

For Discussion – 1.13.2021

Introduction –

Public Hearing -

Adopted -

Enacted -

**ORDINANCE NO. 519**

**AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF ST. MICHAELS; CHAPTER 340 ZONING, TO AMEND ARTICLE IV THE CHESAPEAKE BAY CRITICAL AREA OVERLAY DISTRICT, TO AMEND §340-39 GA GROWTH ALLOCATION FLOATING ZONE DISTRICT, TO AMEND §340-191 AMENDMENT OF CRITICAL AREA PROGRAM ELEMENTS ALL PER CRITICAL AREA COMMISSION RECOMMENDATIONS, TO AMEND §340-33 POWERS AND DUTIES OF THE HISTORIC DISTRICT COMMISSION, §340-69A RESTAURANTS OUTDOOR SEATING, §340-71 HOTEL MOTEL, §340-73 SHORT TERM RENTALS (STR), §340-105 TABLE OF COVERAGE LIMITS, AND §340-135 SPECIAL EXCEPTION FOR CLARIFICATION PURPOSES.**

WHEREAS, the Commissioners of St. Michaels (the “Commissioners”), a Municipal Corporation, have been delegated certain powers pursuant to the Maryland Annotated Code, Local Government Code, Division II, and Land Use Article, Division II to govern the zoning and land use within its municipal boundaries; and

WHEREAS, the Commissioners have the power to amend the Chapter 340 Zoning of the St. Michaels Town Code under §340-88 Power to amend, and shall do so under the provisions of §340-90 Text amendments; and

WHEREAS, the Commissioners did adopt Ordinance 512 in July of 2020 which repealed and reenacted Chapter 340 (Zoning Ordinance) of the Code of the Town of St. Michaels; and

WHEREAS, the State of Maryland Critical Area Commission staff notified the Town on the 14<sup>th</sup> day of October that minor amendments needed to be made to the recently adopted Zoning Ordinance; and

WHEREAS, The St. Michaels Planning Commission (hereinafter referred to as the “Planning Commission”) placed this matter on its agenda for a public meeting. At multiple meetings, as part of its review, the Planning Commission accepted public comment on the proposed amendments; and

WHEREAS, the Planning Commission hereby find the proposed amendments are consistent with the State requirements and concurrent with the Town’s Chesapeake Bay Critical Area Overlay District regulations; and

WHEREAS, the Planning Commission desires to also revise §340-33, §340-69A, §340-71, §340-73, §340-105, and §340-135 of the recently adopted zoning code for clarification purposes; and

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42 WHEREAS, after taking into consideration the comments made at the meetings, the Planning  
43 Commission has recommended to the Commissioners that Chapters 340 of the Code of the Town  
44 of St Michaels be amended as shown herein; and

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46 WHEREAS, The Commissioners of St. Michaels introduced Ordinance No. 519 on  
47 \_\_\_\_\_, 2021

48  
49 WHEREAS, public notice was published on \_\_\_\_\_, 2021 and \_\_\_\_\_, 2021, that  
50 a public hearing would be held by the Commissioners on \_\_\_\_\_, 2021 concerning  
51 amendments to Chapters 340 of the Code of the Town of St. Michaels substantially in the form as  
52 hereafter set forth; and

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54 WHEREAS, after having given due public notice, the Commissioners conducted a public hearing  
55 on \_\_\_\_\_, 2021 to receive public comment on the aforesaid amendments; and

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57 WHEREAS, for the reasons stated herein, the Commissioners deem it in the interest of the public  
58 health, welfare and safety of the citizens of the Town, and for good government of the Town, to  
59 enact the following Ordinance.

60 NOW, THEREFORE BE IT ORDAINED AND ENACTED BY THE COMMISSIONERS OF  
61 ST. MICHAELS that Chapter 340 Zoning of the Code of the Town of St. Michaels is hereby  
62 amended as follows, with all revisions shown in **red**, new language shown in *italics* and underlined  
63 and deleted language shown with a ~~strike through~~ and in *italics*.

64 Chapter 340. Zoning

65 **[Bold Bracketed]** = new added text

66 Strikeout = ~~deleted text~~

67  
68 **AMENDMENT 1.**

69 **Amend Article IV. The Chesapeake Bay Critical Area Overlay District, § 340-15. Intensely**  
70 **Developed Areas (IDA), subsections D(5) through (8) as follows:**

71 **§ 340-15. Intensely Developed Areas (IDA)**

72 D. Development standards.

73 (5[3]) Areas of public access to the shoreline, such as footpaths, scenic drives, and other  
74 public recreational facilities, should be maintained and, if possible, increased  
75 within Intensely Developed Areas.

76 (6[4]) Ports and industries that use water for transportation and derive economic benefits  
77 from shore access shall be located near existing port facilities. The Town may  
78 identify other sites for planned future port facility development and use if this use

79 will provide significant economic benefit to the State or Town and is consistent  
80 with the provisions of the Water Dependent Facilities section of this Chapter and  
81 other State and Federal regulations.

82 (~~7~~**5**) To the extent practicable, future development in the IDA shall use cluster  
83 development to reduce impervious areas and to maximize areas of natural  
84 vegetation.

85 (~~8~~**6**) When the cutting or clearing of trees in forests and developed woodland areas are  
86 associated with current or planned development activities, the following shall be  
87 required:

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

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

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

97 **AMENDMENT 2.**

98 **Amend Article IV. The Chesapeake Bay Critical Area Overlay District, § 340-18. Resource**  
99 **Conservation Areas (RCA) as follows:**

100 **§ 340-18. Resource Conservation Areas (RCA)**

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

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

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

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



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139 **Amend Article VI. Floating Zone Districts, § 340-39. GA Growth Allocation Floating Zone**  
140 **District, subsection B(2) as follows:**

141 **§ 340-39. GA Growth Allocation Floating Zone District**

142 B. Growth Allocation acreage and deduction.

143 (2) ~~The Town's original Growth Allocation acreage is 5.8 acres. The Town's Growth~~  
144 ~~Allocation acreage remaining is 245 acres, as of the date of passage of this~~  
145 ~~Chapter. [The Town's original allotted Growth Allocation acreage is 245~~  
146 ~~acres. To date, the Town has used 76.07 acres. The Town's Growth~~  
147 ~~Allocation acreage remaining is 168.93, as of the date of passage of this~~  
148 ~~Chapter.]~~

149 ~~F.[E.]~~ Additional Factors.

150 ~~G. [F.]~~ Application.

151 ~~H. [G.]~~ Planning Commission Review and Recommendation – Floating Zone District  
152 Amendment and Concept Plan.

153 ~~I. [H.]~~ Commissioners Approval of Floating Zone District and Concept Plan.

154 ~~J. [I.]~~ Additional Required Procedures.

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

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- 172 (1) Does not conflict with the applicable purposes and land use standards of this  
173 Chapter;
- 174 (2) Does not prevent reasonable access by emergency vehicle access or deprive  
175 adjacent properties of adequate light and airflow;
- 176 (3) Does not significantly change the general character of the land uses of the  
177 approved Concept Plan;
- 178 (4) Does not result in any substantial change of major external access points;
- 179 (5) Does not increase the total approved number of dwelling units or height of  
180 buildings; and
- 181 (6) Does not decrease the minimum specified setbacks, open space area, or minimum  
182 or maximum specified parking and loading spaces.
- 183 **[(7) Does not conflict with any condition imposed by the Critical Area  
184 Commission or amend any Critical Area development standard, including  
185 any new impacts to Habitat Protection Areas.]**

186 ~~L. [K.] Conflict with other Articles. Provisions of the GA Floating Zone District, when found to~~  
187 ~~conflict with other provisions of this Chapter, shall supersede those other provisions with~~  
188 ~~which they conflict. Provisions of the GA Floating Zone District, when found to conflict~~  
189 ~~with provisions of Chapter 290 of the Town Code, shall supersede those provisions with~~  
190 ~~which they conflict. [Provision of the GA Floating Zone District, when found to~~  
191 ~~conflict with other provisions of this Chapter, shall supersede those other provisions~~  
192 ~~with which they conflict, so long as all the requirements of the Critical Area~~  
193 ~~Regulations apply as minimum standards. Provisions of the GA Floating Zone~~  
194 ~~District, when found to conflict with provisions of Chapter 290 of the Town Code,~~  
195 ~~shall supersede those provisions with which they conflict, so long as all requirements~~  
196 ~~of the Critical Area Regulations apply as minimum standards.]~~

197 ~~M. [L.]~~A “floating zone” under the laws of the State of Maryland is analogous to special  
198 exceptions. The criteria for each floating zone district shall be as outlined in the Town  
199 Code. They shall be the basis for approval or denial by the Town Commissioners without  
200 the necessity of showing a mistake in the original zoning or a change in the  
201 neighborhood.

202 ~~N. [M.]~~ Conditions of approval.

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203 ~~Θ.[M.]~~ Growth Allocation Deduction. Calculation of the amount of Growth Allocation to be  
204 deducted from the Town total shall be approved in COMAR 27.01.02.06-4.

205 ~~P. [O.]~~ Applications for a Growth Allocation Floating Zone District map amendment.

206 (5) Acceptance of amendment by applicant.

207 (b) If the Growth Allocation amendment application is approved by the Town  
208 Commissioners, without alterations or conditions other than or in addition  
209 to those requested by the applicant, then the Growth Allocation  
210 amendment application shall become effective immediately, subject to  
211 Subsection ~~G[O]~~(6). All inconsistencies therewith in any previously  
212 existing Growth Allocation approval shall be rendered immediately void  
213 and of no effect.

214 (c) If the Growth Allocation amendment application is approved by the Town  
215 Commissioners with alterations or conditions other than those requested  
216 by the applicant, then the decision of the Town Commissioners shall stay  
217 for thirty (30) days from the date on which it was mailed or hand-  
218 delivered to the applicant by the Town Manager. That decision shall take  
219 effect automatically, subject to Subsection ~~G[O]~~(6), at the end of that  
220 thirty-day period unless either:

221 **AMENDMENT 5.**

222 **Amend Article XVIII. Amendments in Critical Area District, § 340-191.A as follows:**

223 **§ 340-191. Amendment of Critical Area Program elements**

224 A. The Town Commissioners may, from time to time, amend the Critical Area provisions of  
225 this Chapter. Changes may include but are not limited to amendments, revisions, and  
226 modifications to these zoning regulations, Critical Area Maps, implementation  
227 procedures, and local policies that affect the Town’s Critical Area. All such amendments,  
228 revisions, and modifications shall also be approved by the Critical Area Commission, as  
229 established in § 8-1809 of the Natural Resources Article of the Annotated Code of  
230 Maryland. No such amendment shall be implemented without the approval of the Critical  
231 Area Commission. Standards and procedures for Critical Area Commission approval of  
232 proposed amendments are as set forth in §§ 8-1809(i) and ~~8-1809(d)~~ of the Natural  
233 Resources Article of the Annotated Code of Maryland, respectively.

234 **AMENDMENT 6.**





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260 ~~(1) Events resulting from the sale of event packages (events) shall be contracted by a~~  
261 ~~guest of the hotel and shall include, at a minimum, the rental of at least one~~  
262 ~~sleeping room in the hotel.~~

263 ~~(2) Attendance at events shall be limited to the maximum occupancy numbers~~  
264 ~~permitted by the Talbot County Fire Marshal.~~

265 ~~(3) Food and beverages shall be consumed on the premises during the event.~~

266 ~~F. Hotel and motel establishments may include a restaurant open to the public.~~

267 **[A. The owner shall comply with the licensing, food storage, and preparation guidelines**  
268 **outlined in COMAR 10.15.03.**

269 **B. The length of stay shall not exceed thirty (30) days within any ninety (90) days.**

270 **C. The facility shall contain a registration area. It shall be staffed twenty-four (24)**  
271 **hours a day with at least one individual who has the authority to accept, reject,**  
272 **oversee the conduct of, and expel guests to maintain order.**

273 **D. If the facility offers package services for weddings, wedding receptions, family**  
274 **reunions, business activities, conferences, and other events similar in nature**  
275 **(hereinafter, “event packages”) as accessory uses:**

276 **(1) events resulting from the sale of event packages shall be contracted by a**  
277 **guest of the facility and shall include, at a minimum, the rental of at least one**  
278 **sleeping room in the hotel;**

279 **(2) attendance at events shall be limited to the maximum occupancy numbers**  
280 **permitted by the Talbot County Fire Marshal; and**

281 **(3) food and beverages shall be consumed on the premises during the event.**

282 **F. Establishments may include a restaurant open to the public.]**

283 **AMENDMENT 9.**

284 **Amend § 340-73 follows:**

285 **§ 340-73. Short term rentals (STR).**

286 **A. Short term rentals are permitted in the CC District subject to the following:**

- 287 (1) **[Except as provided in B below,]** all units are located above the first floor in a  
288 principal building;
- 289 (2) The Town has issued a Short-Term Rental license;
- 290 (3) The maximum number of people permitted to be on-site is limited to two (2)  
291 persons per bedroom;
- 292 (4) The owner of the short-term rental property is responsible for payment of any  
293 applicable sales or accommodation taxes, e.g., the Maryland Sales Tax and the  
294 Talbot County Accommodation Tax; and
- 295 (5) All applications require an onsite inspection to verify compliance with all  
296 applicable building, fire, and safety codes.
- 297 **[B. An existing single-family dwelling may be used as a short term rental subject to the**  
298 **following criteria.**
- 299 (1) **The Town has issued a Short-Term Rental license**
- 300 (2) **The existing principal structure is located on a single lot or parcel of land**  
301 **(collectively the “premises”).**
- 302 (3) **The lot or parcel of land shall be a lot of record.**
- 303 (4) **The principal structure shall:**
- 304 (a) **Be a single-family detached dwelling constructed in or before 1945;**
- 305 (c) **Be the only structure on the lot used for human habitation;**
- 306 (d) **Contain no more than one thousand four hundred (1,400) square feet**  
307 **of interior space; and**
- 308 (e) **Contain beds and other sleeping facilities for no more than four (4)**  
309 **persons, excluding cribs and other sleeping facilities for children**  
310 **under eighteen (18) months of age.**
- 311 (5) **The principal use of the premises and principal structure shall be only a**  
312 **place of public accommodation for short-term rental.**
- 313 (6) **The maximum number of people permitted to be on-site for occupancy**  
314 **purposes is limited to two (2) persons per bedroom.**



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**AMENDMENT 11.**

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**Amend § 340-135.A(2) as follows:**

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**§ 340-135. Special exceptions.**

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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 expressly authorized to pass on under the terms of this Chapter. The Board of Zoning Appeals is authorized 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 St. Michaels Comprehensive Plan. The Board of Zoning Appeals shall not grant a special exception unless and until:

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(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 **[provided, however, that such recommendation shall not be interpreted as requiring the grant of the special exception.]**

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AND BE IT FURTHER ORDAINED AND ENACTED, that this Ordinance shall take effect twenty (20) days from the date of its enactment, having been read at two (2) meetings of The Commissioners of St. Michaels and having been passed by a yea and nay vote of The Commissioners of St. Michaels

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HAVING BEEN READ for the second time and passed by a yea and nay vote of The Commissioners of St. Michaels at a Public Meeting of the Commissioners of St. Michaels held on this \_\_\_ day of \_\_\_\_\_, 2021 via a virtual meeting.

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BIBB \_\_\_\_\_

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BREIMHURST \_\_\_\_\_

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DUPONT \_\_\_\_\_

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HaRROD \_\_\_\_\_

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WINDON \_\_\_\_\_

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355 I HEREBY CERTIFY that the above Ordinance No. 519 was passed by a yea and nay vote of The  
356 Commissioners of St. Michaels on this \_\_\_ day of \_\_\_\_\_, 2021.  
357

358 ATTEST THE COMMISSIONERS OF ST. MICHAELS

359 \_\_\_\_\_ (Seal) By: \_\_\_\_\_

360 Jean R. Weisman,  
361 Town Clerk / Manager

Joyce Harrod, President

362  
363 I HEREBY CERTIFY that an exact copy of this Ordinance was posted from the \_\_\_ day of  
364 \_\_\_\_\_, 2021, at 8:30 o'clock a.m. on this \_\_\_ day of \_\_\_\_\_, 2021, at 4:30  
365 o'clock p.m., on the bulletin board at the Town Office in St. Michaels, Maryland, and that a  
366 summary of the aforesaid Ordinance No 519, the date of its passage, its effective date and the fact  
367 that the entire text of the Ordinance may be read on the website of the Town Office, St. Michaels,  
368 Maryland, for at least twenty (20) days following the passage, has been published at least once  
369 each week for two (2) consecutive weeks following the passage of said Ordinance in a newspaper  
370 having general circulation in the Town of St. Michaels.

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372 \_\_\_\_\_ (Seal)

373 Jean R. Weisman,  
374 Town Clerk / Manager