penalties. 287
§ 340-209. Complaints regarding violations. 287
§ 340-210. Penalties for violations. 287

DRAFT

Article I. General Provisions.

§ 340-1. Title.

This Chapter shall be known and may be cited as the "St. Michaels Zoning Ordinance."

§ 340-2. Authority.

This Chapter is enacted under the authority granted by the General Assembly of Maryland, as provided in the Land Use Article, Annotated Code of Maryland, as amended.

§ 340.3. Purpose.

This Chapter has been prepared in accordance with the St. Michaels Comprehensive Plan. It is designed to control congestion in the streets; to secure the public safety; to promote health and the general welfare; to provide adequate light and air; to promote the conservation of natural resources; to prevent environmental pollution; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, recreation, parks, and other public requirements. Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its suitability for particular uses and to conserve the value of buildings and encourage the orderly development and the most appropriate use of land throughout the jurisdiction.

§ 340.4. Severability.

It is hereby declared to be the intention of the Commissioners of St. Michaels, Maryland that the sections, paragraphs, sentences, clauses, and phrases of this Zoning Chapter are severable, and if any such section, paragraph, sentence, clause, or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Zoning Chapter since the same would have been enacted without the incorporation into this Zoning Chapter of such unconstitutional or invalid sections, paragraphs, sentences, clauses, or phrases.

§ 340-5. Official Zoning Map.

A. The incorporated areas of the Town are hereby divided into zones as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Chapter.

B. The Official Zoning Map shall be identified by the signature of the Town Commissioners attested by the Town Clerk and bearing the Seal of the Town under the following words: "This is to certify that this is the Official Zoning Map referred to in Chapter 340 of the Code of the Town of St. Michaels, Maryland" together with the date of the adoption of this Chapter.

C. If in accordance with the provisions of this Chapter and the Land Use Article, Annotated Code of Maryland, changes are made in zone boundaries or other matter portrayed on the Official Zoning Map, such changes shall be made on the Official Zoning Map promptly after the amendment has been approved by the Town Commissioners, together with an entry on the Official Zoning Map as follows: “on (date), by official action of the Town Commissioners, the following (change or changes) were made in the Official Zoning Map: (brief description of nature of change)"which entry shall be signed by the Town Commissioners and attested by the Town Clerk. The amending ordinance shall provide that such changes or amendments shall not become effective until they have been duly entered upon the Official Zoning Map. No amendment to this Chapter, which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry have been made on said map.

D. No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Chapter. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Chapter and punishable as provided under § 340-210 of this Chapter.

E. Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the office of the Town Clerk shall be the final authority as the current zoning status of land and water areas, buildings, and other structures in the Town.

§ 340-6. Replacement of Official Zoning Map.

A. In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Town Commissioners may, by resolution, adopt a new Official Zoning Map.

B. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Zoning Ordinance or any subsequent amendment thereof. The Planning Commission shall certify as to the accuracy of the new Official Zoning Map prior to its adoption by the Town Commissioners. The new Official Zoning Map shall be identified by the signatures of the Town Commissioners attested by the Town Clerk, and bearing the Seal of the Town under the following words: "This is to certify that this Official

Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of Chapter 340 of the Code of Town of St. Michaels, Maryland."

§ 340-7. Official Critical Area Overlay District Maps.

Official Critical Area Overlay District Maps shall be prepared and maintained in force as part of the Official Zoning Maps of the Town. They shall delineate the extent of the Critical Area Overlay District ("0") that shall correspond to the Chesapeake Bay Critical Area.

A. The Official Critical Area Overlay District Map is maintained as part of the Official Zoning Map for St. Michaels. The Official Critical Area Map delineates the extent of the Critical Area Overlay District that shall include:

(1) All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the State wetland maps, and all State and private wetlands designated under Title 16 of the Environment Article of the Annotated Code of Maryland; and

(2) All land and water areas within 1,000 feet beyond the landward boundaries of State or private wetlands and the heads of tides designated under Title 16 of the Environment Article of the Annotated Code of Maryland.

B. Within the designated Critical Area Overlay District, all land shall be assigned one of the following land management and development area classifications:

(1) Intensely Developed Area (IDA).

(2) Limited Development Area (LDA).

(3) Resource Conservation Area (RCA).

C. The Critical Area Overlay District Map may be amended by the Town Commissioners in compliance with amendment provisions in this Chapter, the Maryland Critical Area Law, and COMAR Title 27.

§ 340-8. Rules for interpretation of zone boundaries.

Where uncertainty exists as to the boundaries of zones as shown on the Official Zoning Map, the following rules shall apply:

A. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.

B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

C. Boundaries indicated as approximately following Town limits shall be construed as following Town limits.

D. Boundaries indicated as following railroad lines, or former railroad lines shall be construed as following the centerline of the existing or former right-of-way.

E. Boundaries, as indicated as following shorelines, shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.

F. Boundaries indicated as parallel to or extensions of features indicated in Subsections A through E above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

G. Where a lot is divided by one or more zone boundary lines:

(1) For a lot of one (1) acre or less in total area and where at least 50% of the lot area lies within a single zone, the owner may apply for and receive a zoning certificate to use the entire lot for a use permitted in the zone which covers at least 50% of the lot area. This subsection, and any zoning action or use of property pursuant to it shall not constitute a rezoning, evidence of mistake or change in the character of the neighborhood. This provision shall not apply to any lot created or reconfigured after the date of the enactment of this provision.

(2) For all other lots of record divided by one or more zone boundary lines, each of said divisions of the lot shall be subject to the regulations of the zone in which it is located, but in any event, the entire lot shall contain only one principal use **except as may otherwise be permitted by this Chapter.** This subsection, any zoning action or use of property pursuant thereto, shall not constitute a rezoning, evidence of mistake, or change in the character of the neighborhood.

H. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by Subsections A through G above, the Board of Zoning Appeals shall interpret the zone boundaries **as provided in § 340-133.**

§ 340-9. Conflict with other laws.

A. Where any condition imposed by any provision of this Chapter upon the use of any lot, building or structure is either more restrictive or less restrictive than any comparable condition imposed by any other provision of this Chapter or by the provision of an ordinance adopted under any other law, the provision which is more restrictive or which imposes a higher standard or requirement shall govern.

B. This Chapter is not intended to abrogate or annul any easement, covenant or other private agreement provided that where any provision of this Chapter is more restrictive or imposes a higher standard or requirement than such easement, covenant or other private agreement, the provision of this Chapter shall govern.

Article II. Definitions.

§ 340-10. Interpretations.

For this Chapter, specific terms or words used herein shall be interpreted as follows:

A. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

B. The present tense includes the future tense; the singular number includes the plural, and the plural number includes the singular.

C. The word "shall" is mandatory; the word "may" is permissive.

D. The words "used" or "occupied" include the words "intended, designated, or arranged to be used or occupied."

E. The abbreviation, "e.g.," used to introduce examples, implies "included but not limited to."

F. The word "Town" means the Maryland municipal corporation whose proper name is "The Commissioners of St. Michaels," or the geographic area within the corporate boundaries of the said municipal corporation, as determined by the context in which the word Town is used.

G. Terms applicable to the Chesapeake Bay Critical Area requirements of this Chapter shall be interpreted and defined as provided in the Critical Area Law (Natural Resources Title 8 – Waters Subtitle 18 - Chesapeake and Atlantic Coastal Bays Critical Area Protection Program) and Critical Area Regulations (COMAR 27.01.01.01. 01).

§ 340-11. Definitions.

In this Chapter, the following terms are used according to stipulated definitions. For most of these terms, the definition is stipulated with the term in the list below. For some of these terms, the definition is stipulated elsewhere in this Chapter, at a location indicated in the list below by a reference, after the term, in the form "For definition see § _____ of this Chapter."

ACCESSORY APARTMENT - A dwelling unit located above the first of the principal structure on a lot or parcel of land, which dwelling is an accessory use to commercial use, which is the principal use located on the first floor of the same structure.

ACCESSORY DWELLING UNIT – See § 340-45.

ACCESSORY STRUCTURE - A structure that is detached from the principal structure, located on the same lot and incidental and subordinate to a principal structure, or if there is no principal structure on the lot, a structure that is customarily incidental and subordinate to a principal structure. **An accessory structure to a dwelling shall not contain or include facilities for bathing or showering of humans, or the preparation or cooking of food for human consumption (except for barbecue grills).**

ACCESSORY USE - A use the nature and/or extent of which: a) is clearly incidental to and customarily found as a lawful use in the applicable zone in connection with the principal use or structure; b) is subordinate to and serves the principal use; and c) is located on the same lot as the principal use; and d) does not change the nature of the basic use of the lot on which it is located.

ADDITION - Newly constructed area that increases the size of a structure

ADULT-ORIENTED BUSINESS § 340-47.

AGRICULTURE - All methods of production and management of livestock, crops, vegetation, and soil. This includes, but is not limited to, the related activities of tillage, fertilization, pest control, harvesting, and marketing. It also includes, but is not limited to, the activities of feeding, housing, and maintaining of animals, such as cattle, dairy cows, sheep, goats, hogs, horses, and poultry and handling their by-products.

AGRICULTURAL ACTIVITIES - The growing and harvesting of plants, such as grain, fruits, vegetables, flowers, shrubbery, and/or timber, including structures associated therewith and uses accessory to it. It does not include raising or keeping of animals or fowl for agricultural or commercial purposes with the Town or storage of chemicals, animal waste, byproducts, or other matter producing a threat to the reasonable safe and peaceful enjoyment of neighboring properties.

AMATEUR (HAM) RADIO EQUIPMENT – See § 340-46.

APARTMENT - A dwelling unit forming one of a group or series of three or more attached dwelling units, all of which dwelling units have the same owners and are or are intended to be rented or leased by the owner to tenants for residential purposes.

ASSISTED LIVING - See § 340-45.

AVERAGE GRADE OF LOT - The average pre-development elevation of the lot measured as the mean elevation along a line extending from the front to the rear lot line.

BED-AND-BREAKFAST ESTABLISHMENT – See § 340-47.

BOAT SLIP - A berthing or landing place for a boat.

BUFFER MANAGEMENT AREA (BMA)

An area officially mapped by the Town of St. Michaels and approved by the Critical Area Commission as a buffer management area, where it has been sufficiently demonstrated that the existing pattern of residential, industrial, commercial, institutional, or recreational development prevents the Buffer from fulfilling its water quality and habitat functions, and where development in accordance with specific Buffer management area provisions can be permitted in the Buffer without a variance.

BUFFER, LANDSCAPE - A strip of required yard space adjacent to the boundary of a property, or district not less in width than is designated in this Chapter, which is landscaped for the full width and on which is placed a screen of sufficient height to constitute an effective screen and give maximum protection and immediate visual screening to an abutting property, district or street.

BUFFER MANAGEMENT PLAN - Includes a major Buffer management plan, a minor Buffer management plan, and a simplified Buffer management plan.

BUFFER YARD - CRITICAL AREA - An area, at least 25 feet wide, located between development activity and the water (or edge of wetlands or streams), planted with vegetation consisting of native species and other appropriate plantings. This area shall be maintained primarily for the purposes of wildlife habitat and water quality and shall not be maintained in a manner that conflicts with these purposes, such as by mowing or the application of herbicides except as necessary for the removal of nonnative invasives.

BUILDABLE LOT - One that is legally buildable under § 340-104 and § 340-109.

BUILDING – Any structure with a roof and walls used or intended for supporting or sheltering any use on the property.

BUILDING OR STRUCTURE, HEIGHT OF - The vertical distance in feet from the average grade of the lot to the highest exterior point of the building (see Figure 1).

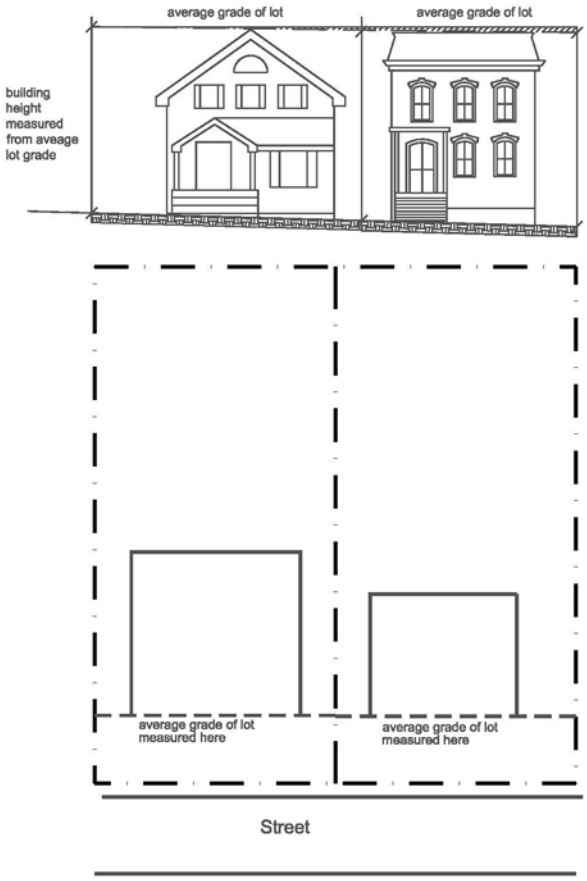


Figure 1

CAFE/COFFEE HOUSE - An informal restaurant, where light refreshments or meals are served primarily for consumption on site. A cafe/coffee shop provides indoor seating for customers and may provide table service.

CALIPER - The diameter of a tree measured at breast height.

CANOPY TREE - A tree that, when mature, commonly reaches a height of at least 35 feet.

CARNIVAL - A traveling outdoor amusement show with rides, games, and prizes, which is permitted only with express permission by The Commissioners of St. Michaels.

COMAR - The Code of Maryland Regulations, as from time to time amended, including any successor provisions.

COMMERCIAL - That which relates to a for-profit business organization engaging in the sale, rental, lease, or exchange of goods, products, services, or properties of any kind.

COMMERCIAL VEHICLE - Any vehicle the principal use of which is the transportation of commodities, merchandise, produce, freight, animals, or passengers for hire. Any vehicle

owned by, or used in conjunction with, a business enterprise; has painted thereon or affixed thereto a sign identifying a business, industry, office, institution or a principal product or service of such or is licensed as a "for hire" vehicle and is registered as a Class E (truck) vehicle, a Class F (tractor) vehicle or a Class G (trailer) vehicle.

COMMON OPEN SPACE - Undeveloped land within a subdivision or land development, not part of individual lots dedicated, reserved, or restricted in perpetuity from further development and set aside for the use and enjoyment by residents of the development. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the use or enjoyment of residents and owners of the development.

COMMUNITY CENTER - A meeting place used by members of the community for social, cultural, educational, or recreational purposes.

CONCEPT PLAN – Except as may otherwise be provided, a conceptual rendering, drawn to an approximate scale, that includes, at a minimum, the following information:

A. The proposed title of the project and the name of the engineer, architect, landscape planner or another designer who prepared it;

B. A preliminary description of the nature of the proposed uses;

C. North arrow, scale, date and approximate boundary of the property;

D. The total number of acres of the land on which the project is to be located;

E. The preliminary layout of all lots and roads;

F. The preliminary location of all proposed open spaces;

G. The critical area boundary, if applicable; including, but not limited to, the one-hundred-foot shoreline development buffer;

H. The proposed number and types of units; and

I. Such other information as the Planning Commission or its staff may reasonably require to accomplish the purposes of this process.

CONDOMINIUM - A structure containing a group or series of three or more attached dwelling units that are subject to a condominium regime established under the Maryland Annotated Code.

CRITICAL AREA - All lands and waters defined in § 8-1807 of the Natural Resources Article, Annotated Code of Maryland. They include:

A. All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the State wetland maps, and all State and private wetlands designated under Title 16 of the Environment Article of the Annotated Code of Maryland; and

B. All land and water areas within 1,000 feet beyond the landward boundaries of State or private wetlands and the heads of tides designated under Title 16 of the Environment Article of the Annotated Code of Maryland.

C. Modification to these areas through inclusions or exclusions proposed by local jurisdictions and approved by the Commission as specified in § 8-1807 of the Natural Resources Article, Annotated Code of Maryland.

CRITICAL AREA COMMISSION - The Critical Area Commission for the Chesapeake and Atlantic Coastal Bays.

CRITICAL AREA PROGRAM – All provisions of Chapters 110, 290 and 340 adopted to implement the Critical Area Law (Natural Resources Article, Title 8, Subtitle 18) and Critical Area Regulations (Title 27 Code of Maryland Regulations) and constitute the St. Michaels Critical Area Program.

DAY-CARE CENTER – See § 340-47.

DENSITY - The number of dwelling units per acre within a defined and measurable area.

DISPLAY AREA - Area used for the accessory display of merchandise or goods available for purchase from the business located outside of a building.

DREDGING - The removal or displacement by any artificial means of soil, sand, gravel, shells, or other material, whether or not of intrinsic value, from any state wetlands or private wetlands.

DWELLING, DUPLEX - See § 340-45.

DWELLING, MULTIFAMILY - See § 340-45.

DWELLING, SINGLE-FAMILY DETACHED - See § 340-45.

DWELLING, TOWNHOUSE - See § 340-45.

DWELLING UNIT (HOUSEKEEPING UNIT) - A room or suite of rooms contained within the same structure, used, designed or intended to be used, or suitable for use as the residence of one family. A structure in which there is a sleeping room, a full bathroom, and food storage and preparation facilities available to the same person or family shall constitute a dwelling unit. A single-family dwelling unit shall be occupied by an immediate family or an unrelated group of persons living together as a family. Except for one dwelling unit for the owner or resident manager, no dwelling unit shall be located in a hotel, inn,

lodge, motel, or other accommodation for guests, travelers or transients. No dwelling unit shall be located in a trailer. The occupancy of a dwelling unit or a portion thereof, by a person or persons for a period of four consecutive months or less in exchange for compensation, shall constitute a commercial activity not permitted in any residential zone, except as follows:

A. Legal nonconforming bed-and-breakfasts;

B. Bed-and-breakfast;

C. Historic vacation cottages licensed by the Town to be used for short-term rentals in the R-2 Zone.

ENVIRONMENTAL ASSESSMENT - A comprehensive report that describes the natural features and characteristics of a proposed development site, the changes that will occur as the result of proposed development activities on the site, the anticipated environmental impacts, and consequences of the proposed development, and mitigation measures to be taken to minimize undesirable impacts to the environment.

EROSION - A natural and gradual washing away of soil, sand, gravel, minerals, organic matter, or other material from fast land that results in the conversion of such fast land to submerged land.

ESSENTIAL SERVICES - The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions, of underground or overhead gas, electrical, steam, or water transmission or distribution systems, communication, supply or disposal systems; including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, towers, electric substations, telephone exchange buildings, gas regulator stations, and other similar equipment and accessories that are reasonably necessary to furnish utility services or for the public health, safety, or general welfare.

FAMILY- A family shall qualify as 1) An immediate family of one or more persons occupying the premises and living in a dwelling unit; or 2) An unrelated group of no more than five (5) total persons or the total number of occupants permitted by minimum square foot floor area required as per Chapter 191 Housing Standards of this code, whichever is less, living together under a joint agreement signed by all persons living in a dwelling unit and sharing the dwelling unit.

FARM - Land which is utilized for such bona fide agricultural purposes as crop production; livestock pasturage, care, handling etc.; forestry; and directly related uses; and which may consist of a single parcel or several adjacent or nearby parcels under one ownership. No poultry or livestock, except pets, shall be housed or confined within 200 feet of the boundary of the property. Fox, mink, and hog farms shall be prohibited.

FARMERS' MARKET - An open-air market where primarily agricultural products are offered for sale to the general public. Regulations for farmers' markets held in town parks or on Town property by permit of The Commissioners of St. Michaels shall be adopted by resolution of the Commissioners, which resolution may be amended from time to time.

FENCE - Any structure, whether constructed of wood, masonry, or otherwise forming a physical and/or a visual barrier, blockade or enclosure. A fence includes any structure constructed or appearing to be constructed for any of the purposes above, whether in the form of a wall, stockade, privacy fence, or a more traditional split rail, picket, or wire fence.

FILLING - The artificial displacement of navigable water by the depositing into state wetlands or private wetlands of soil, sand, gravel, shells, or other materials; or the artificial alteration of navigable water levels by any physical structure, drainage ditch, or otherwise. The filling does not include in-place replacement or repair of shore erosion control structures using substantially similar materials and construction design, or planting of wetlands vegetation when no grading or fill in state wetlands or private wetlands is necessary.

FINAL DECISION - An administrative, quasi-judicial or judicial decision for which all rights of appeal related to it, permitted by law, have expired by the lapse of time or have been exhausted. No permit shall be issued pursuant to this Chapter by the Zoning Inspector or acted on by the applicant, as the result of a decision by the Planning Commission, by the Board of Zoning Appeals, or by the Town Commissioners, unless and until such decision is a final decision.

FINANCIAL ASSURANCE - A performance bond, letter of credit, cash deposit, insurance policy, or other instrument of security acceptable to the Town of St. Michaels.

FRONTAGE - The boundary between a plot of land or a building and the public road onto which the plot or building fronts. Frontage may also refer to the full length of this boundary. The Planning Commission may consider a private access drive as frontage where such drive provides the primary access to and egress from those properties.

GOVERNMENT SERVICES - Any use operated by a governmental or nonprofit volunteer entity and providing a public service, e.g., post office, fire station, emergency ambulance service, rescue squad, police station, courthouse, governmental office building, governmental storage facility, governmental garage.

GRANDFATHERED - Describes the status accorded specific properties and development activities that are of record prior to the date of adoption of this Chapter or provisions of this Chapter.

GRANDFATHERED PARCEL/LOT IN THE CRITICAL AREA - A parcel of land or lot that was subdivided into recorded, legally buildable lots where the subdivision received final approval before December 1, 1985.

GROSS FLOOR AREA - The total horizontal area in square feet of all floors within the exterior walls of a building, including habitable or usable basement or attic spaces, but excluding unroofed inner courts or unusable areas below ground or in attics. For a use that has right of access to less than the entire structure, the gross floor area shall be determined by reference to the perimeter dimensions of the space or spaces to which the use has right of access, not by reference to the interior dimensions of rooms.

GROUP DOMICILIARY CARE HOME – See § 340-45.

GROWTH ALLOCATION - The number of acres of land in the Critical Area that the Town of St. Michaels may use, or the county may allocate to municipal jurisdictions to use, to create new Intensely Developed Areas and new Limited Development Areas. The growth allocation acreage is 5% of the total Resource Conservation Area acreage in St. Michaels at the time the Critical Area Commission approved St. Michaels' original Critical Area Program, not including tidal wetlands, plus additional acres included from the county's calculated amount of Resource Conservation Area that existed when the Critical Area Commission approved Talbot County's original Critical Area Program.

GUEST ROOM - A room occupied for sleeping by a transient person in exchange for compensation.

HIGH WATER LINE - The highest elevation of tidal water in the course of the usual, regular, periodical ebb and flow of the tide, excluding the advance of waters above that line by winds and storms or by freshets and floods.

HOME OCCUPATION - A routine accessory and customary non-residential use conducted within or administered from a portion of a dwelling or its permitted accessory building that: 1) is conducted primarily by a permanent resident of the dwelling; 2) meets the standards and limitations of a home occupation; 3) only includes uses that are clearly incidental and secondary to the principal residential use; and 4) does not include any retail or wholesale sales on the premises (other than over the phone, internet, and through the mail) nor any industrial use.

HOTEL OR MOTEL – See § 340-47.

IMMEDIATE FAMILY - A father, mother, son, daughter, grandfather, grandmother, grandson, or granddaughter. A person or persons related by blood, marriage, domestic partnership, and or legal custody.

IMPERVIOUS SURFACE - Nonporous ground covers or areas, such as sidewalks, roads, parking areas, and rooftops that shed stormwater and hinder the penetration of water into the ground.

IN-KIND REPLACEMENT - The replacement of a structure with another structure that is smaller than or identical to the original structure in footprint area, width, length, and use.

INTENSELY DEVELOPED AREA (IDA)- An area of at least 20 acres or the entire upland portion of the Critical Area within a municipal corporation, whichever is less, where residential, commercial, institutional, or industrial developed land uses predominate; and a relatively small amount of natural habitat occurs. These areas include an area with a housing density of at least four dwelling units per acre and/or an area with public water and sewer systems with a housing density of more than three dwelling units per acre.

INTERMITTENT STREAM - A stream that flows only when it receives water from rainfall-runoff or springs, or some surface source such as melting snow.

JUNKYARD – See § 340-49.

LAND - All land, regardless of whether located above or below the mean high water line.

LANDSCAPING/GREEN AREA - An area of outdoor permeable ground, consisting of lawns, shrubs, trees, or other vegetation and cover capable of absorbing runoff. Landscaping shall consist primarily of trees and shrubs indigenous to the area. Plants considered invasive (e.g., bamboo, purple star thistle, kudzu, etc.) should be discouraged.

LANDWARD BOUNDARY OF WETLANDS - The common boundary between wetlands, as defined in this section, and lands not included within the definitions of wetlands appearing in this section.

LEGALLY DEVELOPED - All physical improvements to a property that existed before Critical Area Commission approval of a local ordinance, or were properly permitted in accordance with the provisions of the local ordinance in effect at the time of construction.

LIBRARY – See § 340-46.

LIMITED DEVELOPMENT AREA (LDA) - An area with a housing density ranging from one dwelling unit per five acres up to four dwelling units per acre; with a public water or sewer system; that is not dominated by agricultural land, wetland, forests, barren land, surface water, or open space; or that is less than 20 acres and otherwise qualifies as an Intensely Developed Area under the definition in this Chapter.

LOT - For zoning purposes, as covered by this Chapter, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street and may consist of:

A. A single lot of record;

B. A portion of a lot of record;

C. A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record;

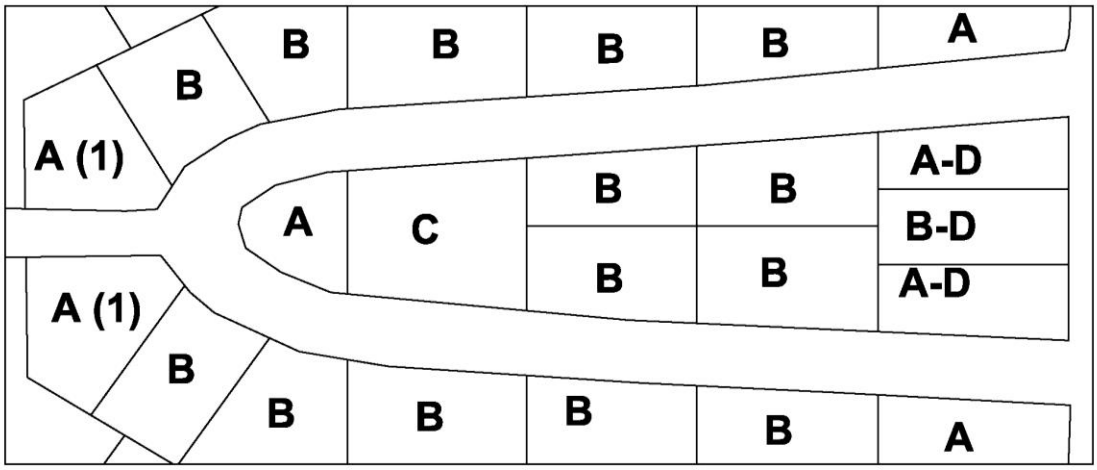
D. A parcel of land described by metes and bounds provided that in no case of division or combination shall any residual lot or parcel be created, which does not meet the requirements of this Chapter.

LOT COVERAGE - The percentage of a total lot or parcel that is: occupied by principal and accessory structures, parking area, driveway, walkway, or roadway; swimming pools and decking or covered with pavers, walkway gravel, stone, shell permeable pavement or other man-made material. Lot coverage includes the ground area covered or occupied by a stairway but does not include a fence or wall that is less than one foot in width.

LOT COVERAGE, CRITICAL AREA - **For purposes of the Critical Area standards outlined in Article IV lot coverage** is the percentage of a total lot or parcel that is: occupied by a structure, accessory structure, parking area, driveway, walkway, or roadway; or covered with a paver, walkway gravel, stone, shell, impermeable decking, a paver, permeable pavement, or any other man-made material. Lot coverage includes the ground area covered or occupied by a stairway or impermeable deck, but does not include: a fence or wall that is less than one foot in width that has not been constructed with a footer; a walkway in the Buffer or expanded Buffer, including a stairway, that provides direct access to a community or private pier; a wood mulch pathway; or a deck with gaps to allow water to pass freely.

LOT OF RECORD - A lot which is part of a subdivision recorded in the office of the Clerk of the Circuit Court, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

LOT TYPES - The diagram which follows illustrates terminology used in this Chapter concerning corner lots, interior lots, reversed frontage lots and through lots:



In the diagram:

A = Corner lot, defined as a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost points of the lot meet at an interior angle of less than 135°. See lots marked A(1) in the diagram.

B = Interior lot, defined as a lot other than a corner lot with only one frontage on a street other than an alley.

C = Through lot, defined as a lot other than a corner lot with frontage on more than one street other than an alley. Through lots with frontage on two streets may be referred to as double frontage lots.

D = Reversed frontage lot defined as a lot to which the frontage is at right angles or approximately right angles to the general pattern in the area involved. A reversed frontage lot may also be a corner lot or an interior lot. See A-D and B-D in the diagram.

MAJOR DEVELOPMENT - Development of a scale that may cause statewide, regional, or inter-jurisdictional, environmental, or economic effects in the Critical Area, or which may cause substantial impacts to the Critical Area of a local jurisdiction. This development includes, but is not limited to, airports, power plants, wastewater treatment plants, highways, regional utility transmission facilities, prisons, hospitals, public housing projects, public beaches, and intensely developed parks and recreation facilities.

MAJOR RECREATIONAL EQUIPMENT - Boats and boat trailers, personal watercraft and watercraft trailers (e.g., a jet ski) pick-up campers or coaches (designated to be mounted on motor vehicles), motorized dwelling, tent trailers, racing and recreational cars and/or motorcycles not licensed for use on public streets and highways, and similar devices

or structures, and cases or boxes used for transporting recreational equipment, whether or not they contain such equipment and utility trailers.

MANSARD ROOF SIGN - A one-sided sign mounted on a mansard or false mansard roof. For purposes of this Chapter, a “mansard roof” is a double-sloped roof whose lower section rises steeply. A “false mansard” consists of a roofed surface attached high on the walls of a low-pitched or flat-roofed building that attempts to give the illusion of a true structural mansard roof.

MARINA - Any facility for the mooring, berthing, storing, or securing of watercraft, but not including community piers and other noncommercial boat docking and storage facilities.

MASSAGE - Any method of treating, or attending to, the external parts of the human body (other than the scalp) by touching, rubbing, stroking, kneading, tapping or vibrating with the hand, arm, foot or other body part, or by instrument or device, applied by a massage technician, for compensation, or without compensation and in connection with or related to any other service, sale, transaction, or exchange for compensation.

MASSAGE ESTABLISHMENT - Any establishment, building, structure, premises, room, or other location or site where a massage technician administers a massage to another person. "Massage establishment" does not include a hospital, nursing home, medical clinic or other establishment, building, structure, premises, room, or other location or site where massages are administered by any individual who is a medical practitioner, a massage therapist, or a massage practitioner.

MASSAGE PRACTITIONER - A registered massage practitioner as that term is defined by § 3-5A-01 of the Health Occupations Article of the Annotated Code of Maryland, or a person excepted from the requirement to be certified or registered before practicing massage therapy or nontherapeutic massage pursuant to an exception set forth in § 3-5A-05(A)(2) of the Health Occupations Article of the Maryland Annotated Code who is practicing massage under the limited circumstances allowed in § 3-5A-05(A)(2).

MASSAGE TECHNICIAN - An individual who administers a massage to another individual. "Massage technician" does not include:

A. A massage practitioner;

B. A massage therapist; or

C. A medical practitioner.

MASSAGE THERAPIST - A certified massage therapist as that term is defined by § 3-5A-01 of the Health Occupations Article of the Annotated Code of Maryland.

MEDICAL PRACTITIONER - A physician, dentist, optometrist, chiropractor, podiatrist, psychologist, physical therapist, nurse, or other similar health professional licensed and/or certified by the state.

MICRO-PRODUCERS - A use and facilities in which beer, wine, or other alcoholic beverages are brewed, fermented, or distilled on, and/or off-site within the State of Maryland for distribution and consumption, and which possess the appropriate license from the State of Maryland. Micro-producers include micro-breweries, limited wineries, and limited distilleries.

MOBILE HOME (HOUSE TRAILER) – See § 340-45.

MOTEL – See § 340-47.

MUNICIPAL PARKING LOT - Any improved parking lot which is owned and operated by the Town of St. Michaels.

MUSEUM - § 340-46.

NATIVE PLANT - A species that is indigenous to the physiographic area in Maryland where the planting is proposed.

NURSERY SCHOOL, PREKINDERGARTEN, PRESCHOOL - The regular activity of providing school instruction to children under six years of age, including teaching the alphabet, reading, writing, and counting as part of the daily routine. A nursery school, prekindergarten, and preschool shall comply with all Maryland laws regarding the regulation, licensure, and operation of those activities.

OFFENSIVE - That which is causing displeasure, annoying, and/or unpleasant sensations.

OFFSETS - Structures or actions that compensate for undesirable impacts.

OPEN SPACE - Land and water areas retained in an essentially undeveloped state.

OPEN WATER - Tidal waters of the state that do not contain tidal wetlands and/or submerged aquatic vegetation.

OUTDOOR ADVERTISING BUSINESS - Provision for outdoor displays or display space on a lease or rental basis only.

OUTDOOR AREA - Any area on a lot lying outside of the permanent exterior walls of a structure whose interior is fully enclosed by those permanent exterior walls and a roof. A porch or deck that is screened, or fitted with removable or retractable curtains of any material remains an outdoor area.

OUTDOOR STORAGE – The keeping of any equipment, inventory, goods, material, or merchandise including raw, semi-finished, and finished materials for any period of time, and as an accessory to the primary use of the establishment. Storage related to residential use, required vehicular parking areas, nurseries, and the display of automobiles or other vehicles shall not be considered such.

PENDING APPLICATION - An application relating to a proposed structure, subdivision, development, or use of land, accepted for filing by the Town for an administrative or quasi-judicial decision pursuant to this Chapter: 1) for which application there is no final decision; and/or 2) for which proposed structure, subdivision, development or use of land there is no final decision relating to each approval required by the Town's land use laws (including this Chapter, the Subdivision Ordinance and/or the Critical Area Program).

PERENNIAL STREAM - A stream that normally has water in its channel at all times.

PIER - Any pier, wharf, dock, walkway, bulkhead, breakwater, piles, or other similar structure. "Pier" does not include any structure on pilings or stilts that was initially constructed beyond the landward boundaries of state or private wetlands.

PLANNING COMMISSION - The St. Michaels Planning Commission.

PLANT HABITAT - A community of plants commonly identifiable by the composition of its vegetation and its physiographic characteristics.

PREMISES - A recorded lot or, in the case of a multi-occupant lot such as a shopping center, office park, or industrial park, the total area of the development under common ownership or control. “Premises” also means two or more contiguous lots under common ownership, leasehold, or other assignment of interest in real property, which are used as a unified parcel.

PRIMARY RESIDENCE -The legal residence of an individual for purposes of income tax calculation.

PRINCIPAL STRUCTURE - For the purpose of establishing setbacks, the primary or predominant structure on any lot or parcel. For residential parcels or lots, the principal structure is the primary dwelling.

PROPERTY OWNER - A person holding title to a property or two or more persons holding title to a property under any form of joint ownership.

PUBLIC PARKS – Town, County, or federally owned or leased open spaces and playgrounds. Regulations shall be adopted by resolution of the Commissioners of St. Michaels for the general operation of public parks and public events held in public parks by a permit issued by the Commissioners.

RECYCLING COLLECTION CENTER - Community collection center for accumulation, without processing, of common recyclable goods, such as paper, cardboard, glass, metal, and/or plastic. No such recycling center shall accept boats, automobiles, tires, appliances, construction materials, or rubble (e.g., debris from land clearing or demolition).

RELIGIOUS FACILITY – See § 340-46.

RESIDENT B&B MANAGER - The natural person who is designated in writing by the owner of a bed-and-breakfast inn to be responsible for the operation of the bed-and-breakfast inn. Such written authorization shall be filed with the Town Zoning Inspector. A person may not qualify as a resident B&B inn manager for this Chapter unless he/she has the authority to accept, reject, oversee the conduct, and expel guests, to maintain order at the bed-and-breakfast inn. There shall be no more than one person designated as the Resident B&B inn manager by the owner of the property.

RESOURCE CONSERVATION AREA (RCA) - An area that is characterized by nature-dominated environments, such as wetlands, surface water, forests, and open space; and resource-based activities, such as agriculture, forestry, fisheries, or aquaculture. Resource Conservation Areas include areas with a housing density of less than one dwelling per five acres.

RESTAURANT – See § 340-47.

RETAIL SALES, OUTDOOR - Use of property for the display and sales of products and services, primarily outside of a building or structure, including but not limited to manufactured homes; burial monuments; swimming pools, and portable storage sheds, including related repair activities and sale of parts. Material sold is usually stored outdoors, and typically a building is on-site in which sales may be consummated or products displayed.

RIGHTS-OF-WAY FOR STREETS - Those areas of land dedicated, or to be dedicated, for public streets, roads alleys, and other public ways.

ROAD - A public thoroughfare under the jurisdiction of the state, a county, a municipal corporation, or any other public body but does not include a drive aisle or driveway.

ROOM - A single partitioned part or space of the inside of a building that is not further subdivided or partitioned into smaller spaces or rooms.

SCHOOL – See § 340-46.

SHORELINE - The mean high water line of a body of water where it meets land.

SHORT-TERM RENTAL - All or part of a residential dwelling unit or portion of a nonresidential building that is used and/or advertised for rent to transient occupancy by

guests. Causing or permitting, in exchange for compensation, the occupancy of any dwelling or place of public accommodation for a period of less than four (4) consecutive months.

SLEEPING ROOM - A room that has, or is designed or intended to have a facility for sleeping, including a bed, pullout couch or other piece of furniture designed for sleeping.

SMALL WIRELESS FACILITY – See § 340-46.

SOLAR ENERGY SYSTEMS - See § 340-46.

SOLAR PANEL - A group of photovoltaic cells assembled on a panel. Panels are assembled on-site into solar arrays.

SPECIAL EXCEPTION - A use that would not be appropriate generally or without restriction throughout the zone, but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zone as special exceptions if specific provision for such special exceptions is made in this Chapter.

ST. MICHAELS COMPREHENSIVE PLAN - A compilation of policy statements, goals, standards, maps and pertinent data relative to past, present and future trends in St. Michaels including, but not limited to, its population, housing, economics, social patterns, land uses, water resources and their use, transportation facilities and public facilities prepared by the Planning Commission and adopted by the Town Commissioners.

STORY - That portion of a building or structure included between the surface of any floor and the floor next above it, or, if there be no floor next above it, then the ceiling next above it, except that portion of a building or structure which is a half-story.

STORY; HALF STORY - That portion of a building or structure which has its lower floor surface below grade; is above the uppermost floor of a multi-floor building, which space is in whole or partly located above the eaves of a building having a pitched roof, and by reason of the pitched roof the floor area in square feet less than 75% of that of the floor area immediately below; or is above the uppermost floor of a multi-floor building, which uppermost floor is not covered by a ceiling or roof. No structure or building shall contain more than one type of half-story.

STREET LINE - The right-of-way line of a street.

STRUCTURE - Anything that is built or constructed, the use of which is intended to have a permanent location on the ground or is attached to or abuts something having a permanent

location on the ground. The term "structure" shall be construed as if followed by the words "or part thereof."

STRUCTURE, PRINCIPAL - Any building constructed or erected with a fixed location on the ground, including porches and decks.

STRUCTURE, TEMPORARY - Any piece of work that is readily movable and used or intended to be used for a limited period as provided in this Chapter.

SUPPORT STRUCTURE SMALL WIRELESS FACILITY – Any light pole, utility pole, building wall, rooftop, or other structure upon which a small wireless facility is attached.

TOWN - The Maryland municipality known as St. Michaels, having the corporate name "The Town of St. Michaels."

TOWN COMMISSIONERS - The elected governing body of the Town of St. Michaels, known collectively as "The Commissioners of St. Michaels."

TOWN PROPERTY - All public property owned or leased by the Town.

TRAILER - Any vehicle or portable structure designed for temporary occupancy; or which contains holding tanks for waste disposal or can operate independently of sewer, water, and electrical systems; including travel trailers, pickup campers, bus campers, tent campers, tents or other temporary vehicles, which require installation to utility systems.

TRANSIENT PERSON - A person who, in exchange for compensation, occupies or obtains the right to occupy or use a sleeping room, guest room, or dwelling unit for a period not more than four consecutive months.

TRANSPORTATION FACILITIES - Anything that is built, installed, or established to provide a means of transport from one place to another.

UNDERSTORY - The layer of forest vegetation typically located underneath the forest canopy.

UNDERSTORY TREE - A tree that, when mature, reaches a height between 12 and 35 feet.

UNWARRANTED HARDSHIP - 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.

UPLAND BOUNDARY - The landward edge of a tidal wetland or nontidal wetland.

UTILITY TRAILER - A vehicle designed to be pulled by a motor vehicle that is used to carry property, trash, or special equipment, and that is sixteen (16) feet or less in length. Utility trailers that are longer than sixteen (16) feet in length are considered commercial vehicles and are regulated as such.

UTILITY TRANSMISSION FACILITIES - Fixed structures that convey or distribute resources, wastes, or both, including, but not limited to, electrical lines, water conduits, and sewer lines.

VACATION COTTAGE - A dwelling for which a current and valid vacation cottage license has been issued by the Town under the requirements of this Chapter in§ 340-73. Historic vacation cottages used for short-term rentals.

VARIANCE - A relaxation of the terms of this Chapter where such variance will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Chapter would result in unnecessary and undue hardship. As used in this Chapter a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zone or adjoining zones.

WETLANDS - Those areas of land delineated as tidal wetland or nontidal wetland according to the standards used by the U.S. Army Corps of Engineers.

WIND ENERGY CONVERSION SYSTEM - An electrical generating facility consisting of a wind turbine, generator, and other accessory structures and buildings, electrical infrastructure, and other appurtenant structures and facilities.

YARD - A required open space unoccupied and unobstructed by any structure or portion of a structure provided, however, that fences and walls may be permitted in any yard subject to height limitations as indicated herein.

YARD, FRONT (STREET YARD) - Open, unoccupied space on the same lot with a building, situated between the nearest foundation portion of the principal building and the lot line adjacent to a street, and extending from side lot line to side lot line in the case of interior lots. In the case of a corner, lots two front yards situated between the nearest foundation portion of the principal building and the front lot line along each street.

YARD, SIDE

A. A yard extending from the rear line of the required front yard to the rear lot line. In the case of through lots, side yards shall extend from the rear lines of the front yards required. In the case of corner lots with normal frontage, there will be only one side yard, adjacent to the interior lot. In the case of corner lots with reversed frontage, the yards remaining after the full- and half-depth front yards have been established shall be considered to be side yards.

B. Width of required side yards shall be measured at right angles to a straight line joining the ends of the front and rear lot lines on the same side of the lot. The inner side yard line of a required side yard shall be parallel to the straight line so established.

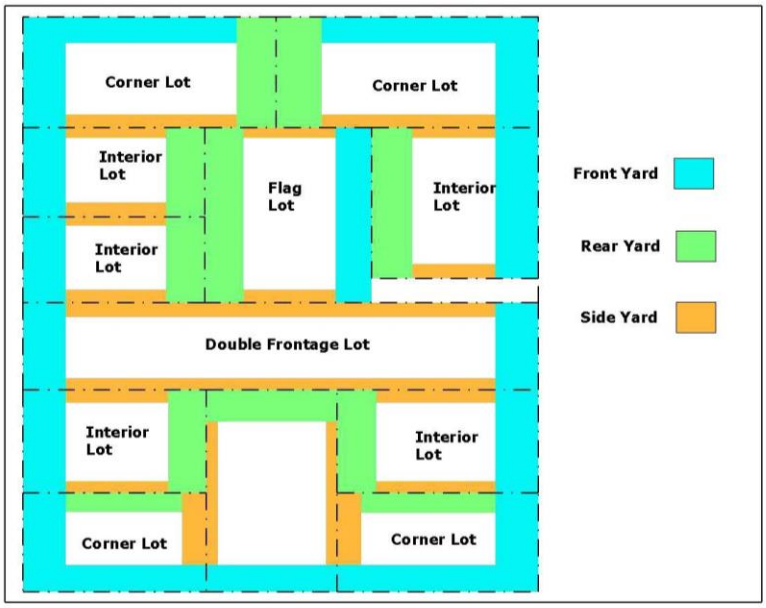
YARD, REAR

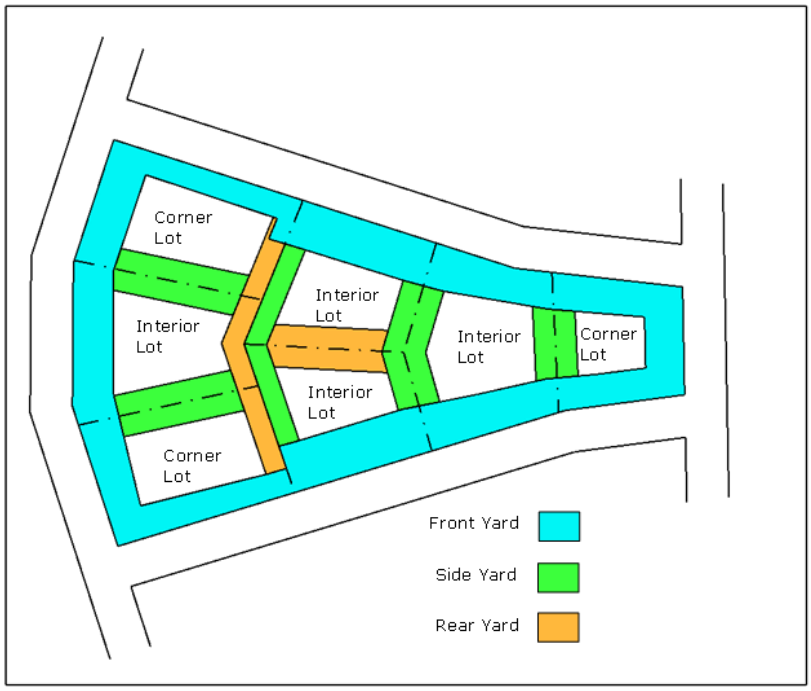
A. A yard extending across the rear of the lot between inner side yard lines. In the case of through lot and reversed frontage corner lots, there will be no rear yard. In the case of corner lots with normal frontage, the rear yard shall extend from the inner side yard line of the side yard adjacent to the interior lot to the rear line of the half-depth front yard.

B. Depth of required rear yards shall be measured at right angles to a straight line adjoining the rearmost points of the side lot lines. The forward rear yard line of a required rear yard shall be parallel to the straight line so established.

C. The following diagram indicates the location of yards on rectangular lots:

D. The following diagram shows the location of yards on nonrectangular lots:





ZONING CERTIFICATE - Written permission, on a form utilized by the Town, issued by the Zoning Inspector, as a condition precedent to the commencement of a use or erection, construction, reconstruction, restoration, alteration conversion, or installation of a structure or building, which acknowledges that such use, structure or building complies with the provisions of the Zoning Chapter or authorized variance therefrom.

Article III. Designation of Districts.

§ 340-12 Enumeration of districts.

A. For this Chapter, the incorporated area of St. Michaels is divided into the following zoning districts.

(1) Base Zoning Districts

(a) A - Agriculture (A) District

(b) R-1 -Residential District

(c) R-2 - Residential District

(d) R-3 Residential District

(e) RG - Residential Gateway District

(f) WD - Waterfront Development District

(g) CC - Central Commercial District

(h) SLC - Select Light Commercial District

(i) GC - Gateway Commercial District

(j) HR - Historic Redevelopment District

(k) MC - Maritime Commercial District

(l) MM - Maritime Museum District

(m) PF - Public Facilities District

(2) Overlay Districts

(a) The Chesapeake Bay Critical Area Overlay District

(b) Historic District Overlay District

(3) Floating Zone Districts

(a) GA Growth Allocation Floating Zone District

(b) Planned Redevelopment Zone (PR) Floating Zone District

§ 340-13. Purpose of Districts.

A. Base Zoning Districts

(1) A - Agriculture District

The regulations of the Agricultural A District are intended to promote and protect agricultural land uses and related activities that are compatible with neighboring residential and commercial uses. The agricultural zone may provide a greenbelt around the Town's outer limits or may preserve farmland**.**

(2) R-1 -Residential1 District

The regulations of the R-1 Residential District are intended to provide for a pleasant, quiet, residential environment permitting residential and related uses. Presently developed single-family residential areas are included in this district as well as land, which will develop in the manner as set forth here in the future.

(3) R-2 - Residential District

The regulations of the R-2 Residential District are intended to provide for a pleasant, quiet, residential environment permitting residential and related uses while permitting higher density and a wider variety of dwelling types.

(4) R-3 Residential District

The regulations of the R-3 Residential District are intended to provide for a pleasant, quiet, hazard-free residential environment permitting residential and related uses while permitting higher density and a variety of dwelling types.

(5) RG - Residential Gateway District

The RG Residential Gateway District is intended to serve as a transitional district from the more rural county development patterns to the more intense development patterns of the Town. Also, this district is intended to promote natural-looking vistas entering and leaving the Town boundaries.

(6) WD - Waterfront Development District

The regulations of the Waterfront Development District are intended to promote the development of the tourist trade in the area adjacent to the Town harbor to take advantage of the unique natural attraction of scenic tidewater, which is not appropriate for maritime use while preserving historic features and protecting adjacent residential areas.

(7) CC - Central Commercial District

The regulations of the Central Commercial District are intended to promote, protect, and provide for the retail services center of the community and the surrounding regions.

(8) SLC - Select Light Commercial District

The Select Light Commercial District is intended to provide land adjacent to residential areas for uses which are not detrimental to adjacent residential neighborhoods by functioning within the general standards and limitations outlined in § 340-86. The intent of the district is to create the potential for employment opportunities in Town, especially agricultural and seafood-related activities.

(9) GC - Gateway Commercial District

The regulations of the Gateway Commercial District are to provide a viable commercial area where, through increased landscaping, alternative parking layouts, and maximum lot coverage limitations, an attractive entrance into the Town can be provided.

(10) HR - Historic Redevelopment District

The purpose of the HR - Historic Redevelopment zone is to foster compatible commercial and light industrial development and redevelopment in areas of the Town traditionally used for commercial/industrial purposes and where remaining historic commercial structures are suitable for adaptive reuse.

(11) MC - Maritime Commercial District

The regulations of the Maritime Commercial District are intended to provide areas in which water-related commercial activities can be conducted. Care must be taken to ensure that activities in this district do not detrimentally affect uses conducted in areas adjacent to the Maritime Commercial District.

(12) MM - Maritime Museum District

The intent and purposes of the Museum District are to:

(a) Provide a place for the Chesapeake Bay Maritime Museum to exist and operate as a permitted use, to:

[1] Preserve and perpetuate the character and orientation of the Town to the Chesapeake Bay and its tributaries (from now on collectively the "Chesapeake Bay") on land that is adjacent to or near the St. Michaels Harbor.

[2] Encourage appreciation, understanding, collection, preservation, perpetuation, exhibition and education concerning the history of

the Chesapeake Bay, the animal life, marine life and plant life indigenous to the Chesapeake Bay, and **interpret** commercial, recreational and other activities directly related to the Chesapeake Bay by means of artifacts, exhibits, models, displays, examples, art, writings, and teachings regarding vessels, equipment, customs, methods and heritage.

[3] Encourage, perpetuate, and protect the existence of residential uses adjacent to museums and in areas of the Town through which museum visitors must travel for ingress and egress.

(b) The museum district is intended to contain restrictions and provisions which make it compatible with adjacent residential district without the need for controls generally imposed through the special exception process.

(c) For this Chapter, museums shall be considered neither a residential use nor commercial use.

(13) PF - Public Facilities District

The regulations of the Public Facilities District are intended to provide for the location and concentration of public facility uses that might, if located in other districts, tend to detract from the Town's historic character and its architectural and natural beauty. While the Town is not bound by the provisions of this Chapter in the location of governmental or other public facility uses, the owners of property in the Public Facilities District are placed on notice that the Town intends, where practical, to concentrate in this district those public facility uses for which it finds this location appropriate.

B. Overlay Districts.

(1) The Chesapeake Bay Critical Area Overlay District.

The purpose of the Chesapeake Critical Area Overlay district is to instituted regulations intended to accomplish the following:

(a) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or runoff from surrounding lands;

(b) Conserve fish, wildlife, and plant habitat; and

(c) Establish land use policies for development in the Critical Area, which accommodate growth as well as address the environmental impacts that the number, movement, and activities of people may have on the area.

(2) Historic District

The purpose of creating the Historic District is to safeguard the heritage of St. Michaels by protecting and preserving buildings, structures and sites which reflect elements of the Town's cultural, social, political, and architectural history, and to promote the educational, cultural, and economic value to the public by maintaining said area as a landmark of the Town's history and architecture.

C. Floating Zone Districts.

(1) Purpose. Floating zones are districts that may be appropriate for the Town but are not mapped out at the time of adoption of the most recent comprehensive revision to the St, Michaels Zoning Chapter. The purpose of the designated floating zones is to permit the mapping of appropriate areas for land uses that may be required over the next twenty (20) years. The designated floating zone provides a mechanism for the establishment of the district in appropriate areas, limiting the areas to be zoned and setting conditions that must be met by any development proposal seeking such a designation. The Town Commissioners and Planning Commission finds that they are not able to locate the Floating Zones with precision in advance and that it is desirable to leave specific locations and conditions for a future determination as the Town grows and specific needs develop.

(2) Designation of floating zone district. The following floating zone districts are designated:

(a) "GA" Growth Allocation Floating Zone District. The GA Growth Allocation Floating Zone is not mapped but is designated for use in areas classified as Resource Conservation Areas (RCA) and/or Limited Development Area (LDA) within the St. Michaels Chesapeake Bay Critical Area Overlay District. The purpose of the floating zone is to permit a change in the land management classification on specific sites so that they may be developed to the extent permitted by the underlying zoning classification. Only projects which have been approved by the Town Commissioners for the award of the Critical Area Growth Allocation are eligible for floating zones.

(b) PR Planned Redevelopment Floating Zone District. It is the general intent of the PR Planned Redevelopment Floating Zone to:

(1) Accommodate growth in St. Michaels by encouraging and facilitating new development and redevelopment on vacant, bypassed and underutilized land where such construction is

found to be compatible with the surrounding neighborhood, and adequate public facilities and services exist;

(2) Encourage efficient use of land and public services;

(3) Stimulate infill, redevelopment, rehabilitation, and general improvement of areas within the Town of St. Michaels that have fallen into a somewhat deteriorated or dilapidated state or have been used for a purpose that no longer serves the health, safety or general welfare of the neighborhood;

(4) Provide developers and property owners flexibility that achieves a high-quality design and result in infill and redevelopment projects that strengthen existing neighborhoods; and

(5) Implement the goals, objectives, and policies of the St. Michaels Queenstown Comprehensive Plan.

Article IV. The Chesapeake Bay Critical Area Overlay District.

§ 340-14. Implementation of Critical Area Regulation.

A. The Town of St. Michaels adopted its Critical Area Program on May 4, 1994. Subsequently, the Town's Critical Area Program was incorporated into and is made part of St. Michaels Chapter 340 (Zoning) and the Official Critical Area Map(s). Related provisions may be found in Chapter 290 (Subdivision of Land), and Chapter 110 (Site Plan Review) of the Code of the Town of St. Michaels.

B. General requirements.

(1) Development and redevelopment shall be subject to the Habitat Protection Area requirements prescribed in this Chapter (See § 340-26).

(2) Reasonable accommodations for the needs of disabled citizens (See § 340-137) Area.).

(3) New solid or hazardous waste collection or disposal facilities, or sanitary landfills or rubble fills, including transfer stations, may not be permitted in the Critical Area unless no environmentally preferable alternative exists outside the Critical Area, and these development activities or facilities are needed in order to correct an existing water quality, wastewater management

problem. Existing permitted facilities shall be subject to the standards and requirements of the Department of the Environment.

(4) Development and redevelopment shall be subject to the water-dependent facilities requirements of this Ordinance.

(5) Utility transmission facilities. Utility transmission facilities, except those necessary to serve permitted uses, or where regional or interstate facilities must cross tidal waters, may be permitted in the Critical Area provided:

(a) The facilities are located in Intensely Developed Areas; and

(b) Only after the activity or facility has demonstrated to all appropriate local and State permitting agencies that there will be a net improvement in water quality to the adjacent body of water.

(c) These provisions do not include power plants.

(6) Roads, bridges, and utilities are prohibited in a Habitat Protection Area unless no feasible alternative exists. If a road, bridge or utility is authorized, the design, construction, and maintenance shall:

(a) Provide maximum erosion protection;

(b) Minimize negative impacts on wildlife, aquatic life, and their habitats; and

(c) Maintain hydrologic processes and water quality.

(7) All development activities that must cross or affect streams shall be designed to:

(a) Reduce increases in flood frequency and severity that are attributable to development;

(b) Retain tree canopy to maintain stream water temperature within normal variation;

(c) Provide a natural substrate for stream beds, and

(d) Minimize adverse water quality and quantity impacts of stormwater.

C. Activities not permitted. Certain new development activities or facilities, or the expansion of certain existing facilities, because of their intrinsic nature or because of their potential for adversely affecting habitat and water quality; may not be permitted in the Critical Area unless no environmentally acceptable alternative

exists outside the Critical Area, and these development activities or facilities are needed in order to correct an existing water quality or wastewater management problem. These include:

(1) Solid or hazardous waste collection or disposal facilities, including transfer stations; or

(2) Sanitary landfills.

D. Continuation of existing permitted facilities. Existing, permitted facilities of the type noted in paragraph F. above shall be subject to the standards and requirements of the Department of the Environment, under COMAR Title 26.

§ 340-15. Intensely Developed Areas (IDA).

A. Mapping Standards.

(1) Areas where residential, commercial, institutional, and/or developed industrial uses predominate and where relatively little natural habitat occurs. At the time of the initial mapping, these areas shall have had at least one of the following features:

(a) Housing density equal to or greater than four dwelling units per acre;

(b) Industrial, institutional or commercial uses are concentrated in the area; or

(c) Public sewer and water collection and distribution systems are currently serving the area, and housing density is greater than three dwelling units per acre;

(2) Also, these features shall be concentrated in an area of at least twenty (20) adjacent acres or that entire upland portion of the Critical Area within the boundary of a St. Michaels unless:

(a) The Commission has approved an alternative standard for designation of an Intensely Developed Area; and

(b) The area is part of a growth allocation approved by the Commission.

B. Activities authorized only in IDA. The following uses may be permitted in the IDA only after the activity or facility has demonstrated to all appropriate local and State permitting agencies that there will be a net improvement in water quality to the adjacent body of water. These activities include the following:

(1) Non-maritime heavy industry;

(2) Permanent sludge handling, storage, and disposal facilities, other than those associated with wastewater treatment facilities. However, agricultural or horticultural use of sludge under appropriate approvals when applied by an approved method at approved application rates may be permitted in the Critical Area, except in the 100 foot-Buffer.

C. General policies. The Critical Area article contained in this Chapter hereby incorporates the following policies for Intensely Developed Areas. New or expanded development or redevelopment shall take place in such a way as to:

(1) Improve the quality of runoff from developed areas that enters the Chesapeake Bay or its tributary streams;

(2) Accommodate additional development of the type and intensity designated by the Town in this article provided that water quality is not impaired;

(3) Minimize the expansion of Intensely Developed Areas into portions of the Critical Area designated as Habitat Protection Areas and Resource Conservation Areas under this Program;

(4) Conserve and enhance fish, wildlife, and plant habitats, as identified in the Habitat Protection Area Chapters of this ordinance, to the extent possible within Intensely Developed Areas; and

(5) Encourage the use of retrofitting measures to address existing stormwater management problems.

D. Development standards. For all development activities in the Intensely Developed Areas (IDA), the applicant shall identify any environmental or natural feature described below and meet all of the following standards:

(1) Development activities shall be designed and implemented to minimize the destruction of forest and woodland vegetation;

(2) Stormwater shall be addressed in accordance with the following provisions:

(a) All development and redevelopment activities shall include stormwater management technologies that reduce pollutant loadings by at least 10 percent below the level of pollution on the site prior to development or redevelopment as provided in the Critical Area 10% Rule Guidance Manual – Fall 2003 and as may be subsequently amended.

(b) Stormwater management to meet 10% requirements shall be provided onsite to the maximum extent practicable.

(c) Where the 10% requirement cannot be met onsite, the following options are available:

[1] Fee-in-lieu for 10% requirements may be provided at $35,000 per pound of phosphorus removed.

[2] Other offsets as described in the Maryland Chesapeake and Atlantic Coastal Bays Critical Area 10% Rule Guidance –Fall 2003 and as may be subsequently amended. Offsets must remove a phosphorus load equal to or greater than the remaining 10% requirement.

(d) The Town shall track and report annually to the Critical Area Commission all stormwater fees-in-lieu collected and expended, as well as any authorized stormwater offsets.

(5) Areas of public access to the shoreline, such as footpaths, scenic drives, and other public recreational facilities, should be maintained and, if possible, increased within Intensely Developed Areas.

(6) Ports and industries that use water for transportation and derive economic benefits from shore access shall be located near existing port facilities. The Town may identify other sites for planned future port facility development and use if this use will provide significant economic benefit to the State or Town and is consistent with the provisions of the Water Dependent Facilities section of this Chapter and other State and Federal regulations.

(7) To the extent practicable, future development in the IDA shall use cluster development as a means to reduce impervious areas and to maximize areas of natural vegetation.

(8) When the cutting or clearing of trees in forests and developed woodland areas are associated with current or planned development activities, the following shall be required:

(a) Participation in programs established by the Town for the enhancement of forest and developed woodland resources, such as programs for urban forestry that involve street tree plantings, gardens, landscaping, and open land buffer plantings;

(b) Development activities shall be designed and implemented to minimize the destruction of forest and woodland vegetation, and

(c) Development activities shall address the protection of existing forests and developed woodlands identified as Habitat Protection Areas in this Chapter.

§ 340-16. Administrative Enforcement (see § 340-120).

§ 340-17. Limited Development Areas (LDA).

A. Mapping Standards.

(1) Limited Development Areas are those areas that are currently developed in low or moderate-intensity uses. They also contain areas of natural plant and animal habitats. The quality of runoff from these areas has not been substantially altered or impaired. At the time of the initial mapping, these areas shall have had at least one of the following features:

(a) Housing density ranging from one dwelling unit per 5 acres up to four dwelling units per acre;

(b) Areas not dominated by agricultural, wetland, forest, barren land, open water, or open space;

(c) Areas meeting the conditions of Intensely Developed Area but comprising less than twenty (20) acres;

(d) Areas having public sewer or public water, or both.

B. General policies. St. Michaels hereby incorporates the following policies for Limited Development Areas. New or expanded development or redevelopment shall take place in such a way as to:

(1) Maintain, or, if possible, improve the quality of runoff and groundwater entering the Chesapeake Bay and its tributaries;

(2) Maintain, to the extent practicable, existing areas of natural habitat; and

(3) Accommodate additional low or moderate-intensity development if:

(a) This development conforms to the water quality and habitat protection criteria in Section C. below; and

(b) The overall intensity of development within the Limited Development Area is not increased beyond the level established in a particular area to change its prevailing character as identified by density and land use currently established in the area.

C. Development standards.

(1) If a wildlife corridor system is identified by the Department of Natural Resources on or near the site, the following practices are required:

(a) The applicant shall incorporate a wildlife corridor system that connects the largest undeveloped or most vegetative tracts of land on and adjacent to the site;

(b) The Town shall require and approve a conservation easement, restrictive covenant, or similar instrument to ensure the maintenance of the wildlife corridor;

(c) The wildlife corridor shall be preserved by a public or private group.

(2) Development on slopes 15% or greater, as measured before development, shall be prohibited unless the project is the only effective way to maintain or improve the stability of the slope and is consistent with the policies and standards for Limited Development Areas.

(3) Except as otherwise provided in this subsection, for stormwater runoff, lot coverage is limited to 15% of a lot or parcel or any portions of a lot or parcel that are designated Limited Development Area.

(a) If a parcel or lot of 1/2 acre or less in size existed on or before December 1, 1985, then lot coverage is limited to 25% of the parcel or lot.

(b) If a parcel or lot greater than 1/2 acre and less than one (1) acre in size existed on or before December 1, 1985, then lot coverage is limited to 15% of the parcel or lot.

(c) If an individual lot one (1) acre or less in size is part of a subdivision approved after December 1, 1985, then lot coverage may exceed 15% of the individual lot; however, the total lot coverage for the entire subdivision may not exceed 15%.

(d) Lot coverage limits provided in Subsection A(6)(a) and (b) above may be exceeded upon findings by the Planning Commission or its designee that the following conditions exist:

[1] The lot or parcel is legally nonconforming. A lot or parcel legally developed as of July 1, 2008, may be considered legally nonconforming for lot coverage requirements.

[2] Lot coverage associated with new development activities on the property have been minimized;

[3] For a lot or parcel 1/2 acre or less in size, total lot coverage does not exceed the lot coverage limits in Subsection A(6)(a) by more than 25% or five hundred (500) square feet, whichever is greater;

[4] For a lot or parcel greater than 1/2 acre and less than one (1) acre in size, total lot coverage does not exceed the lot coverage limits in Subsection A(6)(b) or 5,445 square feet, whichever is greater;

[5] The following table summarizes the limits set forth in Subsection A(6)(d)[1] through [4] above:

Table 340-17.3A(6)(d)[5]

Lot/Parcel Size (square feet)	**Lot Coverage Limit**
0 – 8,000	25% of parcel plus 500 square feet
8,001 – 21,780	31.25% of parcel
21,780 – 36,300	5,445 square feet
36,301or more	15% of the parcel

(e) If the Planning Commission or its designee makes the findings set forth in Subsection A(6)(d) above and authorizes an applicant to use the lot coverage limits set forth in that subsection, the applicant shall:

[1] Demonstrate that water quality impacts associated with runoff from the development activities that contribute to lot coverage have been minimized through site design considerations or the use of best management practices to improve water quality; and

[2] Provide on-site mitigation in the form of plantings to offset potential adverse water quality impacts from the development activities resulting in new lot coverage. The plantings shall be equal to two times the area of the development activity.

[3] If the applicant cannot provide appropriate stormwater treatment and plantings due to site constraints, then the applicant shall pay a fee to St. Michaels in lieu of performing the on-site mitigation. The

amount of the fee shall be $1.50 per square foot of the required mitigation.

(4) The alteration of forest and developed woodlands shall be restricted and shall be mitigated as follows:

(a) The total acreage in the forest and developed woodlands within St. Michaels in the Critical Area shall be maintained or preferably increased.

(b) All forests and developed woodlands that are allowed to be cleared or developed shall be replaced in the Critical Area on not less than an equal area basis.

(c) If an applicant is authorized to clear more than 20% of a forest or developed woodlands on a lot or parcel, the applicant shall replace the forest or developed woodlands at 1.5 times the areal extent of the forest or developed woodlands cleared, including the first 20% of the forest or developed woodlands cleared.

(d) **Except for lots less than one (1) acre, clearing more than 30% of any forest or developed woodland is prohibited unless authorized under a variance. See § 340-136 for variance procedures. Lots less than one acre are exempt from clearing limits, provided that mitigation or fee-in-lieu are provided at 1.5 times the entire area of forest or developed woodland being removed.**

(e) If an applicant is authorized to clear any percentage of forest or developed woodlands associated with a subdivision or site plan approval, the remaining percentage shall be maintained through recorded, restrictive covenants or similar instruments approved by St. Michaels.

(5) The following are required for forest or developed woodlands clearing as required in Subsection C(4) above:

(a) The applicant shall ensure that any plantings that die within twenty-four (24) months of installation shall be replaced. A performance bond in an amount determined by St. Michaels shall be posted to assure satisfactory replacement as required in Subsection C(4) above and plant survival.

(b) A permit issued by St. Michaels before forest or developed woodlands are cleared. Clearing forests and developed woodlands before obtaining a St. Michaels permit is a violation; any forests and developed woodlands

cleared before obtaining a St. Michaels permit shall be replanted at three (3) times the areal extent of the cleared forest or developed woodlands.

(c) Clearing of forest or developed woodlands that exceed the maximum area allowed in Subsection C(4) above shall be replanted at three (3) times the areal extent of the cleared forest or developed woodlands.

(d) If the areal extent of the site limits the application of the reforestation standards in this section, the applicant may be allowed to plant off-site at the required ratio or pay a fee in lieu of planting at a rate of $1.50 per square foot.

(6) If no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodlands cover of at least 15%.

(a) The applicant shall designate, subject to the approval of the Town of St. Michaels, a new forest area on a part of the site not forested; and

(b) The afforested area shall be maintained as forest cover through easements, restrictive covenants or other protective instruments approved by the St. Michaels Town Attorney.

(7) New, expanded or redeveloped industrial facilities may only be permitted in LDA if such use is permitted in the underlying zoning district and provided such facilities meet all requirements for development in the LDA.

§ 340-18. Resource Conservation Areas (RCA).

A. Development standards. For all development activities and resource utilization in the Resource Conservation Areas, the applicant shall meet all of the following standards:

(1) Land use management practices shall be consistent with the policies and criteria for the Habitat Protection Area provisions of this Chapter.

(2) Land within the Resource Conservation Area may be developed for residential uses at a density not to exceed one dwelling unit per twenty (20) acres.

(3) Development activity within the Resource Conservation Areas shall be consistent with the requirements and standards for Limited Development Areas as specified in this Chapter.

(4) Nothing in this section shall limit the ability of a participant in any agricultural easement program to convey real property impressed with such an easement to

family members, provided that no such conveyance will result in a density greater than one (1) dwelling unit per twenty (20) acres.

§ 340-19. Land use and density in the RCA.

A. Permitted uses. Permitted uses in the Critical Area shall be limited to those uses allowed by the underlying zoning classification, **which may include the following:**

(1) Existing industrial and commercial facilities, including those that directly support agriculture, forestry, aquaculture, or residential development not exceeding the 1-per-20 acre density, shall be allowed in RCAs.

(2) Expansion of existing industrial facilities and uses in the Resource Conservation Area shall be subject to the nonconforming use provisions of this Chapter and the Grandfathering provisions in § 340-20 and may require growth allocation.

(3) Additional land may not be zoned or used for industrial, commercial, or institutional development, except as provided by the Town's growth allocation provisions. New commercial, industrial, and institutional uses shall not be permitted in Resource Conservation Areas, except as provided for in the Town's growth allocation provisions or as listed below:

(a) Occupation as an accessory use on a residential property and as provided for in this Chapter;

(b) A golf course developed in accordance with the official guidance adopted by the Critical Area Commission on August 3, 2005, excluding main buildings and/or structures such as the clubhouse, pro-shop, parking lot, etc.;

(c) A cemetery that is an accessory use to an existing church provided lot coverage is limited to 15 percent of the site or 20,000 square feet, whichever is less;

(d) A bed and breakfast facility located in an existing residential structure, and where meals are prepared only for guests staying at the facility;

(e) A daycare facility in a dwelling where the operators live on the premises, and there are no more than eight children cared for at one time;

(g) A group home or assisted living facility with no more than eight residents.

B. The maximum permitted density in the RCA.

(1) The maximum permitted density in the RCA shall be one (1) dwelling unit per twenty (20) acres.

(2) Calculation of one-in-twenty-acre density of development. In calculating the one-in-twenty-acre density of development that is permitted on a parcel located within the Resource Conservation Area, St. Michaels:

(a) Shall count each dwelling unit.

(b) May permit the area of any private wetlands located on the property to be included under the following conditions:

[1] The density of development on the upland portion of the parcel may not exceed one (1) dwelling unit per eight (8) acres; and

[2] The area of private wetlands shall be estimated based on vegetative information as designated on the state wetlands maps or by private survey approved by St. Michaels, the Critical Area Commission, and the Maryland Department of the Environment.

(3) One additional dwelling unit (accessory dwelling unit) as part of a primary dwelling unit may be permitted in the Resource Conservation Area, provided the additional dwelling unit is served by the same sewage disposal system as the primary dwelling unit and:

(a) Is located within the primary dwelling unit or its entire perimeter is within 100 feet of the primary dwelling unit and does not exceed 900 square feet in a total enclosed area, or

(b) Is located within the primary dwelling unit and does not increase the amount of lot coverage already attributed to the primary dwelling unit.

(c) An additional dwelling unit meeting all of the provisions of this section may not be subdivided or conveyed separately from the primary dwelling unit, and

(d) The provisions of this section may not be construed to authorize the granting of a variance unless the variance is granted in accordance with the variance provisions contained herein.

§ 340-20. Grandfathering.

A. Continuation of existing uses.

(1) The continuation, but not necessarily the intensification or expansion of any use in existence on May 10, 1988, may be permitted unless the use has been abandoned for more than one (1) year or is otherwise restricted by existing municipal ordinances.

(2) If any existing use does not conform to the provisions of this section, its intensification or expansion may be permitted only in accordance with the variance provisions in § 340-136.

B. Residential density on grandfathered lots.

(1) Except as otherwise provided, the following types of land are permitted to be developed with a single-family dwelling, if a dwelling is not already placed there, notwithstanding that such development may be inconsistent with the density provisions of this Chapter **and the provisions of § 340-19:**

(a) Any land on which development activity has progressed to the point of pouring of foundation footings or the installation of structural members;

(b) A legal parcel of land, not being part of a recorded or approved subdivision that was recorded as of December 1, 1985;

(c) Land that received a building permit after December 1, 1985, but before May 10, 1988;

(d) Land that was subdivided into recorded, legally buildable lots, where the subdivision received final approval between June 1, 1984, and December 1, 1985; or

(e) Land that was subdivided into recorded, legally buildable lots, where the subdivision received the final approval after December 1, 1985, and provided that either development of any such land conforms to the Intensely Developed Area, Limited Development Area or Resource Conservation Area requirements in this Chapter or the area of the land has been counted against the growth allocation permitted under this Chapter.

C. **For purposes of implementing this regulation, a local jurisdiction shall have determined, based on land uses and development in existence on December 1, 1985,**

which land areas fall within the three (3) types of development areas described in this Chapter.

D. Consistency. Nothing in this section may be interpreted as altering any requirements of this Chapter related to water-dependent facilities or Habitat Protection Areas.

§ 340-21. Variances from Critical Area Overlay District provisions. (See § 340-136)

§ 340-22. Lot Consolidation and Reconfiguration.

A. Applicability.

The provisions of this article apply to consolidation or a reconfiguration of any nonconforming legal grandfathered parcel or lot. These provisions do not apply to the reconfiguration or consolidation of parcels or lots which are conforming or meet all Critical Area requirements. Nonconforming parcels or lots include:

(1) Those for which a Critical Area variance is sought or has been issued; and

(2) Those located in the RCA and are less than 20 acres in size.

B. Procedure.

An applicant seeking a parcel or lot consolidation or reconfiguration shall provide the required information required in COMAR 27.01.02.08.E.

(1) The Town may not approve a proposed parcel or lot consolidation or reconfiguration without making written findings in accordance with COMAR 27.01.02.08.F.

(2) The Town shall issue a final written decision or order granting or denying an application for consolidation or reconfiguration.

(a) After a final written decision or order is issued, the Town shall send a copy of the decision or order and a copy of any approved development plan within ten (10) business days by U.S. mail to the Critical Area Commission's business address.

§ 340-23. Accommodations for the needs of the disabled in the Critical Area. (See § 340-137)

§ 340-24. One-hundred-foot Buffer.

A. Applicability and Delineation.

An applicant for a development activity or a change in land use shall apply all of the required standards as described below. The Buffer shall be delineated in the field and shall be shown on all applications as follows:

(1) A Buffer of at least 100 feet is delineated, and expanded as described in A(3), based on existing field conditions landward from:

(a) The mean high water line of tidal water;

(b) The edge of each bank of a tributary stream; and

(c) The upland boundary of a tidal wetland.

(2) Applications for a subdivision or development activity on land located within the RCA requiring site plan approval after July 1, 2008, shall include a minimum Buffer of at least 200 feet from a tidal waterway or tidal wetlands. In the following instances, the 200-foot Buffer does not apply, and the Buffer shall be delineated in accordance with A(1) and A(3):

(a) The application for subdivision or site plan approval was submitted before July 1, 2008, and legally recorded (subdivisions) or received approval (site plans), by July 1, 2010; or

(b) The application involves the use of Growth Allocation.

(3) The 100-foot Buffer shall be expanded beyond 100 feet as described in §A(1) above, and beyond 200 feet as described in §A(2) above, to include the following contiguous land features:

(a) A steep slope at a rate of four feet for every one percent (1%) of slope or the entire steep slope to the top of the slope, whichever is greater;

(b) A nontidal wetland to the upland boundary of the nontidal wetland;

(c) The 100-foot buffer that is associated with a Nontidal Wetland of Special State Concern as stated in COMAR §26.23.06.01; and/or

(d) For an area of hydric soils or highly erodible soils, the lesser of:

[1] The landward edge of the hydric or highly erodible soils; or

[2] Three hundred feet where the expansion area includes the minimum 100-foot Buffer.

B. Development activities in the Buffer.

The Town of St. Michaels may authorize disturbance to the Buffer for the following activities, provided mitigation is performed in accordance with subsection D of this section, and an approved Buffer Management Plan is submitted as required subsection F:

(1) A new development or redevelopment activity associated with a water-dependent facility.

(2) A shore erosion control activity constructed in accordance with COMAR 26.24.02, a shore erosion control measure under COMAR 26.24.04, and this Chapter.

(3) A development or redevelopment activity approved in accordance with the variance provisions of this Article.

(4) A new development or redevelopment activity on a lot or parcel that was created before January 1, 2010, where:

(a) The Buffer is expanded for highly erodible soil on a slope less than 15 percent (15%) or is expanded for a hydric soil, and the expanded Buffer occupies at least 75 percent (15%) of the lot or parcel;

(b) The development or redevelopment is located in the expanded portion of the Buffer and not within the 100-foot Buffer; and

(c) Mitigation occurs at a 2:1 ratio based on the lot coverage of the proposed development activity that is in the expanded Buffer.

(5) A septic system on a lot created before May 10, 1988, where mitigation is provided at a 1:1 ratio for the area of canopy cleared of any forest or developed woodland.

C. Buffer establishment.

(1) The requirements of this regulation apply to:

(a) A development or redevelopment activity that occurs on a lot or parcel that includes a Buffer to tidal waters, a tidal wetland, or a tributary stream if that development or redevelopment activity is located outside the buffer; and

(b) The approval of a subdivision that includes a Buffer to tidal waters, a tidal wetland, or a tributary stream.

(2) If an applicant for a subdivision of a lot uses or leases the lot for an agricultural purpose, the applicant:

(a) In accordance with local land recordation requirements, shall record an approved Buffer Management Plan under subsection F of this section; and

(b) If authorized by the Town, may delay implementation of the Buffer Management Plan until the use of the lot is converted to a nonagricultural purpose.

(3) The requirements of this regulation do not apply to an in-kind replacement of a structure.

(4) An applicant shall establish the Buffer in vegetation in accordance with the table below and subsection E of this section and provide a Buffer Management Plan under subsection F of this section when an applicant applies for:

(a) Approval of a subdivision;

(b) Conversion from one land use to another land use on a lot or a parcel; or

(c) Development on a lot or a parcel created before January 1, 2010.

(5) When the Buffer is not fully forested or is not fully established in existing, naturally occurring woody or wetland vegetation, an applicant shall establish the buffer to the extent required as provided in COMAR 27.01.09.01-1(C)

(6) The Town may authorize an applicant to deduct from the total establishment requirement an area of lot coverage removed from the Buffer if:

(a) The lot coverage existed before the date of local program adoption or was allowed by local procedures; and

(b) The total area is stabilized.

D. Mitigation for impacts to the Buffer.

An applicant for a development activity that includes disturbance to the Buffer shall mitigate for impacts to the Buffer and shall provide a Buffer Management Plan in accordance with the standards set forth in this subsection.

(1) All authorized development activities shall be mitigated based on the ratios noted in the table below, in addition to the area of canopy coverage removed

for an individual tree, developed woodland or forest.

Table 3.D.1 Buffer Mitigation Ratios

Activity	Mitigation Ratio	
	Permanent Disturbance	Temporary Disturbance
Septic on a lot created before local program approval if located in existing grass or if clearing is not required	Not Applicable	0
Septic system in a forest or developed woodland on a lot created before local program approval if clearing is required	1:1	Not applicable
Shore Erosion Control	1:1	1:1
Riparian Water Access	2:1	1:1
Water-dependent Facility	2:1	1:1
Variance	3:1	1:1

(2) All unauthorized development activities in the Buffer shall be mitigated at a ratio of 4:1 for the area of disturbance in the Buffer.

(3) Planting for mitigation shall be planted onsite within the Buffer. If mitigation planting cannot be located within the Buffer, then the Town may permit planting in the following order of priority:

(a) On-site and adjacent to the Buffer; and

(b) On-site elsewhere in the Critical Area.

(4) The installation or cultivation of a new lawn or turf in the Buffer is prohibited.

E. Buffer Planting Standards.

(1) An applicant that is required to plant the Buffer to meet establishment or mitigation requirements shall apply the planting standards set forth in the table below.

Table 3.E.1 Landscape Stick Credit

Vegetation Type	Minimum Size Eligible for Credit	Maximum Credit Allowed (Square Feet)	Maximum Percentage of Landscape Stock Credit
Canopy Tree	2-inch caliper	200	Not Applicable
Canopy Tree	¾-inch caliper	100	Not applicable
Understory Tree	¾-inch caliper	75	Not applicable
Large Shrub	3 feet high	50	30%
Small Shrub	18 inches high	25	20%
Herbaceous perennial	1 quart or based on the area covered by plugs or seed mix	2	10%

Vegetation Type	Minimum Size Eligible for Credit	Maximum Credit Allowed (Square Feet)	Maximum Percentage of Landscape Stock Credit
Planting Cluster A (For less than ½ acre of planting)	**1 canopy tree; and 3 large shrubs or 6 small shrubs of size listed above**	**300**	**Not applicable**
Planting Cluster B (For less than ½ acre of planting)	**2 understory trees; and 3 large shrubs or 6 small shrubs of size listed above**	**350**	**Not applicable**

(2) A variance to the planting and mitigation standards of this section is not permitted.

F. Required Submittal of Buffer Management Plans.

An applicant that is required to plant the Buffer to meet establishment or mitigation requirements shall submit a Buffer Management Plan in accordance with COMAR 27.01.09.01-3. The provisions of this Part do not apply to maintaining an existing grass lawn or an existing garden in the Buffer.

(1) Any permit for a development activity that requires Buffer establishment or Buffer mitigation will not be issued until a Buffer Management Plan is approved by the Town.

(2) An applicant may not obtain the final approval of a subdivision application until the Buffer Management Plan has been reviewed and approved by the Town.

(3) The Town may not approve a Buffer Management Plan unless:

(a) The Plan indicates that all planting standards under subsection E of this section will be met; and

(b) Appropriate measures are in place for the long-term protection and maintenance of all Buffer areas.

(4) For a Buffer Management Plan that is the result of an authorized disturbance to the Buffer, a permit authorizing final use and occupancy will not be issued until the applicant:

(a) Completes the implementation of a Buffer Management Plan; or

(b) Provides financial assurance to cover the costs for:

[1] Materials and installation; and

[2] If the mitigation or establishment requirement is at least 5,000 square feet, long-term survivability requirements as set forth in COMAR 27.01.09.01-2.

(5) Concurrent with recordation of a subdivision plat, an applicant shall record a protective easement for the Buffer.

(6) If an applicant fails to implement a Buffer Management Plan, that failure shall constitute a violation of this Chapter. A permit for development activity will not be issued for a property that has the violation.

(7) An applicant shall post a subdivision with permanent signs prior to final recordation in accordance with COMAR 27.01.09.01-2.

(8) Buffer Management Plans that includes natural regeneration shall follow the provisions of COMAR 27.01.09.01-4.

G. Fee-In-Lieu of Buffer Mitigation.

A fee-in-lieu of mitigation will be collected if the planting requirements of subsection D above cannot be fully met onsite, in accordance with the following standards:

(1) Fee-in-lieu monies shall be collected and held in a special fund, which may not revert to the St. Michaels' general fund;

(2) Fee-in-lieu shall be assessed at $1.50 per square foot of required Buffer mitigation;

(3) A portion of fee-in-lieu money can be used for management and administrative costs; however, this cannot exceed 20 percent (20%) of the fees collected; and

(4) Fee-in-lieu monies shall be used for the following projects:

(a) To establish the Buffer on sites where planting is not a condition of development or redevelopment; and/or

(b) For water quality and habitat enhancement projects as described in an agreement between the Town and the Critical Area Commission.

§ 340-25. Buffer Management Area (BMA) provisions.

A. Development and redevelopment standards. New development or redevelopment activities, including structures, roads, parking areas, and other impervious surfaces, lot coverage or septic systems will not be permitted in the Buffer in a designated BMA unless the applicant can demonstrate that there is no feasible alternative and the Board of

Zoning Appeals finds that efforts have been made to minimize Buffer impacts and the development shall comply with the following standards:

(1) Development and redevelopment activities have been located as far as possible from mean high tide, the landward edge of tidal wetlands, or the edge of tributary streams.

(2) Variances to other local setback requirements have been considered before additional intrusion into the Buffer.

(3) Commercial, industrial, institutional, recreational, and multifamily residential development and redevelopment shall meet the following standards:

(a) New development, including accessory structures, shall minimize the extent of intrusion into the Buffer. New development shall not be located closer to the water (or edge of tidal wetlands) than the minimum required setback for the zoning district or fifty (50) feet, whichever is greater. Structures on adjacent properties shall not be used to determine the setback line.

(b) Redevelopment, including accessory structures, shall minimize the extent of intrusion into the Buffer. Redevelopment shall not be located closer to the water (or edge of tidal wetlands) than twenty-five (25) feet. Structures on adjacent properties shall not be used to determine the setback line. A new structure may be constructed on the footprint of an existing structure.

(4) Single-family residential development and redevelopment shall meet the following standards:

(a) New development or redevelopment shall minimize the extent of intrusion into the Buffer. New development shall not be located closer to the water (or the edge of tidal wetlands) than principal structures on adjacent properties or fifty (50) feet, whichever is greater. In no case shall redevelopment be located less than twenty-five (25) feet from the water (or the edge of tidal wetlands).

(b) The existing principal or accessory structures may be replaced in the same footprint.

(c) New accessory structures may be located closer to the water than the setback if the Town of St. Michaels has determined there are no other locations for the structures. The area of new accessory structures shall not

exceed five hundred (500) square feet within twenty-five 25 feet of the water and 1,000 square feet total in the Buffer.

(5) Variances to other local setback requirements shall be considered before additional intrusion into the Buffer is permitted.

(6) Development and redevelopment may not impact any Habitat Protection Area (HPA) other than the Buffer, including nontidal wetlands, other state or federal permits notwithstanding.

(7) Buffer Management Area (BMA) designation shall not be used to facilitate the filling of tidal wetlands that are contiguous to the Buffer or to create additional buildable land for new development or redevelopment.

(8) No natural vegetation may be removed in the Buffer except that required by the proposed construction.

(9) Mitigation for development or redevelopment in the BMA approved under the provisions of this subsection shall be implemented as follows:

(a) Natural forest vegetation of an area twice the extent of the footprint of the development activity within the one-hundred-foot (100) Buffer shall be planted on-site in the Buffer or at another location approved by the Planning Commission.

(b) Applicants who cannot fully comply with the planting requirement in Subsection A(9)(a) above may offset by removing an equivalent area of existing lot coverage in the Buffer.

(c) Applicants who cannot comply with either the planting or offset requirements in Subsection A(9)(a) or (b) above shall pay $1.50 per square foot into a fee-in-lieu program.

(d) Any fees-in-lieu collected under these provisions shall be placed in an account that will assure their use only for projects within the Critical Area to enhance wildlife habitat, improve water quality, or otherwise promote the goals of St. Michaels' **Chesapeake Bay Critical Area Overlay District.** The funds cannot be used to accomplish a project or measure that would have been required under existing local, state, or federal laws, regulations, statutes, or permits. The status of these funds must be reported to the Critical Area Commission on an annual basis.

(e) Any required mitigation or offset areas shall be protected from future development through an easement, development agreement, plat notes, or other instrument and recorded among the land records of the County.

B. Notification Requirements. All new commercial, industrial, institutional, recreational, multi-family residential development or redevelopment projects shall be submitted to the Critical Area Commission in accordance with COMAR 27.03.01.03. Mitigation plans shall be included as part of the project submission.

C. Review Process. The Planning Commission shall make written findings documenting that all the Criteria in this Chapter are met, including that the disturbance to the Buffer is the least intrusion necessary. These findings shall be available to the Commission upon request.

D. Modified Buffer Area Mapping Standards. The following standards shall apply for the mapping of new Modified Buffer Areas:

(1) Only lots of record as of December 1, 1985, are eligible for mapping as Modified Buffer Areas (MBAs).

(2) The parcel or lot being considered for MBA status shall contain a Buffer that was significantly impacted by development at the time of program adoption and that prevent the Buffer from fulfilling its functions.

(3) Developed parcels or lots shall contain a Buffer intrusion by the principal structures (excluding utilities or septic systems).

(4) Undeveloped or vacant parcels or lots (i.e., infill) may be designated as an MBA if development within the Buffer cannot be avoided based on the size of the parcel or lot, area of the parcel or lot within the Buffer, or the surrounding pattern of development.

(5) If only part of a parcel or lot meets the criteria for designation as a Modified Buffer Area, then only portions of the parcel or lot shall be designated as a Modified Buffer Area. The portion of the parcel designated as a Modified Buffer Area will be subject to the Modified Buffer Area requirements. Portions of the property that are not designated as a Modified Buffer Area shall comply fully with the 100-foot Buffer restrictions.

(6) Any proposal by the Town for designation of an area as an MBA shall include, at a minimum, a written evaluation and supporting reasons which demonstrate the degree to which the proposed MBA does not perform each of the following Buffer functions:

(a) Provide for the removal or reduction of sediments, nutrients, and potentially harmful or toxic substances in runoff entering the Bay and its tributaries;

(b) Minimize the adverse effects of human activities on wetlands, shorelines, stream banks, and aquatic resources;

(c) Maintain an area of transitional habitat between aquatic and upland communities;

(d) Maintain the natural environment of streams, and

(e) Protect riparian wildlife habitat.

§ 340-26. Other Habitat Protection Areas.

A. Identification. An applicant for development activity, redevelopment activity, or change in land use shall identify all applicable Habitat Protection Areas and follow the standards contained in this section. Habitat Protection Areas include:

(1) Threatened or endangered species or species in need of conservation;

(2) Colonial waterbird nesting sites;

(3) Historic waterfowl staging and concentration areas in tidal waters, tributary streams or tidal and nontidal wetlands;

(4) Existing riparian forests;

(5) Forest areas utilized as breeding areas by future interior dwelling birds and other wildlife species;

(6) Other plant and wildlife habitats determined to be of local significance;

(7) Natural Heritage Areas; and

(8) Anadromous fish propagation waters.

B. Standards.

(1) An applicant proposing a subdivision or a site plan for a site within the Critical Area that is in or near a Habitat Protection Area listed above shall request a review by the Department of Natural Resources Wildlife and Heritage Service for comment and technical advice. Based on the Department's recommendations, additional research and site analysis may be required to identify the location of threatened and endangered species and species in need of conservation on a site.

(2) If the presence of a Habitat Protection Area is confirmed by the Department of Natural Resources, the applicant shall develop a Habitat Protection Plan in coordination with the Department of Natural Resources.

(3) The applicant shall obtain approval of the Habitat Protection Plan from the Planning Commission. The specific protection and conservation measures included in the Plan shall be considered conditions of approval of the project.

§ 340-27. Environmental impact assessment (EIA).

A. Applicability. St. Michaels may require an environmental impact assessment (EIA) for the following:

(1) Development or redevelopment activities in the Critical Area requiring site plan approval;

(2) Development or redevelopment activities in the Critical Area requiring subdivision approval;

(3) Development or redevelopment activities within a Habitat Protection Area other than a detached single-family dwelling;

(4) An application for growth allocation; or

(5) An application for a variance other than for a detached single-family dwelling.

§ 340-28.Water Dependent Facilities.

A. Applicability. The provisions of this section apply to those structures or works associated with industrial, maritime, recreational, educational, or fisheries activities that require location at or near the shoreline within the Buffer. An activity is water-dependent if it cannot exist outside the Buffer and is dependent on the water because of the intrinsic nature of its operation.

B. Identification. Water-dependent facilities include, but are not limited to, ports, the intake and outfall structures of power plants, water-use industries, marinas, and other boat docking structures, public beaches, and other public water-oriented recreation areas, and fisheries activities. Excluded from this regulation are individual private piers installed or maintained by riparian landowners, and which are not part of a subdivision that provides community piers.

C. General policies. The policies of the Town with regard to water-dependent facilities shall be to limit development activities in the Buffer to those that are water-dependent and provide by design and location criteria that these activities will have

minimal individual and cumulative impacts on water quality and fish, wildlife, and plant habitat in the Critical Area.

D. Standards. The following standards shall apply to new or expanded development activities associated with water-dependent facilities:

(1) New or expanded development activities may be permitted in the Buffer in the Intensely Developed Areas and Limited Development Areas provided that it can be shown:

(a) That they are water-dependent;

(b) That the project meets a recognized private right or public need;

(c) That adverse effects on water quality, fish, plant and wildlife habitat are minimized;

(d) That, insofar as possible, non-water-dependent structures or operations associated with water-dependent projects or activities are located outside the buffer; and

(e) That the facilities are consistent with a local approved plan as set forth below.

(2) New or expanded development activities may not be permitted in those portions of the Buffer, which occur in Resource Conservation Areas. Applicants for water-dependent facilities in a Resource Conservation Area, other than those specifically permitted herein, must apply for a portion of the Town's growth allocation as set forth in this Chapter.

E. Evaluating plans for new and expanded water-dependent facilities. The Town shall evaluate on a case-by-case basis all proposals for the expansion of existing or new water-dependent facilities. The Town shall work with appropriate State and federal agencies to ensure compliance with applicable regulations. The following factors shall be considered when evaluating proposals for new or expanded water-dependent facilities:

(1) That the activities will not significantly alter existing water circulation patterns or salinity regimes;

(2) That the water body upon which these activities are proposed has adequate flushing characteristics in the area;

(3) That disturbance to wetlands, submerged aquatic plant beds, or other areas of important aquatic habitats will be minimized;

(4) That adverse impacts to water quality that may occur as a result of these activities, such as non-point source run-off, sewage discharge from land activities or vessels, or boat cleaning and maintenance operations, is minimized;

(5) That shellfish beds will not be disturbed or be made subject to discharge that will render them unsuitable for harvesting;

(6) That dredging shall be conducted in a manner, and using a method which causes the least disturbance to water quality and aquatic and terrestrial habitats in the area immediately surrounding the dredging operation or within the critical area, generally;

(7) That dredged spoil will not be placed within the Buffer or elsewhere in that portion of the Critical Area which has been designated as a Habitat Protection Area except as necessary for:

(a) Backfill for permitted shore erosion protection measures;

(b) Use in approved vegetated shore erosion projects;

(c) Placement on previously approved channel maintenance spoil disposal areas; and

(d) Beach nourishment.

(8) That interference with the natural transport of sand will be minimized; and

(9) That disturbance will be avoided to historic areas of waterfowl staging and concentration or other Habitat Protection Areas identified in this article.

F. Industrial and port-related facilities. New, expanded or redeveloped industrial or port-related facilities and the replacement of these facilities may be permitted only in those portions of Intensely Developed Areas that have been designated as Modified Buffer Areas and are subject to the provisions set forth in this article.

G. Marinas and other commercial maritime facilities. New, expanded or redeveloped marinas may be permitted subject to the requirements set forth below:

(1) New, expanded, or redeveloped marinas may be permitted in the Buffer within Intensely Developed Areas and Limited Development Areas.

(2) New marinas or related maritime facilities may not be permitted in the Buffer within Resource Conservation Areas except, expansion of existing marinas may be permitted within Resource Conservation Areas provided

that it is sufficiently demonstrated that the expansion will not adversely affect water quality and that it will result in an overall net improvement in water quality at or leaving the site of the marina.

(3) New and existing marinas shall meet the sanitary requirements of the Department of the Environment as required in COMAR 26.04.02. New marinas shall establish a means of minimizing the discharge of bottom wash waters into tidal waters.

H. Community piers. New or expanded community marinas and other non-commercial boat-docking and storage facilities may be permitted in the Buffer subject to the requirements in this Chapter provided that:

(1) These facilities may not offer food, fuel, or other goods and services for sale and shall provide adequate and clean sanitary facilities;

(2) The facilities are community-owned and established and operated for the benefit of the residents of a platted and recorded riparian subdivision;

(3) The facilities are associated with a residential development approved by the Town for the Critical Area and consistent with all State requirements and program requirements for the Critical Area;

(4) Disturbance to the Buffer is the minimum necessary to provide a single point of access to the facilities; and

(5) If community piers, slips, or moorings are provided as part of the new development, private piers in the development are not allowed.

I. The number of slips or piers permitted in community piers. The number of slips or piers permitted at the facility shall be the lesser of (1) or (2) below:

(1) One slip for every 50 feet of shoreline in the subdivision in the Intensely Developed and Limited Development Areas and one slip for every 300 feet of shoreline in the subdivision in the Resource Conservation Area; or

(2) A density of slips or piers to platted lots or dwellings within the subdivision in the Critical Area according to the following schedule:

Table I(2) Number of Slips Permitted

Platted Lots or Dwellings in the Critical Area	Slips
up to 15	1 for each lot

Platted Lots or Dwellings in the Critical Area	**Slips**
16 - 40	**15 or 75% whichever is greater**
41 - 100	**30 or 50% whichever is greater**
101 - 300	**50 or 25% whichever is greater**
over 300	**75 or 15% whichever is greater**

J. Public beaches and other public recreation or education areas. Public beaches or other public water-oriented recreation or education areas including, but not limited to, publicly owned boat launching and docking facilities and fishing piers may be permitted in the Buffer in Intensely Developed Areas. These facilities may be permitted within the Buffer in Limited Development Areas and Resource Conservation Areas provided that:

(1) Adequate sanitary facilities exist;

(2) Service facilities are, to the extent possible, located outside the Buffer;

(3) Permeable surfaces are used to the extent practicable if no degradation of groundwater would result;

(4) Disturbance to natural vegetation is minimized; and

(5) Areas for possible recreation, such as nature study, and hunting and trapping, and for education, may be permitted in the Buffer within Resource Conservation Areas if service facilities for these uses are located outside of the Buffer.

K. Research areas. Water-dependent research facilities or activities operated by State, Federal, or local agencies or educational institutions may be permitted in the Buffer, if non-water-dependent structures or facilities associated with these projects are, to the extent possible, located outside of the Buffer.

L. Fisheries activities. Lands and water areas with high aquacultural potential will be identified by the Town in cooperation with the State when applications for new or expanded fisheries or aquaculture facilities in these areas are submitted to the Town. These areas are encouraged for that use and, if so used, should be protected from degradation by other types of land and water use or by adjacent land and water uses. Commercial water-dependent fisheries including, but not limited to, structures for crab shedding, fish off-loading docks, shellfish culture operations, and shore-based facilities necessary for aquaculture operations and fisheries activities

may be permitted in the Buffer in Intensely Developed Areas, Limited Development Areas, and Resource Conservation Areas.

§ 340-29. Nonwater-dependent structures on piers.

A. Except as provided in paragraphs B and C of this subsection and notwithstanding any other provisions of the law, the Town may not issue a building permit or any other approval to authorize a non-water dependent project located on State or private wetlands within the Critical Area.

B. The Town may issue a building permit or any other approval to authorize a non-water dependent project located on State or private wetlands within the Critical Area if the project:

(1) Involves a commercial activity that is permitted as a secondary or accessory use to a permitted primary commercial use;

(2) Is not located on a pier that is attached to residentially, institutionally, or industrially used property;

(3) Is located in an Intensely Developed Area (IDA) and the project is authorized under a program amendment to Town's Critical Area Program approved on or after July 1, 2013, if the approved program amendment includes necessary changes to Town's zoning, subdivision and other ordinances so as to be consistent with, or more restrictive than, the requirements required under this paragraph; or

(4) Is approved by the Planning Commission or the Board of Zoning Appeals after the Town program amendment under Subparagraph B(3) above, if applicable, has been approved;

(5) Allows or enhances public access to State wetlands;

(6) Does not expand beyond the length, width, or channelward encroachment of the pier on which the project is constructed;

(7) Has a height of up to eighteen (18) feet unless the project is located at a marina; and

(8) Is up to 1,000 square feet in total area; or

(a) Is located on a pier that was in existence on or before December 31, 2012;

(b) Satisfies all of the requirements under Section B (1)-(7) of this paragraph; and

(c) If applicable, has a temporary or permanent roof structure or covering that is up to 1,000 square feet in total area.

C. The Town may issue a building permit or other approval to authorize a non-water dependent project for a small scale renewable energy system on a pier located on State or private wetlands within the Critical Area if the project:

(1) Involves the installation or placement of a small-scale renewable energy system that is permitted as a secondary or accessory use on a pier that is authorized under Title 16 of the Environment Article;

(2) Is located in Critical Area and the project is authorized under a program amendment to the Town's Critical Area Program approved on or after July 1, 2013, if the approved program amendment includes necessary changes to Town's zoning, subdivision, and other ordinances so as to be consistent with or more restrictive than the requirements provided under this paragraph; or

(3) Is approved by the Town's Planning Commission or Board of Zoning Appeals after the Town's amendment in accordance with Subparagraph B(3) above, if applicable, has been approved;

(4) A building permit or other approval issued under the requirements in Subparagraph C above may include the installation or placement of:

(a) A solar energy system attached to a pier of the device or equipment associated with that system does not extend more than four (4) feet above or 18 inches below the deck of the pier; or one (1) foot beyond the length or width of the pier;

(b) A solar energy system attached to a piling if there is only one solar panel per boat slip;

(c) A solar energy system attached to a boathouse roof if the device or equipment associated with that system does not extend beyond the length, width, or height of the boathouse roof;

(d) A closed-loop geothermal heat exchanger under a pier if the geothermal heat exchanger or any associated devices or equipment do not: 1) extend beyond the length, width, or channelward encroachment of the pier; 2) deleteriously alter longshore drift; or 3)

cause significant individual or cumulative thermal impacts to aquatic resources; or

(e) A wind energy system attached to a pier if there is only one wind energy system per pier for which: 1) the height from the deck of the pier to the blade extended at its highest point is up to 12 feet; 2) the rotor diameter of the wind turbine is up to four (4) feet; and 3) the setbacks of the wind energy system from the nearest property line and from the channelward edge of the pier to which that system is attached are at least 1.5 times the total height of the system from its base to the blade extended at its highest point.

§ 340-30. Reserved.

Article V. Historic Overlay District.

§ 340-31. Review certificate required.

A. This Article and its provisions shall regulate the construction, alteration, reconstruction, moving and demolition of structures, and their appurtenances within the Historic District. Further, this Chapter prohibits willful neglect in the maintenance and repair of an income-producing property within the Historic District.

B. The Historic District of St. Michaels consists of an area as shown on the Official St. Michaels Zoning Map.

C. Prior to the issuance of a building permit or certificate of zoning compliance for any property located in the Historic District, a historic review certificate shall be obtained. This requirement applies to any building, structure, premises, sign, or site being erected, constructed, built, created, reconstructed, moved, altered, added to, converted, or demolished within the Historic District.

§ 340-32. Definitions.

In addition to the definitions outlined in **Article II** of this Chapter, the following additional terms or words shall be interpreted as follows when applied to the Historic District:

ADAPTIVE REUSE - The process of reusing a historic site or building for a purpose other than which it was built or designed.

APPURTENANCES AND ENVIRONMENTAL SETTINGS - Includes paved or unpaved walkways and driveways, trees, landscaping, pastures, croplands, waterways, and rocks.

DEMOLITION - To tear down or to raze. It also includes any willful neglect in the maintenance and repair of a structure, other than the structure's appurtenances and environmental settings, that does not result from a financial inability to maintain and repair the structure and threatens to result in a substantial deterioration of the exterior features of the structure.

DEMOLITION BY NEGLECT - Any willful neglect in the maintenance and repair of an individually designated landmark, or site or structure within the Historic District, not including any 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 foundations, exterior walls, chimneys, roofs, doors, or windows, to create or permit a hazardous or unsafe condition to exist; or

B. The deterioration of the foundations, exterior walls, chimneys, roofs, doors, or windows, the lack of adequate waterproofing, or the deterioration of interior features which will or could result in permanent damage, injury, or loss of or loss to foundations, exterior walls, chimneys, roofs, doors, or windows.

DISTRICT - A significant concentration, linkage, or continuity of sites, structures, or objects united historically or aesthetically by plan or physical development.

PUBLIC WAYS - For the purpose of the Historic District Commission review, this term is defined as public streets as so labeled on the official street map of the Town of St. Michaels as adopted by the Commissioners of the Town of St. Michaels.

ROUTINE MAINTENANCE - Work that does not alter the exterior fabric or features of a site or structure and has no material effect on the historical, archaeological, or architectural significance of the site or structure.

SITE - The location of an event of historic significance or a standing or ruined structure that possesses historic, archaeological, or cultural significance.

STRUCTURE - A combination of material to form a construction that is stable, including but not limited to buildings, stadiums, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks and towers, trestles, piers, bulkheads, wharves, sheds, coal bins, shelters, fences, and display signs visible or intended to be visible from a public way, a natural land formation and an appurtenance and environmental setting. The structure includes a part of a structure.

§ 340-33. Powers and duties of Commission.

A. It shall be the function of the Historic District Commission to review and act upon any request for a historic review certificate as required by this article. The Commission may require plans, elevations, architectural drawings, and other relevant information to aid in rendering a decision. A copy of any application for a building permit or certificate of zoning compliance, which necessitates the issuance of a historic review certificate shall be made available to the Commission by the appropriate administrative official.

(1) In reviewing the plans for any such construction or change, the Commission shall consider such factors as:

(a) The historic or architectural value and significance of the structure and its relationship to the historic value of the surrounding area,

(b) The relationship of the exterior architectural features of the structure to the remainder of the structure and to the surrounding area; and

(c) The general compatibility of exterior design, arrangement, texture, and materials to be used.

(2) The salient factor to be considered in granting a certificate is that the result will be compatible with the historic aspect of the Historic District.

B. The Commission shall act upon all applications for permission to build, alter, or perform other construction in accordance with the provisions of this article. Before the construction, alteration, reconstruction, moving or demolition of any structure is carried out within the geographic limits of the Historic District, if any changes are contemplated which would affect the exterior appearance of a structure visible or intended to be visible from a public way in the area, the property owner proposing to undertake such construction or change shall file with the Commission an application for permission for the proposed work.

(1) Failure to supply the Commission with a complete and specific description of the intended action, including architectural renderings, elevations, site plans, material lists, and other reasonable requirements of the Commission, may be grounds for denial of the application.

(2) No permit for any such change shall be issued until the Commission has acted.

(3) A permit shall not be required for the planting or removal of occasional trees, shrubs, flowers and/or grass in a natural environmental setting on an existing improved lot. This does not include formal gardens or landscaped areas that change the natural lot formation.

C. The Commission may not purchase architectural easements in connection with structures located in or adjacent to the Historic District except with the approval of the Commissioners of St. Michaels. Any such easement shall grant to the Commission, the residents of the Historic District, 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.

D. The Commission shall consider only exterior features of a structure and shall not consider any interior arrangements.

E. The Commission shall be strict in its judgment of plans for those structures deemed to be valuable according to studies performed for districts of historic or architectural value. The Commission shall not strictly judge plans for structures of little historic value or plans involving new construction unless such plans would seriously impair the historic, archaeological, or architectural integrity of the surrounding site or structure. The Commission shall document in writing the reasons for determining that the plans would impair the significance of the surrounding sites or structures. Except under those documented circumstances, the Commission shall not strictly judge plans that do not affect the exterior appearance of a structure visible or intended to be visible from public ways as defined in this Code.

F. If an application is submitted for reconstruction or alterations affecting the exterior appearance of a structure or for the moving or demolition of a structure, the preservation of which the Commission deems of unusual importance to the municipal corporation or unusual importance to the entire state or nation, the Commission shall attempt to formulate with the owner of the structure an economically feasible plan for the preservation of the structure. Unless, in these circumstances, the Commission is satisfied that the proposed construction, alteration, or reconstruction will not materially impair the historic value of the structure, the Commission shall reject the application for reconstruction or alteration.

F. If an application is submitted for reconstruction or alterations affecting the exterior appearance of a structure or for the moving or demolition of a structure, the preservation of which the Commission deems of unusual importance to the municipal corporation or unusual importance to the entire state or nation, the Commission shall attempt to formulate with the owner of the structure an economically feasible plan for the preservation of the structure. Unless, in these circumstances, the Commission is satisfied that the proposed construction, alteration, or reconstruction will not materially impair the historic value of the structure, the Commission shall reject the application for reconstruction or alteration.

G. In the case of a structure deemed to be valuable for the period of architecture it represents an important to the neighborhood within which it exists, the Commission may approve the proposed demolition, reconstruction or alteration despite the fact the changes come within the provisions of Subsections E and F above if 1) the structure is an impediment to a major improvement program which will be of substantial benefit to the Town; 2) retention of the structure would cause undue financial hardship to the owner; or 3) the retention of the structure would not be to the best interests of a majority of persons in the community, as determined by the Commissioners of St. Michaels and with their written concurrence. If an application is submitted for reconstruction, alteration, or for moving or demolition of a structure that the Commission deems of unusual importance and no economically feasible plan can be formulated, the Commission shall have ninety (90) days from the time it concludes that no economically feasible plan can be formulated to negotiate with the owner and other parties in an effort to find a means of preserving the building.

H. The Commission shall not disapprove an application except with respect to the several factors specified in Subsections A and B above.

I. Members of the Commission shall disqualify themselves from voting on any matter in which a conflict of interest is evident or implied.

J. An application for substantially the same reconstruction, alteration, or demolition, if rejected, shall not be renewed within a period of one (1) year after the rejection.

K. This section may not be interpreted to prevent routine maintenance or landscaping, which does not have a material effect on the historic, archeological, or architectural significance of a designated site, structure, or district.

§ 340-34. Demolition by neglect.

A. In the event of demolition by neglect, the Commission may request the Zoning Inspector to notify, in writing, the property owner of record, any person having a right, title or interest therein, and the occupant or another person responsible for the maintenance of the property, of the deterioration. The notice shall specify the minimum items of repair or maintenance necessary to correct the problem.

B. Before the issuance of a written notice, the Commission may request the Zoning Inspector to establish a record of demolition by neglect. Such a record may include dated materials such as photographs and written reports of the condition of the property to measure the deterioration.

C. The notice shall state that corrective action shall commence within thirty (30) days of the receipt of said notice and be completed within a reasonable amount of time.

The notice shall state that the owner of record of the property or any person of record with any right, title, or interest therein, may, within ten (10) days after receipt of the notice, request a hearing on the necessity of the items and conditions contained in the notice. In the event that a public hearing is requested, it shall be held by the Commission upon thirty (30) days' written notice being mailed to all persons of record with any right, title, or interest in the property and to all citizens and organizations which the Commission determines may have an interest in the proceedings. Notice of public hearings shall be as provided on § 340-198.

D. If, after the public hearing, the Commission determines that the corrective actions remain necessary, the Commission may request the Zoning Inspector to ensure that the owner takes corrective action to comply with the final notice within thirty (30) days of receipt of the final notice.

E. Upon failure, neglect, or refusal of the property owner or another responsible person, duly notified, to take corrective action specified in the final notice with the time required, the Commission may request that the Zoning Inspector institute any of the remedies and penalties provided by law for such violations.

§ 340-35. Approval by Commission.

Upon approval of an application, the Historic District Commission shall transmit a report to the administrative official stating the conditions upon which approval was granted and shall cause a historic review certificate to be issued. Final action shall be taken within forty-five (45) days after filing of the request; if not, the application shall be deemed approved, except when an agreement between the Commission and the applicant has been made for an extension of the time limit.

§ 340-36. Disapproval by Commission.

A. Upon disapproval of any application, the Historic District Commission shall forward a written statement containing the reasons therefor to the applicant.

B. Notice of such disapproval and a copy of the written statement shall be transmitted to the appropriate administrative official. Recommendations of changes necessary to make approval possible are to be forwarded to the applicant if indeed such changes are possible. Upon evidence presented to the Commission that such changes have been made, the application will be considered approved.

§ 340-37. Appeal from decisions of Commission.

Any person with standing to do so may appeal a decision or determination by the Historic District Commission to the Board of Zoning Appeals of St. Michaels pursuant to Article XII of this Chapter.

§ 340-38. Enforcement.

Enforcement and penalties under this Article shall be as specified in § 340-120 of this Chapter.

Article VI. Floating Zone Districts.

§ 340-39. GA Growth Allocation Floating Zone District.

A. The Growth Allocation District GA is a floating zone district that provides for changing the land management classification of Resource Conservation Areas (RCAs) and Limited Development Areas (LDAs) in the Critical Area Overlay District.

B. Growth Allocation acreage and deduction.

(1) Growth Allocation available to St. Michaels includes:

(a) An area equal to five percent (5%) of the RCA acreage located within St. Michaels and;

(b) Growth Allocation available to St. Michaels as provided for by Talbot County.

(2) St. Michaels' original Growth Allocation acreage is 5.8 acres. St. Michaels' current Growth Allocation acreage remaining is 245 acres, as of the date of adoption of this Chapter.

(3) St. Michaels shall deduct acreage from its Growth Allocation reserves in accordance with COMAR 27.01.02.06-4.

C. Requirements.

When locating new IDAs or LDAs, the following requirements apply:

(1) Except as provided in D below, a new IDA shall be at least 20 acres.

(2) No more than one-half (1/2) of St. Michaels' Growth Allocation may be located in RCAs except as provided in Subsection (3) below.

(3) If St. Michaels is unable to utilize a portion of its Growth Allocation as set out in Subsection (2) above, then that portion of the Growth Allocation which cannot be so located may be located in the RCAs if the Growth Allocation is consistent with the St. Michaels Comprehensive Plan, as per Natural Resource Article 8-1808.1.

(4) The Town Commissioners recognize that the Town may not be able to meet the twenty (20) acre size threshold set forth in subsection (1) above or locate a new IDA as set forth in D(1). If the Town is unable to satisfy any or all of the minimum size and location criteria, the Town may utilize a portion of its growth allocation in a manner that varies from subsections (1) and D(1), provided that the area receiving growth allocation meets the following standards:

(a) Any development will be serviced by public water and sewer;

(b) The area is located in a Priority Funding Area;

(c) The development is consistent with the St, Michaels Comprehensive Plan; and

(d) The development will have an overall economic benefit to the community, or implements a specific goal, objective, or policy of the St. Michaels Comprehensive Plan.

D. Standards.

When locating new IDAs or LDAs, the following standards shall apply:

(1) A new IDA shall only be located in an LDA or adjacent to an existing IDA.

(2) A new LDA shall only be located adjacent to an existing LDA or an IDA.

(3) A new LDA or IDA shall be located in a manner that minimizes impacts to HPA as defined herein and in COMAR 27.01.09 and in an area and manner that optimizes benefits to water quality;

(4) A new IDAs shall only be located where they minimize their impacts to the defined land uses of the RCA;

(5) A new IDA or an LDA in an RCA shall be located at least 300 feet beyond the landward edge of tidal wetlands or tidal waters; and

(6) New Intensely Developed or LDAs to be located in RCAs shall conform to all criteria of St. Michaels for such areas, shall be so designated on the St.

Michaels Critical Area Maps and shall constitute an amendment to this Chapter subject to review and approval by the St. Michaels Planning Commission, the Town Commissioners, and the Critical Area Commission as provided herein.

F. Additional Factors.

In reviewing map amendments or refinements involving the use of Growth Allocation, St. Michaels shall consider the following factors:

(1) Consistency with St. Michaels Comprehensive Plan and whether the Growth Allocation would implement the goals and objectives of the adopted plan.

(2) For a map amendment or refinement involving a new LDA, whether the development is:

(a) To be served by a public wastewater system or septic system that uses the best available nitrogen removal technology;

(b) Completion of an existing subdivision;

(c) An expansion of an existing business; or

(d) To be clustered.

(3) For a map amendment or refinement involving a new IDA, whether the development is:

(a) To be served by a public wastewater system;

(b) If greater than 20 acres, to be located in a designated Priority Funding Area; and

(c) To have a demonstrable economic benefit.

(4) The use of existing public infrastructure, where practical;

(5) Consistency with State and regional environmental protection policies concerning the protection of threatened and endangered species and species in need of conservation that may be located on- or off-site;

(6) Impacts on a priority preservation area;

(7) Environmental impacts associated with wastewater and stormwater management practices and wastewater and stormwater discharges to tidal waters, tidal wetlands, and tributary streams; and

(8) Environmental impacts associated with a location in a coastal hazard area or an increased risk of severe flooding attributable to the proposed development.

G. Application.

(1) An application for the Growth Allocation Floating Zone shall include the following submissions:

(a) The subdivision history of parcels designated as RCA. The date of December 1, 1985, is the date used for the original Critical Area mapping and shall be used as a beginning point of analysis;

(b) Concept Plan, as provided in (2) below.

(d) Information required by COMAR 27.01.02.06-1;

(e) Environmental report as per COMAR 27.01.02.06-2; and

(f) Such other information and documentation as the Planning Commission or the Town Commissioners may require.

(g) Ten (10) copies of the application for the GA Growth Allocation Floating Zone and all required submissions submitted to the Town Commissioners.

(2) Concept Plans. Unless waived by the Planning Commission at the request of the applicant, Concept plans accompanying applications for the GA Growth Allocation Floating Zone shall include the following information.

(a) Boundary Survey, including identification of adjacent property owners;

(b) Existing condition, including:

[1] Topographic survey (minimum 1' contour interval);

[2] Soils;

[3] Forested areas and tree lines;

[4] Wetlands, wetland buffers, floodplain, hydric soils, streams, and water features;

[5] Habitat protection areas;

[6] Steep slopes;

[7] Easements and deed restrictions;

[8] Roads, driveways, and right-of-ways;

[9] Existing buildings;

[10] General location of storm surge boundaries for all categories of storm events; and

[11] Existing land uses.

(c) Proposed open space, protected areas, and public and private parks;

(d) Pedestrian and vehicular circulation plan showing the dominant street configuration and pedestrian walking and biking alignments;

(e) A detailed plan of at least one (1) phase, showing all applicable features:

[1] Road alignments;

[2] Lot configuration;

[3] Commercial area plan, if applicable;

[4] Public and private open space(s);

[5] Perspective streetscape (typical for represented phase);

[6] Examples of proposed residential and commercial architecture;

[7] Plan view, perspective, and elevations of private and public community facilities; and

[8] Plan view, perspective, and elevations of entrances, including gateway improvements, if applicable.

(3) Phasing plan, including:

(a) The general boundaries or location of each phase. Although the Phasing Plan shall include the information required by [2] and [3] below (in a narrative, tabular, or graphical form), it is not required to depict the location of the land uses, densities or public facilities within each phase.

(b) The phase(s) in which the project will be developed, indicating the approximate land area, uses, densities, and public facilities to be developed during each phase.

(c) If different land use types are to be included, the Master Development Plan shall include the approximate mix of uses anticipated to be built in each phase.

(4) Studies and reports by qualified professionals:

(a) A traffic study that evaluates traffic impacts on proposed entrances on existing public (state, county, and town) roads and major existing intersections that may be impacted by traffic generated by the proposed project;

(b) Nontidal wetlands delineation;

(c) Habitat protection areas study prepared by qualified professionals; and

(d) A concept plan indicating how stormwater will be managed on the site.

H. Planning Commission Review and Recommendation – Floating Zone Amendment and Concept Plan.

(1) The Planning Commission shall review the floating zone amendment request and Concept Plan for compliance with the requirements of this Chapter and consistency with the Comprehensive Plan.

(2) The Planning Commission shall evaluate the degree to which the proposed floating zone request and Concept Plan furthers the goals and objectives of the St. Michaels Comprehensive Plan.

(3) The Planning Commission may make reasonable recommendations to the applicant regarding changes to the Concept Plan proposal, which, in the judgment of the Planning Commission, shall cause the proposal to better conform to the requirements of the St. Michaels Comprehensive Plan and this Chapter. The applicant may resubmit the Concept Plan to the Planning Commission in light of the Planning Commission's comments.

(4) After a public hearing, the Planning Commission shall consider and comment on the findings required of the Town Commissioners, as outlined in

I(2), herein, and shall make a favorable or negative recommendation to the Commissioners.

(6) Within ninety (90) days after the Planning Commission begins its public hearing, or within such extension of time to which the applicant may agree, the Planning Commission shall then make its final recommendation, and after that forward the application and recommendation to the Town Commissioners for their review and consideration of approval.

I. Commissioners Approval of Floating Zone and Concept Plan.

(1) The Town Commissioners shall review the Concept Plan and other documents, together with such comments and recommendations as may have been offered by the Planning Commission.

(2) After a public hearing, the Commissioners may approve or disapprove the proposed floating zone map amendment and associated Concept Plan and shall follow the procedures outlined in Article XVIII of this Chapter. In approving floating zone map amendment, the Commissioners shall make findings of fact, including, but not limited to the following matters: population change, availability of public facilities, present and future transportation patterns, compatibility with existing and proposed development for the areas, and the relationship of the proposed amendment to the Comprehensive Plan. In considering an application for an award of the growth allocation, the Town Commissioners shall make findings of fact about the proposed development of the land for which the award of growth allocation is sought, including but not limited to the following matters:

(a) Change in the Town's population;

(b) Availability of public facilities;

(c) Effect on present and future transportation patterns;

(d) Compatibility with existing and proposed development for the area;

(e) The recommendation of the Planning Commission; and

(f) Consistency with the Town's Comprehensive Plan, including recommendations concerning:

[1] Policies;

[2] Timing of the implementation of the plan;

[3] Timing of development;

[4] Timing of rezoning;

[5] Development patterns;

[6] Land uses; and

[7] Densities or intensities

(3) The Town Commission may approve, but shall not be required to approve the Growth Allocation Floating Zone map amendment based upon a finding that all criteria for approval will be satisfied.

(4) When a Planned Development is to be constructed in phases, applications for a federal, state or Town permit for construction of that particular phase shall not be filed until preliminary plat(s) or site plan(s) are submitted to the Planning Commission.

(5) The Town Commissioners may establish conditions of approval, including a time limit for completion of the proposed project.

(6) After the Town Commissioners approve an amendment, they shall forward their decision and applicable resolutions along with the amendment request to the Critical Area Commission for final approval.

J. Additional Required Procedures.

(1) The administrative procedures for approval of a site plan for property located within the GA Floating Zone District are set forth in Chapter 110 of the Code of St. Michaels. Site plans shall conform to the approved Concept Plan.

(2) The administrative procedures for approval of a subdivision located within the GA Floating Zone District shall be those of the Town's Subdivision Regulations, set forth in the Town Code. Final subdivision plats shall conform to the approved Concept Plan.

(3) Any development, site plan or subdivision approval for land in a GA Floating Zone District shall be consistent with the specific Concept plan applicable to the property, as approved or amended by the Town Commissioners.

K. Amendment of Concept Plan. The procedure for amendment of an approved Concept Plan shall be as provided in subsection P, except that minor amendments of a Concept Plan may be approved by the Planning Commission at a regular meeting. The phrase "minor amendments" includes, but is not limited to, changes to: the location, number or types of uses, subject to guideline (3), below; internal road locations or configurations; the number, type or location of dwelling units, subject to guideline (5) below; and the location of public amenities, services, or utilities. The Planning Commission may only approve minor amendments that increase residential density or intensify nonresidential uses if the amendments provide for the enhancement of the architectural design and landscaping of the area subject to the amendment. Any amendment of an approved Concept Plan that adversely impacts upon the delivery or the Town's cost of public utilities, public services, public infrastructure, or otherwise adversely affects amenities available to the public, or the public health and safety shall not be considered a minor amendment. Using the guidelines set forth below, the Planning Commission shall determine whether the proposed amendment is a "minor amendment. In addition to the preceding, an amendment shall be deemed a "minor amendment," provided that such amendment:

(1) Does not conflict with the applicable purposes and land use standards of this Chapter;

(2) Does not prevent reasonable access by emergency vehicle access or deprive adjacent properties of adequate light and airflow;

(3) Does not significantly change the general character of the land uses of the approved Concept Plan;

(4) Does not result in any substantial change of major external access points;

(5) Does not increase the total approved number of dwelling units or height of buildings; and

(6) Does not decrease the minimum specified setbacks, open space area, or minimum or maximum specified parking and loading spaces.

L. Conflict with other Articles. Provisions of the GA Growth Allocation Floating Zone, when found to conflict with other provisions of this Chapter, shall supersede those other provisions with which they conflict. Provisions of the GA Growth Allocation Floating Zone, when found to conflict with provisions of the St. Michaels Subdivision Code, shall supersede those provisions with which they conflict.

M. A Planned Development District shall be considered to be a "floating zone," and, under the laws of the State of Maryland, these districts are analogous to special exceptions. The criteria for each Planned Development district shall be as set forth in the Town of St. Michaels Code and shall be the basis for approval or denial by the Commissioners of St. Michaels without the necessity of showing a mistake in the original zoning or a change in the neighborhood.

N. Conditions of approval.

(1) Approval of the Growth Allocation Floating Zone map amendment shall be limited to a project, or phase(s) of a project, that can be completed within two (2) years after approval of the project or phase(s) of a project, unless the Town Commissioners, in their sole discretion:

(a) Specify in their written decision to approve a Growth Allocation Floating Zone map amendment for a longer period of time after approval within which the project or phase(s) is required to be completed; or

(b) Impose conditions for progress of the approved project or phase(s) thereof that will automatically allow the Growth Allocation Floating Zone map amendment granted for such project or phase(s) thereof to continue in effect indefinitely, provided that such conditions are met.

(2) If, upon the expiration of two (2) years, or upon the expiration of such longer period of time as may have been specified upon approval of a Growth Allocation Floating Zone map amendment, or upon the failure of such condition that may have been imposed, the project is not completed, approval of a Growth Allocation Floating Zone map amendment for the project or area of the project that remains incomplete shall be automatically revoked, unless before such automatic revocation the owner of the project requests and is granted an extension in writing.

(a) The filing of such written request for extension of time to complete the project shall automatically extend such time for the shorter period of one hundred eighty (180) days following the original expiration date of the award of growth allocation, or until the Town Commissioners issue a written denial of the request for extension of time, which denial may be issued upon a vote thereon at a public meeting, without a hearing.

(b) Before the expiration of the time within which the project is otherwise required to be completed, as such time may have been automatically

extended in accord with Subsection (2), the Town Commissioners, upon such timely written request for extension, in their sole discretion, may by public vote grant an extension of the time limit within which the project is required to be completed.

(c) For the purpose of this Subsection (2), a project or phase(s) thereof shall be considered completed when the construction or installation of all improvements relating to governmental infrastructure (including roads, curbs, sidewalks, streetlights, water supply facilities, stormwater management, and sewage collection facilities) and public utility infrastructure (including electricity distribution facilities, and telephone, cable television and internet communication facilities), as required by or pursuant to applicable law or governmental regulation, have been completed to each lot or proposed use in the project or phase(s) thereof. The Town Commissioners shall have the sole power to determine whether a project or a phase is "completed," as that term is defined in this subsection.

(3) If a subdivision plat or site plan for a project or phase(s) thereof, for which a Growth Allocation Floating Zone map amendment has been approved, is not approved within eighteen (18) months after the date on which the Growth Allocation Floating Zone map amendment was approved thereof, then the Growth Allocation Floating Zone map amendment for such project or phase(s) thereof shall be automatically revoked, and the growth allocation acres returned to the Town's allotment. For this subsection, a project shall be considered "approved" when all governmental permits and approvals that are required by all applicable land use laws and regulations have been issued for such project or phase(s).

O. Growth Allocation Deduction. Calculation of the amount of growth allocation to be deducted from the Town total shall be approved in COMAR 27.01.02.06-4.

P. Applications for a Growth Allocation Floating Zone map amendment.

(1) Conditions for filing a Growth Allocation Floating Zone map amendment application. Except as provided for subsection K, no application to amend an approved Growth Allocation Floating Zone map amendment (hereafter "growth allocation amendment application") shall be submitted to or accepted or considered by the Town unless each of the following conditions is satisfied:

(a) The growth allocation amendment application shall relate to an approved growth allocation.

(b) The person submitting a growth allocation amendment application (the "applicant") shall be the current legal or equitable owner of the land that is the subject of the approved growth allocation.

(c) The approved Growth Allocation Floating Zone map amendment to which the growth allocation amendment application relates shall not have been rendered invalid by a final judicial decision.

(d) The growth allocation amendment application shall be based on a concept plan that, as compared to the concept plan approved in conjunction with the approved growth allocation (the "approved concept plan"):

[1] Does not materially change the location or the area of the land included in the approved concept plan;

[2] Does not increase the maximum number of dwelling units included in the approved concept plan;

[3] Does not increase the average number of dwelling units per acre on the land that is included in the approved concept plan;

[4] Does not increase the maximum land area to be devoted to commercial uses included in the approved concept plan;

[5] Does not increase the maximum interior floor space to be devoted to commercial uses included in the approved concept plan;

[6] Does not reduce the combined width of the tidal and nontidal buffer, tributary stream buffer, and setback areas included in the approved concept plan at any point, extending landward from the mean high water line, or the landward edge of tidal wetlands, whichever is more landward;

[7] Does not reduce the combined area of the tidal and nontidal wetland buffer and setback areas included in the approved concept plan;

[8] Does not change the nature or increase the extent of any structures within the tidal or nontidal wetland buffer,

tributary stream buffer, or setback areas included in the approved concept plan;

[9] Does not reduce the land area to be devoted to open space included in the approved concept plan;

[10] Does not impact the habitat protection areas as identified in the approved concept plan; and

[11] Does not alter or adversely affect any condition imposed by the Critical Area Commission relating to the approved concept plan.

(e) The growth allocation amendment application does not seek to change a finding of fact, a conclusion, or a condition in the decision of the Town Commissioners relating to the approved Growth Allocation Floating Zone map amendment unless there is a change in the concept plan, site conditions or other facts or circumstances in the record of the growth allocation amendment application process sufficient to justify such a change.

(2) Filing the growth allocation amendment application.

(a) A growth allocation amendment application shall be submitted to the Town Commissioners in writing, in such form as the Town Commissioners may approve, with at least ten (10) copies thereof, shall be signed under oath or affirmation as to the truth of its contents by the applicant, and shall include the following supporting information:

[1] Identification of all applicants by name, address and telephone number and, if represented by legal counsel, the name, address and telephone number of legal counsel;

[2] Identification of all land which is the subject of the growth allocation amendment application by street address, Tax Map and parcel numbers, and deed reference;

[3] The written findings of fact and decision of the Town Commissioners, and the Critical Area Commission, if the approved growth allocation was acted on by the Critical Area Commission or the Chair of the Critical Area Commission, relating to the approved growth allocation, which purports to

approve the approved growth allocation, address whether and how the criteria for the award of growth allocation are satisfied, state the grounds for approval, and state the conditions upon which approval was granted.

[4] A complete concept plan depicting the subject land and the development sought by the growth allocation amendment application, drawn to the same scale, in the same manner as, and containing the same information as the concept plan as approved in conjunction with the approved growth allocation, to facilitate visual identification and comparison of the differences between concept plan for the approved growth allocation with the concept plan for the development sought by the growth allocation amendment application. The concept plan submitted to the Town as part of the growth allocation amendment application shall not after that be changed by the applicant except as requested by the Town Commissioners or with the express permission of the Town Commissioners. Any change in the concept plan may result in a delay of the proceedings to give other interested parties ample time to review and comment on the change.

[5] A written explanation of each amendment to the approved Growth Allocation Floating Zone map amendment (whether to the concept plan, the conditions of the approval, or otherwise) as proposed by the growth allocation amendment application, including what about the approved growth allocation that is sought to be amended by the growth allocation amendment application and, if amended, how the Growth Allocation Floating Zone map amendment as amended (the "amended growth allocation") would differ from the approved Growth Allocation Floating Zone map amendment;

[6] A summary of the evidence upon which the applicant intends to rely in support of the growth allocation amendment application; and

[7] A summary explanation of how the evidence justifies approval by the Town Commissioners of each amendment being sought to the approved Growth Allocation Floating Zone map amendment, including what additions to evidence and/or changes in the applicable laws, regulations and/or rules justify

changes in the findings of fact, conclusions and conditions, as found by the Town Commissioners granting the approved Growth Allocation Floating Zone map amendment, to grant the amendments sought by the growth allocation amendment application.

(b) A growth allocation amendment application shall be accompanied by the filing fee in the amount established by the resolution of the Town Commissioners.

(c) A growth allocation amendment application that is not accompanied by the required filing fee and the required supporting information shall not be accepted for filing by the Town and shall be returned to the applicant with a statement identifying the required, but missing or incomplete material.

(3) Procedures.

(a) After a growth allocation amendment application has been filed, and before the applicant shall be permitted to proceed any further, the applicant shall obtain from the Town Commissioners, after a public hearing of which public notice has been given in accordance with § 340-198:

[1] Consent to proceed with the growth allocation amendment application must first be granted by the affirmative vote of at least a majority of the Town Commissioners based on a finding that acceptance and processing of the growth allocation amendment application may be in the public interest of the citizens of the Town, which consent may be withheld in the sole discretion of the Town Commissioners.

[2] A growth allocation amendment application shall not be permitted where it is solely for the tactical or another advantage of the applicant but may be permitted where, on balance, acceptance, and processing of a growth allocation amendment application may be in the public interest; consent by the Town Commissioners to accept and process a growth allocation amendment application need not hinge on whether:

[a] The time for filing a petition for judicial review relating to the approved growth allocation has expired; or

[b] A petition for judicial review relating to the approved growth allocation has been filed and is pending; or

[c] The Critical Area Commission has completed its processing and rendered its decision relating to the approved Growth Allocation Floating Zone map amendment (and/or any prior amendment thereof); provided, however, that the Town agrees to either withdraw from consideration by the Critical Area Commission and resubmit the pending approved growth allocation (and/or all prior pending amendments thereof) or to grant the Critical Area Commission one or more extensions of time for action on the pending approved growth allocation (and/or all prior pending amendments thereof), such that the Critical Area Commission is not placed in the position of having to simultaneously process and consider two or more separate submissions for growth allocation by the Town relating to the same project in order for the Critical Area Commission to meet the time provisions for processing such applications provided by law.

[3] A written scheduling order must be adopted by at least a majority of the Town Commissioners, which shall be made a part of the record, setting forth the deadline dates by which the applicant, the interveners (as defined among the applicable prehearing procedures then in effect relating to Town quasi-judicial hearings), and other interested parties to the growth allocation amendment application shall comply with the applicable prehearing procedures then in effect relating to Town quasi-judicial hearings, and setting the date of the quasi-judicial hearing.

[4] The Town Commissioners may shorten the times for compliance with the applicable prehearing procedures then in effect relating to Town quasi-judicial hearings, and the time before the scheduled public hearing on the merits of the growth allocation amendment application, based on the apparent lack of complexity of the application and apparent lack of opposition expressed at the hearing held for adopting a scheduling order.

[5] The apparent complexity of the application and/or apparent opposition to the application notwithstanding, the Town Commissioners may shorten the times for compliance with the applicable prehearing procedures then in effect relating to Town quasi-judicial hearings if they find:

[a] The concept plan, upon which the growth allocation was granted, is not proposed to be materially changed;

[b] The proposed amendment does adversely affect water quality or wildlife habitat; and

[c] The proposed amendment does not appear to adversely affect the consistency of the proposed development with the Comprehensive Plan.

(b) After the applicant has obtained the consent and a scheduling order from the Town Commissioners, as required by Subsection P(3)(a)[3], above, the growth allocation amendment application shall be processed according to the rules of prehearing procedures then in effect applicable to quasi-judicial hearings, after which a hearing shall be conducted by the Town Commissioners according to the rules of procedure then in effect applicable to quasi-judicial hearings.

(c) Within a reasonable time after the close of the quasi-judicial hearing and the record relating to the growth allocation amendment application, the Town Commissioners shall render a written decision, including findings of fact, conclusions and any conditions they deem appropriate, based on the evidence in the record and the applicable laws and regulations.

(4) Limited scope of the proceeding. Because a growth allocation amendment application must relate to an approved Growth Allocation Floating Zone map amendment, the processing of a growth allocation amendment application shall not include a rehearing of the same issue or issues that were raised, or reasonably could have been raised, and substantially the same evidence that was or reasonably could have been presented, by an interested person at the public hearing of the Town Commissioners relating to the approved Growth Allocation Floating Zone map amendment unless such issue or evidence:

(a) Relates to a change in the approved Growth Allocation Floating Zone map amendment as proposed by the growth allocation amendment application; and

(b) Is sufficient, either alone or cumulatively when considered with other issues and evidence relating to a proposed change in the approved Growth Allocation Floating Zone map amendment, to either:

[1] Reasonably lead to a different conclusion by the Town Commissioners relating to the applicable criteria necessary to approve the Growth Allocation Floating Zone map amendment as it relates to the growth allocation amendment application; or

[2] Reasonably lead to the addition, deletion, or change in the concept plan or one or more conditions imposed by the Town Commissioners relative to the growth allocation amendment application, as compared to the concept plan and conditions imposed by the Town Commissioners relative to the approved growth allocation.

(5) Acceptance of amendment by applicant.

(a) The written decision of the Town Commissioners on the growth allocation amendment application, including all conditions of approval, if any, shall be promptly mailed or hand-delivered by the Town Manager to the applicant.

(b) If the growth allocation amendment application is approved by the Town Commissioners, without alterations or conditions other than or in addition to those requested by the applicant, then the growth allocation amendment application shall become effective immediately, subject to Subsection G(6), and all inconsistencies therewith in any previously existing growth allocation approval shall be rendered immediately void and of no effect.

(c) If the growth allocation amendment application is approved by the Town Commissioners with alterations or conditions other than those requested by the applicant, then the decision of the Town Commissioners shall stay for thirty (30) days from the date on which it was mailed or hand-delivered to the applicant by the Town Manager, and that decision shall take effect automatically, subject to Subsection G(6), at the end of that thirty-day period unless either:

[1] A written notice of rejection by the applicant is delivered to the Town Manager within the said thirty-day period, at which time the decision of the Town Commissioners on the growth allocation amendment application shall be rendered void as if it had never existed; or

[2] A written notice of unconditional acceptance by the applicant is delivered to the Town Manager within said thirty-day period, at which time the decision of the Town Commissioners on the growth allocation amendment application shall become effective immediately, and all inconsistencies therewith in any previously existing growth allocation approval shall be rendered immediately void and of no effect. Any acceptance other than unconditional shall be tantamount to rejection.

(6) Critical Area Commission. Upon approval of a growth allocation amendment application by the Town Commissioners, and upon acceptance of such approval of such growth allocation amendment by the applicant as provided above, the Town shall promptly notify the Critical Area Commission of such approval, and shall provide to the Critical Area Commission a copy of the written decision on the growth allocation amendment application by the Town Commissioners and so much of the Town's record relating thereto as the Town deems appropriate and/or the Critical Area Commission requests for the Critical Area Commission to take such action thereon, if any, as the Commission or the Chair of the Commission deems appropriate under the circumstances pursuant to the applicable provisions of Maryland Code, Natural Resources Article, Title 8 (Waters), Subtitle 18 (Chesapeake Bay Critical Area Protection Program), and the Code of Maryland Regulations, Title 27 (Critical Area Commission for the Chesapeake and Atlantic Coastal Bays), as amended from time to time.

(7) Enactment of an ordinance to effect final approval of a growth allocation amendment application. Upon completion of the required procedures and approval of a growth allocation amendment application by the Town Commissioners, and upon the approval of the Critical Area Commission, if any is required, the Town Commissioners shall, without further procedures except those required by the Town Charter, enact an ordinance to effect the change in land management classification and map amendment relating to the approved growth allocation amendment application, and/or the amendments to the concept plan and/or conditions relating thereto, in accordance with all terms and conditions of such approval, within one

hundred twenty (120) days of receiving notice of such approval or lack of necessity to take action by the Critical Area Commission.

§ 340-40. PR Planned Redevelopment Floating Zone District.

A. General.

(1) The PR Planned Redevelopment district is floating zone, which means that while provisions and regulations are made to govern any development within a PR Planned Redevelopment district, no such district will be pre-mapped on the Official Zoning Map.

(2) The PR Planned Redevelopment district floating zone amendment process permits specific and detailed mapping of areas for the permitted infill and redevelopment projects deemed consistent with the intent of the Comprehensive Plan and the floating zone district.

B. Development standards. Development within the PR Planned Redevelopment District shall meet the following requirements:

(1) The area proposed for PR Planning Redevelopment Floating Zone District shall be contiguous and at least 20,000 square feet in size, unless the proposed PR Overlay District is an extension of an existing PR Overlay District.

(2) The area proposed for a planned redevelopment shall be in one ownership, or if in several ownerships, the proposal shall be filed jointly by all the owners of the property included in the development plan.

(3) The site shall be of a configuration suitable for the development proposed.

(4) Public water and sewerage shall be available.

(5) The site shall be located adjacent to adequate transportation facilities capable of serving existing traffic and that expected to be generated by the proposed development.

(6) The owners or developers must indicate that they plan to begin construction of the development within one (1) year after final site plan or subdivision approval. If there is no substantial action on the part of the applicant at any point in the process for a period of one (1) year, the planned redevelopment application shall be null and void. In that event, it will be necessary to begin the PR review process over from the beginning in order to develop in accordance with such provisions unless a time an extension is granted by the Planning Commission.

(7) Density. The maximum allowable density in a planned redevelopment project shall be no more than ten (10) dwelling units per acre.

(8) Permitted Uses. In a planned redevelopment, single-family detached, duplex, and multifamily dwelling units are permitted, along with whatever uses are permitted in the underlying zone.

(9) Adequate common open space shall be provided for new infill development projects. Such space shall include a land developed as recreational areas or designated for the common use of all occupants of the planned redevelopment but shall not include streets, off-street parking areas, or incidental landscaping within off-street parking areas.

(10) For new infill development projects, the setback lot size, maximum lot coverage (structures and impervious), height, yard, and open space requirements shall be established for each project by the Planning Commission. In determining these requirements, the Planning Commission shall consider such factors as the proposed intensity of the project and the existing character of the neighborhood.

C. Procedure PR Planned Redevelopment Approval.

(1) Application. Application for a PR Planned Redevelopment floating zone amendment shall be made to the Commissioners of St. Michaels. Applications shall include:

(a) A written petition for the location of a PR Planned Redevelopment District and a Concept Master Plan, signed by the owners, and contract purchasers, if any, of the property that is the subject of the petition.

(b) A narrative describing the following:

[1] Statement of present and proposed ownership of all land within the district;

[2] A statement of how the proposed redevelopment concept corresponds to and complies with the goals and objectives of this Chapter and the St. Michaels Comprehensive Plan;

[3] Method of providing sewer and water service and other utilities, such as, but not limited to, telephone, gas, and electric services;

[4] Description of stormwater management concepts to be applied;

[5] Method of and responsibility for maintenance of applicable open areas, private streets, recreational amenities, and parking areas; and

[6] General description of architectural and landscape elements, including graphic representations, A statement of how the proposed design meets or exceeds the compatibility standards outlined in Article XVII.

(c) A Concept Master Plan including graphic and tabular summaries that depict the following, as applicable:

[1] Boundary survey of the area subject to the application;

[2] The total acreage of subject property and identification of all adjoining landowners;

[3] Description of proposed land uses;

[4] Maximum number of dwelling units, approximate densities of residential areas and anticipated population;

[5] Land area and locations generally allocated to each proposed use;

[6] Location of proposed roads, public open space, any sensitive resource areas (environmental or cultural), and public facilities; and

[7] Maximum non-residential floor area proposed.

(d) Detailed plans showing:

[1] Perspective streetscape (typical for represented phase);

[2] Proposed building architecture; and

[3] Plan view, perspective, and elevations of private and/or public community facilities if applicable.

[4] Site design standards, including permitted uses, building types, frontage, setbacks, and lot sizes, building heights, parking,

street widths and cross-sections, sidewalks, lighting, and road geometry.

[5] Building standards including size and orientation, building facades, regulated architectural elements (windows, trim, etc.), rooflines, architectural styles, fencing, parking, and signage.

[6] Landscape, buffer, and environmental standards, including location, scope, and materials.

(e) If applicable a management statement regarding the anticipated ownership, construction, operation, and maintenance of:

[1] Sanitary and storm sewers, water mains, culverts, and other underground structures;

[2] Streets, road, alleys, driveways, curb cuts, entrances and exits, parking and loading areas, and outdoor lighting systems; and

[3] Parks, walking paths, cycleways, playgrounds, and common open spaces.

(4) The Town Commissioners or Planning Commission may require whatever additional information, studies, or reports it deems necessary to analyze the application.

D. Referral of Application to Planning Commission. Upon submission to the Commissioners of a completed Application for a PR Planned Redevelopment floating zoning amendment and a Concept Master Plan, the Commissioners shall refer said Application and Concept Master Plan to the Planning Commission for its review and recommendations. The referral shall authorize the Planning Commission, the Town staff, and any consultants or professionals on behalf of the Planning Commission or the Town to analyze said Application and Concept Master Plan, per all applicable review processes and procedures. The Planning Commission or the Commissioners may require the cost of any analysis or consultant or professional be paid for by the applicant.

E. Planning Commission Review and Recommendation – Floating Zone Amendment and Concept Master Plan.

(1) The Planning Commission shall review the floating zone amendment request and Concept Master Plan for compliance with the requirements of this Chapter and consistency with the Comprehensive Plan.

(2) The Planning Commission shall evaluate the degree to which the proposed floating zone request and Concept Master Plan incorporate and/or address the compatibility standards outlined in Article XVII and further the goals and objectives of the St. Michaels Comprehensive Plan.

(3) The Planning Commission may make reasonable recommendations to the applicant regarding changes to the Concept Master Plan proposal, which, in the judgment of the Planning Commission, shall cause the project to better conform to the requirements of the St. Michaels Comprehensive Plan., the compatibility standards outlined in Article XVII, and the goals and objectives of this Chapter. The applicant may resubmit the Concept Master Plan to the Planning Commission in light of the Planning Commission's comments.

(4) After a public hearing, the Planning Commission shall consider and comment on the findings required of the Town Commissioners, as outlined in F (2), herein, and shall make a favorable or unfavorable recommendation to the Town Commissioners.

(5) The Planning Commission shall forward the Concept Master Plan, with any revisions, together with written comments and recommendations, and its floating zone comments, to the Town Commissioners for action according to the floating zone and Concept Master Plan approval process.

F. Town Commissioners Approval of Floating Zone and Concept Master Plan.

(1) The Town Commissioners shall review the Concept Master Plan and other documents, together with such comments and recommendations as may have been offered by the Planning Commission.

(2) After a public hearing, the Town Commissioners may approve or disapprove the proposed floating zone map amendment and associated Concept Master Plan and shall follow the procedures set forth in Article XIX of this Chapter. In approving PR Planned Redevelopment floating zone map amendment, the Town Commissioners shall make findings of fact, including, but not limited to the following matters: population change, availability of public facilities, present and future transportation patterns, compatibility with existing and proposed development for the areas, and the relationship of the proposed amendment to the Comprehensive Plan. The Town Commissioners may approve the Planned Redevelopment Floating Zone District map amendment if it finds that the proposed floating zone amendment is:

(a) consistent with the St. Michaels Comprehensive Plan;

(b) consistent with the stated purposes and intent of the PR Planned Redevelopment District;

(c) complies with the requirements of this Chapter, and

(d) is compatible with adjoining land uses.

3. As part of the final Concept Master Plan approval, the Town Commissioners shall approve a date for the initiation of the proposed development.

G. Additional Required Procedures.

(1) The administrative procedures for approval of a site plan for property located within the PR Planned Redevelopment District are outlined in Chapter 110 of the Code of St. Michaels. Site plans shall conform to the approved Concept Master Plan, including the Concept Master Plan design standards.

(2) The administrative procedures for approval of a subdivision located within the PR Planned Redevelopment District are outlined in Chapter 290 of the Code of St. Michaels Final subdivision plats shall conform to the approved Concept Master Plan.

(3) Any development, site plan or subdivision approval for land in a PR Planned Redevelopment District shall be consistent with the specific Concept Master Plan applicable to the property, as approved or amended by the Town Commissioners.

H. Amendment of Concept Master Plan. The procedure for the amendment of an approved Concept Master Plan shall be the same as for a new application. The Planning Commission may approve minor modifications to a Concept Master Plan at a regular meeting using the guidelines set forth below to determine whether the proposed amendment is a "minor amendment.

(1) Does not conflict with the applicable purposes and land use standards of this Chapter;

(2) Does not prevent reasonable access for emergency vehicle access or deprive adjacent properties of adequate light and airflow;

(3) Does not significantly change the general character of the land uses of the approved Concept Master Plan;

(4) Does not result in any substantial change of major external access points;

(5) Does not increase the total number of dwelling units or height of buildings; and

(6) Does not decrease the minimum specified setbacks, open space area, or minimum or maximum specified parking and loading spaces.

I. Conflict with other Articles. Provisions of the PR Planned Redevelopment Floating Zone, when found to conflict with other provisions of this Chapter, shall supersede those other provisions with which they conflict. Provisions of the PR Planned Redevelopment floating zone, when found to conflict with requirements of Chapter 290, shall supersede those provisions with which they conflict.

L. The change/mistake rule.

(1) The "change/mistake" rule as codified in Maryland Annotated Code, Land Use Article § 4-204(b)(2), does not apply to a PR Planned Redevelopment Floating Zone map amendment applications.

(2) The Town Commissioners shall have the authority to impose conditions upon the grant of PR Planned Redevelopment Floating Zone Map amendment application and may require the recordation of covenants and restrictions, in a form approved by the Town Attorney, to assure compliance with said conditions or with any of the provisions of the Code.

(3) If the Town Commissioners fail to enact an ordinance granting the PR Planned Redevelopment Floating Zone application, no application for a PR Planned Redevelopment Floating Zone Map amendment will be accepted for filing by the Town for a period of one (1) year after the date of the Town Commissioners' decision or the date of finality of any judicial review of the Town Commissioners' decision, whichever is later.

§ 340-41. Reserved.

§ 340-42. Reserved.

Article VII. Permitted Uses.

§ 340-43. Use Categories.

This section establishes and describes the use categorization system used to classify principal uses in this Chapter.

A. Use categories.

This Chapter classifies principal land uses into groupings. These major groupings are referred to as "use categories." The use categories are as follows:

(1) Agricultural

(2) Residential

(3) Public, Civic and Institutional

(4) Commercial

(5) Wholesale, Distribution and Storage

(6) Industrial

(7) Accessory

(8) Other

B. Use subcategories.

Each use category is further divided into more specific "subcategories." Use subcategories classify principal land uses and activities based on the common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions.

C. Specific use types.

Some use subcategories are further broken down to identify specific types of uses that are regulated in a different way than the subcategory as a whole. For example, the commercial category is broken down into several subcategories as the distinction between personal services compared to marine services is apparent when one considers the difference between the product and physical characteristics.

D. Determination of use categories and subcategories.

(1) The Zoning Inspector is authorized to classify land uses based on the use category, subcategory, and specific use type descriptions of this Chapter.

(2) In the event the Zoning Inspector is unable to classify uses on the basis of the use category, subcategory and specific use type descriptions of this Chapter and where such use is not specifically prohibited from the district the Zoning Inspector shall submit to the Board of Appeals a written request for a determination of the unclassified use in accordance with§ 340-133.

§ 340-44. Agricultural Use Category.

This category includes uses such as gardens, farms, and orchards that involve the raising and harvesting of food and non-food crops and commercial raising of poultry or livestock. This category includes routine accessory packaging, storage or light processing of crops or wood products and sale of seeds, fertilizer, and similar agricultural needs on-site. The category also includes harvesting and processing of seafood. This category does not include a slaughterhouse or meatpacking facility, which are categorized as industrial.

A. Agriculture, animal production - The principal or accessory use of land for the keeping or raising of farm animals, including poultry, horses, cows, and swine.

B. Agriculture, crop production - The use of land for growing, raising, or marketing of plants to produce food, feed, or fiber commodities or non-food crops. Examples of crop agriculture include cultivation and tillage of the soil and growing and harvesting of agricultural or horticultural commodities. Crop agriculture does not include community gardens or the raising or keeping of farm animals.

C. Agriculture, buildings, and structures – This category includes all buildings and structures associated with agriculture uses as opposed to the activities associated with crop or animal production, e.g., grain storage as a principal use.

D. Indoor plant cultivation - A building or structure and the associated premises used to grow plants under roof, which may include accessory storage and processing of plants grown on-premises. Included in this category are greenhouses and hydroponic facilities.

E. Plant nursery - Buildings, structures, and uses associated with plant propagation, grown to usable size. This category includes retail nurseries that sell to the general public, wholesale nurseries that sell only to businesses such as other nurseries and commercial gardeners, and private nurseries that supply the needs of institutions or private estates.

G. Fisheries Activities, Aquaculture - Buildings, structures, and uses associated with the rearing of aquatic animals or the cultivation of aquatic plants for food.

H. Farm to table activities - This category includes temporary retail uses, including roadside produce stands and farmers markets.

I. Forestry – Activities related to harvesting, thinning, and other management practices associated with commercial timber harvesting.

J. Commercial stables – Facilities for the housing of horses or other equines operated for remuneration. This category includes activities associated with the commercial hiring out of horses or ponies or instruction in riding as well as the care, breeding, boarding, rental, riding or training of equines and other farm animals or the teaching of equestrian skills.

§ 340-45. Residential Use Category.

A. Household Living.

Residential occupancy of a dwelling unit by a household. When dwelling units are rented, the tenancy is arranged on a month-to-month or longer basis. Uses where tenancy may be arranged for a shorter period are not considered residential; they are considered a form of lodging. The following are household living specific use types:

(1) Dwellings, Single-family detached - A detached structure, designed for or used only as one dwelling unit. A single-family detached house is a principal residential building occupied by one dwelling unit located on a single lot with private yards on all sides. Detached houses are not attached to and do not abut other dwelling units.

(2) Duplex - A detached structure designed for and/or used only as two dwelling units. The dwelling units of a duplex may exist side by side or one above the other.

(3) Townhouse - A structure consisting of three or more dwelling units, the interior of which is configured in a manner such that the dwelling units are separated by separated from one another by one or more common walls without doors, windows, or other means of passage or visibility through such common. A townhouse is typically designed so that each unit has a separate exterior entrance and yard area. Each dwelling unit may be situated on a separate and well-defined lot or parcel of land intended for separate ownership. A townhouse dwelling does not include a multi-family dwelling.

(4) Multi-Family - A multi-family building is a residential building that is occupied by three (3) or more dwelling units that share common walls and/or common floors/ceilings. Structures are located either on one or more lots, and which dwelling units are owned either in common by the same owner or by separate

owners, used or intended to be used for occupancy by the owners and/or tenants and including, but not limited to, apartment buildings and condominiums. Two or more multifamily dwellings on a single property are known as a multifamily residential complex.

(5) Accessory Dwelling Unit – A smaller, independent residential dwelling unit located on the same lot as a stand-alone (i.e., detached) single-family home. Accessory dwelling units may be contained within the structure of a single-family unit or a commercial structure, be a separate stand-alone structure, or be located in a separate accessory structure.

(6) Manufactured Housing Unit - A manufactured housing unit is a residential building that complies with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. §§5401, et seq.).

(7) Mixed-use building, residential - A building that contains one or more residential units located above the first floor.

(8) Mobile Home - A detached residential or business unit containing not less than five hundred (500) square feet of gross livable floor area in the original manufactured unit, designed and intended for repeated or periodic transportation in one or more sections on the highway on a chassis which is permanent or designed to be permanent and arriving at the site where it is to be occupied, complete and ready for occupancy except for minor and incidental unpacking and assembly of sections, location on jacks or other foundations, connection to utilities and the like. Units commonly known as a "double-wide" and any unit classified as a "mobile home" by an applicable financing or construction standard, including, without limitation, the United States Department of Housing and Urban Development regulations, State Department of Economic and Community Development regulations and state or federal law as such laws or regulations are in effect as of the date of passage of the Chapter, shall be considered a "mobile home." The placing of a "mobile home" on a permanent foundation or the construction of additions, porches, and the like shall not change the classification of such mobile homes. Recreational trailers and vehicles and modular homes are not considered "mobile homes."

(9) Modular Home - A detached residential or business unit, built to the specifications of a recognized building code, containing not less than five hundred (500) square feet of gross livable floor area in the original manufactured unit, designed and intended for delivery by transportation on the highway for permanent assembly in a permanent and separately constructed foundation. A "modular home" may be considered a single-family dwelling. A "modular home"

must meet the requirements and definitions of the Maryland Industrialized Building and Mobile Homes Act as in effect as of the date of passage of this Chapter.

B. Group Living.

Residential occupancy of a building or any portion of a building by a group other than a household. Group living uses typically provide communal kitchen/dining facilities. Examples of group living uses include group homes, convents, monasteries, nursing homes, assisted living facilities, sheltered care facilities, retirement centers, homeless centers, shelters, and halfway houses. The group living subcategories are as follows:

(1) Group domiciliary care home – a facility that is licensed by the Maryland Department of Health and Mental Hygiene shared by persons who are unable to live alone because of age-related impairments or physical, mental or visual disabilities and who live together as a single housekeeping unit in a long-term, household-like environment in which staff persons provide care, education, and participation in community activities for the residents with a primary goal of enabling the resident to live as independently as possible. Group domiciliary care homes do not include pre-release, work-release, probationary, or other programs that serve as an alternative to incarceration.

(2) Sheltered Care – An activity accessory to and affiliated with a religious facility providing maintenance and personal care for those in need.

(3) Continuing Care Retirement Communities - Establishments primarily engaged in providing a range of residential and personal care services with on-site nursing care facilities for (1) the elderly and other persons who are unable to care for themselves fully and/or (2) the elderly and other persons who do not desire to live independently. Individuals live in a variety of residential settings with meals, housekeeping, social, leisure, and other services available to assist residents in daily living. Assisted living facilities with on-site nursing care facilities are included in this subcategory.

(4) Assisted living – Establishments providing housing and supportive services, supervision, personal care services, health-related services, or a combination of these to meet the needs of residents who are unable to perform or who need assistance with, activities of daily living and/or instrumental activities of daily living. The activities of daily living include bathing, dressing, eating, and toileting. This subcategory includes nursing homes.

§ 340-46. Public, civic, and institutional use category.

This category includes public, quasi-public, and private uses that provide unique services that are of benefit to the public-at-large. The public, civic, and institutional subcategories are as follows:

A. Cemetery - Land or structures used for burial or permanent storage of the dead or their cremated remains. Typical uses include cemeteries and mausoleums. It also includes pet cemeteries.

B. College or university - Institutions of higher learning accredited by the Maryland Department of Education that offer courses of general or specialized study and are authorized to grant academic degrees.

C. Community center - A structure, including its surrounding premises that contains rooms or other facilities limited to use for purposes of meetings, gatherings or other functions or activities carried on or performed by or under the supervision of a unit of local government, a school district or a civic, educational, religious or charitable organization. The authorization for the establishment of a community center may include authorization for the incidental and accessory sale or resale of food, merchandise, or services in connection with and in support of the principal activity or function being carried on or performed by such unit of local government, school district or organization.

D. Fraternal organization - The use of a building or lot by a not-for-profit organization that restricts access to its facility to bona fide, annual dues-paying members, and their occasional guests and where the primary activity is a service not carried on as a business enterprise.

E. Governmental facility - Uses related to the administration of local, state, or federal government services or functions. Uses operated by a governmental or nonprofit volunteer entity and providing a public service, e.g., post office, fire station, emergency ambulance service, rescue squad, police station, courthouse, governmental office building, governmental storage facility, governmental garage.

F. Hospital - Uses providing medical, mental, or surgical care to patients and offering inpatient (overnight) care. Ancillary activities permitted include clinics, medical offices, administrative offices, laboratories, pharmacies, gift shops, teaching facilities, research facilities, rehabilitation facilities, treatment centers, employee daycare, and similar uses.

G. Library - A building or structure used primarily for the housing of books or other literary material on-premises for reading, study, reference, and/or lending. Collections of books, manuscripts, and similar materials for public lending, studying and reading.

H. Parks and recreation - Recreational, social, or multi-purpose uses associated with public parks and open spaces, including playgrounds, playfields, play courts, swimming pools, community centers, and other facilities typically associated with public parks and open space areas. It also includes public and private golf courses and country clubs.

I. Museum or cultural facility - Buildings and facilities owned and operated by a qualifying nonprofit institution under Internal Revenue Service provisions in which objects of historical, scientific, artistic, or cultural interest are stored and exhibited. Primary activities include the procurement, collection, preservation, and public exhibition of antique, curious, unusual, rare, or typical objects of art, science, commerce, or natural history. Museums may conduct activities to educate or perpetuate interest concerning the subject matter of the objects being procured, collected, preserved, and exhibited in the museum.

J. Religious assembly - Religious services involving public assembly that customarily occur in churches, synagogues, temples, mosques, and other facilities used for religious worship. The category includes buildings or structures primarily intended as a place for public worship and related activities such as religious education, meeting halls, and kitchens or places for personal worship or meditation operated by an entity which is qualified by the Internal Revenue Service as a nonprofit religious organization. This category includes buildings and all customary accessory uses or structures, including, but not limited to, a chapel, day-care center, gymnasium, social hall, and social services programs. Accessory use includes a monastery, rectory, or convent. The category does not include pre-schools, parochial schools, daycare facilities, major recreational facilities, vehicle or equipment storage yards, or other functions that are not a necessary or integral part of the religious institution.

K. Safety service - Facilities provided by the town, state, or federal government that provide fire, police, or life protection, together with the incidental storage and maintenance of necessary vehicles. Typical uses include fire stations and police stations.

L. School – Private and public schools at the primary, elementary, middle, or high school level that provide basic, compulsory state-mandated education.

M. Utilities and public service facility.

(1) Essential services - Infrastructure services that need to be located in or close to the area where the service is provided. Essential service facilities generally do not have regular employees at the site and typically have few, if any, impacts on surrounding areas. Typical uses include water and sewer pump stations; gas regulating stations; underground electric distribution substations; electric transformers; water conveyance systems; stormwater facilities and conveyance

systems; telephone switching equipment, and emergency communication warning/broadcast facilities.

(2) Public utility - Uses or structures, except essential services, which provides to the general public such services as water, sewerage, sewage treatment, electricity, piped gas, or telecommunications. Infrastructure services that typically have substantial visual or operational impacts on nearby areas. Typical uses include but are not limited to water and wastewater treatment facilities, high-voltage electric substations, utility-scale power generation facilities (including wind, solar, and other renewable and nonrenewable energy sources), sanitary landfills and utility-scale water storage facilities, such as water towers and reservoirs.

O. Alternative energy facilities, solar. An alternative energy system intended to convert solar energy into thermal, mechanical, or electrical energy accessory to a principal permitted use on the site.

(1) Solar energy system, large - A ground-mounted solar energy system whose principal purpose is to provide electrical power for sale to the general power grid.

P. Wireless telecommunications - Towers, antennas, equipment, equipment buildings, and other facilities used in the provision of wireless communication services. The following are specific types of wireless telecommunications uses:

(1) Freestanding towers - A structure intended to support equipment that is used to transmit and/or receive telecommunications signals, including monopoles and guyed and lattice construction steel structures.

(2) Building or tower-mounted antennas - The physical device that is attached to a freestanding tower, building, or other structure, through which electromagnetic, wireless telecommunications signals authorized by the Federal Communications Commission are transmitted or received.

(3) Amateur radio facility - An amateur (HAM) radio station licensed by the Federal Communications Commission (FCC), including equipment such as but not limited to, a tower or building-mounted structure supporting a radiating antenna platform and other equipment. A station in an amateur radio service may consist of the apparatus necessary for carrying on radio communications and licensed by the Federal Communications Commission by a person holding a license granted by the Federal Communications Commission authorizing a person to engage in the operation of an amateur station and amateur radio service.

(4) Satellite earth station, satellite dish - A parabolic antenna and associated electronics and support equipment for transmitting or for transmitting and receiving satellite signals.

(5) Small wireless facility – "Small cells," are low-powered wireless base stations that function like traditional cell sites in a mobile wireless network but typically cover targeted indoor or localized outdoor areas. "DAS" or "distributed antenna systems," which use numerous antennae, commonly known as "nodes," similar in size to small cells and are connected to and controlled by a central hub. This category includes other similar facilities, systems, or devices designed to facilitate a mobile wireless network within a localized area and to be attached to a support structure within sidewalks or streets or on private property.

§ 340-47. Commercial use category.

The commercial use category includes uses that provide a business service or involve the selling, leasing, or renting of merchandise to the general public. The commercial use subcategories are as follows:

A. Adult-oriented businesses - uses regulated under Chapter 75 Code of the Town of St. Michaels, including the following:

(1) Adult oriented business - Any business, operation, or activity a significant amount of which consists of:

(a) The conduct, promotion, delivery, provision, or performance of adult entertainment or material, including but not limited to that occurring in, at, or in connection with a cabaret, lounge, nightclub, modeling studio, bar, restaurant, club or lodge, or other establishment; or

(b) The sale, provision, rental, or promotion of adult entertainment or material, in any format, form, or medium, including but not limited to books, magazines, videos, DVDs, CDs, movies, photographs, and/or coin-operated or pay-per-view viewing devices, including but not limited to the operation of an adult book or video store or viewing booth.

(2) Adult book or video store – Adult-oriented business, including the sale, rental, transfer, loan, dissemination, distribution, provision or promotion of adult entertainment or material, in any format, form, or medium, including, but not limited to, books, magazines, newspapers, photographs, movies, videos, DVDs, CDs or other audio/video recordings, other electronic recordings but not including coin-operated or pay-view-viewing.

(3) Adult Movie Theater - A use involving the presentation to three or more persons in a room of movies, videotapes or similar media distinguished by an emphasis on depicting “specified sexual activities” and that is related to monetary

B. Animal service - Uses that provide goods and services for the care of companion animals.

(1) Grooming - Grooming of dogs, cats, and similar companion animals, including dog bathing and clipping salons and pet grooming shops.

(2) Boarding or shelter/kennel - Animal shelters, care services, and kennel services for dogs, cats, and companion animals, including boarding kennels, pet resorts/hotels, pet daycare, pet adoption centers, dog training centers, and animal rescue shelters. For purposes of this Chapter, the keeping of more than four (4) dogs, cats or similar household companion animals over four (4) months of age or the keeping of more than two (2) such animals for compensation or sale is deemed a boarding or shelter-related animal service use and is allowed only in those zoning districts that allow such uses.

(3) Veterinary care - Animal hospitals and veterinary clinics.

C. Assembly and Entertainment – Principal uses providing gathering places for participant or spectator recreation, entertainment, or other assembly activities. Assembly and entertainment uses may provide incidental food or beverage service. Typical uses include arenas, billiard centers, video game arcades, auditoriums, bowling centers, cinemas, theaters, and conference centers.

D. Broadcast or recording studio - Uses that provide for audio or video production, recording, or broadcasting.

(1) Broadcast facility - an establishment primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms, including radio, television, and film.

(2) Recording studio - an establishment primarily engaged in sound or video recording.

E. Commercial service - Uses that provide for consumer or business services and the repair and maintenance of a wide variety of products.

(1) Building service - Uses that provide maintenance and repair services for all structural and mechanical elements of structures, as well as the exterior spaces of a premise. Typical uses include contractor offices, janitorial, landscape maintenance, extermination, plumbing, electrical, HVAC, window cleaning, and similar services.

(2) Business support service - Uses that provide personnel services, printing, copying, photographic services, or communication services to businesses or consumers. Typical uses include employment agencies, copy and print shops, caterers, telephone answering services, and photo developing labs.

(3) Consumer maintenance and repair service - Uses that provide maintenance, cleaning, and repair services for consumer goods on a site other than that of the customer (i.e., customers bring goods to the site of the repair/maintenance business). Typical uses include laundry and dry cleaning pick-up shops, tailors, taxidermists, dressmakers, shoe repair, picture framing shops, lock-smiths, vacuum repair shops, electronics repair shops, and similar establishments. Businesses that offer repair and maintenance service technicians who visit customers' homes or places of business are classified as a "building service."

(4) Personal improvement service - Uses that provide a variety of services associated with personal grooming, instruction, and maintenance of fitness, health, and well-being. Typical uses include barbers, hair and nail salons, day spas, health clubs, yoga studios, martial arts studios, and businesses purporting to offer fortune-telling or psychic services.

(5) Marine service - establishments primarily engaged in operating marinas **or boatyards.** These establishments rent boat slips and store boats and generally perform a range of other services, including cleaning and incidental boat repair. They frequently sell food, fuel, and fishing supplies, and may sell boats. Also may include establishments primarily engaged in the operation of charter or party fishing boats or rental of small recreational boats.

(6) Research service - Uses engaged in scientific research and testing services leading to the development of new products and processes. Such uses resemble office buildings or campuses and do not involve the mass production, distribution, or sale of products. Research services do not produce odors, dust, noise, vibration, or other external impacts that are detectable beyond the property lines of the subject property.

F. Daycare - Uses providing care, protection, and supervision for children or adults regularly away from their primary residence for less than twenty-four (24) hours per day. Examples include state-licensed childcare centers, preschools, nursery schools, head start programs, after-school programs, and adult daycare facilities. Daycare expressly includes state-accredited adult daycare facilities and facilities for childcare.

(1) Daycare center - A facility licensed by the State of Maryland that provides daycare for more than eight (8) children or any number of adults. The activity of

providing care for part of a day (not on a twenty-four-hour per day basis) to dependents of working persons while those working persons are at work. The primary purpose of a day-care center is not education. The dependents may be children, under the age of 16 years, or persons 60 years or older, who need temporary supervision and care during part of the day.

(2) Daycare home - A dwelling unit licensed by the State of Maryland in which daycare is provided for a maximum of eight (8) children, excluding all natural, adopted, and foster children of the residents of the dwelling unit.

G. Eating and drinking establishments – The eating and drinking establishments use type refers to establishments or places of business primarily engaged in the sale of prepared foods and beverages for on- or off-premise consumption. Typical uses include restaurants, short order eating places or bars and cafés, restaurants, cafeterias, ice cream/yogurt shops, coffee shops, and similar establishments, which may include a bar area that is customarily incidental and subordinate to the principal use as an eating establishment.

(1) Restaurant - Uses open to the public whose principal activity is the preparation and serving of food and beverages for on- or off-premise consumption as their principal business. A restaurant provides indoor seating for customers and serves customers at their seats. A restaurant may provide indoor or outdoor seating for customers and serves customers at their seats.

(2) Restaurant, drive-in, drive-thru – A restaurant with drive-through windows or drive-through lanes or that otherwise offers food and drink to the occupants of motor vehicles. Typical uses include drive-through and drive-in restaurants, e.g., McDonald's, Burger King, etc.

(3) Alcohol sampling establishment – A Maryland licensed beer, wine, or distillery that includes on-premises consumption accessory to the principal production function.

H. Financial service - Uses related to the exchange, lending, borrowing, and safe-keeping of money. Typical examples are banks, credit unions, and consumer loan establishments.

I. Funeral and mortuary service - Uses that provide services related to the death of humans or companion animals, including funeral homes, mortuaries, crematoriums, and similar uses.

J. Lodging - Uses that provide temporary lodging for less than thirty (30) days where rents are charged by the day or by the week. Lodging includes the following specific categories:

(1) Hotel and motel - An establishment for transients consisting of any number of sleeping rooms in permanent buildings, each room or suite of rooms having complete sanitary facilities and separate entrances, including hotel, motel, lodge, and similar establishments, but not including a boarding- or lodging house, inn or bed-and-breakfast establishment. Hotel and motel establishments may include ancillary facilities and services such as restaurants, meeting rooms, conference facilities, entertainment, personal services, and recreational facilities.

(2) Bed and breakfast - An existing single-family, owner, or manager occupied dwelling in which overnight sleeping rooms are rented on a short-term basis to transients and at which no meal other than breakfast is served to guests, which is included in their room charge. The use may include additional guest rooms in a separate existing building on the same lot. **Guest rooms may include accessory appliances such as a mini-refrigerator, coffee maker, and/or micro-wave oven solely for the convenience of the occupants. Limited sale of items related to the establishment and solely for purchase by guests, e.g., coffee cups, tee shirts, and the like bearing the name or logo of the bed and breakfast is permitted.**

(3) Historic vacation cottage - A residential dwelling unit located in the St. Michaels Historic District that is used and/or advertised through an online marketplace for rent for transient occupancy by guests. For purposes of this Chapter, an historic vacation cottage is defined as a dwelling for which a current and valid vacation cottage license has been issued by the Town.

(4) Short term rental – See definition in § 340-11.

K. Office.

Uses in an enclosed building, customarily performed in an office that focus on providing executive, management, administrative, professional, or medical services. This category includes: business office uses for companies and non-governmental organizations such as corporate office, law offices, architectural firms, insurance companies, and other executive, management or administrative offices for businesses and corporations; professional offices where services are provided that require specialized training or professional certification including but not limited to accountant, appraiser, attorney, architect, landscape architect, engineer, surveyor, and stockbroker; and medical, dental and health practitioner office uses related to diagnosis and treatment of human patients' illnesses, injuries and physical maladies that can be performed in an office setting with no overnight care. Surgical, rehabilitation, and other medical centers that do not involve overnight patient stays are included in this category, as are medical and dental laboratories.

L. Parking, non-accessory.

Parking that is not provided to comply with minimum off-street parking requirements and that is not provided exclusively to serve occupants of or visitors to a particular use, but rather is available to the public-at-large. Examples include commercial parking garages. A parking facility that provides both accessory and non-accessory parking will be classified as non-accessory parking if it leases 25% or more of its spaces to non-occupants of or persons other than visitors to a particular use.

M. Retail sales.

Uses involving the sale, lease or rental of new or used goods to the ultimate consumer within an enclosed structure, unless otherwise specified. The retail category includes sales of convenience goods including (1) sundry goods; (2) products for personal grooming and for the day-to-day maintenance of personal health or (3) food or beverages for off-premise consumption, including grocery stores and similar uses that provide incidental and accessory food and beverage service as part of their primary retail sales business. Typical uses include drug stores, grocery, and specialty food stores, wine or liquor stores, gift shops, newsstands, and florists. This category also includes consumer shopping goods such as uses that sell or otherwise provide wearing apparel, fashion accessories, furniture, household appliances, and similar consumer goods, large and small, functional and decorative, for use, entertainment, comfort or aesthetics. Typical uses include clothing stores, department stores, appliance stores, TV, computer hardware and electronics stores, bike shops, book stores, costume rental stores, uniform supply stores, stationery stores, art galleries, hobby shops, furniture stores, pet stores and pet supply stores, shoe stores, cigar stores, copy shops, travel agencies, dry cleaning, beauty and barber shops, craft shops, bakery, antique shops, secondhand stores, record stores, toy stores, sporting goods stores, variety stores, video stores, musical instrument stores, office supplies and office furnishing stores and wig shops and other consumer shopping uses of the same general character.

(1) Building supplies and equipment - Retail sales uses that sell or otherwise provide goods to repair, maintain, or visually enhance a structure or premises. Typical uses include hardware stores, home improvement stores, paint, and wallpaper supply stores, and garden supply stores.

N. Self-service storage facility (e.g., mini-storage) - An enclosed use that provides separate, small-scale, self-service storage facilities leased or rented to individuals or small businesses. Facilities are designated to accommodate only interior access to storage lockers or drive-up access.

O. Studio, instructional or service - Uses in an enclosed building that focus on providing instruction or training in music, dance, drama, fine arts, language, or similar activities.

Also includes artist studios and photography studios. See also “personal improvement service” in the commercial services use category.

P. Trade school - Uses in an enclosed building that focus on teaching the skills needed to perform a particular job. Examples include schools of cosmetology, modeling academies, computer training facilities, vocational schools, administrative business training facilities, and similar uses.

Q. Motorized vehicle sales and service.

Uses that provide for the sale, rental, maintenance, or repair of new or used vehicles and vehicular equipment. The vehicle sales and service subcategory includes the following specific use types:

(1) Commercial vehicle repair and maintenance - Uses, excluding vehicle paint finishing shops, that repair, install or maintain the mechanical components or the bodies of large trucks, mass transit vehicles, large construction or agricultural equipment, aircraft, watercraft, or similar large vehicles and vehicular equipment. The subcategory includes truck stops and truck fueling facilities.

(2) Commercial vehicle sales and rentals - Uses that provide for the sale or rental of large trucks, large construction or agricultural equipment, aircraft, or similar large vehicles and vehicular equipment.

(3) Fueling station - Uses engaged in retail sales of personal or commercial vehicle fuels, including natural gas fueling stations and rapid vehicle charging stations and battery exchange facilities for electric vehicles.

(4) Motorized personal vehicle repair and maintenance - Uses engaged in repairing, installing, or maintaining the mechanical components of autos, small trucks or vans, motorcycles, motor homes, or recreational vehicles, including recreational boats. It also includes uses that wash, clean, or otherwise protect the exterior or interior surfaces of these vehicles. The subcategory does not include vehicle body or paint finishing shops.

(5) Motorized personal vehicle sales and rentals - Uses that provide for the sale or rental of new or used autos, small trucks or vans, trailers, motorcycles, motor homes or recreational vehicles including recreational water-craft. Typical examples include automobile dealers, auto malls, car rental agencies, and moving equipment rental establishments (e.g., U-haul).

(6) Vehicle body and paint finishing shop - Uses that primarily conduct vehicle bodywork and repairs or that apply paint to the exterior or interior surfaces of vehicles by spraying, dipping, flow coating, or other similar means.

§ 340-48. Wholesale, distribution, and storage use category.

This category includes uses that provide and distribute goods in large quantities, principally to retail sales, commercial services, or industrial establishments. Long-term and short-term storage of supplies, equipment, commercial goods, and personal items is included. The wholesale, distribution, and storage subcategories are as follows:

A. Equipment and materials storage, outdoor - Uses related to outdoor storage of equipment, products, or materials, whether or not stored in containers.

(1) Contractor's shop - An establishment used for the indoor repair, maintenance, or storage of a contractor's vehicles, equipment or materials, and may include the contractor’s business office.

(2) Fuel storage – An establishment that includes "fuel storage tank" or any vessel or tank that stores gases or liquids, including fuel products such as gasoline, diesel fuel, heating oil, natural gas, natural gas liquids, propane, synthetic gas or similar products. This subcategory does not include a fueling station.

(3) Grain storage - Bulk storage, drying, or other processing of grain and livestock feed or storage and sale of fertilizer, coal, coke, or firewood with effective control of dust and particulates during all operations.

B. Trucking and transportation terminal - Uses engaged in the dispatching and long-term or short-term storage of trucks, buses, and other vehicles, including parcel service delivery vehicles, taxis, and limousines. Minor repair and maintenance of vehicles stored on the premises are also included. Includes uses engaged in the moving of household or office furniture, appliances, and equipment from one location to another, including the temporary on-site storage of those items.

C. Warehouse - Uses conducted within a completely enclosed building that are engaged in long-term and short-term storage of goods and that do not meet the definition of a “self-service storage facility” or a “trucking and transportation terminal.”

D. Wholesale sales and distribution - Uses engaged in wholesale sales, bulk storage, and distribution of goods. Such uses may also include incidental retail sales and wholesale showrooms.

(1) Limited wholesale sales and distribution facilities, excluding, however, fuels and other flammable liquids, solids, or explosives held for resale and the bulk storage or handling of fertilizer, grain, and feed.

(2) Wholesale sales and distribution facilities, including fuels and other flammable liquids, solids or explosives held for resale and the bulk storage or handling of fertilizer, grain, and feed.

§ 340-49. Industrial use category.

This category includes uses that produce goods from extracted and raw materials or from recyclable or previously prepared materials, including the design, storage, and handling of these products and the materials from which they are produced. The industrial subcategories are:

A. Micro-Producers – Limited on-site production of wine, beer, or distilled spirits permitted or licensed by the State of Maryland and the Federal Alcohol and Tobacco Tax and Trade Bureau (TTB). Depending on the product produced and the specific permit and license held, the facility may be allowed limited sales for on-premise consumption, sell products to go and sell to a wholesaler for resale to restaurants and retailers. Uses accessory to on-site production such as tasting rooms for the consumption of beer, wine, or distilled products may be permitted on the premises if allowed by State license and in conjunction with the principal on-site production use.

B. Artisan industrial - On-site production of goods by hand manufacturing, involving the use of hand tools and small-scale, light mechanical equipment in a completely enclosed building with no outdoor operations or storage. Typical uses include woodworking and cabinet shops, ceramic studios, jewelry manufacturing, and similar types of arts and crafts or very small-scale manufacturing uses that have no negative external impacts on surrounding properties. The subcategory includes limited retail sales.

C. Limited Industrial - Manufacturing and industrial uses that process, fabricate, assemble, treat or package finished parts or products without the use of explosive or petroleum materials. Uses in this subcategory do not involve the assembly of large equipment and machinery and have very limited external impacts in terms of noise, vibration, odor, hours of operation, and truck and commercial vehicle traffic.

D. Intensive industrial - Manufacturing and industrial uses that regularly use hazardous chemicals or procedures or produce hazardous byproducts, including the following: manufacturing of acetylene, cement, lime, gypsum or plaster-of-Paris, chlorine, corrosive acid or fertilizer, insecticides, disinfectants, poisons, explosives, paint, lacquer, varnish, petroleum products, coal products, plastic and synthetic resins and radioactive materials. This subcategory also includes petrochemical tank farms, gasification plants, smelting,

asphalt, and concrete plants and tanneries. Intensive industrial uses have a high potential for external impacts on the surrounding area in terms of noise, vibration, odor, hours of operation, and truck/commercial vehicle traffic. The subcategory includes limited retail sales.

E. Junk or salvage yard - An area or building where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled for reclamation, disposal or other like purposes, including but not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles. Use may include demolition, dismantling, storage, salvaging, or sale of automobiles or other vehicles not in running condition, or machinery, or parts thereof.

F. Recycling uses - This industrial subcategory includes uses that collect, store, or recyclable process material for marketing or reusing the material in the manufacturing of new, reused, or reconstituted products.

(1) Recyclable material drop-off facility - An establishment that accepts recyclable consumer commodities directly from the consuming party and stores them temporarily before transferring them to recyclable material processing facilities. Recyclable commodities shall be limited to non-hazardous, non-special, homogeneous, non-putrescible materials such as dry paper, glass, cans, or plastic. The term "recyclable material drop-off facility" as used in this Chapter shall not include general construction or demolition debris facilities, and/or transfer stations, facilities located within a structure principally devoted to another use, facilities temporarily located on a lot under authority of a temporary use, and facilities for collecting used motor oil which are necessary to an automobile service station. Establishments that process recyclable material are classified as “recyclable material processing facilities.”

(2) Recyclable material processing - Establishments that receive and process recyclable consumer commodities for subsequent use in the secondary market.

(3) Recycling collection center - A collection point for small refuse items, such as bottles and newspapers, located either in a container or small structure. Recycling center do not accept boats, automobiles, tires, appliances, construction materials, or rubble (e.g., debris from land clearing or demolition).

§ 340-50. Other use category.

This category includes uses that do not fit the other use categories.

A. Drive-in or drive-through facility - Any use with drive-through windows or drive-through lanes or that otherwise offer service to the occupants of motor vehicles. Typical uses

include drive-through restaurants, drive-through banks, and drive-through pharmacies.

B. Temporary Uses. The use of a building or premises for a purpose that does not conform to the regulations prescribed by this Chapter does not involve the erection of substantial buildings and is permitted for a defined period.

(1) Temporary Use, Emergency – Structures and/or uses for emergency public health and safety needs, e.g., emergency temporary housing in the event of a natural disaster.

(2) Temporary Use, Construction - On-site contractors' mobile home used in conjunction with an approved construction project on the same site.

(3) Temporary Retail and Service - One trailer or the use of one building as a temporary field or sales office in connection with building development. Uses such as mobile food service (food truck) and pop-up retail conducted in readily movable vehicles that are self-propelled, pushed, or pulled to a specific location or occupying an existing vacant principal structure.

§ 340-51. Accessory use category.

The category includes uses or structures subordinate to the principal use and customarily incidental to the principal use. Among other uses, this category includes the following:

A. Solar energy system - A solar energy system designed to serve, any agricultural, residential, commercial, institutional, or industrial use on a single parcel or lot and not intended for production of energy primarily for the purpose of offsite sale or consumption.

§ 340-52. Number of principal structures on a lot.

A. Every structure hereafter erected, reconstructed, converted, moved, or structurally altered shall be located on a lot of record and in no case shall there be more than one (1) principal structure on a lot unless as provided in B below.

B. More than one principal structure may be located upon a lot in the following instances subject to the lot, yard and density requirements and other provisions of this Chapter:

(1) Institutional buildings.

(2) Public or semi-public buildings.

(3) Multiple-family dwellings.

(4) Commercial or industrial buildings.

(5) Mixed-use projects.

§ 340-53. Permissible uses not requiring permits.

Notwithstanding any other provisions of this Zoning Chapter or Chapter 110 or 290 no zoning or special-exception permit is necessary for the following uses:

A. Public streets.

B. Access driveways to an individual detached single-family dwelling not located in the Chesapeake Bay Critical Area.

C. Essential Services and Public Utilities.

§ 340-54. Use of the designations P and SE in the Table of Permissible Uses.

When used in connection with a particular use in the Table of Permissible Uses included in this Section, the letter "P" means that the use is permissible in the indicated zone with a building permit issued by the Zoning Inspector. The letter “N” means the use is not permitted.

§ 340-55. Table of Permitted Uses.

Except as specifically stated otherwise by this Chapter, only the following uses shall be permitted in the applicable zoning district where the structure or use is located. Uses shall only be permitted if there is compliance with all other applicable requirements of this Chapter.

§ 340-51. Table of Permitted Uses.

§ 14. Table of Permitted Uses	ZONING DISTRICT												
Use Description	**A**	**R-1**	**R-2**	**R-3**	**RG**	**WD**	**CC**	**HR**	**SLC**	**GC**	**MC**	**MM**	**PF**
AGRICULTURE													
Agriculture, crop production	P	N	N	N	P	P	N	N	N	N	N	N	P
Agriculture, buildings and structures	P	N	N	N	P	P	N	N	N	N	N	N	P
Indoor plant cultivation, plant nursery, commercial nurseries and greenhouses	P	N	N	N	P	P	N	N	N	N	N	N	P
Fisheries Activities, Aquaculture	P	N	N	N	N	N	N	N	N	N	N	N	N
Forestry	P	N	N	N	N	N	N	N	N	N	N	N	P
RESIDENTIAL													
Household Living													
Detached Single Family Dwelling	P	P	P	P	P	P	P	N	P	N	N	N	N
Duplex	N	P	P	P	P	N	N	N	P	N	N	N	N
Townhouse	N	N	N	P	N	N	N	N	N	N	N	N	N
Multi-Family/Apartment/Condo	N	N	N	P	N	N	N	N	N	N	N	N	N
Accessory Dwelling Unit	N	P	P	N	P	N	N	N	N	N	N	N	N
Mixed-use building, residential	N	N	N	N	N	P	P	P	P	N	N	N	N
Dwellings, for residential watchman or caretaker	P	N	N	N	N	N	N	N	N	N	N	N	N
Group Living													
Group domiciliary care home, group home	N	P	P	P	P	N	N	N	N	N	N	N	N
Continuing Care Retirement Communities	P	N	N	N	P	P	N	N	N	P	N	N	N
Assisted Living/Nursing Home	N	N	N	N	N	N	N	N	N	P	N	N	N
PUBLIC, CIVIC AND INSTITUTIONAL													
Cemetery	P	P	N	N	N	N	N	N	N	N	N	N	N
College or university	N	SE	N	SE	SE	N	N	N	N	N	N	N	N
Trade schools, art schools and similar commercially operated schools	N	SE	N	N	N	N	P	P	N	P	N	N	N

§ 14. Table of Permitted Uses	ZONING DISTRICT												
Use Description	**A**	**R-1**	**R-2**	**R-3**	**RG**	**WD**	**CC**	**HR**	**SLC**	**GC**	**MC**	**MM**	**PF**
Community center	N	N	SE	SE	N	N	P	N	N	P	N	N	N
Fraternal organization	N	N	N	N	N	N	P	N	N	P	N	N	N
Governmental offices	N	SE	SE	SE	SE	N	P	N	N	P	N	SE	N
Hospital	N	N	N	N	N	N	P	N	N	SE	N	N	SE
Library	N	SE	SE	SE	N	N	P	N	N	N	N	N	P
Parks and recreation	N	SE	SE	SE	P	P	P	N	N	P	SE	P	N
Museum or cultural facility	N	N	P	N	P	N	P	P	N	N	N	N	N
Maritime Museum	N	N	N	N	N	N	N	N	N	N	N	P	N
Religious assembly	SE	SE	SE	SE	SE	N	SE	N	N	SE	N	N	N
Safety service	N	N	N	N	P	N	P	N	N	P	N	N	P
School	SE	SE	SE	SE	SE	N	SE	N	N	SE	N	N	N
Utilities and Public Service Facility													
Essential services	P	P	P	P	P	P	P	P	P	P	P	P	P
Public utility	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	P
Alternative Energy Facilities													
Solar energy system, large	N	N	N	N	N	N	N	N	N	N	N	N	SE
Wireless Telecommunications													
Antennas and/or antenna towers	P	P	P	P	P	P	P	P	P	P	P	P	P
Building or tower-mounted antennas	P	P	P	P	P	P	P	P	P	P	P	P	P
Amateur Radio Facilities	P	P	P	P	P	P	P	P	P	P	P	P	P
Small wireless communications equipment, microcell networks	P	P	P	P	P	P	P	P	P	P	P	P	P
Satellite earth station, satellite dish	P	P	P	P	P	P	P	P	P	P	P	P	P
COMMERCIAL													
Adult Entertainment Establishments	N	N	N	N	N	N	N	N	N	P	N	N	N
Animal Service													
Grooming	P	N	N	N	N	N	N	N	N	P	N	N	N
Boarding or shelter/kennel	SE	N	N	N	N	N	N	N	N	N	N	N	N

§ 14. Table of Permitted Uses	ZONING DISTRICT												
Use Description	**A**	**R-1**	**R-2**	**R-3**	**RG**	**WD**	**CC**	**HR**	**SLC**	**GC**	**MC**	**MM**	**PF**
Veterinary care	N	N	N	N	N	N	N	N	N	P	N	N	N
Stables, Commercial	P	N	N	N	N	N	N	N	N	N	N	N	N
Assembly and Entertainment	N	N	N	N	N	N	P	P	N	P	N	N	N
Temporary fairs and carnivals	P	P	P	P	P	P	P	P	P	P	P	P	P
Broadcast or Recording Studio													
Broadcast facility	N	N	N	N	N	N	N	N	N	P	N	N	N
Recording studio	N	N	N	N	N	N	P	N	N	P	N	N	N
Commercial Service													
Building Service	N	N	N	N	N	N	N	N	N	P	N	N	N
Business Support Service	N	N	N	N	N	N	P	N	N	P	N	N	N
Personal Improvement Service	N	N	N	N	N	N	P	N	N	P	N	N	N
Emergency ambulance service													
Marine Service	N	N	N	N	N	N	N	N	N	N	P	P	N
Day Care													
Day care center	N	SE	N	SE	P	N	P	N	N	P	N	N	N
Eating And Drinking Establishments													
Restaurant, café/coffee house	N	N	N	N	N	P	P	P	N	P	P	N	N
Restaurant, drive-in	**N**	**N**	**N**	**N**	**N**	**N**	**N**	**N**	**N**	**P**	**N**	**N**	**N**
Alcohol tasting establishment	N	N	N	N	N	N	P	P	N	N	N	N	N
Financial Service	N	N	N	N	N	N	P	N	N	P	N	N	N
Funeral And Mortuary Service													
Funeral homes	N	N	N	N	N	N	P	N	N	P	N	N	N
Lodging													
Bed-and-breakfast	N	N	SE	N	N	N	P	N	N	N	P	N	N
Hotel, motel	N	N	N	N	N	P	P	N	N	P	P	N	N
Vacation cottages	N	N	P	N	N	N	N	N	N	N	N	N	N
Short Term Rentals	N	N	N	N	N	N	P	N	N	N	N	N	N
Office	N	N	N	N	N	N	P	P	N	P	N	N	N

§ 14. Table of Permitted Uses	ZONING DISTRICT												
Use Description	**A**	**R-1**	**R-2**	**R-3**	**RG**	**WD**	**CC**	**HR**	**SLC**	**GC**	**MC**	**MM**	**PF**
Parking, Non-Accessory	N	N	N	N	N	SE	N	N	N	N	SE	N	N
Retail Sales	N	N	N	N	N	N	P	P	N	P	N	N	N
Building supplies and equipment	N	N	N	N	N	N	N	N	N	P	N	N	N
Self-Service Storage Facility	N	N	N	N	N	N	N	N	N	P	N	N	N
Studio, Instructional Or Service	N	N	N	N	N	N	P	P	N	P	N	P	N
Trade School	N	N	N	N	N	N	N	N	N	P	N	P	N
Vehicle Sales and Service													
Commercial vehicle repair and maintenance	N	N	N	N	N	N	N	N	N	N	N	N	N
Commercial vehicle sales and rentals	N	N	N	N	N	N	N	N	N	N	N	N	N
Fueling station	N	N	N	N	N	N	N	N	N	SE	N	N	N
Personal vehicle repair and maintenance	N	N	N	N	N	N	N	N	N	SE	N	N	N
Motorized Personal vehicle sales and rentals.	N	N	N	N	N	N	N	N	N	SE	N	N	N
Vehicle body and paint finishing shop	N	N	N	N	N	N	N	N	N	N	N	N	N
WHOLESALE, DISTRIBUTION AND STORAGE USE CATEGORY													
Equipment and Materials Storage, Outdoor													
Contractor's shop	N	N	N	N	N	N	N	N	P	P	N	N	N
Trucking and Transportation Terminal	N	N	N	N	N	N	N	N	N	N	N	N	N
Warehouse and Self –storage	N	N	N	N	N	N	N	N	N	P	N	N	N
Wholesale Sales and Distribution	N	N	N	N	N	N	N	N	P	N	N	N	N
INDUSTRIAL USE CATEGORY													
Micro-producers	N	N	N	N	N	N	N	P	N	N	N	N	N
Artisan industrial	N	N	N	N	N	N	N	SE	SE	SE	N	N	N
Limited Industrial	N	N	N	N	N	N	N	N	SE	N	N	N	N
Intensive industrial	N	N	N	N	N	N	N	N	N	N	N	N	N
RECYCLING USE CATEGORY													
Recyclable material drop-off facility	N	N	N	N	N	N	N	N	N	N	N	N	SE
ACCESSORY USES													

§ 14. Table of Permitted Uses	ZONING DISTRICT												
Use Description	**A**	**R-1**	**R-2**	**R-3**	**RG**	**WD**	**CC**	**HR**	**SLC**	**GC**	**MC**	**MM**	**PF**
Home occupation	P	P	P	P	P	N	N	N	N	N	N	N	N
Portable storage containers	P	P	P	P	P	P	P	P	P	P	P	P	P
Roll-off trash containers	P	P	P	P	P	P	P	P	P	P	P	P	P
Solar energy system	P	P	P	P	P	P	P	P	P	P	P	P	P
OTHER USES													
Drive-in or drive-through facility	N	N	N	N	N	N	P	N	N	P	N	N	N
Temporary uses	P	P	P	P	P	P	P	P	P	P	P	P	P
Temporary retail and service uses	N	N	N	N	N	N	P	P	N	P	P	N	N

§ 340-56. Reserved.

Article VIII. Supplemental Use Regulations.

This Article contains regulations applicable to specific uses that supplement the requirements found in other articles of this Chapter. The following specific supplementary use regulations apply to both specific uses permitted by right and to uses permitted by special exception.

§ 340-57. Special regulations for duplex, townhouse, and multifamily dwellings.

A. Each dwelling unit of a duplex dwelling must comply with the minimum lot area per dwelling unit as specified § 340-104.

B. The dwelling units and individual lots of a duplex dwelling or townhouse may be sold separately if totally separate water, sewer, electrical, heating, and all other utility systems are provided and if separate lots for all dwelling units in the subject building are created at the same time and in conformity with the applicable regulations and standards governing the subdivision of land.

C. The following regulations shall apply to townhouses in any district where townhouses are permitted:

(1) The townhouse building shall comply with the minimum lot requirements contained in § 340-104.

(2) Any side yard adjacent to the line of a lot occupied by a detached dwelling or to a lot in a single-family residential district shall be at least twenty-five (25) feet.

(3) There shall be a minimum separation between townhouse buildings on all sides of twelve (12) feet.

(4) Unless otherwise restricted by zone regulations, no more than six (6) dwelling units shall be included in any one structure containing townhouses.

(5) If areas for the common use and enjoyment of occupants of a townhouse building are provided by means of joint ownership of those areas by all owners of units in the townhouse building, those areas shall be maintained in a satisfactory manner out of funds collected by means of regular periodic assessment of all owners of townhouse units in the townhouse building, and the developer of the townhouse building shall set up and provide for the perpetual existence of management and funding of maintenance of the common areas in connection with the townhouse building.

D. The following regulations shall apply to multifamily dwelling in any district where permitted:

(1) The minimum tract size for a multifamily residential complex shall be 20,000 square feet.

(2) There shall be a minimum separation between multifamily buildings on all sides of twelve (12) feet.

(3) At a minimum of ten (10) percent of a multifamily residential complex, the site shall be in common open space. Common open space areas or facilities not dedicated to public use shall be protected by legal arrangements, satisfactory to the Planning Commission, sufficient to assure their maintenance and preservation for whatever purpose they are intended. Covenants or other legal arrangements shall specify the ownership of common areas and method of maintenance.

§ 340-58. Accessory dwelling unit.

An accessory dwelling unit may be permitted by the Planning Commission in the R-1, R-2, and RG districts provided that there shall be no more than one (1) accessory dwelling unit per lot and provided such accessory dwelling unit shall comply with the following standards.

A. Location. An accessory dwelling unit may be located on the same lot as a detached single-family dwelling unit. An accessory dwelling unit may not be located on the same lot as a two-family dwelling, townhouse, or multi-family dwelling.

B. Owner occupancy. The owner of the property shall occupy the principal unit as their primary residence, and at no time shall the owner receive rent payments for the owner-occupied unit.

C. Use. An accessory dwelling unit may not be used for a short term rental.

D. Maximum occupancy. Occupancy is limited to no more than two (2) persons.

E. Design Standards

(1) Purpose. Standards for creating accessory dwelling units address the following purposes:

(a) Ensure that accessory dwelling units are compatible with the desired character and livability of residential districts;

(b) Respect the general building scale and placement of structures to allow sharing of common space on the lot, such as driveways and yards; and

(c) Ensure that accessory dwelling units are smaller in size than the principal residential unit.

(2) Design. The design standards in Article XVII apply.

(3) Creation. An accessory dwelling unit may only be created through the following methods:

(a) Converting existing living areas;

(b) Adding floor area to an existing dwelling;

(c) Construction of a stand-alone unit; or

(d) Adding onto an existing accessory building (e.g., apartment in an existing garage).

(4) Location of Entrances. Only one entrance may be located on the front facade of the principal dwelling facing the street unless the principal dwelling contained additional front facade entrances before the accessory dwelling unit was created.

(5) Parking. See Article XIV. Off-Street Parking, Loading, and Unloading.

(6) Maximum Size. The size of an accessory dwelling unit may be no more than fifty (50) percent of the living area of the principal dwelling or eight hundred (800) square feet, whichever is less.

(7) Accessory dwelling units created through the addition of floor area must meet the following standards:

(a) The exterior finish material must be the same or visually match in type, size, and placement, the exterior finish materials of the principal dwelling.

(b) The roof pitch must be the same as the predominant roof pitch of the principal dwelling. The Planning Commission may permit a different roof pitch if needed due to the shape of the roof on the existing principal dwelling if it determines that the proposed roof pitch will maintain a compatible appearance.

(c) Trim on the edges of elements on the addition must visually match the type, size, and location as the trim used on the rest of the principal dwelling.

(d) Windows must match those in the principal dwelling in proportion and orientation.

(e) Eaves must project from the building walls the same distance as the eaves on the rest of the principal dwelling.

(8) Accessory dwelling units shall have complete kitchen and bathroom facilities separate from those of the principal dwelling.

(9) The applicant must demonstrate that the proposed accessory dwelling unit complies with applicable building and fire safety codes.

§ 340-59. Group domiciliary care home.

The Planning Commission may permit a group domiciliary care home or group home in the R-1, R-2, R-3or RG districts subject to the following:

A. The facility is licensed by the State of Maryland.

B. No more than five (5) residents, excluding resident staff, shall be permitted.

C. Staff services are limited to supervision and assistance and do not involve intensive rehabilitation and/or drug therapy services.

D. The facility provides a minimum of one toilet and one bathtub or shower for every four residents.

§ 340-60. Public utilities and essential services.

A. Essential service facilities are permitted as a matter of right in any district. The Planning Commission may require such uses to be appropriately screened to minimize any adverse impacts to adjacent residential uses **and to protect the general health, safety, and welfare.**

B. Public utilities may be permitted by the Board of Zoning Appeals as a special exception in any district. However, relay stations, storage stations, electric substations, and buildings used or maintained for public utilities shall be subject to compliance insofar as possible with applicable landscape standards.

§ 340-61. Maritime Museum.

A. Accessory uses.

(1) Buildings, structures, facilities, and areas for housing curatorial, administrative, educational, and operational functions related to a maritime museum.

(2) Wet storage and dockage of vessels by a maritime museum located on a parcel of land, or contiguous parcels of land, having an aggregate area of at least five (5) acres. Dry storage of vessels shall be limited to vessels owned, on display, or being renovated or preserved by the museum, for which no monetary storage charge is made.

(3) Educational seminars, demonstrations, and classes by a maritime museum.

(4) Restoration, maintenance, storage, and display of exhibits, displays, and artifacts related to a maritime museum.

(5) Except as provided for by Subsection (6), (11) and (12) sale of any article fabricated in or brought to a museum shall be made only through an indoor gift shop or visitors center of the museum. The maximum area of a museum devoted to the sale of goods (including display area, aisles, **storage,** and cashier area) in a museum shall not exceed **2,500 square feet.**

(6) Fund-raising activities, including auctions, crafts and art for display and/or sale, concerts, feasts, fairs, contests of skill, regattas, and other activities of a similar nature open to the public at large, as well as the rental of museum land, facilities and/or vessels, provided that such activities are:

(a) Conducted on a parcel of land, or contiguous parcels of land, having an aggregate area of at least five (5) acres; and

(b) Thirty (30) days' notice of any of the above-listed activities is provided to the St. Michaels Police Department.

(7) Motor vehicle parking lots for parking of vehicles.

(8) Structures to house custodial, security facilities related to a museum, and equipment and materials storage.

(9) Public information signs in connection with a museum, pursuant to standards set forth in Article XV of this Chapter.

(10) Temporary buildings and structures incidental to construction work, complying with the requirements of the State and County Health Departments, which buildings shall be removed upon completion or abandonment of the construction work.

(11) Repair, maintenance, restoration and reconstruction of wooden vessels for which a monetary charge may be made, provided that such activities adhere to the educational mission of the museum and are conducted in a location open to

visitors of a maritime museum and in a manner to enable visitors of a maritime museum to observe such activities.

(12) Sale of food and drinks for the enjoyment and convenience of visitors to a museum, other than as permitted by Subsection (6) above, provided that **all food is pre-packaged (i.e., not cooked/prepared on-site) and the space for sale of food and drinks does not exceed 600 square feet which area is included in the square footage permitted in Subsection (5) above.**

B. General standards and limitations. The uses permitted by Subsections A and § 340-55 shall be controlled by the following standards and limitations:

(1) The maritime museum shall comply with the lot area, minimum lot size, building setback, minimum yard, maximum building height, and maximum lot coverage requirements for the MM Zone as set forth in § 340-104 and § 340-105 of this Chapter.

(2) Separation, screening, and buffering.

(a) The required minimum setback from any lot line bordering the Museum (MM) Zone shall be twenty (20) feet.

(b) All uses in the MM Zone shall contain a **landscaped** Buffer area of at least twenty (20) feet in width adjacent to any property in a residential zone. There shall be no outside events or activities and no structure placed or erected within such Buffer.

(c) Screening/**buffering** between residential zones and the MM Zone shall be provided by the occupant of the MM Zone. Such screening shall be in the form of evergreen plantings, which shall, within three (3) years from the beginning of a museum use, provide a year-round screening at least six (6) feet in height.

(d) The Planning Commission may, in lieu of evergreen screening, permit earthen berms or wooden fencing six (6) feet in height where deemed appropriate.

(e) Upon application by adjacent residential property owners, the Planning Commission may waive the evergreen screening, berms, or wooden fencing.

(3) Noise levels within the Museum Zone shall **comply with the provisions of Chapter 216 Town of St. Michaels Code.**

§ 340-62. Solar energy system.

The Zoning Inspector may permit a small solar energy system as an accessory use in any zoning district subject to the following conditions:

A. General

(1) Accessory solar energy systems must comply with all applicable building and electrical code requirements.

(2) Owners of accessory solar energy systems are solely responsible for negotiating with other property owners for any desired solar easements to protect access to sunlight. Any such easements must be recorded.

B. Building-Mounted Solar Energy Systems

(1) Building-mounted solar energy systems may be mounted on principal and accessory structures.

(2) All applicable setback regulations apply to building-mounted solar energy systems. Systems mounted on principal structures may not encroach into a side and rear setback.

(3) Only building-integrated and flush-mounted solar energy system may be installed on street-facing building elevations.

(4) Solar energy systems may not extend above the existing highest point of the roofline. See Figure VIII.1.

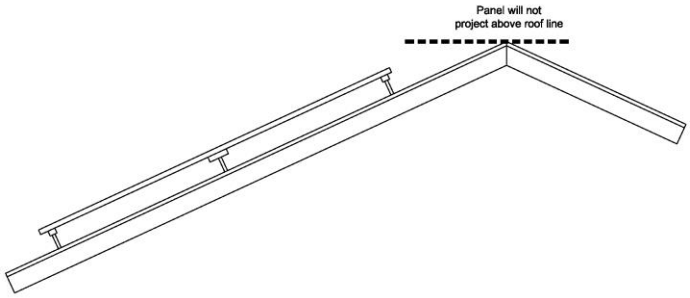
(5) Coverage - Roof or building-mounted solar energy systems shall allow for adequate roof access to the south-facing or flat roof upon which the panels are mounted. The surface area of pole or ground mount systems shall not exceed half the building footprint of the principal structure. See Figure VIII.2

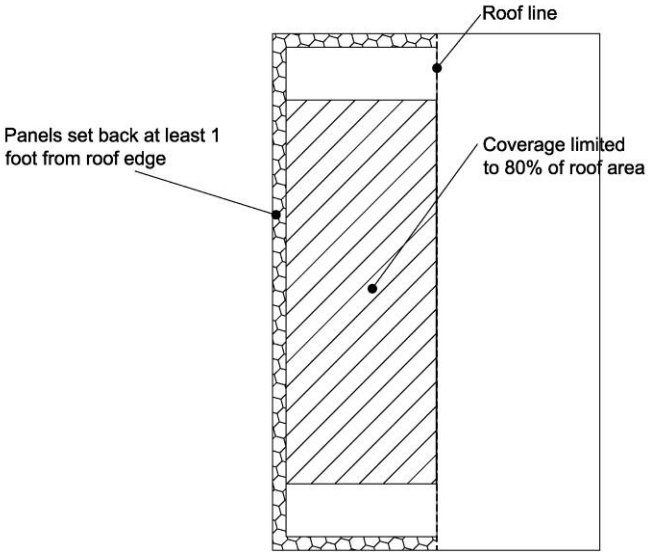
(6) Solar energy systems shall be set back a minimum of one (1) foot from all roof edges.

C. Ground-Mounted Solar Energy Systems

(1) In residential zoning districts, ground-mounted solar energy systems may not be located in a required front yard.

(2) Setbacks. Same as accessory structures.





§ 340-63. Antennas and/or antenna towers.

Except as provided below, accessory antennas and/or antenna towers shall comply with height limits for structures applicable to the zoning district in which the structure is proposed.

A. The Planning Commission may approve communications towers and antenna used exclusively by agencies providing law enforcement, governmental or volunteer-operated ambulance, fire-fighting, and/or rescue services without limitation as to height.

B. Amateur (HAM) radio facilities are subject to a maximum height limit for structures provided the structure is set back from any lot line a distance equal to its height.

(1) A special exception of up to seventy-five (75) feet may be granted in accordance with § 340-134 if the Board of Zoning Appeals determines, based on evidence provided by the applicant that the additional height is the minimum needed to engage in amateur radio communications using the full spectrum under a license issued by the FCC.

(2) Antennas and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely matching the color of the supporting structure, to make the antenna and related equipment as visually unobtrusive as possible.

(3) Antennas and supporting electrical and mechanical equipment must be removed when use ceases.

§ 340-64. Small wireless facilities.

Subject to the following terms and conditions, small wireless facilities shall be permitted with a special exception in all zoning districts:

A. An applicant desiring to install a small wireless facility in, upon, or over private property shall provide the following information:

(1) A technical description of the small wireless facility and support structure along with detailed diagrams accurately depicting all components and equipment;

(2) A detailed description of the design, location, and installation timeframe for the small wireless facility and any support structure;

(3) An engineering certification;

(4) A statement describing the applicant's intentions concerning collocation, if applicable, with collocation being preferred and more favorably viewed;

(5) A statement demonstrating the applicant's ability to comply with all applicable safety standards;

(6) If the applicant is not the owner of the subject property, an executed attachment agreement with the property owner;

(7) A decommissioning plan; and

(8) Such other information as the Planning Commission and/or Board of Appeals may require.

B. All small wireless facilities shall be located, designed, and operated in accordance with all applicable local, State, and federal laws and regulations and to minimize visual impact on surrounding properties to the maximum extent practicable and shall otherwise comply with such requirements and conditions as the Planning Commission and/or Board of Appeals may deem appropriate to impose.

C. Small wireless facilities shall not be located in an area where there is an over-concentration of small wireless facilities.

D. The location selected and the scale and appearance of the small wireless facility shall be consistent with the general character of the neighborhood.

E. Small wireless facilities located in a residential zoning district shall not generate any noise.

F. If located in the Historic District, the small wireless facility shall be subject to Historic District Commission review and approval.

G. Support structures shall comply with the building setback provisions of the applicable zoning district. Also, the minimum setback distance from the ground base of any new support structure to any property line, sidewalk, street, or public recreational area shall be the height of the support structure, including any antennae or other appurtenances. This setback is considered a "fall zone."

H. The height of any new support structure, including any antennae or other appurtenances, shall not exceed the average height of the existing street light poles or utility poles within the area extending five hundred (500) feet in any direction from the proposed support structure.

I. A small wireless facility and/or support structure shall be lighted only if required by the Federal Aviation Administration. The lighting of equipment shelters and other facilities on site shall be shielded from other properties.

J. If metal, the support structure must be treated or painted with non-reflective paint and in a way to conform to or blend in with the surroundings.

K. The small wireless facility and support structure shall be used continuously for wireless communications. In the event the small wireless facility and support structure ceases to be so used for a period of six (6) months, the Board of Appeals may revoke any Special Exception approval granted pursuant to this section. The individual or entity to whom such approval has been granted shall be responsible

for removing the small wireless facility and any support structure within forty-five (45) days following such revocation. Any portion of the small wireless facility and/or support structure which has not been removed within forty-five (45) days following such revocation shall be considered abandoned and may be removed and disposed of by the City, with all such costs to be the sole responsibility of the individual or entity to whom the special exception was granted.

L. In addition to the other criteria required for special exceptions, the Planning Commission shall not provide a favorable recommendation for, and the Board of Appeals shall not approve, an application for a small wireless facility when, in its sole judgment, sufficient capacity no longer exists for additional small wireless facilities to be placed in the proposed location without jeopardizing the physical integrity of other small wireless facilities, support structures, or other utilities already present in the proposed location.

§ 340-65. Adult-oriented businesses (AOB).

The regulations of this section shall apply to adult-oriented businesses in the GC Gateway Commercial Zoning District. All aspects of matters not governed by the following provisions of this section shall be governed by all other applicable provisions of the Town Code. Adult-oriented businesses are regulated under Town Code Chapter 75, Adult-Oriented Businesses. See Chapter 75 for definitions relating to adult-oriented businesses applicable to this section, other than the definition of "adult-oriented business," which is in Town Code § 340-11.

A. In addition to any design criteria generally applicable to a use in the GC Gateway Commercial Zoning District, including but not limited to any buffer, buffer yard, and setback requirements, an adult-oriented business must meet the following setback criteria:

(1) No portion of a building or structure in which an adult-oriented business is located (the "AOB structure") shall be within four hundred (400) feet of the closest boundary of a parcel containing a school, place of worship, park or recreation facility, including but not limited to a YMCA or community center, day-care center, family or day-care center or group home.

(2) No portion of an AOB structure shall be within four hundred (400) feet of the boundary of any parcel in a residential zoning district or four hundred seventy-five (475) feet of the closest portion of any building or structure located within a nonresidential zone used principally as a residential dwelling.

(3) No portion of an adult-oriented business structure shall be less than 5,000 feet from the closest portion of any other building or structure containing an adult-oriented business.

(4) No portion of an adult-oriented business structure shall be less than five hundred (500) feet from the closest portion of any building or structure where alcoholic beverages are sold for on-premises consumption.

B. Application.

(1) The owner/operator of an adult-oriented business shall submit an application to the Zoning Inspector in accordance with Chapter 75, Adult-Oriented Businesses of the Town Code, which includes a site plan that, in addition to those items required by Chapter 110, Site Plan Review, of the Town Code contains and depicts all of the information necessary to determine compliance with this Chapter and Chapter 75 of the Town Code.

(2) Compliance with the requirements of Subsection (1) above shall be determined as of the date of submittal of an application, and any changes to the use of adjoining or neighboring property or to the size, type, number or location of structures or buildings on adjoining or neighboring property applied for or, if no application is necessary, made after the date of submittal of an application shall be of no effect and shall not be given any consideration in determining compliance with the requirements of Subsection (1) hereof.

C. Exterior requirements.

(1) The exterior parking areas, except at any driveway of ingress or egress, shall be screened by a permanent solid fence, wall, or berm in association with a planted area with trees and shrubs on each side of the property that is adjacent or potentially adjacent to another business or property other than a public road, and the exterior of such wall and the planted area shall be maintained. Such a fence, wall, or berm shall be at least five (5) feet in height.

(2) Surveillance devices shall be maintained in a manner to permit continual surveillance from a manned management station of the exterior areas of the lot(s) or parcel(s) on which the adult-oriented business is operating.

D. Site plan required.

(1) Before the issuance of a building permit or a license for an adult-oriented business, an adult-oriented business shall submit a site plan to the Planning Commission in accordance with Chapter 110, Site Plan Review, of the Code of the Town of St. Michaels.

(2) When any change is proposed to an adult-oriented business that affects an item required to maintain compliance with this section or the provisions of Chapter 75, Adult-Oriented Businesses of the Town Code, a revised site plan

shall be submitted to the Planning Commission for approval before any such change.

E. Outdoor advertising signs. All outdoor advertising signs shall comply with the requirements of Article XV of the Town Code. No exterior sign or sign visible from the exterior of any building or structure shall contain adult entertainment or material, as those terms are defined in Chapter 75 of the St. Michaels Town Code.

F. Inspections.

(1) Periodic inspections. The Codes Enforcement Officer/Zoning Inspector or his authorized designee shall periodically inspect the premises of every adult-oriented business to ensure compliance with this Chapter.

(2) Entry. The Codes Enforcement Officer/Zoning Inspector, or his duly authorized designees, who shall exhibit proper credentials upon request, may enter any adult-oriented business without consent of the owner, operator or occupant at any time during business or operating hours, and at such other times as may be necessary in any situation reasonably believed to pose an immediate threat to life, property or public safety, for the purpose of enforcing the provisions of this Chapter.

§ 340-66. Veterinary care.

A. All medical care and boarding must be conducted within a completely enclosed principal building.

B. Bio-hazard and/or medical waste must be disposed of pursuant to the medical waste disposal regulations of the Occupational Safety and Health Administration.

C. The treatment of animals must be primarily limited to small companion animals.

§ 340-67. Marine Services.

Community piers and noncommercial boat docking and storage shall comply with provisions of COMAR 27.01.03.07.

§ 340-68. Day Care Center.

A. Day care centers are permitted in the RG, CC and GC districts and may be permitted as a special exception by the Board of Zoning Appeals in the R-3 districts.

B. A day-care center, nursery school, prekindergarten or preschool may be permitted as a special exception by the Board of Zoning Appeals in the R-1 district subject to the following conditions:

(1) The facility is state-licensed.

(2) The facility contains no more than 1,500 square feet of floor space. In calculating the square footage of floor space, the following may not be included: any floor space, rooms, or areas that are not available for the daily program activities of the children, such as columns, vestibules and corridors, food preparation areas, kitchens, bathrooms, adult work areas, permanently equipped isolation areas or sleeping rooms, storage units, and storage space.

§ 340-69. Restaurants, outdoor seating.

A. Outdoor seating area**s** in the CC **and** GC **are** permitted subject to the following conditions:

(1) An outdoor seating area shall exist only in conjunction with indoor seating that is under the same management, which operates the indoor and outdoor seating as a single business.

(2) The outdoor seating area shall be contiguous to the restaurant with which, per Subsection A(1) above, it forms a single business. For restaurants/cafes providing a sidewalk dining area, see Subsection C below.

(3) Customers in an outdoor seating area shall be seated at tables.

(4) An outdoor seating area with more than two (2) tables or eight (8) seats shall provide table service.

(5) An outdoor seating area shall not include an outdoor bar.

(6) Customers in the outdoor seating area shall have access to the same indoor toilets as do customers seated indoors; portable toilets shall not be permitted.

(7) An outdoor seating area shall not be open for business during hours when the indoor restaurant is closed for business.

(8) No part of any outdoor seating area shall be within **fifty (50)** feet of a residential zone.

(9) Conditions set forth in Subsection A(3), ~~(4)~~, (5) and (7) shall not apply during a private function for which the restaurant's outdoor seating area is closed to the general public.

B. Outdoor seating areas in the MC zone not on conjunction with indoor seating are permitted subject to the following conditions:

(1) Customers in an outdoor seating area shall be seated at tables.

(2) An outdoor seating area with more than two (2) tables or eight (8) seats shall provide table service.

(3) Customers in the outdoor seating area shall have access to indoor toilets; portable toilets shall not be permitted.

(4) No part of any outdoor seating area shall be within fifty (50) feet of a residential zone.

C. Restaurants/cafes with outdoor dining abutting a public sidewalk. General requirements:

(1) An outdoor dining area, accessory to a restaurant/cafe, which abuts a public sidewalk may only be permitted in those zones where restaurants and cafes are otherwise permitted.

(2) A permit for the above noted outdoor dining shall be issued by the Town.

(3) The permit fee shall be as set out in the Town's Administrative Fee Schedule for a zoning certificate.

(4) All chairs, benches, tables, and service operations shall not extend beyond the privately-held property on which the business is located and shall not extend into the pedestrian corridor as defined in Chapter § 285-1 (obstructions), Streets, Sidewalks, Alleys, Town of St. Michaels Code.

(5) No alcohol of any type may be served on public property or in violation of any license issued by the Talbot County Board of License Commissioners. Violation of this condition shall result in immediate termination of the use of the property for outdoor dining and sidewalk use permit.

(6) The authority to grant, renew, revoke, or deny a permit for outdoor dining abutting a public sidewalk rests with the Zoning Inspector.

(7) The duration of the permit shall be 365 days.

(8) No structure or enclosure to accommodate the storage of trash or garbage shall be erected or placed on, adjacent to, or separate from the outdoor dining area on the public sidewalk or right-of-way. Outdoor dining areas shall remain clear of litter at all times.

(9) The hours of operation of the outdoor dining area shall be limited to the hours of operation of the associated restaurant.

(10) Enforcement of these provisions is governed by the St. Michaels Police Department and/or Zoning Inspector.

§ 340-70. Bed-and-breakfast (also referred to as "B&B")

Bed-and-breakfast use is subject to the following conditions:

A. The principal dwelling unit is the permanent residence of the owners of the property or the resident manager. The Planning Commission may allow the dwelling unit for the owner or resident manager of the B&B to be in a separate structure from the guest rooms, located on the same lot or parcel of land provide all other zoning requirements are met.

B. Where the dwelling unit exists in a separate structure from some or all of the guest rooms, a structure with four or more guest rooms, no dwelling unit, and a common dining area for guests, may include a kitchen to be used by management in the preparation of breakfast for guests between the hours of 6:00a.m. and 10:30 a.m. This kitchen shall not be accessible to guests.

C. No more than eight (8) guest rooms;

D. **At least one full bathroom per two guest rooms. Bathrooms must be for the exclusive use of the occupants of the guest rooms and shall be accessible from each guest room without going through another guest room or sleeping room.**

E. Each guest room and guest facility within a particular structure shall be accessible from all other guest rooms and guest facilities within the same structure without exiting the structure or resorting to exterior stairs.

F. A B&B may provide breakfast (but not other meals) in exchange for compensation only to occupants of the guest rooms.

G. A B&B shall contain no **substantial** food storage or preparation facilities in any guest room and shall not permit occupants of guest rooms to prepare meals upon the premises **however accessory appliances such as a mini-refrigerator, coffee maker, and/or micro-wave oven solely for the convenience of the occupants may be provided in guest rooms.**

H. The commencement of the use of a B&B inn shall constitute a new or different use requiring an occupancy permit from the Town.

I. Accessory Uses.

(1) Accessory uses may include the leasing of part or all of the premises (exclusive of the innkeeper’s dwelling as required in this Chapter) for weddings, wedding

receptions, family reunions, business activities and other events similar in nature (hereinafter, "event packages"), providing that such event packages are a part of a contract for services which shall include the rental of at least one sleeping room in the inn and shall not constitute a separate commercial use. Event packages permitted to be sold by this section shall be subject to the following requirements:

(a) Events resulting from the sale of event packages (events) and all sales related to it shall be contracted by a guest of the B&B and shall include, at a minimum, the rental of at least one sleeping room in the B&B.

(b) Attendance at events shall be limited to the maximum occupancy numbers permitted by the Talbot County Fire Marshal or 50 persons, whichever is less.

(c) Food and beverages shall be consumed on the premises during the event.

(d) All services associated with the event and all goods used or consumed during the event shall be made a part of the event package contract. There shall be no cash bar or other goods or services sold directly to the event attendees or any direct retail sales outside of the event package.

(e) The premises so leased shall not include the owner's/innkeeper's dwelling unit.

(f) Events permitted herein shall begin no earlier than 8:00 a.m., including setup and preparation, and shall end no later than 9:00 p.m., including cleanup of the exterior premises of the B&B inn (if necessary).

(g) All items and services sold as part of an event package shall be subject to all required federal, state, and local permits.

(h) Commercial vehicles related to the services associated with events shall not park on the street except to unload and load equipment and supplies.

(i) The kitchen (s) may be used to prepare food served at the event.

(2) Limited sale of items related to the establishment and solely for purchase by guests, e.g., coffee cups, tee shirts, and the like bearing the name or logo of the bed and breakfast is permitted.

§ 340-71. Hotel, Motel.

A hotel or motel is permitted in the WD, CC, MC, and GC districts subject to the following conditions:

A. Hotels or motels shall maintain a density of no more than one sleeping room per 1,500 square feet of lot area in the WD Waterfront Development District.

B. The owner shall comply with the licensing, food storage and preparation guidelines as set forth in the Code of Maryland Regulations (COMAR) 10.15.03, "Food Service Facilities."

C. The length of stay at any Hotel/Motel shall not exceed thirty (30) days within any ninety (90) days.

D. A hotel shall contain a registration area and shall be staffed twenty-four (24) hours a day with at least one individual who has the authority to accept, reject, oversee the conduct of, and expel guests to maintain order at the hotel.

E. If the hotel or motel includes package services for weddings, wedding receptions, family reunions, business activities, conferences and other events similar in nature (hereinafter, “event packages”) as accessory uses:

(1) Events resulting from the sale of event packages (events) shall be contracted by a guest of the hotel and shall include, at a minimum, the rental of at least one sleeping room in the hotel.

(2) Attendance at events shall be limited to the maximum occupancy numbers permitted by the Talbot County Fire Marshal.

(3) Food and beverages shall be consumed on the premises during the event.

F. Hotel and motel establishments may include a restaurant open to the public.

§ 340-72. Historic vacation cottages in the R-2 Zone.

Vacation cottages used for short-term rentals.

A. The purpose for the section is to provide for the **adaptive reuse** of **existing** small single-family detached dwellings of the type traditionally indigenous to the Town; to create an economic incentive to preserve and perpetuate such dwellings, to discourage them from being either demolished or remodeled and enlarged beyond recognition; and to thereby help to perpetuate the Town’s character and history while providing accommodations for tourists.

B. A vacation cottage as herein defined, for which a current and valid license has been issued by the Town, may be rented by the owner thereof in exchange for compensation as a public accommodation for short-term rentals, provided that the premises shall meet all

of the following terms and conditions, as determined by the Zoning Inspector after reviewing the application for such licensure:

(1) A vacation cottage shall consist of **an existing** principal structure located on a single lot or parcel of land (collectively the "premises").

(2) The lot or parcel of land shall be a lot of record.

(3) The principal structure shall:

(a) Located in the Historic District;

(b) Be a single-family detached dwelling **constructed in or before 1945;**

(c) Be the only structure on the lot used for human habitation;

(d) Contain no more than 1,400 square feet of interior space. **Interior floor area of the original dwelling unit may be expanded by not more than five (5) percent from its original square footage, provided any such expansion is not visible from a public way; the addition is not destructive to the integrity of the historic resource; and the expanded total interior floor area does not exceed 1,400 square feet;**

(e) Contain no more than two (2) bedrooms and/or sleeping rooms; and

(f) Contain beds and other sleeping facilities for no more than four (4) persons, excluding cribs and other sleeping facilities for children under eighteen (18) months of age.

(4) The principal use of the premises shall be only:

(a) As a place of public accommodation for short-term rentals or, in the alternative,

(b) As a single-family residence.

§ 340-73. Short term rentals (STR).

Short term rentals may be permitted by the Planning Commission in the CC Central Commercial district subject to the following:

A. All units are located above the first floor in a principal building;

B. An STR license has been issued by the Town;

C. The maximum number of people permitted to be on-site is limited to two (2) persons per bedroom;

D. The owner of the short-term rental property is responsible for payment of any applicable sales or accommodation taxes, e.g., the Maryland Sales Tax and the Talbot County Accommodation Tax; and

E. All applications require an onsite inspection to verify compliance with all applicable building, fire, and safety codes.

§ 340-74. Parking Structures, non-accessory.

Non-accessory or commercial parking, including parking garages, may be permitted as a special exception in the WD and MC district subject to the following conditions:

A. They are located on a lot at least one (1) acre in size; and

B. They are set back at least thirty (30) feet from adjacent property used for residential purposes; and

C. They are set back at least twenty (20) feet from adjacent property used for commercial purposes; and

D. No vehicle entrances or exits face immediately adjacent residential property; and

§ 340-75. Self-service storage facility.

A. No outdoor storage is allowed, and all refuse and garbage must be stored inside a building or in areas that are thoroughly screened from view.

B. All driveways and parking areas must be paved.

C. The site must be completely fenced and accessed via a locked security gate.

§ 340-76. Fueling Station.

Fueling stations may be permitted as a special exception in the GC district subject to the following conditions:

A. Setbacks

(1) Interior side and rear setbacks with a minimum depth of twenty (20) feet must be provided abutting residentially zoned lots. Setbacks abutting all other lot lines must comply with district requirements.

(2) Except for approved driveways, buffers may not be paved and must be landscaped green space.

B. Protective Curb

(1) All landscaped areas must be protected by a raised curb at least six (6) inches in height or by a bumper guard of not more than eighteen (18) inches in height.

(2) Protective curbing at least six (6) inches in height must be provided along the edges of all areas accessible to motor vehicles upon adjacent property or street rights-of-way, except that provision may be made for cross-access to abutting commercial development.

C. Electric Vehicle Charging Stations

(1) Public electric vehicle charging stations are permitted as an accessory use.

(2) Parking

(a) Electric vehicle charging stations may be counted toward satisfying minimum off-street parking space requirements.

(b) Public electric vehicle charging stations must be reserved for parking and charging electric vehicles.

(3) Equipment

(a) Vehicle charging equipment must be designed and located not to impede pedestrian, bicycle or wheelchair movement or create safety hazards on sidewalks.

(b) Equipment is subject to the lot and building regulations of the subject zoning district unless otherwise expressly stated.

(4) Maintenance.

(a) Electric vehicle charging stations must be maintained in all respects, including the functioning of the equipment.

(b) A phone number or other contact information must be provided on the equipment for reporting when it is not functioning or when other problems are encountered.

§ 340-77. Personal motor vehicle repair and maintenance.

Facilities for repair and maintenance of personal motor vehicles may be permitted in the GC district subject to the following conditions:

A. Repair and service activities must be conducted within a completely enclosed building.

B. No outdoor storage is allowed, except for customer vehicles waiting to be repaired or waiting for pick up.

C. All repair and maintenance activities must be screened with a solid fence or wall approved by the Planning Commission with a minimum height of six (6) feet and a maximum height of eight (8) feet.

§ 340-78. Contractor's shop.

A contractor's shop, including office, may be permitted in the SLC and GC districts subject to the following conditions:

A. All services, storage functions, and work areas are conducted within a completely enclosed building or a fenced or screened yard area that assures no visible evidence of such services, storage and work area functions from Talbot Street.

B. Outside storage or work areas shall be screened on all sides by a solid, opaque wooden or brick wall not greater than eight (8) feet in height. No variance shall be required for fences serving such screening functions. Chain link fencing shall not be used as a fencing material to satisfy screening requirements.

§ 340-79. Micro-producers.

A. Hold an appropriate State license that allows the production of beer, wine, or liquor and operates consistent with the applicable license.

B. Tasting rooms and on-site sales and consumption are permitted as accessory to on-site production operations and facilities. Products offered in tasting rooms and for on-site sales and consumption may only be supplied from the related production facilities.

C. Events are subject to the provisions of Chapter 250- Public Events, the Town of St. Michaels Code.

§ 340-80. Home occupation.

A. The Town recognizes the desire and/or need of some citizens to use their residence for business activities to reduce travel and to provide another economic development tool, but also recognizes the need to protect the surrounding areas from adverse impacts generated by these business activities. The standards in this section ensure that the home occupation remains subordinate to the residential use and that the residential character of the dwelling unit is maintained. The standards recognize that many types of jobs can be done in a home with little or no effects on the surrounding neighborhood.

B. There are two types of home occupations, Type 1 and Type 2. Uses are allowed as a home occupation only if they comply with all of the requirements of this Chapter. Determination of whether or not a proposed home occupation is a Type 1 or Type 2 shall be made by the Zoning Inspector.

(1) Type 1. A Type 1 home occupation is one wherein the residents use their home as a place of work; however, no employees or customers come to the site. A Type 1 home occupation shall be permitted in all zoning districts.

(2) Type 2. A Type 2 home occupation is one where either one employee (residing outside of the dwelling) or customers/clients come to the site. Examples are home daycare services, counseling, tutoring, and other such instructional services.

C. General requirements:

(1) No article or commodity may be offered for sale or be publicly displayed on the premises except those incidental to the service offered.

(2) The living quarters must occupy at least 2/3 of the entire building area.

(3) Type 1 home occupation entails no off-street parking space requirement in addition to the residential use.

(4) A use consisting of a dwelling and one or more guest rooms is not a home occupation but is a principal use.

D. Permitted Home Occupations. Examples of permitted home occupations include, but are not necessarily limited to, the following:

(1) Offices for such professionals as, but not limited to, architects, brokers, counselors, clergy, doctors, draftspersons and cartographers, engineers, land planners, insurance agents, lawyers, real estate agents, accountants, editors, publishers, journalists, psychologists, contract management, graphic design,

construction contractors, landscape design, surveyors, cleaning services, salespersons, manufacturer's representatives, and travel agents.

(2) Instructional services, including music, dance, art, and craft classes.

(3) Studios for artists, sculptors, photographers, and authors.

(4) Workrooms for tailors, dressmakers, milliners, and craft persons, including weaving, lapidary, jewelry making, cabinetry, and woodworking.

E. A Type 2 home occupation may be permitted by the Board of Zoning Appeals as a special exception in the residential districts provided that such use shall conform to the following standards which shall be the minimum requirements:

(1) Operational Standards

(a) Conditions of approval established by the Board of Zoning Appeals shall specify the hours of operation, the maximum number of customer/client visits that may occur in any one day, and the maximum number of customers/clients that can be present during hours of operation.

(b) A Type 2 home occupation shall have no more than one (1) nonresident employee and one (1) customer on the premises at any one time. The number of non-resident employees working at other locations other than the home occupation is not limited.

(c) Type 1 home occupations are not required to provide any additional parking beyond what is required for residential use. Type 2 home occupations shall provide two (2) hard surfaced, dust-free parking areas.

(d) The equipment used by the home occupation and the operation of the home occupation shall not create any vibration, heat, glare, dust, odor, or smoke discernible at the property lines, generate noise exceeding those permitted by State Code and the St. Michaels Code, create electrical, magnetic or other interference off the premises, consume utility quantities that negatively impact the delivery of those utilities to surrounding properties, or use/or store hazardous materials in excess of the quantities permitted in a residential structure.

(2) Site Related Standards

(a) Outdoor activities.

[1] All activities must be in completely enclosed structures.

[2] Exterior storage or display of goods or equipment is prohibited.

(b) The appearance of structure and site. The dwelling and site must remain residential in appearance and characteristics. Internal or external changes that will make the dwelling appear less residential in nature or function are prohibited.

§ 340-81. Portable storage containers.

A. A property owner or tenant may rent and use a portable storage container provided the following conditions are met:

(1) The Zoning Inspector shall be notified at least three business days before placing the storage container on the site.

(2) A portable storage container shall be located at the address for a maximum of sixty (60) consecutive days, including the days of delivery and removal. Extensions may be granted by the Zoning Inspector, subject to conditions, for reasonable additional periods in an amount not to exceed thirty (30) days for each extension.

(3) The unit is no larger than eight feet wide by eight feet high by sixteen feet long.

(4) The unit is not located within any public right-of-way and does not block any public sidewalk unless there is no alternative on-site location and if authorized by the Zoning Inspector.

(5) There is no more than one (1) portable storage container for any address at any one time.

(6) The container shall not be located in the front setback unless approved by the Zoning Inspector. If access exists at the side or rear of the site, the container shall be located in a side or rear yard.

(7) Portable storage containers shall be placed on an impervious surface where feasible (e.g., driveway).

(8) The portable storage container shall be used for the temporary storage of household goods and related items only. The portable storage container may not be used for waste.

(9) On townhouse, or multi-family properties, placement of the portable storage container must be approved by an appropriate management or ownership entity to ensure safe and convenient access to required parking spaces, driveways, and pedestrian pathways and to ensure that the storage container does not obstruct emergency access or infringe on required landscaped areas.

(10) Portable storage containers are not permitted accessory structures and shall not be used as such.

§ 340-82. Roll-off trash containers.

A. A roll-off trash container may be temporarily placed on a property in a residential district provided the following conditions are met:

(1) The Zoning Inspector shall be notified at least three business days before placing the roll-off trash container on the site.

(2) A roll-off trash container shall be located at the address for a maximum of thirty (30) consecutive days, including the days of delivery and removal. Extensions may be granted by the Zoning Inspector, subject to conditions, for reasonable additional periods in an amount not to exceed thirty (30) days for each extension. The Planning Commission may grant further extensions not to exceed six (6) months.

(3) The unit has a maximum capacity of forty (40) cubic yards or is no larger than eight (8) feet wide by eight (8) feet high by sixteen (16) feet long.

(4) There is no more than one (1) roll-off trash container for any address at any one time.

(5) The unit is not located within any public right-of-way and does not block any public sidewalk unless approved by the Zoning Inspector.

(6) Roll-off trash containers shall be placed on an impervious surface (e.g., driveway) where feasible.

(7) The roll-off trash container is used only for the disposal of acceptable waste. Examples of waste that are not acceptable include refrigerators, a/c units, tires, batteries, car parts, hazardous waste, and gas or propane tanks.

(8) On townhouse or multi-family properties, placement of the roll-off trash container must be approved by appropriate management or ownership entity to ensure safe and convenient access to required parking spaces, driveways, and pedestrian pathways and to ensure that the storage container does not obstruct emergency access or infringe on required landscaped areas.

(9) Roll-off trash containers are not permitted accessory structures and shall not be used as such.

§ 340-83. Temporary uses and structures.

A. Temporary structures, construction –

(1) The Zoning Inspector may permit temporary buildings and structures, including trailers for uses incidental to construction work, having a definite completion date and on the condition that such temporary buildings and structures shall be removed upon the completion or discontinuance of construction or one (1) year, whichever comes first.

(2) At the request of the property owner, the Planning Commission may extend approval for a temporary building or structure for up to two (2) additional six (6) month periods upon a determination of good cause.

(3) Such structure shall be subject to all applicable zoning district standards for the district in which it is located.

(4) Trailers, shelters, or the buildings shall not be used for living or sleeping.

B. Temporary use, sales – The Zoning Inspector may permit one trailer or the use of one building as a temporary field or sales office in connection with building development. The temporary sales trailer shall be removed at the point in time when all the residential lots have been sold, and the sales office is closed. Neither the trailer nor the building shall be used for living or sleeping other than for overnight security purposes.

C. Temporary use, emergency – The Zoning Inspector may permit temporary buildings, structures, and uses needed as the result of a natural disaster or other health and safety emergencies for the duration of the emergency.

§ 340-84. Reserved.

§ 340-85. Development standards Historic Redevelopment Zone (HR).

A. Operational standards and restrictions. Uses permitted within this zone shall be controlled by the following general standards and limitations:

(1) No business shall be open to the general public earlier than 7:00 a.m. or later than 10:00 p.m. except a bakery/coffee shop which may open earlier than the above noted.

(2) Retail outlets not associated with craft workshops and artists' studios with associated retail sales are limited to 50% of the total square footage of those structures located on each parcel within the HR.

(3) No single commercial use shall generate more than an average of five (5) truck deliveries and/or pickups per day.

(4) Loading and unloading of trucks shall be done on private property in as much as possible and within areas screened from the view of neighboring residences and public ways by natural plantings or decorative screening at least eight feet in height. No variance shall be required for fences serving such decorative screening functions.

(5) Outdoor seating areas associated with any use in the HR **shall comply with the provisions of Chapter 285, Streets, Sidewalks, Alley, the Town of St. Michaels Code**.

(6) All uses shall be subject to the performance standards for industrial uses in § 340-89.

(7) All use shall be subject to the provisions for outdoor storage in § 340-88.

(8) All uses shall be subject to the lighting standards in Article XVI.

(9) For enforcement of Chapter 216 Noise, Town of St. Michaels Code, the HR Historic Redevelopment Area shall be considered the same as the surrounding residential area.

(10) Each use shall have a separate, exclusive, and well-defined space for occupancy and operation, either by lease, deed, or similar document. Driveways, loading and unloading areas, parking areas, and means of ingress and egress may be used in common with other occupants or users within the HR.

(11) No use or combination thereof shall cause a pattern or flow of traffic, which is inconsistent with or destructive of the character and fitness of the neighborhood and zone for residential use.

D. Height, setback, yard, lot coverage, and impervious surface restrictions:

(1) Structure heights limits are those set out in § 340-103 except that any existing structure shall not be considered a nonconforming structure. Existing structures may be maintained, repaired, renovated, and/or, in the event, it is totally or partially destroyed, may be reconstructed in the same place and to the same dimensions as such structure previously existed.

(2) Development standards. For new projects or substantial reconstruction or renovation, lot coverage (structures and impervious surface), and setback/yard requirements shall be established for each project by the Planning Commission. In determining these requirements, the Planning Commission shall consider such factors as the proposed intensity of the project, the existing character of the neighborhood, **and the current area and bulk conditions.**

§ 340-86. Development standards SLC Select Limited Commercial zone.

Uses permitted in the SLC Select Limited Commercial district shall be controlled by the following standards and limitations:

A. Except for loading and unloading of vehicles, no business activity shall take place outside of an enclosed building.

B. No single commercial use shall generate more than three (3) truck deliveries and/or pickups per day by vehicles having ten (10) or more wheels.

C. Loading and unloading of trucks shall be done on private property in areas screened from view from neighboring residences and public ways by natural plantings or decorative screening at least eight feet in height. No special exception shall be required for fences serving such screening function.

D. Open storage of refuse, debris, or offal is prohibited.

E. All exterior illumination shall conform to the provisions of § 340-179.

F. All uses shall conform to the standards in § 340-89.

G. Noise levels for all uses shall conform to the standards set in title 26, Subtitle 02, Section 03 Control of Noise Pollution, and Chapter 216 of the St. Michaels Code.

H. No use or combination of uses shall cause a pattern or flow of traffic, which is inconsistent with or destructive of the character and fitness of adjacent residences, neighborhoods, and zones for residential use.

§ 340-87. Development standards GC Gateway Commercial zone.

Parking areas will be located to the side and rear of the parcel except handicapped parking, which may be located near the main entrance of the building.

§ 340-88. Outdoor storage and display.

A. Generally. It shall be unlawful for any owner or occupant to place, deposit, or maintain outdoor storage on any premises or property except as permitted in this Chapter.

B. Outdoor display by retail uses. Retailers of both new and used merchandise shall be permitted to display outdoors. The following conditions shall apply to the display of merchandise outdoors:

(1) Display of merchandise must be set back ten (10) feet from all property lines;

(2) No merchandise may be placed on a public sidewalk;

(3) All merchandise shall be located within the confines of the retailer's owned or leased property;

(4) No merchandise may be placed on landscaping, within three (3) feet of either side of a working doorway or ten (10) feet directly in front of a working doorway;

(5) Merchandise shall not be placed in a designated sight triangle or in any location which would impair a driver's view of a street;

(6) Merchandise shall be displayed and maintained in a neat, clean, tidy, and orderly manner;

(7) Temporary parking lot sales shall be a permitted use in commercial districts, as long as the sales are conducted as an extension from a permanent structure containing a retail business. Also, minimum off-street parking requirements must be maintained, as well as any other provisions of this Chapter. This section shall not be construed to allow a sub-lessee to occupy a parking lot to conduct independent sales activity;

(8) The size of the outdoor display area for secondhand goods or merchandise shall be limited to ten (10%) percent of the total indoor gross floor area of the business (excluding accessory buildings, as allowed by this Chapter) and in no event shall exceed one hundred (100) square feet;

(9) No secondhand goods or merchandise shall be displayed or stored or otherwise left outdoors during non-operating hours of the business;

(10) This section shall not apply to the sale of motor vehicles, trailers, or boats.

C. Outdoor storage in equipment rental businesses. Storage areas shall be fully screened from view from adjacent properties by an approved treatment that may include building placement, walls, fencing, and landscaping. Such storage areas shall not be located in the front setback or buffer area.

D. Outdoor storage in industrial districts. Outdoor storage in any industrial district shall be allowed. Outdoor storage shall be screened with a visual barrier approved by the Planning Commission that adequately conceals material from the view of residential areas or public rights-of-way. Outdoor storage shall be behind required front setbacks.

(1) All outdoor storage facilities for manufacturing equipment, fuel, raw materials, subassemblies, finished goods, and defective or repairable goods shall be enclosed by an opaque fence or other appropriate treatment. Such fence or treatment shall be adequate to conceal such facilities from an adjacent property. Acceptable barriers include opaque fencing, berming, or other landscape treatment. Chain link fencing with slats for screening is prohibited.

(2) No highly flammable or explosive liquids, solids, or gases shall be stored in bulk above ground. Tanks or drums or fuel directly connected with heating devices or appliances located on the same site as the tanks or drums of fuel are excluded from this provision as well as liquefied and gaseous noncombustible materials.

(3) The Planning Commission may grant a waiver to screening requirements for outdoor storage upon approval of a site plan. The exception shall be based on a visual analysis of the site and proposed development identification of unusual topographic or elevation conditions, strategic design treatment, and demonstration that the strict enforcement of screening is not practical. Views into the site will determine the amount and location of landscaping.

§ 340-89. Performance standards for uses in the industrial use category.

After the effective date of this Chapter, any use established extended or changed and any building, structure, or tract of land, developed, constructed, or used for any permitted use or accessory use in the use category "Industrial" shall comply with all of the applicable performance standards herein set forth.

A. All aspects of any industrial use shall be permitted and approved as applicable by any Federal, State, or County agency or department with jurisdiction and/authority and shall continuously operate as provided by any applicable Federal, State, or County regulations or standards.

B. All manufacturing and processing shall occur within a closed, controlled building environment.

C. Noise levels for all industrial uses shall conform to the standards set in title 26, Subtitle 02, Section 03 Control of Noise Pollution, and Chapter 216 of the St. Michaels Code.

D. Air quality shall conform to the requirements of COMAR Title 26, Part 2, Subtitle 11.

E. Any industrial use or activity producing humidity in the form of steam or moist air, heat, or glare shall be carried on in such a manner that the humidity, heat, or glare is not perceptible at any lot line. Detailed plans for the elimination of humidity, heat, or glare may be required before the issuance of a building permit.

F. No vibration as measured at the lot line is permitted, which is discernible by the human sense of feeling for three (3) minutes or more duration in any one (1) hour period.

G. No emission of particulate matter, a sulfur compound, carbon monoxide, hydrocarbon, nitrogen oxide, and open burning shall be allowed more than regulations adopted by the Maryland Department of the Environment.

H. All sources of ionizing radiation shall be registered or licensed by the Maryland Department of the Environment and operated in accordance with their regulations.

I. Any electrical radiation shall not adversely affect, at any point, on or beyond the lot line, any operation or equipment, other than those of the creation of the radiation. Avoidance of adverse effects from electrical radiation by appropriate single or mutual scheduling of operations is permitted.

J. No waste material or refuse shall be dumped upon, or permitted to remain upon, any part of the property outside of the buildings. All waste shall be disposed of in accordance with the regulations of the Maryland Department of the Environment.

K. No chemical, substance, product, or activity shall be used, stored or located on the premises in such a way as to produce or cause a noxious or offensive odor or fumes to be emitted outside of the building in which it is used, stored or located.

§ 340-90. Reserved.

§ 340-91. Reserved.

§ 340-92. Reserved.

§ 340-93. Reserved.

Article IX. Density and Dimensional Regulations.

§ 340-94. Minimum lot size and residential density.

A. Subject to the exceptions listed below, all lots or parcels shall have at least the amount of square footage indicated for the appropriate zoning district in § 340-104.

B. If the owner of a lot or parcel in any district does not own a parcel or tract of land immediately adjacent to such lot, and if the deed or instrument under which such owner acquired title to such lot was of record prior to the application of any zoning regulations and restrictions to the premises, and if such lot does not conform to the requirements of such regulations and restrictions as to the width of lots and lot area per family, the provisions of such lot area and width regulations and restrictions shall not prevent the owner of such lot from erecting a single-family dwelling or making other improvements on the lot, provided that such improvements conform in all other respects to applicable zoning regulations and restrictions.

C. Except as provided B above, every lot developed for residential purposes shall have the minimum number of square feet of land area per dwelling unit as required by the § 340-104.

D. In determining the number of dwelling units permitted on a tract of land, fractions shall be rounded to the nearest whole number.

§ 340-95. Minimum lot widths and depths.

A. No lot may be created that is so narrow or otherwise so irregularly shaped that it would be impracticable to construct on it a building that:

(1) Could be used for purposes that are permissible in that zoning district, and

(2) Could satisfy any applicable setback requirements for that district.

B. § 340-104 establishes minimum lot widths and depths that are required and are deemed presumptively to satisfy the standard set forth in Subsection A.

§ 340-96. Building setback requirements.

A. Subject to other provisions of this section, no portion of any building, structure, or any freestanding sign may be located on any lot closer to any lot or property line than is authorized in the table set forth in § 340-104.

B. Permitted encroachments. Every part of a required yard shall be open to the sky, except the features outlined in the following paragraphs may extend into minimum required yards as specified.

(1) Architectural elements, such as eaves, awnings, sills, cornices, flumes or chimneys, canopies, cantilevers, window seats, bay windows, and other similar architectural features on principal structures located above ground level may extend two (2) feet into any minimum required yard but not closer than five (5) feet to any lot line. Permitted architectural projections shall be identified on any site plan, zoning certificate, or building permit application.

(2) Window air-conditioning units in principal structures may project to a distance not to exceed twenty-four (24) inches into a required yard (see Figure 96-1).

(3) Open balconies, fire escapes, fire towers, uncovered stairs and stoops, connected carports and garages, porches, and decks associated with principal structures may not extend into required yards.

(4) Mechanical equipment such as HVAC equipment, water heaters, or spa pumps is not permitted to encroach into or obstruct any required yard or setback. Also, the location of air conditioners shall consider the potential noise impacts on adjacent buildings, especially nearby bedrooms and main living areas.

(5) Driveways and walkways may occupy a front, rear, or side yard.

§ 340-97. Context Street Setbacks.

Context street setback requirements are established to reflect existing neighborhood conditions, historical building patterns, and other unique context issues. The special street setback requirements outline below govern in the case of conflict with the lot and building regulations

A. Interior Lots.

(1) When existing buildings on one or more abutting lots are closer to the front or street property line than the otherwise required setback, additions to existing buildings or construction of new buildings on the subject lot may comply with the average front yard depth that exists on the nearest two (2) lots on either side of the subject lot instead of complying with the zoning district's minimum street setback requirement.

(2) If one or more of the lots required to be included in the averaging calculation is vacant, that vacant lot will be deemed to have a street yard depth equal to the minimum street setback requirement of the subject zoning district (see Figure 97-1).

(3) Lots with frontage on a different street than the subject lot or that are separated from the subject lot by a street or alley may not be used in computing the average (see Figure 97-2).

B. Corner Lots.

(1) When the subject lot is a corner lot, the average front yard depth will be computed based on the nearest two (2) lots with frontage on the same street as the subject lot (see Figure 97-3).

(2) In the case of a corner lot that does not have two adjoining lots from which to determine an average setback, the Zoning Inspector will designate a primary street frontage along which a front yard having the full depth required will be provided. The front yard setback along the secondary street shall be no less than half the full depth required but in no case less than six (6) feet (see Figure 97-4).

C. Through Lots. Where one of the front yards required on a through lot is not in keeping with the prevailing yard pattern, the Zoning Inspector may waive the minimum front yard requirement and substitute yard requirement, which shall not exceed the average of the yards provided on adjacent lots.

§ 340-98. Structure height.

A. The height limitation, as outlined § 340-104 shall not apply to the following:

(1) Flagpoles, church steeples, **public** utility poles which are part of a continuous line system (as distinguished from a tower to support one or more antennas) for the distribution of electric power, land-line telephone signals, or cable television signals, **and** water towers. In no event shall any such pole **or** steeple exceed seventy-five (75) feet in height from the average grade of the lot.

(2) Ventilating fans or similar equipment required to operate and maintain the buildings provided that the equipment does not project above the roof by more than five (5) feet), and

(3) Building firewalls provided they do not project above the roof by more than five (5) feet.

B. **The Planning Commission may allow towers and other structures associated with essential or safety services to exceed structure height limits as provided herein.**

C. **Chimneys may exceed the height limits for the applicable zoning district by a maximum of five (5) feet.**

D. The Planning Commission may increase the maximum height limit for principal structures up to a maximum of thirty-eight (38) feet where the applicant demonstrates that the additional height is necessary to comply with the Chapter 173, § 173-34 of the St. Michaels Floodplain Management regulations.

§ 340-99. Fences and arbors.

A. Ornamental and/or protective fences are permitted in any zone, subject to the restrictions of § 340-100 (Visibility at intersections) and the following regulations:

(1) Height limitations; exception.

(a) Except as provided in Subsection A(3), no part of any fence within a front yard setback shall exceed four (4) feet in height, and no part of any fence behind a front yard setback shall exceed six (6) feet in height. The front yard setback applicable to fences shall be determined according to § 340-104.

(b) In the CC Zone only, fences associated with commercial use and utilized for the containment of materials and/or equipment are exempt from the above-noted height limitations. Under no circumstances shall the fence

exceed eight (8) feet in height. Any fence greater than six (6) feet in height and visible from a public street shall have sufficient vegetative screening to soften the visual impact of such fence therefrom.

(2) The structural side of any fence shall face inwards towards the property the fence delineates.

(3) In any fence with a gate, an arbor framing the gate is permitted provided that:

(a) The arbor is structurally continuous with the fence; and

(b) The arbor does not exceed five (5) feet in width, eight (8) feet in height, or five (5) feet in depth; and

(c) The front of the arbor is flush with the outward side of the fence (the depth of the arbor thus extending inside the fence).

B. Freestanding arbors are permitted in any zone, but shall not be located in any setback, and shall not exceed eight (8) feet in height.

§ 340-100. Visibility at intersections.

A. On a corner lot in any zone, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision above the center-line grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines fifty (50) feet from the point of intersection.

B. In any required front yard no fence or wall shall be permitted which materially impedes vision across such yard above the height of thirty (30) inches, and no hedge or other vegetation shall be permitted which materially impedes vision across such yard between the heights of thirty (30) inches and ten (10) feet.

§ 340-101. Accessory structures in residential districts.

The general regulations of this subsection apply to all accessory uses and structures unless otherwise expressly stated.

A. The Zoning Inspector is authorized to determine when use or structure meets the criteria of an accessory use or accessory structure. To classify a use or structure as “accessory,” the Zoning Inspector must determine that the use or structure:

(1) is subordinate and incidental to the principal structure or principal use served in terms of area and function;

(2) provides a necessary function for or contributes to the comfort, safety or convenience of occupants of the principal use or structure; and

(3) is customarily found in association with the principal subject use or principal structure.

B. **Yard sales or garage sales accessory to a principal residential use so long as such sales are not conducted on the same lot for more than three (3) days (whether consecutive or not) during any ninety (90) days and provided they satisfy the general criteria outlined in A above.**

C. Time of Construction and Establishment. Accessory uses and structures may be established in conjunction with or after the principal building. They may not be established before the principal use or structure is in place.

D. Accessory uses and structures must be located on the same lot as the principal use or structure to which they are accessory.

E. Accessory uses and structures attached to the principal building by a breezeway, passageway, or similar means are subject to the building setback regulations that apply to the principal use or structure.

F. Accessory Structures in A Agriculture District. Limitations on the number of agricultural buildings, including farm buildings, barns, stables, private garages, and other similar structures normally accessory to the principal permitted agriculture uses, do not apply. All such structures shall be set back a minimum of one hundred (100) feet from any residential district or residential dwelling on an adjacent property.

G. Residential Accessory Use and Structures. The following additional regulations apply to buildings that are accessory to principal residential uses:

(1) Accessory uses and structures are prohibited in front or street setbacks except as provided in § 340-96.B**.**

(2) No more than three (3) detached accessory uses or structures are allowed on any lot.

(3) Accessory uses or structures are subject to minimum side setback of three (3) feet and minimum rear setback of five (5) feet.

(4) Lots with rear lot lines abutting alleys. On any lot used for residential purposes whose rear lot line abuts upon an alley, customary accessory uses may be permitted without regard to rear yard requirements, provided that

no portion of any structure obstructs the alley or in any way reduces the public or private access for customary use.

(5) The aggregate footprint or coverage of all accessory uses or structures on a lot may not exceed the gross floor area of the principal building.

(6) Residential accessory structures may not exceed the height of the principal structure **or twenty-six (26) feet in height, whichever is more restrictive.**

(7) Accessory structures shall be distant at least **ten (10)** feet from any other **principal** structure and **three (3) feet from any other accessory structure** on the same lot.

(8) Where a corner lot adjoins in the rear a lot fronting on a side street, no accessory structure on such corner lot shall be closer to the side street line than the required front yard depth of the adjoining lot (see Figure 101-1).

(9) Attached or detached garages in the R-1 and R-2 districts shall be setback a minimum of ten (10) feet from an adjacent street from which access is taken.

§ 340-102. Accessory structures in nonresidential districts.

The following additional regulations apply to buildings that are accessory to principal nonresidential uses:

A. Accessory buildings are prohibited in front yard setbacks.

B. Accessory buildings are subject to the yard, lot, and building regulations of the subject zoning district.

§ 340-103. Swimming Pools.

Swimming pools, open and unenclosed, may occupy a required rear or side yard, provided that:

A. Aboveground pools (i.e., those rising more than four feet above the average grade of the yard) must meet the setback requirements associated with the zone.

B. In-ground pools (i.e., those rising less than four feet above the average grade of the yard) must not be placed closer than six feet from a rear lot line, nor less than 10 feet from an interior side lot line.

C. All permanent or semi-permanent swimming pools shall be fenced as provided in the Building Code. All applications for building permits for swimming pools shall include plans for the fence or other structure to enclose the proposed swimming pool. § 340-99

notwithstanding, fences in excess of four (4) feet in height shall be permitted without a special exception upon the following conditions:

(1) The fence in question shall be used to enclose a swimming pool as required by this section of this Chapter or the Building Code; and

(2) The fence in question shall comply with the minimum yard requirements of § 340-104.

D. Readily portable pools, such as children's wading pools, are exempt from the provisions of this Chapter.

§ 340-104. Table of lot, height, area, and bulk requirements.

§ 340-104. Table of Lot, Height, Area, and Bulk Requirements.									
	Minimum lot size			**Yard requirements**				**Height**	
Zoning District	**Area (sq. ft.) per unit**	**Lot width (ft.)**	**Lot depth (ft.)**	**Front**	**Side**	**Aggregate**	**Rear**	**Feet**	**Stories**
A Agriculture	87,120	150	200	50	20	50	40	35	21/2
R-1									
Single-family	6,000	50	85	6	15	20	25	35	21/2
Duplex	3,500	40	85	6	15	20	25	35	21/2
R-2									
Single-family	5,000	40	85	6	15	15	25	35	21/2
Duplex	3,000	40	85	6	15	15	25	35	21/2
R-3									
Single-family	5,000	40	85	25	6	15	25	35	21/2
Duplex	**3,000**	40	85	25	6	15	25	35	21/2
Townhouse	**2,000**	**20**	**85**	**25**	**6**	**15**	**25**	**35**	**21/2]**
Multiple-family	2,000	20	100	30	6	15	25	35	21/2
RG	43,560	100	300	25	10	30	40	35	21/2
WD[1]	217,800	400	400	100	40	80	100	35	21/2
CC	NA	NA	NA	NA	[3]	NA	10 [4]	35	3
SLC	10,000	50	100	25	25	35	25	35	21/2
GC	7,200	50	100	20	[1]	NA	20	35	21/2
HR	**See § 340-85.**								
MC	20,000	**75**	**150**	30	10	25	35	35	21/2
MM	7,200	50	100	30	8	20	25	35	21/2
PF	43,560	75	100	30	10	20	10	35	21/2
PR	**See § 340-40.**								
[1] Side: ten (10) feet if adjacent to a residential building or residential zone.									

§ 340-105. Table of coverage limits.

The total area of buildings, structures, and/or impervious surface shall not exceed the limits outlined in the following table unless granted a variance as provided in § 340-135.

§ 340-105. Table of Coverage Limits	**Maximum lot coverage**	
	Structures	**Impervious**
Zoning District		
R-1	35%	55%
R-2		
Lots of or greater than 5,000 square feet	40%	70%
Lots less than 5,000 square feet	45%	70%
R-3		
Lots of or greater than 5,000 square feet	40%	70%
Lots less than 5,000 square feet	45%	70%
RG	--	15%
WD	--	72%
CC		
Maximum lot coverage for lots greater than 5,000 square feet but less than 10,000 square feet	50%	85%
Maximum lot coverage for lots greater than 10,000 square feet.	40%	75%
SLC	--	50%
GC	--	70%
MC		
For lots having less than 20,000 square feet in area, the maximum lot coverage shall be 50% of the lot area.	--	50%
For lots having 20,000 square feet or more of area, the total impervious surfaces shall be as follows:		
Lots with all structures of no more than one story in height	--	40%
Lots with any structure, and all structures of no more than two stories in height	--	25%

§ 340-105. Table of Coverage Limits	**Maximum lot coverage**	
	Structures	**Impervious**
Zoning District		
Lots with any structure, or part thereof, of more than two stories in height	--	15%
MM	--	50%
PF	--	70%

§ 340-106. Reserved.

§ 340-107. Reserved.

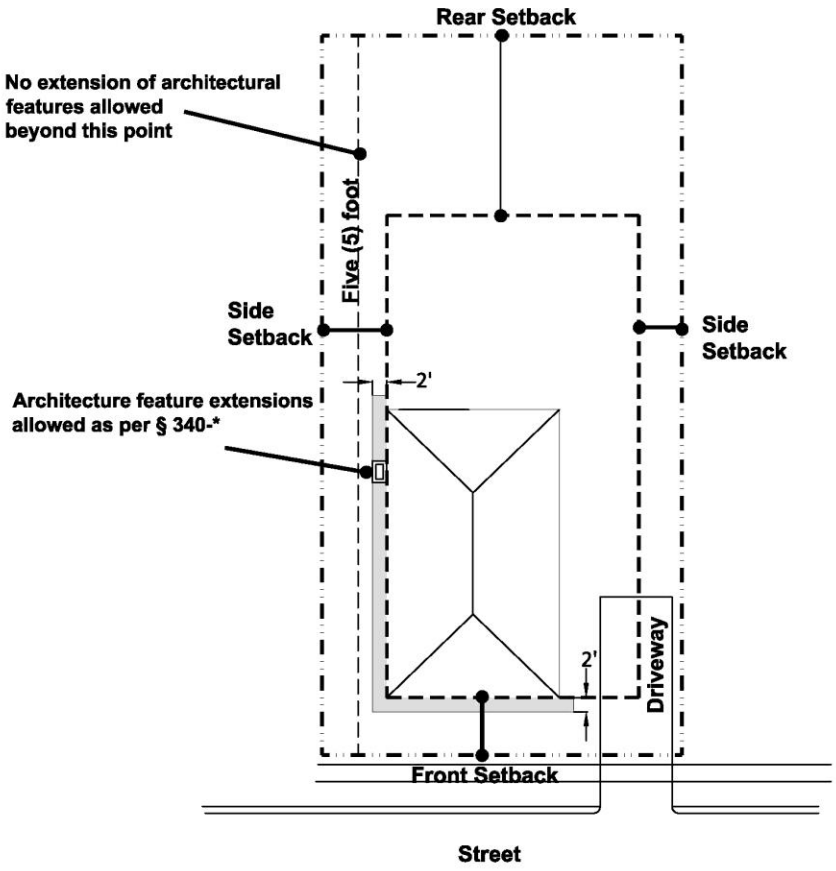

Rear Setback
No extension of architectural features allowed beyond this point
Five (5) foot
Side Setback
Side Setback
2'
Architecture feature extensions allowed as per § 340-*
2'
Driveway
Front Setback
Street

Figure 96- 1

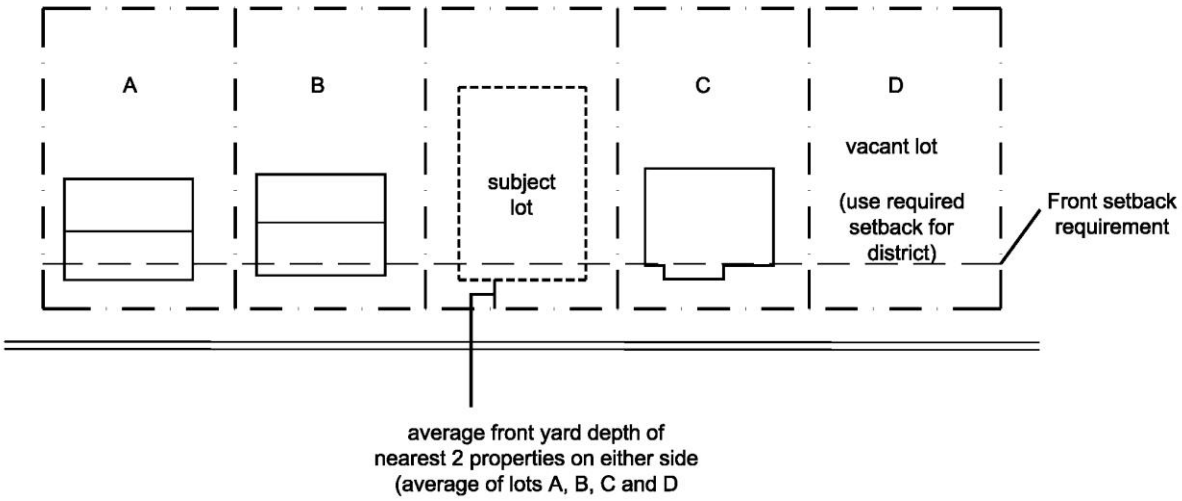


Figure 97-1

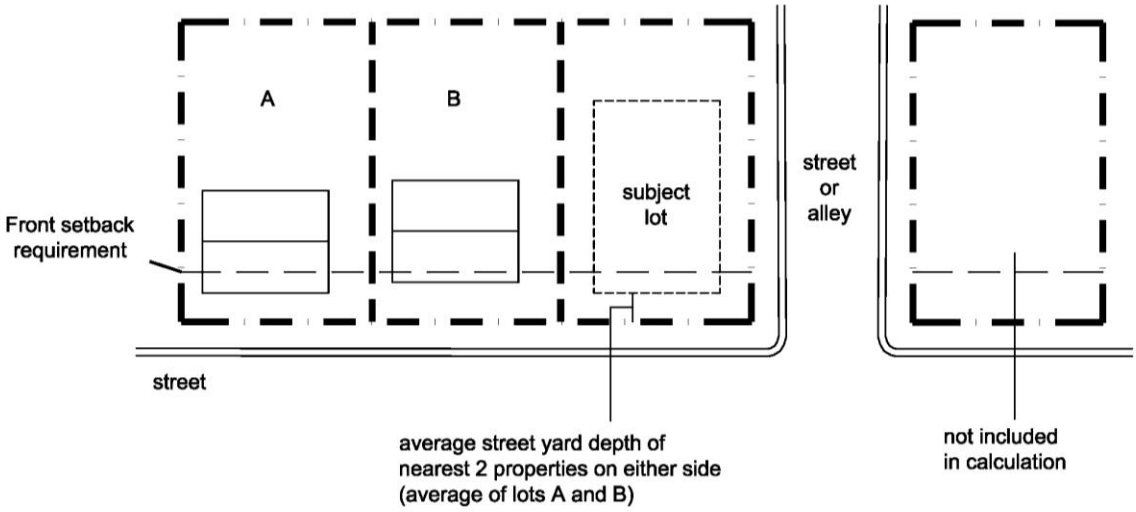


Figure 97-2

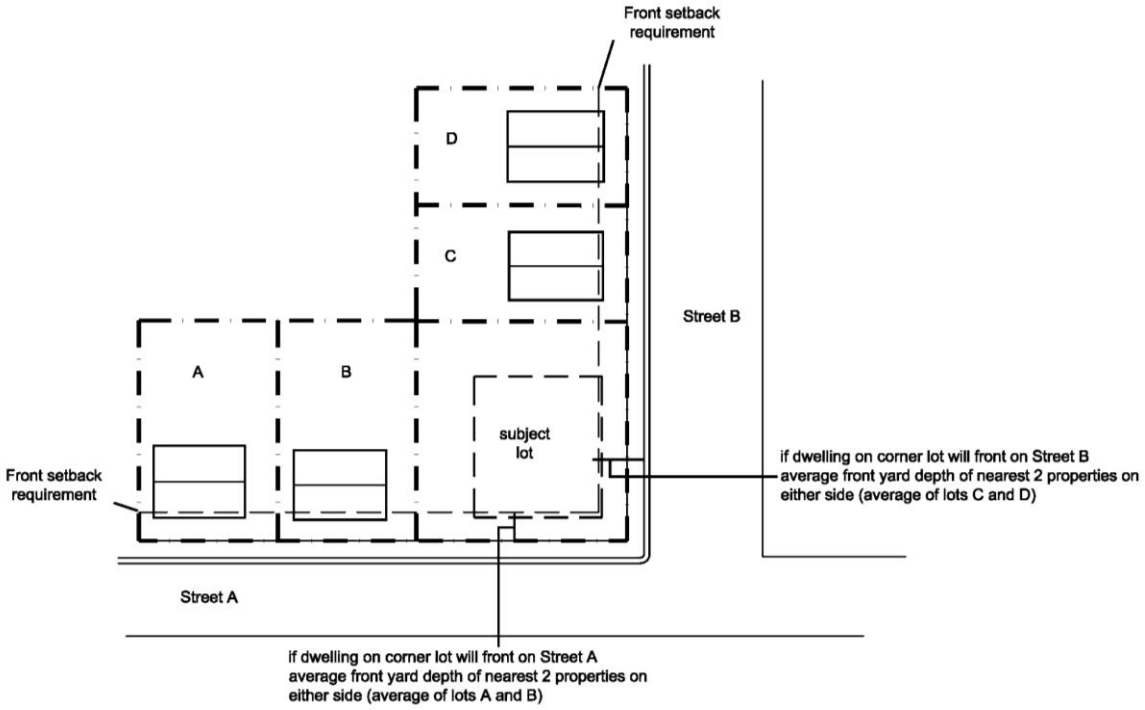


Figure 97-3

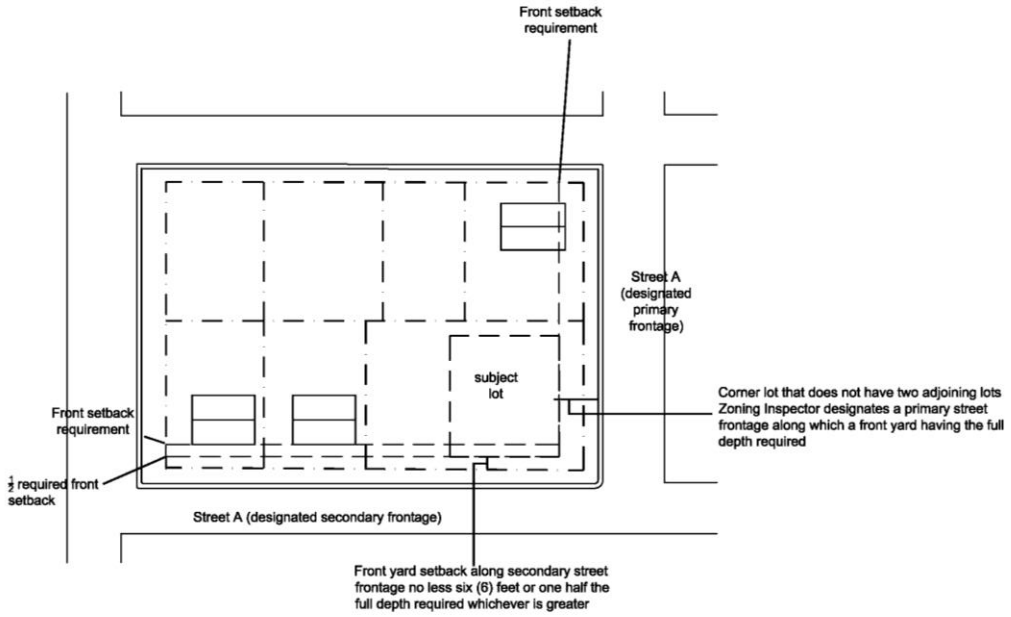
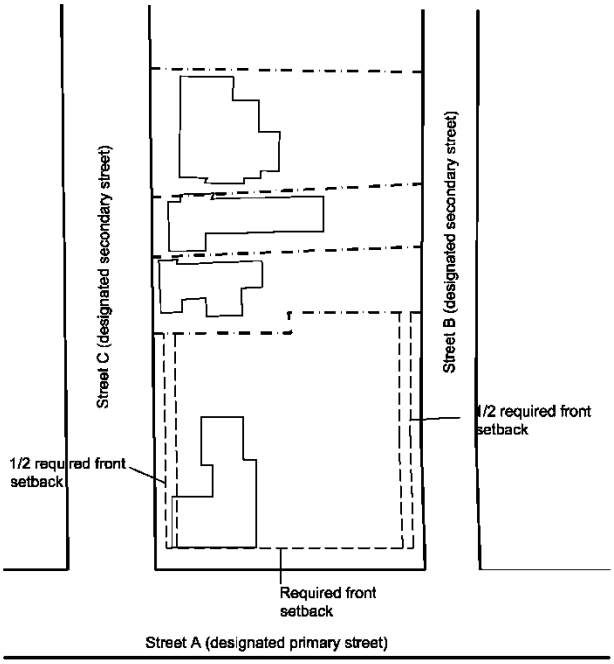


Figure 97-4



Corner lots with more than two frontages the Zoning Inspector determines front yard requirements, subject to the following limitations:

1) on the designated primary street frontage at least one front yard shall be provided having the full depth required generally in the zone

2) no other front yard on such lot shall have less than half the full depth required

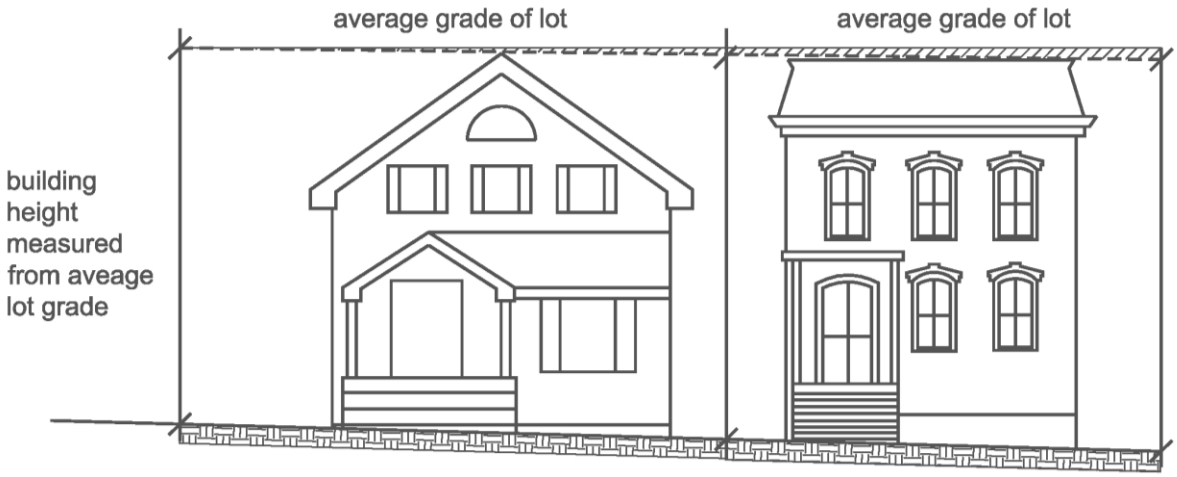


Figure 98-1

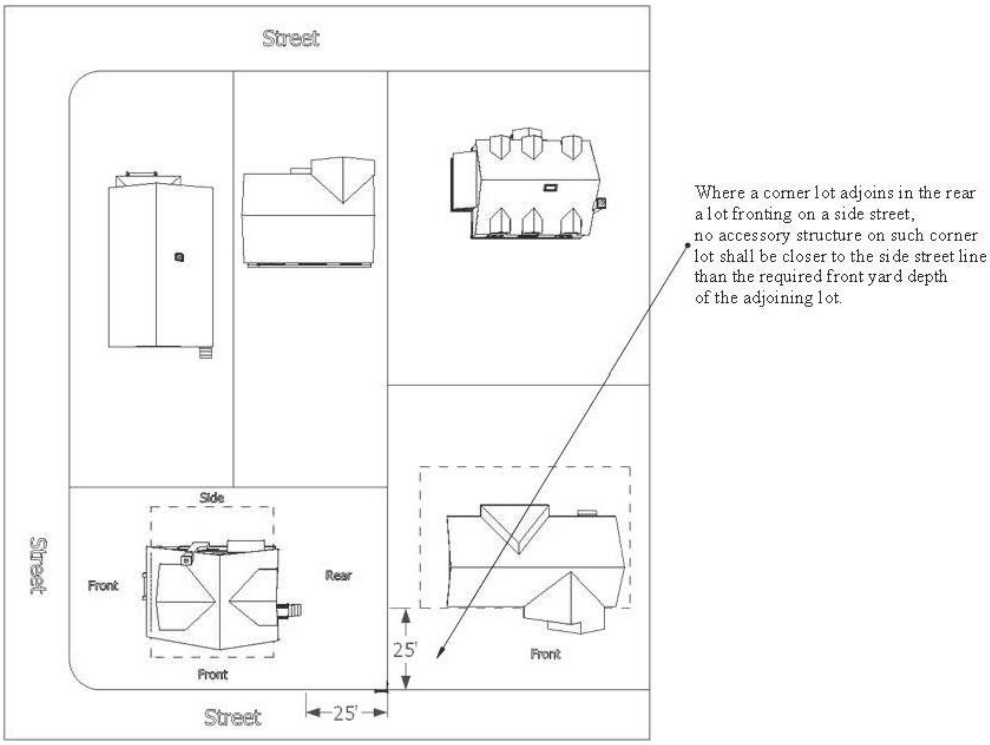


Figure 101- 1

Article X. Nonconforming Lots, Uses of Land, Structures, and Premises.

§ 340-108. Intent.

A. Within the zones established by this Chapter, there exist lots, structures, and uses of land which were lawful before this Chapter was adopted or amended, but which would be prohibited, regulated, or restricted under the terms of this Chapter. Such lots, structures, and uses of land are referred to as "nonconforming."

B. It is the intent of this Chapter not to encourage the survival of nonconforming lots, nonconforming commercial and industrial structures, and nonconforming uses, whether it be a nonconforming use of a structure and for a nonconforming use of land. Nonconforming uses are declared to be incompatible with permitted uses in the zones involved.

C. It is further the intent of this Chapter that nonconformities shall not be enlarged upon, expanded, or extended, except as permitted in this Chapter, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same zone.

§ 340-109. Nonconforming lots of record.

A. In any zone in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Chapter, a single-family dwelling, and customary accessory structures may be erected on any single lot of record. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both that are generally applicable in the zone provided that yard dimensions shall conform to the regulations for the zone in which such lot is located. Any variance of yard requirements shall be obtained only through the action of the Board of Appeals.

B. If two or more lots or combination of lots and portions of lots with continuous frontage are of single ownership as of June 16, 2010, and if all or part of the lots do not meet the requirements for lot width and area as established by this Chapter, the lands involved shall be considered to be an undivided parcel for the purpose of this Chapter, and no portion of said parcel shall be used or transferred which does not meet lot width and area requirements established by this Chapter, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this Chapter.

C. Additional requirements regarding nonconforming lots in the Critical Area are set forth in § 340-20.

§ 340-110. Nonconforming structures.

Where a **principal or accessory** structure exists on the 16th day of June 2010 that could not be built or placed under the terms of this Chapter, such structure may be continued subject to the provisions of this article, so long as it remains otherwise lawful, subject to the following provisions:

A. Nonresidential structures.

(1) No such **nonresidential** structure shall be enlarged to an extent greater than ~~50%~~ **25%** of its gross floor area at the time of adoption of this Chapter or at the time of amendment thereof creating the nonconformity. **Any such expansion shall be limited to the lot, as defined when the structure became nonconforming.**

(2) Should such a commercial or industrial **nonresidential** be destroyed by natural causes, to the extent of more than 6o% of its assessed value (based on current County Assessment records) at the time of destruction, it may be reconstructed utilizing the footprint of the structure at the time of destruction.

(3) A nonconforming structure may not be changed to any use except one which is permitted in the zoning district in which the property is located.

(4) Should any nonconforming commercial or industrial structure be moved for any reason for any distance whatever it shall thereafter conform to the regulations for the zone in which it is located after it is moved.

B. Residential structures.

(1) Residential structures provided they legally existed as of June 16, 2010, regardless of their failure to meet yard setback or lot coverage limitations as set forth in this Chapter shall be deemed conforming.

(2) Alteration, renovation, or expansion of such structures shall be allowed only if the change increases the degree of conformity. Interior remodels, or alterations that do not increase the degree of nonconformity shall also be allowed. For residential uses, the degree of nonconformity is not increased when the alteration, renovation, or expansion merely aligns with the structure's current setback only if no additional dwelling unit is created.

(3) Should such residential structure be destroyed through condemnation, fire or other natural catastrophe to an extent of **75%** of the greater of its assessed value or appraised value at the time of its destruction, such dwelling unit may be reconstructed utilizing the existing footprint of the structure; however, construction shall **have started within one (1) year** and be completed within eighteen (18) months of the date of its destruction.

C For purposes of this Chapter, a lawful structure refers to a principal structure or any portion thereof, that was built in accordance with all of the applicable zoning regulations, if any, in effect at the time of its construction.

§ 340-111. Nonconforming use of land (not within structures).

Where a lawful use of land exists on June 16, 2010, that is made no longer permissible under the terms of this Chapter; such use may be continued, subject to the provisions of Article IV so long as it remains otherwise lawful, subject to the following provisions:

A. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied on the effective date of the adoption of this Chapter or the amendment to it creating the nonconformity.

B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use on the effective date of the adoption of this Chapter or the amendment to it creating the nonconformity.

C. Any nonconforming use, including the nonconforming use of a lot or parcel that is discontinued or abandoned for a period of **twelve (12)** months, shall not be resumed after that and any future use of the lot or parcel shall conform to the provision of this Chapter. In the case of any dispute as to whether a nonconforming use is abandoned or discontinued, the burden of proof shall be upon the property owner.

§ 340-112. Nonconforming accessory structures.

Where a lawful nonconforming accessory structure existed on June 16, 2010, that could not be built under the terms of this Chapter by reason of restrictions on area, lot coverage, height, yards, or another characteristic of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful subject to the following provisions:

A. Any nonconforming accessory structure which has been destroyed through condemnation, fire, or other natural catastrophe to the extent of 100% of its assessed value at the time of its destruction may be reconstructed utilizing the existing footprint of the structure. Construction is to be completed within eighteen (18) months of the date of its destruction. At the request of the property owner, the Zoning Inspector may extend the time for completion of construction for a period not to exceed twelve (12) months upon a determination of good cause.

B. Any structure that is moved, for any reason for any distance by the owner, shall be required to conform to the regulations for the zoning district in which it is located after it is moved. This restriction shall not apply to the elevation of the structure for repair, replacement, or construction of the foundation and/or the structural undercarriage.

C. Expansion or enlargement of such structure shall comply with all yard requirements as set forth in Article IX.

§ 340-113. Nonconforming uses of structures.

If a lawful use contained within a structure exists on June 16, 2010, that would not be allowed in the zone under the terms of this Chapter; the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No existing structure devoted to a use not permitted by this **Chapter** in the zone in which it is located, shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the zone in which it is located.

B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use on or before June 16, 2010. No such use shall be extended to occupy any land outside such building.

C. Any structure in which a nonconforming use is superseded by a permitted use shall after that, conform to the regulations for the one in which such structure is located, and the nonconforming use may not thereafter be resumed.

D. Any nonconforming use of a structure that is discontinued or abandoned for a period of **twelve (12)** months shall not be resumed thereafter, and any future use of the structure shall conform to the provision of this Chapter. In the case of any dispute as to whether a nonconforming structure is abandoned or discontinued, the burden of proof shall be upon the property owner.

§ 340-114. Repairs and maintenance.

A. On any structure devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs **or replacement,** provided that the cubic content of the building, as it existed at the time of passage or amendment of this Chapter, shall not be increased.

B. Nothing in this Chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

§ 340-115. Certain special exception uses considered conforming.

Any use for which a special exception has been granted and which this Chapter no longer allows shall not be deemed a nonconforming use, but shall be subject to the conditions under which it was approved.

§ 340-116. Nonconforming uses in the Critical Area. (See § 340-20 Grandfathering)

§ 340-117. Reserved.

§ 340-118. Reserved.

Article XI. Administration and Enforcement.

§ 340-119. Zoning Inspector.

A. Administration and enforcement; zoning certificates, building permits, and occupancy permits. There is hereby established the office of Zoning Inspector. The Zoning Inspector shall be appointed by the president of The Commissioners of St. Michaels and confirmed by a majority vote of the Commissioners and shall serve for a term of one (1) year. The Zoning Inspector can be relieved of duties for just cause on a majority vote of the Town Commissioners.

B. It shall be the duty of the Zoning Inspector to administer and enforce the provisions of this Chapter. Such duties shall include:

(1) Receive and review all applications for Zoning Certificate Permits.

(2) Approve/Disapprove such applications based on compliance or non-compliance with the provisions of the Zoning Chapter and plans, and issues certificates when there is compliance.

(3) Suspend or revoke a permit issued under the provisions of the Zoning Chapter whenever the permit is issued erroneously based on incorrect information supplied by the applicant or his agent and violates any of the provisions of any of the ordinances or regulations of the Town.

(4) Inspect suspected violations of the Zoning Chapter and, if appropriate, order the violator in writing of required actions to correct any violation, and inform the violator in writing of rights to appeal a decision.

(5) Conduct field inspections and investigations.

(6) Processes applications to assist the Planning Commission in formulating recommendations.

(7) Notify the applicant in writing of any decision of the Planning Commission, and implements the decisions of the Planning Commission.

(8) Receive all applications for appeals, variances, or other matters which the Board of Zoning Appeals is required to decide.

(9) Prepare such applications for appeals, variances, special exceptions, or other matters to the Board of Zoning Appeals and refers them with recommendations to the Board of Zoning Appeals.

(10) Receive and process all applications for amendments to the Zoning Ordinance and/or Official Zoning Map, and otherwise processes the applications and prepares recommendations to the Planning Commission.

(11) Maintain a map or maps showing the current zoning classifications of all land in the Town.

(12) Maintain written records of all actions taken by the Zoning Inspector.

(13) Meet with the Planning Commission upon request.

(14) Provide forms necessary for the various applications to the Zoning Inspector, Planning Commission, or Board of Zoning Appeals as is required by the

Zoning Chapter and be responsible for the information necessary on such forms for the effective administration of the Zoning Chapter, subject to the general policies of the Planning Commission and Board of Zoning Appeals.

C. All departments, officials, and public employees of St. Michaels which are vested with the authority to issue permits or licenses shall conform to the provisions of this Chapter and shall not issue any permit or license for any use, building, structure, or purpose which would conflict with the provisions of this Chapter. Any permit or license issued in conflict with the provisions of this Chapter shall be null and void.

D. If the Zoning Inspector finds that any of the provisions of this Chapter are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The Zoning Inspector shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or additions, alterations, or structural changes thereto; discontinuance of any illegal work being done, or shall take any other action authorized by this Chapter to ensure compliance with or to prevent violations of its provisions.

§ 340-120. Administrative Enforcement, Critical Area.

A. Regulated activities and applicability. The Zoning Inspector shall review a permit or license for a development or redevelopment activity in the Critical Area for compliance with this Chapter prior to issuance of that permit or license.

B. Town, County, and State Development Projects.

(1) Applicability. For all development in the Critical Area resulting from any Town, County, or State agency, the Town shall adhere to COMAR 27.02.02, COMAR 27.02.04, and COMAR 27.02.06.

(2) Procedures. The sponsoring agency of any development project within the St. Michaels' Critical Area shall work with the Zoning Inspector to identify the appropriate procedures for determining compliance with this article.

(a) If the project meets the provisions of this article and is locally significant, the Zoning Inspector shall prepare a consistency report and submit a copy of the report with relevant plans and information about the project to the Critical Area Commission per the requirements of COMAR 27.02.02.

(b) If the project does not meet the provisions of this article, the Zoning Inspector shall seek a conditional approval by the Critical Area Commission per the requirements of COMAR 27.02.06.

(c) The Town shall submit information as required in the Critical Area Commission's Local Project Submittal Instructions and Application Checklist.

(3) New major development by the Town or a State or County agency shall, to the extent practicable, be located outside the Critical Area. If the siting of the development in the Critical Area is unavoidable because of water dependency or other locational requirements that cannot be satisfied outside the Critical Area, the Zoning Inspector shall request approval from the Critical Area Commission per the Commission's Local Project Submittal Instructions and Application Checklist and provide the following information:

(a) Findings and supporting documentation showing the extent to which the project or development is consistent with the provisions and requirements of this article; and

(b) An evaluation of the effects of the project on the Town's Critical Area.

(4) Notice requirements for projects reviewed and approved by the Critical Area Commission. Public notice is required for all development projects that qualify under COMAR 27.03.01.03. Public notice shall be the responsibility of the Town, State or County agency proposing the project and the agency shall as part of its submittal to the Critical Area Commission, provide evidence that:

(a) Public notice was published for one business day in a newspaper of general circulation in the geographic area where the proposed development would occur, including the following information;

[1] The identity of the sponsoring Town, State or County agency;

[2] A description of the proposed development;

[3] The street address of the affected land and a statement that its location is in the Critical Area; and

[4] The name and contact information of the person within the sponsoring Town, State or County agency designated to receive

public comment, including a fax number and email address, and the deadline for receipt of public comment.

(b) At least fourteen (14) days were provided for public comment, and

(c) The property proposed for development was posted in accordance with the provisions for posting in Section (7).

(5) In addition to the public notice required in Section 4(a), the County may provide for public notice by electronic posting on its website, on the website of a newspaper of general circulation in the geographic area where the proposed development would occur, or by notification to a neighborhood association or residents of a particular geographic area.

(6) Evidence of public notice to be submitted to the Commission shall include the following documentation:

(a) The name of the newspaper and the date on which the notice was published;

(b) A copy of the public notice as it was published in the newspaper; and

(c) A copy of each written comment received in response to the public notice.

(7) Posting requirements for projects reviewed and approved by the Critical Area Commission. For projects that qualify for public notice, the sponsoring agency shall ensure that a sign is posted on the property. The posting shall meet the following requirements:

(a) Shall consist of at least one sign that is a minimum of 30 inches by 40 inches in size;

(b) The sign clearly:

[1] Identifies the sponsoring agency;

[2] Describes the proposed development;

[3] Provides the street address of the affected land and states that it is located in the Critical Area; and

[4] States the name and contact information of the person within the sponsoring agency designated to receive public comment, including a fax number and email address, and the deadline for receipt of public comment.

(c) On a date not later than the date on which the notice is published in the newspaper, the sign shall be posted in a conspicuous location on the development site and remain there until after the Critical Area Commission has voted on the development; and

(d) For development that extends more than 1,000 linear feet in road frontage, at least one sign shall be posted at each end of the affected land on which the development is proposed.

C. Notification of project approval. The Town shall send copies of applications for all subdivisions and site plans wholly or partially within the Critical Area as specified in COMAR 27.03.01.04 to the Critical Area Commission for review and comment.

(1) The application shall be accompanied by a completed "Project Notification Application" form downloaded from the Commission's website.

(2) The Town may not process an application that has been sent to the Commission for notification until it has received notice of receipt by the Commission.

(3) Any action by the Town in violation of these procedures shall be void.

D. Responsible agencies. All applicable provisions of this Chapter shall be implemented and enforced by the Zoning Inspector.

(1) Should an infraction of the provisions contained in any law, regulation, or plan related to this Chapter be brought to the attention of any Town official said official shall contact the Zoning Inspector.

E. Consistency. The Critical Area provisions of this Chapter, in accordance with the Critical Area Act and Criteria, supersede any inconsistent Law, Chapter, or Plan of the St. Michaels Code. In the case of conflicting provisions, the stricter provisions shall apply.

F. Violations.

(1) No person shall violate any provision of this article. Each violation that occurs and each calendar day that a violation continues shall be a separate offense.

(2) Each person who violates a provision of this article shall be subject to separate administrative, civil penalties, abatement and restoration orders, and mitigation for each offense.

(3) Non-compliance with any permit or order issued by the Town related to the Critical Area shall be a violation of this article and shall be enforced as provided herein.

G. Responsible persons. The following persons may each be held jointly or individually responsible for a violation: (1) persons who apply for or obtain any permit or approval, (2) contractors, (3) subcontractors, (4) property owners, (5) managing agents, or (6) any person who has committed, assisted, or participated in the violation.

H. Required enforcement action. In the case of violations of this article, the Town shall take enforcement action including:

(1) Assess administrative, civil penalties as necessary to cover the costs associated with performing inspections, supervising or rendering assistance with identifying and citing the violation, issuing abatement and restoration orders, reviewing mitigation plans, and ensuring compliance with these plans;

(2) Issue abatement, restoration, and mitigation orders as necessary to:

(a) Stop unauthorized activity;

(b) Restore and stabilize the site to its condition prior to the violation, or to a condition that provides the same water quality and habitat benefits; and

(c) Require the implementation of mitigation measures, in addition to restoration activities, to offset the environmental damage and degradation or loss of environmental benefit resulting from the violation.

I. Right to enter the property. Except as otherwise authorized and in accordance with the procedures specified herein, the Town Commissioners or their designee may obtain access to and enter a property, in order to identify or verify a suspected violation, restrain a development activity, or issue a citation if the Town has probable cause to believe that a violation of this Ordinance has occurred, is occurring, or will occur. The Town shall make a reasonable effort to contact a property owner before obtaining access to or entering the property. If entry is denied, the Town may seek an injunction to enter the property to pursue an enforcement action.

J. Administrative civil penalties. In addition to any other penalty applicable under State or Town law, every violation of a provision of Natural Resources Article, Title

8 Subtitle 18, or the Critical Area provisions of this Chapter shall be punishable by a civil penalty of up to $10,000 per calendar day.

(1) Before imposing any civil penalty, the person(s) believed to have violated this Chapter shall receive: 1) written notice of the alleged violation(s), including which, if any, are continuing violations; and 2) an opportunity to be heard. The amount of the civil penalty for each violation, including each continuing violation, shall be determined separately. For each continuing violation, the amount of the civil penalty shall be determined per day. In determining the amount of the civil penalty, the Town shall consider:

(a) The gravity of the violation;

(b) The presence or absence of good faith of the violator;

(c) Any willfulness or negligence involved in the violation including a history of prior violations;

(d) The environmental impact of the violation; and

(e) The cost of restoration of the resource affected by the violation and mitigation for damage to that resource, including the cost to the Town for performing, supervising, or rendering assistance to the restoration and mitigation.

(2) Administrative civil penalties for continuing violations shall accrue for each violation, every day, each violation continues, with no requirements for additional assessments, notice, or hearings for each separate offense. The total amount payable for continuing violations shall be the amount assessed per day for each violation multiplied by the number of days that each violation has continued.

(3) The person responsible for any continuing violation shall promptly provide the Town with written notice of the date(s) the violation has been or will be brought into compliance and the date(s) for Town inspection to verify compliance. Administrative civil penalties for continuing violations continue to accrue as set forth herein until the Town receives such written notice and verifies compliance by inspection or otherwise.

(4) Assessment and payment of administrative civil penalties shall be in addition to and not in substitution for payment to the Town for all damages, costs, and other expenses caused by the violation.

(5) Payment of all administrative civil penalties assessed shall be a condition precedent to the issuance of any permit or other approval required by this Chapter.

K. Cumulative remedies. The remedies available to Town under this Chapter are cumulative and not alternative or exclusive, and the decision to pursue one remedy does not preclude the pursuit of others.

L. Injunctive relief. The Town is authorized to institute injunctive or other appropriate actions or proceedings to bring about the discontinuance of any violation of this Chapter, an administrative order, a permit, a decision, or other imposed conditions.

(1) The pendency of an appeal to the Board of Zoning Appeals or subsequent judicial review shall not prevent the Town from seeking injunctive relief to enforce an administrative order, permit, decisions, or other imposed condition, or to restrain a violation pending the outcome of the appeal or judicial review.

M. Variances pursuant to a violation. The Town may accept an application for a variance regarding a parcel or lot that is subject to a current violation of this subtitle or any provisions of an order, permit, plan, or this Chapter in accordance with the variance provisions of this Chapter. However, the application shall not be reviewed, nor shall a final decision be made until all fines, abatement, restoration, and mitigation measures have been implemented and inspected by the Town.

N. Permits pursuant to a violation. The Town may not issue any permit, approval, variance, or special exception, unless the person seeking the permit has:

(1) Fully paid all administrative, civil, or criminal penalties as set forth in Section J. above;

(2) Prepared a restoration or mitigation plan, approved by the Town, to abate impacts to water quality or natural resources due to the violation;

(3) Performed the abatement measures in the approved plan in accordance with the Town regulations; and

(4) Unless an extension of time is approved by the Town because of adverse planting conditions, within ninety (90) days of the issuance of a permit, approval, variance, or special exception for the affected property, any additional mitigation required as a condition of approval for the permit, approval, variance, or special exception shall be completed.

O. Appeals. An appeal to the Board of Zoning Appeals may be filed by any person aggrieved by any order, requirement, decision or determination by the Town in connection with the administration and enforcement of this Chapter as provided in § 340-131.

§ 340-121. Required permits.

A. Zoning Certificate. No building or other structure shall be erected, moved, added to, demolished, or structurally altered, or land used or use of land changed without a zoning certificate therefor, issued by the Zoning Inspector. No zoning certificate shall be issued except in conformity with the provisions of this Chapter, except after written order from the Board of Zoning Appeals.

B. Building Permit. No person shall construct, cause to be constructed, or modify any structure within the Town of St. Michaels except as provided in Chapter 108 - Building Construction, the Code of the Town of St. Michaels.

C. In addition to a zoning certificate, the following permits may be required by the Zoning Inspector:

(1) Applications Approved by the Board of Appeals. The Zoning Inspector shall issue permits in conformance with the written authorization of the Board of Zoning Appeals concerning administrative review appeals, special exception permit appeals, dimensional variance appeals, or other appeals as authorized in this Zoning Chapter.

(2) Sign Permits. No sign shall be created, erected, moved, added to, or structurally altered, nor shall any of said activities be commenced without a sign permit as provided in § 340-160.

(3) Subdivision Plats. If the permit involves the subdivision of land, an approved subdivision plat shall be required, as provided in Chapter 290- Subdivision of Land, the Code of the Town of St. Michaels.

(4) Site Plans. Site plans for enlargement or expansion of structures involving multifamily, commercial, industrial, or multiple uses as provided in Site Plan Review- Chapter 110, the Code of the Town of St. Michaels.

§ 340-122. Plans required.

A. All applications for zoning certificates shall be accompanied by site plans in duplicate, drawn to scale, showing:

(1) the actual dimensions and shape of the lot to be built upon (e.g., plot plan, boundary survey);

(2) the exact sizes and locations on a lot of buildings already existing, if any; and

(3) the location and dimensions of the proposed construction or alteration, including setbacks from property lines.

B. The application shall include such other information as lawfully may be required by the Zoning Inspector, including:

(1) existing or proposed building or alteration;

(2) existing or proposed uses of the building and land;

(3) the number of families, housekeeping units, or rental units the building is designed to accommodate;

(4) conditions existing on the lot; and

(5) such other matters as may be necessary to determine conformance with and provide for the enforcement of this Chapter.

C. One copy of the plans shall be returned to the applicant by the Zoning Inspector after he/she shall have marked such copy either as approved or disapproved and attested to the same by his/her signature on such copy. The second copy of the plans, similarly marked, shall be retained by the Zoning Inspector.

§ 340-123. Other approvals for certain commercial, industrial, and residential uses.

Before any building permit for a commercial structure, industrial structure, apartment house or multiple-family dwellings shall be issued, approval of the application for such a permit shall have been obtained from the Talbot County Department of Public Works (sewer), the Maryland State Fire Marshall, and the St. Michaels Town Engineer (water). There must be a second approval from these agencies before an occupancy permit is issued.

§ 340-124. Publication of permits.

All zoning permits and building permits issued shall be promptly published once in a newspaper of general circulation in the Town of St. Michaels. The time for taking an appeal from the issuance of such a permit shall not begin to run until the date of such publication. For purposes of determining the appeal period for an issued permit, the date of the decision shall be the date on which the notice of issuance is published.

§ 340-125. Zoning occupancy permits for new, altered, or nonconforming uses.

A. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a zoning occupancy permit shall have been issued therefor by the Zoning Inspector, stating that the proposed use of the building or land conforms to the requirements of this Chapter **and Chapter 108 - Building Construction, the Code of the Town of St. Michaels.**

B. No nonconforming structure or use shall be maintained, renewed, changed, or extended until a zoning occupancy permit shall have been issued by the Zoning Inspector. The zoning occupancy permit shall state specifically wherein the nonconforming use differs from the provisions of this Chapter, provided that, upon enactment or amendment of this Chapter, owners or occupants of nonconforming uses or structures shall have three months to apply for zoning occupancy permits. Failure to make such an application within three months shall be presumptive evidence that the property was conforming at the time of enactment or amendment of this Chapter.

C. No permit for erection, alteration, moving, or repair of any building shall be issued until an application has been made for a zoning occupancy permit; the permit shall be issued in conformity with the provisions of this Chapter **and Building Construction - Chapter 108, the Code of the Town of St. Michaels** upon completion of the work.

D. A temporary occupancy permit may be issued by the Zoning Inspector for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion, provided that such temporary permit may require such conditions and safeguards as will protect the safety of the occupants and the public.

E. The Zoning Inspector shall maintain a record of all zoning occupancy permits, and copies shall be furnished upon request to any person.

F. Failure to obtain a zoning occupancy permit shall be a violation of this Chapter and punishable under § 340-210 of this Chapter.

§ 340-126. Expiration of zoning certificate.

A. If the work described in any zoning certificate has not begun within one (1) year from the date of issuance thereof, said certificate shall expire; it shall be canceled by the Zoning Inspector, and written notice thereof shall be given to the persons affected.

B. If the work described in any zoning certificate has not been substantially completed within two (2) years of the date of issuance, unless work is satisfactorily proceeding thereon, said permit shall expire and be canceled by the Zoning Inspector, and written

notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled certificate shall not proceed unless and until a new zoning certificate has been obtained.

§ 340-126. Limit on authorization implied from the issuance of certificates and permits.

Zoning certificates or zoning occupancy permits issued based on site plans and applications approved by the Zoning Inspector authorize only the use, arrangement, and construction outlined in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction differing from that authorized shall be deemed a violation of this Chapter, and punishable as provided by § 340-210 of this Chapter.

§ 340-127. Reserved.

§ 340-128. Reserved.

§ 340-129. Reserved.

Article XII. Board of Zoning Appeals Powers and Duties.

§ 340-130. Powers and duties.

The Board of Zoning Appeals shall have the following powers and duties:

A. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Inspector or the Planning Commission in the enforcement of this Chapter or of any ordinance adopted under this Chapter;

B. To interpret the intent of this Chapter where specifically authorized.

C. Hear and decide special exceptions to the terms of an ordinance on which the Board is required to pass under this Chapter; and

D. Authorize on appeal in specific cases a variance from the terms of an ordinance.

§ 340-131. Appeals from decisions of the Zoning Inspector and Planning Commission.

A. The Board of Zoning Appeals shall have the power to hear and decide appeals, where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Inspector or the Planning Commission in connection with the administration and enforcement of this Chapter.

B. In exercising the above-mentioned powers in appeals, the Board of Zoning Appeals may, in conformity with the terms of this Chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as the Board deems necessary, and to that end shall have powers of the one from whom the appeal is taken.

C. An appeal is made by filing a written notice of appeal with the Board of Zoning Appeals and accompanied by the appropriate filing fee.

D An appeal must be filed within thirty (30) days after the date of the decision or order being appealed.

E. An appeal stays all actions by the Town seeking enforcement or compliance with the order or decisions being appealed unless the Zoning Inspector certifies to the Board of Zoning Appeals that (because of facts stated in the certificate) such stay will cause imminent peril to life or property. In such a case, action by the Town shall not be stayed except by order of the Board of Zoning Appeals or a Court, upon application of the party seeking the stay.

§ 340-132. Appeals from decisions of Historic District Commission.

The Board of Zoning Appeals shall have the power to hear and decide appeals, where it is alleged there is an error in any interpretation, decision, or determination made by the Historic District Commission. Upon receiving notice of an appeal being taken from a decision of the Historic District Commission, the Historic District Commission shall forthwith transmit to the Board of Zoning Appeals all papers constituting the record upon which the action appealed from was taken. The Board of Zoning Appeals shall not receive evidence in addition to that presented to the Historic District Commission, but may, at the discretion of the Board of Zoning Appeals, remand the matter to the Historic District Commission for the taking of additional evidence. If the matter is remanded to the Historic District Commission for the taking of additional evidence, any competent, relevant and material evidence may be received from, or on behalf of, any party or interested person. After the taking of additional evidence, the Historic District Commission shall render its decision in light of the new evidence, based on such weight and significance as the Historic District Commission shall deem appropriate. After that, any person so authorized by this Chapter may take an appeal as provided for herein. In its review of a decision of the Historic District Commission the Board of Zoning Appeals shall consider the record of the proceedings before the Historic District Commission, the written decision of the Historic District Commission and the arguments made to the Board of Zoning Appeals at its hearing by a representative of the Historic District Commission and each party or interested person who appeared before the Historic District Commission. Because the members of the Historic District Commission are required by this Chapter to possess qualifications which make them particularly qualified to decide matters related to historical, architectural and aesthetic values, the Board of

Zoning Appeals shall not reverse a decision of the Historic District Commission based upon a determination of historical, architectural or aesthetic values unless clearly erroneous.

§ 340-133. Interpretation.

A. Interpretation and adjustment of Zoning Map and district lines. The Board may determine, after notice to the owners of the properties affected and after a public hearing, boundaries of districts as follows:

(1) Where the street or lot actually on the ground or as recorded differs from the street or lot lines shown on the Zoning Map, the Board shall interpret the map in such a way as to carry out the intent and purpose of this Chapter for the particular section or district in question.

(2) Where uncertainty exists as to the boundaries of any district shown on the Zoning Map, the Board may determine the proper location of said boundaries in accordance with § 340-133.

B. Determination of Use Categories and Subcategories

(1) When a use cannot be reasonably classified into a use category, subcategory or specific use type as provided in § 340-133, or appears to fit into multiple categories, subcategories or specific use types, the Board of Appeals is authorized to determine the most similar and thus most appropriate use category, subcategory or specific use type based on the actual or projected characteristics of the principal use or activity in relationship to the use category, subcategory and specific use type descriptions provided in this section. In making such determinations, the Board of Appeals must consider:

(a) the types of activities that will occur in conjunction with the use;

(b) the types of equipment and processes to be used;

(c) the existence, number, and frequency of residents, customers or employees;

(d) parking demands associated with the use; and

(e) other factors deemed relevant to a use determination.

(2) If a use can reasonably be classified in multiple categories, subcategories, or specific use types, the Board of Appeals must categorize the use in the category, subcategory, or specific use type that provides the most exact, narrowest and appropriate "fit."

(3) If the Board of Appeals is unable to determine the appropriate use category for a proposed use, the Board of Appeals is authorized to classify the use as a prohibited use.

(4) If the Board of Appeals determines that the use is similar and meets the intent of the principal permitted uses within the district, then it shall instruct the Inspector to issue a zoning certificate.

(5) If the Board of Appeals determines that the proposed use in the district is consistent with the character and intent of the uses permitted by special exception within the district, then the applicant shall apply for a special exception in the normal manner.

(6) Once a use has been allowed or disallowed by the Board, it shall then be considered classified under the appropriate category in the district.

§ 340-134. Special exceptions.

A. The Board of Zoning Appeals shall have the power to hear and decide only such special exceptions as the Board of Zoning Appeals is specifically authorized to pass on under the terms of this Chapter; to decide on such questions as are involved in determining whether special exceptions should be granted and to grant special exceptions with such conditions and safeguards as are appropriate under this Chapter, or to deny special exceptions when not in harmony with the purpose of this Chapter and the Comprehensive Plan for St. Michaels. A special exception shall not be granted by the Board of Zoning Appeals unless and until:

(1) A written application for a special exception is submitted indicating the section of this Chapter under which the special exception is sought and stating the grounds on which the special exception is requested and how the request meets the criteria for approval enumerated in this Chapter; and the application shall be accompanied by five copies of a site plan drawn to scale, signed and sealed by a professional engineer or other appropriate professional, and, when deemed necessary by the Zoning Inspector, such other written or graphic material as may be necessary or desirable in aiding the Board of Zoning Appeals in reaching its decision. The required site plan shall reflect the boundaries of the property, and any disputes as to the boundary lines shall be resolved before submitting an application.

(2) The Planning Commission has reviewed the application and made a recommendation to the Board that the use is consistent with the purposes and intent of the St. Michaels Comprehensive Plan and that the use will comply with the standards of the zoning district in which it is located, except as those standards may have been modified by the granting of a variance.

(3) Notice is given in accordance with § 340-138.

(4) A public hearing is held regarding the requested special exception. Any party may appear in person, or by agent or attorney. The Board may exclude evidence which is immaterial, irrelevant, or unduly repetitious.

(5) The Board of Zoning Appeals finds that it is empowered, under the section of this Chapter described in the application, to grant the special exception.

(6) The Board of Zoning Appeals finds from a preponderance of the evidence that the proposed use will satisfy all of the following standards:

(a) The use will be consistent with the purposes and intent of the St. Michaels Comprehensive Plan.

(b) The use will comply with the standards of the zoning district in which it is located, except as those standards may have been modified by the granting of a variance.

(c) The scale, bulk, and general appearance of the use will be such that the use will be compatible with adjacent land uses and with existing and potential uses in its general area, and will not be detrimental to the economic value of the neighboring properties. For those properties lying within the Town of St. Michaels Historic District, final architectural review and approval will be required from the Historic District Commission.

(d) The use will not constitute a nuisance to other properties and will not have significant adverse impacts on the surrounding area due to trash, odors, noise, glare, vibration, air and water pollution, and other health and safety factors or environmental disturbances.

(e) The use will not have a significant adverse impact on public facilities or services, including roads, schools, water and sewer facilities, police and fire protection, or other public facilities or services.

(f) The use will not have a significant adverse effect on marine, pedestrian, or vehicular traffic.

(g) The use will not adversely affect the public health, safety, or general welfare.

(7) Prior or within thirty (30) days of approval by the Board of Zoning Appeals, three copies of a final site plan shall be prepared by the applicant in the form of a final plat and meeting such requirements as the Board of Zoning Appeals may require, and showing all relevant aspects of the special exception, including all conditions

and safeguards which the Board of Zoning Appeals has prescribed in granting the special exception. In no event shall any permits be issued for the use proposed in the special exception application without first filing the site plan required hereby. The final site plans shall be drawn to scale and shall include the following:

(a) The site plan shall be marked with the names of the owner of the subject property, shall be dated, and shall be drawn to scale with the scale indicated thereon.

(b) The direction of North shall be indicated thereon.

(c) Existing zoning, and, if a zone district boundary line is within one hundred (100) feet of the subject property, zoning district boundaries shall be shown.

(d) The boundary lines of the subject property, setback distances, buildings, waterways, easements, streets, and other existing physical features in and adjoining the property shall be indicated.

(e) The location of proposed streets, alleys, driveways, curb cuts, entrances, exits, parking and loading areas (including numbers of parking and loading spaces), outdoor lighting systems, storm drainage, sanitary facilities and buildings, and HVAC units and other similar systems shall be shown.

(f) The general location of proposed lots, setback lines, easements, reservations for parks, parkways, playgrounds, open spaces, and other proposed development plans shall be shown.

(g) Preliminary plans and elevations of major buildings shall accompany the site plan as may be required by the Board of Zoning Appeals.

(h) Proposed fences, walls, screen planting, and landscaping shall be shown.

(i) A tabulation of a total number of acres in the project, along with the total number of dwellings or other units proposed, and other numerical and statistical information as may be required by the Board of Zoning Appeals shall be shown.

(j) The Board of Zoning Appeals may require additional information to be shown upon the site plan as it deems necessary.

(k) The final site plans shall show the date of approval by the Board of Zoning Appeals and contain the signature of the Chair of the Board of Zoning Appeals when approved.

B. In granting any special exception, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this Chapter.

C. Violations of any of the conditions or safeguards prescribed by the Board of Zoning Appeals may, after review by the Board, result in revocation of the granted special exception, and shall be deemed a violation of this Chapter and be punishable under § 340-210 of this Chapter.

D. Special exception not established. In any case, where a special exception has not been established within one (1) year after the date of granting the special exception, the special exception shall expire. However, the Board of Appeals, in its discretion and upon a showing of good cause, may grant up to two successive extensions of the granting of the special exception for periods of not longer than six (6) months each, provided that a written request for each extension is filed while the prior grant is still valid. Review fees shall be established by the Commissioners of St. Michaels and shown in the Town's Fee Schedule.

E. Cessation of special exception use. A special exception expires if it ceases for more than twelve (12) months. In the case of a building or structure which is destroyed or damaged by fire or other casualty or act of God, the Zoning Inspector may approve the reestablishment of the use, provided that restoration is actively and diligently pursued to completion in a timely fashion.

F. The enlargement or alteration of use, or of the structure and facilities occupied by a use, for which a special exception was granted or is a use listed as a special exception use in Chapter 340 of the Code of the Town of St. Michaels shall require a special exception use amendment. Such an amendment shall be obtained following the same procedures required for a special exception established in this section, except that the Zoning Inspector may approve the amendment if the amendment involves the following:

(1) Deviations in the size and location of drainage ways, driveways, landscape elements, or other similar features based on technical or engineering considerations and said deviation remains in full compliance with the regulations of the zone.

(2) Minor amendments to the shape or bulk of the subject building, which did not exceed 10% of the footprint of the structure at the time of review by the Board and provided that the modified dimensions comply with all requirements of the zoning district.

(3) The addition of minor accessory uses or structures not to exceed three hundred (300) square feet in area and no more than seventeen (17) feet in height.

§ 340-135. Variances.

A. The Board of Zoning Appeals shall have the power to authorize upon appeal in specific cases the requested variance from the terms of this Chapter as will not be contrary to the public interest. A variance from the terms of this Chapter shall not be granted by the Board of Zoning Appeals unless and until a written application for a variance is submitted demonstrating:

(1) Special conditions and/or circumstances exist which are peculiar to the land, structures or building involved that are not generally shared by other properties in the same zoning district or vicinity. Such conditions and/or circumstances may include but are not limited to the following: exceptional narrowness or shallowness or both, or irregular shape or topography of the property; unusual and limiting features of the building.

(2) That such special conditions and/or circumstances noted above cause the strict enforcement of the zoning provision to impact disproportionately upon the property resulting in unnecessary and undue hardship. Hardship arises where property, due to unique circumstances applicable to it, cannot reasonably be adopted to use in conformity with the restrictions.

(3) Such special conditions or circumstances must not be the result of any action or actions of the applicant.

(4) Granting of the variance must be in harmony with the general purpose and intent of Chapter 340 and must not be injurious to adjacent property, the character of the neighborhood, or the public welfare.

(5) The variance granted must be the minimum necessary to afford relief.

(6) That no nonconforming use of neighboring lands, structures, or buildings in the same zone, and no permitted use of lands, structures, or buildings in other zones shall be considered grounds for the issuance of a variance.

§ 340-136. Variance from Critical Area Overlay District provisions.

A. Applicability. The Town has established provisions whereby a Critical Area program variance may be obtained when, owing to special features of a site or other circumstances, implementation of this program or literal enforcement of its provisions would result in unwarranted hardship to an applicant. In considering an application for a variance, the Town shall presume that the specific development activity in the Critical Area that is the subject of 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 Chapter 340 of the Code of the Town of St. Michaels.

B. Process. Application for a variance shall be made in writing to the Town Board of Appeals with a copy provided to the Critical Area Commission. The Board of Appeals shall conduct a public hearing on the application. Notice of the hearing shall be given as in § 340-138. The applicant shall have the burden of proof and the burden of persuasion to overcome the presumption of nonconformance established in Subsection A above. After hearing an application for a Critical Area program variance, the Board of Appeals shall make written findings demonstrating that the variance request meets each of the standards in Subsection C below. The Town shall notify the Critical Area Commission of its decision to grant or deny the variance request and make available the findings as needed.

C. Standards. Before granting a variance to the Critical Area Program Overlay District, the Board of Appeals shall make written findings demonstrating that each of the following standards has been met:

(1) Special conditions or circumstances exist that are peculiar to the land or structure involved and that literal enforcement of provisions and requirements of the Town's Critical Area Program Overlay District would result in unwarranted hardship. "Unwarranted hardship" shall mean that without a variance, the applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is sought.

(2) A literal interpretation of the provisions of Chapter 340 of the Code of the Town of St. Michaels, the Critical Area program, and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in accordance with the provisions of the Town’s Critical Area program.

(3) The granting of a variance will not confer upon an applicant any special privilege that would be denied by the Town's Critical Area program to other lands or structures in accordance with the provisions of the St. Michaels Critical Area program.

(4) The variance request is not based upon conditions or circumstances which are the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed, nor does the request arise from any condition relating to land or building use, either permitted or nonconforming on any neighboring property.

(5) The granting of a variance shall not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the Critical Area and the granting of

the variance will be in harmony with the general spirit and intent of the Critical Area Act and Chapter 340 of the Code of the Town of St. Michaels.

(6) The variance granted is the minimum variance that will make possible reasonable use of the land, building, or structure.

D. Evidence. Findings by the Board of Appeals shall be based on competent and substantial evidence. With due regard for the person's technical competence and specialized knowledge, the written findings may be based on evidence introduced and testimony presented by:

(1) The applicant;

(2) The Town or any other government agency; or

(3) Any other person deemed appropriate by the Town.

E. Conditions and mitigation. The Board of Appeals may impose conditions on the use of development of a property which is granted a variance as it may find reasonable to ensure that the spirit and intent of the Critical Area Program Act are maintained, including but not limited to the following:

(1) Impacts resulting from the granting of the variance shall be mitigated by planting on the site per square foot of the variance granted at no less than a three-to-one basis or as recommended by the Town Zoning Inspector.

(2) New or expanded structures or impervious surfaces shall be located the greatest possible distance from mean high water, the landward edge of tidal wetlands, tributary streams, nontidal wetlands, or steep slopes.

G. Standing. In accordance with Natural Resources Article, §8-1808(d)(2), Annotated Code of Maryland, if a person meets the threshold standing requirements under federal law, the person shall have standing to participate as a party in the variance proceedings.

H. Commission notification. Within ten (10) working days after a written decision regarding a variance application is issued, a copy of the decision will be sent to the Critical Area Commission. The Town may not issue a permit for the activity that was the subject of the application until the applicable 30-day appeal period has elapsed.

I. After-the-Fact requests in the Critical Area.

(1) The Town may not accept an application for a variance to legalize a violation of this article in the Critical Area, including an unpermitted structure or other development activity until the Town:

(a) Issues a notice of violation; and

(b) Assesses an administrative or civil penalty for the violation.

(2) The Town may not approve an after-the-fact variance unless an applicant has:

(a) Fully paid all administrative, civil and criminal penalties imposed under Natural Resources Article, §8-1808(c)(l)(iii)14-15 and (2)(i), Annotated Code of Maryland;

(b) Prepared a restoration or mitigation plan, approved by the Town, to abate impacts to water quality or natural resources as a result of the violation; and

(c) Performed the abatement measures in the approved plan in accordance with this article.

(3) If the Board of Zoning Appeals denies the requested after-the-fact variance, then the Town shall:

(a) Order removal or relocation of any structure; and

(b) Order restoration of the affected resources.

§ 340-137. Accommodations for needs of disabled in the Critical Area.

A. The Board of Zoning Appeals may make reasonable accommodations to avoid discrimination on the basis of a physical disability. Reasonable accommodations for the needs of disabled citizens may be permitted in accordance with the evidentiary requirements set forth in the following subsections.

(1) An applicant seeking relief from the Critical Area standards contained in this Chapter in order to accommodate the reasonable needs of disabled citizens shall have the burden of demonstrating by a preponderance of the evidence the following:

(a) The alterations will benefit persons with a disability as defined within the meaning of the Americans with Disabilities Act;

(b) Literal enforcement of the provisions of this Ordinance would result in discrimination by such disability or deprive a disabled resident or user of the reasonable use and enjoyment of the property;

(c) A reasonable accommodation would reduce or eliminate the discriminatory effect of the provisions of this Ordinance or restore the disabled resident's or users' reasonable use or enjoyment of the property;

(d) The accommodation requested will not substantially impair the purpose, intent, or effect, of the provisions of this Ordinance as applied to the property; and

(e) The accommodation would be environmentally neutral with no greater negative impact on the environment than the literal enforcement of the statute, ordinance, regulation, or another requirement; or would allow only the minimum environmental changes necessary to address the needs resulting from the particular disability of the applicant/appellant.

B. The Board of Zoning Appeals shall determine the nature and scope of any accommodation under this section and may award different or other relief than requested after giving due regard to the purpose, intent, or effect of the applicable provisions of this Chapter. The Board may also consider the size, location, and type of accommodation proposed and whether alternatives exist which accommodate the need with less adverse effect.

C. The Board of Zoning Appeals may require, as a condition of approval, that upon the termination of the need for accommodation, that the property be restored to comply with all applicable provisions of this Chapter. Appropriate bonds may be collected, or liens placed to ensure the Town's ability to restore the property should the applicant fail to do so.

§ 340-138. Public notice, Board of Appeals proceedings.

Public notice shall be provided for hearings required by this Chapter as specified below unless different requirements are specified elsewhere in this Chapter.

A. Posting of property. The applicant shall post the property, which is the subject of the hearing, with a sign furnished by staff. The sign shall be posted for at least fifteen (15) days before the meeting date and shall be removed within five days after the conclusion of the last public hearing on the application. At the hearing, the applicant shall affirm that

he has fully complied with this provision and has continuously maintained the posting in compliance with this provision up to the time of the meeting.

B. Newspaper publication. The hearing shall be advertised once a week for two consecutive weeks in a newspaper of general circulation in the county at the applicant's expense. The first publication date shall be not more than fifteen (15) days prior to the hearing date. The notice shall provide a summary of the purpose of the proceeding in sufficient detail to inform the public of the nature of the proceeding, the location of the property, the name of the governmental body before whom the hearing is to be conducted, and other information deemed necessary by the **Zoning Inspector** to adequately inform the public of the proceeding.

C. Notice to adjacent property owners. The **Zoning Inspector** shall mail a notice of the hearing by regular mail, postage prepaid, to the owners of all adjacent property. The applicant shall bear the cost of the mailing. The notices shall be postmarked at least fifteen (15) days prior to the hearing and mailed to the address to which the real estate tax bill on the property is sent. Failure of a person to receive the notice prescribed in this section shall not impair the validity of the public meeting or hearings. A hearing that has been properly convened may be continued by the Board without re-advertisement if the Board announces at or before adjournment of the original hearing the date, time, and place at which the hearing is scheduled to resume.

§ 340-139. Decisions of Board of Zoning Appeals.

A. In exercising the above-mentioned powers, the Board of Zoning Appeals may, so long as such action is in conformity with the terms of this Chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made, and to that end shall have the same powers as the Zoning Inspector from whom the appeal is taken.

B. The concurring vote of the majority of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Inspector, or to decide in favor of the applicant on any matter upon which it is required to pass under this Chapter, or to effect any variation in the application of this Chapter.

C. If any application or request is disapproved by the Board, and/or by a final court decision rendered in an appeal from a decision of the Board, the Board shall not accept an application for substantially the same proposal, on the same premises, until one (1) year after the date of such disapproval by the Board or final court decision involving an appeal from a decision of the Board, whichever shall occur last. The Board shall not accept an application for approval of substantially the same proposal, on the same premises, which is the subject of pending litigation by the Town in which the Town is seeking to enforce

this Chapter, and alleges that substantially the same proposal, on the same premises, is in violation of this Chapter.

D. If an appeal to the Board is perfected and the public hearing date set, and public notice is given, and after that the applicant withdraws the appeal before the public hearing, the applicant shall not be precluded from filing another application for substantially the same proposal on the same premises for one year from the date of withdrawal. However, the applicant shall be responsible for all costs associated with the first application with such costs paid in full prior to the acceptance of the new application and fee.

§ 340-140. Appeals from the Board of Zoning Appeals.

Any person or persons who have standing to do so may seek review of a decision of the Board of Zoning Appeals by the Circuit Court for Talbot County in the manner provided for by the Maryland (Annotated) Rules.

§ 340-141. Reserved.

Article XIII. Schedule of Fees, Charges, and Expenses.

§ 340-142. Policy.

It is the policy of the Town that the applicant for a change of zoning classification, a grant of a special exception, approval of a planned development, approval of a variance, or the award of Growth Allocation, and one filing an appeal to the Board of Zoning Appeals shall pay to the Town with such application such fees as may from time to time be established by resolution of the Town Commissioners, to reimburse the Town for the costs incurred by the Town associated with processing such applications and appeals, including, but not limited to, the cost to the Town of the following: advertising; Town employees' time and/or consultants hired to evaluate such application and the issues related thereto as staff to the Town recommending or decision making body; and any amplification, recording and/or transcription of the hearing.

§ 340-143. Schedule of fees.

A. In accordance with the above policy, the Town Commissioners shall establish a schedule of fees, charges, and expenses and a collection procedure for zoning certificates, zoning occupancy permits, appeals, variances, special exceptions, amendments, and other matters pertaining to this Chapter. The schedule of fees shall be posted in the Town office and may be altered or amended only by the Town Commissioners, without the necessity of a hearing and/or recommendation by the Planning Commission. No certificate, permit, special exception, or variance shall be issued unless or until costs, charges, fees, or

expenses have been paid in full, nor shall any action be taken on the proceedings before the Board of Zoning Appeals unless or until preliminary charges have been paid in full.

B. These fees may include the additional cost of the consulting services of an independent engineer, architect, landscape architect, land planner, or similar service as may be used to assist the Town in the review of the proposed development and improvement plan.

Article XIV. Off-Street Parking, Loading, and Unloading.

§ 340-144. Purpose.

The regulations of this article are intended to help ensure the provision of off-street motor vehicle parking facilities, bicycle parking, and other motorized and non-motorized transportation circulation facilities in rough proportion to the generalized demands of different land uses. More specifically, to ensure sufficient on-site parking that, in conjunction with other public and private implemented supply management measures, provides for an appropriate balance between motorized and non-motorized access to St. Michael's residences and businesses. The provisions of this article are also intended to help protect the public health, safety, and general welfare by:

A. Promoting multi-modal transportation options and enhanced safety and convenience for non-motorized travel; and

B. Providing flexible methods of responding to the transportation and access demands of various land uses in different areas of the Town.

§ 340-145. Definitions.

A. Definitions and general principles. In this Chapter, the following terms have the meanings indicated:

CREDITED PARKING SPACES - The total number of on-site parking spaces that a lot is credited with having. Credited parking spaces for a lot in the CC, MC, SLC, and HR Zones consist of existing on-site parking spaces.

ON-SITE PARKING REQUIREMENT OF A LOT - The minimum number of credited parking spaces that a lot must have, based on the structure(s) and use(s) located on the lot, according to the requirements of § 340-146.

ON-SITE PARKING SPACE - A parking space located on the lot which is existing and which is constructed and maintained in conformity with the specifications of § 340-153.

ST. MICHAELS BUSINESS IMPROVEMENT FUND - A fund created by The Commissioners of St. Michaels for the purposes as stated below. Monies collected and deposited within this fund are generated by commercial businesses when the expansion of such businesses results in the loss of on-site parking spaces. The funds shall be used for:

(a) The purchase of land for public parking lots;

(b) The construction of public on-site parking lots;

(c) The repair and maintenance of public parking lots; or

(d) The purchase and/or placement of amenities such as benches, trash receptacles, signage relating to parking and restrooms in such public parking lots.

(e) Funding parking management studies.

(2) The owner of a lot is the person responsible for meeting the lot's on-site parking requirement.

B. Imposition and fulfillment of on-site parking requirements

(1) Enlargements, expansions, and replacements.

(a) Unless otherwise expressly stated, the parking regulations of this article apply whenever an existing building or use is enlarged, expanded, or replaced, resulting in additional dwelling units, floor area, seating capacity, employees, or another unit of measurement used for establishing off-street parking requirements.

(b) Additional parking spaces are required only to serve the parking demand resulting from the added dwelling units, floor area, seating capacity, employees, or another unit of measurement used for establishing off-street parking requirements. In other words, there is no requirement to address a lawful, existing parking deficit.

(2) Change of use. When the use or occupancy of property changes, additional off-street parking and loading facilities must be provided to serve the new use or occupancy only when the number of parking or loading spaces required for the new use or occupancy exceeds the number of spaces required for the use that most recently occupied the building, based on the standards of this Chapter. In other words, “credit” is given to the most recent lawful use of the property for the number of parking spaces that would be required under this Chapter, regardless of whether such spaces are provided. A new use is not required to address a lawful, existing parking deficit.

(3) Existing. Except as provided in subsection (5), existing off-street parking and loading areas may not be eliminated, reduced, or modified below the minimum requirements of this article.

(4) Zones A, R-1, R-2, R-3, WD, GC, MC, MM, RG, and PF. **Except for the CC, MC and HR districts**, the following regulations shall apply to the A, R-1, R-2, R-3, WD, GC, MC, MM, RG and PF Zones:

(a) No lot shall be developed, nor any structure thereon erected, structurally altered, or enlarged, nor any use thereon established, altered, added, expanded, intensified, or otherwise changed, unless the on-site parking requirement of the lot, as so developed and used, is met.

(b) The parking requirement of a lot shall be met by on-site parking spaces. For lots in the R-1 or R-2 Zones, **if** the configuration of **a nonconforming** lot prohibits the construction of a driveway, on-street parking **shall** be permissible.

(c) In the case of a lot whose on-site parking is not constructed in conformity with the specifications of § 340-153, and it is the owner's/tenant's desire to expand the footprint of the structure, or encompass an area outside the building; the applicant shall be responsible for furnishing a site plan showing the footprint of the structure and the location and number of parking spaces which could legally be established on the lot. The site plan shall also show any proposed expansion or utilization of outdoor spaces. The proposed expansion shall not result in the encroachment on those parking spaces, as shown on the site plan.

(5) Zones CC, MC, and HR. The following regulations shall apply to the CC, MC, **SLC,** and HR Zones:

(a) New construction. No lot shall be developed, nor any structure erected thereon, unless the on-site parking requirement of the lot, as so developed and used, is met.

(b) Pre-existing structures. Any commercial use permitted by this Chapter in the applicable zone may be continued, altered, changed, established, expanded, decreased, and/or re-expanded **without meeting the current on-site parking requirements if the Planning Commission determines that the change does not significantly increase parking demand for the use.**

(c) Expansion of structures in the CC and HR Zones. No structure on a lot shall be altered so as to increase its footprint resulting in the loss of existing on-site parking spaces, unless the owner of the property enters into an agreement with the Town to pay a fee into the St. Michaels Business Improvement Fund in the amount as set forth in the Fee Schedule as set by The Commissioners of St. Michaels.

(d) Expansion of use in the CC and HR Zones. No use shall be expanded, intensified, or otherwise changed which results in the loss of existing on-site parking spaces unless the owner of the property enters into an agreement with the Town to pay a fee into the St. Michaels Business Improvement Fund in the amount as set forth in the Fee Schedule as set by the Commissioners of St. Michaels.

(e) Payment into the St. Michaels Business Improvement Fund. The loss of on-site parking spaces results in an additional burden to the Town to provide public parking areas. Monies received from the payment of this fee shall be placed into an account used specifically for the construction, maintenance, and upgrades to public parking lots **and parking management studies.** Prior to the issuance of a building permit or zoning certificate, the owner of the property shall enter into an agreement setting forth the amount of the fee and repayment schedule as set out in the administrative fee as adopted by The Commissioners of St. Michaels.

C. Minimum number of on-site parking spaces required.

(1) In determining the on-site parking requirement of a lot according to its use, all buildings and structures that house functions of the use (e.g., outdoor walk-in coolers and other walk-in storage structures) shall be included.

(2) **Unless otherwise expressly allowed in accordance with the shared parking regulations of § 340-148, lots containing more than one permitted use must provide parking in an amount equal to the total of the requirements for all uses on the lot.**

(a) In determining the parking requirement of a lot with multiple uses, no floor area shall be counted more than once.

(b) None of a lot's multiple uses shall be excluded from access to the lot's on-site parking spaces.

(3) Should a fraction of a parking space result from computing parking or loading space requirements, a fraction of less than 50% shall be rounded down; a fraction of 50% or more shall be rounded up to require a full space.

(4) Requirements involving the number of workers shall be based on the largest number of workers on duty at the same time on a regular basis.

(5) Bench seating shall be counted at one seat per 18 inches of linear seating space.

(6) For computing parking requirements based on employees, students, members, residents or occupants, calculations shall be based on occupancy standards established by the building code and/or fire code.

§ 340-146. Minimum required parking ratios.

A. Except as otherwise expressly stated, off-street or on-site motor vehicle parking spaces must be provided in accordance with Table 340-146 A Minimum Parking Requirements.

Table 340-146 A. Minimum Parking Requirements	
CATEGORIES, SUBCATEGORIES, SPECIFIC USES	**REQUIRED PARKING SPACES**
AGRICULTURE	
Agriculture, crop production	Per § 340-147
Agriculture, buildings, and structures	Per § 340-147
Indoor plant cultivation	Per § 340-147
Plant nursery, commercial and noncommercial nurseries and greenhouses	Per § 340-147
Fisheries Activities, Aquaculture	Per § 340-147
Forestry	Per § 340-147
RESIDENTIAL	
Household Living	
Single Family Detached Dwelling	2 spaces per dwelling unit
Duplex Dwelling	2 spaces per dwelling unit
Townhouse Dwelling	2 spaces per dwelling unit
Multi-Family Dwelling	1.5 spaces per dwelling unit
Accessory Dwelling Unit	1 space
Mixed-use building	Parking required for each use
Group Living	
Group domiciliary care home	1 space per 4 residents, plus 1 space per employee
Sheltered Care,	1 space per 4 residents, plus 1 space per employee
Continuing Care Retirement Communities/Assisted Living/Nursing Home	0.5 space per bed or 1 space per bedroom, whichever is greater plus 0.5 space per employee

Table 340-146 A. Minimum Parking Requirements	
CATEGORIES, SUBCATEGORIES, SPECIFIC USES	**REQUIRED PARKING SPACES**
Treatment Center	1 space per 4 residents, plus 1 space per employee
PUBLIC, CIVIC AND INSTITUTIONAL	
Cemetery	Per § 340-147
College or university	Per § 340-147
Trade schools, art schools, and similar commercially operated schools	0.33 per student, plus 1 per staff
Community center	1 space per 100 square feet of gross floor area
Fraternal organization	1 space per 400 square feet
Governmental office facilities	2.5 parking spaces per 1,000 square feet of gross floor area. Minimum spaces: 3
Hospital	1 parking space per 2 beds for patients, plus 1 space for each staff doctor or nurse, plus 1 parking space for each employee on the largest shift
Library	2 spaces per 1,000 square feet of gross floor area
Parks and recreation	1 space per 4 visitors/users estimated peak service
Museum or cultural facility	1 space for per 300 square feet of gross floor area
Religious assembly	1 space for every 4 seats
Safety service	
Fire and Rescue	4 spaces for each piece of apparatus
Police	2 spaces per 3 employees, plus 1 space per vehicle customarily used in operations of the use or stored on the premises
Schools	
Elementary/Middle	1 parking space for each classroom, plus 1 parking space for each employee or 1 space for each 3 auditorium seats whichever is greater.
High	10 spaces, plus 1 space per classroom, plus 1 space per 5 students or 1 space per 10 seats of the largest assembly room, whichever is larger
Utilities and Public Service Facility	1 stall per 300 square feet of gross floor area, plus 1 stall for each company vehicle
COMMERCIAL	
Adult Entertainment Establishments	1 space per 2 occupants per the allowable occupancy as established by Fire Code, 1 space per employee or independent contractor on the maximum shift
Animal Service, grooming, boarding or shelter/kennel, veterinary care	1 space per 400 square feet of gross floor area
Stables, Commercial	1 space for each employee, plus 1 space for each 4 stalls
Assembly and Entertainment	1 parking space per 200 square feet of gross floor area or 1 space per maximum capacity as required by the Fire Code whichever is greater
Bowling Alleys	1 parking space per 200 square feet of gross floor area or 5 parking spaces for each alley whichever is greater
Temporary fairs and carnivals	As per Chapter 250
Broadcast or Recording Studio	1 space per 300 square feet of gross floor area
Commercial Service	

Table 340-146 A. Minimum Parking Requirements	
CATEGORIES, SUBCATEGORIES, SPECIFIC USES	**REQUIRED PARKING SPACES**
Building Service	1 space per vehicle, plus 1 space per 1,000 square feet of gross floor area
Business Support Service	1 space per 300 square feet of gross floor area
Personal Improvement Service	1 space per 200 square feet of gross floor area plus 1 space per employee
Marine Service	1 per 10 slips, plus 1 for each employee, plus 1 per 500 square feet of retail floor area
Day Care (residential)	1 space per 6 children, plus the spaces required for the dwelling unit
Day care center	1 per employee, plus 1 per 10 children
Eating And Drinking Establishments	
Restaurants, standard, restaurants, carryout/drive-in, café/coffee house	1 space per 250 square feet of gross floor area
Restaurants, fast food	1 space per 75 square feet of customer service or dining area; or 1 space per 200 square feet of gross floor area if no customer service or dining area
Financial Service	1 space per 250 square feet of gross floor area
Funeral and Mortuary Service	
Funeral homes	1 per 1/3 maximum of the building capacity as required by the Fire Code
Lodging	
Bed-and-breakfast inn (B&B inn).	1 space per bed and breakfast guest unit, plus required parking spaces for resident family and 1 per employee
Hotel, motel	1.5 spaces per sleeping room
Conference center/hotel and inn	1 per 3 persons maximum occupancy as required by the Fire Code for the conference center use, plus 1.5 spaces per sleeping room
Vacation cottages	2 spaces
Short term rentals	1 space for each bedroom
Office, business, professional	1 space per 400 square feet of gross floor area
Medical, dental and health practitioner	1 space per 250 square feet of gross floor area
Retail Sales convenience goods, consumer shopping goods, building supplies and equipment	1 space per 250 square feet of gross floor area
Self-Service Storage Facility	Per § 340-147
Studio, Instructional Or Service	**1 space per 300 square feet of gross floor area**
Vehicle Sales and Service	
Commercial vehicle repair and maintenance	1 space per 175 square feet of the gross floor area of the principal use, including service bays and retail areas
Car wash	None
Commercial vehicle sales and rentals	3 per 1,000 square feet, plus 1 per 2,500 square feet of outdoor display
Fueling station/convenience/mini mart	1 space per pump island, plus 1 space per service bay, plus 1 for every 3 seats of on-site seating, plus 3 spaces per 1,000 square feet of gross retail sales area
Personal vehicle repair and maintenance	2 spaces per service bay, 1 space for each vehicle stored on the site overnight, 1 space for each employee

Table 340-146 A. Minimum Parking Requirements	
CATEGORIES, SUBCATEGORIES, SPECIFIC USES	**REQUIRED PARKING SPACES**
Personal vehicle sales	1 space per 300 square feet of gross floor area, plus 1 space per 4,500 square feet of outdoor sales per display
Personal vehicle rentals	1 per 400 square feet, plus 1 per rental vehicle
Vehicle body and paint finishing shop	3 for each service bay plus 1 space per vehicle used in the conduct of the business plus 1 per employee
WHOLESALE, DISTRIBUTION AND STORAGE USE CATEGORY	
Equipment and Materials Storage, Outdoor	
Contractor's shop	1 space per 300 square feet of the gross floor area of the office, sales, or display area over 4,000 square feet (minimum of 4 spaces), plus 1 space per 5,000 square feet of storage area
Trucking and transportation terminal	1 per 275 square feet of office and 2 spaces for each company vehicle operating from the premises
Warehouse	2 spaces per 1,000 square feet of gross floor area
Wholesale sales and distribution	1 space per 500 square feet of gross floor area
INDUSTRIAL USE CATEGORY	
Artisan industrial	1 space per 600 square feet of gross floor area
Manufacturing or assembling	1 space per employee
RECYCLING USE CATEGORY	
Recyclable Material Drop-off Facility	1 per recycle collection container

B. Flexibility in administration required.

(1) The Town of St. Michaels recognizes that, due to the particularities of any given development, the strict application of the parking standards set forth herein may result in development with parking more than a permitted use's needs. The Planning Commission may reduce the required parking if one or more of the following conditions apply, and the applicant can demonstrate to the Planning Commission via plans, studies or other data that such conditions better reflect the actual parking demand:

(a) Residential development is deed restricted to residents 55 years of age or older.

(b) The permitted use has a majority of its occupants not of driving age.

(c) The development is located in the CC Central Commercial District, WD Waterfront Development District, MM Maritime Museum District, GC Gateway Commercial District, MC Maritime Commercial Zone, or the HR Historic Redevelopment District.

(d) On-street parking is located in front of the property.

(e) A public parking lot is located within 300 feet of the lot.

(2) Whenever the Planning Commission allows or requires a deviation from the parking requirements set forth herein, it shall enter on the face of the zoning certificate and/or site plan the parking requirement that it imposes and the reasons for allowing or requiring the deviation.

(3) If the Planning Commission concludes, based upon information it receives in consideration of a specific development proposal, that the presumption established by § 340-146 for a particular use classification is erroneous, it shall initiate a request for an amendment to the Table of Parking Requirements. In making this determination, the Planning Commission may recommend the revised minimum parking requirement is assigned to a newly defined subcategory of a category of uses, e.g., real estate office as a subcategory of the office category.

§ 340-147. Unlisted uses and establishment of other parking ratios.

A. The Planning Commission is authorized to establish required minimum off-street parking ratios for unlisted uses and in those instances where the authority to establish a requirement is expressly granted.

B. Such ratios may be established based on a similar use/parking determination (as described in § 340-146 on parking data provided by the applicant or information otherwise available to the Planning Commission.

C. Parking data and studies must include estimates of parking demand based on reliable data collected from comparable uses or on external data from credible research organizations (e.g., Institute of Transportation Engineers, Urban Land Institute, or American Planning Association). Comparability will be determined by density, scale, bulk, area, type of activity, and location. Parking studies must document the source of all data used to develop the recommended requirements.

§ 340-148. Shared parking.

A. Applicability. Shared parking facilities are allowed for mixed-use projects and uses with different periods of peak parking demand, subject to approval by the Planning Commission. Required residential parking for a detached single-family detached dwelling, duplex dwelling, and townhouses and accessible parking spaces (for persons with disabilities) may not be shared and must be located on-site.

B. Methodology. The number of parking spaces required under a shared parking arrangement shall be approved by the Planning Commission and shall be determined by the following calculations:

(1) Multiply the minimum parking required for each permitted use, as outlined in § 340-146 by the percentage identified for each of the six designated periods in Table 148.B.

(2) Add the resulting sums for each of the six columns.

(3) The minimum shared parking requirement is the highest sum among the six columns resulting from the above calculations.

(4) Select the period with the highest total parking requirement and use that total as the shared parking requirement.

Table 148.B: Shared parking calculation guidelines.

	Weekday			Weekend		
Land Use	Midnight–7:00 a.m.	7:00 a.m. – 6:00 p.m.	6 p.m. –Mid-night	Midnight–7:00 a.m.	7:00 a.m.–6:00 p.m.	6 p.m. –Mid-night
Office and Industrial	5%	100%	10%	0%	60%	5%
Lodging	100%	60%	90%	100%	65%	80%
Eating and Drinking	50%	70%	100%	45%	70%	100%
Religious Assembly	0%	10%	30%	0%	100%	30%
Assembly & Entertainment	10%	50%	100%	5%	80%	100%
Retail & Commercial Service	5%	70%	90%	0%	100%	60%
Multi-family Residential	100%	60%	100%	100%	80%	100%

C. Other uses. If one or more of the land use proposing to make use of shared parking arrangement do not conform to the land use classifications in Table § 148.B, as determined by the Zoning Inspector, then the applicant must submit sufficient data to indicate the principal operating hours of the uses. The Zoning Administrator or his or her designee is authorized to determine the appropriate shared parking requirement, if any, for such uses based upon this information.

D. Alternative methodology. As an alternative to the shared parking methodology in § 148.B, the Zoning Inspector is authorized to approve shared parking calculations based on the latest edition of the Urban Land Institute's or the Institute of Transportation Engineer's shared parking model or based on studies prepared by

professional transportation planner or traffic engineer. The shared parking analysis must demonstrate that the peak parking demands of the subject permitted uses are at different times and that the parking area will be large enough for the anticipated demands of both uses.

E. Location. Shared parking may be located on-site or off-site. Off-site parking is subject to the regulations of Section § 340-149.

§ 340-149. Location of off-street parking.

A. General. Except as otherwise expressly stated, required off-street parking spaces must be located on the same lot and under the same control as the building or use they are required to serve.

B. Setbacks. Except as otherwise expressly stated, off-street parking areas are subject to the principal building setbacks of the subject zoning district.

(1) Off-street parking spaces accessory to a single-family detached dwelling, townhouse, or duplex dwelling may be located in any driveway.

(2) Nonresidential parking areas shall be located at least ten (10) feet from every street line and from every residential lot line.

C. Off-site parking.

(1) When Allowed. All or a portion of required off-street parking for nonresidential use may be provided off-site, in accordance with the regulations of this section. Required accessible parking spaces and parking required for residential uses may not be located off-site.

(2) Location. Off-site parking areas must be located within a 500-foot radius of the use served by such parking, measured between the entrance of the use to be served and the outer perimeter of the farthest parking space within the off-site parking lot. Off-site parking lots are allowed only in zoning districts that permit the principal use to be served by the off-site parking spaces unless approved as a special exception (see Figure 149-1).

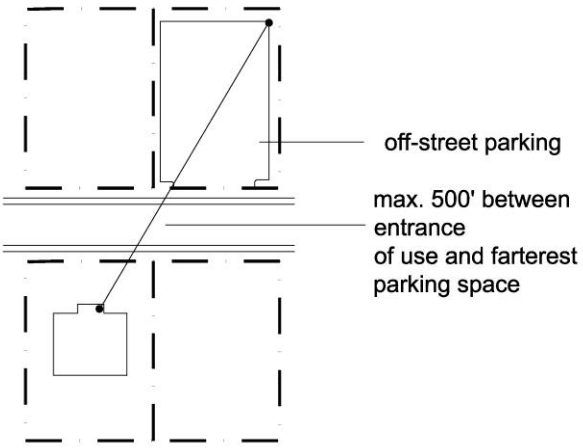


Figure 149-1 - Off-site parking location

(3) Design. Off-site parking areas must comply with all applicable parking area design and parking lot landscape regulations of this Zoning Chapter.

(4) Control of off-site parking area. The property to be occupied by the off-site parking facilities must be under the same ownership as the lot containing the use to be served by the parking. The off-site parking area may be under separate ownership only if an agreement is provided, in a form approved by the town attorney, guaranteeing the long-term availability of the parking, commensurate with the use served by the parking. Off-site parking privileges will continue in effect only as long as the agreement, binding on all parties, remains in force. If an off-site parking agreement lapses or is no longer valid, then parking must be provided as otherwise required by this article.

§ 340-150. Use of off-street parking areas.

A. Off-street parking facilities may not be used for the parking of vehicles to display the same for sale unless the principal use of the property on which the parking facility is located is the site of a business that sells or leases vehicles. This provision is not intended to prohibit an owner or occupant of residentially-zoned property from displaying vehicles for sale on the property's off-street parking facilities provided the vehicle is owned by the owner or occupant of the residential property. Except for flagrant or repeated violations, the Town will endeavor to obtain voluntary compliance with the restrictions on displaying cars for sale before the initiation of enforcement proceedings.

B. No vehicle repair or service of any kind shall be permitted in conjunction with off-street parking facilities in a residential or business zoning district, except for minor

repairs or service on vehicles owned by an occupant or resident of the premises. The sale of gasoline and motor oil in conjunction with off-street parking facilities is not permitted in any residential zoning district.

§ 340-151. Parking of recreational vehicles and equipment.

A. Not more than one (1) recreational vehicle and one (1) piece of recreational equipment or utility trailer may be parked or stored in the rear or side yard of any lot in a residential zoning district unless otherwise approved by the Planning Commission. For this provision, one piece of recreational equipment is equal to a single non-motor vehicle with no more than one (1) watercraft, personal watercraft, or specialty prop-crafts. Recreational vehicles, recreational equipment, and utility trailers may not be parked or stored in a required front yard except that one recreational vehicle, recreational equipment, and utility trailers may be parked in the front yard if located on a driveway.

B. Seasonal parking of boats on trailers in the front yard is permitted for a period not to exceed six (6) months yearly with prior approval of the Zoning Inspector.

C. Recreational vehicles, recreational equipment, and utility trailers stored or parked in residential zoning districts must be owned by the owner or occupant of the subject property.

D. The recreational vehicle, recreational equipment, or utility trailer must be properly licensed. Major recreational equipment or utility trailers must be properly licensed and ready for highway use.

E. No recreational vehicle, equipment, or utility trailer may have its wheels removed or be affixed to the ground to prevent its ready removal.

F. No parked or stored recreational vehicle may be used for living, sleeping, or business purposes.

G. Unregistered vehicles parked on a property shall conform to the provisions of Chapter 191 of the Code of the Town of St. Michaels, and shall not be parked in a required front yard setback or closer to the lot front than the principal structure, whichever is more restrictive.

§ 340-152. Commercial vehicle parking.

A. It shall be unlawful for an owner or person in control of any commercial vehicle to park, store, or keep such vehicle(s) on any public street, avenue, alley, or another thoroughfare, or right-of-way in a R-1, R-2, or R-3 district or on that portion of a

street abutting a R-1, R-2, or R-3 district for a period in excess of one hour unless engaged in legitimate loading or unloading activities, or while engaged in the provisions of goods or services to an abutting property owner or tenant in such districts.

B. Alternative Off-street parking, commercial vehicles.

(1) Off-street parking and storage of a commercial vehicle are prohibited in the R-1, R-2, and R-3 zoning districts except as provided in subsection (2) below.

(2) A commercial vehicle parked in an enclosed garage is permitted in a residential district. One commercial vehicle less than seven (7) feet tall or twenty-seven (27) feet long may be parked on a lot in a residential district provided the vehicle is in an enclosed garage, accessory building, or rear yard. Any sign graphic, either attached or painted on the vehicle that exceeds ten (10) square feet in area, shall be screened from public view by a fence or landscaping.

(3) The provisions of this subsection shall not apply to any motor vehicle, trailer, or truck parked or left standing for loading or unloading persons or property, provided such parking or standing shall not extend beyond the time necessary for the loading or unloading.

§ 340-153. On-site parking space specifications.

A. Each on-site parking space shall be located on the lot toward whose minimum on-site parking requirement it is intended to apply. Except in the case of single-family or duplex dwellings, each on-site parking space shall have the minimum dimensions specified herein and shall have direct access from the maneuvering aisle. The maneuvering aisle for entering and exiting a parking space shall be in addition to the area of the parking space itself and shall have at least the width specified herein.

(1) Parking space at an angle of 90° to the curb and maneuvering aisle: Each parking space shall be a rectangular area at least 8.5 feet wide perpendicular to the parking angle and 18 feet long. The maneuvering aisle shall be at least 24 feet wide.

(2) Parking space at an angle of 60° to the curb and maneuvering aisle: Each parking space shall be a rectangular area at least 8.5 feet wide perpendicular to the parking angle and at least 18 feet long. The maneuvering aisle shall be at least 18 feet wide.

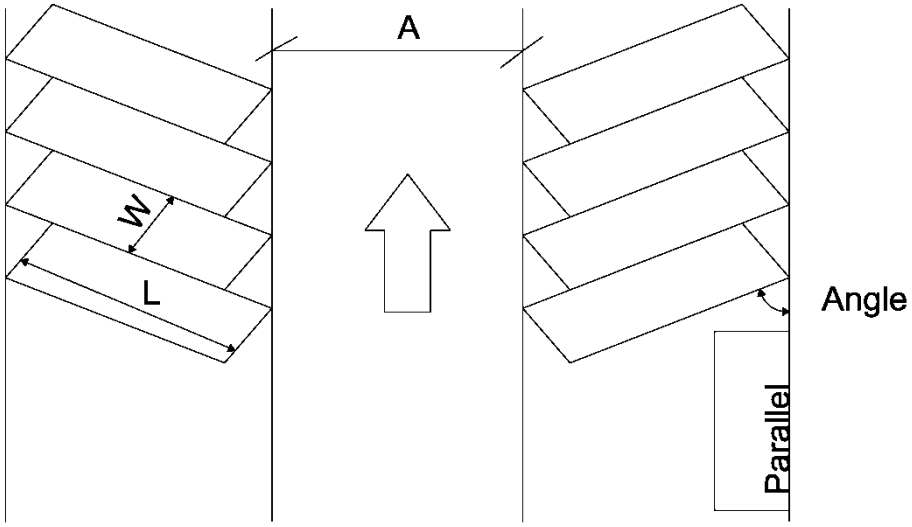
(3) Parking space at an angle of 45° to the curb and maneuvering aisle: Each parking space shall be a rectangular area at least 8.5 feet wide perpendicular to the parking

angle and at least 18 feet long. The maneuvering aisle shall be at least 15 feet wide.

(4) Parking space parallel (zero-degree angle) to the curb and maneuvering aisle: Each parking space shall be a rectangular area at least 8.5 feet wide and at least 23 feet long. The maneuvering aisle shall be at least 12 feet wide.

(a) The following table summarizes in linear feet the dimensions of parking stalls and aisles constructed according to the specifications of Subsection A(1) through (4):

Table 153.A: Dimensions of Parking Stalls and Aisles			
Angle	Minimum Stall	Minimum Stall	Minimum Aisle Width
	Width (W)	Length (L)	(Maneuvering Space) (A)
	(feet)	(feet)	(feet)
90º	8.5	18	24
			22 one-way
60º	8.5	18	18 one-way
			22 two-way
45º	8.5	18	15 one-way
			21 two-way
30º	8.5	18	12 one-way
			20 two-way
Parallel	8.5	23	12 one-way
			18 two-way



(b) Driveways providing access to parking areas shall be at least ten (10) feet wide.

(c) Where marked parking spaces are provided for commercial buses, one (1) bus parking space shall be equivalent to and counted as six (6) parking spaces for passenger cars.

(5) Except in the case of single-family detached dwellings duplex dwellings and townhouse, no on-site parking space, maneuvering aisle or parking lot shall be configured such that a vehicle must either back off of or onto a public street or right-of-way when entering or exiting a parking lot or on-site parking space.

(6) **Tandem parking may be used to satisfy residential parking requirements if the tandem spaces are assigned to the same dwelling unit.** For a single-family detached dwelling, and each dwelling unit of a duplex dwelling, a driveway at least ten (10) feet wide and thirty-five (35) feet long shall be considered sufficient parking.

(7) **Parking areas shall have an all-weather surface, which includes but is not limited to asphalt, clamshell, pavers, or gravel. Except in the case of single-family detached dwelling and duplex dwellings, each parking space shall be marked by painted lines on the surface of the parking lot or by parking bumpers.**

(8) No part of any parking space shall be closer than five (5) feet to any lot frontage. Any lighting used to illuminate **shall comply with the lighting requirements of § 340-179.**

(9) Parking areas for more than five (5) vehicles **shall comply with the landscape requirements of Article XVI.**

(10) **Except for temporary uses as provided in § 340-83** no parking areas may be used for displays, exhibits, or sales, **unless otherwise permitted by this Article.**

(11) Except in the case of parking for single-family detached dwellings or duplex dwellings, the occupancy of any parking space by a vehicle shall not block or impair entry to or exit from any other parking space. In the case of parking spaces for single-family detached dwellings and duplex dwellings, the occupancy by a vehicle of one parking space may block or impair entry to or exit from another parking space provided for the same dwelling unit, but shall not block entry to or exit from a parking space provided for another dwelling unit, property, or use.

(12) **In all parking lots containing five (5) or more parking spaces, wheel stops must be installed where necessary to prohibit vehicle overhang onto adjacent pedestrian ways or landscape areas.**

(13) Combination concrete curb and gutter or concrete barrier curbs are required around the perimeter of all parking lots containing five (5) or more parking spaces and around all landscape islands and divider medians. Alternatives to curb and gutter that comply with the town's best management practices for stormwater management may be approved by the Zoning Inspector.

B. Motorcycle Parking. In parking lots containing over twenty (20) motor vehicle parking spaces, motorcycle or scooter parking may be substituted for up to five (5) automobile parking spaces or 5% of required motor vehicle parking, whichever is less. For every four (4) parking spaces for motorcycles or scooters provided, the automobile parking requirement is reduced by one (1) space. Each motorcycle and scooter space must have minimum dimensions of four (4) feet by eight (8) feet. This provision applies to existing and proposed parking lots.

C. Car-Share Service. For any development, one parking space or up to 5% of the total number of required spaces, whichever is greater, may be reserved for use by car-share vehicles. The number of required motor vehicle parking spaces is reduced by one (1) space for every parking space that is leased by a car-share program for use by a car-share vehicle. Parking for car-share vehicles may also be provided in any non-required parking space.

D. Bicycle Parking

(1) Minimum Requirements. Bicycle parking spaces must be provided in accordance with the minimum ratios established in Table 153.D(1). The Planning Commission may waive or modify minimum bike parking requirements where it can be demonstrated that the requirement exceeds actual demand.

Table 153.D(1): Minimum Bicycle Parking Ratios	
Use Category/Subcategory	**Minimum Bicycle Parking Spaces**
Community Center	1 per 20 vehicle spaces or 1 per 10 patrons, whichever results in more spaces
Library	2 spaces per 1,000 square feet of gross floor area
Museum or Cultural Facility	1 per 20 vehicle spaces
Parks and Recreation	1 per 20 vehicle spaces
School	
Elementary and Junior High	2 per 10 students
Senior High	1 per 20 students

Assembly and Entertainment	**1 per 20 vehicle spaces or 1 per 10 patrons, whichever results in more spaces**
Commercial Service	
Eating and Drinking Establishment	1 space per 1,000 square of gross feet floor area
Health club, fitness facility	1 per 20 vehicle spaces or 1 per 10 patrons, whichever results in more spaces
Office	1 space per 2,000 square feet of gross floor area
Retail Sales	1 space per 3,000 square feet of floor area
Studio, Instructional or Service	1 per 10 students

(2) Maximum Requirement. The minimum bicycle parking ratios of Table 153.D(1) notwithstanding, no use is required to provide more than ten (10) bicycle parking spaces.

(3) Location. Bicycle parking spaces must be located in highly visible, illuminated areas that do not interfere with pedestrian movements. Bicycle parking spaces must be located within one hundred (100) feet of a customer entrance.

(4) Design. Bicycle parking spaces must:

(a) Consist of bike racks or lockers that are anchored so that they cannot be easily removed;

(b) Be of solid construction, resistant to rust, corrosion, and abuse;

(c) Allow both the bicycle frame and the wheels to be locked with the bicycle in an upright position using a standard U-lock;

(d) Be designed so as not to cause damage to the bicycle;

(e) Facilitate easy locking without interference from or to adjacent bicycles; and

(f) Have minimum dimensions of two (2) feet in width by six (6) feet in length, with a minimum over-head vertical clearance of seven (7) feet.

§ 340-154. Accessible parking for people with disabilities.

A. The number, location, and design of accessible parking spaces for people with disabilities must be provided in accordance with this section and the Maryland Accessibility Code.

B. Accessible spaces must be provided in accordance with Table 154.B.

C. Accessible parking spaces count towards the total number of parking spaces required.

D. Each accessible parking space, except on-street spaces, must be at least 16 feet in width, with either an 8-foot or 5-foot wide diagonally striped access aisle. The access aisle may be located on either side of the vehicle portion of the accessible space. Abutting accessible parking spaces may not share a common access aisle. See Figure 154-1.

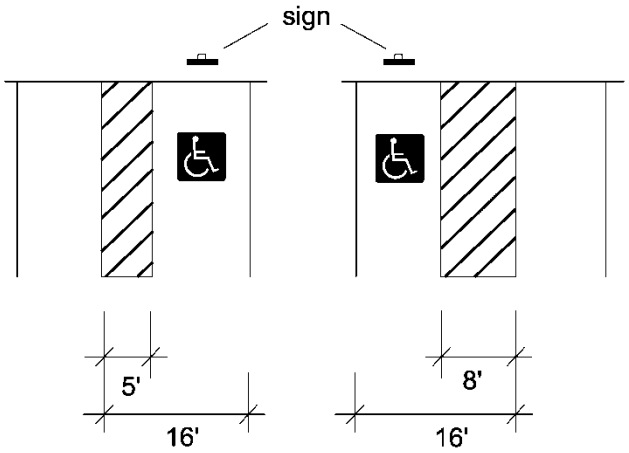


Figure 154-1

Table 154.B: Minimum accessible parking space ratios.

Table 154.B: Minimum accessible parking space ratios.	
Total Off-Street Parking Spaces Provided	**Accessible Parking Spaces Required**
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
over 1,000	20% of total
Medical facilities specializing in the treatment of persons with mobility impairments	20% of the total
Outpatient medical facilities	10% of the total

E. Accessible parking spaces must be signed in compliance with applicable state law and must identify the current fine amount for violations. The sign must be fabricated to be two (2) separate panels; one for the disability symbol and one for the current fine amount as established by the town.

F. Accessible parking spaces and accessible passenger loading zones that serve a particular building must be the spaces or zones located closest to the nearest accessible entrance on an accessible route. In separate parking structures or lots that do not serve a particular building, parking spaces for disabled persons must be located on the shortest possible circulation route to an accessible pedestrian entrance of the parking facility.

G. The regulations of this section apply to required spaces and to spaces that are voluntarily designated for accessible parking.

§ 340-155. Drive-through and drive-in facilities.

A. Purpose. The regulations of this section are intended to help ensure that:

(1) There is adequate on-site maneuvering and circulation area for vehicles and pedestrians;

(2) Vehicles awaiting service do not impede traffic on abutting streets; and

(3) Impacts on surrounding uses are minimized.

B. Applicability. The regulations apply to new developments, the addition of drive-through and drive-in facilities to existing developments, and the relocation of existing drive-through facilities.

C. Stacking spaces required. Stacking lanes must be provided in accordance with the minimum requirements of Table 155.C

Table 154.C: Stacking Space Requirements

Table 154.C: Stacking Space Requirements	
Use	**Minimum Number of Stacking Spaces Required**
Bank/financial institution	4 spaces per drive-through lane
Car wash	2 spaces per approach lane, plus 2 drying spaces at the end of each bay
Vehicle repair/maintenance	2 per service bay
Gasoline pump	2 spaces per pump per side including spaces at pump

Table 154.C: Stacking Space Requirements	
Use	**Minimum Number of Stacking Spaces Required**
Restaurant, drive-thru	8 total spaces, with at least 3 spaces between the order and pick-up station
Other	3 spaces per lane, ordering station or machine

D. Stacking lane dimensions, design, and layout.

(1) Stacking lanes must be designed so that they do not interfere with parking movements or safe pedestrian circulation. Stacking lanes must have a minimum width of ten (10) feet. Spaces are calculated based on a width of 8.5 feet and a depth of 18 feet.

(2) All stacking lanes must be identified, through such means as striping, pavement design, curbing and/or signs approved by the Planning Commission.

E. Setbacks. Stacking lanes must be set back at least twenty-five (25) feet from any abutting residential zoning district and at least ten (10) feet from all other lot lines.

F. Noise. Sound attenuation walls, landscaping, or other mitigation measures may be required to ensure that drive-through facilities will not have adverse noise-related impacts on nearby residential uses.

G. Site plans. Site plans must show the location of drive-through windows and associated facilities, e.g., communications systems and access aisles, as well as adjacent residential uses. Plans also shall show how drive-through windows are identified, e.g., signage, pavement markings, etc.

§ 340-156. Pedestrian Circulation.

An on-site circulation system for pedestrian and non-motorized travel must be provided in accordance with the requirements of this section. These pedestrian circulation requirements do not apply to lots occupied by single-family detached dwellings, duplex dwellings, and townhouses.

A. Connection to the Street. The on-site pedestrian circulation system must connect all adjacent public rights-of-way to the main building entrance. The connection must follow a direct route and not involve significant out-of-direction travel for system users. See Figure 156-1.

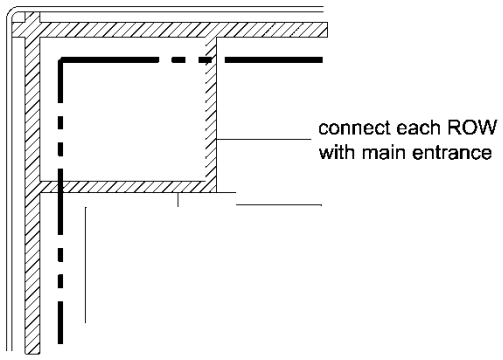


Figure 156-1: Connecting Building Entrances to Street

B. Connection to Abutting Properties. The on-site pedestrian circulation system must provide at least one connection to existing paths and sidewalks on abutting properties or to the likely location of future paths or sidewalks on those properties. When the Planning Commission determines that no paths or sidewalks exist on a neighboring property or it is not possible to determine the likely location of future path or sidewalk connections or extending a connection would create a safety hazard on either property, no such connection is required. See Figure 156-2

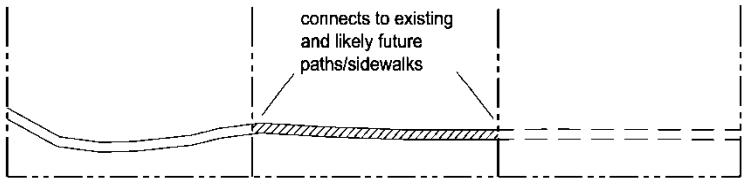


Figure 156-2: Connections to Abutting Properties

C. Internal Connections. The on-site pedestrian circulation system must connect all buildings on the site and provide connections to other areas of the site likely to be used by pedestrians and non-motorized travel, such as parking areas, bicycle parking, recreational areas, common outdoor areas, plazas, and similar amenity features. See Figure 156-3.

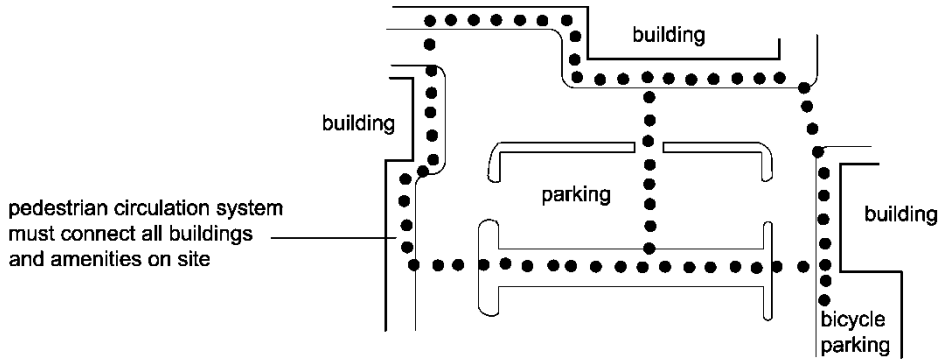


Figure 156-3: Internal Site Connections

D. Design. Required on-site pedestrian circulation facilities must be designed and constructed in accordance with the following requirements:

(1) The on-site pedestrian circulation system must be hard-surfaced, with a dust-free material, and be at least five (5) feet in width.

(2) When the on-site pedestrian circulation system crosses driveways, parking areas, or loading areas, it must be differentiated through the use of elevation changes, a different paving material, or other equally effective methods. Striping does not meet this requirement. See Figure 156-4.

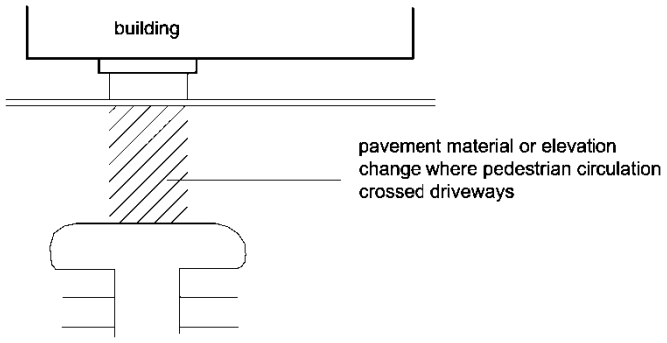


Figure 156-4:

(3) When the on-site pedestrian circulation system is parallel and adjacent to a motor vehicle travel lane, it must be a raised path at least six (6) inches above the vehicle travel lane surface or be separated from the vehicle travel lane by a raised curb, bollards, landscaping or another physical barrier. If a raised path is used, the ends of the raised portions must be equipped with accessible curb ramps.

(4) The on-site pedestrian circulation system must be illuminated to ensure that it can be used safely at night by employees, residents, and customers. Lighting must be at a height appropriate for a pedestrian pathway system.

§ 340-157. On-site loading spaces required.

A. In any zone, in connection with every building or part thereof having a gross floor area of 4,000 square feet or more, which is to be occupied by manufacturing, storage, warehouse, goods display or sales, mortuary, or other uses similarly requiring the receipt and distribution by vehicles of materials and merchandise, there shall be provided and maintained on the same lot with such building or use at least one on-site loading space plus one additional such loading space for each 10,000 square feet of gross floor area or major fraction thereof.

B. Each loading space shall not be less than 10 feet in width, 45 feet in length, and 14 feet in height. Such space shall occupy all or any part of any required yard or court, except a front yard.

C. No such space shall be located closer than 50 feet to any lot located in any R District, unless wholly within a completely enclosed building or unless enclosed on all sides by a wall or a uniformly painted board fence, not less than six feet in height.

D. Off-street loading spaces may occupy all or any part of any required yard, except a front yard. Nonresidential off-street loading spaces shall be located at least fifteen (15) feet from every street line and six (6) feet from every residential lot line. The edges of the loading spaces shall be curbed or buffered, and the space between the off-street loading area and the street or lot line shall be landscaped and maintained in a sightly condition.

E. All off-street loading areas must be properly engineered and improved with an all-weather, dustless surface approved by the Zoning Inspector.

F. Plans for the location, design, and construction of all loading areas are subject to approval by the Zoning Inspector.

G. Loading spaces may not be used to satisfy off-street parking requirements or for the conduct of vehicle repair or service work of any kind.

Article XV. Signs.

§ 340-158. Definitions.

Words and phrases used in this article shall have the meanings set forth in this section. All other words and phrases shall be as defined in Article II or will be given their common, ordinary meaning unless the context requires otherwise.

Abandoned Sign - A sign which has not identified or advertised a current business, service, owner, product, or activity for at least 180 days.

Address Sign - A sign that designates the street number and/or street name for identification purposes, as designated by the United States Postal Service. (Also known as nameplate sign)

Animated Sign - Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

Balloon Sign - A lighter-than-air, gas-filled balloon, tethered in a fixed location, which contains an advertisement message on its surface or attached to the balloon in any manner.

Banner - Any sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

Beacon - Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

Building Sign - Any sign attached to any part of a building, as contrasted to a freestanding sign.

Canopy Sign (also Awning Sign) - Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

Changeable Copy Sign - A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. T**he two types of changeable-copy signs are manual changeable copy signs and electronic changeable copy signs, which include: message center signs, digital displays, and Tri-Vision Boards**

Commercial Message - Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

Digital Display - The portion of a sign's message made up of internally illuminated components capable of changing the message periodically. Digital displays may include but are not limited to LCD, LED, or plasma displays.

Directional Sign - Signs designed to provide direction to pedestrian and vehicular traffic into and out of, or within a site.

Directory Sign - Wall sign that identifies individual businesses or occupants of the same building or building complex.

Event Sign – Temporary sign advertising and/or providing direction to a planned public or social occasion approved as provided in Chapter 350 of the Code of St. Michaels, Maryland.

Flag - Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity.

Flashing Sign - A sign whose artificial illumination is not kept constant in intensity at all times when in use and which exhibits changes in light, color, direction, or animation. This definition does not include electronic message center signs or digital displays that meet the requirements set forth herein.

Freestanding Sign - A sign supported by structures or supports that are placed on or anchored in the ground, and that is independent and detached from any building or other structure. The following are subtypes of freestanding signs:

> **Ground Sign - A sign permanently affixed to the ground at its base, supported entirely by a base structure, and not mounted on a pole or attached to any part of a building. (Also known as monument sign)**
>
> **Pole Sign - A freestanding sign that is permanently supported in a fixed location by a structure of one or more poles, posts, uprights, or braces from the ground and not supported by a building or a base structure.**

Government/Regulatory Sign - Any sign for the control of traffic or for identification purposes, street signs, warning signs, railroad crossing signs, and signs of public service companies indicating danger or construction, which are erected by or at the order of a public officer, employee or agent thereof, in the discharge of official duties.

Holiday Decorations - Signs or displays, including lighting, which are a non-permanent installation celebrating national, state, and local holidays, religious or cultural holidays, or other holiday seasons. (Also known as seasonal decorations)

Incidental Sign - A sign, generally informational, that has a purpose secondary to the use of the

zone lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives. No sign with a commercial message legible from a position off of the lot on which the sign is located shall be considered incidental.

Illumination - A source of any artificial or reflected light, either directly from a source of light incorporated in, or indirectly from an artificial source.

> **External Illumination - Artificial light, located away from the sign, which lights the sign, the source of which may or may not be visible to persons viewing the sign from any street, sidewalk, or adjacent property.**
>
> **Internal Illumination - A light source that is concealed or contained within the sign and becomes visible in darkness through a translucent surface. Message center signs, digital displays, and signs incorporating neon lighting shall not be considered internal illumination for this ordinance.**
>
> **Halo Illumination: A sign using a 3-dimensional message, logo, etc., lighted in such a way as to produce a halo effect. (Also known as back-lit illumination)**

Illuminated Sign - A sign with electrical equipment installed for illumination, either internally illuminated through its sign face by a light source contained inside the sign or externally illuminated by a light source aimed at its surface.

Inflatable Sign - A sign that is an air-inflated object, which may be of various shapes, made of flexible fabric, resting on the ground or structure, and equipped with a portable blower motor that provides a constant flow of air into the device.

Institutional Sign - A sign placed on a property owned by religious or charitable non-profit organizations, hospitals, schools, fire and rescue, clubs, museums, or similar uses.

Joint tenant signs – A sign displaying the various tenants of a business complex or shopping center located at or near the entrance(s).

Limited Duration Sign - A non-permanent sign that is displayed on private property for more than thirty (30) days, but not intended to be displayed for an indefinite period.

Marquee - Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to protect from the weather.

Marquee Sign - Any sign attached to, in any manner, or made a part of a marquee.

Menu Sign - A permanent sign for displaying the bill of fare available at a restaurant or

other use serving food, or beverages.

Mural (or mural sign) - A large picture/image (including but not limited to painted art) which is painted, constructed, or affixed directly onto a vertical building wall, which may or may not contain text, logos, and/or symbols.

Nonconforming Sign - Any sign that does not conform to the requirements of this Chapter.

Off-Premises Sign - An outdoor sign whose message directs attention to a specific business, product, service, event or activity, or other commercial or non-commercial activity, or contains a non-commercial message about something that is not sold, produced, manufactured, furnished, or conducted on the premises upon which the sign is located. (Also known as a third-party sign, billboard, or outdoor advertising)

On-Premises Sign - A sign whose message and design relate to an individual business, profession, product, service, event, point of view, or other commercial or non-commercial activity sold, offered, or conducted on the same property where the sign is located.

Pennant - Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

Personal Expression Sign - An on-premises sign that expresses an opinion, interest, position, or another non-commercial message.

Portable Sign - A sign designed to be transported or moved and not permanently attached to the ground, a building, or other structure.

> **Sandwich Board Sign - A type of freestanding, portable, temporary sign consisting of two faces connected and hinged at the top and whose message is targeted to pedestrians (Also known as A-frame sign)**
>
> **Vehicular Sign - A sign affixed to a vehicle in such a manner that the sign is used primarily as a stationary advertisement for the business on which the vehicle sits or is otherwise not incidental to the vehicle's primary purpose.**

Projecting Sign - Any sign affixed to a building or wall in such a manner that it's leading-edge extends more than six inches beyond the surface of such building or wall.

Public Sign - A sign erected or required by government agencies or utilities, including traffic, utility, safety, railroad crossing, and identification signs for public facilities.

Reflective Sign - A sign containing any material or device which has the effect of intensifying reflected light.

Residential Sign - Any sign located in a district zoned for residential uses that contains no commercial message except advertising for goods or services legally offered on the premises where the sign is located if offering such service at such location conforms with all requirements of the zoning ordinance.

Revolving Sign - A sign which revolves in a circular motion rather than remaining stationary on its supporting structure.

Roof Sign - Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

Sign - Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

Sign Area - The square footage of the advertising area of a sign calculated by measuring the area of the background, or if there is no background, then the area calculated by measuring the width of the sign from the beginning of the first character to the end of the last character, and by measuring the height of the sign from the bottom of the lowest character to the top of the highest character. The area of said signs to be determined by then multiplying the width times the height of the signs as so determined.

Sign Structure Area - The total square footage of the sign structure determined by measuring the width and height of the structure that encompasses the advertising area of the sign.

Suspended Sign - A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

Temporary Sign - A banner, pennant, poster, or advertising display constructed of cloth, canvas, plastic sheet, cardboard, wallboard, plywood, or other like materials that are located on private property and intended to be displayed for no more than is permitted by regulation.

Wall Sign - Any sign attached parallel to, but within six inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

Wayfaring - A type of sign that allows users to find their way, using the information

provided along the travel path.

Window Sign - Any sign, pictures, symbol, or a combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

§ 340-159. Purpose and Intent.

Signs perform an important function in identifying and promoting properties, businesses, services, residences, events, and other matters of interest to the public. The intent of this Article is to regulate all signs within St. Michaels to ensure that they are appropriate for their respective uses, in keeping with the appearance of the affected property and surrounding environment, and protective of the public health, safety, and general welfare by:

A. Setting standards and providing uniform controls that permit reasonable use of signs and preserve the character of St. Michaels.

B. Prohibiting the erection of signs in such numbers, sizes, designs, illumination, and locations as may create a hazard to pedestrians and motorists.

C. Avoiding excessive conflicts from large or multiple signs, so that permitted signs provide adequate identification and direction while minimizing clutter, unsightliness, and confusion.

D. Establishing a process for the review and approval of sign permit applications.

E. Ensuring sign design that builds on the traditional town image and visual environment the St. Michaels seeks to promote in the town center, and appropriate signage for highway-oriented uses along MD 33.

§ 340-160. Permit required.

A. Except for exempt signs, no sign shall be erected or placed before a sign permit is issued by the Zoning Inspector.

B. Not needing a permit does not exempt owners of temporary signs from ensuring the sign is maintained and safe.

§ 340-161. Permitted Signs.

Only those signs as set out herein are permitted, provided that such signs conform to the following provisions, are located on the same lot as said use unless an exception from this requirement is specifically noted, and only after issuance of a sign permit by the Town.

A. Building signs.

(1) Wall signs.

(a) All permanent flat signs are to be mounted flat against a wall except in those situations where the structure of the building precludes a wall-mounted permanent sign of allowable dimensions. In those cases, a pent-roof- or mansard-roof-mounted sign is allowable. No attached sign shall extend above the height of the building to which it is attached.

(b) Wall signs shall not be mounted higher than the eave line or top of the parapet wall of the building, and no portions of the sign shall extend beyond the ends of the wall to which it is attached.

(c) For each business on a separate property, wall-mounted signage for each street frontage is permitted with a maximum advertising area of one square foot of signage per one linear foot of street frontage of the building. However, all buildings, regardless of their street frontage, will be permitted twenty (20) square feet of advertising area. **Any individual all sign shall not exceed thirty (30) square feet, and the total area of all wall signs shall not exceed ninety (90) square feet.**

(d) Buildings that have multiple businesses accessed by separate entrances: each business shall be permitted one building sign for each street frontage with a maximum area of one square foot of advertising area per one linear foot of street frontage of the building dedicated to that business.

(e) When two or more businesses occupy one building with common entrances (i.e., without separate entrances), they shall be considered one business for sign computation purposes. For wall or building signs, buildings of this nature are limited to one building sign per street frontage plus one directory sign per common entrance.

(f) Mounted menu boards. Each business whose primary use is the offering of food and beverage to the general public shall be permitted to display their menu by the posting of the same on the wall or window of their business. Such board shall not exceed four (4) square feet in total area.

(2) Awning or canopy sign. Any portion of an awning containing advertising copy shall be treated as a wall or building sign and shall be included in the overall advertising area calculations for such signs.

(a) Signs may be attached flat against awnings made of rigid materials, and shall not project above the awning. Awnings of non-rigid materials (e.g., canvas) shall have signs only appliqued or painted on them.

(b) There shall be a minimum clearance of at least eight (8) feet between the bottom of the awning and the ground at grade.

(3) Directory wall signs. Directory signs shall be attached to the building to identify individual businesses or occupants of the same building or building complex, in accordance with the following:

(a) The display board shall be of integrated and uniform design.

(b) No more than one (1) sign panel not to exceed two (2) square feet in area is permitted per directory for each tenant business.

(c) Directory signs shall be placed nearest the pedestrian entrances.

(d) The total sign structure area of any directory sign shall not exceed thirty (30) square feet.

(e) Directory signs must incorporate its legally assigned street number.

(f) Directory signs shall not contain advertising copy.

(4) Projecting and suspended signs. Projecting and suspended signs shall be treated as building signs and shall be included in the total advertising area calculations for building signs.

(a) The two sides of a projecting or suspended sign must be parallel back to back, and shall not exceed twelve (12) inches in thickness, and ten (10) square feet in area.

(b) A projecting or suspended sign shall be hung at right angles to the building and shall not extend more than three (3) feet from a building wall.

(c) Projecting and suspended signs shall have a minimum clearance of eight (8) feet above grade and shall not project into a vehicular public way.

B. Freestanding sign.

(1) Freestanding signs shall be limited to one per lot, and shall extend above the natural ground level no more than six (6) feet; shall not exceed a total sign structure size of six (6) square feet in area and, with the exception of the circumstances described in off-site signs as set out in this article, shall be set back at least four (4) feet from each property line. Such sign shall contain the name of

the owner, trade name, or activity conducted on the premises whereon such sign is located.

(2) No sign, sign structure or part thereof shall be located so as to obstruct or conflict with traffic sightlines, or traffic control signs or signals. Except for educational complex signage, no sign shall be internally illuminated.

(3) Such a sign shall incorporate its legally assigned street number.

(4) A planting area consisting of shrubs, flowers, and/or ornamental grasses equivalent to the area of each side of a freestanding sign shall be provided when such planting is feasible. The planting area shall be maintained by the permit holder. This area shall be kept in a neat and clean condition, free of weeds and rubbish.

(5) In addition to the above, each gasoline/service station or other business selling automotive or marine fuel is permitted one price sign not to exceed eight (8) square feet in area and eight (8) feet in height. Said price sign shall be incorporated into the product identification sign.

(6) No more than one freestanding sign identifying a subdivision or multifamily project. Such sign shall not exceed a maximum of twenty-four (24) square feet in total sign area with a maximum height of six (6) feet. The location of such a sign shall be indicated on required site plans or subdivision plats and approved by the Planning Commission.

C. Directory signs. Directory signs may be provided to identify individual businesses or occupants of the same building or building complex, in accordance with the following:

(1) The display board shall be of integrated and uniform design.

(2) No more than one sign panel not to exceed two (2) square feet in area is permitted per directory for each tenant business.

(3) Directory signs shall be placed nearest the pedestrian entrances adjacent to the building complex.

(4) The sign structure area of all directory signs shall not exceed fifty-five (55) square feet.

(5) Directory signs shall not contain advertising copy.

D. Institutional signs.

(1) No more than one freestanding sign or bulletin board identifying a place of an institutional use which sign shall not exceed twenty (24) square feet in sign structure area, with a maximum advertising area of eighteen (18) square feet and with a maximum height of six (6) feet and shall be located upon the premises of such institution. These signs may also contain other information customarily incidental to said places or organizations.

(2) The Planning Commission may modify the standards for institutional signs on a site of five (5) acres or more, with multiple principal structures in accordance with a master signage plan upon a finding that the proposed sign plan represents a reasonable display of signs in the context of use and surrounding properties. In making its findings, the Planning Commission shall consider the location and use of site areas and structure, unique wayfinding and information requirements, and the degree to which signs are visible from the public way.

(3) A Master Signage Plan shall contain the following information:

(a) An accurate plot plan of the proposed development site, at such scale as the Zoning Inspector, may reasonably require;

(b) Location of buildings, parking lots, driveways, and landscaped areas;

(c) Computation of the proposed maximum total sign area, the maximum area for individual signs, the height of signs and the number of signs by type;

(d) Sign plans and photo simulation of the signs in the proposed location; and

(e) An accurate indication on the plot plan of the proposed location of each present and a future sign of any type, whether requiring a permit or not, except that incidental signs need not be shown.

(4) No sign permit shall be issued for a sign that does not conform to the master signage plan. A master signage plan may be amended at any time.

E. Educational complex signage (illuminated).

(1) In addition to the signage permitted in § 340-161, an educational complex that includes a single or multiple educational facilities school(s) as defined in § 340-11 herein, shall be permitted one on-site internally illuminated sign. Such sign shall not exceed twenty (24) square feet in sign structure size with a maximum of

fifteen (15) square feet of advertising area. The sign shall not exceed six (6) feet in height and shall not include reflective and/or scrolling advertising devices.

(2) The sign materials shall be compatible with those reflected in the construction of the primary structures and shall identify the name of the educational facility and street address. The sign may be utilized as a mechanism for providing public announcements concerning activities conducted at the school and those which are community-sponsored. A landscaped area equal to the area of the sign shall be provided and maintained by the permit holder.

F. Wayfaring signs, **non-government.**

(1) This type of signage intends to feature the key attractions of the Town and to facilitate the delivery of the "St. Michaels Experience."

(2) The text and format of the signs shall be a collaborative effort between the Tourism Board and Business Association with final approval being granted by The Commissioners of St. Michaels. Location and number of signs shall also be presented to the Commissioners for their approval.

(3) The sign structure area of the sign shall not exceed sixteen (16) square feet, nor shall it exceed six (6) feet in height.

(4) Signs may be located on public ways. However, no sign shall impede vehicular or pedestrian traffic flows.

(5) No sign, sign structure, or part thereof shall be located so as to obstruct or conflict with traffic sight lines or traffic control signs or signals.

G. Home occupation signs. **Signage shall be limited to one unlighted or indirectly lighted sign per address not exceeding three (3) square feet in area either mounted flush with and on the front facade of the dwelling unit or hung on an independent post.**

H. Professional offices. Such signs are permitted in any zone where such use is permitted either by right or by special exception. Such a sign may be either wall-mounted or freestanding, may not be internally illuminated and shall not exceed three (3) square feet in area for each enterprise occupying the office.

I. Farm or estate signs. Such a sign shall display the name of the farm or estate, and identify the owner and nature of the farm. Such sign shall be limited to one per farm or estate, shall not exceed six (6) square feet in sign structure area, and shall not be illuminated.

J. Residential development, subdivision, or apartment complex (name only) signage. Such signage shall be limited to twenty-four (24) square feet of sign structure area and a

maximum height of four (4) feet above the ground and shall be setback a minimum of four (4) feet from all property lines.

K. Office/business park signage.

(1) A freestanding sign identifying the several occupants of a business/office park. The sign structure area shall not exceed fifty-five (55) square feet (per side) in area, the top of which is not more than six (6) feet above ground level, and which contains only the physical address of the property, the name of the office/business park and the names of the several businesses conducted on the premises whereon such sign is located. The area (per side) of the sign face devoted to identifying the physical address and name of the office/business park shall not exceed ten (10) square feet, not including the sign background. The area (per side) of the sign devoted to identifying the names of the several occupants of the office/business park shall not exceed eighteen (18) square feet, including the sign background. The area of the freestanding sign devoted to identifying the occupants of the office/business park shall identify such occupants by the use of common sign shape, background color, lettering color, and lettering font. No sign, sign structure or part thereof shall be located to obstruct or conflict with traffic sightlines or traffic control signs or signals. No sign shall be internally illuminated, flashing, intermittent, rotating, or another animated type, nor may tend to blind or distract motorists, nor may shine directly into any dwelling, nor when visible from navigable waters may resemble an aid to navigation. The location of the sign shall be within the office/business park and indicated on a site plan as required for approval. Each occupant within an office/business park shall be allowed one sign attached to the front of said occupant's unit not to exceed four (4) square feet in area, which shall be of common dimension, shape, background color, and lettering color for each occupant.

(2) A landscaping plan shall be submitted for the freestanding sign for approval by the Planning Commission.

L. Permitted signs in the HR Historic Redevelopment districts.

(1) Building Sign. One non-illuminated single-faced sign for each building frontage. Such sign shall not exceed twenty (20) square feet in area and must be mounted on the building occupied by the tenant.

(2) Joint Tenant Sign. The Planning Commission may approve a master sign plan for one or more joint tenant signs for the properties/tenants located in the HR district subject to the following:

(a) All property owners in the HR district are signatures on the application;

(b) All signs are located within the HR district;

(c) Signs shall be of integrated and uniform design and the area devoted to identifying the occupants of the district shall identify such occupants by the use of common sign shape, background color, lettering color, and lettering font;

(d) No more than one (1) sign panel not to exceed two (2) square feet in area is permitted for each tenant business;

(e) The Planning Commission must approve signs placement;

(f) Signs contain no advertising copy;

(g) No sign, sign structure or part thereof shall be located so as to obstruct or conflict with traffic sightlines or traffic control signs or signals; and

(h) Signs may only be indirectly illuminated in a manner approved by the Planning Commission.

(3) Portable signs as provided in § 340-164.

(4) Window signs, as provided in subsection M.

M. Window signs.

(1) In addition to any other permitted signs, permanent and temporary window signs are permitted in WD, CC, SLC, GC, HR, MC and MM districts subject to the following:

(a) Permanent window signs affixed to or painted on the inside of a window and advertising the business, the service offered by such business and/or logo may occupy no more than twenty-five percent (25%) of the surface of each windowpane area. Permanent window signs are permitted on the upper floors of multi-story commercial buildings.

(b) The total of all temporary window signs may occupy no more than twenty-five percent (25%) of the window's area. No such temporary window sign shall be in place longer than thirty (30) days.

(c) The total area of all temporary and permanent window signs shall be no more than fifty percent (50%) of the total window area.

(2) Neon window signs, series lighting, or neon tubing used to accentuate or trim windows, architectural features, or to outline borders of windows, signs, or buildings are prohibited.

§ 340-162. Temporary Signs.

Temporary signs are permitted in all districts provided such signs are located on private property unless otherwise allowed in this subsection, displayed for no more than thirty (30) consecutive days at one time, and comply with the following regulations.

A. Political Signs

(1) May not exceed sixteen (16) square feet in area.

(2) May be erected, posted or displayed two (2) months before the election for which the candidate has filed.

(3) Shall be removed within seven (7) days after the election.

(4) Shall not be illuminated.

B. Special Sales Signs

(1) Be limited to one (1) on-premises sign per event.

(2) Shall be limited to five (5) events or sales in one calendar year on the same lot.

(3) May be erected, posted, or displayed seven (7) days before the event or sale.

(4) Shall be removed within five (5) days after the conclusion of the event or sale.

(5) Shall not exceed ten (10) square feet.

(6) Be limited to six (6) public event signs per the calendar year.

(7) The maximum length of time for each permitted event shall not exceed twenty (20) days.

C. Public Events

Temporary signs for events approved by the Town Commissioners as provided in Chapter

250 of the Code of St. Michaels shall comply with the following:

(1) Shall accompany any permit applications as provided in Chapter 250 of the Code of St. Michaels.

(2) No more than three (3) temporary signs are permitted.

(3) Individual signs cannot exceed four (4) square feet.

(5) No portion of the sign shall be less than eight (8) feet off the ground.

(6) Signs may be placed twenty-one (21) days before the event.

(7) All signs shall be removed within seven (7) days of the conclusion of the event.

(8) Signs will not contain advertising. The name of a business can be used, but no advertising for a business is permitted.

D. Commercial banners:

(1) No more than one (1) banner announcing the grand opening of a new business within the Town. Any such sign must be erected on the day of the official opening of the business and shall be removed within seven (7) days of said opening. Only the words "'Grand Opening'" shall be permitted to appear on such a banner.

(2) No more than one (1) banner announcing the closing of a business within the Town. Such sign may be erected up to thirty (30) days before the closing of the business and shall be removed within forty-eight (48) hours of the closing of this business. Only the words "'Going Out of Business'" shall be permitted to appear on such a banner. A going-out-of-business banner may only be erected one (1) time per business.

E. Vertical banners. The Commissioners of St. Michaels shall consider and approve if found appropriate, the placement of vertical banners to display artwork and festival information. Said banners shall not exceed ten (10) square feet in area, shall not extend more than three (3) feet from the structure on which they are mounted, and have a minimum clearance of eight (8) feet above the grade of the public way.

§ 340-163. Limited Duration Signs.

A. Limited duration signs, as defined in this Section, located on private property, are subject to the regulations set forth below. Limited Duration signs that comply with the requirements in this subsection shall not be included in the determination of the type, number, or area of signs allowed on a property. Unless otherwise stated below,

the requirements listed below shall apply to both commercial and non-commercial signs.

B. Size and Number.

(1) Non-Residential Zones

(a) Large Limited Durations Signs: One (1) large freestanding, window, or wall limited duration sign is permitted per property in all non-residential zones. Each large limited duration sign shall have a maximum area of sixteen (16) square feet. Freestanding shall have a maximum height of eight (8) feet.

b. Small Limited Duration Signs: In addition to the large freestanding, window, or wall limited duration sign(s) outlined above, one (1) small limited duration sign is permitted per property in all nonresidential zones. Each small limited duration sign shall have a maximum area of six (6) square feet. Freestanding signs shall have a maximum height of six (6) feet.

(2) Residential Zones

(a) Limited Duration Sign: One (1) small freestanding, window, or wall limited duration sign is permitted per property. Each small limited duration sign shall have a maximum area of six (6) square feet. Freestanding signs shall have a maximum height of four (6) feet and shall be setback a minimum of four (4) feet from all property lines.

C. Permit Requirements.

(1) A permit for a limited duration sign is issued for one (1) year and may be renewed annually.

(2) One (1) sign is allowed per permit.

D. Installation and Maintenance.

(1) All limited duration signs must be installed such that in the opinion of the Zoning Inspector, they do not create a safety hazard.

(2) All limited duration signs must be made of durable materials and shall be well-maintained.

(3) Limited duration signs that are frayed, torn, broken, or that are no longer legible will be deemed unmaintained and required to be removed.

E. Illumination of any limited duration sign is prohibited.

§ 340-164. Portable Signs.

Freestanding or temporarily affixed wall-mounted portable signs are permitted subject to the following:

A. The sign location complies with the provisions of Chapter 285 of the St. Michaels Code.

B. General Provisions.

(1) Illumination of any portable sign is prohibited.

(2) Signs shall not be displayed on any premises before 6:00 AM and shall be removed each day at or before 10:00 PM. However, all portable signs must be taken in during hours of non-operation of the business being advertised.

(3) As appropriate, portable signs shall be weighted, temporarily secured, or strategically placed to avoid being carried away by high winds.

(4) Proof of permit issuance must be affixed to the sign.

(5) Portable signs shall be placed on the privately-owned portion of a property and shall not obstruct a public way (sidewalk or roadway) for any reason.

C. Sandwich Board or A-frame Signs. Sandwich board signs that comply with the requirements in this subsection shall not be included in the determination of the type, number, or area of signs allowed on a property.

(1) Number: One (1) sandwich board sign is permitted per business or leasable tenant space, whichever is less.

(2) Area: Each sign shall have a maximum area of six (6) square feet per sign face.

(3) Height: Signs shall have a maximum height of three and one-half (3.5) feet.

(4) Sign Placement.

(a) If a sign is located on a public or private sidewalk, a minimum of thirty-six (36) inches of unobstructed sidewalk clearance must be maintained between the sign and any building or other obstruction.

(b) The sign must be located on the premises, and within twelve (12) feet of the primary public entrance of the establishment, it advertises. For

this subsection, a public entrance includes a vehicular entrance into a parking garage or parking lot.

D. Manual Changeable Copy.

(1) Manual changeable copy signs are permitted when integrated into a sandwich board sign.

(2) Commercial messages must advertise only goods and services available on the premises.

E. Appearance Standards.

(1) Signs must be constructed of materials that present a finished appearance (rough-cut plywood prohibited).

(2) Sign frames shall be painted or stained wood, composite materials, anodized aluminum, or other metal.

(3) Windblown devices, including balloons, may not be attached or otherwise made part of the sign.

(4) Signs may not be illuminated or have any moving parts.

(5) Signs shall have a writing surface that allows a business to write a message in wet or dry erasable markers or chalk.

§ 340-165. Off-premises signs.

When the property has no direct access to a Town street and is located adjacent to Maryland Route 33 it shall be permitted an off-premises sign, conditioned upon the following:

A. The purpose of the sign is to provide notice to the public of the entrance to the lot;

B. The lot is at least seventy-five (75) feet in width;

C. There is an existing vehicular entrance to the lot across the state highway right-of-way, and the sign is to provide notice of that entrance to motor vehicle operators;

D. The lot boundary that abuts the state highway right-of-way is more than twenty (20) feet from the nearest edge of the existing paved state highway shoulder located in that state highway right-of-way;

E. Written permission has been granted by the State Highway Administration for the placement of the sign in the state highway right-of-way; and

F. Public safety and the free flow of traffic on the state highway would be benefited by the sign.

G Compliance with all other provisions and restrictions relating to freestanding signs shall apply.

§ 340-166. Prohibited Signs.

The following signs are unlawful and prohibited:

A. Abandoned signs.

B. Snipe signs. Signs shall only be attached to utility poles in conformance with state and utility regulations and the requirements of this Chapter.

C. Vehicular signs. This regulation does not include the use of business logos, identification, or advertising on vehicles primarily and actively used for business purposes and/or personal transportation.

D. Mechanical movement signs, including revolving signs.

E. Pennant strings and streamers.

F. Animated signs, flashing signs, or signs that scroll or flash text or graphics.

G. Inflatable devices or balloon signs, except balloons used in temporary, non-commercial situations.

H. Any signs that imitate, resemble, interfere with or obstruct official traffic lights, signs, or signals.

I. Signs which prevent free ingress or egress from any door, window, fire escape, or that prevent free access from one part of a roof to any other part. No sign other than a safety sign shall be attached to a standpipe or fire escape.

J. Signs which emit smoke, visible vapors, particulate matter, sound, odor, or contain open flames.

K. Reflective signs or signs containing mirrors.

L. Interactive signs.

M. Signs incorporating beacon or festoon lighting.

N. Any banner or sign of any type suspended across a public street, without the permission of the owner of the property and road.

O. Roof signs.

P. Signs erected without the permission of the property owner, except those authorized or required by local, state, or federal government.

Q. Any sign containing information which states or implies that a property may be used for any purpose not permitted under the provisions of the St. Michaels Zoning Ordinance.

R. Signs that exhibit statements, words, or pictures of obscene or pornographic subjects as determined by St. Michaels.

S. Any sign that promotes illegal activity.

T. Beacons.

U. Changeable-copy signs other than a manual changeable copy.

V. Digital displays.

W. Illuminated sign other than indirectly illuminated signs where permitted and except as may be otherwise allowed in this Article.

X. Revolving signs.

§ 340-167. Historic District Commission review.

Before the issuance of a permit for the erection of a sign in the Historic District, a historic review certificate must be obtained. The salient factor to be considered in granting a historic review certificate for a sign in the Historic District is that the sign is compatible with the character of the building and its contents.

§ 340-168. Unsafe signs.

If the Zoning Inspector determines any sign to be unsafe, insecure, or a menace to the public, he/she shall provide written notice to the sign owner describing the unsafe conditions determined and required remedial actions. The sign owner shall have three (3) days from receipt of the notice to complete required remedial actions. If the unsafe condition of the sign is not corrected within the stated three-day period, the Zoning Inspector is at this moment authorized to remove the unsafe sign at the expense of the owner.

§ 340-169. Signs Exempt from Permit Requirements.

The following signs shall be allowed without a sign permit and shall not be included in the determination of the type, number, or area of permanent signs allowed within a zoning district, provided such signs comply with the regulations in this section, if any.

A. Official traffic signs.

B. Government/regulatory signs, including wayfaring signs.

C. Signs inside a building, or other enclosed facility, which are not meant to be viewed from the outside, and are located greater than three (3) feet from the window.

D. Holiday and seasonal decorations.

E. Personal expression signs of any sign type, including flags, provided that they do not exceed three (3) square feet in area per side, are non-commercial, and not illuminated.

F. Address signs - Up to two (2) signs stating address, number, and name of occupants of the premises and do not include any commercial advertising or other identification.

(1) Residential districts. Signs not to exceed three (3) square feet in area.

(2) Non-residential districts. Signs not to exceed five (5) square feet in area.

G. Public signs - Signs erected or required by government agencies or utilities, including traffic, utility, safety, railroad crossing, and identification or directional signs for public facilities.

H. Signs or emblems of a religious, civic, philanthropic, historical, or educational organization that do not exceed four (4) square feet in area.

I. Private drive signs - Private signs directing vehicular and pedestrian traffic movement onto a premise or within a premise only, not to include advertising, not exceeding two (2) square feet in area for each sign.

J. Security and warning signs - Non-illuminated signs not to exceed one (1) square foot per sign warning.

K. Flags:

(1) Location. Flags and flagpoles shall not be located within any right-of-way. Height. Flags shall have a maximum height of thirty (30) feet.

(2) Number. No more than two (2) flags per lot in residential districts, no more than three (3) flags per lot in all other districts.

(3) Size. The maximum flag size is twenty-four (24) square feet in residential districts, thirty-five (35) square feet in all other districts.

(4) Flags containing commercial messages are as permitted freestanding or projecting signs, and, if so used, the area of the flag shall be included in, and limited by the computation of allowable area for signs on the property.

(5) Flags up to three (3) square feet containing noncommercial messages are considered personal expression signs and are regulated in accordance with subsection E.

L. Legal notices.

M. Vending machine signs.

N. Memorial signs, public monument or historical identification sign erected by the Town of St. Michaels, including plaque signs up to three (3) square feet.

O. Signs, which are a permanent architectural feature of a building or structure, existing at the time of adoption of this ordinance.

P. Incidental signs, including incidental window signs.

Q. Directional signs, provided they do not contain any commercial messaging.

(1) Area. No single directional sign shall exceed four (4) square feet.

(2) Height. Directional signs shall have a maximum height of five (5) feet.

(3) Illumination. Directional signs shall be non-illuminated.

L. Art and murals, provided such signs do not contain any commercial messaging.

M. Temporary signs in accordance with §340-162 Temporary Signs.

O. Each permitted commercial operation may display one flag bearing, but not limited to, the word “open” or “welcome”; such flag shall not exceed three (3) feet by five (5) feet in dimension and must be flown so that the lowest portion clears the public way by at least eight (8) feet.

P. Signage devices which include but are not limited to QR codes, which provide a simple connection between real-life environments, demonstrating the historic significance of the site and the ability to enhance a visitor's experience via rich

media on a mobile device. Such signage may be placed within public ways conditioned on receiving approval of such placement or content from the Commissioners of St. Michaels and that the size of such signage shall not exceed eight (8) inches by eight (8) inches.

Q. Freestanding signs located on the interior of an institutional site used to identify public facilities, on-site traffic direction, hours of operation, and other information.

R. Real Estate Signs.

(1) One (1) real estate sign may be erected or displayed on the property advertised plus two (2) temporary, off-premises "open/house" real estate signs no more than two (2) square feet in area, offering real estate for sale. Signs may only be in place on the day of the open house.

(2) Real Estate signs shall not be illuminated.

(3) On-premise signs shall be removed within five (5) days after the deed has been recorded for the sale, or lease signed for the rental of property.

(4) On-premise signs shall not exceed the following maximum size areas:

(a) Residential uses six (6) square feet in area.

(b) Commercial uses twenty-four (24) square feet in area.

§ 340-170. Abandoned signs.

A. To prevent blight in established communities, diminution of property values, and hazards of personal injury or damage to adjacent properties, the provisions of this subsection shall be construed, to the greatest extent possible, to require the removal of abandoned signs at the earliest possible moment.

B. A public event sign is considered abandoned on the seventh consecutive day following the conclusion of the event or activity to which it pertains.

C. An abandoned sign shall be removed by the owner of the premises or the owner of the sign if different from the owner of the premises.

D. If an abandoned sign is not removed, it shall be considered litter. Any person who shall commit the prohibited act of littering as set forth in Chapter 243. Property Maintenance and Littering, of the Town Code, shall be guilty of a municipal infraction, and subject to the procedures set forth in Chapter 33 Municipal Infractions

§ 340-171. Nonconforming Signs.

A. All nonconforming off-site signs shall be removed.

B. Signs existing at the time of enactment of this chapter and not conforming to its provisions but which were constructed in compliance with previous regulations shall be regarded as nonconforming signs. Nonconforming signs which are structurally altered, relocated, or have materials changed or replaced shall comply immediately with all provisions of this chapter. Repainting the sign to include the same or different colors or content, changing the name of the business, enterprise, service or accommodation, or ordinary maintenance shall be construed as maintenance and shall not affect the legal nonconforming status of the sign. Any change in the stature or configuration of a sign located in the Historic Area requires the approval of the Historic District Commission.

Article XVI. Landscaping, Environmental Standards, and Lighting.

§ 340-170. Scope.

A. All uses requiring landscaping, buffering, and vegetation/forest protection shall meet the appropriate provisions of this article. The provisions of this article are considered minimum standards. The Town recognizes that due to the peculiarities of any given site and development proposal, the inflexible application of these landscape improvement standards may result in impractical or unnecessary site improvements that contribute little value toward enhancing the appearance of the development. Therefore, the Town (through the Planning Commission or Zoning Inspector) may permit deviations from the presumptive requirements of this Article when the applicant can demonstrate that the proposed land planning, site planning, architectural or landscape architectural design solutions offer the appropriate "'appearance" desired for development and growth in the Town of St. Michaels. For projects requiring overlay zoning designations, variances or special exceptions, the Planning Commission may require additional landscape improvements.

B. Subject to a review and comment from the Town Engineer, minimum landscape requirements can be modified or waived to permit small-scale stormwater management practices, nonstructural techniques, and better site planning that mimics natural hydrologic runoff characteristics and minimizes the impact of land development on water resources. These techniques are referred to as Environmental Site Design (ESD).

§ 340-171. Purpose.

A. Landscape, buffering, and vegetation/forest protection design shall be developed and integrated with the site plan or subdivision design. It shall be conceived in a total pattern

across the site, integrating the various elements of site design, preserving, and enhancing the particular identity of the site.

B. Required landscape improvements shall include plant material types suitable and consistent with flora and fauna of the region. Landscape improvements may include other elements, including rocks, water, sculpture, art, walls, fences, paving materials, and street furniture.

C. Landscape plans must be submitted with all applications for development and construction activities that are subject to the landscape, screening, and/or buffer regulations of this article. No building permit or similar authorization may be issued until the Zoning Inspector determines that the landscaping and screening regulations of this article are met.

D. Sites or development activities under the jurisdiction of the Town of St. Michaels Forest Conservation Ordinance must also meet the requirements of that Ordinance, subject to possible overlapping credits outlined herein.

§ 340-172. Landscape plans.

A. When Required. A landscape plan shall be required during the preliminary and final site plan and for the preliminary and final subdivision review process. A landscape plan is required whenever landscaping is a condition of approval for any development activity and whenever buffer or screening standards apply. Applicants are encouraged, and the Planning Commission may require, the submission of additional sketches, cross-sections, elevations, or other graphic elements that help convey the design intent of landscape improvements.

B. Landscape shall be prepared by a landscape architect registered in the State of Maryland, or other person determined by the Planning Commission or their designated representatives to be qualified.

C. Landscape plans shall be submitted at the time of the preliminary and final site plan or subdivision review process and shall include sufficient information to demonstrate the landscaping provided meets the standards and achieves the intent of this Chapter. At a minimum, landscape plans shall include the following information:

(1) Tabular data indicating landscape improvement requirements and buffer yard requirements, including all critical area requirements.

(2) Existing site vegetation to be cleared and/or preserved, the general location, and type of proposed landscaping (i.e., shade tree, evergreen tree, shrub, hedge). The location of existing specimen trees and significant trees.

(3) The methods and details for protecting existing vegetation during construction and the approved sediment and erosion control plan, if applicable.

(4) Proposed landscape improvement locations.

(5) Planting specifications as to plant species, plant quantity, correct plant nomenclature, and installation size and spacing. Botanical and common names required and proposed quantities, spacing, height, and caliper of all proposed landscape material at the time of planting and maturity.

(6) Installation specifications and details, if necessary.

(7) Planting and installation details as necessary to ensure conformance with all required standards.

(8) The location and description of other landscape improvements, such as earthen berms, walls, fences, screens, sculptures, fountains, street furniture, lights, and courts or paved areas.

(9) A maintenance plan that describes irrigation, pruning, replacement of dead material, and other care procedures.

(10) Required inspection schedule and procedures.

(11) Forest conservation afforestation or reforestation plans as a sheet of the landscape plan set.

D. Final landscape plans shall include on the plan drawing, at a minimum, the following standard notes, modified to suit specific projects or conditions:

(1) Landscape installer shall verify the location of all underground utilities before commencing work. Installer shall ensure that final grades have been established, and the site is ready for landscape installation.

(2) Landscape installer shall maintain the landscape improvement area in a clean condition, removing debris daily and after the installation.

(3) The installer shall lay out all beds and position plants per the plans, adjust as required for field conditions, and report significant adjustments to the owner for approval before plant installation. The application of herbicide as needed to kill

and remove all weed or grass vegetation shall comply with all state and federal regulations.

E. Landscape planting shall be done using the industry-accepted best landscaping practices (e.g., Landscape Contractors Association's Landscape Specification Guidelines).

§ 340-173. Minimum plant material specifications.

A. Plant sources. All required plant material shall be nursery stock conforming to the American Standard for Nursery Stock, current edition, or relocated from on-site or other sites via nursery standard plant handling and digging methods. The Town may reject plant material grown, handled, or installed improperly.

B. Plants shall minimize the amount of maintenance required, and to promote diversity, no more than 30% of any plant type (e.g., trees, shrubs) shall be of one species.

C. Plants that interfere with the function of utilities, compromise safety, obstruct views in clear sight triangles, are easily susceptible to disease or pest infestations, or are aggressively invasive shall be avoided to the maximum extent possible.

D. Plant materials shall be spaced appropriately to their species and function in the landscape. Trees shall be offset a minimum of fifteen (15) feet from overhead utility lines, light poles, traffic signs and fire hydrants, ten (10) feet from underground utility lines, and, where possible, five (5) feet from sidewalks and driveways.

E. Species selection. Acceptable plant species shall include most plant material native or successfully introduced and available in the Mid-Atlantic. Small ornamental, weeping, or other low-growing varieties shall not be utilized for street trees. Consider plant form and growth habit when selecting plant species. Provide a mix of species and varieties for any given project. For most subdivisions, street tree species shall vary through the subdivision.

F. Plant size at installation. Unless otherwise specifically stated, all required plant material shall conform to the following minimum size specification at installation:

(1) Measurements.

(a) Caliper: tree trunk diameter at breast height (four feet).

(b) Height: tree or plant height measured from finished ground level.

(c) Spread: horizontal width (diameter) of plant branches.

(2) Measurement requirements by type.

(a) Shade trees: three and one-half inch caliper.

(b) Understory trees: two-inch caliper and a minimum of seven (7) feet in height.

(c) Evergreen trees: minimum of **six (6)** feet in height.

(d) Upright shrubs: **eighteen (18)** inches in height.

(e) Spreading shrubs: eighteen-inch spread.

(f) Groundcovers or low spreading plants: twelve-inch spread.

§ 340-174. Warranty of landscape improvements.

A. Before the issuance of an occupancy permit, the approved landscape plan shall be implemented by the applicant. At completion, the applicant shall request that the Town inspect the complete landscaping and issue the appropriate approval. The Town recognizes that planting schedules and favorable weather/climate conditions do not always coincide. The applicant shall make every reasonable effort to coordinate building and site construction with the landscape improvement installation so that all project construction can be completed before the request for occupancy permits. Upon demonstrating that some or all of the required landscape improvements should be postponed, the applicant shall post an irrevocable financial surety equal to the estimated installation costs. The financial surety shall be adequate to guarantee the complete implementation of the landscape plan within two (2) growing seasons after occupancy or use of the site or subdivision. After installation is complete and inspected and approved by the Town, the applicant shall request in writing to the Town to release any unused portion of the surety.

B. The owner/developer shall maintain all landscape improvements, providing adequate growing conditions to ensure healthy, vigorous plant survival and growth. The Town reserves the right to periodically review installed landscapes and report any significant deficiencies to the owner/developer. Up to one year after completion of all landscaping, the Town shall assess the landscape improvements and direct replacement or revitalization of any deficient area. The owner shall repair or replace deficient items within thirty (30) calendar days.

C. Failure to maintain, repair, or replace the required and approved landscape improvements shall be considered a violation of this section and shall be enforced in accordance with § 340-210.

§ 340-175. Forest conservation overlapping requirements.

Afforestation or reforestation plantings required under a related forest conservation plan for the same site may be credited against the required landscape improvements of this article only when the plantings meet the minimum size and locational requirements outlined in this article.

§ 340-176. Landscape Improvements.

A. Single-family detached residential subdivisions.

(1) Street trees shall be required on all streets except for alleys or as otherwise determined by the Planning Commission. The number of required trees shall be provided at a ratio of at least one tree per fifty (50) linear feet or fraction thereof of the right of way line or paving edge. Credit against this requirement may be awarded wherever existing forest or individual trees over six-inch caliper will be "effectively" preserved in or within five (5) feet of the prescribed street right-of-way. Street trees shall generally be consistently spaced, although some clustering and massing at an accent or focal points may be permitted. A minimum of 50% of the required street tree plantings shall be deciduous, shade/canopy type trees as approved by the Planning Commission.

(2) Trees shall be planted along both sides of the street when the development encompasses both sides of the street, and shall be installed, behind the curb and inside the sidewalk wherever possible or otherwise within fifteen (15) feet of the curb line.

B. MD 33 front buffer yards.

(1) Any development requiring site plan or subdivision approval located on a property with frontage on MD 33 shall, at a minimum establish a ten-foot (10-foot) buffer yard along the property frontage. If it is determined by the Planning Commission that due to the location of the existing structures there is no opportunity to provide a full or partial front buffer yard, the applicant shall utilize containerized plantings that are sited in such a manner as to minimize pedestrian conflicts.

(2) Uses allowed in a buffer yard shall be limited to landscaping, sidewalks, approved signage, vegetative stormwater management features, and access to the structure and parking area.

(3) Landscaping will, at a minimum, include four (4) shade and two (2) understory trees, ten (10) shrubs, and ornamental grasses for every one hundred (100) feet of buffer length approved by the Planning Commission. Also, a vegetative screen,

landscaped berm, fence, wall, or other methods to reduce the visual impact of any parking area front in MD 33 shall be provided. The vegetative screen shall have an average continuous height of three (3) feet.

C. Landscaping for parking lots, nonresidential, multifamily, or mixed-use developments.

(1) Perimeter Landscaping.

(a) A planting strip shall be provided at least eight (8) feet wide adjacent to the back of any sidewalks or ten (10) foot wide adjacent to the property line where no sidewalk exists. Where the parking lot does not abut a property line or sidewalk, a ten (10) foot planting strip shall be provided.

(b) For parking lots not fronting on MD 33, each planting strip adjacent to a street right-of-way shall contain a minimum of one shade tree per fifty (50) feet of landscape area parallel to the right-of-way, and two (2) understory trees per one hundred (100) feet of planning strip parallel to the right-of-way. In addition to any required planting strip, a landscaped berm, fence, wall, or other methods to reduce the visual impact of the parking area shall be provided. The vegetative screen shall have an average continuous height of three (3) feet at installation.

(c) Except where otherwise specifically required by the Zoning Chapter, a minimum ten (10) foot wide screening area shall be provided along all abutting property lines of a residential district.

[1] Shade trees here must be provided at a rate of at least one (1) tree per fifty (50) linear feet rounded to the nearest whole number and shrubs, ornamental grasses, and perennials, all of which must reach a minimum height of thirty-six (36) inches at maturity. Existing trees may be counted toward satisfying the perimeter tree planting requirements.

[2] The parking lot perimeter landscaping required must be supplemented by installation of a solid wood fence, wall, or comparable visual barrier with a minimum height of six (6) feet along 100% of the parking lot perimeter immediately abutting an R- zoned property.

(d) When a parking lot is located in the interior side or rear yard of a lot abutting another lot with the same zoning classification, minimum parking lot perimeter landscaping shall include understory trees at the rate of one (1) per one hundred (100) feet and shrub groupings of no less than three

(3) live plants along at least 50% of the parking lot perimeter along the abutting interior side and rear lot lines which must reach a minimum height of thirty-six (36) inches at maturity.

(e) Grass or ground cover shall be planted on all portions of the landscape area not occupied by other landscape material.

(f) All trees shall be set back at least four (4) feet from the edge of paving where vehicles overhang.

(2) Interior Landscaping for Parking Lots.

(a) For any parking lot containing more than 6,000 square feet of area or fifteen (15) or more spaces, interior landscaping shall be provided in addition to required perimeter landscaping. Interior landscaping shall be contained in peninsulas or islands. An interior parking lot landscape island or peninsula is defined as a landscaped area containing a minimum area of 153 square feet having a minimum width of 8.5 feet and a minimum length of 18 feet. There shall be a minimum of four (4) feet to all trees from the edge of paving where vehicles overhang. Each island or peninsula shall be enclosed by appropriate curbing or a similar device at least six (6) inches wide and six (6) inches in height above the paving surface. The Planning Commission may modify these dimensional requirements for the installation of low impact, stormwater management features. For purposes of Subsection (d) below and subject to the limits established in (e) below, up to four (4) islands can be combined.

(b) Where a parking area is altered or expanded to increase the size to 6,000 or more square feet of area or fifteen (15) or more vehicular parking spaces, interior landscaping for the entire parking area shall be provided **to the maximum extent practical as determined by the Planning Commission.**

(c) Landscape area. The minimum interior landscape area permitted shall be ten (10) percent of the parking area. The interior landscaping requirement shall be computed based on the "net parking facility." For this section, "net parking facility" shall include parking stalls, access drives, aisles, walkways, dead spaces, and required separations from structures, but shall not include required street setbacks or access driveways or walkways within such setbacks.

(d) Landscape islands or peninsulas. All interior parking aisles shall end in a landscape island.

(e) Minimum plant materials. A minimum of one tree for every 250 square feet or fraction thereof of required landscape or each five (5) spaces of required parking or for every 161 square feet of island or peninsula, whichever is greater, shall be required. The remaining area of the required landscaped area shall be landscaped with shrubs or ground cover not to exceed two (2) feet in height or grass.

(f) Plan submission and approval. Whenever any property is affected by these parking area landscape requirements, the property owner or developer shall prepare a landscape plan for approval according to the requirements of § 340-172**.**

(3) The Planning Commission may consider alternative parking area landscaping design in cases where unique topography and site constraints dictate such alternatives. The innovative use of planting design and materials is encouraged and will be evaluated based on the intent demonstrated to fulfill the stated objectives of this Zoning Chapter.

§ 340-177. Screening.

A. Applicability: features to be screened

When located on lots occupied by residential, nonresidential, or mixed uses, the following features must be screened from view of public rights-of-way, public open spaces and lots used or zoned for residential purposes, as specified in this section:

(1) ground-mounted mechanical equipment;

(2) roof-mounted mechanical equipment;

(3) refuse/recycling/grease containers; and

(4) outdoor storage of materials, supplies, and equipment.

B. Ground-mounted Mechanical Equipment. All ground-mounted mechanical equipment over thirty (30) inches in height must be screened from view by a fence, wall, dense hedge, or combination of such features providing at least 80% direct view blocking. The hedge, fence, or wall must be at least as tall as the tallest part of the equipment. The hedge must be this tall at the time of planting. See Figure 177-1.

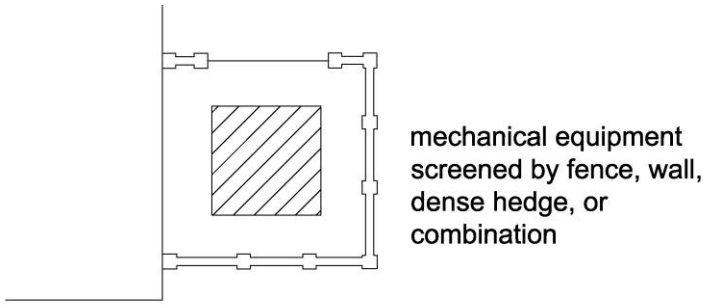


Figure 177-1: Screening of Ground-mounted Equipment

C. Roof-mounted Mechanical Equipment. Roof-mounted mechanical equipment (e.g., air conditioning, heating, cooling, ventilation, exhaust, and similar equipment, but not solar panels or similar renewable energy devices) must be screened from ground-level view in one of the following ways (and as illustrated in Figure 177-2):

(1) A parapet that is as tall as the tallest part of the equipment;

(2) A screen around the equipment that is at least as tall as the tallest part of the equipment, with the screen providing at least 80% direct view blocking and which is an integral part of the building's architectural design.

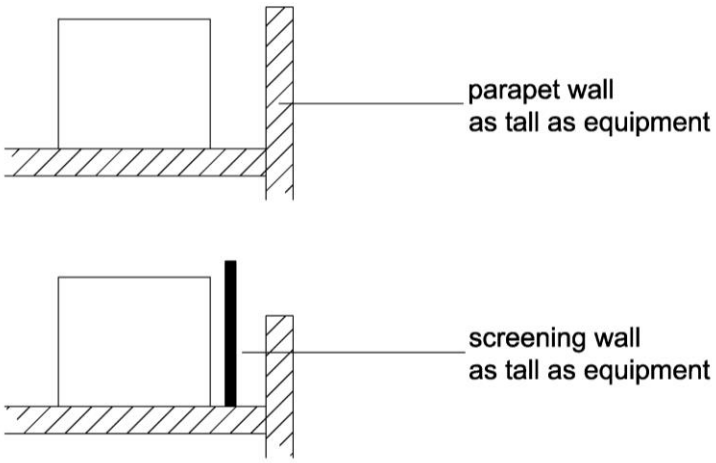


Figure: 177-2 Screening of Roof-mounted Equipment

D. Refuse/Recycling Containers. Refuse/recycling, and similar containers must be located on an appropriately designed concrete, or other paving material pad and apron and screened from view of streets and all abutting lots with a wall or other screening material providing at least 80% direct visual screening at least six (6) feet in height. Refuse/recycling containers may not be located in street yards. Enclosure doors must be located and designed so that, to the maximum extent possible, they do not face towards

an abutting property, sidewalk, or street. Residential dwellings utilizing curbside pick-up service are exempt from these screening requirements. See Figure 177-3.

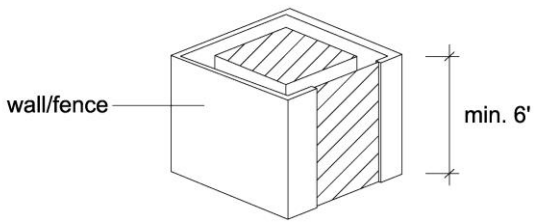


Figure 177-3 Screening of Refuse/Recycling Containers

E. Outdoor Storage of Materials, Supplies, and Equipment. All stored materials, supplies, merchandise, vehicles, equipment, or other similar materials not on display for direct sale, rental or lease to the ultimate consumer or user must be screened by a fence, wall, dense hedge, or combination of such features with a minimum height of six (6) feet at the time of installation.

§ 340-178. Environmental Standards.

A. Habitat Protection Areas.

(1) Identification. An applicant for development activity, redevelopment activity, or change in land use shall identify all applicable Habitat Protection Areas and follow the standards contained in this section. Habitat Protection Areas include:

(a) Federal or State threatened or endangered species or species in need of conservation;

(b) Forest areas utilized as breeding areas by interior forest-dwelling birds;

(c) Designated Natural Heritage Areas; and

(d) Other plant and wildlife habitats determined to be of local significance.

(2) Standards.

(a) An applicant for a development activity proposed for a site that is in or near a Habitat Protection Area listed above shall request a review by the Department of Natural Resources Wildlife and Heritage Service for comment and technical advice. Based on the Department's recommendations, additional research and site analysis may be required to identify the specific location of the Habitat Protection Area on or near the site.

(b) If the presence of a Habitat Protection Area is confirmed by the Department of Natural Resources, the applicant shall develop a Habitat Protection Plan in coordination with the Department of Natural Resources.

(c) The applicant shall obtain approval of the Habitat Protection Plan from the Planning Commission or the appropriate designated approving authority. The specific protection and conservation measures included in the Plan shall be considered conditions of approval of the project.

§ 340-179. Site lighting standards.

A. Purpose. The purpose of this section is to regulate the spill-over of light and glare on operators of motor vehicles, pedestrians, and land uses in the proximity of the light source. Concerning motor vehicles, in particular, safety considerations are the basis of the regulations contained herein. In other cases, both the nuisance and hazard aspects of glare are regulated. This section is not intended to apply to public street lighting.

B. Site lighting shall be of low-intensity from a concealed source, shall be of a clear white light which does not distort colors and shall not spill over into adjoining properties, buffers, roadways, or in any way interfere with the vision of oncoming motorists.

C. Exemption for specified outdoor recreational uses. Because of their unique requirements for nighttime visibility and their limited hours of operation, ball diamonds, playing fields, and tennis courts are exempted from the exterior lighting standards of Subsection B above subject to a determination by the Planning Commission that the outdoor recreational use meets all other requirements of this Chapter and the following conditions:

(1) The outdoor recreational uses specified above shall not exceed a maximum permitted post height of forty (40) feet.

(2) The outdoor recreational uses specified above may exceed a total cutoff angle of ninety (90) degrees, provided that the luminaire is shielded in either its orientation or by a landscaped buffer to prevent light and glare spill-over to adjacent residential property. The maximum permitted illumination at the interior buffer line shall not exceed 2-foot candles.

D. Additional regulations. Notwithstanding any other provision of this section to the contrary:

(1) No flickering or flashing lights shall be permitted.

(2) Light sources or luminaires shall not be located within buffer areas except on pedestrian walkways.

E. Exterior lighting plan. At the time any exterior light is installed or substantially modified, and whenever a Zoning Certificate is required, an exterior lighting plan is required.

F. Photometric plans for all proposed commercial and industrial uses are required.

G. Illumination levels attributable to a parking lot lighting system and any other outdoor lighting shall not exceed 0.5 horizontal footcandle at the property line when adjacent to a residential zoning district.

§ 340-180. Reserved.

Article XVII. Design.

§ 340-181. Statement of intent.

The physical details of the Town, which include building and landscaping elements, intimate views, walkability, and expansive vistas, are essential to the definition of the Town's character. These details influence how residents and visitors feel about the Town and need to be preserved and protected.

A. This Article intends to implement the recommendations of the St. Michaels Comprehensive Plan to encourage design qualities that reinforce St. Michaels' unique character and identity; and

B. Create design guidelines for development that are sensitive to existing housing and neighborhoods.

§ 340-182. Applicability.

A. The provisions of this Article apply to all proposed development requiring site plan or subdivision approval. The compatibility standards in § 340-184 are strongly recommended but not required.

B All land uses and development shall be located and developed in accordance with the applicable provisions of this Zoning Chapter and all other applicable land development regulations except as modified by this Article.

C. Development Incentive.

The Planning Commission, at their sole discretion, may modify specific minimum standards as outlined below for qualifying projects if it is demonstrated to the satisfaction of the Planning Commission, that such designs represent significant furtherance of the legislative intent of this article:

(1) Minimum lot area – decrease up to ten (10) percent;

(2) Minimum lot width – decrease up to five (5) feet;

(3) Minimum lot depth – decrease up to ten (10) feet;

(4) Minimum setback/yards – decrease up to two (2) feet provided no yard is less than five (5) feet;

(5) Maximum building coverage – increase up to fifteen (15) percent; and

(6) Maximum impervious surface – increase up to fifteen (15) percent. May not be applicable in a Limited Development Area (LDA) and Resource Conservation Area (RCA).

§ 340-184. Compatibility standards.

The collective visual images and sensory experiences offered residents, visitors, pedestrians, and motorists stem from the visual identity and character of the town. Context, sensitive design of new and renovated buildings, presents opportunities to enhance the visual identity and character and contribute to a definite sense of place in St. Michaels. Conversely, a design that ignores the characteristics created by existing defining features of its surroundings can introduce discordant visual and functional elements to the neighborhoods that detract from place experience and sense of community. The following design criteria are not intended to restrict creative solutions or to dictate all design details but are designed to inform the applicant of items that should be the underlying design objectives for every project. They also form the basis for judging whether or not the Planning Commission will exercise its authority to grant relief from specific development standards required in this Chapter, as provided in subsection § 340-182. C. The Planning Commission will evaluate the design of all proposed development projects based on the following criteria:

A. General Guidelines.

(1) The proposed development should exhibit excellent site and architectural design and include high-quality materials that are compatible with, and do not negatively alter the character of the surrounding neighborhood.

(2) Buildings should be similar in height and size or designed in such a way that they appear similar in height and size, creating an overall mass that is consistent with the common mass of other structures in the area.

(3) Primary facades and entries must face the adjacent street and connect with a walkway that does not require pedestrians to walk through parking lots or

across driveways, and that maintains the integrity of the existing streetscape. Building features such as windows and doors and site features such as landscaping and screening should optimize privacy and minimize infringement on the privacy of adjoining land uses.

(4) Building materials shall be similar to elements of the surrounding neighborhood or use other characteristics such as scale, form, architectural detailing, etc. to establish compatibility.

B. Setback. Buildings should respect the established setbacks of traditional buildings in St. Michaels. Typically this means that commercial buildings align with neighboring buildings with parking to the sides and rear. Residential buildings should usually be free-standing, with their front facades facing the street.

C. Orientation. Buildings should orient to the principal street with their main entrance in full view.

D. Scale. The scale is the relative or apparent size of a building in relation to its neighbors, typically perceived through the size of building elements, such as windows, doors, storefronts, porches, cornices, surface materials, and other exterior features.

(1) The scale of residential and commercial buildings should reflect the prevailing scale of St. Michael's traditional residential and commercial buildings; that is, they should be human in scale that is, appear to be of a size appropriate for human occupancy and use.

E. Proportion. Proportion is the relation of components of buildings, such as doors, windows, storefronts, porches, and cornices to each other and their facades.

(1) The facade proportions for commercial buildings should be based on dimensions found on the facades of St. Michael's traditional commercial buildings.

(2) Facade proportions for residential buildings should reflect proportions found on the facades of surrounding residential buildings.

F. Rhythm. The vertical and horizontal spacing and repetition of facade elements, such as storefronts, windows, doors, belt courses, and the like give a facade its rhythm.

(1) The facades of buildings should be based on the facade rhythms of St. Michael's traditional buildings of similar use.

(2) The spacing between buildings should reflect the spacing between buildings of similar use.

(3) Facade rhythms within a contiguous commercial block should be similar.

(4) The facade rhythms within a residential development of similar size houses should be compatible with each.

G. Massing. A building's massing derives from the articulation of its facade through the use of dormers, towers, bays, porches, steps, and other projections. The massing of the facade of residential and commercial buildings should be based on the massing found on traditional buildings of similar use in St. Michaels.

H. Height. The height of facades and their cornices, along with roof ridgelines, and projections such as chimneys, and towers, contributes to the character of buildings and streetscapes.

(1) Designing primary facades of the party wall or adjacent buildings to be similar in height by:

(a) Limiting height differences between free-standing buildings by a maximum of ten percent of the height of nearby buildings; and/or

(b) Using towers and chimneys on residential buildings to match surrounding heights like their use on St. Michaels' traditional residential buildings.

I. Materials. The type, size, texture, surface finish, and other defining characteristics of exterior materials are essential to defining the overall character of a building.

(1) Materials used for walls, sloped roofs, and other surface features of buildings should be based on the materials found on traditional residential and commercial buildings in St. Michaels.

(2) The size, texture, surface finish, and other defining characteristics of exterior materials should be similar to those found on St. Michaels' traditional residential and commercial buildings.

(3) Non-traditional materials such as stucco, stucco-like material (EFIS), vinyl and metal siding, textured plywood, oversized brick, concrete block, textured concrete masonry units (CMU) and the like should not be used for primary facades of buildings.

J. Roof Shape. The shape and slope of roofs are also crucial in defining their character.

(1) Roof shapes of buildings should be based on those found on traditional buildings in St. Michaels and compatible with those on adjacent buildings.

(2) Roofs on new buildings should be primarily gable or hipped. Flat or mansard roofs may be permitted if find to be appropriate to the surrounding context.

K. Details and Ornamentation. Details such as the shape and texture of siding used or types of brick courses used for a wall, and ornamentations such as porch brackets, dentils, scrolls, corbels, and the like, significantly add to the character of a facade.

(1) Buildings should use well scaled and proportioned details and ornamentation on their principal facades.

(2) Details and ornamentation found on existing buildings in St. Michaels is the basis for these features on buildings, but not copied exactly.

L. Color. A building's color derived from its exterior materials such as unpainted brick, stone, terra cotta, slate, asphalt shingle, copper, lead, and other naturally colored materials, or paint, stains, or other applied colors.

(1) The colors of buildings and structures should be compatible with its overall design and that of neighboring buildings.

(2) Brick and stone should typically be left unpainted.

(3) Traditional color schemes are used.

(4) No more than three painted colors are used on buildings.

M. Parking Lots. Provide adequate landscaping, walls, or fences to screen automobiles from immediate view, but still allow visual access into the lots.

N. Street Furniture. Street furniture is the general term used to describe benches, trash receptacles, parking meters, streetlights, and other elements found in residential and commercial districts.

(1) Design and locate street furniture in commercial areas that encourage pedestrians to linger, window shop, as well as provide places to sit, and in residential areas provide street furniture that promotes neighborliness.

(2) Locate street furniture so that it does not impede pedestrian or vehicular traffic.

(3) The design of street furniture should be compatible with the design of the buildings.

O. Landscape Design. Using native and environmentally sound trees and other plant material.

P. Accessory Buildings and Structures. Accessory buildings and structures, carriage houses, sheds, etc., are character-defining features when visible from the public way.

(1) Base the design of accessory buildings and structures on the principal dwelling.

(2) Locate accessory buildings and structures, so they are not visible from principal streets.

Q. Fence and Walls. Like accessory buildings and structures, fences and walls are character-defining elements in residential and commercial landscapes.

(1) Using low profile wood and metal fences in residential front and side yards, and brick walls in commercial areas.

(2) Taller privacy fences only used at the rear of buildings.

(3) Locating and designing fences, so they are compatible with the design of the buildings with which they are associated.

§ 340-185. Findings required and conditions of approval.

The Planning Commission may approve a proposed project upon finding that:

A. The plan accomplishes the purposes, objectives and minimum standards and requirements of this Article;

B. The plan is in accordance with the St. Michaels Comprehensive Plan;

C. The plan is internally and externally compatible and harmonious with existing and planned land uses in the area; and

D. Existing or planned public facilities are adequate to service the proposed development.

§ 340-186. Application process.

A. Notice: When approval of any proposed development is contingent on relief from minimum standards as provided § 340-182.D, the subject property or properties shall be posted by the Town as outlined below.

(1) The Zoning Inspector shall notify all owners of property located with 100 feet of any portion of the subject property.

(2) Notice shall be provided fourteen (14) days in advance of the meeting at which development plans are scheduled to be discussed by the Planning Commission. Notice shall be by first class mail.

(3) The applicant shall be responsible for the posting of the subject property at least fourteen (14) days before the meeting at which the applicant's proposal is scheduled to be reviewed by the Planning Commission.

B. The applicant has the full burden of proof to demonstrate the proposed infill or redevelopment proposal meets or exceeds the compatibility standards in § 340-184. Applications shall include adequate information to address this burden of proof requirement and shall, at a minimum, include the following:

(1) A description of the proposed development site, i.e., a plot plan or survey plot.

(2) A description of existing conditions in the vicinity of the site (e.g., block-face on both sides of the street within 200 feet of the proposed development site). These descriptions shall include documenting photographs, and an analysis of the prominent architectural features along the adjacent block faces and shall address the following:

(a) Site location and Topography

(b) Street Connections

(c) Pedestrian Pathways

(d) Lot Coverage

(e) Building Orientation

(f) A description or color photographs of existing neighborhood architectural characteristic and features, including:

[1] Massing and Proportions

[2] Entryways

[3] Windows

[4] Garage Doors

[5] Finishes and Materials

[6] Ornamentation

[7] Roof Detail

[8] Colors

(3) A description of the proposed development, including:

(a) Color renderings of the front, rear and side elevations of all proposed buildings;

(b) A description of how the proposed development is compatible with the features described in 2 above; and

(c) A statement of how the proposed development meets the development and compatibility standards in § 340-181 above and the findings requirements as outlined in § 340-185 above.

C. Applicants are encouraged to consult the publication Historic St. Michaels, An Architectural History written by Elizabeth Hughes (ISBN Hardcover 0-9646679-0-8, ISBN Paperback 0-9646679-1-6) for additional insights into St. Michaels' traditional site and architectural features to inform project design.

§ 340-186. Remedies.

Appeals from the decision of the Planning Commission concerning any application for development under the terms of this Article are made as provided in Article XII of this Chapter.

§ 340-187. Reserved.

Article XVIII. Amendments in Critical Area District.

§ 340-188. Applicability.

This Article XVI, Amendments in Critical Area District, shall apply exclusively to all amendments and changes of the following types:

A. All amendments of text incorporated into this Chapter pursuant to Maryland Code, Natural Resources Article, Title 8 (Water), Subtitle 18 (Chesapeake Bay Critical Area Protection Program) and **Title 27 Code of Maryland Regulations;** and

B. All changes, classifications, reclassifications, zonings, rezonings, and map amendments, whether comprehensive, regional or piecemeal, to a zoning district, land management classification or map which is created or mandated by this Chapter pursuant to Maryland Code, Natural Resources Article, Title 8 (Water), Subtitle 18 (Chesapeake Bay Critical

Area Critical Area Protection Program) **or Title 27 Code of Maryland Regulations**; except for all applications for the award of growth allocation pursuant to § 340-39 of this Chapter.

§ 340-189. Amendment of Critical Area program elements.

A. The Town Commissioners may, from time to time, amend the Critical Area provisions of this Chapter. Changes may include but are not limited to amendments, revisions, and modifications to these zoning regulations, Critical Area Maps, implementation procedures, and local policies that affect the Town's Critical Area. All such amendments, revisions, and modifications shall also be approved by the Critical Area Commission, as established in § 8-1809 of the Natural Resources Article of the Annotated Code of Maryland. No such amendment shall be implemented without the approval of the Critical Area Commission. Standards and procedures for Critical Area Commission approval of proposed amendments are as set forth in the Critical Area Law § 8-1809(i) and § 8-1809(d), respectively.

(1) Text amendments. Amendments shall be processed according to § 340-196 of this Code. The Town Commissioners shall forward any approved amendment proposal to the Critical Area Commission for final approval.

(2) Map amendments. Except for program amendments or program refinements developed during a six-year comprehensive review, a Zoning Map amendment may only be granted by the Town Commissioners upon proof of a mistake in the existing zoning. This requirement does not apply to proposed changes to a Zoning Map that meet the following criteria:

(a) Are wholly consistent with the land classifications in the adopted program, or

(b) Propose the use of growth allocation in accordance with the adopted program.

B. When the Town submits a request for review and approval of changes to any Critical Area program elements, including, but not limited to, Chapter 340 (Zoning) of the Code of St. Michaels, subdivision regulations, or Critical Area Maps, the request shall include all relevant information necessary for the **Critical Area Commission** Chairman and, as appropriate, the Critical Area Commission to evaluate the changes. The **Critical Area Commission** Chairman, and, as appropriate, the Critical Area Commission shall determine if the requests for changes are consistent with the purposes, policies, goals, and provisions of the Critical Area Law and **regulations.** In accordance with the determination of consistency as outlined above, the **Critical Area Commission** Chairman or, as appropriate, the Critical Area Commission shall:

(1) Approve the proposed program refinement or amendment and notify the Town;

(2) Deny the proposed program refinement or amendment and notify the Town;

(3) Approve the proposed program refinement or amendment subject to one or more conditions; or

(4) Return the proposed program refinement or amendment to the local jurisdiction with a list of changes to be made.

§ 340-190. Amendment procedures.

The following procedures shall be required for the approval of an amendment to this Chapter of the type governed by this Article XIX:

A. Applications for piecemeal map amendments. Only a property owner or his/her representative may apply for a piecemeal map amendment of the type governed by this Article involving his/her land.

B. Applications for all other amendments. All other types of amendments governed by this Article may only be initiated by the Town Commissioners.

C. Procedures for processing amendments. Amendments of the type governed by this Article shall be processed as follows:

(1) Procedures for processing piecemeal amendments. An application that has the purpose or effect of a piecemeal land use management reclassification, piecemeal amendment of Critical Area Overlay District boundaries, or other piecemeal map amendment shall be processed in accordance with the procedures described in the following provisions of this Chapter:

(a) § 340-198 (Notice of public hearings);

(b) § 340-193(Procedures for approval of amendment), Subsection A (Processing by the Planning Commission); and

(c) § 340-193 (Procedures for approval of amendment), Subsection C (Procedures by the Town Commissioners of an application for piecemeal rezoning)

(2) Procedures for processing all other amendments. Except for an application governed by the procedures of Subsection C(1) procedures for processing piecemeal amendments, a proposal that has the purpose or effect of a text and/or map amendment of the type governed by this Article XVIII (Amendments in

Critical Area District) shall be processed in accordance with the procedures described in the following provisions:

((a) § 340-198 (Notice of public hearings);

(b) § 340-193(Procedures for approval of amendment), Subsection A (Processing by the Planning Commission); and

(c) § 340-193 (Procedures for approval of amendment), Subsection C (Procedures by the Town Commissioners of an application for piecemeal rezoning)

(3) An application or proposal of the type governed by this Article XVIII (Amendments in Critical Area District) that is approved by the Town Commissioners shall thereafter be referred by the Town to the Critical Area Commission for its final review and decision.

(4) Critical Area Commission approval. An application, proposal or amendment that has been approved by the Town Commissioners shall thereafter be referred by the Town to the Critical Area Commission for its final review and decision. No such application, proposal or amendment of the type governed by this Article XVIII (Amendments in Critical Area District) shall become effective unless and until it has been reviewed and approved by the Critical Area Commission, as provided by the applicable provisions of Maryland Code, Natural Resources Article, Title 8 (Waters), Subtitle 18 (Chesapeake Bay Critical Area Protection Program) or **Title 27 Code of Maryland Regulations,** as amended from time to time.

(5) Enactment of an ordinance to effect Zoning Ordinance text and/or map amendment. Upon completion of the required procedures and approvals relating to a proposal or application for a text and/or map amendment of the type governed by this Article XVIII (Amendments in Critical Area District), the Town Commissioners shall, without further procedures except those required by the Town Charter, subject in a legislative process to the provisions of § 340-193B(2), enact an ordinance to affect the text and/or map amendment thereby approved, in accordance with all terms and conditions of such approval.

Article XIX. Amendments.

§ 340-191. Power to amend.

The text of this Zoning Chapter or the boundaries of any zoning district may be amended in accordance with the procedures of this article. For this article, the term "amend" shall include the terms "enact," "reenact," "modify," "supplement," and "repeal."

§ 340-192. Exclusions.

Exclusions shall not apply to the following:

A. Map amendments resulting from awards of growth allocation, which are governed by § 340-39 of this Code.

B. Text and map amendments pertaining to the Town's Critical Area District, which are governed by Article XVIII of this Code.

C. Map amendments resulting from awards of the PR Planned Redevelopment floating zone, which are governed by § 340-40 of this Code.

§ 340-193. Text amendments.

A. An amendment to the text of this chapter may be proposed by the Town Commissioners, the Planning Commission, or any other person. Application for text amendments from anyone other than a Commissioner shall be made to the Town Commissioners in writing.

B. After receiving an application proposing a text amendment, the Town Commissioners shall determine whether the proposal merits further consideration.

(1) If the proposal is determined to merit further consideration, the proposal may be altered by the Town Commissioners at any time prior to the introduction of legislation.

(2) If the proposal is determined not to merit further consideration, 90% of any paid application fees shall be returned.

C. If the proposal is determined to merit further consideration, the Town Commissioners may, by vote, and in their sole discretion, refer the proposal to the Planning Commission or other board, commission or panel for review.

(1) The referral shall be in writing and shall request that the Planning Commission evaluate the consistency of the proposal with the Comprehensive Plan. The referral may also identify other questions or issues to which the Town Commissioners wish to direct the Planning Commission's attention or upon which they wish to solicit the Planning Commission's advice.

(2) Upon receiving the referral, the Planning Commission shall place the proposal on its agenda for a public meeting. At that meeting, as part of its review of the proposal, the Planning Commission may accept public comment on the proposal. A public hearing in accord with § 340-198 is not required.

(3) By the required reporting date, the Planning Commission shall submit to the Town Commissioners its written report on the proposal.

(a) The required reporting date shall be either the 60th day following the date of the written referral or date requested by the Planning Commission and agreed to by the Town Commissioners, whichever is later.

(b) If the written report of the Planning Commission is not submitted by the required reporting date, the report of the Planning Commission on the referral shall be deemed to be "The Planning Commission has no comment on the referred proposal or its consistency with the Comprehensive Plan."

(c) The Town Commissioners may introduce the proposal as legislation at any time prior to the public hearing. After legislation is introduced, amendments to the legislation may also be introduced, and for purposes of Subsection D shall be deemed part of the legislation under consideration.

D. Prior to voting to enact the legislation, the Town Commissioners shall conduct a public hearing on the legislation. Notice of the hearing shall be provided according to the requirements of § 340-198. A complete record of the hearing shall be kept.

(1) Once a public notice of the hearing has been given, the text of the legislation (including any amendments introduced under Subsection C(3)(c) may not be altered until the hearing has concluded.

(2) Once the hearing has concluded, the text of the legislation may not be altered in any material respects. If alterations are made to the text of the legislation, the Commissioners shall affirm by vote that these alterations do not materially change the legislation as considered in the public hearing. Amendment introduced under Subsection C(3)(c) shall be deemed part of the legislation under consideration and not textual alterations to which this subsection applies.

(3) If, after the conclusion of the public hearing, material alterations are made to the text of the legislation (including to any amendments introduced under Subsection C(3)(c), the legislation shall be the subject of a new hearing before the Town Commissioners under this Subsection D.

E. An applicant may request at any time to withdraw a proposed text amendment. Requests to withdraw shall be submitted to the Town Commissioners in writing.

(1) If the request to withdraw is received by the Town Commissioners prior to the introduction of legislation, the withdrawal shall be granted automatically by the Town Commissioners.

(2) If the request to withdraw is received by the Town Commissioners after the introduction of legislation, the withdrawal shall not be granted without the consent of those Town Commissioners who introduced the legislation.

(3) When a request to withdraw is granted under either Subsection E(1) or (2):

(a) Withdrawal shall not relieve the applicant of the duty to pay the costs incurred by the Town to the time of withdrawal. Those costs shall be deducted from the application fee, and the remainder of the fee, if any, shall be returned to the applicant.

(b) For a period of twelve (12) months following withdrawal, the Town Commissioners shall not accept from the same applicant any proposal for a text amendment similar to the one withdrawn unless the Town Commissioners, by resolution, waive the twelve-month restriction.

§ 340-194. Map amendments for piecemeal rezoning.

A. An amendment to the Official Zoning District Maps through a piecemeal rezoning may be proposed by the Town Commissioners, the Planning Commission, or any person with a committed financial, contractual, or proprietary interest in a property whose zoning would be changed by the proposed amendment. Application for a piecemeal rezoning shall be made to the Town Commissioners through the Zoning Office.

B. After receiving an application proposing a piecemeal rezoning, the Town Commissioners shall refer the proposal to the Planning Commission for review and recommendation.

(1) The referral shall be in writing and shall request that the Planning Commission evaluate the consistency of the proposal with the Comprehensive Plan. The referral may also identify other questions or issues to which the Town Commissioners wish to solicit the Planning Commission's attention or upon which they wish to solicit the Planning Commission's advice.

(2) Upon receiving the referral, the Planning Commission shall place the proposal on its agenda for a public meeting. At that meeting, as part of its review of the proposal, the Planning Commission may accept public comment on the proposal. A public hearing in accord with § 340-198is not required.

(3) The required reporting date shall be either the 60th day following the date of the written referral or date requested by the Planning Commission and agreed to by the Town Commissioners, whichever is later.

(4) If the written recommendation of the Planning Commission is not submitted by the required reporting date, the response of the Planning Commission to the

referral shall be deemed to be "The Planning Commission recommends neither for nor against the proposal."

C. After receiving the recommendation of the Planning Commission, or after the passing of the required reporting date, the Town Commissioners shall hold a public hearing on the proposed piecemeal rezoning. Notice of this hearing shall be provided according to the requirements of § 340-198. A complete record of the hearing shall be kept.

D. After holding the public hearing, the Town Commissioners shall render a written decision on the proposed piecemeal rezoning. In that written decision:

(1) The Town Commissioners shall make findings of fact that include the following matters:

(a) Population change;

(b) The availability of public facilities;

(c) Present and future transportation patterns;

(d) Compatibility with existing and proposed development for the area;

(e) The recommendation of the Planning Commission; and

(f) The relation of the proposed piecemeal rezoning to the Comprehensive Plan.

(2) Finding of change or mistake.

(a) The Town Commissioners may grant the proposed piecemeal rezoning, and the map amendment that it entails, based on a finding of:

[1] A substantial change in the character of the neighborhood where the property is located, or

[2] A mistake in the existing zoning classification.

(b) A finding of change or mistake permits but does not compel the adoption of the proposed piecemeal rezoning and the map amendment that it entails.

E. An applicant may withdraw a proposed map amendment at any time, but withdrawal shall not relieve the applicant from the duty to pay the costs incurred by the Town to the time of withdrawal. Within twelve (12) months after the withdrawal of a proposed map amendment, the Town shall accept no application proposing a map amendment for land that in whole or in part was the subject of the withdrawn map amendment, unless, by

resolution, the Town Commissioners declare that the twelve-month restriction shall not apply.

F. Multiple applications.

(1) No application for a map amendment shall be accepted by the Town if that application includes land that, in whole or part, is the subject of a pending application for a map amendment.

(2) No application for a map amendment shall be accepted by the Town if that application includes land that, in whole or part, was the subject of an application denied by the Town Commissioners in the past twelve (12) months.

§ 340-195. Map amendments for comprehensive rezoning.

A. An amendment to the Official Zoning District Maps through a comprehensive rezoning is a legislative decision. As such, it must be initiated by the Town Commissioners.

B. Legislation proposing a comprehensive rezoning shall be preceded by a study of the area considered for rezoning.

(1) The study shall have the following attributes:

(a) It is directed by the Planning Commission.

[1] The Town Commissioners may appoint a citizen advisory committee, reporting to the Planning Commission, to help prepare the study.

[2] With the approval of the Town Commissioners, one or more professional consultants may be employed by the Planning Commission, or by the citizen advisory committee, in the preparation of the study.

(b) It covers a substantial area of the Town, including multiple zones.

(c) It involves citizen participation extending beyond the membership of the Planning Commission, through one or more mechanisms such as the following:

[1] Citizen advisory committees.

[2] Surveys of citizen opinion.

[3] Information-gathering meetings.

(iv) Public hearings.

(d) It reviews the characteristics of the study area, such as:

[1] The nature and extent of existing land use.

[2] Future conditions and purposes.

[3] Restraints, if any, imposed by roads, sewer facilities, and environmental factors.

(e) It assesses, for any area, it recommends for rezoning, consistency of the recommended zoning with the Comprehensive Plan.

(f) It is approved by the Planning Commission and recommended by the Planning Commission to the Town Commissioners. The Comprehensive Plan may be accepted by the Town Commissioners as fulfilling the study requirement.

(2) Based on the study, the Town Commissioners may introduce legislation amending the Official Zoning District Maps.

C. Prior to voting on legislation to amend the Official Zoning District Maps through a comprehensive rezoning, the Town Commissioners shall conduct a public hearing on the legislation. Notice of the hearing shall be provided according to the requirements of § 340-198. A complete record of the hearing shall be kept. Once a public notice of the hearing has been given, the legislation may not be altered prior to voting by the Town Commissioners.

§ 340-196. Zoning map amendments in the Critical Area.

Except for program amendments or program refinements developed during a six (6)-year comprehensive review, a zoning map amendment may only be granted by Town Commissioners upon proof of a mistake in the existing zoning. This requirement does not apply to proposed changes to a zoning map that meet the following criteria:

A. Are wholly consistent with the land classifications as shown on the adopted Critical Area Overlay Map; or

B. The use of Growth Allocation, in accordance with the provisions of § 340-39, is proposed.

§ 340-197. Amendments for floating zones.

The provisions of this Article and Article XVIII where applicable regarding the procedures and requirements of public hearings and findings of fact to be made regarding applications shall also apply to requests for floating zone designation except that it shall not be necessary to prove change in the character of the neighborhood or mistake in the original zoning of the property in order to gain approval. In floating zones, the test for approval or denial shall be compatibility with the neighborhood and consistency with the comprehensive plan.

§ 340-198. Public hearings.

A. **Except as provided in § 340-138,** public hearings required under this article must receive advance notice as follows.

(1) Notice of the date, time, and place of the hearing, together with a summary of the proposed amendment, shall be published in at least one newspaper of general circulation in the Town once each week for two successive weeks. The first notice must be published at least fourteen (14) days before the hearing.

(2) If the subject of the hearing is an application for a piecemeal rezoning, in addition to the published notice:

(a) A notice similar to the published notice must be posted on the land that is the subject of the application; and

(b) The published notice must be mailed, by first-class United States mail, to any person whose name last appeared in the tax records of the Town as an owner of land contiguous to any land that is the subject of the application.

B. Public hearings required under this article may, at the discretion of the body conducting the hearing, during a properly convened session of the hearing, be continued and reconvened from time to time, provided that notice of the date, time, and place of each subsequent reconvening is given either:

(1) As an oral announcement by the presiding member of the body conducting the hearing, during a properly convened session of the hearing being continued and reconvened; or

(2) By publication, and posting and mailing if required, as if no prior notice of the public hearing had been given.

Article XX. Development Rights and Responsibilities Agreements.

§ 340-199. Authority.

This article of the Zoning Ordinance is enacted pursuant to the authority of the **Land Use Article~~,~~ §7-302,** Maryland Code, as amended (hereafter in this section referred to as the "Maryland Agreements Statute").

§ 340-200. Purposes.

This article is intended to grant to specified public bodies of the Town (each hereafter in this section referred to as a "public principal") the authority, and to establish the procedural requirements, to execute development rights and responsibilities agreements (hereafter in this section referred to in the singular as "agreement" and in the plural as "agreements") to accomplish the following purposes:

A. To provide a developer, and to its successors and assigns having an ownership interest in the real property of the developer that is the subject of the agreement (hereafter in this section referred to as the "subject property"), with a level of security over a period of time that the development plan, and the accompanying design details, for the subject property that is approved by the Town may be completed without substantial changes or impediments; and thereafter to preserve property values by protecting against individual lot owners deviating from the development plan, and the accompanying design details; caused or permitted by future amendments to the Town laws, rules, regulations, and policies governing the use, density and/or intensity of development by an agreement granting to the developer, and to its successors and assigns having an ownership interest in the subject property, qualified vested rights in the existing laws, rules, regulations, and policies governing the use, density and/or intensity of development of the subject property ("qualified vested rights") without the developer having to immediately make substantial improvements to all portions of the subject property; and

B. To provide a public principal with the authority and procedures to accept from a developer, and to bind a developer and its successors and assigns to, the consideration offered by the developer without the necessity of an analysis of the nexus and/or rough proportionality between the consideration offered by the developer and the impacts on the Town from the development of the subject property; provided that:

(1) The consideration offered by the developer and accepted by the public principal shall be solely and exclusively for the benefits to the developer, and its successors and assigns, of the qualified vested rights; and

(2) The consideration offered by the developer and accepted by the public principal shall not be for any impacts on the Town from the proposed development of the subject property.

C. To provide an alternative Town entity authorized to contract with a developer so that the ultimate zoning authority of the Town concerning a development may avoid the actuality and the appearance of contracting for zoning with the developer.

§ 340-201. Applicability.

A developer of real property located in the Town, or of real property for which a petition for annexation to the Town is pending, and who proposes to develop that real property pursuant to the land use laws of the Town, may petition the Town to enter into an agreement with respect to the real property of the developer identified in the agreement. Such a petition shall be entirely voluntary on the part of the developer, and shall not be required by the Town, any of its agencies, or a public principal of the Town, as a condition of any land-use classification, designation, permit or approval.

§ 340-202. Grant of authority.

A. Authorization of public principals. The Town Commissioners and the Planning Commission are each hereby independently designated as a public principal of the Town, authorized, subject to the procedural requirements and qualifications of this section, to:

(1) Consider petitions for agreements relating to real property located in the Town or real property for which a petition for annexation to of such property the Town is pending;

(2) Execute agreements with the developers of real property located within the Town;

(3) Execute agreements with the developers of real property for which a petition for annexation of such property to the Town is pending, conditioned upon such annexation, which agreements shall become effective and binding only upon, and simultaneous with, the annexation of the subject property to the Town; and

(4) In an agreement in which the Planning Commission is the executing public principal, the Town may be included as a third-party beneficiary or as a direct party to the agreement, giving the Town the right to enforce the agreement.

B. Authority of the Town Commissioners.

(1) The authority hereby granted to the Town Commissioners to execute agreements shall be independent of the authority of the Planning Commission to execute agreements. However, this provision is not intended to negate or circumvent any

procedure by the Planning Commission that is required by the Maryland Agreements Statute as a condition precedent to the Town Commissioners executing an agreement.

(2) The execution of an agreement by the Planning Commission, pursuant to the procedures required by the Maryland Agreements Statute, shall immediately and automatically revoke and terminate all powers and authority by the Town Commissioners to execute an agreement, or to take any action having the effect of replacing, expanding, supplementing, amending, limiting or terminating all or any part of an existing agreement, involving all or any portion of the same land as was the subject of an agreement previously executed by the Planning Commission.

C. Authority of the Planning Commission.

(1) The authority hereby granted to the Planning Commission to execute agreements shall be independent of the authority of the Town Commissioners to execute agreements. However, this provision is not intended to negate or circumvent any procedure by the Town Commissioners that is required by the Maryland Agreements Statute as a condition precedent to the Planning Commission executing an agreement.

(2) The execution of an agreement by the Town Commissioners, pursuant to the procedures required by the Maryland Agreements Statute, shall immediately and automatically revoke and terminate all powers and authority by the Planning Commission to execute an agreement, or to take any action having the effect of replacing, expanding, supplementing, amending, limiting or terminating all or any part of an existing agreement, involving all or any portion of the same land as was the subject of an agreement previously executed by the Town Commissioners.

(3) A vote of the Town Commissioners in which a majority of the Town Commissioners vote against executing an agreement shall immediately and automatically revoke and terminate all powers and authority by the Planning Commission to execute an agreement with the same developer involving all or any portion of the same land.

§ 340-203. Contents of development rights and responsibilities agreements.

A. At a minimum, an agreement shall contain the following:

(1) A legal description of the subject property;

(2) A lawyer's certification as to the nature of the petitioning developer's interest in the subject property;

(3) The names of all parties having an equitable or legal interest in the subject property, including lien holders;

(4) The duration of the agreement;

(5) The permissible uses of the subject property;

(6) The density or intensity of uses on the subject property;

(7) The maximum height and size of structures on the subject property;

(8) A description of the permits required or already approved for the development of the subject property;

(9) A statement that the proposed development of the subject property is consistent with the Comprehensive Plan and development regulations of the Town;

(10) A description of the conditions, terms, restrictions, or other requirements determined by the Town Commissioners to be necessary to ensure the public health, safety, or welfare;

(11) A description, and all other terms, of all consideration, including concessions, transfers of property, and payments, if any, given by the petitioner for the agreement; and

(12) To the extent applicable, provisions for:

(a) Dedication of a portion of the subject property for public use;

(b) Protection of sensitive areas on the subject property;

(c) Preservation and restoration of historic structures on the subject property;

(d) Construction or financing of public facilities on and/or leading to the subject property;

(e) The responsibilities of the petitioner according to the terms of the agreement shall be binding on its successors in interest and shall run with the subject property;

(f) Whether an amendment of the agreement related to only a portion of the subject property shall require the consent of only the owners of the portions of the subject property directly affected by the amendment, or shall require the owners of all of the subject property; and

(g) Responsibility for attorney's fees, costs, and expenses incurred by the Town in the event the agreement is abandoned or breached by the petitioner or its successors in interest.

B. An agreement may:

(1) Fix the time frame and terms for development and construction on the subject property; and

(2) Provide for other matters consistent with this article.

C. An agreement shall be void five years after the day on which the parties execute the agreement unless:

(1) A different duration is expressed within the agreement; or

(2) The duration of the agreement is extended by an amendment of the agreement in accordance with the formalities required for such amendments.

§ 340-204. Procedures.

The procedures required before a public principal may execute an agreement shall be as follows:

A. A petition for an agreement shall be submitted by a developer to a public principal;

B. A petition for an agreement received by the Town Commissioners shall be referred to the Planning Commission;

C. After the Planning Commission receives a petition, and before the executing public principal shall be permitted to execute a proposed agreement, the Planning Commission shall determine whether the proposed agreement is consistent with the Comprehensive Plan of the Town.

D. Before the executing public principal may execute a proposed agreement, it shall conduct a public hearing. A public hearing by the executing public principal that is required relating to the approval process for the proposed development of the subject property satisfies this public hearing requirement.

E. Recording.

(1) An agreement shall be void if not recorded in the land records of Talbot County within twenty (20) days after the day on which the last of the executing public principal and the petitioner execute the agreement.

(2) The parties to an agreement, and their successors in interest are bound to the agreement after the agreement is recorded.

§ 340-205. Amendment of agreements.

The parties to an agreement may amend that agreement by mutual consent after the following procedures:

A. A determination by the Planning Commission that the proposed amendment is consistent with the Comprehensive Plan of the Town; and

B. A public hearing on the proposed amendment conducted by the executing public principal.

§ 340-206. Termination and suspension of agreements.

A. The parties to an agreement may terminate the agreement by mutual consent.

B. If the Town Commissioners or the executing public principal determines that suspension or termination of an agreement is essential to ensure the public health, safety, or welfare, the Town Commissioners or the executing public principal having made such determination may suspend or terminate that agreement after public notice of a public hearing and such public hearing.

§ 340-207. Applicable laws, regulations, and policies.

A. Qualified vested rights. Except as provided in Subsection B of this § 340-103 (Applicable laws, regulations and policies), the laws, rules and regulations and policies governing the use, density and/or intensity of development of the subject property shall be the laws, rules regulations and policies in force at the time the executing public principal and the petitioning developer execute the agreement.

B. Qualification of vested rights. If the Town Commissioners determine that compliance with laws, rules, regulations, and policies enacted or adopted after the effective date of an agreement is essential to ensure the health, safety, or welfare of residents of all or part of the Town, the agreement may not prevent the Town Commissioners from requiring any person, including the executing public principal and the developer, and its successors and assigns, to comply with those laws, rules, regulations, and policies.

§ 340-208. Enforcement by interested parties.

Unless an agreement is terminated under § 340-206 (Termination and suspension of agreements) of this article, the parties to an agreement, any third-party beneficiary named therein, or their respective successors in interest, may enforce the agreement.

Article XXI. Violations and Penalties.

§ 340-209. Complaints regarding violations.

A. Whenever a violation of this Chapter occurs or is alleged to have occurred, any person may file a written complaint.

B. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Inspector. The Zoning Inspector shall record properly such complaint, immediately investigate, and take action thereon as provided by this Chapter.

§ 340-210. Penalties for violations.

A. A violation of any provision of this Chapter, or failure to comply with any requirement thereof, shall constitute a municipal infraction. Each day on which a violation of this Chapter exists shall constitute a separate violation. The violation of each section or provision of this Chapter shall constitute a separate offense. Any person found to have violated any section or provision of this Chapter shall pay a fine of $100 for the first violation. The fine for each subsequent violation shall be the maximum amount authorized and prescribed by Maryland Code (1957), Article 23A, Section 3(b)(2), as amended from time to time. For this section, a subsequent violation of this Chapter shall mean a violation of a section or provision of this Chapter which has occurred not more than thirty (30) days, but not less than twenty-four (24) hours, after the occurrence of a violation of the same section or provision of this Chapter upon the same parcel or piece of real property as that of the previous violation, and for which subsequent violation the same person is charged as was charged with the previous violation. Once the person charged with the first violation has received the municipal infraction citation for that first violation, it shall not be necessary to deliver a municipal infraction citation for a subsequent violation of the same section or provision of this Chapter before issuing a municipal infraction citation for any further subsequent violation of the same provision or section of this Chapter.

B. The Town may enforce this Chapter by civil action for declaratory judgment and/or injunction, in addition, or as an alternative to citing the violator for a municipal infraction. In the case of a civil action for declaratory judgment and/or injunction, the Town may recover its legal fees and court costs from the violator.

C. The owner and/or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent or any other person who causes, commits, participates in, assists in, or maintains a violation of this Chapter shall be guilty of a separate offense, and shall be subject to the penalties set forth above in this section. Nothing herein

contained shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violations of this Chapter.