

CODE OF THE TOWN OF MILLINGTON

KENT AND QUEEN ANNE'S COUNTIES, MARYLAND

Updated November 2016

CODE OF THE TOWN OF MILLINGTON

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CODE OF THE TOWN OF MILLINGTON

PART I

ADMINISTRATIVE LEGISLATION

Chapter 1
GENERAL PROVISIONS

ARTICLE I
Adoption of Code

[An ordinance adopting Parts I and II of the Code of the Town of Millington and making certain substantive changes to existing legislation of the Town is on file in the Town Office.]

ARTICLE II
Charter Amendments

[A resolution to provide for certain substantive amendments to the Charter of the Town of Millington is on file in the Town Office.]

ARTICLE III
Ratification of Non-substantive Changes to the Charter

[A resolution to provide for the ratification of the non-substantive changes made to the Charter of the Town of Millington in conjunction with the codification of said Charter, the ordinances and certain resolutions of the Town of Millington is on file in the Town Office.]

Chapter 2

ORDINANCE FINES

§ 2-1. Creation.

§ 2-2. Purpose.

§ 2-3. Text.

§ 2-1. Creation.

Adopted by the Mayor and Council of the Town of Millington by Ordinance 2 on August 15, 2001 to become effective on September 30, 2001. To be in conjunction with §C 12-4 B of the Charter of the Town of Millington in order to promote good order within the Town of Millington.

§ 2-2. Purpose.

The purpose of this Chapter is to streamline future revision processes so to be a cost savings to the Town of Millington and its residents.

§ 2-3. Text.

Unless otherwise specifically stated in the individual ordinance as adopted by the Mayor and Council all fines for Municipal Infractions will be in the amount of \$500.00.

Chapter 3
(Reserved)

Chapter 4
(Reserved)

Chapter 5
(Reserved)

Chapter 6
(Reserved)

Chapter 7
(Reserved)

Chapter 8
(Reserved)

Chapter 9

PLANNING COMMISSION

- § 9-1. Creation.
- § 9-2. Composition; appointment; terms; vacancies; compensation.
- § 9-3. Chairman.
- § 9-4. Rules for transaction of business.
- § 9-5. Powers and duties.
- § 9-6. Public hearings; method of adoption.
- § 9-7. Duties of Town Clerk and Attorney; filing of materials.
- § 9-8. Duties of Commission.

[HISTORY: Adopted by the Mayor and Council of the Town of Millington 11-04-1974; amended in its entirety 07-05-1989 by Ordinance No. 7-89. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Subdivision of Land - See Chapter 66.

Zoning - See Chapter 80.

§ 9-1. Creation

Pursuant to the authority and provisions of Article 66B of the Annotated Code of Maryland (1952 Edition), there is hereby created a Municipal Planning Commission for the Town of Millington. Such Commission shall be known as the "Millington Planning Commission" and is hereafter referred to as the "Planning Commission"

§ 9-2. Composition; appointment; terms; vacancies; compensation.

- A. The Planning Commission shall consist of five (5) members.
- B. The members shall be appointed by the Mayor and Council from among the residents of Millington or Millington Postal Code 21651. The terms of such members shall be five (5) years or until their successors take office; provided, however, that the terms of the five (5) members first appointed by the Mayor and Council of Millington shall be one (1), two (2), three (3), four (4) and five (5) years respectively, from the effective date of creation of the Planning Commission, and shall be specified by the Mayor and Council of Millington at the time of appointment.
- C. A vacancy occurring prior to the expiration of the term for which a member of the Planning Commission is appointed shall be filled in the manner of original appointment.
- D. Members may, after a public hearing, be removed for cause by the Mayor and Council.
- E. Members of the Planning Commission shall serve without compensation.

§ 9-3. Chairman.

The Planning Commission shall elect a Chairman from among its members. The term of the Chairman shall be one (1) year with eligibility for reelection.

§ 9-4. Rules for transaction of business.

The Planning Commission shall adopt rules for the transaction of its business.

§ 9-5. Powers and duties.

The Planning Commission shall have the powers and duties as now or hereafter provided for in Article 66B of the Annotated Code of Maryland (1957 Edition, as amended).

§ 9-6. Public hearings; method of adoption.

- A. Public hearings.
 - (1) The Planning Commission shall hold public hearings on all plans, regulations and other proposals for which such hearings are required under Article 66B of the Annotated Code of Maryland (1957 Edition, as amended). The Planning Commission shall give at least fifteen (15) days notice of such hearings by an advertisement published in a newspaper of general circulation in the town and in an area around the town within one (1) mile from the corporate limits. Such notice shall include the time and place of the hearing, a description of the summary of the proposals to be considered at the hearing, and a place where a copy of such proposals can

be obtained. At any such hearings interested persons shall be afforded an opportunity to submit data, views or regulations with respect to the proposals under consideration.

- (2) A written record shall be prepared of any public hearing held by the Planning Commission.

- B. Any regulations or other proposals in connection with planning and zoning that are adopted by the Planning Commission shall be adopted by a ye or nay vote in open session.

§ 9-7. Duties of Town Clerk and Attorney filing of materials.

- A. The Town Clerk shall be the chief executive officer of the Planning Commission, and the Appointed Attorney shall serve as attorney for the Planning Commission.
- B. All applications, plate, maps and other matters required to be filed with the Planning Commission by Article 66B of the Annotated Code of Maryland (1957 Edition, as amended) or regulations adopted pursuant thereof shall be deemed filed when filed with the Town Clerk, and he shall be responsible for presenting all such applications, plate, maps and other matters to the Planning Commission for its consideration for action.

§ 9-8. Duties of Commission.

The Planning Commission shall make and approve a plan to be recommended to the Mayor and Council of Millington for adoption and which shall serve as a guide to decisions to ensure the development of public and private property both inside of the Town of Millington and areas within one (1) mile outside of its boundaries which, in the judgment of the Planning Commission, bear relation to the planning responsibilities of the Commission. The plan shall contain as a minimum the elements set forth in § 3.05 of Article 66B of the Annotated Code of Maryland. Also, as provided in said § 3.05, it shall be the duty of the Planning Commission to recommend the boundaries of the various zoning districts and appropriate regulations to be enforced therein, in order that the Mayor and Council may avail themselves of the zoning powers conferred by the Maryland Code. The Planning Commission shall make a preliminary report and hold at least one (1) public hearing thereon before submitting its final report, and the Mayor and Council shall not hold public hearings or take action until the final report of the Planning Commission has been received.

Chapter 10
(Reserved)

Chapter 11

RECREATION COMMISSION

§ 11-1. Establishment; membership; terms; vacancies.

§ 11-2. Chairman; organization; rules and regulations.

§ 11-3. Powers and duties.

§ 11-4. Budget; gifts and bequests.

§ 11-5. Superintendent and other personnel.

§ 11-6. Monthly and annual reports.

[HISTORY: Adopted by the Mayor and Council of the Town of Millington 04-10-78. § 11-1 An amended at time of adoption of Code; see Chapter 1, General Provisions, Article I. Other amendments noted where applicable.]

§ 11-1. Establishment; membership; terms vacancies.

- A. Pursuant to § C4-1B.44 of the Municipal Charter for the Town of Millington, there may be established a Recreation Commission.
- B. This Commission shall consist of five (5) persons serving without pay that shall be appointed by the Mayor and confirmed by at least one (1) Council member.

The term of office shall be for three (3) years or until their successors are appointed and qualified, except that the members of such Commission first appointed shall be appointed for such terms that the term of no more than two (2) members shall expire annually thereafter.

Vacancies in such Commission occurring for whatever reason shall be filled by the Mayor within forty-five (45) days and confirmed by at least one (1) Council member.

Editor's Note: Amended at time of adoption of Code, see Ch. 1. General Provisions. Art. I.

§ 11-2. Chairman; organization; rules and regulations.

- A. The Chairman of this Commission shall be appointed by the Mayor and confirmed by at least one (1) Council member.
- B. Immediately after the appointment of the members and the Chairman, they shall meet and organize by electing such other officers as may be necessary.
- C. The Commission shall have the power to adopt bylaws, rules and regulations for the proper conduct of public recreation for the town.

§ 11-3. Powers and duties.

The Recreation Commission may provide, conduct and supervise public playgrounds, athletic fields, recreation centers and other recreation facilities and activities on any of the properties owned or controlled by the town or on other properties with the consent of the owners and authorities thereof. It shall have the power to conduct or to cooperate with other agencies in conducting any form of recreation that will employ the leisure time of the people in a constructive and wholesome manner.

§ 11-4. Budget; gifts and bequests.

Annually, the Recreation Commission shall submit a budget to the town's governing body for its approval. The Commission may also solicit or receive any gifts or bequests of money or other personal property or any donation to be applied, principal or income, for either temporary or permanent use for playgrounds or other recreation purposes. However, no money received by the Commission may be spent without including that money as part of the budget submitted to the Mayor and Council for approval.

§ 11-5. Superintendent and other personnel.

The Recreation Commission shall have the power to appoint or designate someone to act as Superintendent who is trained and properly qualified for the work and such other personnel as the Commission deems proper when this position is or these positions are properly budgeted.

§ 11-6. Monthly and annual reports.

The Recreation Commission shall make full and complete monthly and annual reports to the governing body of the town and other reports from time to time as requested.

Chapter 12
(Reserved)

Chapter 13
(Reserved)

Chapter 14
(Reserved)

Chapter 15
(Reserved)

CODE OF THE TOWN OF MILLINGTON

PART II

GENERAL LEGISLATION

Chapter 16
(Reserved)

Chapter 17
(Reserved)

Chapter 18
ALCOHOLIC BEVERAGES
ARTICLE I
Public Consumption

§ 18-1. Definitions.

§ 18-2. Provisions.

§ 18-3. Exemptions.

§ 18-4. Penalties.

[HISTORY: Adopted by the Mayor and Council of the Town of Millington: Article I, 01-30-01. Amendments noted where applicable.]

§ 18-1. Definitions.

“Public Property” shall be defined as including any building, ground, park, street, highway, alley, sidewalk, station, terminal, or other structure, road, parking area located on land owned, leased or operated by the Federal Government, the State, the County, or the Town.

§ 18-2. Provisions.

It shall be unlawful for any person to consume or possess in any open container any alcoholic beverage while:

On public property, unless authorized by a governmental entity that has jurisdiction over the property;

On any mall, adjacent parking area, or other outside area of any combination of privately owned retail establishments, like shopping center, where the general public is invited for business purposes;

On any adjacent parking area or other outside area of any other retail establishment;

In any parked vehicle located on any of the places enumerated in this Section.

§ 18-3. Exemptions.

The Mayor and Council of this Town reserve the right at their discretion and in the best interests of the citizens of the Town to grant on special occasions and other events an exception to the provisions of this Article.

§ 18-4. Penalties.

Any person violating the provisions of this Chapter/Article shall be deemed guilty of a Municipal Infraction and shall upon conviction thereof be punished by a fine as outlined in the Code of the Town of Millington Chapter 2. Each day, or each separate occasion during each such day, that a violation of this Article/Chapter occurs or reoccurs shall constitute a separate offense.

Chapter 19
(Reserved)

Chapter 20
(Reserved)

Chapter 21

BRUSH, GRASS, AND WEEDS

- § 21-1. Definitions.
- § 21-2. Removal on regular schedule required.
- § 21-3. Notice to remove.
- § 21-4. Removal by Town; payment of costs.
- § 21-5. Violations and penalties

[HISTORY: Adopted by the Mayor and Council of the Town of Millington: 04-01-91. Amendments noted where applicable.]

GENERAL REFERENCES

Trees - See Chapter 69.

§ 21-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

NOXIOUS WEEDS – Any weeds, grass [eight (8) inches or higher] or deleterious, unhealthful growths or other noxious matter.

PERSON – The owner of public record of any lot or part of a lot within the Town.

TOWN – The Town of Millington.

§ 21-2. Removal on regular schedule required.

Each and every owner of the Town shall cut and remove from said lot or part of lot or shall cause to be cut and removed from said lot or part of lot noxious weeds thereon and the same shall be destroyed or removed to an appropriate and authorized dump outside the limits of the Town at least once every fifteen (15) days beginning on the 15th day of May in each year and continuing through the 15th day of September the same year during the existence of the Chapter.

§ 21-3. Notice to remove.

The Mayor and council is hereby authorized and empowered to notify, in writing, the owner of any such lot, place or area to cut, destroy, and/or remove the noxious weeds found growing, lying, or located on such owner's property or upon the sidewalk abutting the same. Such notice shall be served by registered mail and addressed to said owner or agent of said owner at his/her last known address.

§ 21-4. Removal by Town; payment of costs.

Noncompliance; removal by Town. Upon the failure, neglect or refusal of any person so notified to cut, destroy, and/or remove noxious weeds growing, lying, or located upon such person's property or upon the sidewalk abutting the same within ten (10) days after receipt of the written notice provided for in Section 21-3 of this Chapter or within five (5) days after the date of such notice in the event that the same is returned to the Town Post Office because of its inability to make delivery thereof, provided that the same was properly addressed to the last known address of such person, the Town is hereby authorized and empowered to pay for the cutting, destroying, and/or removal of such noxious weeds or to order the removal by the Town with the cost of removal to be billed to the property owner and if not paid then the amount will be added to the owner's Municipal Taxes.

Payment of costs. When the Town has affected the removal of such obnoxious weeds or has paid for their removal, the actual cost thereof, plus accrued interest at the rate of eight percent (8%) per annum from the date of the completion of the work, if not paid by such owner prior thereto shall be charged to the owner of such property on the next regular tax bill forwarded to such owner by the Town, and said charge shall be due and payable by said owner at the time of payment of such tax bill.

§ 21-5. Violations and penalties.

- A. Any person, firm or corporation violating any provisions of this Chapter shall be deemed to be guilty of a Municipal Infraction and, upon conviction thereof, shall be fined as specified in the Chapter 2 of the Town of Millington.
- B. Each day that such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

Chapter 22

BUILDING CONSTRUCTION

ARTICLE I

Standards

[A resolution adopted by the Mayor and Council of the Town of Millington 12-05-1984 provided that the Queen Anne's section of the town will follow the county BOCA Building Code. Said resolution further provided that the town follows the county policy with respect to putting in wells and sediment control. In addition, the resolution provided that the Zoning Administrator will inform the property owners in the Queen Anne's section of the town that there must be a building permit before Planning and Zoning Commission approval is issued.]

ARTICLE II

Livability Code

[Ordinance No. 8-89, adopted 08-02-1989, adopted the Kent County Livability Code. A cooperative agreement with Queen Anne's County, signed 11-01-1989, provided that the Queen Anne's County Livability Code will be applicable within the Town of Millington and enforced by the county.]

ARTICLE III

Occupancy Permits

[Ordinance No. 2006-02, adopted 06-21/2006, adopted an Occupancy Permit Requirement for Rental Housing]

GENERAL REFERENCES

Floodplains - See Chapter 34.

Sediment Control - See Chapter 53.

Stormwater Management - See Chapter 60.

Subdivision of Land - See Chapter 66.

Zoning - See Chapter 80.

ARTICLE III

OCCUPANCY PERMITS

22-III-1 Applicability.

The requirements of this article shall apply to:

Owners of real estate following the occurrence of an activity for which the issuance of a building permit under this chapter is required.

Lessors of residential real estate in accordance with the schedule set forth in 22-III-5 hereof.

22-III-2 Inspection of Rental Units.

Unless the Mayor and Council shall designate a different grouping of rental units for inspection purposes, the following shall constitute the inspection schedule for rental housing.

Biannual inspection. All rental housing units within the Town of Millington shall be inspected on a biannual basis for compliance with Building, and Property Maintenance Code standards.

Inspection in even-numbered years. In even-numbered years, all rental housing units located on the east side of Sassafras Street shall be so inspected

Inspection in odd-numbered years. In odd-numbered years, all rental housing units located on the west side of Sassafras Street shall be so inspected.

Administrative convenience. In order to alleviate the grouping of a disproportionate number of rental unit inspections in a single year, the Mayor and Council may assign one or more units to a different inspection year such that is provided in Subsections B and C above and shall notify the owners of the units so assigned not less than 30 days prior to the due date of the application as provided in Subsection E.

Inspection process. Every residential housing unit owner, whether such unit is an apartment or a single-family residence, shall make application to the Town of Millington for inspection on or before the 31st day of December of the year in which inspection is required.

22-III-3 Permit required.

It shall be unlawful to occupy or to permit the use or occupancy of any building or premises or portion thereof as described in 22-III-1 until the building or premises have been inspected and an occupancy permit issued stating that the proposed use of the building or premises conforms to the requirements of the Town Building Code and Town Property Maintenance Code.

22-III-4 Inspection Fee.

The applicant for an occupancy permit shall pay a fee for such inspection in that amount established from time to time by resolution of the Mayor and Council of Millington.

22-III-5 Violations and Penalties.

Any person who shall occupy property without an occupancy permit where the same is required by this chapter shall be guilty of a municipal infraction. Each day that occupancy without a required permit occurs shall constitute a separate offense.

Any rental property owner who shall fail to make application to the Town of Millington for the biannual inspection required by this chapter shall be deemed guilty of a municipal infraction.

Once inspection shall have been made by the Town Code Enforcement Inspector, such property owner shall have 30 days to correct all violations found by the Inspector that are not subject to the emergency provisions of Section 109 of the 2003 International Property Maintenance Code or its successor code. Each day more than 30 days after the inspection the Town Code Enforcement Inspector shall have made that no emergency violations continue shall constitute a separate offense. Emergency violations shall be governed by Section 109 of the 2003 International Property Maintenance Code or its successor code.

Chapter 23
(Reserved)

Chapter 24
(Reserved)

Chapter 25
(Reserved)

Chapter 26

CURFEW

§ 26-1. Curfew.

§ 26-2. Prohibitions

§ 26-3. Penalties.

[HISTORY: Adopted by the Mayor and Council of the Town of Millington 02-01-1971 as Ordinance No. 115.
Amendments noted where applicable.]

§ 26-1. Curfew.

It shall be unlawful for any minor under the age of sixteen (16) years to loiter, idle, wander, stroll, or play in or upon the public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots, or other unsupervised places between the hours of:

Friday between the hours of 10:00 PM and 05:30 AM Saturday Morning.

Saturday between the hours of 10:00 PM and 05:30 AM Sunday Morning.

Sunday thru Thursday between the hours of 9:00 PM and 05:30 AM.

§ 26-2. Prohibitions.

It shall be unlawful for the parent, guardian, or other adult person having the care and custody of a minor under the age of sixteen (16) years to knowingly permit such minor to violate curfew in or upon public places as defined and enumerated in Section 1 of this Article/Chapter.

The provisions of this Section do not apply to a minor accompanied by his or her parent, guardian, or other responsible adult person having the care and custody of the minor, or where the minor is upon an emergency errand or legitimate business directed by his or her parent, guardian, or other responsible adult person having the care and custody of the minor.

§ 26-3. Penalties.

Any parent, guardian, or other adult in violation of this Article/Chapter shall be guilty of a Municipal Infraction and shall be fined as follows:

1 st Offense	-	Written Warning
2 nd Offense	-	Fine of \$100.00
3 rd Offense	-	Fine of \$250.00 and referral to Juvenile Services for a Determination of a Child in Need of Supervision.
4 th Offense	-	Fine of \$500.00 dollars
Each Subsequent Offense	-	Fine of \$1000.00 per offense.

Chapter 27

NUISANCE

§ Article 1. Unsafe Premises

[History: Adopted by the Mayor and Council of the Town of Millington 02-05-1987 as Ordinance No.1-87.]

§ Article 1. Unsafe Premises

§1-1 Purpose:

It is the purpose of this article and regulations passed pursuant thereto to secure and protect the general public from premises conditions found to be dangerous or detrimental to human life, limb, health, property, or safety.

§1-2 Scope and Application:

The provisions of this article are remedial and shall apply to the condition of all premises and to use, occupancy, structural condition, removal and demolition of all structures and appurtenances connected or attached thereto irrespective of their date of construction, alteration, repair or installation.

§1-3 Intent:

Except as to emergency circumstances, this article shall be enforced only after violations have first been brought to the attention of the owner by the issuance of a warning notice and a reasonable time and full opportunity for voluntary compliance has been afforded to the owner.

§1-4 Definitions:

For the purpose of this article and unless otherwise expressly stated, the following words, phrases and their derivatives shall have the meaning set forth in this Section; where terms are not defined under the provisions of this article or under the provisions of any building, fire, safety, health, plumbing, or electrical code or ordinance enforceable in Kent County, such terms shall have ascribed to them their ordinarily accepted meanings in the context utilized.

TOWN – means the incorporated town of Millington, Maryland.

DWELLING – when used in this article without other qualifications means a structure used whether occupied or not for residential purpose.

EGRESS – means an exit or a place or a means to leave a dwelling unit by continuous, unobstructed travel.

ENFORCEMENT OFFICER – means THE HEALTH OFFICER FOR KENT COUNTY or any person appointed or authorized the HEALTH OFFICE FOR KENT COUNTY, to exercise, under the Enforcement officer's supervision, any or all of the responsibilities charged to the Enforcement Officer by the provisions of the article.

GARBAGE – means animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of foods exclusive of recognized industrial by-products from canneries and other food processing industries, and human or animal feces.

OWNER – means a natural person, his heirs, executors, administrators, or assigns and also includes a firm, partnership, or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

PREMISES – means a lot, plot, or parcel of land including the structures, dwellings, and dwelling units thereon.

REMOVE – means taking away and off the premises, as well as the removal of backfill of all excavations and openings in the earth as the result of demolition.

REPAIR – means the replacement of existing work for the purpose of its maintenance.

REQUIRED – means “mandatory” in the imperative sense.

RUBBISH – means all solid waste other than garbage.

STRUCTURE – means anything which is built or constructed and which is fastened, anchored, or rests upon the ground.

§1-5 Public Nuisance.

A premises or structure may be found and declared by the Enforcement Officer to be a public nuisance if it:

- (1) constitutes a fire hazard,
- (2) has inadequate egress,
- (3) is structurally unsafe and unstable and is likely to partially or completely collapse,
- (4) constitutes a hazard to safety or health by reason of unsafe equipment, disrepair, dilapidation, obsolescence, or abandonment,
- (5) contributes to including but not limited to water contamination, vermin, or rodent infestation, the accumulation of garbage, rubbish, and human or animal feces, or undue exposure of persons to the elements.

It shall be unlawful to refuse or neglect or otherwise to fail to abate, by repair improvement or removals, any condition declared as a public nuisance.

§1-6 Inspections.

The Enforcement Officer shall make such inspections as are necessary to determine the existence of a public nuisance. He shall maintain a record of every such inspection.

§1-7 Right of Entry for Inspections.

- (a) The Enforcement Officer, or a duly appointed and authorized representative may enter any structure, dwelling, or premise in the Town to perform any duty charged to the Enforcement Officer by this article provided the Enforcement Officer shall give notice in writing of the day of the inspection to the owner, as shown by the tax assessment records, and occupant of the premises, which said notice shall be mailed ten (10) days in advance of the inspection date to the last known address of both of the above.
- (b) If the occupant or the owner refuses or fails to allow an entry and inspection or if a life threatening emergency situation exists and entry is order for such entry. The order will

contain a written application signed and sworn to by the Enforcement Officer setting forth the purpose of the entry and the address and location of the premises to be entered. Upon such application, if it appears to any Judge of the District Court for Kent County that there is provision of this article, then such Judge may forthwith issue an order directed to the Enforcement Officer authorizing an entry to such premises. The order shall state that any entry made there under shall be made within thirty (30) days from the date of the issuance thereof and after the expiration of said thirty day period said order shall expire.

- (c) Each occupant of a premise shall give the owner access to any part of such premises at all reasonable times upon reasonable notice for the purpose of making repairs or taking such action as necessary to effect compliance with the provisions of this article or any lawful order issued pursuant to the provisions of this article.

§1-8 Warning Notices.

- (a) Except as to the emergency circumstances, the Enforcement Officer upon first determining that a violation of this article exists, shall issue a written warning notice advising the owner of the property in violation of the following:
 - (1) The nature of the violation;
 - (2) Repair and improvement necessary to abate the public nuisance;
 - (3) A reasonable time not to exceed 120 days to achieve voluntary compliance;
 - (4) The date after which a Notice to Vacate and to Repair or Remove will be issued if voluntary compliance is not achieved.
 - (5) An explanation of the owner's rights of appeal under the provisions of this article.
- (b) A warning notice need not be issued when conditions constitute an emergency and present an imminent or immediate threat of danger to human life or limb, health, property, or the public safety.

§1-9 Notices to vacate and to repair or remove.

The Enforcement Officer shall issue a written Notice to Vacate and to Repair or Remove whenever:

- (a) An emergency circumstance exists and presents an imminent or immediate threat of danger to human life or limb, health, property, or the public safety.
- (b) Voluntary compliance with a warning notice is not achieved with the time indicated.

This notice shall require the owner to vacate the premises within a stated time and, within sixty (60) days, either to complete specific repairs, or improvements or to remove the public nuisance of any portion thereof, including to remove all debris and to backfill all excavations and openings in the earth, or otherwise to comply with other applicable provisions of this article. Upon evidence of a good faith effort to commence compliance with such notice, the Enforcement Officer may, in his sole discretion, grant a reasonable extension of time to complete compliance.

§1-10 Posting of public Nuisances.

Upon issuance of a Notice to Vacate and to Repair or Remove, the Enforcement Officer shall cause to be posted, at each entrance of the premises declared to be a public nuisance, the following notice: "THESE PREMISES ARE UNSAFE AND HAVE BEEN DECLARED TO BE PUBLIC NUISANCE; USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE "MAYOR AND TOWN COUNCIL.""

Such notice shall remain posted until the required repairs are made or removal is completed. It shall be unlawful for any person, firm, or corporation or their agents, or other servants to remove such notice without written permission of the Enforcement Office, or for any person to trespass upon the premises except for the purpose of making the required repairs or of removing the public nuisance.

§1-11 Service.

Whenever the Enforcement Officer shall issue a Warning Notice or a Notice to Vacate and to Repair or Remove, he shall give such notice to the owner of record or agent, and to the person in control of the premises, by return receipt registered or certified mail, or by personal service through the Sheriff of Kent County or through other legally accepted means. Service on nonresidents and persons who cannot be found in the County shall be made:

- (1) By sending a copy of such notice to the owner of record by register or certified mail to such owner's last known address;
- (2) by publishing such notice to the owner of record by register or certified mail to such owner's last known address,
- (3) by publishing such notice twice in a newspaper of general circulation in the County and
- (4) by posting such notice on the property concerning in a conspicuous manner.

Effective service shall be deemed to have been made on the last day to occur of such mailing, publication, and posting.

§1-12 Abatement by Town at owner's expense.

In the event that the owner of record fails to comply with a Notice to Vacate and to Repair or Remove within sixty (60) days of the effective service of the notice, or in the event that the premises has been posted as unsafe and there exists an emergency circumstance which presents an imminent or immediate threat of danger to human life or limb, health, property, or public safety, the Enforcement Officer may enter the premises concerned and cause the same to be repaired or removed and any dangerous conditions to be remedied, as to case may be at the expense of the owner of record.

§1-13 Collection of expenses:

Of the owner of record fails to repay the Town for expenses incurred under Section 1-11 within thirty (30) days after written demand has been mailed to such owner's last known address the Enforcement Officer shall notify the Town Treasurer and such expenses shall be charged to the property, shall constitute a lien thereon, shall be entered on the tax records kept by the Town Treasurer and shall be collectible as are taxes in arrears under the provision of Section 9-12 of the Kent County Code.

§1-14 Penalty for violations.

Any person who shall violate any provision of this article shall, upon conviction thereof, be subject to a civil penalty of not more than One Thousand (\$1,000) Dollars at the discretion of the Court. Each day that a violation continues after due notice of the penalty has been effectively served shall be deemed a separate offense.

§1-15 Prosecution.

In case any notice as provided in Section 1-9 or 1-10 is not promptly complied with, the Enforcement Officer may institute an appropriate action in a court of competent jurisdiction:

- (1) to restrain, correct, or remove the violation;
- (2) to prevent the trespass, occupation, or use of the structure in violation of, or not in compliance with, the provisions of this article.
- (3) to order the payment of the civil penalty authorized by this article, or
- (4) to order such other relief as shall be just or equitable to secure and protect the general public from premises conditions found to be dangerous or detrimental to human life, limb, health, property, or safety.
- (5) ascertain costs, including attorney's fees may be charged to the owner including the record owner as well as any other person prosecuted under this section. As such costs, fees, and penalties may be charged to the property and constitute a lien as provided in 1-13 on this Ordinance.

§1-16 Filing of judicial appeals.

Upon effective service of a Notice to Vacate and to Repair or Remove, any person may appeal such notice within thirty (30) days of the date thereof to any court of competent jurisdiction. Such appeal shall stay neither abatement by the town nor the requirement to vacate the premises and to refrain from trespassing thereupon except for the purpose of making the required repairs or of removing the public nuisance, unless a stay shall be granted by the court to which such appeal has been made or by the Enforcement Officer.

Chapter 28
(Reserved)

Chapter 29

ANIMALS

- § 29-1. Definitions.
- § 29-2. Proper confinement.
- § 29-3. Public nuisance animals.
- § 29-4. Confinement of animals in heat.
- § 29-5. Enforcement authority.
- § 29-6. Impoundment.
- § 29-7. Redemption of impounded animals.
- § 29-8. Licensing of dogs.
- § 29-9. Permits and licenses for kennels and pet shops.
- § 29-10. Exemptions of licensing and permit regulations.
- § 29-11. Citations.
- § 29-12. Penalties.

The purpose of this Ordinance is to regulate and establish guidelines for the possession of pets. Those animals not considered domesticated or are not pets are not allowed in the Town of Millington. This ordinance does not allow poultry, other edible fowl, swine, other farm animals, and dangerous wildlife.

§ 29-1. Definitions.

AT LARGE - Off premises of the owner of the animal, and not under the immediate control of a human being either by leash, cord, chain, or otherwise.

DOG - Both male and female.

ANIMAL CONTROL SHELTER - Any facility designated by the Town of Millington for the detention of dogs.

ANIMAL CONTROL OFFICER - That person or an authorized representative, designated as such by the Town of Millington, to perform duties described by this Ordinance.

DOMESTICATED ANIMAL/PET - Animals which by long and continued association with humans have become thoroughly tamed and domesticated. These are limited to the following: cats, dogs, rabbits, guinea pigs, hamsters, gerbils, fish, reptiles, and caged birds. These animals are only intended to be pets and domesticated animal shall not mean animals kept for commercial use.

HEALTH OFFICER - the duly appointed County Health Officer or an authorized representative.

KENNEL - An establishment wherein any person, group of persons, or corporation engages in the business of boarding, breeding, buying, grooming, or selling dogs, or wherein at any one time there are kept or harbored five or more dogs/cats over six months old for a business or commercial purpose, or at which more than one litter of puppies/kittens per year is offered for sale.

KENNEL, COMMERCIAL - Any premises wherein any person, persons, partnership or corporation keeps, buys, sells, boards, trains for a fee, breeds more than two litters a year, or engages in any activity involving dogs/cats for the purpose of generating income.

OWNER - Any person, partnership, or corporation owning, keeping, or harboring domesticated animals.

PET SHOP - An establishment which offers to sell two or more species of live animals with intent that they be kept as pets.

PUBLIC NUISANCE ANIMAL - Any animal which unreasonably annoys humans; endangers the life or health of other animals or persons; or gives offense to human senses; or which substantively interferes with the rights of citizens to the enjoyment of life or property. The term public nuisance animal shall mean and include, but is not limited to, any animal which:

Damages property of anyone other than its owner, or

Molests pedestrians; or

Chases vehicles; or

Excessively makes disturbing noises, including but not limited to, continued and repeated howling, barking, whining, or other disturbances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;

Attacks other domesticated animals;

Is repeatedly found at large;

Has bit two or more persons; or

Has been designated by the Animal Control Officer to be a public nuisance animal by virtue of being a menace to the public health, welfare or safety.

§ 29-2. Proper confinement.

The owner of any dog, cat, or other domesticated animal within the Town shall keep the same securely upon his or her own premises or under the control of said owner by means of a leash, cord, chain, or otherwise. Any dogs, cats, or other domesticated animals found at large within the corporate limits of the Town shall be forthwith impounded and subject to redemption or disposal in accordance with Sections 4 and 5 of this Chapter.

Dogs accompanied by the owner or trainer and being used or trained for hunting, being followed by persons on foot, horseback, or in vehicles, are exempt from the provisions of this Section.

§ 29-3. Public nuisance animals.

Upon the written/verbal complaint of any person to the Animal Control Officer that a dog or other domesticated animal is a public nuisance animal as defined herein, the Animal Control Officer, who shall be deputized as a Deputy Sheriff by the Sheriff of Kent County, shall issue a summons to the owner or keeper of such animal to appear before the District Court of Kent County.

Upon proof that the animal disturbs the peace and quiet of any neighborhood in an inhabited area or is a public nuisance animal as herein defined, the District Court shall order the owner or keeper to deliver up the offending animal to the Animal Control Officer to be destroyed in the most humane manner possible, unless said owner removes the animal permanently from the neighborhood.

If the owner or keeper of said animal fails to comply with the District Court's order, then it is the duty of the Animal Control Officer or the Officer's duly authorized agents, to seize the animal wherever it may be found and cause it to be destroyed.

Notwithstanding the foregoing provisions, the barking of hunting dogs in pursuit of game shall not be considered a disturbance of the public peace for the purposes hereof.

The owner of every dog shall be responsible for the removal of any excrement deposited by his/her dog (s) or other domesticated animal on public property, recreation areas, or private property other than the owner's. The owner of every dog shall not allow excrement deposited by animals to accumulate on his/her property so as to cause a health hazard or become a public nuisance.

§ 29-4. Confinement of animals in heat.

When a female dog or cat is in estrus or in a condition commonly known as "in heat", its owner or custodian shall prevent its contact with another dog or cat, or the attraction of dogs or cats to the premises in which the female dog or cat is kept, except for intentional breeding purposes.

§ 29-5. Enforcement authority.

The Town hereby designates and appoints the Director of the Humane Society of Kent County, Inc. to be the Animal Control Officer for the Town and designates and appoints the Humane Society of Kent County, Inc. to be the Animal Control Shelter for the Town, that section of Town that lies in Kent County. The Town hereby designates and appoints the Director of Queen Anne's County Animal Control to be the Animal Control Officer for the Town and designates and appoints the Queen Anne's County Animal Control to be the Animal Control Shelter for the Town, that section of Town that lies in Queen Anne's County.

The Director of the Humane Society of Kent County, Inc. and the Director of the Queen Anne's County Animal Control and their designated employees and agents are hereby authorized to perform those functions provided for in this Chapter.

The Animal Control Officer shall have the right to enter upon any premises at all reasonable times for the purpose of discharging the duties imposed upon him/her by this Chapter where there is reasonable belief that a violation of this Article has been committed.

§ 29-6. Impoundment.

Any dog, found at large with or without a valid license tag shall, except as provided in Section 29-2 B of this Chapter, shall be impounded by the Animal Control Officer and taken to the ~~Dog~~ Animal Control Shelter to be confined in a humane manner for a period of not less than five (5) days unless sooner claimed and redeemed by its owner.

The Animal Control Officer shall use whatever humane means necessary to catch the animal and is hereby relieved from any liability from harm or injury to the animal.

At the end of five days as indicated above, unclaimed animals shall be deemed abandoned and become the property of the Town and shall be disposed of in the manner prescribed by the Animal Control Officer and approved by the Town.

§ 29-7. Redemption of impounded animals.

Upon impounding an animal, the Animal Control Officer shall cause prompt and reasonable effort to be made to locate and notify the animal's owner.

The owner of an impounded animal shall be entitled to redeem such animal, except as hereafter provided, upon compliance with the license provisions of Section 29-8 of this Chapter, payment of redemption fees, and proof of ownership.

Redemption fees as provided in this Section shall be normal and customary charges as imposed at the animal control shelter for board and other reasonable services rendered, including necessary shots.

When dogs are found running at large and their ownership is known, such dogs if they are legally licensed, need not be impounded by the Animal Control Officer. The Animal Control Officer may, at his or her discretion, notify the owner of said animal, who can reclaim the animal upon paying the redemption fee without the impounding fee, if the redemption is made the same day.

§ 29-8. Licensing of dogs.

It shall be unlawful for any person to own, keep, or harbor any dog over the age of six months within the Town, except a dog included as part of a kennel, unless such dog is licensed as herein provided.

Pursuant to Section 2-2 of the Kent County Code and Section 64-2 of the Queen Anne's County Code, applications for dog licenses in the Town shall be presented annually on or before the first day of July of each year to the Humane Society of Kent County, Queen Anne's County Animal Control or to the appropriate County Treasurer, stating the name and address of the dog's owner, the name, breed, color, age, and sex of the dog. Upon payment of the license fee, a receipt and numbered identification tag shall be issued to the owner. The annual license fee shall be determined by the Kent County Commissioners or Queen Anne's County Commissioners, whichever County is appropriate.

The licensing period shall begin with the first day of July in each year and shall run for one year. The renewal period will extend from thirty days prior to, and up to sixty days after, the start of the fiscal year.

At the time of application for license, a certification of proof of rabies inoculation of the dog for which the license is sought must be presented.

A dog owner shall obtain a duplicate metal license tag to replace any lost tag upon application to the Humane Society of Kent County or Queen Anne's County Animal Control and payment of a replacement fee.

If there is a change in ownership of a dog during the license year, the new owner may have the current license transferred to his or her name upon payment of a transfer fee.

It shall be unlawful for any person to use for any dog a license receipt or license tag issued for another dog.

The metal dog license tag shall be securely fastened to the dog's choke chain, collar, or harness and worn by the dog at all times unless such dog is engaged in supervised hunting or other sport where a collar would endanger the dog's safety or adversely affect its hunting or sport purpose.

Any person, partnership, association, or corporation operating a private (non-commercial) kennel within the Town must obtain a valid kennel license from the Humane Society of Kent County or Queen Anne's County Animal Control whichever County is appropriate. The license shall state the name and address of the kennel operator, location of the kennel, and the maximum number of dogs to be housed in the kennel. A valid rabies certificate, issued by a licensed veterinarian or anti-rabies clinic, as well as a description of the breed(s), age, sex, must be provided for each dog housed in the kennel.

§ 29-9. Permits and licenses for kennels and pet shops.

Pursuant to Section 2-3 of the Kent County Code and Section 64-3 of the Queen Anne's County Code, it shall be unlawful for any person, partnership, association, or corporation to operate a commercial kennel within the Town without possessing a valid permit and license. The application for such permit and license may be obtained from the Humane Society of Kent County or Queen Anne's County Animal Control. Initial and annual fees for kennel operators and pet shop operators will be determined by the County Commissioners of Kent County or the County Commissioners of Queen Anne's County.

Kennel permits and pet shop permits may be revoked by the Animal Control Officer upon the failure of the owner or owners to comply with the provisions of the Humane Society of Kent County or Queen Anne's County Animal Control pursuant to Section 2-3 (c) of the Kent County Code or Section 64-3 of the Queen Anne's County Code.

§ 29-10. Exemptions of licensing and permit regulations

Veterinary hospitals or clinics, research facilities where bona fide medical or related research (dental, veterinary, pharmaceutical, or biological) is being conducted, humane shelters and other animal establishments operated by State or local governments or which are licensed by Federal law are excluded from kennel licensing and permit requirements of this Chapter.

The licensing requirements of this Chapter shall not apply to any dog belonging to a non-resident of the Town and kept within the boundaries of the Town for not longer than ninety (90) days, and while kept within the Town meets all other requirements of this Chapter.

Owners of dogs used as Seeing Eye dogs/companion dogs or as governmental police dogs are exempt from those fee requirements imposed by Section 29-8 of this Chapter.

§ 29-11. Citations.

Whenever a person is apprehended by a Animal Control Officer and/or any law enforcement officer for violating any provisions of this Article/Chapter, the officer shall prepare and sign a written citation containing a notice to appear in Court, the name and address of the person charged, appropriate license numbers, if any, the offense charged and the time and place the person shall appear in Court as provided for in Section 2-10 of the Kent County Code or Section 64-10 of the Queen Anne's County Code.

§ 29-12. Penalties.

Any person violating the provisions of this Chapter shall be deemed guilty of a Municipal Infraction and shall upon conviction thereof be punished by a fine as outlined in the Code of the Town of Millington Chapter 2. Each day, or each separate occasion during each such day, that a violation of this Article occurs or reoccurs shall constitute a separate offense.

Chapter 30
(Reserved)

Chapter 31
(Reserved)

Chapter 32
(Reserved)

Chapter 33
(Reserved)

Chapter 34
Millington, Maryland Floodplain Management Ordinance (Nontidal)

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FLOODPLAIN MANAGEMENT ORDINANCE MILLINGTON, MARYLAND

SECTION 1.0 GENERAL PROVISIONS

1.1 Findings

The Federal Emergency Management Agency has identified *special flood hazard areas* within the boundaries of the Town of Millington. *Special flood hazard areas* are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. *Structures* that are inadequately elevated, improperly *floodproofed*, or otherwise unprotected from flood damage also contribute to flood losses.

The Town of Millington, by resolution, agreed to meet the requirements of the National Flood Insurance Program and was accepted for participation in the program on November 3, 1982. As of that date, or as of November 3, 1982, the initial effective date of the Town of Millington *Flood Insurance Rate Map*, all *development* and *new construction* as defined herein, are to be compliant with these regulations.

1.2 Statutory Authorization

The Maryland General Assembly, in Md. Code Ann., Land Use Article, Title 4, has established as policy of the State that the orderly development and use of land and structures requires comprehensive regulation through the implementation of planning and zoning control, and that planning and zoning controls shall be implemented by local government in order to, among other purposes, secure the public safety, promote health and general welfare, and promote the conservation of natural resources. Therefore, the Mayor and Council of the Town of Millington does hereby adopt the following floodplain management regulations.

1.3 Statement of Purpose

It is the purpose of these regulations to promote the public health, safety and general welfare, and to:

- (A) Protect human life, health and welfare;
- (B) Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future;
- (C) Minimize *flooding* of water supply and sanitary sewage disposal systems;
- (D) Maintain natural drainage;

- (E) Reduce financial burdens imposed on the *community*, its governmental units and its residents, by discouraging unwise design and construction of *development* in areas subject to *flooding*;
- (F) Minimize the need for rescue and relief efforts associated with *flooding* and generally undertaken at the expense of the general public;
- (G) Minimize prolonged business interruptions;
- (H) Minimize damage to public facilities and other utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges;
- (I) Reinforce that those who build in and occupy *special flood hazard areas* should assume responsibility for their actions;
- (J) Minimize the impact of *development* on adjacent properties within and near *flood-prone* areas;
- (K) Provide that the *flood* storage and conveyance functions of *floodplains* are maintained;
- (L) Minimize the impact of *development* on the natural and beneficial functions of *floodplains*;
- (M) Prevent *floodplain* uses that are either hazardous or environmentally incompatible; and
- (N) Meet community participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations (CFR) at 44 CFR Section 59.22.

1.4 Areas to Which These Regulations Apply

These regulations shall apply to all *special flood hazard areas* within the jurisdiction of the Town of Millington, and identified in Section 1.5.

1.5 Basis for Establishing Special Flood Hazard Areas and BFEs

- (A) For the purposes of these regulations, the minimum basis for establishing *special flood hazard areas* and *base flood elevations* is the *Flood Insurance Study* for Kent County, Maryland and Incorporated Areas dated June 9, 2014, or the most recent revision thereof, and the accompanying *Flood Insurance Rate Map(s)* and all subsequent amendments and revisions to the *FIRMs*. The *FIS* and *FIRMs* are retained on file and available to the public at the 402 Cypress Street, Millington, MD].
- (B) Where field surveyed topography or digital topography indicates that ground elevations are below the closest applicable *base flood elevation*, even in areas not delineated as a special flood hazard on the *FIRM*, the area shall be considered as *special flood hazard area*.
- (C) To establish *base flood elevations* in *special flood hazard areas* that do not have such elevations shown on the *FIRM*, the Floodplain Administrator may provide the best available data for *base flood elevations*, may require the applicant to obtain available information from Federal, State or other sources, or may require the applicant to

establish *special flood hazard areas* and *base flood elevations* as set forth in Section 3.3, Section 3.4, and Section 3.5 of these regulations.

1.6 Abrogation and Greater Restrictions

These regulations are not intended to repeal or abrogate any existing regulations and ordinances, including subdivision regulations, zoning ordinances, *building codes*, or any existing easements, covenants, or deed restrictions. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall govern.

1.7 Interpretation

In the interpretation and application of these regulations, all provisions shall be:

- (A) Considered as minimum requirements;
- (B) Liberally construed in favor of the governing body; and,
- (C) Deemed neither to limit nor repeal any other powers granted under State statutes.

Notes referencing publications of the Federal Emergency Management Agency refer to the most recent edition of those publications, are intended only as guidance, and do not bind or alter the authority of the Floodplain Administrator to interpret and apply these regulations.

1.8 Warning and Disclaimer of Liability

The degree of *flood* protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur, and *flood* heights may be increased by man-made or natural causes. These regulations do not imply that land outside of the *special flood hazard areas* or uses that are permitted within such areas will be free from *flooding* or *flood* damage.

These regulations shall not create liability on the part of the Town of Millington, any officer or employee thereof, the Maryland Department of the Environment (MDE) or the Federal Emergency Management Agency (FEMA), for any *flood* damage that results from reliance on these regulations or any administrative decision lawfully made hereunder.

1.9 Severability

Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in these regulations shall be interpreted to have the meaning they have in common usage and to give these regulations the most reasonable application.

Accessory Structure: A building or *structure* on the same lot with, and of a nature customarily incidental and subordinate to, the principal *structure*. For the purposes of these regulations, an accessory structure shall be used solely for parking of vehicles and limited storage.

Agreement to Submit an Elevation Certificate: A form on which the applicant for a permit to construct a building or *structure*, to construct certain horizontal additions, to place or replace a *manufactured home*, to substantially improve a building, *structure*, or *manufactured home*, agrees to have an *Elevation Certificate* prepared by a *licensed* professional engineer or *licensed* professional surveyor, as specified by the Floodplain Administrator, and to submit the certificate:

- (1) Upon placement of the *lowest floor* and prior to further vertical construction; and
- (2) Prior to the final inspection and issuance of the Certificate of Occupancy.

Alteration of a Watercourse: For the purpose of these regulations, alteration of a watercourse includes, but is not limited to widening, deepening or relocating the channel, including excavation or filling of the channel. Alteration of a watercourse does not include construction of a road, bridge, culvert, dam, or in-stream pond unless the channel is proposed to be realigned or relocated as part of such construction.

Area of Shallow Flooding: A designated Zone AO on the *Flood Insurance Rate Map* with a 1-percent annual chance or greater of *flooding* to an average depth of one to three feet where a clearly defined channel does not exist, where the path of *flooding* is unpredictable, and where velocity flow may be evident; such *flooding* is characterized by ponding or sheet flow.

Base Building: The building to which an addition is being added. This term is used in provisions relating to additions.

Base Flood: The *flood* having a one-percent chance of being equaled or exceeded in any given year; the base flood also is referred to as the 1-percent annual chance (100-year) *flood*.

Base Flood Elevation: The water surface elevation of the *base flood* in relation to the datum specified on the *community's Flood Insurance Rate Map*. In *areas of shallow flooding*, the base flood elevation is the highest adjacent natural grade elevation plus the depth number specified in feet on the *Flood Insurance Rate Map*, or at least four (4) feet if the depth number is not specified.

Basement: Any area of the building having its floor subgrade (below ground level) on all sides.

Building Code(s): The effective Maryland Building Performance Standards (COMAR 05.02.07), including the building code, residential code, and existing building code.

Community: A political subdivision of the State of Maryland (county, city or town) that has authority to adopt and enforce floodplain management regulations within its jurisdictional boundaries.

Critical and Essential Facilities: Buildings and other *structures* that are intended to remain operational in the event of extreme environmental loading from flood, wind, snow or earthquakes. [Note: See Maryland Building Performance Standards, Sec. 1602 and Table 1604.5.] Critical and essential facilities typically include hospitals, fire stations, police stations, storage of critical records, facilities that handle or store hazardous materials, and similar facilities.

Declaration of Land Restriction (Nonconversion Agreement): A form signed by the owner to agree not to convert or modify in any manner that is inconsistent with the terms of the permit and these regulations, certain *enclosures below the lowest floor* of elevated buildings and certain *accessory structures*. The form requires the owner to record it on the property deed to inform future owners of the restrictions.

Development: Any manmade change to improved or unimproved real estate, including but not limited to buildings or other *structures*, placement of *manufactured homes*, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevation Certificate: FEMA form on which surveyed elevations and other data pertinent to a property and a building are identified and which shall be completed by a *licensed* professional land surveyor or a *licensed* professional engineer, as specified by the Floodplain Administrator. When used to document the height above grade of buildings in *special flood hazard areas* for which *base flood elevation* data are not available, the Elevation Certificate shall be completed in accordance with the instructions issued by FEMA. [Note: FEMA Form 086-0-33 and instructions are available online at <http://www.fema.gov/library/viewRecord.do?id=1383>.]

Enclosure Below the Lowest Floor: An unfinished or *flood-resistant* enclosure that is located below an elevated building, is surrounded by walls on all sides, and is usable solely for parking of vehicles, building access or storage, in an area other than a *basement* area, provided that such enclosure is built in accordance with the applicable design requirements specified in these regulations. Also see “Lowest Floor.”

Federal Emergency Management Agency (FEMA): The Federal agency with the overall responsibility for administering the National Flood Insurance Program.

Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters, and/or

- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Damage-Resistant Materials: Any construction material that is capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Note: See NFIP Technical Bulletin #2, “Flood Damage-Resistant Materials Requirements.”]

Flood Insurance Rate Map (FIRM): An official map on which the Federal Emergency Management Agency has delineated *special flood hazard areas* to indicate the magnitude and nature of *flood* hazards, to designate applicable flood zones, and to delineate floodways, if applicable. FIRMs that have been prepared in digital format or converted to digital format are referred to as Digital FIRMs (DFIRM).

Flood Insurance Study (FIS): The official report in which the Federal Emergency Management Agency has provided *flood* profiles, *floodway* information, and the water surface elevations.

Flood Opening: A flood opening (non-engineered) is an opening that is used to meet the prescriptive requirement of 1 square inch of net open area for every square foot of enclosed area.

An engineered flood opening is an opening that is designed and certified by a *licensed* professional engineer or *licensed* architect as meeting certain performance characteristics, including providing automatic entry and exit of floodwaters; this certification requirement may be satisfied by an individual certification for a specific structure or issuance of an Evaluation Report by the ICC Evaluation Service, Inc. [Note: See NFIP Technical Bulletin #1, “Openings in Foundation Walls and Walls of Enclosures.”]

Flood Protection Elevation: The *base flood elevation* plus two (2) feet of freeboard. Freeboard is a factor of safety that compensates for uncertainty in factors that could contribute to *flood* heights greater than the height calculated for a selected size *flood* and *floodway* conditions, such as wave action, obstructed bridge openings, debris and ice jams, climate change, and the hydrologic effect of urbanization in a watershed.

Flood Protection Setback: A distance measured perpendicular to the top of bank of a *watercourse* that delineates an area to be left undisturbed to minimize future *flood* damage and to recognize the potential for bank erosion. Along *nontidal waters of the State*, the flood protection setback is:

- (1) 100 feet, if the *watercourse* has *special flood hazard areas* shown on the *FIRM*, except where the setback extends beyond the boundary of the flood hazard area; or
- (2) 50 feet, if the *watercourse* does not have *special flood hazard areas* shown on the *FIRM*.

Flood Zone: A designation for areas that are shown on *Flood Insurance Rate Maps*:

- (1) **Zone A:** *Special flood hazard areas* subject to inundation by the 1-percent annual chance (100-year) *flood*; *base flood elevations* are not determined.

- (2) **Zone AE and Zone A1-30:** *Special flood hazard areas* subject to inundation by the 1-percent annual chance (100-year) *flood*; *base flood elevations* are determined; *floodways* may or may not be determined.
- (3) **Zone AH and Zone AO:** *Areas of shallow flooding*, with *flood* depths of 1 to 3 feet (usually areas of ponding or sheet flow on sloping terrain), with or without BFEs or designated *flood* depths.
- (4) **Zone B and Zone X (shaded):** Areas subject to inundation by the 0.2-percent annual chance (500-year) *flood*; areas subject to the 1-percent annual chance (100-year) *flood* with average depths of less than 1 foot or with contributing drainage area less than 1 square mile; and areas protected from the *base flood* by levees.
- (5) **Zone C and Zone X (unshaded):** Areas outside of Zones designated A, AE, A1-30, AO, VE, V1-30, B, and X (shaded).
- (6) **Zone VE and Zone V1-30:** *Special flood hazard areas* subject to inundation by the 1-percent annual chance (100-year) *flood* and subject to high velocity wave action.

Floodplain: Any land area susceptible to being inundated by water from any source (see definition of “Flood” or “Flooding”).

Floodproofing or Floodproofed: Any combination of structural and nonstructural additions, changes, or adjustments to buildings or *structures* which reduce or eliminate *flood* damage to real estate or improved real property, water and sanitary facilities, *structures* and their contents, such that the buildings or *structures* are watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. [Note: State regulations at COMAR 26.17.04.11(B)(7) do not allow new nonresidential buildings in *nontidal waters of the State* to be floodproofed.]

Floodproofing Certificate: FEMA form that is to be completed, signed and sealed by a *licensed* professional engineer or *licensed* architect to certify that the design of *floodproofing* and proposed methods of construction are in accordance with the applicable requirements of Section 5.5(B) of these regulations. [Note: FEMA Form 086-0-34 is available online at <http://www.fema.gov/library/viewRecord.do?id=1600>.]

Floodway: The channel of a river or other *watercourse* and the adjacent land areas that must be reserved in order to pass the *base flood* discharge such that the cumulative increase in the water surface elevation of the *base flood* discharge is no more than a designated height. When shown on a *FIRM*, the floodway is referred to as the “designated floodway.”

Functionally Dependent Use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water; the term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship

building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest Adjacent Grade: The highest natural elevation of the ground surface, prior to construction, next to the proposed foundation of a *structure*.

Historic Structure: Any *structure* that is:

- (1) Individually listed in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on the Maryland Inventory of Historic Properties maintained by the Maryland Historical Trust; or
- (4) Individually listed on the inventory of historic places maintained by the Town of Millington whose historic preservation program has been certified by the Maryland Historical Trust or the Secretary of the Interior.

Hydrologic and Hydraulic Engineering Analyses: Analyses performed by a *licensed* professional engineer, in accordance with standard engineering practices that are accepted by the Maryland Department of the Environment (Nontidal Wetlands & Waterways) and FEMA, used to determine the *base flood*, other frequency floods, *flood* elevations, *floodway* information and boundaries, and *flood* profiles.

Letter of Map Change (LOMC): A Letter of Map Change is an official FEMA determination, by letter, that amends or revises an effective *Flood Insurance Rate Map* or *Flood Insurance Study*. Letters of Map Change include:

Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated *special flood hazard area*. A LOMA amends the current effective *Flood Insurance Rate Map* and establishes that a specific property or *structure* is not located in a *special flood hazard area*.

Letter of Map Revision (LOMR): A revision based on technical data that may show changes to *flood zones*, *flood* elevations, *floodplain* and *floodway* delineations, and planimetric features. A Letter of Map Revision Based on Fill (LOMR-F), is a determination that a *structure* or parcel of land has been elevated by fill above the *base flood elevation* and is, therefore, no longer exposed to *flooding* associated with the *base flood*. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the *community's* floodplain management regulations.

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed *flood* protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of *special flood hazard areas*. A Conditional Letter of Map Revision Based on Fill (CLOMR-F) is a determination that a parcel of land or proposed structure that will be elevated by fill would not be inundated by the base flood if fill is placed on the parcel as proposed or the structure is built as proposed. A CLOMR does not revise the effective *Flood Insurance Rate Map* or *Flood Insurance Study*; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA, to revise the effective *FIRM*.

Licensed: As used in these regulations, licensed refers to professionals who are authorized to practice in the State of Maryland by issuance of licenses by the Maryland Board of Architects, Maryland Board of Professional Engineers, Maryland Board of Professional Land Surveyors, and the Maryland Real Estate Appraisers and Home Inspectors Commission.

Lowest Floor: The lowest floor of the lowest enclosed area (including *basement*) of a building or *structure*; the floor of an *enclosure below the lowest floor* is not the lowest floor provided the enclosure is constructed in accordance with these regulations. The lowest floor of a *manufactured home* is the bottom of the lowest horizontal supporting member (longitudinal chassis frame beam).

Manufactured Home: A *structure*, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term manufactured home does not include a *recreational vehicle*.

Market Value: The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. For the purposes of these regulations, the market value of a building is determined by a *licensed* real estate appraiser or the most recent, full phased-in assessment value of the building (improvement) determined by the Maryland Department of Assessments and Taxation.

Maryland Department of the Environment (MDE): A principal department of the State of Maryland that is charged with, among other responsibilities, the coordination of the National Flood Insurance Program in Maryland (NFIP State Coordinator) and the administration of regulatory programs for *development* and construction that occur within the *waters of the State*, including nontidal wetlands, nontidal waters and floodplains, and State and private tidal wetlands (Tidal Wetlands). Unless otherwise specified, “MDE” refers to the Department’s Wetlands and Waterways Program.

Mixed-use Structure: Any *structure* that is used or intended for use for a mixture of nonresidential and residential uses in the same structure.

National Flood Insurance Program (NFIP): The program authorized by the U.S. Congress in 42 U.S.C. §§4001 - 4129. The NFIP makes flood insurance coverage available in communities that agree to adopt and enforce minimum regulatory requirements for *development* in areas prone to *flooding* (see definition of “Special Flood Hazard Area”).

New Construction: *Structures*, including additions and improvements, and the placement of *manufactured homes*, for which the *start of construction* commenced on or after November 3, 1982, the initial effective date of the Town of Millington’s *Flood Insurance Rate Map*, including any subsequent improvements, alterations, modifications, and additions to such *structures*.

NFIP State Coordinator: See *Maryland Department of the Environment (MDE)*.

Nontidal Waters of the State: See “Waters of the State.” As used in these regulations, “nontidal waters of the State” refers to any stream or body of water within the State that is subject to State regulation, including the “100-year frequency *floodplain* of free-flowing waters.” COMAR 26.17.04.01 states that “the landward boundaries of any tidal waters shall be deemed coterminous with the wetlands boundary maps adopted pursuant to Environment Article, §16-301, Annotated Code of Maryland.” Therefore, the boundary between the tidal and nontidal waters of the State is the tidal wetlands boundary.

Person: An individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

Recreational Vehicle: A vehicle that is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light duty truck, and designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

Special Flood Hazard Area (SFHA): The land in the *floodplain* subject to a one-percent or greater chance of *flooding* in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency in *Flood Insurance Studies* and on *Flood Insurance Rate Maps* as Zones A, AE, AH, AO, A1-30, and A99, and Zones VE and V1-30. The term includes areas shown on other flood maps that are identified in Section 1.5.

Start of Construction: The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a *structure* on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a *manufactured home* on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a *basement*, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of *accessory structures*, such as garages or sheds not occupied as dwelling units or not part of the main

structure. For *substantial improvements*, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure: That which is built or constructed; specifically, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a *manufactured home*.

Substantial Damage: Damage of any origin sustained by a building or *structure* whereby the cost of restoring the building or *structure* to its before damaged condition would equal or exceed 50 percent of the *market value* of the building or *structure* before the damage occurred. Also used as “substantially damaged” structures. [Note: See “Substantial Improvement/Substantial Damage Desk Reference” (FEMA P-758).]

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Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a building or *structure*, the cost of which equals or exceeds 50 percent of the *market value* of the building or *structure* before the *start of construction* of the improvement. The term includes *structures* which have incurred *substantial damage*, regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a building or *structure* to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official prior to submission of an application for a permit and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a *historic structure*, provided that the alteration will not preclude the *structure’s* continued designation as a *historic structure*.

[Note: See “Substantial Improvement/Substantial Damage Desk Reference” (FEMA P-758).]

Temporary Structure: A *structure* installed, used, or erected for a period of less than 180 days.

Variance: A grant of relief from the strict application of one or more requirements of these regulations.

Violation: Any construction or *development* in a *special flood hazard area* that is being performed without an issued permit. The failure of a building, *structure*, or other *development* for which a permit is issued to be fully compliant with these regulations and the conditions of the issued permit. A building, *structure*, or other *development* without the required design certifications, the *Elevation Certificate*, or other evidence of compliance required is presumed to be a *violation* until such time as the required documentation is provided.

Watercourse: The channel, including channel banks and bed, of *nontidal waters of the State*.

Waters of the State: [See Environment Article, Title 5, Subtitle 1, Annotated Code of Maryland.] Waters of the State include:

- (1) Both surface and underground waters within the boundaries of the State subject to its jurisdiction;
- (2) That portion of the Atlantic Ocean within the boundaries of the State;
- (3) The Chesapeake Bay and its tributaries;
- (4) All ponds, lakes, rivers, streams, public ditches, tax ditches, and public drainage systems within the State, other than those designed and used to collect, convey, or dispose of sanitary sewage; and
- (5) The *floodplain* of free-flowing waters determined by MDE on the basis of the 100-year *flood* frequency.

SECTION 3.0 ADMINISTRATION

3.1 Designation of the Floodplain Administrator

The [Town Administrator] is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may:

- (A) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.
- (B) Enter into a written agreement or written contract with another Maryland *community* or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the *community* of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations (CFR) at 44 CFR Section 59.22.

3.2 Duties and Responsibilities of the Floodplain Administrator

The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- (A) Review applications for permits to determine whether proposed activities will be located in flood hazard areas.
- (B) Interpret *floodplain* boundaries and provide available *base flood elevation* and *flood* hazard information.

- (C) Review applications to determine whether proposed activities will be reasonably safe from *flooding* and require *new construction* and *substantial improvements* to meet the requirements of these regulations.
- (D) Review applications to determine whether all necessary permits have been obtained from the Federal, State or local agencies from which prior or concurrent approval is required; in particular, permits from MDE for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, *structures*), any *alteration of a watercourse*, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency *floodplain* of free-flowing *nontidal waters of the State*.
- (E) Verify that applicants proposing an *alteration of a watercourse* have notified adjacent communities and MDE (NFIP State Coordinator), and have submitted copies of such notifications to FEMA.
- (F) Approve applications and issue permits to develop in *flood* hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.
- (G) Inspect or cause to be inspected, buildings, *structures*, and other *development* for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or *violations* have been committed.
- (H) Review *Elevation Certificates* and require incomplete or deficient certificates to be corrected.
- (I) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain *FIRMs*, including *hydrologic and hydraulic engineering analyses* prepared by or for the Town of Millington, within six months after such data and information becomes available if the analyses indicate changes in *base flood elevations* or boundaries.
- (J) Maintain and permanently keep records that are necessary for the administration of these regulations, including:
 - (1) *Flood Insurance Studies, Flood Insurance Rate Maps* (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and
 - (2) Documentation supporting issuance and denial of permits, *Elevation Certificates*, documentation of the elevation (in relation to the datum on the *FIRM*) to which *structures* have been *floodproofed*, other required design certifications, *variances*, and records of enforcement actions taken to correct *violations* of these regulations.

- (K) Enforce the provisions of these regulations, investigate *violations*, issue notices of *violations* or stop work orders, and require permit holders to take corrective action.
- (L) Advise the Planning Commission regarding the intent of these regulations and, for each application for a *variance*, prepare a staff report and recommendation.
- (M) Administer the requirements related to proposed work on existing buildings:
 - (1) Make determinations as to whether buildings and *structures* that are located in *flood* hazard areas and that are damaged by any cause have been *substantially damaged*.
 - (2) Make reasonable efforts to notify owners of *substantially damaged structures* of the need to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant repair of *substantially damaged* buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or *structure* to prevent additional damage.
- (N) Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged *structures*; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged *structures* information related to the proper repair of damaged *structures in special flood hazard areas*; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance (ICC) coverage under NFIP flood insurance policies.
- (O) Notify the Federal Emergency Management Agency when the corporate boundaries of the Town of Millington have been modified and:
 - (1) Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
 - (2) If the *FIRM* for any annexed area includes *special flood hazard areas* that have *flood zones* that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the *FIRM* and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place within six months of the date of annexation and a copy of the amended regulations shall be provided to MDE (NFIP State Coordinator) and FEMA.
- (P) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the

SFHA, number of permits issued for *development* in the SFHA, and number of *variances* issued for *development* in the SFHA.

3.3 Use and Interpretation of FIRMs

The Floodplain Administrator shall make interpretations, where needed, as to the exact location of *special flood hazard areas*, *floodplain* boundaries, and *floodway* boundaries. The following shall apply to the use and interpretation of *FIRMs* and data:

- (A) Where field surveyed topography indicates that ground elevations:
 - (1) Are below the *base flood elevation*, even in areas not delineated as a *special flood hazard area* on a *FIRM*, the area shall be considered as *special flood hazard area* and subject to the requirements of these regulations;
 - (2) Are above the *base flood elevation*, the area shall be regulated as *special flood hazard area* unless the applicant obtains a *Letter of Map Change* that removes the area from the *special flood hazard area*.
- (B) In FEMA-identified *special flood hazard areas* where *base flood elevation* and *floodway* data have not been identified and in areas where FEMA has not identified *special flood hazard areas*, any other flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.
- (C) *Base flood elevations* and designated *floodway* boundaries on *FIRMs* and in *FISs* shall take precedence over *base flood elevations* and *floodway* boundaries by any other sources if such sources show reduced *floodway* widths and/or lower *base flood elevations*.
- (D) Other sources of data shall be reasonably used if such sources show increased *base flood elevations* and/or larger *floodway* areas than are shown on *FIRMs* and in *FISs*.
- (E) If a Preliminary *Flood Insurance Rate Map* and/or a Preliminary *Flood Insurance Study* has been provided by FEMA:
 - (1) Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.
 - (2) Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Section 1.5(C) and used where no *base flood elevations* and/or *floodway* areas are provided on the effective *FIRM*.

- (3) Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary *base flood elevations, floodplain or floodway* boundaries exceed the *base flood elevations* and/or designated *floodway* widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

3.4 Permits Required and Expiration

- (A) It shall be unlawful for any *person* to begin any *development* or construction which is wholly within, partially within, or in contact with any flood hazard area established in Section 1.5, including but not limited to: filling; grading; construction of new *structures*; the *substantial improvement* of buildings or *structures*, including repair of *substantial damage*; placement or replacement of *manufactured homes*, including *substantial improvement* or repair of *substantial damage* of *manufactured homes*; erecting or installing a *temporary structure*, or *alteration of a watercourse*, until a permit is obtained from the Town of Millington. No such permit shall be issued until the requirements of these regulations have been met.
- (B) In addition to the permits required in paragraph (A), applicants for permits in *nontidal waters of the State* are advised to contact MDE. Unless waived by MDE, pursuant to Code of Maryland Regulations 26.17.04, Construction on Nontidal Waters and Floodplains, MDE regulates the “100-year frequency floodplain of free-flowing waters,” also referred to as *nontidal waters of the State*. To determine the 100-year frequency floodplain, hydrologic calculations are based on the ultimate *development* of the watershed, assuming existing zoning. The resulting flood hazard areas delineated using the results of such calculations may be different than the *special flood hazard areas* established in Section 1.5 of these regulations. A permit from the Town of Millington is still required in addition to any State requirements.
- (C) A permit is valid provided the actual start of work is within 180 days of the date of permit issuance. Requests for extensions shall be submitted in writing and justifiable cause demonstrated. The Floodplain Administrator may grant, in writing, one or more extensions of time, for additional periods not exceeding 90 days each and provided there has been no amendment or revision to the basis for establishing *special flood hazard areas* and BFEs set forth in Section 1.5.

3.5 Application Required

Application for a permit shall be made by the owner of the property or the owner’s authorized agent (herein referred to as the applicant) prior to the start of any work. The application shall be on a form furnished for that purpose.

(A) Application Contents

At a minimum, applications shall include:

- (1) Site plans drawn to scale showing the nature, location, dimensions, and existing and proposed topography of the area in question, and the location of existing and proposed *structures*, excavation, filling, storage of materials, drainage facilities, and other proposed activities.
- (2) Elevation of the existing natural ground where buildings or *structures* are proposed, referenced to the datum on the *FIRM*.
- (3) Delineation of flood hazard areas, designated *floodway* boundaries, *flood zones*, *base flood elevations*, and *flood protection setbacks*. *Base flood elevations* shall be used to delineate the boundary of flood hazard areas and such delineations shall prevail over the boundary of SFHAs shown on *FIRMs*.
- (4) Where floodways are not delineated or *base flood elevations* are not shown on the *FIRMs*, the Floodplain Administrator has the authority to require the applicant to use information provided by the Floodplain Administrator, information that is available from Federal, State, or other sources, or to determine such information using accepted engineering practices or methods approved by the Floodplain Administrator. [Note: See “Managing Floodplain Development in Approximate Zone A Areas: A Guide for Obtaining and Developing Base (100-Year) Flood Elevations” (FEMA 265).]
- (5) Determination of the *base flood elevations*, for *development* proposals and subdivision proposals, each with at least 5 lots or at least 5 acres, whichever is the lesser, in *special flood hazard areas* where *base flood elevations* are not shown on the *FIRM*; if *hydrologic and hydraulic engineering analyses* are submitted, such analyses shall be performed in accordance with the requirements and specifications of MDE and FEMA.
- (6) *Hydrologic and hydraulic engineering analyses* for proposals in *special flood hazard areas* where FEMA has provided *base flood elevations* but has not delineated a *floodway*; such analyses shall demonstrate that the cumulative effect of proposed *development*, when combined with all other existing and anticipated development will not increase the water surface elevation of the *base flood* by more than one foot, or a lower increase if required by MDE.
- (7) For encroachments in *floodways*, an evaluation of alternatives to such encroachments, including different uses of the site or portion of the site within the *floodway*, and minimization of such encroachment.
- (8) If fill is proposed to be placed for a purpose other than to elevate *structures*, the applicant shall indicate the intended purpose for the fill.

- (9) For proposed buildings and *structures*, including *substantial improvement* and repair of *substantial damage*, and placement and replacement of manufactured homes, including *substantial improvement* and repair of *substantial damage*:
- (a) The proposed elevation of the *lowest floor*, including *basement*, referenced to the datum on the *FIRM* and a signed *Agreement to Submit an Elevation Certificate*.
 - (b) The signed *Declaration of Land Restriction (Nonconversion Agreement)* that shall be recorded on the property deed prior to issuance of the Certificate of Occupancy, if the application includes an *enclosure below the lowest floor* or a crawl/underfloor space that is more than four (4) feet in height.
 - (c) A written evaluation of alternative methods considered to elevate *structures* and *manufactured homes*, if the location is in *nontidal waters of the State* and fill is proposed to achieve the elevation required in Section 5.4(A) or Section 5.5(A).
- (10) For *accessory structures* that are 300 square feet or larger in area (footprint) and that are below the *base flood elevation*, a variance is required as set forth in Section 7.0. If a variance is granted, a signed *Declaration of Land Restriction (Nonconversion Agreement)* shall be recorded on the property deed prior to issuance of the Certificate of Occupancy.
- (11) For *temporary structures* and temporary storage, specification of the duration of the temporary use.
- (12) For proposed work on existing buildings, *structure*, and *manufactured homes*, including any improvement, addition, repairs, alterations, rehabilitation, or reconstruction, sufficient information to determine if the work constitutes *substantial improvement* or repair of *substantial damage*, including but not limited to:
- (a) If the existing building or *structure* was constructed after November 3, 1982, evidence that the work will not alter any aspect of the building or *structure* that was required for compliance with the floodplain management requirements in effect at the time the building or *structure* was permitted.
 - (b) If the proposed work is a horizontal addition, a description of the addition and whether it will be independently supported or structurally connected to the *base building* and the nature of all other modifications to the *base building*, if any.

- (c) Documentation of the *market value* of the building or *structure* before the improvement or, if the work is repair of damage, before the damage occurred.
 - (d) Documentation of the actual cash value of all proposed work, including the actual cash value of all work necessary to repair and restore damage to the before-damaged condition, regardless of the amount of work that will be performed. The value of work performed by the owner or volunteers shall be valued at market labor rates; the value of donated or discounted materials shall be valued at market rates.
- (13) Certifications and/or technical analyses prepared or conducted by a *licensed* professional engineer or *licensed* architect, as appropriate, including:
- (a) The determination of the *base flood elevations* or *hydrologic and hydraulic engineering analyses* prepared by a *licensed* professional engineer that are required by the Floodplain Administrator or are required by these regulations in: Section 4.2 for certain subdivisions and *development*; Section 5.3(A) for *development* in designated *floodways*; Section 5.3(C) for *development* in flood hazard areas with *base flood elevations* but no designated *floodways*; and Section 5.3(E) for deliberate alteration or relocation of *watercourses*.
 - (b) The *Floodproofing Certificate* for nonresidential *structures* that are *floodproofed* as required in Section 5.5(B).
 - (c) Certification that engineered *flood openings* are designed to meet the minimum requirements of Section 5.4(C)(3) to automatically equalize hydrostatic flood forces.
- (14) For nonresidential *structures* that are proposed with *floodproofing*, an operations and maintenance plan as specified in Section 5.5(B)(3).
- (15) Such other material and information as may be requested by the Floodplain Administrator and necessary to determine conformance with these regulations.

(B) New Technical Data

- (1) The applicant may seek a *Letter of Map Change* by submitting new technical data to FEMA, such as base maps, topography, and engineering analyses to support revision of *floodplain* and *floodway* boundaries and/or *base flood elevations*. Such submissions shall be prepared in a format acceptable to FEMA and any fees shall be the sole responsibility of the applicant. A copy of the submittal shall be attached to the application for a permit.

- (2) If the applicant submits new technical data to support any change in *floodplain* and designated *floodway* boundaries and/or *base flood elevations* but has not sought a *Letter of Map Change* from FEMA, the applicant shall submit such data to FEMA as soon as practicable, but not later than six months after the date such information becomes available. Such submissions shall be prepared in a format acceptable to FEMA and any fees shall be the sole responsibility of the applicant.

3.6 Review of Application

The Floodplain Administrator shall:

- (A) Review applications for *development* in *special flood hazard areas* to determine the completeness of information submitted. The applicant shall be notified of incompleteness or additional information that is required to support the application.
- (B) Notify applicants that permits from MDE and the U.S. Army Corps of Engineers, and other State and Federal authorities may be required.
- (C) Review all permit applications to assure that all necessary permits have been received from the Federal, State or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits, including permits issued by:
 - (1) The U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act;
 - (2) MDE pursuant to COMAR 26.23 (Nontidal Wetlands) and Section 401 of the Clean Water Act;
 - (3) MDE for construction on *nontidal waters of the State* pursuant to COMAR 26.17.04.
- (D) Review applications for compliance with these regulations after all information required in Section 3.5 of these regulations or identified and required by the Floodplain Administrator has been received.

3.7 Inspections

The Floodplain Administrator shall make periodic inspections of *development* permitted in *special flood hazard areas*, at appropriate times throughout the period of construction in order to monitor compliance. Such inspections may include:

- (A) Stake-out inspection, to determine location on the site relative to the flood hazard area and designated *floodway*.

- (B) Foundation inspection, upon placement of the *lowest floor* and prior to further vertical construction, to collect information or certification of the elevation of the *lowest floor*.
- (C) Inspection of *enclosures below the lowest floor*, including crawl/underfloor spaces, to determine compliance with applicable provisions.
- (D) Utility inspection, upon installation of specified equipment and appliances, to determine appropriate location with respect to the *base flood elevation*.
- (E) Final inspection prior to issuance of the Certificate of Occupancy.

3.8 Submissions Required Prior to Final Inspection

Pursuant to the *Agreement to Submit an Elevation Certificate* submitted with the application as required in Section 3.5(A)(9), the permittee shall have an *Elevation Certificate* prepared and submitted prior to final inspection and issuance of a Certificate of Occupancy for elevated *structures* and *manufactured homes*, including new *structures* and *manufactured homes*, substantially-improved *structures* and *manufactured homes*, and additions to *structures* and *manufactured homes*.

SECTION 4.0 REQUIREMENTS IN ALL FLOOD HAZARD AREAS

4.1 Application of Requirements

The general requirements of this section apply to all *development* proposed within all *special flood hazard areas* identified in Section 1.5.

4.2 Subdivision Proposals and Development Proposals

(A) In all *flood zones*:

- (1) Subdivision proposals and *development* proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations.
- (2) Subdivision proposals and *development* proposals shall have utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (3) Subdivision proposals and *development* proposals shall have adequate drainage paths provided to reduce exposure to flood hazards and to guide floodwaters around and away from proposed *structures*.
- (4) Subdivision proposals and *development* proposals containing at least 5 lots or at least 5 acres, whichever is the lesser, that are wholly or partially in flood hazard areas where *base flood elevation* data are not provided by the Floodplain

Administrator or available from other sources, shall be supported by determinations of *base flood elevations* as required in Section 3.5 of these regulations.

- (5) Subdivision access roads shall have the driving surface at or above the *base flood elevation*.

(B) In *special flood hazard areas of nontidal waters of the State*:

- (1) Subdivision proposals shall be laid out such that proposed building pads are located outside of the *special flood hazard area* and any portion of platted lots that include land areas that are below the *base flood elevation* shall be used for other purposes, deed restricted, or otherwise protected to preserve it as open space.
- (2) Subdivision access roads shall have the driving surface at or above the *base flood elevation*.

4.3 Protection of Water Supply and Sanitary Sewage Systems

- (A) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.
- (B) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into systems and discharges from systems into floodwaters.
- (C) On-site waste disposal systems shall be located to avoid impairment to or contamination from them during conditions of *flooding*.

4.4 Buildings and Structures

New buildings and *structures* (including the placement and replacement of *manufactured homes*) and *substantial improvement* of existing *structures* (including *manufactured homes*) that are located, in whole or in part, in any *special flood hazard area* shall:

- (A) Be designed (or modified) and constructed to safely support flood loads. The construction shall provide a complete load path capable of transferring all loads from their point of origin through the load-resisting elements to the foundation. *Structures* shall be designed, connected and anchored to resist flotation, collapse or permanent lateral movement due to structural loads and stresses, including hydrodynamic and hydrostatic loads and the effects of buoyancy, from *flooding* equal to the *flood protection elevation* or the elevation required by these regulations or the *building code*, whichever is higher.
- (B) Be constructed by methods and practices that minimize flood damage.

- (C) Use *flood damage-resistant materials* below the elevation of the *lowest floor* required in Section 5.4(A) or Section 5.5(A).
- (D) Have electrical systems, equipment and components, and mechanical, heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment located at or above the elevation of the *lowest floor* required in Section 5.4(A) or Section 5.5(A). Electrical wiring systems are permitted to be located below elevation of the *lowest floor* provided they conform to the provisions of the electrical part of the *building code* for wet locations. If replaced as part of a *substantial improvement*, electrical systems, equipment and components, and heating, ventilation, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment shall meet the requirements of this section.
- (E) As an alternative to paragraph (D), electrical systems, equipment and components, and heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment are permitted to be located below the elevation of the *lowest floor* provided they are designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to that elevation.
- (F) Have the electric panelboard elevated at least three (3) feet above the BFE.
- (G) Comply with the specific requirements of Section 5.0.
- (H) Comply with the requirements of the most restrictive designation if located on a site that has more than one *flood zone* designation (A Zone, designated *floodway*).

4.5 Placement of Fill

- (A) Disposal of fill, including but not limited to earthen soils, rock, rubble, construction debris, woody debris, and trash, shall not be permitted in *special flood hazard areas*.
- (B) Fill proposed to be placed to elevate *structures* in flood hazard areas shall comply with the *floodways* requirements in Section 5.3(A), Section 5.3(B), and Section 5.3(C) and the limitations of Section 5.4(B).

4.6 Historic Structures

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Repair, alteration, addition, rehabilitation, or other improvement of *historic structures* shall be subject to the requirements of these regulations if the proposed work is determined to be a *substantial improvement*, unless a determination is made that the proposed work will not preclude the *structure's* continued designation as a *historic*

structure. The Floodplain Administrator may require documentation of a *structure's* continued eligibility and designation as a *historic structure*.

4.7 Manufactured Homes

- (A) New *manufactured homes* shall not be placed or installed in *floodways*.
- (B) For the purpose of these regulations, the *lowest floor* of a *manufactured home* is the bottom of the lowest horizontal supporting member (longitudinal chassis frame beam).
- (C) New *manufactured homes* located outside of *floodways*, replacement *manufactured homes* in any flood hazard areas, and *substantial improvement* (including repair of *substantial damage*) of existing *manufactured homes* in all flood hazard area, shall:
 - (1) Be elevated on a permanent, reinforced foundation in accordance with Section 5.0;
 - (2) Be installed in accordance with the anchor and tie-down requirements of the *building code* or the manufacturer's written installation instructions and specifications; and
 - (3) Have *enclosures below the lowest floor* of the elevated *manufactured home*, if any, including enclosures that are surrounded by rigid skirting or other material that is attached to the frame or foundation, that comply with the requirements of Section 5.0.

[Note: See "Protecting Manufactured Homes from Floods and Other Hazards: A Multi-Hazard Foundation and Installation Guide" (FEMA P-85).]

4.8 Recreational Vehicles

Recreational vehicles shall:

- (A) Meet the requirements for *manufactured homes* in Section 4.7; or
- (B) Be fully licensed and ready for highway use; or
- (C) Be on a site for less than 180 consecutive days.

4.9 Critical and Essential Facilities

Critical and essential facilities shall:

- (A) Not be located in *floodways*; or

- (B) If located in flood hazard areas other than *floodways*, be elevated to the higher of elevation required by these regulations plus one (1) foot, the elevation required by the *building code*, or the elevation of the 0.2 percent chance (500-year) flood.

4.10 Temporary Structures and Temporary Storage

In addition to the application requirements of Section 3.5, applications for the placement or erection of *temporary structures* and the temporary storage of any goods, materials, and equipment, shall specify the duration of the temporary use. *Temporary structures* and temporary storage in *floodways* shall meet the limitations of Section 5.3(A) of these regulations. In addition:

- (A) *Temporary structures* shall:

- (1) Be designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic loads and hydrostatic loads during conditions of the *base flood*;
- (2) Have electric service installed in compliance with the electric code; and
- (3) Comply with all other requirements of the applicable State and local permit authorities.

- (B) Temporary storage shall not include hazardous materials.

4.11 Gas or Liquid Storage Tanks

- (A) Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the *base flood*.

- (B) Above-ground tanks in flood hazard areas shall be anchored to a supporting structure and elevated to or above the *base flood elevation*, or shall be anchored or otherwise designed and constructed to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the *base flood*.

- (C) In flood hazard areas, tank inlets, fill openings, outlets and vents shall be:

- (1) At or above the *base flood elevation* or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the *base flood*; and

- (2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the *base flood*.

4.12 Functionally Dependent Uses

Applications for *functionally dependent uses* that do not conform to the requirements of these regulations shall be approved only by *variances* issued pursuant to Section 7.0. If approved, *functionally dependent uses* shall be protected by methods that minimize flood damage during the *base flood*, including measures to allow floodwaters to enter and exit, use of *flood damage-resistant materials*, and elevation of electric service and equipment to the extent practical given the use of the building.

SECTION 5.0 REQUIREMENTS IN FLOOD HAZARD AREAS

5.1 General Requirements

In addition to the general requirements of Section 4.0, the requirements of this section shall:

- (A) Apply in flood hazard areas, including *special flood hazard areas* along *nontidal waters of the State*.
- (B) Apply to all *development, new construction, substantial improvements* (including repair of *substantial damage*), and placement, replacement, and *substantial improvement* (including repair of *substantial damage*) of *manufactured homes*.

5.2 Flood Protection Setbacks

Within areas defined by *flood protection setbacks* along *nontidal waters of the State*:

- (A) No new buildings, *structures*, or other *development* shall be permitted unless the applicant demonstrates that the site cannot be developed without such encroachment into the *flood protection setback* and the encroachment is the minimum necessary after consideration of varying other siting standards such as side, front, and back lot line setbacks.
- (B) Disturbance of natural vegetation shall be minimized and any disturbance allowed shall be vegetatively stabilized.
- (C) Public works and temporary construction may be permitted.

5.3 Development that Affects Flood-Carrying Capacity of Nontidal Waters of the State

(A) Development in Designated Floodways

For proposed *development* that will encroach into a designated *floodway*, Section 3.5(A)(7) requires the applicant to submit an evaluation of alternatives to such encroachment,

including different uses of the site or the portion of the site within the *floodway*, and minimization of such encroachment. This requirement does not apply to fences that do not block the flow of floodwaters or trap debris.

Proposed *development* in a designated *floodway* may be permitted only if:

- (1) The applicant has been issued a permit by MDE; and
- (2) The applicant has developed *hydrologic and hydraulic engineering analyses* and technical data prepared by a *licensed* professional engineer reflecting such changes, and the analyses, which shall be submitted to the Floodplain Administrator, demonstrate that the proposed activity will not result in any increase in the *base flood elevation*; or
- (3) If the analyses demonstrate that the proposed activities will result in an increase in the *base flood elevation*, the applicant has obtained a Conditional Letter of Map Revision and a Letter of Map Revision from FEMA upon completion of the project. Submittal requirements and fees shall be the responsibility of the applicant.

(B) Development that Includes the Placement of Fill in Nontidal Waters of the State

For proposed *development* that includes the placement of fill in *nontidal waters of the State*, other than *development* that is subject to paragraph (D), a hydraulically-equivalent volume of excavation is required. Such excavations shall be designed to drain freely.

(C) Development in Areas with Base Flood Elevations but No Designated Floodways

For *development* in *special flood hazard areas* of *nontidal waters of the State* with *base flood elevations* but no designated *floodways*:

- (1) The applicant shall develop *hydrologic and hydraulic engineering analyses* and technical data reflecting the proposed activity and shall submit such technical data to the Floodplain Administrator as required in Section 3.5(A)(6). The analyses shall be prepared by a *licensed* professional engineer in a format required by FEMA for a Conditional Letter of Map Revision and a Letter of Map Revision upon completion of the project. Submittal requirements and fees shall be the responsibility of the applicant.
- (2) The proposed *development* may be permitted if the applicant has received a permit by MDE and if the analyses demonstrate that the cumulative effect of the proposed *development*, when combined with all other existing and potential flood hazard area encroachments will not increase the *base flood elevation* more than 1.0 foot at any point.

(D) Construction of Roads, Bridges, Culverts, Dams and In-Stream Ponds

Construction of roads, bridges, culverts, dams, and in-stream ponds in *nontidal waters of the State* shall not be approved unless they comply with this section and the applicant has received a permit from MDE.

(E) Alteration of a Watercourse

For any proposed *development* that involves *alteration of a watercourse* not subject to paragraph (C), unless waived by MDE, the applicant shall develop *hydrologic and hydraulic engineering analyses* and technical data reflecting such changes, including the *floodway* analysis required in Section 3.5(A), and submit such technical data to the Floodplain Administrator and to FEMA. The analyses shall be prepared by a *licensed* professional engineer in a format required by MDE and by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision. Submittal requirements and fees shall be the responsibility of the applicant.

Alteration of a watercourse may be permitted only upon submission, by the applicant, of the following:

- (1) A description of the extent to which the *watercourse* will be altered or relocated;
- (2) A certification by a *licensed* professional engineer that the flood-carrying capacity of the *watercourse* will not be diminished;
- (3) Evidence that adjacent communities, the U.S. Army Corps of Engineers, and MDE have been notified of the proposal, and evidence that such notifications have been submitted to FEMA; and
- (4) Evidence that the applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of the *watercourse* so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the applicant to enter into an agreement with the Town of Millington specifying the maintenance responsibilities; if an agreement is required, the permit shall be conditioned to require that the agreement be recorded on the deed of the property which shall be binding on future owners.

5.4 Residential Structures and Residential Portions of Mixed Use Structures

New residential *structures* and residential portions of mixed use *structures*, and *substantial improvement* (including repair of *substantial damage*) of existing residential *structures* and residential portions of mixed use *structures* shall comply with the applicable requirements of Section 4.0 and this section. See Section 5.6 for requirements for horizontal additions.

(A) Elevation Requirements

- (1) *Lowest floors* shall be elevated to or above the *flood protection elevation*.
- (2) In *areas of shallow flooding* (Zone AO), the *lowest floor* (including *basement*) shall be elevated at least as high above the *highest adjacent grade* as the depth number specified in feet on the *FIRM* plus two (2) feet, or at least four (4) feet if a depth number is not specified.
- (3) *Enclosures below the lowest floor* shall meet the requirements of paragraph (C).

(B) Limitations on Use of Fill to Elevate Structures

Unless otherwise restricted by these regulations, especially by the limitations in Section 5.3(A), Section 5.3(B), and Section 5.3(C), fill placed for the purpose of raising the ground level to support a building or *structure* shall:

- (1) Consist of earthen soil or rock materials only.
- (2) Extend laterally from the building footprint to provide for adequate access as a function of use; the Floodplain Administrator may seek advice from the State Fire Marshal's Office and/or the local fire services agency;
- (3) Comply with the requirements of the *building code* and be placed and compacted to provide for stability under conditions of rising and falling floodwaters and resistance to erosion, scour, and settling;
- (4) Be sloped no steeper than one (1) vertical to two (2) horizontal, unless approved by the Floodplain Administrator;
- (5) Be protected from erosion associated with expected velocities during the occurrence of the *base flood*; unless approved by the Floodplain Administrator, fill slopes shall be protected by vegetation if the expected velocity is less than five feet per second, and by other means if the expected velocity is five feet per second or more; and
- (6) Be designed with provisions for adequate drainage and no adverse effect on adjacent properties.

(C) Enclosures Below the Lowest Floor

- (1) *Enclosures below the lowest floor* shall be used solely for parking of vehicles, building access, crawl/underfloor spaces, or limited storage.
- (2) *Enclosures below the lowest floor* shall be constructed using *flood damage-resistant materials*.

- (3) *Enclosures below the lowest floor* shall be provided with *flood openings* which shall meet the following criteria: [Note: See NFIP Technical Bulletin #1, “Openings in Foundation Walls and Walls of Enclosures Below Elevated Buildings.”]
- (a) There shall be a minimum of two *flood openings* on different sides of each enclosed area; if a building has more than one *enclosure below the lowest floor*, each such enclosure shall have *flood openings* on exterior walls.
 - (b) The total net area of all *flood openings* shall be at least 1 square inch for each square foot of enclosed area (non-engineered *flood openings*), or the *flood openings* shall be engineered *flood openings* that are designed and certified by a *licensed* professional engineer to automatically allow entry and exit of floodwaters; the certification requirement may be satisfied by an individual certification or an Evaluation Report issued by the ICC Evaluation Service, Inc.
 - (c) The bottom of each *flood opening* shall be 1 foot or less above the higher of the interior floor or grade, or the exterior grade, immediately below the opening.
 - (d) Any louvers, screens or other covers for the *flood openings* shall allow the automatic flow of floodwaters into and out of the enclosed area.
 - (e) If installed in doors, *flood openings* that meet requirements of paragraphs (a) through (d), are acceptable; however, doors without installed *flood openings* do not meet the requirements of this section.

5.5 Nonresidential Structures and Nonresidential Portions of Mixed Use Structures

New nonresidential *structures* and nonresidential portions of mixed use *structures*, and *substantial improvement* (including repair of *substantial damage*) of existing nonresidential *structures* and nonresidential portions of mixed use *structures* shall comply with the applicable requirements of Section 4.0 and the requirements of this section. See Section 5.6 for requirements for horizontal additions.

(A) Elevation Requirements

Elevated *structures* shall:

- (1) Have the *lowest floor* (including *basement*) elevated to or above the *flood protection elevation*; or
- (2) In *areas of shallow flooding* (Zone AO), have the *lowest floor* (including *basement*) elevated at least as high above the *highest adjacent grade* as the depth

number specified in feet on the *FIRM* plus two (2) feet, or at least four (4) feet if a depth number is not specified; and

- (3) Have *enclosures below the lowest floor*, if any, that comply with the requirements of Section 5.4(C); or
- (4) If proposed to be elevated on fill, meet the limitations on fill in Section 5.4(B).

(B) Floodproofing Requirements

- (1) *Floodproofing* of new nonresidential buildings is not allowed in *nontidal waters of the State* (COMAR 26.17.04.11(B)(7)).
- (2) *Floodproofing* for *substantial improvement* of nonresidential buildings is allowed in *nontidal waters of the State*.
- (3) If *floodproofing* is proposed, *structures* shall:
 - (a) Be designed to be dry *floodproofed* such that the building or *structure* is watertight with walls and floors substantially impermeable to the passage of water to the level of the *flood protection elevation* plus 1.0 foot, or
 - (b) If located in an *area of shallow flooding* (Zone AO), be dry *floodproofed* at least as high above the *highest adjacent grade* as the depth number specified on the *FIRM* plus three (3) feet, or at least five (5) feet if a depth number is not specified; and
 - (c) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
 - (d) Have *floodproofing* measures that are designed taking into consideration the nature of flood-related hazards; frequency, depth and duration of *flooding*; rate of rise and fall of floodwater; soil characteristics; flood-borne debris; at least 12 hours of flood warning time from a credible source; and time necessary to implement any measures that require human intervention;
 - (e) Have at least one door above the applicable flood elevation that allows human ingress and egress during conditions of *flooding*;
 - (f) Have an operations and maintenance plan that is filed with local emergency management officials and that specifies the owner/occupant's responsibilities to monitor flood potential; the location of any shields, doors, closures, tools, or other goods that are required for implementation;

maintenance of such goods; methods of installation; and periodic inspection; and

- (g) Be certified by a *licensed* professional engineer or *licensed* architect, through execution of a *Floodproofing Certificate* that states that the design and methods of construction meet the requirements of this section. The *Floodproofing Certificate* shall be submitted with the construction drawings as required in Section 3.5(A)(13).

5.6 Horizontal Additions

- (A) A horizontal addition proposed for a building or *structure* that was constructed after the date specified in Section 1.1 shall comply with the applicable requirements of Section 4.0 and this section.
- (B) In *nontidal waters of the State* that are subject to the regulatory authority of MDE, all horizontal additions shall comply with the applicable requirements of Section 4.0 and this section and:
 - (1) If the addition is structurally connected to the *base building*, the requirements of paragraph (C) apply.
 - (2) If the addition has an independent foundation and is not structurally connected to the *base building* and the common wall with the *base building* is modified by no more than a doorway, the *base building* is not required to be brought into compliance.
- (C) For horizontal additions that are structurally connected to the *base building*:
 - (1) If the addition combined with other proposed repairs, alterations, or modifications of the *base building* constitutes *substantial improvement*, the *base building* and the addition shall comply with the applicable requirements of Section 4.0 and this section.
 - (2) If the addition constitutes *substantial improvement*, the *base building* and the addition shall comply with all of the applicable requirements of Section 4.0 and this section.
- (D) For horizontal additions with independent foundations that are not structurally connected to the *base building* and the common wall with the *base building* is modified by no more than a doorway, the *base building* is not required to be brought into compliance.

- (E) A horizontal addition to a building or *structure* that is not *substantial improvement*, and is not located in *nontidal waters of the State*, is not required to comply with this section.

[Note: See “Substantial Improvement/Substantial Damage Desk Reference” (FEMA P-758).]

5.7 Accessory Structures

- (A) *Accessory structures* shall be limited to not more than 300 square feet in total floor area.
- (B) *Accessory structures* shall comply with the elevation requirements and other requirements of Section 5.4, the *floodproofing* requirements of Section 5.5(B), or shall:
- (1) Be useable only for parking of vehicles or limited storage;
 - (2) Be constructed with *flood damage-resistant materials* below the *base flood elevation*;
 - (3) Be constructed and placed to offer the minimum resistance to the flow of floodwaters;
 - (4) Be anchored to prevent flotation;
 - (5) Have electrical service and mechanical equipment elevated to or above the *base flood elevation*; and
 - (6) Have *flood openings* that meet the requirements of Section 5.4(C).

SECTION 6.0 RESERVED

SECTION 7.0 VARIANCES

7.1 General

The Planning Commission shall have the power to consider and authorize or deny *variances* from the strict application of the requirements of these regulations. A *variance* shall be approved only if it is determined to not be contrary to the public interest and where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations, an unnecessary hardship would result.

Upon consideration of the purposes of these regulations, the individual circumstances, and the considerations and limitations of this section, the Planning Commission may attach such conditions to *variances* as it deems necessary to further the purposes of these regulations.

The Planning Commission shall notify, in writing, any applicant to whom a *variance* is granted to construct or substantially improve a building or *structure* with its *lowest floor* below the elevation required by these regulations that the *variance* is to the floodplain management requirements of these regulations only, and that the cost of Federal flood insurance will be commensurate with the increased risk, with rates up to \$25 per \$100 of insurance coverage.

A record of all *variance* actions, including justification for issuance shall be maintained pursuant to Section 3.2(J) of these regulations.

7.2 Application for a Variance

- (A) The owner of property, or the owner's authorized agent, for which a *variance* is sought shall submit an application for a *variance* to the Floodplain Administrator.
- (B) At a minimum, the application shall contain the following information: name, address, and telephone number of the applicant and property owner; legal description of the property; parcel map; description of the existing use; description of the proposed use; site map showing the location of flood hazard areas, designated *floodway* boundaries, *flood zones*, *base flood elevations*, and *flood protection setbacks*; description of the *variance* sought; and reason for the *variance* request. *Variance* applications shall specifically address each of the considerations in Section 7.3.
- (C) If the application is for a *variance* to allow the *lowest floor* of a building or *structure* below the applicable minimum elevation required by these regulations, the application shall include a statement signed by the owner that, if granted, the conditions of the *variance* shall be recorded on the deed of the property.

7.3 Considerations for Variances

The Floodplain Administrator shall request comments on *variance* applications from MDE (NFIP State Coordinator) and shall provide such comments to the Planning Commission.

In considering *variance* applications, the Planning Commission shall consider and make findings of fact on all evaluations, all relevant factors, requirements specified in other sections of these regulations, and the following factors:

- (A) The danger that materials may be swept onto other lands to the injury of others.
- (B) The danger to life and property due to *flooding* or erosion damage.
- (C) The susceptibility of the proposed *development* and its contents (if applicable) to flood damage and the effect of such damage on the individual owner.
- (D) The importance of the services to the *community* provided by the proposed *development*.

- (E) The availability of alternative locations for the proposed use which are not subject to, or are subject to less, *flooding* or erosion damage.
- (F) The necessity to the facility of a waterfront location, where applicable, or if the facility is a *functionally dependent use*.
- (G) The compatibility of the proposed use with existing and anticipated *development*.
- (H) The relationship of the proposed use to the comprehensive plan and hazard mitigation plan for that area.
- (I) The safety of access to the property in times of flood for passenger vehicles and emergency vehicles.
- (J) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
- (K) The costs of providing government services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (L) The comments provided by MDE (NFIP State Coordinator).

7.4 Limitations for Granting Variances

The Planning Commission shall make an affirmative decision on a *variance* request only upon:

- (A) A showing of good and sufficient cause. Good and sufficient cause deals solely with the physical characteristics of the property and cannot be based on the character of the improvement, the personal characteristics of the owner/inhabitants, or local provision that regulate standards other than health and public safety.
- (B) A determination that failure to grant the *variance* would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.
- (C) A determination that the granting of a *variance* for *development* within any designated *floodway*, or flood hazard area with *base flood elevations* but no designated *floodway*, will not result in increased flood heights beyond that which is allowed in these regulations.
- (D) A determination that the granting of a *variance* will not result in additional threats to public safety; extraordinary public expense, nuisances, fraud or victimization of the public, or conflict with existing local laws.

- (E) A determination that the building, *structure* or other *development* is protected by methods to minimize flood damages.
- (F) A determination that the *variance* is the minimum necessary to afford relief, considering the flood hazard.

SECTION 8.0 ENFORCEMENT

8.1 Compliance Required

- (A) No building, *structure* or *development* shall hereafter be located, erected, constructed, reconstructed, improved, repaired, extended, converted, enlarged or altered without full compliance with these regulations and all other applicable regulations.
- (B) Failure to obtain a permit shall be a *violation* of these regulations and shall be subject to penalties in accordance with Section 8.3.
- (C) Permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the specific activities set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction of such specific activities that are contrary to that authorization shall be deemed a *violation* of these regulations.

8.2 Notice of Violation and Stop Work Order

If the Floodplain Administrator determines that there has been a *violation* of any provision of these regulations, the Floodplain Administrator shall give notice of such *violation* to the owner, the owner's authorized agent, and the *person* responsible for such *violation*, and may issue a stop work order. The notice of *violation* or stop work order shall be in writing and shall:

- (A) Include a list of *violations*, referring to the section or sections of these regulations that have been violated;
- (B) Order remedial action which, if taken, will effect compliance with the provisions of these regulations;
- (C) Specify a reasonable period of time to correct the *violation*;
- (D) Advise the recipients of the right to appeal; and
- (E) Be served in person; or
- (F) Be posted in a conspicuous place in or on the property and sent by registered or certified mail to the last known mailing address, residence, or place of business of the recipients.

8.3 Violations and Penalties

Violations of these regulations or failure to comply with the requirements of these regulations or any conditions attached to a permit or *variance* shall constitute a misdemeanor. Any *person* responsible for a *violation* shall comply with the notice of *violation* or stop work order. Failure to comply shall be considered a municipal infraction with a citation in the amount of \$1,000 issued]. Each day a *violation* continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Millington from taking such other lawful action as is necessary to prevent or remedy any *violation*.

SECTION 9.0 SUBSEQUENT AMENDMENTS AND EFFECTIVE DATE

9.1 Subsequent Amendments

All ordinances or parts of ordinances that are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency. This ordinance shall be amended as required by the Federal Emergency Management Agency, Title 44, Code of Federal Regulations.

All subsequent amendments to this ordinance are subject to the approval of the Federal Emergency Management Agency and the Maryland Department of the Environment.

9.2 Effective Date

ADOPTED this 8th day of April, 2014 and to be effective on the 9th day of June, 2014.

Chapter 35

(Reserved)

Chapter 36

(Reserved)

Chapter 37

(Reserved)

Chapter 38

(Reserved)

Chapter 39

(Reserved)

Chapter 40

(Reserved)

Chapter 41

(Reserved)

Chapter 42

(Reserved)

Chapter 43

(Reserved)

Chapter 44

(Reserved)

Chapter 45

(Reserved)

Chapter 46

(Reserved)

Chapter 47

(Reserved)

Chapter 48

PEACE AND GOOD ORDER

- § 48-1. Discharge of firearms.
- § 48-2. Trash receptacles.
- § 48-3. Defacing trees and buildings.
- § 48-4. Defacing municipal signs.
- § 48-5. Lights and traffic signals.
- § 48-6. Parks and Public Property
- § 48-7. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Town of Millington 07-11-1962 as Ordinance Nos. 102, 103, 104, 109, and 110. Section 48-6 added at time of adoption of Code; see Chapter 1, General Provisions Article I. Other amendments noted where applicable. Amended 6/18/2008 – Parks and Public Property]

Amendment to Peace and Good Order Ordinance was introduced at the May 21, 2008 Mayor and Council meeting; a public hearing was held on June 18, 2008. Therefore be it ordained by the Mayor and Council of the Town of Millington, Maryland that this ordinance is hereby adopted this 18th day of June 2008.

GENERAL REFERENCES

Public consumption of alcoholic beverages - See Chapter. 18, Article I.

§ 48-1. Discharge of firearms.

- A. It shall be unlawful for any person to discharge any firearm, rifle, shotgun, revolver, pistol, air-gun, air-rifle, BB gun, pellet gun, or any similar mechanism by whatever name known, which is designed to expel a projectile through a gun barrel by the action of any explosive, gas, compressed air, spring, or elastic within the Town limits, whether such mechanisms is loaded with blank or live cartridges or projectiles of any kind. This Section shall not apply to the discharge of any such mechanism by a person in the necessary defense of his or her life or property. Nor shall it apply to any law enforcement officer in the legal performance of his/her duties.
- B. It shall be unlawful for any person to throw or project any stone, or missile with a sling shot or bow or any other instrument in the Town in any way that is likely to do harm or injury to any person or property or in such manner to cause reasonable apprehension of such harm or injury.

§ 48-2. Trash receptacles.

It shall be unlawful for any person or persons to take and carry away or willfully break, injure or destroy any box or any other receptacle maintained upon any street or alley in the town for the reception of paper, filth or waste matter. However, these receptacles shall not be used for the reception of waste material from commercial establishments or residential homes.

§ 48-3. Defacing trees and buildings.

It shall be unlawful for any person or persons to, at any time or in any manner, deface, injure or remove any tree, fence, gate, porch, building or other structure upon public land, by writing, cutting or in any manner, within the corporate limits of the town.

§ 48-4. Defacing municipal signs.

It shall be unlawful for any person or persons to purposely tear down or in any manner deface any sign or poster which has been posted by the authority of the Town Council.

§ 48-5. Lights and traffic signals.

It shall be unlawful for any person or persons to willfully break any streetlights within the corporate limits of the Town of Millington or cut or break any streetlight posts, parking signs, traffic signs or traffic signal devices in said town.

§ 48-6. Parks and Public Property.

It shall be unlawful for any person or persons to occupy any park or other public open space property of the Town of Millington after dark unless a permit for such night-time occupancy shall have been issued by the Mayor and Council. This limitation shall not apply to the Town Hall during regularly scheduled meetings and events.

§ 48-7. Violations and penalties.

Any person violating the provisions of this Article/Chapter shall be deemed guilty of a Municipal Infraction and shall upon conviction thereof be punished by a fine as outlined in the Code of the Town of Millington Chapter 2. Each day, or each separate occasion during each such day, that a violation of this Article/Chapter occurs or reoccurs shall constitute a separate offense.

Chapter 49
(Reserved)

Chapter 50

Skateboard

§ 50-1. Definition.

§ 50-2. Procedures.

§ 50-3. Penalty.

[History: Amended June 19, 2002 by Mayor and Council with Resolution 2002-6D]

§ 50-1. Definition.

SKATEBOARD - A board made of either wood, plastic, aluminum or similar material or a combination thereof, with wheels attached, and used for gliding and/or moving on any hard surface.

§ 50-2. Procedures.

It shall be unlawful for any person to ride, propel, or push or otherwise operate a skateboard or any similar vehicle on any public way, street, alley, sidewalk, parking lot, or public property [except for the Town's public skateboard facility and publicly sponsored events at the Skateboard park or other designated area] within the corporate boundaries of the Town of Millington.

Any person caught using a skateboard in an illegal manner will have it confiscated by the appropriate law enforcement personnel.

§ 50-3. Penalty.

Any person violating the provisions of Section 50-2 hereof shall be guilty of a Municipal Infraction with an initial Warning Letter Issued to the individual or to the legal guardians/parents if a juvenile. The second offense shall be a fine of \$ 100.00. Each day, or each separate occasion during each such day, that a violation of this Article/Chapter occurs or reoccurs shall constitute a separate offense. Subsequent infractions by the same person/persons shall carry a fine of \$100.00. The parent/ legal guardian of an individual under the age of 18 who violates Section 50-2 will be liable for all fines and/or damages caused by the juvenile.

Chapter 51
(Reserved)

Chapter 52
(Reserved)

Chapter 53
SEDIMENT CONTROL

ARTICLE I
Queen Anne's County Ordinance

- § 53-1. Applicability to town.
- § 53-2. Grant of authority to county.

ARTICLE II
Kent County Ordinance

- § 53-3. Applicability to town.
- § 53-4. Grant of authority to county.

[HISTORY: Adopted by the Mayor and Council of the Town of Millington Article I, 03-06-1985 as Resolution No. 1985-3; Article II, 02-06-1986. Amendments noted where applicable.]

GENERAL REFERENCES

Subdivision of Land - See Chapter 66.

Zoning - See Chapter 80.

ARTICLE I
Queen Anne's County Ordinance
[Adopted 03-06-1985 as Resolution No. 1985-3]

§ 53-1. Applicability to town.

The requirements and procedures as set forth in the Queen Anne's County Erosion and Sediment Control Ordinance are and the same are hereby made applicable and effective within the boundaries of the Town of Millington.

§ 53-2. Grant of authority to county.

Queen Anne's County, via the appropriate agency, be and the same is hereby granted authority and jurisdiction to grant permits, inspect, supervise and enforce excavating, grading and filling within the Town of Millington in the same manner and to the same extent as though such activity were being carried on in Queen Anne's County outside of the corporate limits of the Town of Millington.¹

ARTICLE II
Kent County Ordinance
[Adopted 02-06-1986]

§ 53-3. Applicability to town.

The requirements and procedures as set forth in the Kent County Sediment Control Ordinance are and the same are hereby made applicable and effective within the boundaries of the Town of Millington.

§ 53-4. Grant of authority to county.

Kent County, via the appropriate agency, be and the same is hereby granted authority and jurisdiction to grant permits, inspect, supervise and enforce excavating, grading and filling within the Town of Millington in the same manner and to the same extent as though such activity were being carried on in Kent County outside of the corporate limits of the Town of Millington.²

¹ Editor's Note: The clause which followed this section provided that the resolution shall take effect ten (10) days after county approval and shall be void if the State Department of Natural Resources should deny or suspend inspection and enforcement authority for erosion and sediment control to the county.

² Editor's Note: The clause which followed this section provided that the resolution shall take effect ten (10) days after county approval and shall be void if the State Department of Natural Resources should deny or suspend inspection and enforcement authority for erosion and sediment control to the county.

Chapter 54
(Reserved)

Chapter 55

WATER

ARTICLE I

General Regulations

§ 55-1. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

CUSTOMER -- An applicant for service receiving water service at one premise and who is the owner of record of the premises... Such premises may include:

- (a.) a building or combination of buildings used for one residence or one business
- (b.) a building or combination of buildings owned by one person and containing a number of businesses or residences, provided however that each residence or business shall be treated as a separate customer and subject to the rate schedule applicable thereto.

LATERAL -- The line from the main to the premises of the customer.

LOT -- Any vacant land on which no premises are located or which is described in a deed separate from any other lot on which premises may be located...

MAIN -- The Town-owned piping and fixtures in or along public highways and streets or along private owned rights-of-way used for the transmission or distribution of water.

PERSONS -- Any person, firm, association or corporation.

TOWN -- The Town of Millington, or its duly authorized officers or agents.

§ 55-2. Water meters.

- A. Meters required. All premises using the town water supply must be equipped with an approved water meter. Water meters shall be supplied by the Town, and shall remain the property of the Town at all times. The cost of installation of the meters shall be paid for by the customer.
- B. Installation. Meters shall be installed in a location approved by the Town and affording easy access.
- C. Reading meters. The Town shall read or cause to be read every water meter used in the town at such times as are necessary for the bills to be sent out at the proper time.
- D. Testing meters. Any municipal water meter shall be taken out and tested upon written request of the customer. The fee for testing a meter shall be set by resolution duly adopted after a public hearing. In the event the meter is found to be faulty there shall be no charge for the test.

§ 55-3. Rates.

- A. The rates per revenue unit and the usage charges for water service shall be as determined by the Mayor and Council and may be changed from time to time by a resolution duly adopted after a public hearing. A revenue unit is equivalent to one (1) residential usage. The Town shall have the right to set and establish how many revenue units are located in each individual structure.

- B. Rates established for water service may reflect varying charges for varying levels of consumption or service or such other circumstances as Mayor and Council may determine are appropriate.

§ 55-4. Billing procedures; payment of charges.

- A. A bill will be generated in the same manner as the Sewer bill. The water bill due date shall be the same date that the Sewer bill is due. Bills that are paid after the due date shall be subject to a penalty as established by resolution duly adopted after a public hearing.
- B. Property owners will receive the bill and be responsible for payment of charges for all services provided by the Town of Millington.
- C. In the event of a challenge to a bill by a property owner claiming a major undetected leak or faulty meter, formally filed in writing and accompanied by such documentation as may support such claim, excess charges may be waived and the bill readjusted to reflect the average of the lesser of the three preceding or three succeeding quarters. No customer shall be permitted more than one claim as a result of a leak in any 10 year period.

§ 55-5. Action upon nonpayment of water charges.

- A. Thirty Days After the due date, notice may be given to all customers whose bills are in arrears, by posting or by door hangers on said customers premises.
- B. Mayor and Council may make such regulations, duly adopted by resolution, for partial payments or deferred payments as they may deem appropriate.
- C. All water bills not paid and in arrears two (2) quarters after the date on which they are due and payable shall become a lien on the owners' real property in the same manner property taxes. These liens shall be collected in the same manner as delinquent Town taxes, pursuant to § C6-16 of the Town Charter.

§ 55-6. Curtailment and/or regulation of water usage; notification.

The Town is hereby authorized and empowered, whenever in its judgment it shall think it necessary for the preservation of public health and safety, to suspend, curtail, regulate and prohibit the use of water from the municipal water system of the Town for the operation of fountains, swimming pools, pavements, streets, lawns, flowers, shrubbery, gardens, etc., and for washing automobiles and other vehicles and to regulate, curtail or prohibit the use of water for any purposes other than ordinary domestic, household and culinary purposes. The Town is hereby authorized and empowered to give reasonable notice, whenever possible, to all consumers of water to curtail, regulate or refrain from the use of water for all or any of the purposes specified in this section.

§ 55-7. Discontinuance of Services; Reconnection Charge

- A. Discontinuance by the Town. Water service may be discontinued by the Town for any one (1) of the following reasons:
 - (1) For failure to pay water and sewer bills within 30 days of the due date.
 - (2) Misrepresentation in applications.
 - (3) Willful waste of water.

- (4) Failure to comply with restrictions imposed under § 55-6 of this chapter.
- (5) Tampering with, damaging or bypassing water meters or any other part of the Town water system.
- (6) Refusal of reasonable access to property to determine if there is a cross connection.

B. Reconnection charge. When water has been turned off from any premises for any of the above reasons or for any other violation of the Town's rules, a charge will be made for restoring service at such rate as has been set by resolution after a public hearing.

§55-8. Water service regulations generally.

- A. Persons authorized to turn on service. No water from the town water supply shall be turned on for service into any premises by anyone but the individuals so designated by the Town of Millington.
- B. Application requirements. Application for water service should be made, in writing by the property owner. The Town may provide application forms to all property owners at the time of initial connection to simplify the procedure for residents.
- C. Plumbing subject to state or county regulations. No water shall be turned on for service in premises in which the plumbing does not comply with State or County Health Department regulations, provided that water may be turned on for construction work in unfinished buildings, subject to the provisions of this Article.
- D. Resale prohibited. No water shall be resold or distributed by the recipient thereof from the Town supply to any premises other than that for which application has been made and a meter installed, except in the case of an emergency.
- E. Tampering. It shall be unlawful for any person not authorized by the Town to remove, tamper with, alter or damage any part of the installed water meter, Town waterworks or water supply system.
- F. Conditions for application acceptance. No application for service will be accepted by the Town until the applicant has paid or made satisfactory arrangements to pay all arrears and charges due by the applicant to the Town at any premises now or heretofore occupied by him.

§ 55-8A Fire Hydrants

It shall be unlawful to open a fire hydrant without proper authorization.

§ 55-9. Connection requirements; water main extensions.

- A. Application requirements. No property owner connecting to the system when it is first completed will need to file an application for water service. Applications for service installations for water will be accepted subject to the presence of an existing main in a right-of-way abutting the premises to be served.
- B. Extensions. Any extension of a water main shall be at the sole expense of the property owner requesting the service, provided that should the excess extension footage be subsequently utilized for additional taps or connections by persons other than the property owner, then the costs of such excess footage or some applicable portion thereof may be refunded if utilized within five (5) years from the date of installation.

§ 55-10. Time limit for connections; noncompliance.

A. Connection of fixtures. When any water main is declared ready for operation by the town, Notice shall be given to all abutting property owners in the form of an application for service... Property owners shall then connect to the system and utilize the water. All property owners shall be made aware that they shall be responsible for water bills from the date the system is operational. All abutting property owners shall connect all fixtures to the water meter within twelve (12) months of notice to connect.

B. Action upon noncompliance. Should any owner of any such property refuse, neglect or fail to comply with any of the terms and requirements of § 55-10A, the Town, its servants, agents and employees are hereby empowered and directed to enter upon said premises and to perform all the work required of said owner of said property and to supply all the material needed therefore at the expense of said owner, and upon completion of said work, the cost thereof, including the cost of said materials and all expenses incurred shall be recovered from said owner by the placement of a lien on owner's real property. Liens shall be collected as provided in §C6-16 of the Charter (Sale of Tax-Delinquent Property).

§55-11. Connection/tapping fees.

A. In-Town connections. There will be no connection fee for existing homeowners who connect within twelve months of the date of Notice to connect. A connection fee shall be charged to new homeowners or developer in new developments as well as existing homeowners who fail to connect to the new system after the stated time period for connection has elapsed. The connection fee shall be established by resolution of the Town Council after public hearing.

B. Out-of-Town connections. Connection of premises outside the Town limits shall include a connection fee as established by Mayor and Council as well as the actual cost of the connection.

§ 55-12. Connection installations; standards for water service pipes.

A. The water connection from the water meter to the building shall be installed in accordance with Town specifications, at the expense of the owner of the premises. For this installation, the owner or applicant shall be allowed to install the line themselves. Said installation shall be inspected and approved by a State of Maryland licensed plumber. The materials and method of construction shall be approved by the Town or its agent, and if the connection has not been installed in accordance with the Town's requirements, water will not be turned on until such defects have been remedied. The connection between the water meter and the building and all piping and fixtures on or in the building of the owner or applicant shall be maintained by the owner or applicant.

B. All water service pipes to the building shall have a minimum cover of thirty (30) inches for any open excavation or fault.

C. Every water service pipe must be provided with a shut-off valve on the inside of the curb line which is easily accessible and fully protected from freezing.

§ 55-13. Access to Premises by Town Inspector, meter reader, etc.

The Inspector, meter reader and other properly authorized representatives of the Town of Millington shall have access at all reasonable hours to the premises supplied by the Town with water for the purpose of setting, reading, repairing or removing meters or for making necessary inspections.

§ 55-14. Effect of provisions on new construction.

From the time this Article becomes effective, no new construction within the Town limits shall be commenced or permitted unless satisfactory arrangements are made to connect to the municipal water system.

§ 55-15. Continuance of wells upon installation of public water system.

After the property owners have been advised that the water system is operational and a water main has been installed in the public way upon which said property fronts, the Town may allow existing wells to be used to operate fountains, swimming pools, streets, lawns, flowers shrubbery, gardens, etc., and for washing automobiles and other vehicles. Said wells shall not be used for ordinary domestic, household and culinary purposes. All connections between such wells and the domestic water system shall be permanently terminated.

Wells found to be polluted or a menace to health shall be abandoned and closed as approved by the County Health Department...

§ 55-16. Rates and/or charges constitute lien.

All rates and/or charges referred to in this Article and hereinbefore or hereinafter mentioned shall constitute a lien on the real estate served and shall be collectible in the same manner as Town taxes.

§ 55-17. Water Repairs.

- A. Water Repairs may occur on either side of the water meter.
- B. Responsibility of repairs on the Town's side of the meter are solely the responsibility of the town.
- C. Responsibility of repairs on the property owner's side of the meter are the responsibility of the property owner. Property owner should contact the Town Office to report the leak and for Town to investigate cause of leak and course of action for repair.
- D. If repair is performed by the Town or its vendors, property owner will reimburse Town for all costs plus an administrative fee at such rate as has been set by resolution after a public hearing.
- E. If repair is performed by the Town or its vendors on the property owner's side of the meter, the property owner will reimburse the Town for all costs plus a reconnection charge as set forth in Section 55-7B.

§ 55-18. Water rates.

Water rates shall be determined by the Mayor and Council and set by Resolution duly adopted after a public hearing.

§ 55-19. Sale of Water

Whereas the Town of Millington owns and operates a water supply distribution system. The Mayor and Council has determined a need to allow for the resale of water with the following conditions:

- A. A request in writing to purchase water is to be made to the Town Office two weeks prior to the first date of required use. The request should include estimated gallons to be purchased, length of time of project, location of project, contact name, and billing address.
- B. A "Water Purchase Contract" will be prepared and submitted for approval by the Town Administrator.
- C. The fee to purchase water is set at \$100 per 1,000 gallons as calculated by a back-flow hydrant meter.
- D. The installation of the back-flow hydrant meter and the overseeing of the use of the meter will be provided by Maryland Environmental Service or an approved inspector by the Mayor and Council for the Town of Millington.

- E. If contract is for continual use exceeding one (1) day, a deposit of \$5,000 certified funds will be required to be held in escrow by the Town of Millington until such time the project is complete and the back-flow hydrant meter has been returned and inspected.
- F. Any damages to the fire hydrant or the back-flow hydrant meter will be the responsibility of the contractor with reimbursement to the Town for repairs or replacement.
- G. If an emergency occurs that will enable the purchaser to provide sufficient notice to use the system, requests will be approved on a case-by-case basis.

Chapter 56

SEWERS

ARTICLE I

General Provisions

- § 56-1. Objective.
- § 56-2. Purpose.
- § 56-3. Definitions and work usage.

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Use of Public Sewers

- § 56-4. Deposit of polluted water prohibited.
- § 56-5. Private systems prohibited where public sewer available.
- § 56-6. Connection required after notice.
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- § 56-8. Certain waters prohibited.
- § 56-9. Uncontaminated industrial waters allowed upon approval.
- § 56-10. Enumeration of prohibited discharges.
- § 56-11. Wastes prohibited except upon approval of Engineer.
- § 56-12. Options of town regarding deleterious wastes.
- § 56-13. Preliminary pretreatment; flow equalization; surcharge.
- § 56-14. Grease, oil and sand interceptors.
- § 56-15. Installation and maintenance of control manhole.
- § 56-16. Measurements, tests and analyses.
- § 56-17. Maximum loading of treatment facilities.
- § 56-18. Allowable concentrations of heavy metals and substances.

ARTICLE IV
Basis of Payment

- § 56-19. Special agreements between town and industrial users.
- § 56-20. Determination of charges.
- § 56-21. Determination of volume of wastewater flow; expense of meter facility.

ARTICLE V
Authority of Engineer

- § 56-22. Arrest for damage to system; institution of legal proceedings.
- § 56-23. Right of entry for inspection and testing.
- § 56-24. Right of entry through negotiated easement.
- § 56-25. Indemnification of town and company.

ARTICLE VI
Penalties

- § 56-26. Service of written notice.
- § 56-27. Violations and penalties.
- § 56-28. Liability for expenses.

ARTICLE I

General Provisions

§ 56-1. Objective.

It is the objective of the Town Council of the Town of Millington, Maryland, to permit the discharge of sanitary sewage and industrial wastes to the sewerage system of the Town of Millington, provided that such discharge does not damage the sewerage system, unduly restrict the capacity of the system to receive wastewater, adversely affect the treatment process or in any other way constitute a detriment to the sewerage system, including the sewers, pumping facilities, the wastewater treatment plant or the receiving waters.

§ 56-2. Purpose.

It is declared to be the purpose of this chapter to specify

- A. Those wastewaters, including industrial wastes, which will be accepted in the sewerage system of the Town of Millington.
- B. The types of wastes which will be prohibited from discharge to the sewerage system of the Town of Millington.
- C. The conditions, including pretreatment or screening, under which certain wastes will be accepted in the sewerage system of the Town of Millington, after review and upon approval of the Town Council or Town Engineer.

§ 56-3. Definitions and word usage.

- A. Unless the content specifically indicates otherwise, the meanings of terms used in this chapter shall be as follows:

BOD (denoting "Biochemical Oxygen Demand") - The quantity of oxygen utilized in the biochemical oxidation of organic matter in five (5) days at twenty degrees centigrade (200 C), expressed in milligrams per liter, as determined in accordance with the latest edition of American Public Health Association Standard Methods for the Examination of Water and Wastewater, or by the latest edition of Methods for Chemical Analysis of Water and Wastes, published by the Environmental Protection Agency, or by a method acceptable to the State Department of Health.

BUILDING DRAIN - That part of the lowest horizontal piping of a drainage system, which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer beginning five (5) feet outside the inner face of the building wall.

BUILDING SEWER - The extension from the building drain to the public sewer or other place of disposal.

ENGINEER - A consulting engineer retained by the Town of Millington or a duly authorized representative of the Town of Millington.

GARBAGE - Solid wastes from the domestic and commercial preparation, cooking, and disposing of food and from the handling, storage, and sale of produce.

INDUSTRIAL WASTES - The liquid and solid wastes from industrial manufacturing processes, trade or business, as distinct from sanitary sewage.

NATURAL OUTLET - Any outlet into a watercourse, pond, ditch, lake, or other body of surface or ground water.

PERSON or ESTABLISHMENT or OWNER - Any individual, firm, company, association, society, public or private corporation, the state, or any other entity whatsoever.

PH - The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

POLLUTED WATERS - Waters which have been contaminated by the addition of sewage, industrial wastes, or other harmful or objectionable materials in amounts of excess of that allowed by the governing regulatory agencies.

PROPERLY SHREDDED GARBAGE - The wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely in flowing water.

PUBLIC SEWER - A sewer which is controlled by the Town of Millington or its duly authorized representative.

SANITARY SEWER - A pipe or conduit which carries wastewater and to which storm, surface, and ground waters are not intentionally admitted.

SCREENING - The removal of solids by straining through No. 20 mesh screens, or finer, if desired by the Town Wastewater Supervisor.

SEWAGE or SANITARY SEWAGE - The wastewaters from residences, business buildings, institutions, and industrial establishments, except industrial wastes.

SEWER - A pipe or conduit defined as a sanitary sewer.

SEWERAGE SYSTEM - All facilities for collecting, pumping, treating and disposing of wastewater.

SLUG - Any discharge of significant quantities, in the opinion of the Engineer, of water, sewage or industrial waste which, in concentration of any given constituent or in quantity of flow, exceeds, for any period of duration longer than fifteen (15) minutes, five (5) times the average twenty-four-hour concentration or flows during normal operation.

STORM DRAIN (sometimes termed "storm sewer") - A pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

SUSPENDED SOLIDS - Solids that either float on the surface of or are in suspension in water, sewage or other liquids and which are removable by the wastewater process.

TOWN - The Town Council of Millington, a municipal corporation of the State of Maryland, or its duly authorized representative.

WASTE WATER - Sewage and/or industrial wastes.

WASTEWATER TREATMENT PLANT or SEWAGE TREATMENT PLANT - Any arrangement of devices and structures used for treating wastewater.

WATERCOURSE - A channel in which a flow of water occurs, either continuously or intermittently.

B. Word usage. "shall" is mandatory; "may" is permissive.

ARTICLE II

Use of Public Sewers

§ 56-4. Deposit of polluted water prohibited.

It shall be unlawful for any person to place, deposit or permit to be deposited in any manner on public or private property within the Town of Millington or in any area under the jurisdiction of the Town of Millington any sewage, industrial wastes or other polluted waters.

§ 56-5. Private systems prohibited where public sewer available.

Where public sewers are provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

§ 56-6. Connection required after notice.

The owners of all houses, buildings or properties that are equipped with toilet facilities and are situated within the town and abutting on any street, alley or right-of-way in which there is now located a public sanitary sewer of the town are hereby required, at their expense, to connect such facilities directly with the proper public sewer in accordance with the provisions of this Chapter within sixty (60) days after date of official notice to do so.

§ 56-7. Proper design and construction required.

New sewers and connections to the sewer system will be properly designed and constructed.

ARTICLE III

Restrictions and Discharges

§ 56-8. Certain waters prohibited.

No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, tide water, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer.

§ 56-9. Uncontaminated industrial waters allowed upon approval.

Industrial cooling water or process waters free of contamination may be discharged, on approval of the Engineer, to a storm drain or natural outlet if such discharges are allowed by the governing state or federal regulatory agencies and are in compliance with applicable state and federal regulations.

§ 56-10. Enumeration of prohibited discharges.

No person shall discharge or cause to be discharged any of the following described waters, material or wastes to any public sewer or storm drain:

Any gasoline, benzene, naphtha, motor oil, fuel oil, or other flammable or explosive liquids, solids or gases.

Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters of the sewage

treatment plant, including but not limited to cyanides in excess of two-tenths (0.2) milligrams per liter as CN in the wastes as discharged to the public sewer.

Solid or viscous substances capable of causing an obstruction to the flow in sewer or other interferences with the proper operation of the sewerage system, such as but not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, shells, tar, waxes, plastics, wood, underground garbage, paunch manure, hair, flesh, entrails or paper products such as dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

§ 56-11. Wastes prohibited except upon approval of Engineer.

No person shall discharge or cause to be discharged into the sewerage system the following described substances, materials, waters or wastes if, in the opinion of the Engineer, such wastes can harm either the sewers, pumping facilities or wastewater treatment process or equipment or have an adverse effect on the receiving stream or can otherwise endanger life, public property or limb or constitute a nuisance.

In forming opinion as to the acceptability of these wastes, the Engineer will give consideration to such factors as the quantities of the subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the wastewater treatment process, capacity of the wastewater treatment plant and other pertinent factors.

The wastes thus prohibited, except as may be approved by the Engineer, are:

Any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit (150°F.) [sixty-five degrees Celsius (65°C.)].

Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter or one-fourth (1/4) pound per day or containing substances which may solidify or become viscous at temperatures between thirty-two and one hundred fifty degrees Fahrenheit (32° and 150°F.) [zero and sixty-five degrees Celsius (0° and 65°C.)].

Any garbage that has not been properly shredded. The installation and operation of any garbage grinder or comminutor equipped with a motor of three-fourths (3/4) horsepower [seventy-six hundredths (0.76) horsepower metric] or greater shall be subject to the review and approval of the Engineer.

Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances to such degree that any such material received in the wastewater at the treatment plant exceeds the limits established by the Engineer for such materials.

Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Engineer in compliance with applicable state and federal regulations.

Acids or alkalies having pH values upon point of discharge into the public sewer lower than five point five (5.5) or higher than nine point five (9.5) or which would in any way cause damage to sewers, structures, equipment, or wastewater treatment processes.

Materials which exert or cause:

Unusual volume of flow or concentration of wastes constituting slugs as defined herein.

Excessive discoloration, such as but not limited to dye wastes and vegetable canning solutions.

All industrial wastes that will not pass a No. 20 mesh screen.

§ 56-12. Options of town regarding deleterious wastes.

If any waters or wastes are discharged or are proposed to be discharged to the public sewers, and said waters contain the substances or possess the characteristics enumerated in § 56-11 of this Article, and which are prohibited from discharge to the sewerage system because, in the judgment of the Engineer, they may have a deleterious effect upon

the sewerage system, treatment process or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the town may

Reject the waste discharge or not approve the request for treatment of the proposed wastes as the case may be; or

Request the owner to comply with the following requirements in order to obtain the written approval of the Engineer and thereby be permitted to discharge the particular wastewater to the public sewerage system

Pretreat, at the owners' expense, the wastewater to an acceptable condition for discharge to the public sewers as described herein, except that he would be required to pay standard town surcharge rates for handling excess amounts of BOD and/or suspended solids. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Engineer and of the State Department of Health and Department of Water Resources, and no construction of such facilities shall be commenced until said approvals are obtained in writing.

Provide necessary and approved controls over the quantities and rates of discharge.

§ 56-13. Preliminary pretreatment; flow equalization; surcharge.

The Engineer may require any of all of the following: Preliminary treatment, payment of the town surcharge rate, where applicable, or flow-equalization as conditions before approval of the discharge of the wastes to the sewer.

If the Engineer permits discharge to the sewer after preliminary treatment or equalization of waste flows, the design and installation of the requisite facilities and equipment shall be subject to the joint review and approval of the Engineer, the State Department of Health and the State Department of Water Resources, subject to the requirements of all applicable codes, ordinances and laws.

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

As part of such preliminary treatment, the Engineer will require grease removal and screening of industrial wastes where applicable. Facilities for said pretreatment will be subject to the approval of the Engineer.

§ 56-14. Grease, oil and sand interceptors.

Grease, oil, and sand interceptors shall be provided when, in the opinion of the Engineer, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, any flammable wastes, sand, shellfish particles or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be designed to reduce the liquid waste velocity to a maximum of one (1) foot per second and, unless otherwise authorized by the Town Engineer, shall have a minimum depth of two (2) feet six (6) inches, and the velocity shall be determined by the peak hourly discharge. All interceptors shall be of a type and capacity approved by the Engineer and shall be located as to be readily and easily accessible for cleaning and inspection by the town or Engineer.

§ 56-15. Installation and maintenance of control manhole.

When required by the Engineer, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole, together with such approved meters and other appurtenances, in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the Engineer. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

§ 56-16. Measurements, tests and analyses.

All measurements, tests and analyses of the characteristics of water and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, or the latest edition of Methods for Chemical Analysis of Water and Wastes, published by the Environmental Protection Agency, or by a method acceptable to the State Department of Health and shall be determined at the control manhole provided or upon suitable samples taken at said control manhole.

Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewerage system and to determine the existing hazards to life, limb, and property.

The particular analysis involved will determine whether twenty-four-hour composites or grab samples should be taken. pH is to be determined by periodic grab samples.

When additional sampling and analysis beyond the normal are requested by a wastewater contributor, he shall pay the town's cost for performing the same unless said samples show appreciable difference from the previous sampling and analysis.

§ 56-17. Maximum loading of treatment facilities.

When the wastewater treatment facilities have reached a point near maximum loading as determined and approved by the state and/or the Town Engineer, the town shall prohibit increased industrial discharge, either on the basis of flow or quantity of wastes constituents, or both.

§ 56-18. Allowable concentrations of heavy metals and substances.

The maximum allowable concentration of heavy metals or substances for discharge to the town sewer system is:

<i>Maximum Allowable</i>	
<i>Heavy Metal Or Substance</i>	<i>Concentration (ppm)</i>
Aluminum	1.0
Arsenic	0.1
Cadmium	1.0
Chromium (hexavalent)	1.0
Copper	1.0
Cyanide	0.2
Iron	5.0
Lead	1.0
Mercury	1.0
Phenol	1.0
Nickel	1.0
Zinc	5.0

ARTICLE IV

Basis of Payment

§ 56-19. Special agreements between town and industrial users.

No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the town for treatment, subject to equitable payment therefore by the industrial concern.

§ 56-20. Determination of charges.

When wastes of usual or unusual strength or character are accepted, charges to the contributor of the waste will be made by the town in accordance with the following

The sewer service charge consists of the normal charge for wastewaters based upon the flow contributed to the sewerage system plus a surcharge computed on the basis of the concentration of BOD and suspended solids above those established.

The surcharge described above will be established by computing the pounds of BOD and suspended solids above four hundred (400) parts per million and multiplying each by the established town surcharge rate.

§ 56-21. Determination of volume of wastewater flow; expense of meter facility.

The volume of wastewater flow shall be determined as follows:

Whenever the establishment purchases all of its water from the Town and discharges nearly all of the water as wastes only to the sewerage system, the volume of water purchased shall be used as a measure of the volume of waste discharged or whenever the establishment purchases all of its water from the Town and discharges a substantially smaller part to the sewerage system, an allowance for water not put into the sewer shall be made in computing flow charges. The establishment shall provide, at its own expense, an approved metering facility in order to receive credit for the water not discharged to the sewerage system.³

Whenever an establishment using a private water supply discharges wastes to the sewerage system, the flow will be based upon the metered use of water used in the establishment or that portion discharging wastes to the system or the metered flow discharged to the sewerage system in the same manner as indicated in Subsection A above.

Whenever a mixture of town and privately supplied water is used, the appropriate measurement or combination of measurements described above shall be used.

The expense of all wastewater metering facilities shall be borne by the owner of the establishment contributing the wastewater, except for those normally provided by the Town of Millington for measuring water consumption.

ARTICLE V

Authority of Engineer

§ 56-22. Arrest for damage to system; institution of legal proceedings.

Any person who maliciously, willfully or negligently breaks, damages, destroys, uncovers, defaces or tampers with any structure, appurtenance or equipment which is a part of the sewerage system shall be subject to immediate arrest

³ Editors Note: Sewer service charges, including tap-In fees, shall be as provided by resolution adopted from time to time by the Mayor and Council.

under a charge of disorderly conduct. In addition, the Engineer and other duly authorized employees of the town may institute legal proceedings against such person to recover damages for any losses incurred.

§ 56-23. Right of entry for inspection and testing.

The Engineer and other duly authorized employees of the town bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this chapter. The Engineer and other duly authorized employees of the town shall have no authority to inquire into any processes, including shellfish preparation and packaging, metallurgical, chemical, oil, ceramic, foodstuffs, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the public sewers, waterways or waste treatment facilities.

§ 56-24. Right of entry through negotiated easement.

The Engineer and other duly authorized employees of the town bearing proper credentials and identification shall be permitted to enter all private properties through which the town holds a duly negotiated easement for the purpose of but not limited to inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewerage system lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

§ 56-25. Indemnification of Town and Company.

While performing necessary work on private properties, the Engineer or duly authorized employees of the town shall observe all safety rules applicable to the premises established by the owner, and the owner shall be held harmless for injury or death to the town employees, and the Town shall indemnify the company against loss or damage to its property by Town employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Article III, § 56-15.

ARTICLE VI

Penalties

§ 56-26. Service of written notice.

Any person found to be violating any provision of this chapter, except Article III, § 56-18 shall be served by the Town with written notice stating the nature of the violation and providing a time limit deemed reasonable by the Engineer for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

§ 56-27. Violations and penalties.⁴

Any person who shall continue any violation beyond the time limit provided for in § 56-26 of this Article shall be guilty of a misdemeanor and, on conviction thereof, shall be punishable as provided in § C12-4A of the Charter for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

⁴ Editors Note: Amended at time of adoption of Code; see Chapter 1 General Provisions, Article I

§ 56-28. Liability for expenses.

Any person violating any of the provisions of this Chapter will become liable to the Town for any expense, loss or damage occasioned the town by reason of such violation.

Chapter 57
Fats, Oils, and Grease (FOG)

§ 57-1 Purpose

§ 57-2 Definitions

§ 57-3 Control Plan for FOG and food waste

§ 57-4 General Criteria

§ 57-5 Design Criteria

§ 57-6 Grease Trap Maintenance

§ 57-7 Additives

§ 57-8 Chemical Treatment

§ 57-9 Sand, Soil, and Oil Interceptors

§ 57-10 Laundries

§ 57-11 Control Equipment

§ 57-12 Alteration of Control Methods

§ 57-13 Enforcement and Penalties

§ 57-1 Objective.

It is the objective of the Town Council of the Town of Millington, Maryland to control discharges into the public sewerage collection system and wastewater treatment plant that interfere with the operations of the system, cause blockage and plugging of pipelines, interfere with normal operation of pumps and their controls, and contribute waste of a strength or form that either causes treatment difficulties or is beyond the treatment capability of the wastewater treatment plant.

§ 57-2 Definitions and ward usage.

- A. Grease – material composed primarily of fats, oil, and grease (FOG) from animal or vegetable sources. The terms fats, oil, and grease shall be deemed as Grease by definition. Grease does not include petroleum based products.
- B. Grease Trap – a device for separating and retaining waterborne greases and grease complexes prior to the wastewater exiting the trap and entering the sanitary sewer collection and treatment system. These devices also serve to collect solids that settle, generated by and from food preparation activities, prior to the water exiting the trap and entering the sanitary sewer collection and treatment system.
- C. Food Service Facilities – those establishments primarily engaged in activities of preparing, serving, or otherwise making available for consumption foodstuffs and that use one or more of the following preparation activities: cooking by frying (all methods), baking (all methods), grilling, sautéing, rotisserie cooking, broiling (all methods), boiling, blanching, roasting, toasting, or poaching. Also included are infrared heating, searing, barbecuing, and any other food preparation activity that produces a hot, non-drinkable food product in or on a receptacle that requires washing. These facilities include restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants, or any other sewer users as determined by the Town's Wastewater Collection System Superintendent (WCSS) who discharge applicable waste.
- D. User – any person or establishment including those located outside the jurisdictional limits of the town that contributes, causes, or permits the contribution or discharge of wastewater into the Town's wastewater collection or treatment system, including persons who contribute such wastewater from mobile sources, such as those who discharge hauled wastewater.
- E. Oil/Water separator – an approved and industry standard system that is specifically designed and manufactured to separate oil from water. The system shall allow the oil to be collected and removed on a regular basis as to prevent it from being discharged into the wastewater collection system. Only oil/water separators manufactured for that specific operation will be approved.

§ Section 57-3 Control Plan for (FOG) and food waste.

- A. Any new construction, renovation, or expansion of Food Service Facilities shall be required to submit to the Town a FOG and food waste control plan that will effectively control the discharge of undesirable materials into the wastewater collection system.
- B. Any existing Food Service Facilities shall also be required to submit a FOG and food waste control plan that will effectively control the discharge of undesirable materials in the wastewater collection system. Existing facilities shall be exempt from the requirements of this ordinance. There will be no “grandfathering”.

§ Section 57-4 General Criteria.

- A. Installation requirements – all existing, proposed, or newly remodeled Food Service Facilities inside the Town of Millington wastewater service area shall be required to install, at the user’s expense an approved, properly operated, and maintained grease trap.
- B. Sanitary sewer flows – sanitary sewer flows from toilets, urinals, lavatories, etc. shall not be discharged into the grease trap. These flows shall be conveyed separately to the sanitary sewer service lateral.
- C. Floor drains – only floor drains which discharge or have the potential to discharge grease shall be connected to a grease trap.
- D. Garbage grinders/disposals – it is recommended that solid food waste products be disposed of through normal solid waste/garbage disposal means. If a grinder/disposal is used it must be connected to the grease trap. The use of grinders is discouraged since it decreases the operational capacity of the grease trap and will require an increased pumping frequency to ensure continuous and effective operation.
- E. Dishwashers – commercial dishwashers must be connected to the grease trap. Dishwashers discharge soap and hot water which can melt grease and allow it to pass through an undersized grease trap. Traps must be sized accordingly to allow enough detention time to allow water to cool and grease to solidify and float to the top of the trap.
- F. Location – grease trap shall be installed outside the building upstream from the sanitary sewer service lateral connection. This will allow easy access for inspection, cleaning, and removal of the intercepted grease at any time. A grease trap may not be installed inside any part of a building without written approval by the town where the property size may warrant a grease trap connect to the sink plumbing fixtures.
- G. Pass through limits – no user shall allow wastewater discharge concentration from grease trap to exceed 100 MgPL (milligrams per liter) as identified by EPA method 413.

§ Section 57-5 Design Criteria.

- A. Construction – grease traps shall be construed in accordance with the Town of Millington standards and shall have a minimum of two compartments with fittings designed for grease retention. All grease removal devices or technologies shall be subject to the written approval of the Town of Millington. Such approval shall be based on demonstrated removal efficiencies of the proposed technology.

- B. Access – access to grease traps shall be available at all times, to allow for their maintenance and inspection. Access to trap shall be provided by two manholes (one on each compartment) terminating at finished grade with case iron frame and cover.
- C. Load-bearing capacity – in areas where additional weight loads may exist, the grease trap shall be designed to have adequate load-bearing capacity (example: vehicular traffic in driving or parking areas).
- D. Inlet and outlet piping – wastewater discharging to a grease trap shall enter only through the inlet pipe of the trap. Each grease trap shall have only one inlet and one outlet pipe.
- E. Grease trap sizing – the required size of the grease trap shall be calculated using EPA-2 model. All grease traps shall have a capacity of not less than 1,000 gallons nor exceed a capacity of 3,000 gallons. If the calculated capacity exceeds 3,000 gallons, multiple units plumbed in series shall be installed unless other means have been established by the Town of Millington.

§ Section 57-6 Grease Trap Maintenance.

- A. Cleaning/pumping – the user at the user’s expense shall maintain all grease traps to assure proper operation and efficiency and maintain compliance with the Town’s pass through limits. Maintenance of grease trap shall include the complete removal of all contents, including floating materials, wastewater, and bottom sludge and solids. This work shall be performed by a qualified and licensed hauler. Decanting or discharging of removed waste back into the trap from which it was removed or any other grease trap, for the purpose of reducing the volume to be disposed, is prohibited. This service shall also include a thorough inspection of the trap and its components by Town appointed personnel. Any needed repairs shall be noted. Repairs shall be made at user’s expense.
- B. Cleaning/pumping frequency – the grease trap must be pumped out completely a minimum of once every six months, or more frequently, as determined by the Town, as needed to prevent carryover of grease into the sanitary sewer system.
- C. Disposal – all waste removed from each grease trap must be disposed of at a facility approved to receive such waste in accordance with the provisions of this program. In no way shall the pumpage be returned to any private or public portion of the Town’s sanitary sewer collection system.
- D. Maintenance log – a grease trap cleaning/maintenance log indicating each pumping for the previous 24 months shall be maintained by each Food Service Facility. This log shall include the date, time, amount pumped, hauler, and disposal site and shall be kept in a conspicuous location for inspection. Said log shall be made available to the town or its representative upon request.
- E. Submittal of records – each user shall submit all cleaning and maintenance records to the Town. The maintenance records shall include the following information:
 - 1. Facility name, address, contact person, and phone number.
 - 2. Company name, address, phone number, and contact name of person responsible for performing the maintenance, cleaning, pumping, or repair of the grease trap.
 - 3. Types of maintenance performed.
 - 4. Dates maintenance was performed.
 - 5. Date of next scheduled maintenance.

6. Copies of manifests.

The user shall be required to submit maintenance records to the Town on an annual basis (once per year). Records shall be submitted by December 1st of each year. The records shall be submitted to:

**The Town of Millington
Attn: Grease Trap Ordinance
402 Cypress Street, P O Box 330
Millington, MD 21651**

The Town will perform periodic inspections of these facilities and shall notify the user of any additional required maintenance or repairs. Upon written notification by the Town, the user shall be required to perform the maintenance and repairs of said inspection within 14 calendar days. Upon inspection by the Town the user may be required to install, at the user's expense, additional controls to provide a complete system which prevents discharges of undesirable materials into the wastewater collection system.

§ Section 57-7 Additives.

Any biological additive(s) placed into the grease trap or building discharge line including but not limited to enzymes, commercially available bacteria, or other additives designed to absorb, purge, consume, treat, or otherwise eliminate fats, oils, and grease shall require written approval by the Town prior to use. The use of such additives shall in no way be considered as a substitution to the maintenance procedures required herein.

§ Section 57-8 Chemical Treatment.

Chemical treatments such as drain cleaners, acid, or other chemical solvents designed to dissolve or remove grease shall not be allowed to enter the grease trap.

§Section 57-9 Sand, Soil and Oil Interceptors.

All car washes, truck washes, garages, service stations, car and truck maintenance facilities, fabricators, utility equipment shops, and other facilities (as determined by the Town) that have sources of sand, soil, and oil shall install effective sand, soil, and oil traps, interceptors, and/or oil/water separators. These systems shall be sized to effectively remove sand, soil, and oil at the expected flow rates. These systems shall be, at the user's expense, cleaned or pumped on a regular basis to prevent impact upon the wastewater collection and treatment system. Users whose systems are deemed to be ineffective by the Town shall be asked to change the cleaning frequency or to increase the size of the system. Owners or operators of washing facilities will be required to prevent the inflow of detergents and rainwater into the wastewater collection system. Oil/water separator installations shall be required at facilities that accumulate petroleum oils and greases and at facilities deemed necessary by the Town.

§ Section 57-10 Laundries.

Commercial laundries shall be equipped with an interceptor with a wire basket or similar device, removable for cleaning, that prevents passage (into the wastewater collection system) of solids ½" or larger in size such as rags, strings, buttons, or other solids detrimental to the system.

§ Section 57-11 Control Equipment.

The equipment or facilities installed to control FOG, food waste, sand, soil, oil, and lint must be designed in accordance with other applicable guidelines approved by the Town. Underground equipment shall be tightly sealed to prevent inflow of rainwater and shall be easily accessible to allow regular maintenance and inspection.

Control equipment shall be maintained by the owner and/or operator of the facility as to prevent a stoppage of the wastewater collection system, and the accumulation of FOG, food waste, sand, soil, and lint in the collection lines, pump stations, and wastewater treatment plant.

If the Town of Millington is required to clean out the wastewater collection lines, as a result of a stoppage resulting from poorly maintained control equipment (or lack thereof) the owner or operator shall be required to refund the labor, equipment, materials, and any overhead costs to the Town including any fines incurred due to any sanitary sewer overflow due directly to the stoppage.

The Town retains the right to inspect and approve any and all installations of control equipment.

§ Section 58-12 Alteration of Control Methods.

The Town of Millington reserves the right to request additional control measures if existing control equipment is shown to be insufficient to protect the wastewater collection system and wastewater treatment plant from interference due to the discharge of FOG, sand, soil, lint, or any other undesirable materials.

§ Section 58-13 Enforcement and Penalties.

Any person violating the provisions of this Article/Chapter shall be deemed guilty of a Municipal Infraction and shall upon conviction thereof be punished by a fine as outlined in the Code of the Town of Millington Chapter 2. Each day, or each separate occasion during each such day, that a violation of this Article/Chapter occurs or reoccurs shall constitute a separate offense.

Chapter 58
(Reserved)

Chapter 59
(Reserved)

Chapter 60

STORMWATER MANAGEMENT

- 60-1 PURPOSE AND AUTHORITY
- 60-2 DEFINITIONS
- 60-3 APPLICABILITY
- 60-4 STORMWATER MANAGEMENT CRITERIA
- 60-5 STORMWATER MANAGEMENT PLANS
- 60-6 PERMITS
- 60-7 PERFORMANCE BOND
- 60-8 INSPECTION
- 60-9 MAINTENANCE
- 60-10 APPEALS
- 60-11 SEVERABILITY
- 60-12 PENALTIES
- 60-13 EFFECTIVE DATE

[HISTORY: Adopted by the Mayor and Council of the Town of Millington: Article. I, 08-14-84 by Resolution; Article. II, 08-14-84 by Resolution. Amendments on September 30, 2001.] [Adopted by the Mayor and Council of the Town of Millington: Article I, 12-01-10 by Resolution; Article II, 12-01-10 by Resolution.][Amendments on December 9, 2014 by Resolution]

GENERAL REFERENCES

Floodplains - See Chapter 34.

Subdivision of Land - See Chapter 66.

**TOWN OF MILLINGTON
STORMWATER MANAGEMENT ORDINANCE**

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60-1 PURPOSE AND AUTHORITY

The purpose of this Ordinance is to protect, maintain and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with increased stormwater runoff. Proper management of stormwater runoff will minimize damage to public and private property, reduce the effects of development on land, control stream channel erosion, reduce local flooding, and maintain after development, as nearly as possible, the pre-development runoff characteristics.

The provisions of this Ordinance, pursuant to the Environment Article, Title 4, Subtitle 2, Annotated Code of Maryland, 1996 replacement volume, are adopted under the authority of the Town of Millington's Code and shall apply to all development occurring within the incorporated area of the Town of Millington. The application of this Ordinance and provisions expressed herein shall be the minimum stormwater management requirements and shall not be deemed a limitation or repeal of any other powers granted by State statute. The Town of Millington shall be responsible for the coordination and enforcement of the provisions of this Ordinance.

60-1.1 Incorporation By Reference

For the purpose of this Ordinance, the following documents are incorporated by reference:

- A. The 2000 Maryland Stormwater Design Manual, Volumes I & II (Maryland Department of the Environment, April 2000) is incorporated by reference by the Town of Millington and shall serve as the official guide for stormwater principles, methods, and practices.
- B. USDA Natural Resources Conservation Service Maryland Conservation Practice Standard Pond Code 378 (January 2000).

20-2 DEFINITIONS

A. For the purpose of this Ordinance, the following definitions describe the meaning of the terms used in this Ordinance:

- (1) "Administration" means the Maryland Department of the Environment (MDE) Water Management Administration (WMA).
- (2) "Adverse impact" means any deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.
- (3) "Agricultural land management practices" means those methods and procedures used in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.

- (4) "Applicant" means any person, firm, or governmental agency who executes the necessary forms to procure official approval of a project or a permit to carry out construction of a project.
- (5) "Aquifer" means a porous water bearing geologic formation generally restricted to materials capable of yielding an appreciable supply of water.
- (6) "Best Management Practice (BMP)" means a structural device or nonstructural practice designed to temporarily store or treat stormwater runoff in order to mitigate flooding, reduce pollution, and provide other amenities.
- (7) "Channel Protection Storage Volume (Cp_v)" means the volume used to design structural management practices to control stream channel erosion. Methods for calculating the channel protection storage volume are specified in the 2000 Maryland Stormwater Design Manual, Volumes I & II.
- (8) "Clearing" means the removal of trees and brush from the land but shall not include the ordinary mowing of grass.
- (9) "Design Manual" means the 2000 Maryland Stormwater Design Manual Volumes I & II that serves as the official guide for stormwater management principles, methods, and practices.
- (10) "Detention structure" means a permanent structure for the temporary storage of runoff, which is designed so as not to create a permanent pool of water.
- (11) "Develop land" means to change the runoff characteristics of a parcel of land in conjunction with residential, commercial, industrial, or institutional construction or alteration.
- (12) "Direct discharge" means the concentrated release of stormwater to tidal waters or vegetated tidal wetlands from new development or redevelopment projects in the Critical Area.
- (13) "Drainage area" means that area contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridge line.
- (14) "Easement" means a grant or reservation by the owner of land for the use of such land by others for a specific purpose or purposes, and which must be included in the conveyance of land affected by such easement.
- (15) "Exemption" means those land development activities that are not subject to the stormwater management requirements contained in this Ordinance.
- (16) "Extended detention" means a stormwater design feature that provides gradual release of a volume of water in order to increase settling of pollutants and protect downstream

channels from frequent storm events. Methods for designing extended detention BMPs are specified in the Design Manual.

- (17) "Extreme flood volume (Q_f)" means the storage volume required to control those infrequent but large storm events in which overbank flows reach or exceed the boundaries of the 100- year floodplain.
- (18) "Flow attenuation" means prolonging the flow time of runoff to reduce the peak discharge.
- (19) "Grading" means any act by which soil is cleared, stripped, stockpiled, excavated, scarified, filled or any combination thereof.
- (20) "Infiltration" means the passage or movement of water into the soil surface.
- (21) "Off-site stormwater management" means the design and construction of a facility necessary to control stormwater from more than one development.
- (22) "On-site stormwater management" means the design and construction of systems necessary to control stormwater within an immediate development.
- (23) "Overbank flood protection volume (Q_p)" means the volume controlled by structural practices to prevent an increase in the frequency of out of bank flooding generated by development. Methods for calculating the overbank flood protection volume are specified in the Design Manual.
- (24) "Recharge volume (Re_v)" means that portion of the water quality volume used to maintain groundwater recharge rates at development sites. Methods for calculating the recharge volume are specified in the Design Manual.
- (25) "Redevelopment" means any construction, alteration, or improvement exceeding 5000 square feet of land disturbance performed on sites where existing land use is commercial, industrial, institutional or multifamily residential.
- (26) "Retention structure" means a permanent structure that provides for the storage of runoff by means of a permanent pool of water.
- (27) "Retrofitting" means the construction of a structural BMP in a previously developed area, the modification of an existing structural BMP, or the implementation of a nonstructural practice to improve water quality over current conditions.
- (28) "Sediment" means soils or other surficial materials transported or deposited by the action of wind, water, ice, or gravity as a product of erosion.
- (29) "Site" means:
 - (a) for "new development" any tract, lot or parcel of land or combination of tracts, lots, or parcels of land, which are in one ownership, or are contiguous and in

diverse ownership where development is to be performed as part of a unit, subdivision, or project.

- (b) for “redevelopment” the area of new construction as shown on an approved site plan; or the original parcel. Final determination of the applicable are shall be made by (local agency).
- (30) "Stabilization" means the prevention of soil movement by any of various vegetative and/or structural means.
- (31) "Stormwater management" means:
 - (a) For quantitative control, a system of vegetative and structural measures that control the increased volume and rate of surface runoff caused by man-made changes to the land; and
 - (b) For qualitative control, a system of vegetative, structural, and other measures that reduce or eliminate pollutants that might otherwise be carried by surface runoff.
- (32) "Stormwater Management Plan" means a set of drawings or other documents submitted by a person as a prerequisite to obtaining a stormwater management approval, which contain all of the information and specifications pertaining to stormwater management.
- (33) "Stripping" means any activity which removes the vegetative surface cover including tree removal, clearing, grubbing and storage or removal of topsoil.
- (34) "Variance" means the modification of the minimum stormwater management requirements for specific circumstances such that strict adherence to the requirements would result in necessary hardship and not fulfill the intent of the Ordinance.
- (35) "Waiver" means the relinquishment from stormwater management requirements by the (local agency) for a specific development on a case-by-case review basis.
 - (a) “Qualitative stormwater management waiver” includes water quality volume and recharge volume design parameters.
 - (b) “Quantitative stormwater management waiver” includes channel protection storage volume, overbank flood protection volume, and extreme flood volume design parameter.
- (36) "Watercourse" means any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash, in and including any adjacent area that is subject to inundation from overflow or flood water.
- (37) "Watershed" means the total drainage area contributing runoff to a single point.

- (38) "Water quality volume (WQ_v)" means the volume needed to capture and treat the runoff from 90 percent of the average annual rainfall at a development site. Methods for calculating the water quality volume are specified in the Design Manual.

60-3 APPLICABILITY

60-3.1 Scope

No person shall develop any land for residential, commercial, industrial, or institutional uses without having provided stormwater management measures that control or manage runoff from such developments, except as provided within this section. The stormwater management measures must be designed consistent with the Design Manual and constructed according to an approved plan for new development or the policies stated in section 3.4 for redevelopment.

60-3.2 Exemptions

The following development activities are exempt from the provisions of this Ordinance and the requirements of providing stormwater management:

- A. Agricultural land management activities;
- B. Additions or modifications to existing single family detached residential structures if they comply with C of this section;
- C. Developments that do not disturb over 5,000 square feet of land area;
- D. Land development activities that the Administration determines will be regulated under specific State laws, which provide for managing stormwater runoff.

60-3.2 Waivers / Watershed Management Plans

- A. Stormwater management quantitative control waivers shall be granted only to those projects within areas where watershed management plans have been developed consistent with F. of this section.
- B. If watershed management plans consistent with F. of this section have not been developed, then stormwater management quantitative control waivers may be granted to projects:
 - (1) That have direct discharges to tidally influenced receiving waters;
 - (2) That do not increase the post-development peak discharge for the 2-year storm event by more than 10 percent in those areas of the State where the 2-year storm serves as the overbank flood protection volume according to the Design Manual; or
 - (3) When the Town of Millington determines that circumstances exist that prevent the reasonable implementation of quantity control practices.

- C. Stormwater management qualitative control waivers apply only to:
- (1) In-fill development projects where stormwater management implementation is not feasible;
 - (2) Redevelopment projects if the requirements of section 3.4 of this ordinance are satisfied; or
 - (3) Sites where the Town of Millington determines that circumstances exist that prevent the reasonable implementation of quality control practices.
- D. Waivers granted must:
- (1) Be on a case-by-case basis;
 - (2) Consider the cumulative effects of the Town of Millington's waiver policy; and
 - (3) Reasonably ensure the development will not adversely impact stream quality.
- E. If the Town of Millington has established an overall watershed management plan for a specific watershed, then the Town of Millington may develop quantitative waiver and redevelopment provisions that differ from sections 3.3B and 3.4.
- F. A watershed management plan developed for the purpose of implementing different stormwater management policies for waivers and redevelopment shall:
- (1) Include detailed hydrologic and hydraulic analyses to determine hydrograph timing;
 - (2) Evaluate both quantity and quality management;
 - (3) Include cumulative impact assessment of watershed development;
 - (4) Identify existing flooding and receiving stream channel conditions;
 - (5) Be conducted at a reasonable scale;
 - (6) Specify where on-site or off-site quantitative and qualitative stormwater management practices are to be implemented;
 - (7) Be consistent with the General Performance Standards for Stormwater Management in Maryland found in Section 1.2 of the Design Manual; and
 - (8) Be approved by the Administration.
- G. The Town of Millington may grant a waiver of quantitative stormwater management requirements for individual developments in areas where watershed management plans have been developed provided that a written request is submitted by the applicant containing descriptions, drawings, and

any other information that is necessary to evaluate the proposed development. A separate written waiver request shall be required in accordance with the provisions of this section if there are subsequent additions, extensions, or modifications to a development receiving a waiver.

60-3.4 Redevelopment

- A. Stormwater management plans for redevelopment shall be consistent with the Design Manual except that the recharge, channel protection storage volume, and overbank flood protection volume requirements specified in the Design Manual do not apply unless required by the Town of Millington.
- B. All redevelopment projects shall reduce existing site impervious areas by at least 20 percent. Where site conditions prevent the reduction of impervious area, then stormwater management practices shall be implemented to provide qualitative control for at least 20 percent of the site's impervious area. When a combination of impervious area reduction and stormwater practice implementation is used, the combined area shall equal or exceed 20 percent of the site.
- C. Where conditions prevent impervious area reduction or on-site stormwater management, practical alternatives may be considered, including but not limited to:
 - (1) Fees;
 - (2) Off-site BMP implementation for a drainage area comparable in size and percent imperviousness to that of the project;
 - (3) Watershed or stream restoration;
 - (4) Retrofitting; or
 - (5) Other practices approved by the Town of Millington.

60-3.5 Variance

The Town of Millington may grant a written variance from any requirement of Section 4.0 (Stormwater Management Criteria), of this Ordinance if there are exceptional circumstances applicable to the site such that strict adherence will result in unnecessary hardship and not fulfill the intent of the Ordinance. A written request for variance shall be provided to the Town of Millington and shall state the specific variances sought and reasons for their granting. The Town of Millington shall not grant a variance unless and until sufficient justification is provided by the person developing land.

60-4 STORMWATER MANAGEMENT CRITERIA

60-4.1 Minimum Control Requirements

- A. The minimum control requirements established in this section and the Design Manual are as follows:

- (1) Caroline, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and Worcester counties and their incorporated municipalities shall require that the recharge volume, water quality volume, and overbank flood protection volume for the 2-year frequency storm event be used to design BMP's according to the Design Manual; and
 - (2) The City of Baltimore, Allegany, Anne Arundel, Baltimore, Calvert, Carroll, Cecil, Charles, Frederick, Garrett, Harford, Howard, Montgomery, Prince George's, St. Mary's, and Washington counties and their incorporated municipalities shall require that the recharge volume, water quality volume, and channel protection storage volume sizing criteria be used to design BMP's according to the Design Manual. Control of the 10-year frequency storm event is required according to the Design Manual if the Town of Millington determines that historical flooding problems exist and downstream floodplain development and conveyance system design cannot be controlled.
 - (3) The Town of Millington may require more than the minimum control requirements specified in this Ordinance if hydrologic or topographic conditions warrant or if flooding, stream channel erosion, or water quality problems exist downstream from a proposed project.
- B. Stormwater management and development plans where applicable, shall be consistent with adopted and approved watershed management plans or flood management plans as approved by the Maryland Department of the Environment in accordance with the Flood Hazard Management Act of 1976.

60-4.2 Stormwater Management Measures

The structural and nonstructural stormwater management measures established in this Ordinance shall be used, either alone or in a combination, in developing a stormwater management plan.

- A. Structural Stormwater Management Measures.
- (1) The following structural stormwater management practices shall be designed according to the Design Manual to satisfy the applicable minimum control requirements established in Section 4.1 of this Ordinance.
 - (a) Stormwater management ponds;
 - (b) Stormwater management infiltration;
 - (c) Stormwater management filtering systems; and
 - (d) Stormwater management open channel systems.
 - (2) The performance criteria specified in the Design Manual with regard to general feasibility, conveyance, pretreatment, treatment and geometry, environment and landscaping, and maintenance shall be considered when selecting structural stormwater management practices.

- (3) Structural stormwater management practices shall be selected to accommodate the unique hydrologic or geologic regions of the state.

B. Nonstructural Stormwater Management Measures.

- (1) The following nonstructural stormwater management practices shall be applied according to the Design Manual to minimize increases in new development runoff:
 - (a) Natural area conservation;
 - (b) Disconnection of rooftop runoff;
 - (c) Disconnection of non-rooftop runoff;
 - (d) Sheet flow to buffers;
 - (e) Grass channels; and
 - (f) Environmentally sensitive development.
- (2) The use of nonstructural stormwater management practices shall be encouraged to minimize the reliance on structural BMP's.
- (3) The minimum control requirements listed in Section 4.1 of this Ordinance may be reduced when nonstructural stormwater management practices are incorporated into site designs according to the Design Manual.
- (4) The use of nonstructural stormwater management practices may not conflict with existing State or local laws, ordinances, regulations, or policies.
- (5) Nonstructural stormwater management practices used to reduce the minimum control requirements must be recorded in the land records of Kent and Queen Anne's County and remain unaltered by subsequent property owners. Prior approval from the Town of Millington shall be obtained before nonstructural stormwater practices are altered.

C. Alternative structural and nonstructural stormwater management practices may be used for new development water quality control if they meet the performance criteria established in the Design Manual and are approved by the Administration. Practices used for redevelopment projects shall be approved by the Town of Millington.

D. For the purposes of modifying the minimum control requirements or design criteria, the owner/developer shall submit to the Town of Millington an analysis of the impacts of stormwater flows downstream in the watershed. The analysis shall include hydrologic and hydraulic calculations necessary to determine the impact of hydrograph timing modifications of the proposed development upon a dam, highway, structure, or natural point of restricted stream flow. The point of investigation is to be established with the concurrence of the Town of Millington, downstream

of the first downstream tributary whose drainage area equals or exceeds the contributing area to the project or stormwater management facility.

60-4.3 Specific Design Criteria

The basic design criteria, methodologies, and construction specifications, subject to the approval of the Town of Millington and the WMA, shall be those of the Design Manual.

60-5 STORMWATER MANAGEMENT PLANS

60-5.1 Review and Approval of Stormwater Management Plans

A. For any proposed development, the developer shall submit a stormwater management plan or waiver application to the Town of Millington for review and approval, unless otherwise exempted. The stormwater management plan shall contain supporting computations, drawings, and sufficient information describing the manner, location, and type of measures in which stormwater runoff will be managed from the entire development. The Town of Millington shall review the plan to determine compliance with the requirements of this Ordinance prior to approval. The plan shall serve as the basis for all subsequent construction.

B. Notification of approval or reasons for disapproval or modification shall be given to the applicant within 30 days after submission of the completed stormwater plan. If a decision is not made within 30 days the applicant shall be informed of the status of the review process and the anticipated completion date. The stormwater management plan shall not be considered approved without the inclusion of the signature and date of signature of the Town of Millington and WMA on the plan.

60-5.2 Contents of the Stormwater Management Plan

The developer is responsible for submitting a stormwater management plan that meets the design requirements of this Ordinance. The plan shall be accompanied by a report that includes sufficient information to evaluate the environmental characteristics of affected areas, the potential impacts of the proposed development on water resources, and the effectiveness and acceptability of measures proposed for managing stormwater runoff. The developer or builder shall certify on the drawings that all clearing, grading, drainage, construction, and development shall be conducted in strict accordance with the plan. If a stormwater management plan involves direction of some or all runoff off of the site, it is the responsibility of the developer to obtain from adjacent property owners any easements or necessary property interests concerning flowage of water. Approval of a stormwater management plan does not create or affect any right to direct runoff onto adjacent property without that property owner's permission. The minimum information submitted for support of a stormwater management plan or application for a waiver shall be as follows:

A. Reports submitted for stormwater management plan approval shall include:

(1) A brief narrative description of the project;

- (2) Geotechnical investigations including soil maps, borings, site specific recommendations, and any additional information necessary for the proposed stormwater management design;
- (3) Descriptions of all water courses, impoundments, and wetlands on or adjacent to the site or into which stormwater directly flows;
- (4) Hydrologic computations, including drainage area maps depicting pre development and post development runoff flow path segmentation and land use;
- (5) Hydraulic computations;
- (6) Structural computations;
- (7) Unified sizing criteria volume computations according to the Design Manual; and
- (8) Any other information required by the Town of Millington.

B. Construction drawings submitted for stormwater management plan approval shall include the following:

- (1) A vicinity map;
- (2) Topography survey showing existing and proposed contours, including the area necessary to determine downstream analysis for proposed stormwater management facilities;
- (3) Any proposed improvements including location of buildings or other structures, impervious surfaces, storm drainage facilities, and all grading;
- (4) The location of existing and proposed structures and utilities;
- (5) Any easements and rights-of-way;
- (6) The delineation, if applicable, of the 100-year floodplain and any on-site wetlands;
- (7) Structural and construction details for all components of the proposed drainage system or systems, and stormwater management facilities.
- (8) All necessary construction specifications;
- (9) A sequence of construction;
- (10) Data for total site area, disturbed area, new impervious area, and total impervious area;
- (11) A table showing the unified sizing criteria volumes required in the Design Manual;
- (12) A table of materials to be used for stormwater management facility planting;

- (13) All soil boring logs and locations;
- (14) A maintenance schedule;
- (15) Certification by the owner/developer that all stormwater management construction will be done according to this plan;
- (16) An as-built certification signature block to be executed after project completion; and
- (17) Any other information required by the Town of Millington.

60-5.3 Preparation of the Stormwater Management Plan

- A. The design of stormwater management plans shall be prepared by any individual whose qualifications are acceptable to the Town of Millington. The Town of Millington may require that the design be prepared by either a professional engineer, professional land surveyor, or landscape architect licensed in the State, as necessary to protect the public or the environment.
- B. If a stormwater BMP requires either a dam safety permit from MDE or small pond approval from the Kent/Queen Anne's Soil Conservation District (SCD), the Town of Millington shall require that the design be prepared by a professional engineer licensed in the State.

60-6 PERMITS

60-6.1 Permit Requirement

A grading or building permit may not be issued for any parcel or lot unless a stormwater management plan has been approved or waived by the Town of Millington as meeting all the requirements of this Ordinance. Where appropriate, a building permit may not be issued without:

- A. Recorded easements for the stormwater management facility and easements to provide adequate access for inspection and maintenance from a public right-of-way;
- B. A recorded stormwater management maintenance agreement;
- C. A performance bond; and
- D. Permission from adjacent property owners as necessary.

60-6.2 Permit Fee

A non-refundable permit fee will be collected at the time the stormwater management plan or application for waiver is submitted. The permit fee will provide for the cost of plan review, administration, and management of the permitting process, and inspection of all projects subject to this Ordinance. A permit fee schedule shall be established by the Town of Millington based upon the relative complexity of the project and may be amended from time to time.

60-6.3 Permit Suspension and Revocation

Any grading or building permit issued by the Town of Millington may be suspended or revoked after written notice is given to the permittee for any of the following reasons:

- A. Any violation(s) of the conditions of the stormwater management plan approval.
- B. Changes in site runoff characteristics upon which an approval or waiver was granted.
- C. Construction is not in accordance with the approved plan.
- D. Noncompliance with correction notice(s) or stop work order(s) issued for the construction of the stormwater management facility.
- E. An immediate danger exists in a downstream area in the opinion of the Town of Millington.

60-6.4 Permit Conditions

In granting the plan approval, the Town of Millington may impose such conditions that may be deemed necessary to ensure compliance with the provisions of this Ordinance and the preservation of the public health and safety.

60-7 PERFORMANCE BOND

The Town of Millington shall require from the developer a surety or cash bond, irrevocable letter of credit, or other means of security acceptable to the Town of Millington prior to the issuance of any building and/or grading permit for the construction of a development requiring a stormwater management facility. The amount of the security shall not be less than the total estimated construction cost of the stormwater management facility. The bond required in this section shall include provisions relative to forfeiture for failure to complete work specified in the approved stormwater management plan, compliance with all of the provisions of this Ordinance, and other applicable laws and regulations, and any time limitations. The bond shall not be fully released without a final inspection of the completed work by the Town of Millington, submission of "As-built" plans, and certification of completion by the Town of Millington that the stormwater management facilities comply with the approved plan and the provisions of this Ordinance. A procedure may be used to release parts of the bond held by the Town of Millington after various stages of construction have been completed and accepted by the Town of Millington. The procedures used for partially releasing performance bonds must be specified by the Town of Millington in writing prior to stormwater management plan approval.

60-8 INSPECTION

60-8.1 Inspection Schedule and Reports

- A. The developer shall notify the Town of Millington at least 48 hours before commencing any work in conjunction with the stormwater management plan and upon completion of the project when a final inspection will be conducted.

B. Inspections shall be conducted by the Town of Millington, its authorized representative, or certified by a professional engineer licensed in the State. Written inspection reports shall be made of the periodic inspections necessary during construction of stormwater management systems to ensure compliance with the approved plans.

C. Written inspection reports shall include:

- (1) The date and location of the inspection;
- (2) Whether construction was in compliance with the approved stormwater management plan;
- (3) Any variations from the approved construction specifications; and
- (4) Any violations that exist.

D. The owner/developer and on-site personnel shall be notified in writing when violations are observed. Written notification shall describe the nature of the violation and the required corrective action.

E. No work shall proceed until the Town of Millington inspects and approves the work previously completed and furnishes the developer with the results of the inspection reports as soon as possible after completion of each required inspection.

60-8.2 Inspection Requirements During Construction

A. At a minimum regular inspections shall be made and documented at the following specified stages of construction:

- (1) For Ponds:
 - (a) Upon completion of excavation to sub-foundation and when required, installation of structural supports or reinforcement for structures, including but not limited to:
 - (i) Core trenches for structural embankments
 - (ii) Inlet and outlet structures, anti-seep collars or diaphragms, and watertight connectors on pipes; and
 - (iii) Trenches for enclosed storm drainage facilities;
 - (b) During placement of structural fill, concrete, and installation of piping and catch basins;
 - (c) During backfill of foundations and trenches;
 - (d) During embankment construction; and
 - (e) Upon completion of final grading and establishment of permanent stabilization.

- (2) Wetlands – at the stages specified for pond construction in 8.2 A (1) of this section, during and after wetland reservoir area planting, and during the second growing season to verify a vegetation survival rate of at least 50 percent.
 - (3) For infiltration trenches:
 - (a) During excavation to subgrade;
 - (b) During placement and backfill of underdrain systems and observation wells;
 - (c) During placement of geotextiles and all filter media;
 - (d) During construction of appurtenant conveyance systems such as diversion structures, pre-filters and filters, inlets, outlets, and flow distribution structures; and
 - (e) Upon completion of final grading and establishment of permanent stabilization;
 - (4) For infiltration basins – at the stages specified for pond construction in 8.2 A (1) of this section and during placement and backfill of underdrain systems.
 - (5) For filtering systems:
 - (a) During excavation to subgrade;
 - (b) During placement and backfill of underdrain systems;
 - (c) During placement of geotextiles and all filter media;
 - (d) During construction of appurtenant conveyance systems such as flow diversion structures, pre-filters and filters, inlets, outlets, orifices, and flow distribution structures; and
 - (e) Upon completion of final grading and establishment of permanent stabilization.
 - (6) For open channel systems:
 - (a) During excavation to subgrade;
 - (b) During placement and backfill of underdrain systems for dry swales;
 - (c) During installation of diaphragms, check dams, or weirs; and
 - (d) Upon completion of final grading and establishment of permanent stabilization.
 - (7) For nonstructural practices – upon completion of final grading, the establishment of permanent stabilization, and before issuance of use and occupancy approval.
- B. The Town of Millington may, for enforcement purposes, use any one or a combination of the following actions:
- (1) A notice of violation shall be issued specifying the need for a violation to be corrected if stormwater management plan noncompliance is identified;
 - (2) A stop work order shall be issued for the site by the Town of Millington if a violation persists;

- (3) Bonds or securities may be withheld or the case may be referred for legal action if reasonable efforts to correct the violation have not been undertaken; or
 - (4) In addition to any other sanctions, a civil action or criminal prosecution may be brought against any person in violation of the Stormwater Management subtitle or this Ordinance.
- C. Any step in the enforcement process may be taken at any time, depending on the severity of the violation.
- D. Once construction is complete, as-built plan certification shall be submitted by either a professional engineer or professional land surveyor licensed in the State to ensure that constructed stormwater management practices and conveyance systems comply with the specifications contained in the approved plans. At a minimum, as-built certification shall include a set of drawings comparing the approved stormwater management plan with what was constructed. The Town of Millington may require additional information.
- E. The Town of Millington shall submit notice of construction to the Administration on a form supplied by the Administration for each stormwater management practice within 45 days of construction completion. If BMPs requiring SCD approval are constructed, notice of construction completion shall also be submitted to the appropriate SCD.

60-9 MAINTENANCE

60-9.1 Maintenance Inspection

The Town of Millington shall ensure that preventative maintenance is performed by inspecting all stormwater management systems. Inspection shall occur during the first year of operation and at least once every 3 years thereafter. In addition, a maintenance agreement between the owner and the Town of Millington shall be executed for privately owned stormwater management systems as described in 9.2 of this section.

- A. Inspection reports shall be maintained by the Town of Millington for all stormwater management systems.
- B. Inspection reports for stormwater management systems shall include the following:
 - (1) The date of inspection;
 - (2) Name of inspector;
 - (3) The condition of:
 - (a) Vegetation or filter media;
 - (b) Fences or other safety devices;
 - (c) Spillways, valves, or other control structures;

- (d) Embankments, slopes, and safety benches;
 - (e) Reservoir or treatment areas;
 - (f) Inlet and outlet channels or structures;
 - (g) Underground drainage;
 - (h) Sediment and debris accumulation in storage and forebay areas;
 - (i) Any nonstructural practices to the extent practicable; and
 - (j) Any other item that could affect the proper function of the stormwater management system.
- (4) Description of needed maintenance.
- C. After notification is provided to the owner of any deficiencies discovered from an inspection of a stormwater management system, the owner shall have 30 days or other time frame mutually agreed to between the Town of Millington and the owner to correct the deficiencies. The Town of Millington shall then conduct a subsequent inspection to ensure completion of the repairs.
- D. If repairs are not undertaken or are not found to be done properly, then enforcement procedures following 9.2 C of this section shall be followed by the Town of Millington.
- E. If, after an inspection by the Town of Millington, the condition of a stormwater management facility presents an immediate danger to the public health or safety, because of an unsafe condition or improper maintenance, the Town of Millington shall take such action as may be necessary to protect the public and make the facility safe. Any cost incurred by the Town of Millington shall be assessed against the owner(s), as provided in section 9.2 C.

60-9.2 Maintenance Agreement

- A. Prior to the issuance of any building permit for which stormwater management is required, the Town of Millington shall require the applicant or owner to execute an inspection and maintenance agreement binding on all subsequent owners of land served by a private stormwater management facility. Such agreement shall provide for access to the facility at reasonable times for regular inspections by the Town of Millington or its authorized representative to ensure that the facility is maintained in proper working condition to meet design standards.
- B. The agreement shall be recorded by the applicant and/or owner in the land records of Kent/Queen Anne's County.
- C. The agreement shall also provide that, if after notice by the Town of Millington to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) within a reasonable period of time (30 days maximum), the Town of Millington may perform all

necessary work to place the facility in proper working condition. The owner(s) of the facility shall be assessed the cost of the work and any penalties. This may be accomplished by placing a lien on the property, which may be placed on the tax bill and collected as ordinary taxes by the Kent/Queen Anne's County.

60-9.3 Maintenance Responsibility

- A. The owner of the property on which work has been done pursuant to this Ordinance for private stormwater management facilities, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sediment control measures, and other protective devices. Such repairs or restoration and maintenance shall be in accordance with approved plans.
- B. A maintenance schedule shall be developed for the life of any stormwater management facility and shall state the maintenance to be completed, the time period for completion, and who shall perform the maintenance. This maintenance schedule shall be printed on the approved stormwater management plan.

60-10 APPEALS

Any person aggrieved by the action of any official charged with the enforcement of this Ordinance, as the result of the disapproval of a properly filed application for a permit, issuance of a written notice of violation, or an alleged failure to properly enforce the Ordinance in regard to a specific application, shall have the right to appeal the action to the Board of Appeals for the Town of Millington. The appeal shall be filed in writing within 30 days of the date of official transmittal of the final decision or determination to the applicant, shall state clearly the grounds on which the appeal is based, and shall be processed in the manner prescribed for hearing administrative appeals under the Town of Millington's Zoning Ordinance.

60-11 SEVERABILITY

If any portion of this Ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such portion shall not affect the validity of the remaining portions of this Ordinance. It is the intent of the Town of Millington that this Ordinance shall stand, even if a section, subsection, sentence, clause, phrase, or portion may be found invalid.

60-12 PENALTIES

Any person convicted of violating the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than Five Thousand Dollars (\$5,000.00) or imprisonment not exceeding 1 year or both for each violation with costs imposed in the discretion of the court. Each day that a violation continues shall be a separate offense. In addition, the Town of Millington may institute injunctive, mandamus or other appropriate action or proceedings of law to correct violations of this Ordinance. Any court of competent jurisdiction shall have the right to issue temporary or permanent restraining orders, injunctions or mandamus, or other appropriate forms of relief.

60-13 EFFECTIVE DATE

And be it further enacted, that this Ordinance shall take effect 20 days from the date it becomes adopted.

Chapter 61
(Reserved)

Chapter 62
(Reserved)

Chapter 63

STREETS AND SIDEWALKS

- § 63-1. Obstruction prohibited.
- § 63-2. Construction debris.
- § 63-3. Removal of brush, grass, & weeds.
- § 63-4. Maintenance.
- § 63-5. Portable basketball courts and recreational equipment.
- § 63-6. Throwing substances on streets.
- § 63-7. Dead animals in streets.
- § 63-8. Responsibility of occupants.
- § 63-9. Responsibility of owners of unoccupied property.
- § 63-10. Time limit for removal of snow and ice.
- § 63-11. Right of entry upon private property.
- § 63-12. Appeals.
- § 63-13. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Town of Millington: Article I, 07-11-62 as Ordinance No's. 105, 106 and 108; Article II, 06-1-83. § 63-4 added and § 63-8 amended at time of adoption of Code; see Chapter 1, General Provisions, Article I. Other amendments noted where applicable. Amended on 02-01-2001 by Mayor and Council as Ordinance No.)

GENERAL REFERENCES

Public ways and sidewalks - See Charter Article VIII

§ 63-1. Obstruction prohibited.

It shall be unlawful for any person to encumber, obstruct, or in any manner interfere with the free and uninterrupted use of the public streets and sidewalks.

§ 63-2. Construction debris.

- A. No person engaged in excavation, repairs to structures or grounds or construction or having charge or control of excavation, repairs to structures or grounds or construction or who may be engaged in or have charge or control of conveying material to or from excavations, repairs to structures or grounds or construction shall deposit or permit to be deposited in any manner upon the surface of any street, alley, avenue, highway, footway, sidewalk, or parking or other public space within the Town, either by placing, spilling, dropping or tracking from the wheels of vehicles any earth, clay, mud, sand, gravel, or other material. If any such deposit occurs, every person whose duty it is under this section to prevent such deposit shall promptly remove the same. All macadamized or broken stone roadways adjacent to excavations or traversed by vehicles either in the process of conveying material from an excavation or in returning from the place of deposit to the place of excavation shall be covered with planking so far as may be required to prevent any mud, earth, clay or other material from the excavation or from the place of deposit from reaching the surface of such roadway.
- B. No one being the owner, driver, manager, or conductor of any vehicle shall carry or convey or cause to be carried or conveyed in such vehicle any coal, earth, sand, gravel, broken stone, dirt, ashes, paper, and other rubbish or any loose fluid or offense articles or matter or any articles whatsoever within the Town so that the same shall or may be scattered, dropped, let fall, blown or spilled therefrom; and all vehicles conveying combustible refuse or foul, dusty, or offensive matter of any sort shall have tight bodies and be closely and securely covered. All vehicles conveying wastepaper and wastepaper products, baled, sacked, or otherwise, shall be closely and securely covered.
- C. Any person who enters or crosses over the public right-of-way for the purpose of engaging in construction on adjacent or adjoining property shall be responsible for the repair of any damage to the sidewalk, driveway apron, area between the sidewalk and street, curb, street, or gutter within the right of way adjacent to the construction site, and the work shall be done in accordance with Town standards.
- D. In addition to the cost to repair the damaged area to its original condition, a fine of \$500 shall be imposed.

§ 63-3. Removal of brush, grass, and weeds from sidewalks.

It shall be unlawful for the owner, tenant, or occupant of any land to permit weeds, brush, hedges, shrubbery, or any tree or plant to grow to such a height that it will interfere with the operator of any automobile approaching such intersection from clearly seeing an automobile approaching upon the intersecting street or to permit the same to overhang upon any street or sidewalk so as to interfere with the free passage of any person on any streets or sidewalks of the Town.

§ 63-4. Maintenance.

- A. Property Owner Responsibilities: it shall be the duty and obligation of the owner of the property abutting a sidewalk or public right-of-way to maintain the abutting sidewalk, driveway apron, and area between the sidewalk and street in a condition as to be safe for public use and free of obstruction.
- B. Town Responsibilities: it shall be the duty and obligation of the Town to maintain the property of the Town, which includes the repair, replacement, and installation of curbs, gutters, sidewalks, and Town streets as funding becomes available.

§ 63-5. Portable Basketball Courts and Recreational Equipment.

It shall be unlawful for any person or persons to construct or place a basketball goal or any similar device, including portable goals, within any public right-of-way within the Town of Millington, or to attach basketball hoops or other similar devices to any tree, sign post, or utility post within a public right-of-way.

§ 63-6. Throwing substances on streets prohibited.

It shall be unlawful for any person to cast or throw into any street, alley, avenue or highway any glass, bottles, glassware, crockery, porcelain, or other similar substances or pieces thereof or any pieces of iron, hardware or sharp metal, nails, tacks or other articles or any wastepaper, trash, rubbish, garbage, or refuse of any kind.

§ 63-7. Dead animals in streets prohibited.

No person shall cast any dead animal into any street, avenue or alley within the limits of the town.

§ 63-8. Responsibility of occupants.

It shall be the duty of the occupant or occupants of any real and leasehold estate to clean off or cause to be cleaned off the snow or ice that may accumulate on the sidewalks abutting said property.

§ 63-9. Responsibility of owners for unoccupied property.

In case any real or leasehold property is unoccupied, then the owner or owners of the same shall clean off or cause to be cleaned off the snow or ice that may accumulate on the sidewalks abutting said property.

§ 63-10. Time limit for removal of snow and ice.

Such snow or ice shall be cleaned off within twenty-four (24) hours after same has accumulated, which, in case of snow, shall date from the hour of abatement of each particular snowfall.

§ 63-11. Right of entry upon private property.

As duly authorized by the Town Charter and Town Code, the Town employees, its agents and assigns, shall have the right of entry for the purpose of accomplishing construction of or maintenance to any street, sidewalk, curb, gutter, drainage systems, various utility systems, including the location or relocation of water, sewer, electric, telephone, and cable transmission lines, street and sidewalk lights, landscaping, as well as maintaining existing entrances from the public and private property to the street and sidewalk, and to do all things necessary to accomplish the same, at all reasonable hours, upon any premises in the Town which abuts a Town street or sidewalk.

§ 63-12. Appeals

Any person aggrieved by any decision of the Code Enforcement Officer or any agency acting under the provisions of this article may, within 30 days of the notice of the Code Enforcement Officer's decision, request a hearing before the Council. Any person aggrieved by the action of the Council may appeal to the Circuit court within 30 days of the notice of the Council's decision.

§ 63-13. Violations and Penalties.

Violation of any provision of this article shall be deemed a municipal infraction and shall be punished by a fine as per the appropriate article of this ordinance. The penalty for violating this article will result in a municipal fine of \$500 will be assessed.

Chapter 64
(Reserved)

Chapter 65

Property Maintenance Code

- § 65-1. Purpose.
- § 65-2. Scope and application.
- § 65-3. Enforcement after notice.
- § 65-4. Definitions.
- § 65-5. Declaration of public nuisance.
- § 65-6. Inspections; records.
- § 65-7. Entry for inspections.
- § 65-8. Warning notices.
- § 65-9. Notice to vacate, repair or remove.
- § 65-10. Posting of notice.
- § 65-11. Service of notice.
- § 65-12. Abatement by town at owner's expense.
- § 65-13. Collection of expenses.
- § 65-14. Violations and penalties.
- § 65-15. Prosecution.
- § 65-16. Filing of judicial appeals.

[HISTORY: Adopted by the Mayor and Council of the Town of Millington 2-5-87 as Ordinance No. 1-87. Sections 65-7B and 65-11 amended at time of adoption of Code; see Chapter 1, General Provisions, Article I. Other amendments noted where applicable.]

[HISTORY: Adopted by the Mayor and Council of the Town of Millington 10-05-05 as Ordinance 2005-03 adopted the 2003 edition of the International Property Maintenance Code as a new Chapter 65 of the Millington Code.]

Chapter 65

INTERNATIONAL PROPERTY MAINTENANCE CODE

§ 65-1. Purpose.

The purpose of this Chapter are to enable the Code Enforcement Officer to regulate and govern the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures in the **Town of Millington**; providing for the issuance of permits and collection of fees therefore; repealing the previously existing Chapter 65, Structures, Unsafe of the Code of the **Town of Millington** and all other ordinances and parts of the ordinances in conflict therewith.

§ 65-2. Scope and application.

The **Mayor and Council** of the **Town of Millington** does ordain as follows:

That a certain document, three (3) copies of which are on file in the office of the **Town Clerk** of the **Town of Millington**, being marked and designated as the *International Property Maintenance Code*, 2003 edition, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the **Town of Millington**, in the State of **Maryland** for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file

§ 65-3. Enforcement after notice.

Except for emergency circumstances, this chapter shall be enforced only after violations have first been brought to the attention of the owner of the premises by the issuance of a warning notice and a reasonable time and full opportunity for voluntary compliance has been afforded to the owner.

§ 65-4. Definitions.

Where terms are not defined under the provisions of this Article or under the provisions of any building, fire, safety, health, plumbing or electrical code or ordinance enforceable in Kent County, such terms shall have ascribed to them their ordinarily accepted meanings in the context utilized.

For the purpose of this Chapter and unless otherwise expressly stated, the following words, phrases and their derivatives shall have the meanings set forth in this section.

DWELLING - When used in this chapter without other qualifications, a structure used, whether occupied or not, for residential purposes.

EGRESS - An exit or a place or a means to leave a dwelling unit by continuous, unobstructed travel.

ENFORCEMENT OFFICER - The Health Officer for Kent County or any person appointed or authorized by the Health Officer for Kent County to exercise, under the enforcement officer's supervision, any or all of the responsibilities charged to the enforcement officer by the provisions of this chapter.

GARBAGE - Animal and vegetable waste resulting from the handling, preparation, cooking and consumption of foods, exclusive of recognized industrial byproducts from canneries and other food-processing industries and human or animal feces.

OWNER - A person, firm, corporation or partnership, including a duly authorized agent or attorney, a purchaser, devisee, or fiduciary having a legal or equitable interest in the property in question.

PERSON - A natural person, his heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns or the agent of any of the aforesaid.

PREMISES - A 1st, plot or parcel of land, including the structures, dwellings and dwelling units thereon.

REMOVE - Taking away and off the premises, as well as the removal of backfill of all excavations and openings in the earth as the result of demolition.

REPAIR - The replacement of existing work for the purpose of its maintenance.

REQUIRED - Mandatory in the imperative sense.

RUBBISH - All solid waste other than garbage.

STRUCTURE - Anything which is built or constructed and which is fastened anchored or rests upon the ground.

TOWN - The Incorporated Town of Millington, Maryland.

§ 65-5. Declaration of public nuisance.

A premises or structure may be found and declared by the enforcement officer to be a public nuisance if it

Constitutes a fire hazard.

Has inadequate egress.

Is structurally unsafe and unstable and is likely to partially or completely collapse.

Constitutes a hazard to safety or health by reason of unsafe equipment, disrepair, dilapidation, obsolescence or abandonment.

Contributes to unsanitary conditions dangerous to the public health, including but not limited to water contamination, vermin or rodent infestation, the accumulation of garbage, rubbish and human or animal feces or undue exposure of persons to the elements.

It shall be unlawful to refuse or neglect or otherwise to fail to abate, by repair, improvement or removals, any condition declared as a public nuisance.

§ 65-6. Inspections; records.

The enforcement officer shall make such inspections as are necessary to determine the existence of a public nuisance. The enforcement officer shall maintain a record of every such inspection.

§ 65-7. Entry for inspections.

- A. The enforcement officer or duly appointed and authorized representative may enter any structure, dwelling or premises in the county to perform any duty charged to the enforcement officer by this chapter, provided that the enforcement officer shall give notice, in writing, of the day of the inspection to the owner, as shown by the tax assessment records, and occupant of the premises, which said notice shall be mailed ten (10) days in advance of the inspection date to the last known address of both of the above.
- B. If the occupant or the owner refuses or fails to allow an entry and inspection or if a life-threatening emergency situation exists and entry is necessary, the enforcement officer shall issue an order for such

entry. The order will contain a written application signed and sworn to by the enforcement officer setting forth the purpose of the entry and the address and location of the premises to be entered. Upon such application, if it appears to any Judge of the District Court for Kent County that there is a violation of a provision of this chapter, then such Judge may forthwith issue an order directed to the enforcement officer authorizing an entry to such premises. The order shall state that any entry made there under shall be made within thirty (30) days from the date of the issuance thereof, and after the expiration of said thirty-day period, said order shall expire.⁵

- C. Each occupant of a premise shall give the owner access to any part of such premises at all reasonable times upon reasonable notice for the purpose of making repairs or taking such action as necessary to effect compliance with the provisions of this chapter or any lawful order issued pursuant to the provisions of this chapter.

§ 65-8. Warning notices.

- A. Except as to emergency circumstances, the enforcement officer, upon first determining that a violation of this chapter exists, shall issue a written warning notice advising the owner of the property in violation of the following:
 - (1) The nature of the violation(s).
 - (2) Repair and improvement necessary to abate the public nuisance.
 - (3) A reasonable time, not to exceed one hundred twenty (120) days, to achieve voluntary compliance.
 - (4) The date after which a notice to vacate and to repair or remove will be issued if voluntary compliance is not achieved.
 - (5) An explanation of the owner's rights of appeal under the provisions of this Chapter.
- B. A warning notice need not be issued when conditions constitute an emergency and present an imminent or immediate threat of danger to human life or limb, health, property or the public safety.

§ 65-9. Notice to vacate, repair or remove.

- A. The enforcement officer shall issue a written notice to vacate and to repair or remove whenever:
 - (1) An emergency circumstance exists and presents an imminent or immediate threat of danger to human life or limb, health, property or the public safety.
 - (2) Voluntary compliance with a warning notice is not achieved within the time indicated.
- B. This notice shall require the owner to vacate the premises within a stated time and, within sixty (60) days, either to complete specific repairs or improvements or to remove the public nuisance of any portion thereof, including the removal of all debris and the backfilling of all excavations and openings in the earth, or otherwise to comply with other applicable provisions of this chapter. Upon evidence of a good-faith effort to commence compliance with such notice, the enforcement officer may, in his sole discretion, grant a reasonable extension of time to complete compliance.

§ 65-10. Posting of notice.

- A. Upon issuance of a notice to vacate and to repair or remove, the enforcement officer shall cause to be posted at each entrance of the premises declared to be a public nuisance, the following notice: "THESE PREMISES ARE UNSAFE AND HAVE BEEN DECLARED TO BE A PUBLIC NUISANCE; USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE MAYOR AND TOWN COUNCIL"

⁵ Editor's Note: Amended at time of adoption of Code; see Chapter 1, General Provisions, Article I.

- B. Such notice shall remain posted until the required repairs are made or removal is completed. It shall be unlawful for any person, firm or corporation or their agents or other servants to remove such notice without written permission of the enforcement officer or for any person to trespass upon the premises except for the purpose of making the required repairs or of removing the public nuisance.

§ 65-11. Service of notice.⁶

Whenever the enforcement officer shall issue a warning notice or a notice to vacate and to repair or remove, he shall give such notice to the owner of record or agent and to the person in control of the premises, by return-receipt registered or certified mail or by personal service through the Sheriff of Kent County or through other legally accepted means. Service on nonresidents and persons who cannot be found in the county shall be made by sending a copy of such notice to the owner of record by registered or certified mail to such owner's last known address, by publishing such notice twice in a newspaper of general circulation in the county and by posting such notice on the property concerned in a conspicuous manner. Effective service shall be deemed to have been made on the last day to occur of such mailing, publication and posting.

§ 65-12. Abatement by town at owner's expense.

In the event that the owner of record fails to comply with a notice to vacate and to repair or remove within sixty (60) days of the effective service of the notice, or in the event that the premises has been posted as unsafe and there exists an emergency circumstance which presents an imminent or immediate threat of danger to human life or limb, health, property or public safety, the enforcement officer may enter the premises concerned and cause the same to be repaired or removed and any dangerous conditions to be remedied, as the case may be, at the expense of the owner of record.

§ 65-13. Collection of expenses.

If the owner of record fails to repay the town for expenses incurred under § 65-12 within thirty (30) days after written demand has been mailed to such owner's last known address, the enforcement officer shall notify the Town Treasurer, and such expenses shall be charged to the property, shall constitute a lien thereon, shall be entered on the tax records kept by the Town Treasurer and shall be collectible as are taxes in arrears under the provision of Section 9-12 of the Kent County Code.

§ 65-14. Violations and penalties.

Any person who shall violate any provision of this chapter shall, upon conviction thereof, be subject to a civil penalty of not more than one thousand dollars (\$1,000.), at the discretion of the court. Each day that a violation continues after due notice of the penalty has been effectively served shall be deemed a separate offense.

§ 65-15. Prosecution.

- A. In case any notice as provided in § 65-9 or 65-10 is not promptly complied with, the enforcement officer may institute an appropriate action in a court of competent jurisdiction to:
- (1) Restrain, correct or remove the violation.
 - (2) Prevent the trespass, occupation or use of the structure in violation of or not in compliance with the provisions of this chapter.
 - (3) Order the payment of the civil penalty authorized by this chapter.

⁶ Editor's Note: Amended at time of adoption of Code; see Chapter 1, General Provisions, Article I.

- (4) Order such other relief as shall be just or equitable to secure and protect the general public from conditions on premises found to be dangerous or detrimental to human life, limb, health, property or safety.
- B. Certain costs, including attorney's fees, may be charged to the owner, including the record owner, as well as any other person prosecuted under this section. Such costs, fees and penalties may be charged to the property and constitute a lien as provided in § 65-13 on this Chapter.

§ 65-16. Filing of judicial appeals.

Upon effective service of a notice to vacate and to repair or remove, any person may appeal such notice within thirty (30) days of the date thereof to any court of competent jurisdiction. Such appeal shall stay neither abatement by the town nor the requirement to vacate the premises and to refrain from trespassing thereupon except for the purpose of making the required repairs or of removing the public nuisance, unless a stay shall be granted by the court to which such appeal has been made or by the enforcement officer.

Chapter 66
SUBDIVISION OF LAND

ARTICLE I
Title; Applicability; Purpose

- § 66-1. Title.
- § 66-2. Applicability.
- § 66-3. Purpose.

ARTICLE II
Definitions and Word Usage

- § 66-4. General rules of construction.
- § 66-5. Definitions.

ARTICLE III
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- § 66-6. Plat required for subdivision; recording.
- § 66-7. Approval of plat by Planning Commission.
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Plat Submission and Approval Procedure

- § 66-10. Preparation of sketch; consultation with Planning Commission, Health Officer and Engineer.
- § 66-11. Submission of preliminary plat.
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- § 66-13. Installation of improvements.
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ARTICLE V
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- § 66-17. General requirements.
- § 66-18. Suitability of land.
- § 66-19. Street layout
- § 66-20. Street design standards.
- § 66-21. Blocks.
- § 66-22. Lots
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- § 66-24.1. Critical Area District

ARTICLE VI
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- § 66-25. General requirements.
- § 66-26. Information to be shown.
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ARTICLE VII
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- § 66-28. Installation by subdivider; deposit or bond.
- § 66-29. Minimum requirements.
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- § 66-3 1. Inspection and acceptance.
- § 66-32. Sediment control.

ARTICLE VIII

Final Plat

§ 66-33. General requirements

§ 66-34. Information to be shown.

§ 66-35. Certificates and statements

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ARTICLE IX

Modifications and Exceptions

§ 66-36. Variance, modification or waiver of requirements.

§ 66-37. Exceptions for residential planned community districts.

§ 66-38. Approval of modifications and exceptions.

ARTICLE X

Changes and Amendments

§ 66-39. Initiation: Planning Board report

§ 66-40. Public hearing by Planning Commission.

§ 66-41. Public hearing by Mayor and Council.

[HISTORY: Adopted by the Mayor and Council of the Town of Millington 10-06-75. Amendments noted where applicable.]

GENERAL REFERENCES

Planning Commission - See Chapter 9.

Sediment Control - See Chapter 53.

Sewers - See Chapter 56.

Zoning - See Chapter 80.

ARTICLE I

Title; Applicability; Purpose

§ 66-1. Title.

This chapter shall be known, referred to and cited as the “Land Subdivision Ordinance of Millington, Maryland.”

§ 66-2. Applicability.

This chapter shall apply to the incorporated territory of Millington, Maryland, within the area encompassed by the adopted Transportation Plan of the Town.⁷ The regulations contained herein are adopted under the authority of Article 66B, Annotated Code of Public General Laws of Maryland, as amended, and shall be in addition to any regulations pertaining to land subdivision promulgated by the State Department of Health or other agency of the State of Maryland, and in the case of any conflict, the more exacting regulation shall prevail.

§ 66-3. Purpose.

This Chapter has been established for the purpose of guiding and accomplishing the coordinated and harmonious development of the Town of Millington, Maryland, and its environs in order to promote, in accordance with present and future needs, the health, safety, morals, order, convenience, prosperity and general welfare of the citizens of the Town. In the accomplishment of this purpose, the regulations as herein established provided for, among other things, efficiency and economy in the process of development; the proper arrangement of streets in relation to each other and to the existing and planned streets and other features of the Comprehensive Plan⁸ of the town; adequate open spaces for recreation, light and air; convenient distribution of population and traffic; adequate provision for public utilities and other public facilities; and other requirements for land subdivision which will tend to create conditions favorable to the health, safety, convenience and prosperity of the citizens of Millington, Maryland, and its environs.

ARTICLE II

Definitions and Word Usage

§ 66-4. General rules of construction.

The following general rules of construction shall apply to the regulations of this Chapter:

- A. The singular number includes the plural, and the plural the singular, unless the context clearly indicates the contrary.
- B. Words used in the present tense include the past and future tenses, and the future the present.
- C. The word “shall” is always mandatory. The word “may” is permissive.
- D. The word “public” means “open to common use,” whether or not public ownership is involved.
- E. Words and terms not defined herein shall be interpreted in accordance with their normal dictionary meanings and customary usage.

⁷ Editors Note: The Transportation Plan is on file in the office of the Town Clerk.

⁸ Editors Note: The Comprehensive Plan is on file in the office of the Town Clerk.

§ 66-5. Definitions.

For the purpose of this chapter, certain terms and words are hereby defined:

ALLEY - A narrow public thoroughfare, not exceeding sixteen (16) feet in width, which provides a secondary means of vehicular access to abutting properties and which is not intended for general circulation.

BUILDING LINE - A line within a lot, so designated on a plat of subdivision, between which line and the street line of any abutting street no building or structure may be erected.

COLLECTOR STREET - A Street which is intended to collect traffic from the minor streets within a neighborhood or a portion thereof and to distribute such traffic to major thoroughfares in addition to providing access to properties abutting thereon.

CROSS WALKWAY - A public way intended for pedestrian use and excluding motor vehicles, which cuts across a block in order to furnish improved access to adjacent streets or properties.

CUL-DE-SAC - A minor street having but one (1) end open for vehicular traffic and with the other end permanently terminated by a turnaround or back around for vehicles.

EASEMENT - A strip of land for which the owner grants a right of use to someone else for one (1) or more designated purposes, which purposes are consistent with the general property rights of the owner.

ENGINEER - The Town Engineer of Millington, who shall be the Resident Engineer of the Maryland State Highway Administration or other, qualified civil engineer designated by the Mayor and Council.

HEALTH OFFICER - The Health Officer of the county.

LOT - A portion of a subdivision or other parcel of land intended for the purpose of building development, whether immediate or future.

LOT AREA - The total horizontal area within the lot lines of the lot.

LOT DEPTH - The average horizontal distance between the front and rear lot lines.

LOT LINE - The boundary line of the lot.

LOT WIDTH - The horizontal distance between the side lot lines, measured at the required building setback line.

MAJOR THOROUGHFARE - A Street or highway so designated on the Major Thoroughfare Plan of Millington.⁹

MINOR STREET - A Street other than a major thoroughfare or Collector Street and intended primarily for providing access to abutting properties.

PLANNING COMMISSION - The Millington Planning Commission.

REGULATIONS - The whole body of regulations, text, charts. Diagrams, notations and references contained or referred to in this chapter.

ROADWAY - That portion of a street or highway available for and intended for use by motor vehicle traffic.

SERVICE DRIVE - A minor street which is parallel to and adjacent to a major thoroughfare and which provides access to abutting properties and restricts access to the major thoroughfare.

STREET - A public or private thoroughfare which affords the principal means of access to abutting properties, whether designated as a freeway, expressway, highway, road, avenue, boulevard, lane, place, circle or however otherwise designated.

STREET LINE - A dividing line separating a lot, tract or parcel of land and a contiguous street, and also referred to as a "right-of-way line."

SUBDIVIDER - Any person, individual, firm, partnership, association, corporation, estate, trust or any other group or combination acting as a unit dividing or proposing to divide land so as to constitute a subdivision as defined herein, and including any agent of the subdivider.

⁹ Editors Note: The Major Thoroughfare Plan is on file in the office of the Town Clerk.

SUBDIVISION - The division of any tract or parcel of land into two (2) or more plots, parcels, lots or sites for the purpose, whether immediate or future, of transfer of ownership or of building development; provided, however, that the sale or exchange of parcels between adjoining lot owners where such sale or exchange does not create additional building sites shall be exempted from this definition. The term shall include re-subdivision and, where appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

ARTICLE III

General Provisions

§ 66-6. Print required for subdivision; recording.

From and after the effective date of this Chapter, any owner, agent or proprietor of any tract of land located within the territory to which these regulations shall apply who subdivides such land into lots, blocks, streets, alleys, public ways or public grounds shall cause a plat of such subdivision to be made in accordance with the regulations set forth herein and the laws of the State of Maryland and shall cause a copy of said plat to be recorded in the office of the Clerk of the Circuit Court.

§ 66-7. Approval of plat by Planning Commission.

No plat of a subdivision shall be recorded by the Clerk of the Circuit Court unless and until it shall have been submitted to and approved by the Planning Commission as provided herein. The Planning Commission shall not approve said plat unless and until the plat satisfactorily complies with the requirements of these regulations.

§ 66-8. Transfer of land; issuance of building permit.

No parcel of land in a subdivision created after the effective date of this Chapter shall be transferred, sold or offered for sale nor shall a building permit be issued for any structure thereon until a plat of subdivision shall have been recorded with the Clerk of the Circuit Court in accordance with these regulations and the laws of the State of Maryland. Any person who violates this provision shall be subject to the penalties contained herein.

§ 66-9. Requirements for plat preparation.

In the preparation of a plat of a subdivision, the subdivider shall comply with the general principles of design and minimum requirements for the layout of subdivisions as set forth in Article V and with the rules and regulations concerning required improvements as set forth in Article VII and in the standards and specifications for improvements as adopted by the Mayor and Council, and in every case the preparation of such plat shall be in accordance with the procedure of Article IV.

ARTICLE IV

Plat Submission and Approval Procedure

§ 66-10. Preparation of sketch; consultation with Planning Commission, Health Officer and Engineer.

- A. Before undertaking the preparation of a subdivision plat, the subdivider shall have prepared a sketch of the property in question, drawn to approximate scale, showing the boundaries, general topography, important physical features and other significant information, as well as the proposed scheme for development of the property, including the proposed street and lot locations, areas to be reserved for public use and proposed improvements.
- B. The subdivider shall then consult with the Planning Commission or its staff to ascertain the location of proposed major streets, highways, parks, playgrounds, school sites and other planned

public improvements and to determine the zoning regulations¹⁰ and other requirements relating to, affecting or applying to the proposed subdivision. The subdivider shall also consult with the Engineer and the Health Officer on the proposed street layout and the proposed facilities for sanitary sewage disposal, storm drainage and water supply to serve the proposed subdivision. The purpose of these consultations is to assist the subdivider by furnishing information and advice in order to expedite matters for the subdivider, save him unnecessary expense and promote the best coordination between the plans of the subdivider and those of the town.

§ 66-11. Submission of preliminary plat.

- A. The subdivider shall then prepare a preliminary plat of the proposed subdivision conforming to the requirements for the preparation of such plat as set forth in Article VI. At least two (2) weeks prior to a regularly scheduled meeting of the Planning Commission at which action on such plat is desired, the following items shall be filed with the Secretary of the Planning Commission
 - (1) Three (3) black-line or blue-line prints of the preliminary plat.
 - (2) Supporting statements on required improvements and proposed deed restrictions, as set forth in Article VI.
 - (3) An application for the approval of the plat on a form to be supplied by the Planning Commission.
- B. The preliminary plat shall be checked by the Planning Commission or its staff for its conformity to the Major Thoroughfare Plan and other pertinent features of the Master Plan of the Town, the applicable zoning and other regulations and the design principles and standards and requirements for submission as set forth in this Chapter. Copies of the preliminary plat shall be referred for review and approval to the Engineer, Health Officer and other appropriate public officials concerned with public improvements or health requirements.

§ 66-12. Hearing on preliminary plat; approval; expiration of approval.

- A. A hearing on the preliminary plat shall be held at the next regular meeting of the Planning Commission. No hearing shall be held by the Planning Commission until notice thereof shall have been sent to the subdivider and to such other interested parties as may be determined by the Planning Commission. At the hearing, the Planning Commission shall submit its findings and recommendations, together with those of the other public officials to whom copies were referred. The Planning Commission shall either tentatively approve or disapprove the preliminary plat or it may approve the plat subject to specific changes or modifications. One (1) copy of the preliminary plat, with any comments, shall be returned to the subdivider, with other copies retained in the files of the Planning Commission.
- B. Tentative approval of a preliminary plat shall be valid for not more than six (6) months. Unless a final plat, substantially in accordance with the approved preliminary plat and including any required changes or modifications, shall be filed with the Planning Commission within six (6) months from the date of approval of the preliminary plat, the Planning Commission's approval thereof shall be deemed canceled; provided, however, that the final plat may include only a portion of the area in the preliminary plat and that final plats for remaining portions may be filed at a later date without a new preliminary plat, but subject to any changes in the regulations contained herein made after such six-month period.

¹⁰ Editors Note: See Chapter 80, Zoning

§ 66-13. Installation of improvements.

Following tentative approval of the preliminary plat, the subdivider shall prepare and submit plans for the installation of those improvements which he is required to make under the provisions of this Chapter. Copies of such improvement plans shall be submitted to appropriate public officials for approval. Upon being notified that such improvement plans have been approved, the subdivider shall proceed with the installation of such improvements prior to filing a final plat for the subdivision with the Planning Commission, except that, in lieu of completing the required improvements prior to such filing, the subdivider may furnish the Mayor and Council with a cash deposit or performance bond executed in accordance with the provisions of Article VII, § 66-28.

§ 66-14. Submission of final plat.

- A. Following completion of the required improvements to the satisfaction of the appropriate public officials or following the posting of a performance bond or cash deposit in lieu of such completion, the subdivider shall prepare a final plat of the subdivision. Such final plat may be for all the property included in the preliminary plat or it may be limited to any portion thereof which is intended to be developed as a unit. Additional final plats, covering additional units of the property, may be submitted later, provided that the preliminary plat is still valid. Every final plat shall be substantially in accordance with the tentatively approved preliminary plat, including any changes or additions required by the Planning Commission as a condition for its tentative approval, and it shall conform in every respect to the requirements for the preparation of such plat as set forth in Article VIII.
- B. At least two (2) weeks prior to a regularly scheduled meeting of the Planning Commission at which action on the final plat is desired, the subdivider shall file the following items with the Secretary of the Planning Commission:
 - (1) Two (2) copies of the plat on tracing linen or dimensionally stable plastic film.
 - (2) Six (6) black-line or blue-line prints of the plat.
 - (3) A properly executed statement of dedication of all streets in the subdivision to the appropriate jurisdiction, constituting an irrevocable offer to dedicate for a period of not less than five (5) years from the date of its filing with the Planning Commission.
 - (4) An application for approval of the plat on a form to be supplied by the Planning Commission.

§ 66-15. Final plat approval and recording.

- A. Upon receipt by the Planning Commission of evidence of the satisfactory completion of required improvements or the posting of a cash deposit or performance bond therefore; the Planning Commission shall consider approval of the final plat at its next regular meeting. If the final plat is found to comply with the requirements of this Chapter and with the preliminary plat, as approved, the Planning Commission shall approve said plat and shall endorse the fact of such approval on each of the several copies submitted by placing the signature of its Chairperson thereon.
- B. The Planning Commission shall approve or disapprove the final plat within thirty (30) days after the filing of such plat with the Secretary of the Planning Commission; otherwise, such plat shall be deemed to have been approved, and a certificate to that effect shall be issued by the Planning Commission on demand; provided, however, that the subdivider may waive this requirement and consent to an extension of such period. The grounds for the disapproval of any final plat shall be stated upon the record of the Planning Commission.

- C. Upon approval of the final plat by the Planning Commission, the two (2) signed copies of the plat on tracing linen or plastic film shall be filed by the subdivider with the Clerk of the Circuit Court. The signed black-line or blue-line prints shall be forwarded by the Planning Commission to the Supervisor of Assessments, the State Department of Health, the Health Officer and the Engineer, with one (1) print retained by the Planning Commission and one (1) print returned to the subdivider.

§ 66-16. Fees to be set by Mayor and Council.

Fees shall be set by the Millington Mayor and Council.

ARTICLE V

Design Requirements and Standards

§ 66-17. General requirements.

- A. The subdivision layout shall conform in all essential respects to the Official Transportation Plan and other aspects of the adopted Comprehensive Plan for the Town.¹¹
- B. The subdivision layout shall be in full compliance with the provisions of the zoning districts in which it is located.
- C. The subdivision layout shall be designed in accordance with the principles and standards contained in this Article, with the objective of achieving the most advantageous development of the subdivision and adjoining areas.

§ 66-18. Suitability of land.

- A. Land subject to periodic flooding shall not be subdivided for residential occupancy nor for any other use which might involve danger to health, life, or property or aggravate the flood hazard, and such land within any proposed subdivision shall be reserved for uses which will not be endangered by periodic or occasional inundation.
- B. A plat for the subdivision of land with poor drainage or other adverse physical conditions will be considered for approval only if the subdivider shall agree to make whatever improvements are necessary, in the judgment of the Planning Commission, to render the land safe and otherwise acceptable for development.

§ 66-19. Street layout

- A. The street layout shall be designed to create desirable building sites while respecting existing topography, minimizing street grades, avoiding excessive cuts and fills, and preserving trees to the maximum extent possible.
- B. Streets shall be spaced to allow for blocks meeting the dimensional requirements contained herein and to minimize the number of intersections with existing or proposed major thoroughfares.
- C. Where the subdivider adjoins or embraces any part of a major thoroughfare as designated on the Transportation Plan, the layout of such subdivision shall provide for the platting and dedication of such part of the major thoroughfare in the location and at the width indicated on such plan, except that the subdivider shall not be required to dedicate that part of such major thoroughfare which is in excess of eighty (80) feet in width.

¹¹ The Transportation Plan and the Comprehensive Plan are on file in the office of the Town Clerk.

- D. Wherever deemed desirable to the layout of the subdivision and adjoining areas, the Planning Commission may require the platting and dedication of one (1) or more collector streets or parts thereof to serve the subdivision.
- E. Minor residential streets, intended primarily for access to individual properties, shall be so arranged as to discourage their use by through traffic.
- F. Streets shall be laid out to intersect one another at as near to right angles as topography and the limiting factors of good design will permit, and no street shall intersect another street at an angle of less than sixty degrees (60°).
- G. Proposed streets in the subdivision shall provide for the continuation of existing, planned or platted streets on adjacent tracts unless such continuation shall be prevented by topography or other physical condition or unless such extension is found by the Planning Commission to be unnecessary for the coordination of development between the subdivision and such adjacent tract.
- H. Where the Planning Commission deems it desirable or necessary to providing access to adjacent tracts not presently subdivided, proposed streets in the subdivision shall be extended to the boundary lines with such adjacent tracts, and temporary turnarounds shall be provided at the ends of such streets, by means of temporary easements or otherwise.
- I. Reduction of impact of heavy traffic.
 - (1) Where the subdivision abuts or contains a primary highway as designated on the Transportation Plan, the Planning Commission may require that measures be taken to reduce the impact of heavy traffic on the residential lots abutting or fronting upon such highway and to afford separation of through and local traffic through one (1) of the following means:
 - (a) By providing vehicular access to such lots by means of a service drive separated from the major thoroughfare by a planting strip and connecting therewith at infrequent intervals.
 - (b) By designing reverse-frontage lots having access only from a parallel minor street or from cul-de-sac or loop streets and with vehicular access to such lots from the major thoroughfare prohibited by deed restrictions or other means.
 - (2) The choice of the most appropriate method of accomplishing the desired purpose in a specific instance shall be made by the Planning Commission, giving consideration to topography and other physical conditions, the character of existing and contemplated development in the subdivision and its surroundings and other pertinent factors.
- J. Where land in the proposed subdivision adjoins a railroad line, the street layout shall make allowance for future grade-separated railroad crossings at appropriate locations by providing extra street right-of-way widths for such crossings and by restricting intersecting streets at locations where they would cause interference with the necessary approaches to such crossings.
- K. Cul-de-sac streets, generally not exceeding six hundred (600) feet in length, shall be permitted where they are necessitated by topographic conditions or where, in the judgment of the Planning Commission, they are appropriate to the type of development contemplated.
- L. Alleys shall be provided in commercial and industrial areas unless adequate access to parking and loading areas is provided by other means. Alleys will not be permitted in residential areas, except for providing rear access to row dwellings or where required by topographic or other unusual conditions. In the absence of alleys, easements will be required for utility lines or drainage facilities.
- M. Half-streets will be prohibited, except where they are essential to the reasonable development of the proposed subdivision in conformity with the other requirements of these regulations and where the Planning Commission finds that it will be practicable to require dedication of the remaining

half when the adjoining property is subdivided. Wherever a half-street adjoins the proposed subdivision, the remaining half of the street shall be platted within such subdivision.

- N. Private streets shall not be permitted in any proposed subdivision.

§ 66-20. Street design standards.

A. Right-of-way widths.

- (1) Right-of-way widths for primary and secondary highways shall be as designated in the Transportation Plan, and in any case not less than one hundred fifty (150) feet for primary highways and eighty (80) feet for secondary highways; provided, however, that widths above these minimums may be required by state officials to meet particular traffic conditions.
- (2) Right-of-way widths for other street types shall be not less than sixty (60) feet for collector streets in commercial and industrial areas, fifty (50) feet for minor streets in residential areas, forty (40) feet for service drives and sixteen (16) feet for alleys.

B. Roadway widths.

- (1) Roadway widths for primary and secondary highways shall be not less than the minimum specified by state officials, but in any case not less than twenty-four (24) feet with ten-foot shoulders.
- (2) Roadway widths for other street types shall be not less than the following:
 - (a) Collector streets and minor streets in multiple family residential, commercial and industrial areas: Forty (40) feet with curbs and gutters, except that streets serving lots of one (1) acre or more may, with the approval of the Planning Commission, have a minimum roadway width of twenty-two (22) feet with eight-foot shoulders.
 - (b) Minor streets in single-family residential areas and service drives: Thirty (30) feet with curbs and gutters, except that streets serving lots of one (1) acre or more may, with the approval of the Planning Commission, have a minimum roadway width of twenty (20) feet, with six-foot shoulders on each side for minor streets and on one (1) side for service drives.
 - (c) The Millington Planning Commission may reduce the above street and design standards of width in accordance with good planning techniques.
 - (d) Alleys: Twelve (12) feet.

- C. Cul-de-sac. Cul-de-sac streets shall have a circular turn-around of not less than one hundred (100) feet in diameter to the street line and with a roadway of not less than eighty (80) feet in diameter, unless the Planning Commission approves a T- or Y-background.

D. Street grades.

- (1) Street grades shall not exceed five percent (5%) for primary and secondary highways and collector streets and eight percent (8%) for minor streets, service drives and alleys, except that the Planning Commission may permit a variation of not greater than two percent (2%) from these maximums where topographic conditions warrant. Street grades shall be not less than one-half of one percent (1/2 of 1%) at the gutter.
- (2) All changes in street grades of more than one percent (1%) shall be connected by vertical curves with a minimum length of fifty (50) feet or fifteen (15) times the algebraic difference in the change in grade, whichever is greater.

- E. Curvature. The radius of curvature on the center line shall be not less than four hundred (400) feet for primary and secondary highways, three hundred (300) feet for collector streets and one hundred (100) feet for minor streets, service drives and alleys. Between reverse curves, either of which has a radius of less than two hundred (200) feet, there shall be a tangent section at least one hundred (100) feet in length.
- F. Intersections. Each property corner at street intersections shall be rounded off by an arc, the radius of which shall be not less than twenty (20) feet, except that in a business area a chord may be substituted for such arc. Curbs at street intersections shall be rounded off concentrically with the property lines. The design of the intersection should provide clear sight distance for oncoming vehicles, and there should be a suitable leveling of the street grade within and approaching the intersection.

§ 66-21. Blocks.

- A. Residential blocks shall normally not exceed one thousand three hundred (1,300) feet in length nor be less than five hundred (500) feet in length between street lines. In any residential block more than eight hundred (800) feet in length, a cross walkway of not less than ten (10) feet in width may be required where necessary to provide convenient access to schools, playgrounds, shopping centers and other community facilities.
- B. Residential blocks shall normally be of sufficient width to provide two (2) tiers of lots of appropriate depth.
- C. Blocks for business or industrial use shall be of such length and width as may be necessary to serve their prospective use, including making adequate provision for off-street parking and for the loading and unloading of delivery vehicles.
- D. Irregularly shaped blocks indented by cul-de-sac or looped streets and containing interior parks or playgrounds will be acceptable when they are properly designed, including making provision for adequate parking and for the maintenance of the public or joint-use recreation area.

§ 66-22. Lots.

- A. The lot arrangement, design and orientation shall be such that all lots will provide satisfactory building sites properly related to topography and the character of surrounding development.
- B. The dimensions and areas of all lots shall comply with the requirements of the zoning district in which they are located, except that in any case where public water supply and/or public sewerage is not available or is not to be provided, all residential lots shall comply with the minimum lot dimensions and areas established by the Health Officer or State Department of Health after appropriate water percolation tests, where these requirements are greater than required under the zoning regulations.
- C. Excessive lot depth in relation to lot width shall be avoided. A ratio of depth to width of two to one (2:1) shall be considered a desirable maximum.
- D. Corner lots shall desirably have extra width to permit appropriate building setback from both streets in accordance with the Zoning Regulations.¹²
- E. Every lot shall abut upon and have access to a public street.
- F. Double-frontage and reverse-frontage lots shall be avoided, except where their use is essential to overcoming special topographic problems or to separating residential development from heavy street traffic.
- G. Residential lots fronting or abutting on major thoroughfares shall desirably have extra lot depths and deeper building setbacks.

¹² Editors Note: See Chapter 80, Zoning.

- H. Lots adjoining a railroad line shall have extra lot depth and shall provide for an appropriate means of buffering such lots from such railroad line.
- I. Insofar as possible, side lot lines shall be substantially at right angles or radial to the street line, except where a variation to this requirement will provide an improved street and lot layout.
- J. The size and shape of lots intended for single-family residential use shall be sufficient to permit the ultimate provision of a garage on each lot, except that the Planning Commission may permit the grouping of garages into a compound serving several such lots.

§ 66-23. Easements.

- A. Where alleys are not provided in appropriate locations, easements of not less than ten (10) feet in width shall be provided, where necessary, to meet public utility requirements. Easements of greater width may be required along lot lines or across lots where necessary for the extension of trunk sewers or other primary utility lines.
- B. Where a proposed subdivision is traversed by any stream, watercourse or drainage way, the subdivider shall make adequate provision for the proper drainage of surface water, including the provision of easements along such streams, watercourses and drainage ways.
- C. Utility easements in private rights-of-way or in joint-use recreation areas may be permitted at the discretion of the Planning Commission if the design considerations of the proposed subdivision warrant such easements.
- D. No building or structure shall be constructed on any easement without the written authorization of the Commission.

§ 66-24. Public sites and open spaces.

- A. Where deemed essential by the Planning Commission, upon consideration of the type and size of development proposed in the subdivision, the subdivider shall be required to dedicate public facility sites and recreational facilities, of a character, extent, and location suitable to meeting the needs of such development. In lieu of dedicating such additional areas, they may be reserved for the common use of all property owners in the proposed subdivision through deed restrictions.
- B. Where the proposed subdivision includes lands required for use for public facilities, parks, playgrounds, or play fields, the subdivider shall indicate the location of such lands on the subdivision plat and shall dedicate such lands to the appropriate jurisdiction at the time of recordation of all or any portion of the subdivision.

§ 66-24.1. Critical Area District [Added 06-09-1988 by Ordinance No. 88-2]

In addition to the other provisions of the Millington Zoning Ordinance¹³ and Subdivision Regulations, the following design requirements will be adhered to in the subdivision of land located within the Town of Millington Critical Area Overlay District:

- A. Where a tract of land bordering tidal water, tidal wetlands or tributary streams in the critical area is to be subdivided and a buffer exemption has not been granted by the Critical Area Commission, a buffer of at least one hundred (100) feet shall be established in natural vegetation, except areas of the buffer which are planted in vegetation where necessary to protect, stabilize and enhance the shoreline. No development, including septic systems, impervious surfaces, parking areas, roads or structures, is permitted in the buffer. However, approved development or expansion of a water-dependent facility, as defined in the Town of Millington Zoning Ordinance, is accepted from these buffer provisions.

¹³ Editors Note: See Chapter 80, Zoning.

- B. If the lot ownership extends to the water, wetlands or streambed, then the buffer shall be included in the required setback distance for building on that lot, except in the case of water-dependent facilities. Where the buffer is to be owned and maintained by a homeowners' or similar appropriate organization, the required setbacks distance shall be measured from the property line separating that lot from the designated buffer. The buffer, when not included in the lots, may be included in the calculating gross density.
- C. The buffer shall be expanded to include contiguous sensitive areas on parcels whose development or disturbance may impact streams, wetlands or other aquatic environments. This expansion will occur whenever new land development or other land disturbing activities, such as clearing natural vegetation for agriculture or mining, are proposed. The expanded buffer must be shown on plans required for such development or activities. "Sensitive areas" are defined as follows: hydric soils and soils with hydric properties as designated by the Soil Conservation Service; highly erodible soils with a K value greater than zero and thirty-five hundredths (0.35); and steep slopes greater than fifteen percent (15%). The buffer shall be expanded according to the following rules:
- (1) When the site of the proposed land disturbance drains to a slope greater than fifteen percent (15%) contiguous to the buffer, the buffer shall be expanded four (4) feet for every percent of slope or to the top of slope, whichever is greater, but in no case more than ten (10) feet beyond the top of the slope greater than fifteen percent (15%).
 - (2) The buffer shall be expanded to the upland limit of adjacent hydric soils, soils with hydric properties and erodible soils, whichever is less.
 - (3) All subdivision in the Millington critical area shall be subject to the habitat protection criteria and guidelines prescribed in the Town of Millington Critical Area Program.¹⁴
- D. The subdivider shall be required to identify storm water management policies appropriate to site development which achieve the following standards:
- (1) In areas designated "intensely developed area" on the Town of Millington Official Critical Area Map, the subdivider shall demonstrate that the best management practices for storm water assure a ten-percent reduction of pre-development pollutant and loadings.
 - (2) The subdivider shall delineate those site areas not covered by impervious surfaces to be maintained or established in vegetation. Where vegetation is not proposed, the developer shall demonstrate why plantings for such portions of the site are impracticable. The types of plantings and vegetation proposed shall be in accordance with guidelines established as part of the Town of Millington Critical Area Program.
- E. The subdivision shall be designed to assure those features or resources identified as habitat protection areas are offered protection as prescribed in the habitat protection element of the Town of Millington Critical Area Program.
- F. In LDA and RCA, roads, bridges, and utilities serving lots shall be located to avoid disturbances to habitat protection areas. When no alternative exists and such infrastructure must cross or be located in habitat protection areas, the developer shall demonstrate how impacts to habitats have been minimized and that no feasible location of such infrastructure exists.
- G. In LDA and RCA, all roads, bridges, lots or other development which cross or are located adjacent to tributary streams in the critical area shall:
- (1) Not be located in the buffer and designed in a manner to reduce increases in flood frequency and severity.
 - (2) Provide for the retention of natural streambed substrate.
 - (3) Minimize adverse impacts to water quality and storm water runoff.
 - (4) Retain existing tree canopy.

¹⁴ Editors Note: The Town of Millington Critical Area Program is on file in the office of the Town Clerk.

- H. In LDA and RCA, lots and open space acres shall be located and designed to provide for maintenance of existing site wildlife and plant habitats and continuity with those on adjacent sites. Existing wildlife corridors shall be identified on proposed development plats. When wildlife corridors exist or are proposed, they shall include any existing habitat protection areas and connect large forested areas on or adjacent to the site.
- I. Impervious surfaces in subdivision located in the limited development areas (LDA) and resource conservation areas (RCA) of the Town of Millington critical area shall be limited to fifteen percent (15%) of the gross site area proposed for development, except that impervious surfaces on any lot not exceeding one (1) acre in size in a subdivision approved after June 1, 1986, may be up to twenty-five percent (25%) of the lot.
- J. In LDA and RCA, development on slopes greater than fifteen percent (15%) shall be prohibited unless such development is demonstrated to be the only effective way to maintain or improve slope stability.
- K. No clearing or grading is permitted neither in the buffer nor on steep slopes and hydric or highly erodible soils for other than agricultural practices, not involving the clearing of natural vegetation in the buffer or commercial forestry practices in the buffer between March 1 and June 15.
- L. Land to be subdivided shall be designed and improved in reasonable conformity with existing topography, in order to minimize grading, cuts and fill, and to retain, insofar as possible, the natural contours, minimize storm water run-off and conserve the natural cover and soil. No soil, sand, or gravel shall be removed from any lots shown on any subdivision plat, except in accordance with the provisions of the Sediment Control Plan approved by the Soil Conservation District Board.
- M. Subdivision and development in the Town of Millington critical area are encouraged to increase natural vegetation on the development site.
- N. Subdivision located in limited development areas (LDA) and resource conservation areas (RCA) are required to meet the following minimum standards for forest and developed woodlands. Forest and developed woodlands as defined by the Town of Millington Critical Area Program shall be created or protected in accordance with the following:
 - (1) When no forest exists on the site, at least fifteen percent (15%) of the gross site area shall be afforested. The location of the afforested area should be designed to reinforce protection to site habitats or provide connections between forested areas when they are present on adjacent sites.
 - (2) When forests or developed woodland exists on the site and proposed development requires the cutting or clearing of trees, areas proposed for clearing shall be identified on the proposed development plan. The developer shall submit plans for development and areas to be cleared to the Maryland Forest, Park and Wildlife Service for comments and recommendations, and shall transmit comments to the Town of Millington Planning Office. A grading permit shall be obtained prior to any clearing or cutting associated with proposed development. In addition, cutting or clearing which is associated with development shall be subject to the following limits and replacement conditions:
 - (a) All forests cleared or developed shall be replaced on not less than an equal area basis, either on the site or on another site approved by the Planning Commission, except that if clearing on a fully forested lot is limited to a development pad of ten thousand (10,000) square feet or less and cleared areas are reforested to the extent possible, the forest shall be considered a developed woodland and no replacement required.
 - (b) No more than twenty percent (20%) of the forested or developed woodland within the site proposed for development may be removed [except as provided

for in Subsection N(2)(c) below] and the remaining eighty percent (80%) shall be maintained as forest cover through the use of appropriate instruments (e.g., recorded restrictive covenants). Removal of forest of developed woodlands cover in the buffer is prohibited.

- (c) Clearing of forest or developed woodland up to twenty percent (20%) shall be replaced on an area basis of one to one (1:1). A developer may propose clearing up to thirty percent (30%) of the forest or developed woodland on a site, but the trees removed in excess of twenty percent (20%) must be replaced at the rate of one and five-tenths (1.5) times the amount removed either on the site or on another site approved by the Planning Commission.
- (d) If more than thirty percent (30%) of the forest on a site is cleared, the forest is required to be replanted at three (3) times the total area extent of the cleared forest.
- (e) If the cutting of forests occurs before a grading permit is obtained, the forest is required to be replanted according to the requirement in Subsection N (2) (d) above.
- (f) All reforestation and/or forestation shall be included in a Planting Plan.

ARTICLE VI

Preliminary Plat

§ 66-25. General requirements.

The preliminary plat of the proposed subdivision shall comply with the following general requirements with regard to style and content.

- A. It shall be prepared by a registered land surveyor, preferably at a scale of one (1) inch to one hundred (100) feet, but in any case at a scale not smaller than one (1) inch to two hundred (200) feet.
- B. It shall provide all the pertinent information on existing site conditions, property ownership and the like which may be necessary for the Planning Commission to properly consider the proposed subdivision, and such information shall be accurate and reliable.
- C. It shall show the general plan for the ultimate development of the property, including so much of the surrounding area as may be necessary for an adequate consideration of the land to be subdivided. Such plan shall be accurately drawn to scale, but surveyed dimensions are not required.

§ 66-26. Information to be shown.

The preliminary plat shall be drawn in a clear and legible manner and shall show the following information:

- A. The proposed subdivision name, which shall not duplicate nor closely approximate the name of any other subdivision in the county.
- B. A description of the proposed subdivision's location.
- C. The names and addresses of the owner of record, the subdivider and the surveyor preparing the plat.
- D. The scale, date, North point and small-scale key map showing the location of the proposed subdivision.
- E. The boundaries of the land being subdivided in heavy outline, with the approximate dimensions of the property and the approximate acreage contained therein.

- F. The names and locations of adjacent subdivisions and the location of adjoining parcels of unplatted land, with the names of owners of record.
- G. Topographic contours at five-foot intervals and referenced to United States Geological Survey data, except that, where the average slope is less than three percent (3%), a contour interval of two (2) feet shall be used.
- H. The location of existing property lines, streets and alleys, easements, buildings, utilities, wooded areas, watercourses and any other significant natural or man-made physical features affecting the proposed subdivision.
- I. The present zoning classifications of the proposed subdivision and adjoining properties and proposed uses of property within the area being platted.
- J. The layout, numbering and approximate dimensions and areas of all proposed lots or parcels.
- K. Proposed building lines along all streets, with the minimum amount of setback required.
- L. Designation of parcels of land to be conveyed or reserved for public use or for the common use of property owners within the subdivision.
- M. Tentative locations for all utilities and drainage facilities, with easements indicated where necessary.

§ 66-27. Supporting statements

Accompanying the preliminary plat shall be the following written and signed statements in support of the subdivider's application for tentative approval:

- A. Statements explaining how and when the subdivider proposes to provide and install required water supply, sewers or other means of sewage disposal, street pavements, curbs and gutters and drainage structures.
- B. Statements concerning any proposed deed restrictions to be imposed by the owner.

§ 66-27.1. Critical Area District [Added 06-09-1988 by Ordinance No. 88-2]

- A. In addition to information required in § 66-26 of this Article, a preliminary plat for subdivision in the Millington Critical Area District shall show the following information:
 - (1) A boundary survey plat of the entire site at a scale that provides legibility without undue size and which shows the following:
 - (a) Flood plain boundaries (one-hundred-year).
 - (b) Location and area extent of all soils exhibiting the following characteristics as determined from the Kent County Soil Survey:
 - Septic limitations.
 - Wet soils.
 - Hydric soils and soils with hydric properties.
 - Highly erodible soils [soils on slope greater than fifteen percent (15%) or soils on slope greater than five percent (5%) with K values greater than zero and thirty-five hundredths (0.35).
 - (2) A detailed drawing showing:

- (a) The location of all existing or proposed site improvements, including storm drains, culverts, retaining walls, fences, storm water management facilities, as well as any sediment and erosion control structures and shore erosion structures.
 - (b) The location of the Critical Area Overlay District Boundary, the buffer and other buffer areas, open space areas, forested areas and landscaping. (The plan shall show all areas to be maintained as landscaping and the type of plants to be provided, and the means by which such landscaping will be permanently maintained shall be specified.
 - (c) The location of all contiguous forested areas adjacent to the site.
 - (d) The location of nontidal wetlands on the site and the drainage area thereof.
 - (e) The location of existing water-dependent facilities on and adjacent to the site, including the number of existing slips and moorings on the site.
 - (f) The location and extent of existing and/or proposed shore erosion protection works.
 - (g) The location of plant and wildlife habitats as defined in the Town of Millington Critical Area Program.¹⁵
 - (h) The known location of the habitat of any threatened or endangered species or species in need of conservation on or adjacent to the site or within one-fourth (1/4) mile of the site in the case of bald eagle habitats.
 - (i) The location of anadromous fish spawning stream(s) on or adjacent to the site and a delineation of the watershed area of the stream on the site.
- (3) Computations of:
- (a) Total lot area.
 - (b) Total area in the Critical Area Overlay District.
 - (c) Total man-caused impervious surface areas and percentage of site in the critical area.
 - (d) Separate computations in the total acres of existing forest cover in the buffer and in the critical area.
 - (e) Total area of the site that will be temporally disturbed during development and area that will be permanently disturbed. "Disturbed" is defined as any activity occurring on an area which may result in the loss of or damage to existing natural vegetation.
- (4) An environmental assessment report which provides a coherent statement of how the proposed development addresses the goals and objectives of the Town of Millington Chesapeake Bay Critical Area Program. At a minimum the environment assessment shall include:
- (a) A statement of existing conditions (e.g. amount and types of forest cover, amount and type of wetlands, discussion of existing agriculture activities on the site, soil types, topography, etc.).
 - (b) Discussion of proposed development project, including number and type of residential units, amount of impervious surfaces, proposed sewer treatment and water supply, acreage devoted to the development, proposed open space and habitat protection areas.
 - (c) A discussion of the proposed development's impacts on water quality.

¹⁵ Editors Note: The Town of Millington Critical Area Program is on file in the office of the Town Clerk.

- (d) Documentation of all correspondence and findings.
- B. In addition to the information above, the preliminary site plan shall be accompanied by the following when the subdivision or development is proposed in the critical area, as required:
 - (1) A planting plan for reforested and afforested areas of Forest Management Plan with the comments of the Bay Forester.
 - (2) A Habitat Protection Plan, including the comments of the Maryland Forest, Park and Wildlife Service and the Maryland Heritage Program.
 - (3) A preliminary Stormwater Management Plan.
 - (4) A preliminary Sediment and Erosion Control Plan.
 - (5) A Shore Erosion Protection Plan: Complete specification for proposed shore erosion work and statement of how the proposed shore erosion protection work complies with the policies of the Town of Millington Critical Area Program, Section C, and Shore Erosion Protection.

ARTICLE VII

Improvements

§ 66-28. Installation by subdivider deposit or bond.

- A. The subdivider shall be required to provide and install or to enter into agreements to provide and install certain minimum improvements in the subdivision as a condition for approval of the final plat by the Planning Commission. All such required improvements shall be constructed in accordance with the minimum requirements of these regulations and the construction standards and specifications adopted by the Mayor and Council or such other governmental agency as may have jurisdiction over a particular improvement. Nothing contained herein, however, shall be construed as prohibiting the subdivider from installing improvements meeting higher standards than the minimum requirements.
- B. Prior to filling the Final Plat with the Planning Commission, the required improvements shall be completed, inspected, and approved by the proper authorities, except that in lieu of completing all improvements prior to submission of the Final Plat, the subdivider may furnish the Mayor and Council with a cash deposit, or a secured line of credit, or a performance bond in an amount sufficient to cover 125% of the cost of the improvements required to be installed by the subdivider, thereby insuring the actual construction and installation of such improvements prior to, or in no case later than, the time that such improvements are needed to serve buildings placed on abutting lots. The cost of required improvements shall be estimated by the Engineer or other authority having jurisdiction. In the event of any dispute concerning the amount of cash deposit or bond required, the Mayor and Council shall make the final decision based upon at least two additional cost estimates.

§ 66-29. Minimum requirements.

The minimum requirements for the installation of improvements in subdivisions shall be as follows:

- A. Roads and streets.
 - (1) All new roads and streets shall be constructed in accordance with the minimum requirements of these regulations and the minimum construction standards adopted by the Mayor and Council. Existing roads and streets which do not meet these specifications

with regard to width or type of construction shall be widened and brought into conformity on that portion of the road or street within or adjoining the subdivision.

- (2) The roadbed and roadway wearing surface shall be constructed in accordance with applicable Town standards. Curbs and gutters shall be provided in all subdivisions where the average lot area is less than one (1) acre. Where curbs and gutters are not required, stabilized shoulders and stabilized drainage ways outside the shoulders shall be provided. Street name signs of an approved design shall be erected at each new street or road intersection.
- B. Surface drainage facilities. The subdivision shall be provided with such storm drains, culverts, drainage ways or other works as are necessary to collect and dispose of surface and storm water originating on or flowing across the subdivision in order to prevent inundation and damage to streets, lots and buildings.
- C. Water supply facilities. Every subdivision shall require a public water supply under the regulations of the State Department of Health. Where a public source of water supply will not be available, private on-site sources of water supply, approved by the Health Officer, shall be provided.
- D. Sanitary sewerage facilities. Every subdivision shall require a public sewer system under the regulations of the State Department of Health.
- E. Plantings.
- (1) It will be the responsibility of the subdivider to provide street trees and other landscaping in all of the public rights-of-way in the proposed development. The proposed location and species of plant material to be used shall be subject to approval of the Planning Commission.
 - (2) The trees shall be preferably of a hardwood variety, shall be planted in fertile or fertilized ground, and shall be watered and nurtured after planting until growth is ensured. The subdivider shall be responsible for the trees for two growing seasons after planting. Each tree shall have a minimum trunk diameter of at least one and one-half inches as measured at breast height. The trees shall be at least six feet high above ground level, and shall be planted at intervals of no less than 35 feet in accordance with a planting plan approved by the Planning Commission. The preservation of existing trees along the right-of-way may compensate for a portion of the required new plantings.
 - (3) All parking areas shall be landscaped with trees planted at a rate of not less than one (1) tree per two thousand five hundred (2,500) square feet of gross parking area.
- F. Sidewalks.
- (1) For the safety of pedestrians and of children at play and to ensure the continuation of the system of pedestrian circulation in Millington, installation by the subdivider of sidewalks on both sides of all subdivision roads shall normally be required. Each sidewalk shall be four feet wide, built to the construction standards adopted by the Mayor and Council, and separated from road paving by a planting strip.
 - (2) Where for a considerable distance, one side of a road abuts on farmland or other type of use that does not require a sidewalk and where the continuity of the overall sidewalk system is not interrupted, the Planning Commission may waive the requirements for a sidewalk on one side of the road. On cul-de-sac roads serving six lots or less and if conditions are such as to eliminate or discourage non-local traffic and street parking, the Planning Commission may waive the requirement of sidewalks on one or both sides.

- G. Street lighting. The subdivider shall make application to the Planning Commission and Town Engineer for necessary streetlights. Purchase and installation of the required lighting shall be the responsibility of the subdivider.
- H. Community facilities. All residential plans submitted to the Planning Commission, preliminary or final, will be referred to the Kent County Department of Education for an advisory report and recommendation. The Department of Education will determine the projected school population anticipated from the subject development and compare the future school-age population to existing and proposed school capacities in determining whether that agency can endorse the development.
- I. Public utilities. The subdivider shall place or cause to be placed underground, extensions of electric and telephone distribution lines necessary to furnish permanent residential electric and telephone service to new detached, semidetached, group or Townhouse single-family residences within a new residential subdivision or to new apartment buildings in accordance with the rules and regulations of the Public Service Commission of Maryland, effective July 1, 1968 and subject to the further order of that Commission.
- J. Off-street parking.
 - (1) Applicability. Every subdivision plan which shall be submitted to the Planning Commission for approval shall provide off-street parking space and facilities in accordance with the requirements of the Millington Zoning Ordinance.¹⁶
 - (2) Design.
 - (a) Parking spaces and all access and maneuvering space for off-street parking shall be surfaced and maintained with a dustless, all-weather material, except for single-family and two-family dwellings.
 - (b) Every parking facility shall have a safe and efficient means of vehicular access to a recorded street.
 - (c) No driveway serving a parking facility shall be closer than five (5) feet to a side property line.
 - (d) No motor vehicle shall be parked in any yard or court closer than ten (10) feet to any door, window or other opening of a dwelling, institution or other property.
 - (e) In the design of off-street facilities for multiple dwellings, the public right-of-way shall not be obstructed by the use of the same as aisle space or maneuvering space. Each off-street parking facility shall provide sufficient maneuvering space within the boundaries of the lot or lots on which it is located and shall be so designed that no unreasonable difficulty or inconvenience will be entailed in making necessary maneuvers for parking and removing a vehicle. Maneuvers shall not entail driving over any other required parking space. The layout of parking areas shall conform to the minimum dimensions for spaces and access ways.
 - (f) Each parking facility shall be so designed that ingress or egress to a parking space entails no backing maneuver across a sidewalk or established footway or a backing maneuver into or from the public right-of-way.
 - (g) Neither the turnaround diameter of a cul-de-sac or a rotary nor the turn slot of a T-type or L-type cul-de-sac shall be used for the parking of vehicles.

¹⁶ Editors Note: See Chapter 80, Zoning.

- (h) In a multifamily residential subdivision, no parking area shall exceed one hundred eight (108) feet in length, and no portion of a motor vehicle shall be closer than twenty (20) feet to the right-of-way line of a public street.
- (i) Any fixture used to illuminate any off-street parking area shall be so arranged as to reflect the light away from adjacent residential sites, institutional sites and public roads.
- (j) Off-street parking facilities shall be screened by a wall, fence or compact planting when adjoining the side or rear lot line. Screening shall be at least three and (3 feet high). Screening shall not be so placed or maintained as to constitute a traffic hazard by obstruction of visibility.

- (k) Entrances from public or private streets shall conform to the following dimensions:

One-way traffic entrances shall not be less than seventeen (17) feet in width.

Two-way traffic entrances shall not be less than twenty-four (24) feet nor more than thirty-five (35) feet in width; such entrances shall be not less than fifteen (15) feet apart.

Monumental entrances shall be provided with a six-foot-wide median, and the traffic lanes shall not be less than seventeen (17) feet in width.

All entrances shall be not less than seven and one-half (7 1/2) feet from a side lot line.

K. Refuse collection.

- (1) In a residential subdivision, if refuse is to be collected at points exterior to a structure, such points shall be shielded from view on three (3) sides by screening and landscaping and placed on a pad of concrete where necessary.
- (2) In a residential subdivision, if refuse is to be collected at points within a structure, the marginal notes to the subdivision plan shall so indicate.
- (3) In a commercial or industrial subdivision, refuse storage and collection points shall be housed in containers and shielded from view by screening and/or landscaping.
- (4) The developer shall submit a resume of refuse.

L. Street signs.

- (1) Improvements required. The subdivider shall erect at every intersection a street sign or street signs having thereon the names of the intersecting streets. At intersections where streets cross, there shall be at least two (2) such street signs, and at the intersections where one (1) street ends or joins with another street, there shall be at least one (1) such street sign.
- (2) Construction standards.
 - (a) Street nameplates shall be of metal construction; all corners shall be rounded; and the lettering shall be of standard proportions and spacing in accordance with one (1) of the alphabets used by the United States Bureau of Public Roads. The plates shall be horizontal. The lower edge of the nameplate shall be seven (7) feet above the ground level or curb. The nameplate shall be attached by rustproof metal fasteners.
 - (b) The standard shall be rustproof metal and shall be of sufficient length to permit the same to be embedded in the ground a distance of not less than three (3) feet. The standard shall be embedded in a concrete base for a depth of not less than

three (3) feet below the surface of the ground and not less than twelve (12) inches in diameter.

- (c) The standard shall be heavy wall pipe not less than two and one-half (2 1/2) inches in diameter. The pipe shall be capped.

M. Reference monuments.

- (1) Permanent reference monuments of stone or concrete and at least thirty (30) inches in length and four (4) inches square with suitable center point shall be set flush with the finished grade at such locations as may be required by the Planning Commission and the laws of the State of Maryland.
- (2) Monuments of metal pipe, three-fourths (3/4) inch in diameter and at least eighteen (18) inches in length, shall be set in place flush with the finished grade at all intersections of streets and alleys with subdivision boundary lines, at all points on streets, alleys and boundary lines where there is a change in direction or curvature and at all lot corners.

§ 66-30. Plans, profiles and specifications.

- A. Plans, profiles and specifications for the required improvements shall be prepared by the subdivider and submitted for approval by the appropriate public authorities prior to construction.
- B. Plans and profiles shall be drawn to a horizontal scale of one (1) inch to one hundred (100) feet or less and a vertical scale of one (1) inch to twenty (20) feet or less, unless the Planning Commission shall specify otherwise, and such plans and profiles shall be sufficiently detailed to show the proposed location, size, type, grade and general design features of each proposed improvement.
- C. The plans, profiles, and specifications to be submitted shall include the following:
 - (1) Plans and profiles of each street, showing proposed grades and street intersection elevations.
 - (2) Cross-sections of proposed streets, showing the width of roadways, present and proposed grade lines and the location and size of utility mains, taken at intervals of not more than fifty (50) feet along each street center line, unless otherwise required by the Engineer. Such cross-sections shall extend laterally to the point where the proposed grade intersects the existing grade, except that in no case shall less than the full width of the street right-of-way be shown.
 - (3) Plans and profiles of proposed sanitary sewers and storm drains, with proposed grades and pipe sizes indicated.
 - (4) Plans of the proposed water distribution system, showing pipe sizes and the locations of all valves and fire hydrants.
 - (5) A site plan of proposed street trees and other landscaping improvements.
 - (6) Written specifications for all proposed improvements.

§ 66-31. Inspection and acceptance.

- A. All construction work on improvements required herein shall be subject to inspection and approval by the Engineer, Health Officer and other authorized public officials during and upon completion of such construction work. Upon the completion of each improvement, the subdivider shall furnish the appropriate official with accurate and detailed engineering drawings of the improvement as it was actually constructed.

- B. The final plat of the subdivision shall not be approved by the Planning Commission until all required improvements shall have been satisfactorily completed and approved as being in compliance herewith or satisfactory bond posted in lieu of such completion. No such bond shall be released until all improvements secured by such bond shall have been completed and approved as being in compliance herewith; provided, however, that a partial release may be approved for such improvements as may have been completed and approved by appropriate officials.
- C. Approval of the final plat by the Planning Commission shall not be deemed to constitute or affect an acceptance by the public of the dedication of any street or other proposed public way or public grounds shown on said plat. The jurisdiction involved shall have no obligation to accept and to make public any street in a subdivision unless all required improvements shown on the approved final plat have been constructed in conformity with the required standards and specifications or a petition signed by the owners of at least fifty percent (50%) of the frontage of the street in question, requesting that the street be taken over and made public, is filed with the governing body of the jurisdiction involved, and it is established by such governing body that there is a need for the street to be taken over and made public. The jurisdiction involved shall have no responsibility with respect to any street within a subdivision, notwithstanding the use of such street by the public, unless the street is accepted by ordinance or resolution of the governing body of such jurisdiction.

§ 66-32. Sediment control.¹⁷

- A. Nothing in this Chapter shall be deemed as relieving any person or corporation of the Millington Sediment Control Ordinance.
- B. All subdivision applications must incorporate a sediment control plan prior to final approval of the plat.

ARTICLE VIII

Final Plat

§ 66-33. General requirements.

The final plat of the subdivision shall comply with the following general requirements with regard to style and content:

- A. It shall be drawn in black India ink on tracing linen or dimensionally stable plastic film and shall comply with the applicable provisions of the laws of the State of Maryland relative to the making of plats.
- B. It shall be prepared by a registered land surveyor, preferably at a scale of one (1) inch to one hundred (100) feet, but in any case at a scale not less than one (1) inch to two hundred (200) feet, and it shall be drawn on sheets not less than eight by twelve (8 x 12) inches and not more than twenty-four by thirty (24 x 30) inches in size, including a margin of one-half (1/2) inch outside ruled border lines.
- C. All dimensions and bearings of lines and all areas shall be based upon a field survey of sufficient accuracy and detail that the data shown thereon may be reproduced on the ground. All distances and the length of all lines shall be given to the nearest hundredth of a foot. Bearing of all lines shall be magnetic bearings referenced to the date of the plat, and all bearings shall be given to the nearest minute. All areas shall be given to the nearest square foot.

¹⁷ Editors Note: See Chapter 53, Sediment Control.

§ 66-34. Information to be shown.

The final plat shall be legibly and accurately drawn and shall show the following information:

- A. The name under which the subdivision is to be recorded and the subdivision's location.
- B. The legal description of the area being platted.
- C. The scale, date, North point, and small-scale key map showing the general location of the subdivision in relation to its surroundings.
- D. The distances and bearings for all the boundary lines of the subdivision.
- E. The locations and descriptions of all permanent survey monuments, with coordinates of all monuments.
- F. The names and locations of adjacent subdivisions and the location of adjoining parcels of unplatted land, with the names of the owners of record.
- G. The locations, dimensions and names of all streets and alleys within and adjoining the subdivision, with the lengths and bearings of tangents, the lengths of arcs and radii, internal angles, points of curvature and any other necessary engineering data.
- H. The locations, dimensions and bearings of all lot lines and the area of every lot or parcel.
- I. Building lines along all streets, dimensioned to street lines.
- J. Blocks lettered in alphabetical order, with the lots within each block numbered in numerical order.
- K. The locations, dimensions and purposes of all cross walkways, easements and other public ways.
- L. The locations, dimensions, and purposes of any other property offered for dedication or to be reserved for acquisition for public use or to be reserved by deed convenient for the common use of property owners in the subdivision.

§ 66-35. Certificates and statements.

Accompanying the final plat and made a part thereof shall be the following certificates and statements:

- A. Notarized owner's certificate, acknowledging ownership of the property and agreeing to the subdivision thereof as shown on the plat and signed by the owner or owners and any lien holders.
- B. Notarized owner's statement of dedication, offering all streets, alleys and other public ways and public grounds for dedication and constituting an irrevocable offer to dedicate for a period of not less than five (5) years from the date of filing the final plat with the Planning Commission.
- C. A certificate of the surveyor that the final plat, as shown, is a correct representation of the survey as made, that all monuments indicated thereon exist and are correctly shown and that the plat complies with all requirements of this Chapter and other applicable laws and regulations.
- D. A brief summary of deed restrictions applicable within the subdivision, including any trust agreements for the operation and maintenance by the property owners in the subdivision of any sewage disposal system, water supply system, park area or other physical facility which is of common use or benefit but which is not to be held in public ownership.
- E. A certificate of approval by the Health Officer of the means of providing water supply and sewage disposal services for the subdivision.
- F. A certificate of approval by the Town Engineer that all specifications established by the developer are in accordance with Town specifications and desires.

- G. A certificate of approval by the Sediment Control Officer that the proposed subdivision is in conformance with the Sediment Control Ordinance.¹⁸
- H. A certificate of approval by the Planning Commission, ready for signature and in a form acceptable to the Planning Commission.

§ 66-35.1. Critical Area District [Added 06-09-1988 by Ordinance No. 88-2]

The following information shall be shown on the final plat for subdivisions in the Millington Critical Area District

- A. Final tabulation of:
 - (1) Total area of the subdivision or parcels to be recorded in the Critical Area District.
 - (2) Total number of lots in the Critical Area District
 - (3) Residential density in the Critical Area District.
- B. Accurate outlines (metes and bounds, where required) of any common or reserved areas or portions of lots to be maintained by covenant, easement or similar approved instrument, in permanent forest cover, including existing forested areas, reforested areas and afforested areas.
- C. Accurate outlines (metes and bounds, where required) of any areas to be maintained as permanent wildlife and plant habitat protection areas.
- D. Comments of the Bay Watershed Forester required when a proposed development site contains or will contain forest or developed woodland areas.
- E. A Habitat Protection Plan, including the comments to the Maryland Forest, Park and Wildlife Service, required when a habitat protection area (not including the buffer) is on or adjacent to the site.
- F. A final Stormwater Management Plan.
- G. A Sediment and Erosion Control Plan.
- H. A Planting Plan or Forest Management Plan, as applicable.

ARTICLE IX

Modifications and Exceptions

§ 66-36. Variance, modification and requirements.

Where, in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this Chapter would result in extraordinary hardship to the subdivider because of unusual topography or other conditions which are not self-inflicted or that these conditions would result in inhibiting the achievement of the objectives of these regulations, the Planning Commission may vary, modify or waive the requirements so that substantial justice may be done and the public interest secured; provided, however, that such variance, modification or waiver will not have the effect of nullifying the intent and purpose of this Chapter or being contrary to the goals and objectives of the Master Plan for the Town. In no case shall any variation, modification or waiver be more than a minimum easing of the requirements, and in no instance shall it result in any conflict with the proposals of the adopted Major Thoroughfare Plan for the Town or the applicable zoning regulations.

¹⁸ Editors Note: See Chapter 53, Sediment Control.

§ 66-37. Exceptions for residential planned community districts.

Where land within the unincorporated territory of Kent County is proposed for development in accordance with the provisions of the Kent County Zoning Ordinance pertaining to the establishment of residential planned community districts, the requirements and conditions for approval as set forth in that ordinance shall prevail in the case of any conflict with these regulations; provided, however, that nothing in this section shall be construed as permitting any exception from the requirements of these regulations with regard to the design, arrangement or improvement of streets and highways within any proposed residential planned community district.

§ 66-38. Approval of modifications and exceptions.

Variances, modifications and waivers from the requirements of this Chapter shall be granted only by the affirmative vote of three-fourths (3/4) of the members of the Planning Commission. In granting variances, modifications and waivers, the Planning Commission may require such conditions as will, in its judgment, substantially secure the objectives of the requirements so varied, modified or waived.

ARTICLE X

Changes and Amendments

§ 66-39. Initiation; Planning Board report.

The Mayor and Council may from time to time amend, supplement or change, by ordinance, the regulations herein established. Any such amendment or change may be initiated by resolution of the Mayor and Council or by motion of the Planning Commission. Before taking action on any proposed amendment or change, the Mayor and Council shall submit the same to the Planning Commission. Failure of the Planning Commission to report within sixty (60) days after its first meeting subsequent to the proposal being referred shall be deemed approval by the Planning Commission.

§ 66-40. Public hearing by Planning Commission.

The Planning Commission may hold a public hearing on any proposed amendment or change before submitting its report to the Mayor and Council. Notice of such public hearing before the Planning Commission shall be given at least fifteen (15) days prior to the hearing by publishing the time, place and the nature of the hearing in a newspaper having general circulation in the Town. The published notice shall contain reference to the place or places within the Town where the full text of the proposed amendment or change may be examined.

§ 66-4 1. Public hearing by Mayor and Council.

Before approving any proposed amendment or change, the Mayor and Council shall hold a public hearing thereon, notice of said hearing to be accomplished by publication in a newspaper as prescribed above.

Chapter 67

SPECIAL TAXING DISTRICT

AN ORDINANCE TO ESTABLISH THE MILL VILLAGE SPECIAL TAX DISTRICT TO FINANCE THE TOWN'S EXPENSES RELATED TO STORM WATER MANAGEMENT SYSTEMS AND FOREST CONSERVATION AREAS IN THE MILL VILLAGE SPECIAL TAXING DISTRICT.

RECITALS

WHEREAS, pursuant to the Town of Millington Charter ("Town Charter") §C10-I, the Town of Millington (hereafter "Town") has the power to levy and collect taxes in the form of special assessments upon property in a specific area for special benefits conferred upon such property by the installation or construction of water mains, sanitary sewer mains, and other public improvements, and to provide for the payment of all or any part of said projects out of the proceeds of such special assessment; and

WHEREAS, John M. Stoltzfus, Lee Cough, and Chris Clough (hereinafter collectively referred to as the "Owner") are the owners of approximately 25 acres of property located in the Town of Millington (the "Town"), First Election District of Kent County, Maryland, by virtue of a deed dated March 3, 2006, and recorded among the Kent County Land Records in Liber M.L.M. No. 462, No. 230, and by virtue of a deed dated March 3, 2006, and recorded among the Kent County Land Records in Liber M.L.M. No. 462, No. 235, said property being further designated as Parcel 292 on Tax Map 400 (Property Tax Identification # 01-002503)(the "Property"); and

WHEREAS, the Owner intends to create or provide for the creation of a residential subdivision on the Property to be called "Mill Village" to consist of 49 single-family homes, together with 2 lots reserved for open space, stormwater management and forest conservation ("Lot 55" and "Lot 56"), and 1 lot ("Lot 54") designated for multi-family use for housing for the elderly (collectively, the "Project"); and

WHEREAS, Mill Village Subdivision is shown on a plat recorded among the Land Records for Kent County, Maryland, in Plat Book No. MLM4 @ Folio 74; and

WHEREAS, the development of the Project will require the construction of various public improvements including, but not limited to a system for stormwater management to serve solely the residents of Mill Village, which system the Owner will construct and install on Lot 55 at its sole cost and expense; and

WHEREAS, the Town, upon the recommendation of the Town Planning Commission, has determined that it is desirable and in the public interest to acquire fee simple ownership of the Mill Village open space lots, Lot 55 and Lot 56, and to undertake the ongoing needed maintenance of the storm water management system for the Mill Village subdivision's storm and surface water run-off and the ongoing needed maintenance of the protected afforestation areas on Lots 55 and 56.

WHEREAS, the Town, upon the recommendation of the Town Planning Commission, has determined that it is desirable and in the public interest to establish a special tax district as the preferred funding mechanism in order to finance the costs to the Town of those ongoing maintenance services required, necessary or incident to the storm water management system and the protected afforestation areas on Lots 55 and 56 adjoining the Mill Village subdivision, and which will serve and handle the storm and surface water run-off of the Project and directly benefit each parcel in the Mill Village Special Tax District; and

WHEREAS, the Owner will dedicate Lots 55 and 56 to the Town and to the establishment of the Mill Village Special Tax District; and

SECTION ONE: BE IT ESTABLISHED AND ORDAINED BY THE TOWN that the Recitals to this Ordinance are hereby approved and made a part of this Ordinance.

SECTION TWO: BE IT FURTHER ESTABLISHED AND ORDAINED that a contiguous area of the Town identified by reference to Exhibits 1 & 2 attached hereto and incorporated herein, is hereby designated as the "Mill Village Special Tax District" (the "District"), and shall consist of the property designated and described by metes and bounds description set forth on Exhibit 1 to this Ordinance and as shown on the boundary survey attached as Exhibit 2. It is intended by this designation that any portion of such real property currently located in the District that is intended to and will be further subdivided shall continue to be within the District and subject to the Mill Village Special Tax notwithstanding such subdivision.

SECTION THREE: BE IT FURTHER ESTABLISHED AND ORDAINED that the types of maintenance services proposed to be provided to the District by the Town shall be as determined by a Resolution duly passed by the Town from year to year (hereafter "Services"), which Services will directly benefit each parcel in the District.

SECTION FOUR: BE IT FURTHER ESTABLISHED AND ORDAINED that a "Special Tax" sufficient to pay the costs of the Services will be levied annually within the District, and collected in the same manner as ordinary ad valorem property taxes, or in such other manner as the Town or its designee shall determine, including direct billing of the affected property owners. The proposed rate and method of apportionment of the Special Tax among the parcels of real property within the District, the date on which the Special Tax will be due and payable and, the interest rate which may be charged on installments of the Special Tax, if any, will be determined by resolution by the Town each year.

SECTION FIVE: BE IT FURTHER ESTABLISHED AND ORDAINED that the Special Tax shall be imposed upon each parcel in the District for the purpose of reimbursing the Town the costs of performing the Services.

SECTION SIX: BE IT FURTHER ESTABLISHED AND ORDAINED that if any of the sections, paragraphs, clauses, provisions, covenants, or agreements provided in this Ordinance shall be contrary to law or held invalid, then such section, paragraph, clause, provision, covenant, or agreement shall be deemed severable from the remaining sections, paragraphs, clauses, provision, covenants, and agreements, and shall in no way affect the validity of the other provisions of this Ordinance.

Chapter 68
(Reserved)

Chapter 69

TREES

§ 69-1. Definitions.

§ 69-2. Care of public trees.

§ 69-3. Topping of trees.

§ 69-4. Pruning to prevent obstructions or dangers.

§ 69-5. Removal of dead or diseased trees.

§ 69-6. Removal of stumps.

§ 69-7. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Town of Millington 03-07-90. Amended 09-30-0 1.1]

GENERAL REFERENCES

Brush, Grass and Weeds - See Chapter 2 1.

§ 69-1. Definitions.

As used in this Chapter, the following terms shall have the meanings indicated:

PARK TREES - Trees, shrubs, bushes and all other woody vegetation in public parks having individual names and all areas owned by the Town or to which the public has free access as a park.

STREET TREES - Trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the Town.

TOWN - The Mayor and Town Council of Millington, Maryland, a municipal corporation.

§ 69-2. Care of public trees.

- A. The Town shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such Code of the Town of Millington public grounds.
- B. The Town may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, waterlines or other public improvements or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners, provided that the selection and location of said trees is in accordance with this Chapter.

§ 69-3. Topping of trees.

It shall be unlawful as a normal practice for any person, firm or Town department to top any street tree, park tree or other tree on public property. "Topping" is defined as the severe cutting back of limbs to stumps larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this Chapter at the determination of the Mayor and Council..

§ 69-4 Pruning to prevent obstructions or dangers.

Every owner of any tree overhanging any street or right-of-way within the Town shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight (8) feet above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public. The Town shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight, the free passage along the sidewalk or street or the visibility of any traffic control device or sign.

§ 69-5. Removal of dead or diseased trees.

The Town shall have the right to cause the removal of any dead or diseased trees on private property within the Town, when such trees constitute a hazard to life and property or harbors insects or disease which, constitute a potential threat to other trees within the Town. The Mayor and Council will notify, in writing, the owners of such trees. Removal shall be done by said owners at their own expense within sixty (60) days after the date of the notice.

In the event of failure of the owners to comply with such provisions, the Town shall have the authority to remove such trees and charge the cost of removal on the owners§ property tax notice.

§ 69-6. Removal of stumps.

All stumps of streets and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. Code of the Town of Millington

§ 69-7. Violations and penalties.

Any person violating the provisions of this Article/Chapter shall be deemed guilty of a Municipal Infraction and shall upon conviction thereof be punished be a fine as outlined in the Code of the Town of Millington Chapter 2. Each day, or each separate occasion during each such day, that a violation of this Article/Chapter occurs or reoccurs shall constitute a separate offense.

Chapter 70
FOREST CONSERVATION

ARTICLE I
Forestry Regulations

- § 70-1. Introduction.
- § 70-2. Purpose.
- § 70-3. Forest Stand Delineation.
- § 70-4. Forest Conservation Plan.
- § 70-5. Conservation Criteria.
- § 70-6. Other Qualified Professionals.
- § 70-7. Short Term Protective Agreements.
- § 70-8. Long Term Protective Agreements.
- § 70-9. Annual Report.
- § 70-10. Biennial Review.

(HISTORY: Adopted by the Mayor and Council of the Town of Millington 06-07-2006 as Ordinance Number 2006-01.)

ARTICLE I
Forestry Regulations
(Adopted 06-07-2006 as Ordinance #2006-01)

§ 70-1. Introduction.

To conserve existing Forest and to promote reforestation is a stated policy in the Town of Millington. The Town of Millington recognizes that forest and individual trees greatly contribute to the quality of life, the health of the natural ecosystem, and the health and welfare of our citizens. The Town of Millington's economic health depends heavily on, is natural resources of which forests are major component.

Forest plays a critical role in the improvement and maintenance of water, soil and air quality. In particular, forests absorb CO₂, reduce local air temperatures, filter particulate, absorb gaseous pollutants, hold soil in place, improves soil permeability, filters nutrients sediments, and pollutants, prevent the heating of water in summer and rapid cooling of water in winter and provides for wildlife habitat. Forests along waterways play a particularly crucial role in maintaining water quality and a healthy aquatic community.

For these reasons, the Town of Millington is committed to the conservation and creation of forests. This overall policy will be considered when considering development plans, when proposing Town capital improvements, For these reasons, the Town of Millington is committed to the conservation and creation of forests. This overall policy will be considered when considering development plans, when proposing Town capital improvements, and in the day to day operation of the Town.

It is not the intent of this policy to place unreasonable demands on development, town capital improvements, or the general operation of the town. Rather it aims to maximize the benefits of forest in a cooperative effort with development, thereby retaining forest land and improving the environment of the Town of Millington.

§ 70-2. Purpose.

It is the purpose of this policy document to state the town's policy on the conservation and creation of forest and to outline policies necessary to implement the Forest Conservation Act of 1991.

§ 70-3. Forest Stand Delineation.

The key to forest conservation is the mapping and analysis of existing natural and man-made features prior to designing the actual development. The Forest Stand Delineation is a method designed to provide the applicant and the review staff with adequate site information. The delineation will be used during the existing development review process to determine the most suitable and practical areas for forest conservation.

The delineation consists of a map or maps with forest stand data and a narrative statement describing the forest stands and other physical site features. The map(s) must contain the following information: property boundaries, soils types, topographic features, steep slopes, wetlands, 100-year floodplain, intermittent and perennial streams, man-made features, historic sites, and, most importantly, forest cover. The stand data and delineation narrative are recorded during the site visit. The onsite reconnaissance will supply the necessary information to properly diagnose and characterize the forest stands. Additional information would include a detailed location map and the zoning classification for the property.

Anyone making an application for subdivision, grading permit, or sediment control plan on a tract containing 20,000 square feet or more shall submit a Forest Stand Delineation unless otherwise exempt. The delineation must be prepared by a licensed forester that may be approved by the Town of Millington. Within 30 days from receipt of the delineation, the applicant will be notified whether the submittal is complete and correct, or if revisions are necessary. The delineation shall meet the minimum submittal requirements to be deemed adequate.

§ 70-4. Forest Conservation Plan.

The Forest Conservation Plan is a document negotiated during the existing development review process. The plan is a site map delineating the forest areas to be saved and the text that details any general or specific requirements and necessary mitigation measures. The intent of these documents is to ensure that the applicant will carry out the forest conservation elements agreed to during the review and approval process.

A proposed Forest Conservation Plan shall be included with any project submittal that requires a Forest Stand Delineation. The conservation plan is a map drawn at the same scale as the site plan indicates how existing natural features are going to be blended into the site design. The plan shall include the following:

- 1) map,
- 2) table listing net tract area, zoning category and all required calculations,
- 3) physical location of all forest retention areas,
- 4) anticipated construction time table,
- 5) afforestation/reforestation plans including species, size and spacing,
- 6) illustration of tree protection devices to be used,
- 7) limits of disturbance,
- 8) location of stock pile areas,
- 9) binding 2-year management plan for all tree planting areas,
- 10) protective agreements for all forest conservation areas, and
- 11) any additional information as required.

Net tract area is defined as the total tract area excluding non-tidal the 100-year floodplain and any portion of the tract remaining in agricultural production. The amount of afforestation/reforestation required on any given tract is determined by six factors.

1. Land Use Category
2. Afforestation Threshold
3. Conservation Threshold
4. Net Tract Area
5. Existing Forest Cover
6. Area of Forest to be cleared

The afforestation threshold is the minimum amount of the net tract area that shall be retained as forest. The afforestation threshold in the Agricultural and Resource Areas, Medium Density Residential Areas and High Density Residential is 20%. In the other land use categories, the afforestation threshold is 15%. Areas which have less than the threshold amount must be brought up to that amount through afforestation.

The conservation threshold is the percentage of the net tract area that may be retained as existing forest cover. The reforestation requires rent changes from a ratio of ¼ acre planted for every acre cleared above the threshold to 2 acres planted for every acre cleared below the threshold.

The applicant shall have an approved Forest Conservation Plan prior to being issued a grading permit or approval of a sediment control plan. Tree protective devices shall be installed before any forests or trees are cleared and shall be maintained until all work in the vicinity has been completed. Protective devices, signs, utility boxes or other objects may not be nailed or attached to trees slated for retention. No debris or construction materials may be pushed into or stored with tree retention areas. The final record plat shall contain all off-site locations used for replanting, the

protective agreement and management agreement for the site, and a statement that existing forests or planted trees are to be retained.

The reviewing authority shall have 30 days to approve the finalized Forest Conservation Plan. The plan shall be treated as complete and correct if the reviewing authority fails to notify the applicant within that 30 day period or fails to extend the review deadline.

Any person who violates this Act by grading prior to approval of the Forest Conservation Plan will be assessed the penalty of 50 cents (50¢) per square foot of the area found to be in violation. Other violations requiring this penalty would be for non-compliance with any portion of the Forest Conservation Plan, the Forest Conservation Act or the 2-year planting site management agreement.

§ 70-5. Conservation Criteria.

The Forest Stand Delineation shall be used as the basis for determining priority areas for forest retention. The areas listed below should be left in an undisturbed condition unless there is no reasonable alternative.

1. Trees, shrubs and plants in sensitive areas such as:
 - a. Non-tidal 100-year floodplain
 - b. Stream corridors-intermittent and perennial streams and their buffers.
 - c. Steep slopes - 25% slope or greater or slopes of 15% with a soils K value greater than 0.35.
2. Contiguous forests - forested corridors that connect with other forested tracts.
3. Critical habitat - protection areas for threatened and endangered species.
4. Historic or champion trees - trees associated with historic sites or trees designated as champions by the state or local jurisdiction.
5. Specimen trees - trees 30 inches in diameter or larger, or trees with 75% or more of the diameter of the state champion tree. Exceptions may be approved along with the Forest Conservation Plan approval process.

In addition any parcel 10,000 square feet or greater in size shall comply with the following conservation thresholds unless otherwise exempt.

Forest Conservation Thresholds

Land Use Category	Retention Threshold
Agricultural and Resource Areas	50%
Low and Medium Density Residential Areas	25%
Institutional Development Areas	20%
High Density Residential Areas	20%
Commercial and Industrial Use Areas	15%

As an added incentive to retain forest cover, there is a forest retention credit. Each acre of forest retained above the threshold will be credited against the total number of acres required for mitigation plantings. A breakeven point exists where clearing up to that point will not require mitigation.

Maintaining flexibility in design is primary goal of this plan. It will not always be possible to preserve all of the trees during development. When forest lands must be disturbed, forest conservation should follow a logical sequence from retention to restoration to replacement. The preferred sequence of restoration to replacement is as follows:

1. Selective clearing and supplemental planting
2. On-site afforestation or reforestation
3. Landscaping with an approved plan
4. Off-site afforestation or reforestation
5. Natural regeneration on or off-site

This sequence may be altered to take advantage of opportunities to consolidate forest conservation efforts. Priority planting areas include buffers for streams, corridors to connect existing forests, buffers between differing land uses and expansion of existing forests. The use of native plant materials is encouraged.

All afforestation, reforestation, landscaping and natural regeneration requirements shall be accomplished within one year or two growing seasons after completion of the development project. All mitigation areas shall have a binding 2-year management agreement to ensure proper establishment and survival. All mitigation and retention areas shall be legally protected to limit the use of these areas.

§ 70-6. Other Qualified Professionals.

In the Town of Millington a licensed forester, licensed landscape architect, or other qualified professional may prepare a forest stand delineation, or forest conservation plan.

Another qualified professional shall:

1. Possess a 4-year degree in the natural resources sciences, natural resources management, or landscape or environmental planning.
2. Have
 - a. 2 years of professional experience in natural resources sciences, natural resources management, landscape planning, environmental planning, or the equivalent as determined by the state, or
 - b. a graduate degree in natural resources and 1-year professional experience.
3. Have the ability to meet the obligations required by the Forest Conservation Manual to prepare a forest stand delineation and a forest conservation plan; and
4. Satisfactorily completes a forest conservation course offered by the Department of Natural Resources.

§ 70-7. Short Term Protective Agreements.

- A. Maintenance Agreements
 1. Application. A person required to conduct afforestation or reforestation under the Millington Forest Conservation Program shall include in the forest conservation plan, a binding maintenance agreement for the length of 2 years, as specified in the Forest Conservation Manual.
 2. Approval procedures and timing shall be consistent with the procedures provided in the Millington Forest Conservation Ordinance.
 3. The maintenance agreement shall detail how the areas designated for afforestation or reforestation will be maintained to ensure protection and satisfactory establishment of forest and shall follow the standards provided in Chapter 3 of the Millington Forest Conservation Manual.

4. The person required to conduct the afforestation or reforestation, after this referred to as the “obligee”, shall present evidence of a legal right to implement the proposed maintenance agreement on a selected site by providing:
 - a. An executed deed conveying title to a selected site to the obligee;
 - b. An executed conservation easement agreement;
 - c. Written evidence of the landowner’s consent to the use of a selected site;
 - d. A fully executed option agreement, long-term lease agreement, or contract of sale for a selected site; or
 - e. Other written evidence of a possessor or ownership interest in a selected site.
5. The Town of Millington shall be a signatory to the maintenance agreement, or shall be designated a third-party beneficiary of the agreement.
6. The Town of Millington may not release financial security or end monitoring without receipt of a legally binding deed, long-term lease, or conservation easement agreement on those lands where afforestation or reforestation will occur.
7. The maintenance agreement shall provide for access by the town to the afforestation or reforestation site.

B. Bonding

1. Application
 - a. A person required to conduct afforestation or reforestation shall include a bond, letter of credit, or other financial security as an element of a forest conservation plan.
 - b. This section does not apply to agencies of any federal, state, county or municipal government.
2. Requirements. A financial security shall be furnished in the form of:
 - a. A bond which shall be payable to Town of Millington;
 - b. An irrevocable letter of credit which shall:
 - i) Be equivalent to the required bond,
 - ii) Be issued by a financial institution authorized to do business in Maryland,
 - iii) Be in force until all mitigation for reforestation and afforestation and monitoring requirements have been fulfilled to the satisfaction of the Town; or
 - c. Other security approved by the Town.
3. The financial security shall:
 - a. Ensure that the afforestation, reforestation and associated maintenance agreements are conducted and maintained in accordance with the approved forest conservation plan

- b. Be in the amount equal to 125% of the estimated cost of afforestation, reforestation as determined by the Town
 - c. Be in a form and content approved by the Town.
- 4. The value of the financial security:
 - a. Shall be based on 125% of the cost to perform all work required by the afforestation or reforestation plan if the work had to be performed by or contracted out by the Town.
 - b. May be adjusted according to 125% of the actual cost of mitigation for afforestation and reforestation or, if the cost of future mitigation work changes, the Town shall notify the obligee of a proposed adjustment and provide an opportunity for an informal conference on the adjustment; and
 - c. May be reduced if the obligee proves to the Town that the costs to complete the mitigation project have been reduced.
- 5. A surety bond or other alternative form of security may not be canceled by the surety, bank, or other issuing entity unless both of the following conditions are satisfied:
 - a. The surety notifies the Town and the obligee of its intent to cancel the bond, or other surety in writing, by registered mail, not less than 90 days before cancellation; and
 - b. At least 45 days before the cancellation date indicated in the notice, the obligee files a commitment from a surety, bank, or other issuing entity to provide a substitute security which will be effective on the cancellation date indicated in the notice.
- 6. After one growing season, the person required to file a bond or other financial security under this regulation may request reduction of the amount of the bond or other financial security by submitting a written request to the Town with a justification for reducing the bond or other financial security amount, including estimated or actual costs to ensure that the afforestation or reforestation requirements are met.
- 7. The Town shall determine whether a lesser amount is sufficient to cover the cost of afforestation or reforestation, taking into account the following:
 - a. The number of acres;
 - b. The cost of planting materials or replacement materials;
 - c. The cost of maintenance of the afforestation or reforestation project; and
 - d. Other relevant factors.
- 8. If, after two growing seasons or one year, whichever is greater, the planting associated with the afforestation or reforestation meets or exceeds the standards of the Forest Conservation Manual, the remaining amount of the cash bond, letter of credit, surety bond, or other security shall be returned or released.
- 9. Bond Release
 - a. The bond shall be released on receipt of written notice from the Town, if applicable, stating that all afforestation or reforestation requirements have been met.

- b. The written notice shall be sent at the end of the required two year monitoring and management period, as provided in the maintenance agreement.
 - c. If the Town fails to send written notice within sixty days after the end of the monitoring and management period, the bond shall be automatically released.
- 10. Financial Security Forfeiture
 - a. The bond or other financial security may be subject to forfeiture if the obligee fails to comply with:
 - i) Revocation of the forest conservation plan;
 - ii) An Administration order; or
 - iii) An element of the afforestation or reforestation plan.
 - b. The Town of Millington shall notify the obligee, by certified mail, of the intention of the Department or local authority to initiate forfeiture proceedings.
 - c. The obligee has thirty days from receipt of the notice of forfeiture to show why the bond or other financial security may not be forfeited.
 - d. If the obligee fails to show cause, the bond or other financial security shall be forfeited.

§ 70-8. Long Term Protective Agreements.

- A. An applicant shall have in effect at all times, approved long-term protective measures for all land forested, afforested, or reforested under the Forest Conservation Ordinance.
- B. Approved Forest Management Plan

Procedure for Approval

An application for approval of a forest management plan shall include all the information required in the Millington Forest Conservation Technical Manual.

The Forest Management Plan:

 - i) Shall be legally binding from the date of approval
 - ii) Shall be prepared by a licensed professional forester;
 - iii) Shall be submitted to the Department of Natural Resources project forester for Millington; and
 - iv) May be amended periodically, as provided in the Betterton Forest Policy document.
- C. The Department of Natural Resources Project Forester shall review the plan to ensure that it is complete and consistent with the Millington Forest Conservation Program.

The Town of Millington shall notify the applicant whether the Forest Management Plan has been approved.
- D. Procedure for Amendment of an Approved Forest Management Plan.
 - a. An approved forest management plan may be amended if there is a change in site conditions or landowner objectives.

- b. Amendments shall be prepared by a licensed professional forester.
 - c. The amendment shall be submitted to the Department of Natural Resources project forester for the Town of Millington where the property is located.
 - d. The forester shall review the amendment to ensure that it is complete and consistent with the Forest Conservation Program.
 - e. The town shall notify the applicant as to whether the amendment has been approved.
 - f. applicant shall sign the amendment.
- D. Forest Conservation and Management Agreement. An applicant may satisfy the requirement for long-term protection by executing a Forest Conservation and Management Agreement, as provided in Tax Property Article, Section 8-211, Annotated Code of Maryland, and COMAR 08.07.03
- E. Other Legally Binding Protective Agreements
- 1. Other legally binding protective agreements include:
 - a. Covenants running with the land;
 - b. Deed restrictions;
 - c. Conservation easements; and
 - d. Land trusts
 - 2. Other legally binding agreements shall provide:
 - a. Protection for land forested, afforested, or reforested under the Forest Conservation Ordinance.
 - b. Limitation on the uses of forest to those that are consistent with forest conservation.
- F. An applicant may include in a forest conservation plan another long-term protective measure if the applicant demonstrates to the satisfaction of the Town that the measure will provide for the long term protection of the areas retained, afforested or reforested under the Forest Conservation Ordinance.
- G. Procedure for a Timber Harvesting Plan
- 1. An individual may harvest timber on forested, reforested, or afforested areas protected under an approved forest conservation plan provided that the harvest:
 - a. is consistent with the intent of an approved forest management plan, forest conservation management agreement, or other long term protective agreement;
 - b. Is subject to a timber harvest plan:
 - i) Prepared by a licensed professional forester
 - ii) Submitted to Kent County Forest Conservancy District Board for review and approval, and
 - iii) That remains in effect for two years;
 - c. Is consistent with the intent and requirements of the approved forest conservation plan.

2. The Kent County Forest Conservancy District Board shall notify the individual whether the timber harvest plan has been approved.

§ 70-9. Annual Report.

On, or before the first of each year, the Town shall submit to the Department of Natural Resources a report on:

1. The number, location, and type of projects subject to the provisions of this ordinance.
2. The amount and location of acres cleared, conserved, and planted in connection with a development project;
3. The amount of reforestation and of forestation fees and non-compliance penalties collected and expended.
4. The costs of implementing the Forest Conservation Program.

§ 70-10. Biennial Review.

The Department of Natural Resources shall conduct a biennial review of the Towns Forest Conservation Program. During the review the Town shall provide documentation of:

1. The number, location, and types of projects
2. The number and location of acres cleared, conserved and planted; and
3. The amount of reforestation and afforestation fees and noncompliance penalties collected and expended.

Chapter 71

VEHICLES, ABANDONED

§ 71-1. Title.

§ 71-2. Definitions; word usage.

§ 71-3. Parking or storing of inoperative vehicles prohibited; exceptions.

§ 71-4. Notice to remove.

§ 71-5. Responsibility for removal.

§ 71-6. Notice to remove; contents.

§ 71-7. Hearings.

§ 71-8. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Town of Millington 02-06-91. Amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and Traffic - See Chapter 72.

§ 71-1. Title.

This Chapter shall be known and may be cited as the “Abandoned, Wrecked, Dismantled or Inoperative Motor Vehicle Ordinance.”

§ 71-2. Definitions; word usage.

- A. For the purposes of this Chapter, the following terms, phrases, words and their derivations shall have the meanings given herein.

ABANDONED AUTO - Any motor vehicle or part thereof which is wrecked, dismantled or partly dismantled, disabled or inoperative, abandoned or in disrepair or unregistered and is visible from the street, sidewalk or other public right-of-way or from any other person’s private property, whether or not the property on which the vehicle(s) is located is owned, leased or used, with or without the consent of the owner or tenant.

MOTOR VEHICLE - Any vehicle defined in Section 11-135 of the Transportation Article of the Annotated Code of Maryland, including but not limited to any automobile, truck, van, recreational vehicle (RV), motorcycle, tractor or other motorized farm implement and any other device in, on or by which any individual or property is or might be transported or towed on a highway, including but not limited to flatbed trailers, semi-trailers and boat trailers.

PERSON - The owner of public record of any lot or part of a lot within the Town. “Owner” and “person” are used interchangeably throughout this Chapter.

PRIVATE PROPERTY - Any real property within the Town which is privately owned and which is not public property as defined in this section.

PUBLIC PROPERTY - Any street or highway which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel, and shall also mean any other publicly owned property or facility.

TOWN - The Town of Millington.

- B. When not inconsistent with the context, words used in the present tense include the future, words in plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

§ 71-3. Parking or storing of inoperative vehicles prohibited; exceptions.

- A. No person shall park, store, leave or permit the parking, storing or leaving of any abandoned automobile, upon any public or private property within the Town for a period of time in excess of seventy-two (72) hours. The presence of an abandoned automobile or parts thereof on private or public property is hereby declared a public nuisance which may be abated as such in accordance with the provisions of this Chapter.
- B. This section shall not apply to any vehicle enclosed within a building on private property.

§ 71-4. Notice to remove.

Whenever it comes to the attention of the Town that any nuisance, as defined in § 71-3 of this Chapter, exists in the Town, a notice, in writing, shall be served upon the owner of the land where the nuisance exists, identifying the existence of the nuisance and requesting its removal in the time specified in this Chapter.

§ 71-5. Responsibility for removal.

Upon proper Notice and opportunity to be heard, the owner of the private property on which the abandoned vehicle is located shall be responsible for its removal. In the event of removal and disposition by the Town, the owner of the private property where the same is/was located shall be liable for all expenses incurred by the Town of said removal/disposition with cost of removal to be added to property owner's Municipal Taxes.

§ 71-6. Notice to remove; contents.

- A. Notice procedure. The Town shall give notice of removal to the owner of the private property where it is located at least fifteen (15) days before the time of compliance. It shall constitute sufficient notice, when a copy of the same is posted in a conspicuous place upon the private property on which the vehicle is located and duplicate copies are sent by registered mail to the owner of the private property at the address designated on the property tax rolls or assessment records.
- B. Content of notice. The notice shall contain the request for removal within the time specified in this Chapter, and this notice shall advise that upon failure to comply with the notice to remove, the Town or its designee shall undertake such removal with the cost of removal to be added to the property owner's Municipal Taxes...

§ 71-7. Hearings.

- A. Request. The person to whom the notices are directed or their duly authorized agents may file a written request for hearing before the Town within the fifteen-day period of compliance prescribed in § 71-6A for the purpose of defending the charges by the Town.
- B. Procedure. The hearing shall be held as soon as practicable after the filing of the request and the persons to whom the notices are directed shall be advised of the time and place of said hearing at least fifteen (15) days in advance thereof. At any such hearing the Town and the persons to whom the notices have been directed may introduce such relevant and material witnesses and evidence as either party deems necessary.

§ 71-8. Violations and penalties.

Any person violating the provisions of this Article/Chapter shall be deemed guilty of a Municipal Infraction and shall upon conviction thereof be punished by a fine as outlined in the Code of the Town of Millington Chapter 2. Each day, or each separate occasion during each such day, that a violation of this Article/Chapter occurs or reoccurs shall constitute a separate offense.

Chapter 72

VEHICLES AND TRAFFIC ORDINANCE

Section 72-1	Authority to erect signs.
Section 72-2	Stop Signs to be erected.
Section 72-3	Parking restrictions on Town streets.
Section 72-4	Overweight restrictions on Town streets.
Section 72-5	Observing signs; violations and penalties.

(HISTORY: Adopted by the Mayor and Council of the Town of Millington 09-05-63 as Ordinance No. 111, Amendments noted where applicable. Amended by Mayor and Council of the Town of Millington December 19, 2007 by Resolution 2007-13. Amended by Mayor and Council of the Town of Millington, September 9, 2014, by Resolution 2014-09)

§ Section 72-1 Authority to erect signs.

The Mayor and Council of Millington, Maryland, are authorized and empowered, by the Charter of the Town of Millington, Article IV § C4-1, B49, to provide for the safety or control of vehicular or pedestrian traffic or for the regulation of the use of parking areas, to erect or cause to be erected stop, no-parking, speed limit, one-way and other traffic control and parking restriction signs designed to control, regulate, warn, or guide traffic or limit parking on public streets, highways, or other areas in the Town.

§ Section 72-2 Stop signs to be erected at the following intersections.

The Mayor and Council of Millington hereby direct the erection and enforcement of stop signs at the following intersections:

STREET	AT	LOCATION
School Street	Cypress Street	North Side
School Street	Hurt Avenue	South Side
School Street	Hurt Avenue	North Side
School Street	Chesterville-Millington Rd	South Side
Carville Drive	Chesterville-Millington Rd	South Side
Carville Drive	School Street	East Side
Embert Drive	Carville Drive	West Side
Embert Drive	School Street	East Side
Hurt Avenue	School Street	East Side
Hurt Avenue	Sassafras Street	West Side
Back Street	Sassafras Street	North Side
Crane Street	Cypress Street	North Side
Crane Street	Cypress Street	South Side
Hazel Lane	Sassafras Street	West Side
Chesterville-Millington Rd	Sassafras Street	South Side
Comegys Street	Hurt Avenue	East Side
Comegys Street	Cypress Street	West Side
Railroad Avenue	Back Street	East Side
Railroad Avenue	Cypress Street	West Side

§ Section 72-3 Parking restrictions on Town streets.

The Mayor and Council of Millington hereby direct the enforcement of restrictive parking on the following streets:

STREET	NO-PARKING
Back Street	North Side
Hurt Avenue	North Side
Crane Street	West Side

§ Section 72-4 Overweight restrictions on Town streets.

The Mayor and Council of Millington hereby direct the enforcement of overweight restrictions on the following streets:

STREET	RESTRICTION
West Back Street	10 ton weight limit

§ Section 72-5 Observing signs; violations and penalties.

It shall be the duty of all persons to observe such signs, and any person failing to observe and obey any such sign shall, upon conviction thereof, be guilty of a misdemeanor, the penalty for which shall be a fine not exceeding one hundred dollars (\$100.00) or imprisonment not exceeding thirty (30) days, or both such fine and imprisonment.

Chapter 73

PARADES

- § 73-1. Purpose.
- § 73-2. Scope and application.
- § 73-3. Enforcement.
- § 73-4. Definitions.
- § 73-5. Exceptions.
- § 73-6. Procedures.
- § 73-7. Standards for Issuance.
- § 73-8. Time limit established for review and issuance; denial of permit.
- § 73-9. Appeals; time limits established for filing and subsequent action.
- § 73-10. Permit contents.
- § 73-11. Permit compliance.
- § 73-12. Public conduct during parade.
- § 73-13. Revocation of permit.
- § 73-14. Violations and penalties.

§ 73-1. Purpose.

It is the purpose of this Chapter and regulations passed pursuant thereto to allow the orderly organization of all parades within the Town of Millington and at the same time to ensure public safety and to minimize the disruption of the normal flow of pedestrian and vehicle traffic within the Town of Millington.

§ 73-2. Scope and application.

The provisions of this Chapter shall apply to all individual(s), companies, organizations, affiliations, and residents desiring to hold a parade within the corporate limits of the Town regardless of the size or number of participants in said parade.

§ 73-3. Enforcement.

This chapter shall be enforced before, during, and after a parade for which a permit is applied for is issued or cancelled. All parties involved will be held liable and subject to the penalties outlined in paragraph § 73-14 of this chapter. In addition it is unlawful for any person, circus, show, organization, affiliation, company, or other to parade through, over or on the streets, roads, avenues, or sidewalks of the Town of Millington without first obtaining a permit from the Mayor and Town Council.

§ 73-4. Definitions.

PARADE - Any march, procession, ceremony, show, exhibition, or pageant consisting of people, animals, vehicles, or combination thereof, or any similar display upon any public street, sidewalk, alley, sidewalk, or any combination thereof which does not comply with normal and usual traffic regulations or controls.

PERSON - Any person, firm, partnership, association, corporation, company, affiliation, or organization of any kind.

MOTORCADE - Any organized procession of three or more vehicles, bicycles, mopeds, motorcycles, or any other device used to carry or transport an individual or animal of any kind.

§ 73-5. Exceptions.

This chapter shall not apply to the following:

Funeral processions.

Students going to and from school classes or participating in educational activities, provided that such conduct is under the immediate direction and supervision of the proper school authorities.

Children under the direct supervision of an approved and licensed day care or home day care operator who is walking or transporting his or her charges from point to point.

Governmental agencies acting within the scope of its functions.

§ 73-6. Procedure.

A person seeking issuance of a parade permit shall file an application with the Mayor and Council of Millington on forms provided by such officers.

Filing period. An application for a parade permit shall be filed with the Town Clerk not less than sixty (60) days nor more than ninety (90) days before the date on which it is proposed that the parade be conducted.

Contents. The application for a parade permit shall set forth the following information:

The name, address, and telephone number of the person seeking to conduct such a parade.

If the parade is proposed to be conducted for, on behalf of or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorized and responsible heads of such organization.

The name, address, and telephone number of the person who will be the parade chairman and who will be responsible for its conduct.

The date when the parade is to be conducted.

The route to be traveled, the starting point and the termination point.

If the parade goes on, by, or will interfere with the use of any State Highway in the Town the applicant shall secure use of said State Highway use through the Maryland State Highway Administration using form found in Appendix A prior to submission of the application to the Mayor and Council and shall become part of said application.

The approximate number of persons who and animals and vehicles which will constitute such parade, the type of animals and a description of the vehicles.

The hours when such parade will start and terminate.

A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traversed.

The location, by streets or other prominent geographical marker, of any assembly and termination areas for such parade.

Means by which the applicant will ensure that all litter or trash is removed from assembly and termination areas as well as along the parade route regardless of how the litter or trash arrived at the site of the parade route or assembly and termination areas.

The time at which units of the parade will begin to assemble at any such assembly area or areas.

The time at which all participants of the parade will vacate the parade route and termination point and clean-up if any is completed so that a final inspection can be performed by the Town.

If the parade is designed to be held by, on behalf of or for any person other than the applicant, the applicant for such permit shall file with the Mayor a communication, in writing, from the person proposing to hold the parade which authorizes the applicant to apply for the permit on his or her behalf.

The applicant will coordinate all assistance from the Kent or Queen Anne's Counties Sheriff Department to ensure police traffic control along entire parade route, assembly, and termination areas is adequately provided and that such a letter indicating that traffic control and other assistance will be provided by the Sheriff's Department shall be submitted along with and will become part of the parade application.

Any additional information which the Mayor and Council shall find reasonably necessary to a fair determination as to whether a permit should be issued.

Late applications. The Mayor and Council, where good cause is shown therefore, shall have the authority to consider any application hereunder which is filed no less than fourteen (14) days before the date of such parade is proposed to be conducted as long as all other requirements as outlined in Section B are completed.

Fee. There shall be paid at the time of filing the application for a parade permit a non-refundable fee of ten dollars (\$10.00).

Clean-up Deposit. There shall be paid at the time of application a clean-up deposit of two hundred dollars (\$200.00) for clean-up of the parade route, assembly, and parade termination areas. If the applicant/sponsor has the above referenced areas cleaned and free of all litter to the satisfaction of the Town Clerk, then the clean-up deposit will be returned within seven (7) days by first class mail to the address provided by the applicant on the parade permit application.

Insurance. The applicant will submit proof of insurance by/with a licensed carrier in the State of Maryland, and as otherwise acceptable to the Mayor and Council of the Town of Millington, reflecting insurance coverage in the amount of one million dollars (\$1,000,000.00) for both liability and property damage for the parade event.

§ 73-7. Standards for issuance.

The Mayor and Council shall issue a permit as provided for hereunder when, from a consideration of the application and from such other information as may otherwise be obtained, they find that:

The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route.

The conduct of the parade will not require the diversion of so great a number of county police officers to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the town or county.

The conduct of such parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the town other than those to be occupied by the proposed line of march and areas contiguous thereto.

The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of or ambulance service to areas contiguous to such assembly areas.

The conduct of such parade is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or to create a disturbance.

The conduct of such a parade will not interfere with the movement of fire-fighting equipment en route to a fire.

The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route.

The parade is not to be held for the sole purpose of advertising any product, goods or event and is not designed to be held purely for private profit.

§ 73-8. Time limit established for review and issuance; denial of permit.

The Mayor and Council shall act upon the application for a parade permit at the next regularly scheduled meeting of the Mayor and Council after the application has been received and has been posted on the Millington Community Bulletin Board outside the Town Office for a minimum of two (2) weeks for receipt of Public Input in writing. If the application is approved by the Mayor and Council the parade route will be posted and marked by the applicant with date and times of the parade at least 48 hours prior to the parade start time and will be removed within 24 hours by the applicant after the stop time of the parade. If the Mayor and Council disapproves the application, the town will mail, by first class mail, to the applicant within five days (5) after the date upon which the decision was made, a notice of their action stating the reasons for denial of the permit.

§ 73-9. Appeals; time limits established for filing and subsequent action.

Any person aggrieved shall have the right to appeal the denial of a parade permit to the Circuit Court of Maryland in the manner and time as prescribed by law.

§ 73-10. Permit contents.

Each parade permit shall state the following information:

The starting time.

The minimum speed.

The maximum speed.

The maximum interval of space to be maintained between the units of the parade.

The portions of the streets to be traversed that may be occupied by the parade.

The maximum length of the parade in miles or fractions thereof.

Such other information as the Mayor and Council shall find necessary to the enforcement of this chapter.

§ 73-11. Compliance with permit conditions and applicable laws required; possession of permit.

A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances.

The parade chairman or other person heading or leading such activity shall carry the parade permit upon his person during the conduct of the parade.

§ 73-12. Public conduct during parades; parking restrictions.

Interference. No person shall unreasonably hamper, obstruct or impede or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade.

Driving through parades. No driver of a vehicle shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.

Parking on parade route. The Mayor and Council shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a highway or part thereof constituting a part of the route of a parade. The Mayor and Council shall post signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. No person shall be liable for parking on a non-posted street in violation of this chapter.

§ 73-13. Revocation of permit.

The Mayor and Council shall have the authority to revoke/deny a parade permit issued hereunder upon violation of the standards for issuance as herein set forth.

§ 73-14. Violations and penalties.

A violation of the terms of this Chapter shall be considered a municipal infraction subject to a penalty of one hundred dollars (\$100.00) as provided in § C12-4 of the Charter of the Town of Millington.

**TOWN OF MILLINGTON
PARADE APPLICATION**

Parade Date: _____ Date Filed: _____

Name of Applicant: _____

Address of Applicant: _____

Telephone Numbers of Applicant: Daytime _____ Evening _____

Organization Sponsor: _____

Organization Address: _____

Organization Telephone: _____

Organization Contact: _____

Contact Telephone: _____

Parade Chair: _____

Chair Address: _____

Chair Telephone: _____

Parade Route: _____

State Highways Affected: _____ Number of persons/units: _____

Parade Start Time: _____ Parade End Time: _____

Assembly Area: _____ Termination Area: _____

Time of Assembly: _____ Time of Termination: _____

Minimum Speed of Parade: _____ Maximum Speed of Parade: _____

Interval Between Units: _____ Maximum Parade Length: _____

Width of Streets To Be Used: _____

Parade Clean-up Procedures: _____

I/We hereby agree and acknowledge that the event sponsor and the participants will comply with all applicable Maryland laws and will adhere to the conditions granted by this permit. By affixing my/our signature on this form, the sponsor and/or the individual participants agree to hold the public agencies harmless from any liability, incurred by them or to others associated with this event. This shall require purchase of liability and property damage insurance in the amounts of \$1,000,000 each.

Sponsor's Authorized Representative or
Parade Applicant

CONDITIONS OF APPROVAL:

The event must adhere to the highways, streets, number of participants, date, and times specified.

The sponsor will insure the Traffic Control Plan is followed as submitted and approved.

Other: _____

COMMENTS:

☐ Approved ☐ Disapproved _____ Mayor

☐ Approved ☐ Disapproved _____ Council Member

☐ Approved ☐ Disapproved _____ Council Member

Chapter 74

NOISE

- § 74-1. Definitions.
- § 74-2. Loud and disturbing noises prohibited.
- § 74-3. Noises generally prohibited - enumeration.
- § 74-4. Noise for entertainment purposes.
- § 74-5. Noise from electronic devices.
- § 74-6. Temporary exemptions.
- § 74-7. Non-applicability of ordinance.
- § 74-8. Severability.
- § 74-9. Violations and penalties.

§ 74-1. Definitions.

As used in this Ordinance, the following words have the meanings indicated:

COUNCIL – The Mayor and Council of the Town of Millington.

HIGHWAY – The entire width between the boundary lines of any way or thoroughfare of which any part is used by the public for vehicular travel, whether or not the way of the thoroughfare has been dedicated to the public and accepted by and proper authority.

PERSON – Any individual person or any group, association, company, firm, partnership, corporation, or other type of commercial enterprise.

TOWN – The Town of Millington.

§ 74-2. Loud and disturbing noises prohibited.

It shall be unlawful for any person to make, continue, cause to be made or continued, or permit to be made or continued any loud and disturbing noise prohibited by this Ordinance.

§ 74-3. Noises generally prohibited - enumeration.

Prohibited Noises. The following noises are hereby declared to be loud and disturbing noises in violation of this Ordinance:

The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any street, way, highway, avenue, or alley or other public place except when reasonably necessary to ensure safe operation.

The creation by any means of any horn or signaling device of any unreasonably loud or harsh sound.

The sounding of any horn or signaling device for an unnecessary or unreasonable length of time.

The sounding of any horn or signaling device except on operated by hand or electricity.

The sounding of any horn, whistle, or other signaling device operated by engine exhaust.

Yelling, shouting, hooting, whistling, or singing at any time or place so as to annoy or disturb the quiet, comfort, or repose of any persons in any dwelling, hotel, other type of residence or business establishment.

Prohibited Acts. The following acts are hereby declared to be productive of loud and disturbing noises and are hereby declared to be a violation of this Ordinance.

The playing, using, or operating of any radio receiving set, musical instrument, phonograph, or other machine or device for producing or reproducing of sound that:

in such a manner as to disturb the peace, quiet, and comfort of other persons in the vicinity; or

at any time with louder volume than is necessary for convenient hearing for the person or persons who are voluntary listeners thereto and who are in the immediate vicinity, vehicle, or chamber in which such machine or device is operated.

The causing or permitting of any of the acts set forth in § 74-3.B (1).

Prima Facie Evidence. The operation of any radio receiving set, musical instrument, phonograph, or other machine or device for producing or reproducing of sound in such a manner as to be plainly audible at a distance of fifty (50) feet from the device, building, structure, or vehicle in which the noise is generated shall be prima facie evidence of a violation of this Ordinance.

§ 74-4. Noise for entertainment purposes.

Prohibited Noises. It shall be unlawful for any person or persons to play, use, operate, or permit to be played, used, or operated any radio, musical instrument, phonograph, or other machine or device designed for the producing or reproducing of sound:

If such sound is for the purpose of entertainment or is used for that purpose and

If the noise source is located in or upon a public street, highway, sidewalk, park, thoroughfare, or other public area, or is located in or upon a public access area, including but not limited to a shopping mall or a parking lot, or on any private property, and the sound can be heard more than fifty (50) feet from its source; or

If the noise source is in a building or other structure and the sound can be heard more than one hundred (100) feet away from the building or structure or the boundaries of the property surrounding such building or structure, whichever is greater.

Prima Facie Evidence. It shall be prima facie evidence of a violation of this Section if the noise can be heard outside the limits set forth in § 74-4.A (1) (a) and (b).

Presumptions.

Where the source of the prohibited noise, as set forth in § 74-4.A(1)(a), is a portable noise-producing or noise-reproducing device, including but not limited to a radio, tape recorder, or tape player, and where such device is present in or is being transported through a public street, highway, area, or access area or is present on any private property, the person or persons in possession of the device shall be presumed to have permitted the noise in violation of this Section in the absence of evidence to the contrary.

Where the source of the prohibited noise, as set forth in § 74-4.A(1)(b), is located in a building or other structure, the owner, occupant, resident, manager, or other person in possession of the premises shall, if present, be presumed to have permitted the noise in violation of this Section in the absence of evidence to the contrary.

Warnings/Arrests. A police officer, having probable cause to believe a violation of this Section is being committed, may warn the apparent perpetrator or perpetrators to cease such noise as violates this Section. If the violation persists after such warning, the officer may arrest, without a warrant, the perpetrator or perpetrators of the violation, and it is not necessary for the officer to have received a complaint in order to so act.

§ 74-5. Noise from electronic devices.

Prohibited Noises. It shall be unlawful for any person or persons to broadcast, or to permit to be broadcast, for advertising purposes, or for any other purposes whatsoever, sound over a speaker, loudspeaker, or other device for the production, reproduction, or amplification of sound in any manner so as to allow the sound to be audible to normal human hearing beyond a distance of one hundred (100) feet from the premises of the building, vehicle, or property wherein such device is located or upon which or to which such device is affixed.

Prima Facie Evidence. It shall be prima facie evidence of a violation of this Section if the noise can be heard outside the limits set forth in § 74-5.A

Presumption. The owner, manager, or other person in possession of the building, vehicle, or property, from which emanates sound prohibited by § 74-5.A, shall, if present, be presumed to have permitted the noise in violation of this Section in the absence of evidence to the contrary.

§ 74-6. Temporary exemptions.

A permit for a temporary exemption from the provision of § 74-1 through § 74-5 of this Ordinance may be issued by the Mayor and Council for commercial, political, civic, charitable, or other community activities, including, but not limited to fund raisers, carnivals, bazaars, meetings, and other activities of other than a day-to-day nature.

Each application for such permit shall be addressed to the Mayor and Council, shall be accompanied by a fee to be determined by the Mayor and Council shall be set forth:

The date and hours between which such noise is to be made; and

The nature of the mechanical device to be employed for such purpose; and

The person or persons to be in charge of the operation thereof.

The application shall be rejected by the Mayor and Council if there is a good sufficient reason within the meaning and purpose of this Ordinance for rejecting the application.

§ 74-7. Non-applicability of ordinance.

The provisions of § 74-4 through § 74-6 shall not apply to:

Town permitted events in public parks; or

Federal, State, or Local Government agencies; or

Public service companies as defined in Article 78 of the Annotated Code of Maryland.

§ 74-8. Severability.

If any provision of this Ordinance is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions of any other application of this Ordinance which can be given effect without the invalid provision or application, and for this purpose the provisions of this Ordinance are declared to be and are hereby severable.

§ 74-9. Violations and penalties.

Any person violating the provisions of this Article/Chapter shall be deemed guilty of a Municipal Infraction and shall upon conviction thereof be punished by a fine as outlined in the Code of the Town of Millington Chapter 2. Each day, or each separate occasion during each such day, that a violation of this Article/Chapter occurs or reoccurs shall constitute a separate offense.

Chapter 75
(Reserved)

Chapter 76
(Reserved)

Chapter 77
(Reserved)

Chapter 78
(Reserved)

CHAPTER 79
BUILDING PERMIT

Article 1	Building Permit Application
Article 2	Construction in Flood Plains
Article 3	Penalty

[HISTORY: Adopted by the Mayor and Council of the Town of Millington: 06-02-1975]

Building Permits

Article 1 – Building Permit Application.

No improvements shall be made to any land within the Corporate limits of Millington without a permit from the Town Council. Said permit may be obtained by petitioning the Town Council for same and by first presenting detailed plans for said improvements.

Article 2 – Construction in Flood Plains .

The following regulations are applicable to those areas determined to be Special Flood Hazard Areas by the Federal Insurance Administration of the Department of Housing and Urban Development and are shown on the Flood Hazard Boundary Maps available in the Kent County Zoning Office.

1. All new construction, substantial improvements, or major repairs to any building or structure in a flood hazard area must:
 - A. Anchored to prevent movement or collapse.
 - B. Use flood resistant materials or equipment.
 - C. Use construction methods and practices to minimize flood damage.
2. The lowest floor of new construction or substantial improvements must be located:
 - A. For residences, at or above the 100 year flood level.
 - B. For non-residential building and structures, at or above the 100 year flood level or flood proofed.
3. In riverine areas:
 - A. Designated flood ways must be able to pass the 100 year flow.
 - B. No use will raise 100 year flood level more than one (1) foot.
 - C. Encroachments in the floodway must be offset by channel improvements.
4. In coastal high hazard areas:
 - A. Non-conforming uses on land below the 100 year level cannot be expanded.
 - B. New structures or substantial improvements must:
 - I. be located landward of mean high tide.
 - II. be elevated above 100 year level and anchored to piles.
 - III. have space below the lowest floor free of obstruction

Article 3 – Penalty.

Any person or corporation violating the provisions of this Ordinance shall be fined not less than Five dollars or more than Twenty dollars per day, as long as said violation exists. Also the Council may institute proceedings for removal of any structure built in violation of this ordinance.

CHAPTER 80
ZONING ORDINANCE
MILLINGTON, MARYLAND

Version 12-22-2011
Adopted 08-14-2012

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ARTICLE I GENERAL PROVISIONS

§ 80-1. Title.

This Zoning Chapter shall be known as the “Zoning Ordinance for Millington, Maryland.”

§ 80-2. Authority.

This Zoning Ordinance is enacted under the authority granted by the General Assembly of Maryland, as provided in Article 66B, Annotated Code of Maryland, as amended.

§ 80-3. Applicability.

This Zoning Ordinance shall apply to the incorporated territory of Millington, Maryland. It is the intent of this Zoning Ordinance that the extent of its applicability be automatically changed in accordance with the provisions of state law which may affect the applicability of this Zoning Ordinance.

§ 80-4. Purpose.

- A. This Zoning Ordinance is intended to promote the orderly development of the Town of Millington, Maryland in accordance with the *Millington Comprehensive Plan* or any of the component parts thereof and in compliance with Article 66B of the Annotated Code of Maryland, as amended.
- B. The purpose of this Zoning Ordinance is to promote the health, safety, order, convenience and general welfare of the citizens of the Town in accordance with present and future needs. It also is the purpose of the Zoning Ordinance to provide for efficiency and economy in the process of development; for the appropriate and best use of land; for convenience of traffic and circulation of people and goods; for the appropriate use and occupancy of buildings; for healthful and convenient distribution of population; for good civic design and arrangement, including the preservation and enhancement of the attractiveness of the community; and for adequate public utilities, public services and facilities by regulating and limiting or determining the height and bulk of buildings and structures, the area of yards and other open spaces and the density of use.
- C. It also is the objective of this Zoning Ordinance is to implement the "Visions" contained in the Maryland Growth Management, Resource Protection and Economic Development Act, namely:
 - 1. A high quality of life is achieved through universal stewardship of the land, water, and air resulting in sustainable communities and protection of the environment.
 - 2. Citizens are active partners in the planning and implementation of community initiatives and are sensitive to their responsibilities in achieving community goals.
 - 3. Growth is concentrated in existing population and business centers, growth areas are adjacent to these centers, or strategically selected new centers.
 - 4. Compact, mixed-use, walkable design consistent with existing community character and located near available or planned transit options is encouraged to ensure efficient use of land and transportation resources and preservation and enhancement of natural systems, open spaces, recreational areas, and historical, cultural, and archeological resources.
 - 5. Growth Areas have the water resources and infrastructure to accommodate population and

business expansion in an orderly, efficient, and environmentally sustainable manner.

6. A well-maintained, multi-modal transportation system facilitates the safe, convenient, affordable, and efficient movement of people, goods, and services within and between population and business centers.
 7. A range of housing densities, types, and sizes provides residential options for citizens of all ages and incomes.
 8. Economic development and natural resource-based businesses that promote employment opportunities for all income levels within the capacity of the State's natural resources, public services, and public facilities are encouraged.
 9. Land and water resources, including the Chesapeake and Coastal Bays, are carefully managed to restore and maintain healthy air and water, natural systems, and living resources.
 10. Waterways, forests, agricultural areas, open space, natural systems, and scenic areas are conserved.
 11. Government, business entities, and residents are responsible for the creation of sustainable communities by collaborating to balance efficient growth with resource protection.
 12. Strategies, policies, programs, and funding for growth and development, resource conservation, infrastructure, and transportation are integrated across the local, regional, state, and interstate levels to achieve these visions.
- d. The regulations and provisions contained in this Zoning Ordinance were adopted and became effective on August 13, 2012.

§ 80-5. Jurisdiction.

- A. Except as provided for in Subsection B below, this Zoning Ordinance shall apply to all land, structures and buildings within the corporate limits of the Millington, including all submerged lands and water areas.
- B. This Zoning Ordinance shall not apply to land, structures and buildings owned by or leased solely to the Federal Government, State of Maryland, Kent County Commissioners, Queen Anne's County Commissioners or the Town of Millington, provided that such land, structure or building is used for the sole purpose of providing a public service or carrying out a legitimate government function.

§ 80-6. Severability.

It is hereby declared to be the intention of the Mayor and Council that the sections, paragraphs, sentences, clauses, and phrases of this Zoning Ordinance 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 Ordinance since the same would have

been enacted without the incorporation into this Zoning Ordinance of such unconstitutional or invalid section, paragraph, sentence, clause, or phrase.

§ 80-7. Reserved

ARTICLE II BASIC DEFINITIONS AND INTERPRETATIONS

§ 80-8. Definitions and word usage.

- A. General rules of construction. The following general rules of construction shall apply to the regulations of this Zoning Ordinance:
1. The singular number includes the plural, and the singular, unless the context clearly indicates the contrary.
 2. Words used in present tense include the past and future tenses, and the future the present.
 3. The word “shall” is always mandatory. The word “may” is permissive.
 4. The word “building” or “structure” includes any part thereof, and the word “building” includes the word “structure.”
 5. Words and terms not defined herein shall be interpreted in accordance with their normal dictionary meanings and customary usage.
- B. Definitions. For the purpose of this Zoning Ordinance, certain terms and words are hereby defined:

ABATEMENT - The act of putting an end to a land alteration or development activity or reducing the degree or intensity of the alteration or activity.

ACCESSORY BUILDING - A subordinate building or a portion of the main building, the use of which is clearly incidental to or customarily found in connection with and, except as otherwise provided in this Zoning Ordinance, located on the same lot as the main building or principal use of the land.

ACCESSORY USE - One which is clearly incidental to or customary found in connection with and, except as otherwise provided in this Zoning Ordinance is located on the same lot as the principal use of the premise when the term “accessory” is used in the Zoning Ordinance, it shall have the same meaning as “accessory use.”

ADMINISTRATOR - Authorized representative designated by the Mayor and Council to carry out duties as specified in this Ordinance. In the absence of an appointed Zoning Administrator, these duties are assumed to be the responsibility of either the Town Administrator or his/her designee.

ADULT BOOK OR VIDEO STORE - An Adult Oriented Business, whether or not containing viewing booths, theatres, or other performance viewing space, that involves the sale, rental, transfer, loan, dissemination, distribution, provision or promotion of Adult Entertainment or Material in the form of books, magazines, newspapers, photographs, movies, videos, DVDs, CDs or other audio/video recordings, or other electronic recordings, or, in the form of merchandise, objects, items or devices.

ADULT ENTERTAINMENT OR MATERIAL - Any performance, depiction, or text that is intended to cause or provide, or reasonably may be expected to cause or provide, sexual stimulation, sexual excitement, or sexual gratification and:

- A. In which an individual or individuals appear in a state of Nudity or Partial Nudity; or
- B. That consists, in whole or in part, of action, activity, poses, portrayal, depiction, or description of:
 - 1. Human genitals in a discernible state of sexual stimulation or arousal; or
 - 2. Any act, whether real or simulated, of masturbation, sexual intercourse, anal intercourse, sodomy, fellatio, cunnilingus, fondling of the buttocks, anus, female breasts, pubic area, or genital area, Sadomasochistic Abuse, physical contact or attempted contact with clothed or unclothed genitals, pubic areas, buttocks, anus, or female breasts; or
- C. That consists of sexual contact with animals or inanimate objects; or
- D. That consists of any merchandise, object, item, or device that is designed and/or marketed with the intention of causing, or that reasonably may be expected to cause, sexual stimulation, sexual excitement or sexual gratification.

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, night club, modeling studio, bar, restaurant, club, lodge, or similar establishment; or
- B. 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, and/or coin operated or pay-view-viewing devices, including, but not limited to, the operation of an Adult Book or Video Store or Viewing Booth.

ADULT NIGHTCLUB, BAR, RESTAURANT, OR SIMILAR ESTABLISHMENT - An entertainment establishment which features go-go dancers, topless service personnel, exotic dancers, strippers, male or female impersonators, or similar entertainers.

ADULT ORIENTED COMMERCIAL ENTERPRISES - Business activities such as adult bookstores, adult entertainment, escort services, massage parlors, tattoo studios, body piercing or branding studios, pawnbrokers, pawnshops, palm readers, fortune teller or soothsayer.

AFFORESTATION - means the establishment of a tree crop on an area from which it has always or very long been absent, or the planting of open areas which are not presently in forest cover.

AGGREGATE AREA OR WIDTH - The sum of two (2) or more designated areas or widths to be measured, limited, or determined under the provisions of this Zoning Ordinance.

ASSISTED LIVING - A residential facility-based program licensed by the State of Maryland that provides housing and supportive services, supervision, personalized assistance, health-related services or a combination of these services to meet the needs of the residents who are unable to perform, or who need assistance in performing, the activities of daily living or instrumental activities of daily living, in a way that promotes optimum dignity and independence for the residents.

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 EASEMENT – A non-possessory interest in land which restricts the conversion of use of the land, preventing non-agricultural uses.

ALLEY - A narrow public thoroughfare, not exceeding sixteen (16) feet in width, which provides only a secondary means of access to abutting properties and is not intended for general traffic circulation.

ANADROMOUS FISH - Fish that travel upstream (from their primary habitat in the ocean) to freshwater in order to spawn.

ANADROMOUS FISH PROPAGATION WATERS - Those streams that are tributary to the Chesapeake Bay and Atlantic Coastal bays in which the spawning of anadromous species of fish (e.g., rockfish, striped bass, yellow perch, white perch, shad, and river herring) occurs or has occurred. The streams are identified by the Department of Natural Resources.

AQUACULTURE - (a) Farming or culturing of finfish, shellfish, other aquatic plants or animals or both, in lakes, streams, inlets, estuaries, and other natural or artificial water bodies or impoundments; (b) Activities include hatching, cultivating, planting, feeding, raising, and harvesting of aquatic plants and animals and the maintenance and construction of necessary equipment, buildings, and growing areas; and (c) Cultivation methods include, but are not limited to, seed or larvae development and grow out facilities, fish ponds, shellfish rafts, rack and long lines, seaweed floats and the culture of clams and oysters on tidelands and sub tidal areas. For the purpose of this definition, related activities such as wholesale and retail sales, processing and product storage facilities are not considered aqua cultural practices.

APARTMENT - A part of a building containing cooking and housekeeping facilities, consisting of a room or suite of rooms intended, designed and used as a residence by an individual or a single family.

APARTMENT HOUSE - Same as “dwelling, multiple family.”

ARTERIAL STREET - A street so designated on the Transportation Plan of the Town of Millington.

BASEMENT - That portion of a building between the floor and the ceiling, which is wholly or partly below grade.

BED AND BREAKFAST ESTABLISHMENT - An owner-occupied or manager-occupied structure where for compensation and only by prearrangement (transients only) for definite periods, lodging and breakfast are provided.

BEST MANAGEMENT PRACTICES (BMPS) - Conservation practices or systems of practices and management measures that control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxics and sediment. Agricultural BMPs include, but are not limited to, strip cropping, terracing, contour stripping, grass waterways, animal waste structures, ponds, minimal tillage, grass and naturally vegetated filter strips, and proper nutrient application measures.

BOARD - The Board of Appeals of the Town of Millington.

BOARDING HOUSE - Same as “rooming house.”

BUFFER - Area that is immediately landward from mean high water of tidal waterways, the edge of each bank of a tributary stream, or the landward edge of a tidal wetland; and the area is characterized by, or established in, natural vegetation for the purpose of protecting aquatic, wetlands, shoreline, and terrestrial environments from man-made disturbance. The Buffer includes an area of at least 100-feet even if that area was previously disturbed by human activity or is currently developed and also include any expansion for contiguous sensitive areas, such as a steep slope, hydric soil, highly erodible soil, nontidal wetland, or a Nontidal Wetland of Special State Concern as defined in the COMAR 26.23.01.01.

BUFFER MANAGEMENT AREA (BMA) - An area officially mapped by the Town 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 BMA provisions can be permitted in the Buffer without a variance.

BUFFERYARD – Within a Buffer Management Area, an area that is at least 25 feet wide, located between a development activity and tidal waters, tidal wetlands, or a tributary stream, that is planted with vegetation consisting of native canopy trees, understory trees, shrubs, and perennial herbaceous plants in order to provide water quality and habitat benefits. This area is to be managed and maintained in a manner that optimizes these benefits.

BUILDABLE AREA - The area of that part of a lot not included within the yards or open spaces herein required.

BUILDABLE WIDTH - The width of that part of a lot not included within the open spaces herein required.

BUILDING - Any structure having a roof supported by columns or walls for the housing or enclosure of persons or property of any kind.

BUILDING, COMPLETELY ENCLOSED - Any building having no outside openings other than ordinary doors, windows and ventilators.

BUILDING, HEIGHT OF - The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line or highest point of the coping or parapet of a mansard roof or to the mean height level between eaves and ridge for gable, hip, shed, and gambrel roofs. When the highest wall of a building with a shed roof is within thirty (30) feet of a street, the “height of such building” shall be measured to the highest point of the coping or parapet.

BULK - Describes the size and shape of a building or structure and its relationship to the other buildings, to the lot area for a building and to open spaces and yards.

BUSINEES SERVICE - Services rendered to a business establishment or individual on a fee or contract basis including actuarial, advertising, credit reporting, janitorial, office or business equipment rental or leasing, photofinishing, telecommunications, blueprinting, and photocopying, and other such services.

CALIPER - The diameter of a tree measured at two inches above the root collar.

CANOPY - A detachable, roof-like cover supported from the ground or from the deck, floor or walls of a

building for protection from sun or weather.

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

CHILD CARE CENTER - A place for the care of children under twelve (12) years of age away from their own homes who stay less than twenty-four (24) hours in a day regardless of compensation.

CLEARCUTTING - The removal of the entire stand of trees in one cutting with tree reproduction obtained by natural seeding from adjacent stands or from trees that were cut from advanced regeneration or stump sprouts or from planting of seeds or seedlings by man.

CLINIC- A building or portion thereof designed for, constructed or under construction or alteration for or used by two (2) or more physicians, surgeons, dentists, psychiatrists, psychotherapists, or practitioners in related specialties or a combination of persons in these professions, but not including lodging of patients overnight.

CLUB, PRIVATE - Buildings and facilities owned or operated by a corporation, association, person or persons for a social, educational, or recreational purpose, but not primarily for profit.

CLUSTER DEVELOPMENT – A residential development in which dwelling units are concentrated in a selected area or selected areas of the development tract so as to provide natural habitat or other open space uses on the remainder.

COLONIAL NESTING WATER BIRDS - Herons, egrets, terns, and glossy ibis. For the purposes of nesting, these birds congregate (that is "colonize") in relatively few areas, at which time, the regional populations of these species are highly susceptible to local disturbances.

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

COMMERCIAL AMUSEMENT AND RECREATIONAL - An establishment which provides entertainment, recreation, or amusement for profit including commercial establishments which house more than three (3) or a combination of three (3) of the following: video games, pinball machines, pool tables or similar amusements as the principal purpose of the use.

COMMERCIAL HARVESTING - A commercial operation that would alter the existing composition or profile, or both, of a forest, including all commercial cutting operations done by companies and private individuals for economic gain.

COMMISSION – When use in conjunction with the Chesapeake Bay Critical Area, this term refers to the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays.

COMMUNITY PIERS - Boat docking facilities associated with subdivisions or similar residential areas, and with condominium, apartment and other multiple family dwelling units. Private piers are excluded from this definition.

COMPREHENSIVE PLAN - A compilation of policy statements, goals, standards, maps and pertinent data relative to the past, present and future trends of the local jurisdiction including, but not limited to, its population, housing, economics, social patterns, land uses, water resources and their use, transportation facilities and public facilities prepared by or for the planning commission, agency or office.

CONSERVATION EASEMENT - A non-possessory interest in land which restricts the manner in which the land may be developed in an effort to reserve natural resources for future use.

CONSOLIDATION - A combination of any legal parcel of land or recorded legally buildable lot into fewer lots or parcels than originally existed. Consolidation includes a lot line abandonment, a boundary line adjustment, a replatting request, and a lot line adjustment.

CONSTRUCTION SERVICES - The performance of work by, or furnishing of supplies to, members of building trades including building contractors, carpentry, wood flooring services, electrical services, energy systems services and products, general contracting, masonry, stonework, tile setting, and plastering, plumbing, heating and air conditioning services, roofing and sheet metal services, and other such services.

CONVALESCENT HOME - A building where regular nursing care is provided for more than one (1) person not a member of the family who resides on the premises.

CONVENIENCE STORE - An establishment which sells packaged and/or prepared foods and beverages and other convenience items for consumption off the premises by travelers and highway users. Sales of items are dependent upon convenience of location, speed of service, and highway accessibility and are not dependent upon comparison shopping or pedestrian traffic within the site or on adjoining sites. It is designed to attract a large volume of stop and go traffic.

COURT - An open space which may or may not have direct street access and around which is arranged a single building or a group of related buildings.

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 Atlantic Coastal Bays and their tributaries to the head of tide;
- B. All State and private wetlands designated under Title 16 of the Natural Resources Article, Annotated Code of Maryland;
- C. 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 Natural Resources Article, Annotated Code of Maryland; and
- D. 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.

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

DEVELOPED WOODLANDS – An area of trees or of trees and natural vegetation that is interspersed with residential, commercial, industrial, or recreational development.

DEVELOPER - A person who undertakes development activity as defined in this ordinance; or a person who undertakes development activity as defined in the Criteria of the Commission.

DEVELOPMENT - Any activity that materially affects the condition or use of dry land, land under water, or any structure.

DEVELOPMENT ACTIVITIES – Human activity that results in disturbance to land, natural vegetation, or a structure, and includes the construction or substantial alteration of residential, commercial, industrial, institutional or transportation facilities or structures.

DEVELOPMENT ENVELOPE – Includes an individually owned lot, the lot coverage on that individually owned lot, a road, a utility, a stormwater management measure, an onsite sewage disposal measure, any area subject to human use such as an active recreation area, any required buffers, and any additional acreage necessary to meet the requirements of the Program.

DISTRICT - Any section of Millington in which the zoning regulations are uniform.

DISTURBANCE - An alteration or change to the land. It includes any amount of clearing, grading, or construction activity. Disturbance does not include gardening or maintaining an existing grass lawn.

DOCUMENTED BREEDING BIRD AREAS - Forested areas where the occurrence of interior dwelling birds, during the breeding season, has been demonstrated as a result of on-site surveys using standard biological survey techniques.

DOG KENNEL, COMMERCIAL - The keeping of any dog or dogs, regardless of number, for sale, breeding, boarding or treatment purposes, except in an animal hospital, dog beauty parlor or pet shop, as permitted by these regulations, or the keeping of five (5) or more dogs, six (6) months or older, for any purpose.

DRIVE-IN FACILITY - A facility designed or operated to conduct services directly to the occupants of motor vehicles.

DRIVE-IN RESTAURANT - Any place or establishment merchandising or dispensing food or drink at which the customer is served:

- A. While sitting in an automobile or other motor vehicle, or
- B. Through an interior or exterior sales window, counter or serving area, and in which a substantial part of the food or drink merchandised and dispensed has been prepared and packaged so as to facilitate its consumption outside the structure in which the food or drink is dispensed.

DWELLING - A building or portion thereof designed or used exclusively for residential occupancy but not including trailers, mobile homes, hotels, motels, motor lodges, boarding and lodging houses, tourist courts, or tourist homes.

DWELLING UNIT – A single unit providing complete, independent living facilities for at least one person, including permanent provisions for sanitation, cooking, eating, sleeping, and other activities routinely associated with daily life. Dwelling unit includes a living quarters for a domestic or other employee or tenant, an in-law or accessory apartment, a guest house, or a caretaker residence.

DWELLING, ONE FAMILY (SINGLE FAMILY) - A dwelling containing not more than one (1) dwelling unit. An accessory apartment may also be a part of a one- family dwelling. A one-family dwelling with

either of these subordinate uses is not a two- family dwelling, as defined in this section.

DWELLING, TWO- FAMILY - A dwelling containing not more than two (2) dwelling units arranged one above the other or side by side.

DWELLING, MULTIPLE- FAMILY - A dwelling containing three (3) or more multiple-family dwelling units, which may or may not share a common entrance.

ECOSYSTEM - A more or less self-contained biological community together with the physical environment in which the community's organisms occur.

ENDANGERED SPECIES - Any species of fish, wildlife, or plants that have been designated as endangered by regulation by the Secretary of the Department of Natural Resources. Designation occurs when the continued existence of these species as viable components of the State's resources are determined to be in jeopardy. This includes any species determined to be an "endangered" species pursuant to the Federal Endangered Species Act, 16 U.S.C. §et seq., as amended.

ESTABLISHMENT (BUFFER) – The planting or regeneration of native vegetation throughout the Buffer.

EXCESS STORMWATER RUN-OFF - All increases in storm water resulting from:

- A. An increase in the imperviousness or lot coverage of the site, including all additions to buildings, roads, and parking lots;
- B. Changes in permeability caused by compaction during construction or modifications in contours, including the filling or drainage of small depression areas;
- C. Alteration of drainage ways, or regrading of slopes;
- D. Destruction of forest; or
- E. Installation of collection systems to intercept street flows or to replace swales or other drainage ways.

FAMILY - An individual or two or more persons who are related by blood or marriage living together and occupying a single dwelling unit with single culinary facilities, or a group of not more than four (4) persons living together by joint agreement and occupying a single dwelling unit with single culinary facilities on a non-profit, cost-sharing basis. Domestic employees residing on the premises shall be considered as part of the family.

FILLING STATION - Any building, structure or land used for the sale, at retail, of motor vehicle fuels, lubricants or accessories or for the servicing of automobiles or repairing of minor parts and accessories in a completely enclosed facility, but not including major repair work such as motor replacement, body and fender repair, or spray painting.

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

FISHERIES ACTIVITIES - Commercial water dependent fisheries facilities including structures for the parking, processing, canning, or freezing of finfish, crustaceans, mollusks, and amphibians and reptiles and

also including related activities such as wholesale and retail sales product storage facilities, crab shedding, off-loading docks, shellfish culture operations, and shore-based facilities necessary for aqua cultural operations.

FLOOR AREA –

- A. For commercial, business and industrial buildings or buildings containing mixed uses, the sum of the gross horizontal areas of the several floors of a building measured from the exterior walls or from the center line of walls separating two (2) buildings, but not including attic space providing headroom of less than seven (7) feet, basement space not used for retailing, uncovered steps or fire escapes, accessory water towers or cooling towers, accessory off- street parking spaces and accessory off-street loading spaces.
- B. For residential buildings, the sum of the gross horizontal areas of the several floors of the dwelling, exclusive of garages, basements and open porches, measured from the exterior faces of the exterior walls

FOOD SERVICE ESTABLISHMENT - Any commercial or nonprofit business engaged in the preparation and sale of food or beverages, whether or not it is the principal business of the establishment. The following types of uses are food service establishments: bakery, bake shop, candy store, catering establishment, convenience store, cooking school, ice cream store, restaurant, and supermarket.

FOREST - A biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater. Forest includes areas that have at least 100 trees per acre with at least 50% of those trees having two-inch or greater diameter at 4.5 feet above the ground and forest areas that have been cut, but not cleared. Forest does not include orchards.

FOREST INTERIOR DWELLING BIRDS - Species of birds which require relatively large forested tracts in order to breed successfully (for example, various species of flycatchers, warblers, vireos, and woodpeckers).

FOREST MANAGEMENT - The protection, manipulation, and utilization of the forest to provide multiple benefits, such as timber harvesting, water transpiration, wildlife habitat, etc.

FOREST PRACTICE - alteration of the forest, either through tree removal or replacement, in order to improve the timber, wildlife, recreational, or water quality values.

FRONTAGE, LOT - The distance for which the front boundary line of the lot and the street line are coincident.

FULLY ESTABLISHED – The Buffer contains as much diverse, native vegetation as necessary to support a firm and stable riparian habitat capable of self-sustaining growth and regeneration.

GARAGE, PRIVATE - A garage used for storage purposes only and having a capacity of not more than four (4) automobiles or not more than two (2) automobiles per family housed in the building to which the garage is accessory, whichever is the greater. Space therein may be used for not more one (1) commercial vehicle, and that one (1) of not more than one-ton capacity, and space may be rented for not more than two (2) vehicles to persons other than occupants of the buildings to which such garage is accessory.

GENERAL MERCHANDISE - Any retail trade use characterized by the sale of bulky items, outside

display or storage of merchandise or equipment, such as farm and garden supplies, lumber and building materials, marine equipment sales, and service, and stone monument sales with incidental processing to order, but not including the shaping of headstones.

GRADE - Grade elevation shall be determined by averaging the elevations of the finished ground at all the corners and/or other principal points in the perimeter wall of the building.

GRANDFATHERED PARCEL” OR “GRANDFATHERED LOT” - A parcel of land located in the Critical Area that was created or a lot located in the Critical Area created through the subdivision process and recorded as a legally buildable lot prior to December 1, 1985.

GROUP HOME - A place, home, or institution which is licensed to provide board, shelter, and personal services to not more than eight (8) persons, regardless of age, who have a need for supervision or assisted community living based on emotional, mental, physical, familial, or social differences. (Examples of such persons include but shall not be limited to the mentally retarded, physically handicapped, alcoholics, elderly, drug-dependent, and juveniles under the jurisdiction of the courts, the Department of Social Services, or the Department of Juvenile Justice.) Group homes shall not include public or private schools organized and operated under Maryland laws, persons related by blood or marriage within the third degree to the custodial person, or to the churches or other religious or other private institutional caring for such persons within the building while parents or other custodial persons are attending services, activities, or meetings.

GROWTH ALLOCATION - The number of acres of land in the Critical Area that the Town may use to create new Intensely Developed Areas and new Limited Development Areas. The Growth Allocation is five percent of the total Resource Conservation Area acreage in the Town at the time the Critical Area Commission approved the Town’s original Critical Area Program, not including tidal wetlands or land owned by the federal government. The Town may also receive Growth Allocation from the County.

GUEST HOUSE - Living quarters within a detached accessory building located on the same premises with the main building for use by temporary guests of the occupants of the premises, such quarters having no kitchen facilities or separate utility meters and not rented or otherwise used as a separate dwelling.

HAZARDOUS TREE – A tree with a structural defect, such as a crack, canker, weak branch union, decay, dead wood, root damage, or root disease, that decreases the structural integrity of the tree and which, because of its location, is likely to fall and cause personal injury or property damage, including acceleration of soil erosion. Or based on its location in the landscape, a healthy tree that, with continued normal growth, will damage an existing permanent structure or significantly increase the likelihood of soil erosion. Hazardous tree does not include a tree for which the likelihood of personal injury, property damage, or soil erosion can reasonably be eliminated or significantly diminished with routine and proper arboricultural practices, such as regular watering, application of fertilizer or mulch, and pruning, or by relocation of property that is likely to be damaged.

HEALTH SERVICES - The provision of medical, dental, or surgical, or other health services to individuals, including medical out-patient clinics, medical laboratories, dental clinics, dental laboratories, hospital supplies, and opticians.

HABITAT PROTECTION PLAN - A plan that provides for the protection and conservation of the species and habitats identified as Habitat Protection Areas in the Critical Area. The plan shall be specific to the site or area where the species or its habitat is located and shall address all aspects of a proposed development

activity that may affect the continued presence of the species. These include, but are not limited to, cutting, clearing, alterations of natural hydrology, and increases in lot coverage. In developing the Plan, an applicant shall coordinate with the Department of Natural Resources to ensure that the Plan is adequate to provide for long-term conservation and can be effectively implemented on the specific site.

HIGHLY ERODIBLE SOILS - Those soils with a slope greater than 15 percent; or those soils with a K value greater than .35 and with slopes greater than 5 percent.

HISTORIC WATERFOWL STAGING AND CONCENTRATION AREA - An area of open water and adjacent marshes where waterfowl gather during migration and throughout the winter season. These areas are historic in the sense that their location is common knowledge and because these areas have been used regularly during recent times.

HOME OCCUPATION - Any occupation or activity which is clearly incidental and secondary to use of the premises for dwelling purposes and which is carried on by a member of a family residing on the premises and in connection with which there is no display or storage of materials or generation of substantial volumes of vehicular or pedestrian traffic or parking demand or other exterior indication of the home occupation or variation from the residential character of the building and in connection with which no person outside the resident family is employed and no equipment used which creates offensive noise, vibration, smoke, dust, odor, heat or glare. Within the above requirements, a "home occupation" includes but is not limited to the following: art studio; dressmaking; professional office of a physician, dentist, lawyer, engineer, architect, accountant, salesman, real estate agent or other similar occupation; and teaching, with musical instruction limited to one (1) or two (2) pupils at a time. However, a "home occupation" shall not be interpreted to include barbershops, tourist homes, animal hospitals, child-care centers, tearooms or restaurants.

HOSPITALS - A building or group of buildings having room facilities for overnight patients, used for providing services for the in-patient medical or surgical care of sick or injured humans and which may include related facilities, central service facilities and staff offices; provided, however, that such related facility must be incidental and subordinate to the main use and must be in integral part of the hospital operations.

HOTEL - A building in which lodging or boarding are provided for more than 15 persons, primarily transient, or with more than ten (10) guest rooms, offered to the public for compensation. Ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public, in contradistinction to a boarding, rooming, or lodging house, or an apartment house, which are herein separately defined. A hotel may include restaurants, taverns, club rooms, public banquet halls, ballrooms, and meeting rooms.

HOUSING FOR THE ELDERLY - A building or buildings containing dwelling units and related service facilities for elderly persons and which is subject to management or other legal restrictions that require the units in the project to be occupied by households of persons aged sixty two (62) or over. Occupancy is restricted as provided in the Conditional Use Article. The use may also include facilities for such occasional services to residents as meal preparation and service, day care, personal care, nursing, or therapy, or any service to the elderly population of the community that is an ancillary part of one of the above operations.

HYDRIC SOILS - Soils that are wet frequently enough to periodically produce anaerobic conditions; thereby influence the species composition of growth, or both, of plants on those soils.

HYDROPHYTIC VEGETATION - Those plants cited in "Vascular Plant Species Occurring in Maryland Wetlands" (Dawson, F. et al., 1985) which are described as growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content (plants typically found in water habitats).

IMMEDIATE FAMILY - A father, mother, son, daughter, grandfather, grandmother, grandson, or granddaughter.

INFILL - The development of vacant, abandoned, passed over or underutilized land within built-up areas of Town.

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

INSTITUTIONAL USE -A use that provides a public service and is operated by a Federal, State or local government, public or private utility, public or private school or college, tax-exempt organization, and/or a place of religious assembly. Examples include: public agency, public safety and emergency services, essential and utility services, cultural, service and religious facilities, public/private health facilities or other similar uses.

INTENSELY DEVELOPED AREA - 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; an area with public water and sewer systems with a housing density of more than three dwelling units per acre.

INVASIVE SPECIES – A species that is non-native or alien to the ecosystem under consideration whose introduction causes or is likely to cause economic or environmental harm or harm to human health.

JUNK - Dilapidated automobiles, trucks, tractors, and other such vehicles and parts thereof; dilapidated wagons, trailers, and other kinds of vehicles and parts thereof; scrap building materials, scrap contractor's equipment, tanks, casks, cans, barrels, boxes, drums, piping, bottles, glass, old iron, rags, machinery, rags, paper, excelsior, hair mattresses, beds or bedding, or any other kind of scrap or waste material which is stored, kept, handled or displayed.

K VALUE - The soil erodibility factor in the Universal Soil Loss Equation. It is a quantitative value that is experimentally determined.

LAND CLEARING - Any activity that removes the vegetative ground cover.

LANDFORMS - Feature of the earth's surface created by natural causes.

LANDWARD EDGE – The limit of a site feature that is furthest away from a tidal water, tidal wetland, or a tributary stream.

LARGE SHRUB - A shrub that, when mature, reaches a height of at least six feet.

LAUNDROMAT - A business that provides washing, drying and/or ironing machines or dry cleaning machines for hire to be used by customers on the premises.

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

LIMITED DEVELOPMENT AREA - 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.

LIMIT OF DISTURBANCE - The area of a development or redevelopment activity that includes temporary disturbance and permanent disturbance.

LIVING SHORELINE - A suite of stabilization and erosion control measures that preserve the natural shoreline and are designed to minimize shoreline erosion, maintain coastal process, and provide aquatic habitat. Measures must include marsh plantings and may include the use of sills, sand containment structures, breakwaters, or other natural components.

LOADING SPACE - A space within the main building or on the same lot providing for standing, loading or unloading of trucks, having a minimum of five hundred forty (540) square feet, a minimum width of twelve (12) feet, a minimum depth of thirty-five (35) feet and a vertical clearance of at least fourteen and five-tenths (14.5) feet.

LOCAL SIGNIFICANCE - Development of a minor scale which causes environmental or economic consequences that are largely confined to the immediate area of the parcel of land on which it is located; does not substantially affect the Critical Area Program of the Town; and is not considered to be major development as defined in this chapter.

LODGING HOUSING - Same as “rooming house.”

LOT - A parcel of land which include one (1) or more planted lots, occupied or intended for occupancy by a use permitted in this Zoning Ordinance, including one (1) main building, together with its accessory buildings and the yard areas and parking spaces required by this Zoning Ordinance, and having its principal frontage upon a street or upon an officially approved place.

LOT COVERAGE - 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 other any manmade 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 AREA - The total horizontal area within the lot lines of the lot.

LOT, CORNER - A lot abutting upon two (2) or more streets at their intersection.

LOT, DEPTH OF - The average horizontal distance between the front and rear lot lines.

LOT, INTERIOR - A lot other than a corner lot.

LOT LINE - The boundary line of a lot.

LOT, THROUGH (DOUBLE FRONTAGE) - A lot having a frontage on two (2) approximately parallel streets or places.

LOT, WIDTH - The horizontal distance between the side lot lines measured at the required front yard line.

MAJOR STREET OR HIGHWAY - A street or highway so designated on the Major Thoroughfare Plan of Millington.

MARINA – Any facility for the mooring, berthing, storing, or securing of watercraft, but not including community piers and other non-commercial boat docking and storage facilities. A place for docking pleasure boats or providing services to pleasure boats and the occupants thereof, including minor servicing and repair to boats while in the water, sale of fuel and supplies and provision of lodging, food, beverages and entertainment as accessory uses. A yacht club shall be considered as a “marina,” but a hotel, motel or similar use where docking of boats and provision of services thereto is incidental to other activities shall not be considered a “marina,” nor shall boat docks accessory to a multiple dwelling where no boating-related services are rendered.

MAJOR DEVELOPMENT - Development of a scale that may cause State-wide, regional, or inter-jurisdictional, environmental or economic effects in the Critical Area, or which may cause substantial impacts on the Critical Area Program 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 park and recreation facilities.

MASSAGE PARLOR - An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the State of Maryland. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

MEAN HIGH WATER LINE (MHWL) - The average level of high tides at a given location.

MITIGATION - An action taken to compensate for adverse impacts to the environment resulting from development, development activity, or a change in land use or intensity.

MOBILE HOME OR TRAILER - Any vehicle, covered or uncovered, used for living, sleeping, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses or skirtings, and which is, has been or reasonably may be equipped with wheels or other devices for transporting the vehicle from place to place, whether by motive power or other means. The term “trailer” shall include camp car and house car and any vehicle or similar portable structure with any or all of the following characteristics:

- A. Manufactured as a re-locatable dwelling unit intended or year-round occupancy with no need for a permanent foundation, which can be moved upon the removal of tie-downs and surrounding decks

and the reattachment of tow bar, axles, and wheels.

- B. Designed to be transported after manufacture on its own permanent chassis, with a fixed or removable tow bar, and can be moved without the use of regular house-moving equipment.
- C. Designed to be installed as a single-wide or double-wide unit with only incidental unpacking and assembling operations.

MODULAR OR MANUFACTURED HOME - A structure intended for residential use and manufactured off-site in accord with the BOCA Basic Building Code.

MOTEL or MOTOR LODGE - A building or buildings in which lodging or boarding and lodging are provided and offered to the public for compensation; same as a hotel, except that the buildings are usually designed to serve tourists traveling by automobile, ingress and egress to rooms need not be through a lobby or office, and parking usually is adjacent to the rooms.

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

NATURAL FEATURES - Components and processes present in or produced by nature, including, but not limited to, soil types, geology, slopes, vegetation, surface water, drainage patterns, aquifers, recharge areas, climate, flood plains, aquatic life, and wildlife.

NATURAL FOREST VEGETATION - Vegetation consisting of canopy trees, under story trees, shrubs, and herbaceous plants that are typically found in riparian areas in the State of Maryland. Areas of natural forest vegetation planted to meet the mitigation requirements in this ordinance shall resemble the structure and species composition of natural forests.

NATURAL HERITAGE AREA - Any communities of plants or animals which are considered to be among the best statewide examples of their kind, and are designated by regulation by the Secretary of the Department of Natural Resources.

NATURAL REGENERATION - The natural establishment of trees and other vegetation with at least 400 free-to-grow seedlings per acre, which are capable of reaching a height of at least 20 feet at maturity.

NATURAL VEGETATION - Those plant communities that develop in the absence of human activities.

NATURE-DOMINATED - A condition where landforms or biological communities, or both, have developed by natural processes in the absence of human activities.

NEIGHBORHOOD ESSENTIAL SERVICES - Any public utility facility needed to provide basic services such as water, sewer, telephone, and cable television to the individual users.

NEW DEVELOPMENT - That for purposes of implementing Critical Area provisions of this ordinance, new developments (as opposed to redevelopment) means a development activity that takes place on a property with pre-development imperviousness (in IDA) or lot coverage (LDA and RCA) of less than 15 percent as of December 1, 1985.

NONCOMFORMATIES –

- A. Nonconforming lots - A validly recorded lot which at the time it was recorded fully complied with

all applicable laws and ordinances but which does not fully comply with the lot requirements of this Zoning Ordinance concerning minimum density, area, and dimension.

- B. Nonconforming Structures - A structure or building, not including signs, which lawfully existed on the effective date of this Zoning Ordinance but which do not comply with one or more of the development standards for the district in which it is located.
- C. Nonconforming Use - A use or activity that was lawful prior to the effective date of this Zoning Ordinance but fails to comply with the present requirements of the Zoning Ordinance.

NON-POINT SOURCE POLLUTION - Pollution generated by diffuse land use activities rather than from an identifiable or discrete facility. It is conveyed to waterways through natural processes, such as rainfall, storm runoff, or groundwater seepage rather than by deliberate discharge. Non-point source pollution is not generally corrected by "end-of-pipe" treatment, but rather by changes in land management practices.

NON-RENEWABLE RESOURCES - Resources that are not naturally regenerated or renewed.

NON-TIDAL WETLANDS - Those areas regulated under Subtitle 9 of the Environment Article that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation. The determination of whether an area is a nontidal wetland shall be made in accordance with the publication known as the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands," published in 1989 and as may be amended. Nontidal wetlands do not include tidal wetlands regulated under Title 16 of the Environment Article of the Annotated Code of Maryland.

NURSING HOME - Same as "convalescent home."

OFFSETS - Structures or actions that compensate for undesirable impacts.

OPEN SPACE - Land and water areas retained in an essentially undeveloped state. Open space may include, but not be limited to, buffers and buffer yards, lawns, decorative planting, walkways, active and passive recreation areas, children's playgrounds, fountains, swimming pools, wooded areas, and watercourses. Open space shall not include driveways, parking lots or other vehicular surfaces, any area occupied by a building, nor areas so located or so small or so circumscribed by buildings, driveways, parking lots, or drainage areas, as to have no substantial value for the purpose stated in this definition.

PALUSTRINE - All non-tidal wetlands dominated by trees, shrubs, persistent emergent plants, or emergent mosses or lichens and all such wetlands that occur in tidal areas where the salinity due to ocean-derived salts is below one-half part per 1,000 parts of water.

PARKING LOT ISLAND - An interior landscaping feature surrounded on all sides by driving and/or parking surfaces.

PARKING LOT PENINSULA - An interior landscaping feature attached on only one side to perimeter landscaping, buildings, etc., and surrounded on all other sides by areas designated for parking and related movement of vehicles.

PARKING SPACE OFF-STREET - An all-weather surfaced area not in a street or alley and having an area of not less than one hundred sixty-two (162) square feet, exclusive of driveways, permanently reserved for the temporary storage of one (1) vehicle and connected with a street or alley by a paved driveway that affords ingress and egress for an automobile without requiring another automobile to be moved.

PERMANENT DISTURBANCE – A material, enduring change in the topography, landscape, or structure that occurs as part of a development or redevelopment activity. “Permanent disturbance” includes construction or installation of any material that will result in lot coverage, construction of a deck, except under §B (18-2) (b) (iii) of this regulation, grading, and except under §B (18-2) (b) (ii) of this regulation, clearing of a tree, forest, or developed woodland. Permanent disturbance does not include a septic system on a lot created before local program approval if the septic system is located in existing grass or clearing is not required.

PERSON - An individual, partnership, corporation, contractor, property owner, or any other person or entity.

PERSONAL SERVICES - Clothing alteration, interior decorating, watch/jewelry repair, catering, photo studios, shoe repair, travel agent, formal wear/rental barbershops and beauty salons and the like.

PHYSIOGRAPHIC FEATURES - The soils, topography, land slope and aspect, and local climate that influence the form and species composition of plant communities.

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 originally constructed beyond the landward boundaries of State or private wetlands.

PLACE - An open, unoccupied space, other than a street or alley, permanently reserved as the principal means of access to abutting property.

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

PORT – A facility or area established or designated by the State or local jurisdictions for purposes of waterborne commerce.

PREMISES - A lot, together with all buildings and structures thereon.

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

PRIVATE HARVESTING - The cutting and removal of trees for personal use.

PROFESSIONAL SERVICES - The service by members of any profession including but not limited to accountants, architects, chiropractors, doctors, lawyers, dentist, engineers, optometrists, osteopaths, or social workers.

PROGRAM AMENDMENT - Any change or proposed change to an adopted Critical Area program that is not determined by the Chairman of the Critical Area Commission to be a Program refinement.

PROGRAM REFINEMENT - Any change or proposed change to an adopted Critical Area program that the Chairman of the Critical Area Commission determines will result in a use of land or water in the Chesapeake Bay Critical Area or Atlantic Coastal Bays Critical Area in a manner consistent with the adopted Program, or that will not significantly affect the use of land or water in the Critical Area. Program refinement may include:

- A. A change to an adopted Program that results from State law;
- B. A change to an adopted Program that affects local processes and procedures;
- C. A change to a local ordinance or code that clarifies an existing provision; and
- D. A minor change to an element of an adopted Program that is clearly consistent with the provisions of State Critical Area law and all the Criteria of the Commission.

PROJECT APPROVALS - The approval of development, other than development by the State or local government, in the Chesapeake Bay Critical Area by the appropriate local approval authority. The term includes approval of subdivision plats and site plans; inclusion of areas within floating zones; issuance of variances, special exceptions, and conditional use permits; and issuance of zoning permits. The term does not include building permits.

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 WATER-ORIENTED RECREATION - Shore-dependent recreation facilities or activities provided by public agencies that are available to the general public.

RECLAMATION - The reasonable rehabilitation of disturbed land for useful purposes, and the protection of the natural resources of adjacent areas, including water bodies.

RECONFIGURATION - A change of the configuration of an existing lot or parcel line of any legal parcel of land or recorded legally buildable lot. Reconfiguration includes a lot line adjustment, a boundary line adjustment, and a replatting request.

REDEVELOPMENT - The process of developing land which is or has been developed. For purposes of implementing the Critical Area provisions of this ordinance, redevelopment (as opposed to new development) means a development activity that takes place on property with pre-development imperviousness (in IDA) or lot coverage (in LDA and RCA) of 15 percent or greater.

REFORESTATION – The act of returning a site or area to an original state or any action that reestablishes all or a portion of the ecological structure and functions of a site or area.

REGISTERED CHILD CARE HOME - A home-based facility for the care of six or fewer children operating under the requirements of appropriate State and local agencies for child care.

REGULATIONS - The whole body of regulations, text, charts, tables, diagrams, maps, notations, references, and symbols contained or referred to in this Zoning Ordinance.

RENTAL UNIT - A dwelling unit intended for rental to transients on a day-to-day or week-to-week basis

but not intended for use as a permanent dwelling and not including culinary facilities.

RENEWABLE RESOURCE - A resource that can renew or replace itself and, therefore, with proper management, can be harvested indefinitely.

RESOURCE CONSERVATION AREA - 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.

RESOURCE UTILIZATION ACTIVITIES - Any and all activities associated with the utilization of natural resources such as agriculture, forestry, surface mining, aquaculture, and fisheries activities.

RESTAURANT - An establishment whose principal business is the sale of foods or beverages to the customer in a ready-to-consume state, and whose method of operation includes one or both of the following characteristics:

- A. Customers, normally provided with an individual menu, are served their foods or beverages by a restaurant employee at the same table or counter to which the items are consumed.
- B. A cafeteria-type operation where foods or beverages are consumed within the restaurant building.

This definition does not include food service establishments which include facilities designed for the serving of food directly to the occupants of motor vehicles.

RETAIL STORES - Business establishments dealing in commodities which tend to be purchased on a comparison basis, including apparel and accessories, automobile supplies, business equipment, sales and service, china and glassware, commercial art, communications equipment sales and service, draperies, fabrics, and re-upholstery, floor covers, furniture, hardware, home appliances and furnishings, luggage and leather goods, musical instruments and supplies, paint and wall covers, party supplies, photographic equipment sales and service, radios, records and tapes, second-hand merchandise, sporting goods, television and stereo sales and service, and toys and games. Specialty shops which carry only one type of interrelated goods, including book stores, candle shops, cosmetic shops, florist shops, gift shops, hobby and craft supply shops, import shops, jewelry shops, souvenir shops, stationery shops, tack shops, and tobacco shops shall also be regulated as retail stores.

RESTORATION - The act of returning a site or area to an original state or any action that reestablishes all or a portion of the ecological structure and functions of a site or area.

RIPARIAN HABITAT - A habitat that is strongly influenced by water and which occurs adjacent to streams, shorelines, and wetlands.

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

ROOMING HOUSE - A building where, for compensation and by prearrangement for definite periods, lodging, meals or lodging and meals are provided for three (3) or more persons, but containing no more than five (5) guest rooms or rental units.

SEASONALLY FLOODED WATER REGIME - A condition where surface water is present for extended

periods, especially early in the growing season, and when surface water is absent, the water table is often near the land surface.

SELECTION - The removal of single, scattered, mature trees or other trees from uneven-aged stands by frequent and periodic cutting operations.

SIGN - For definitions pertaining to signs, see Article XIII.

SHORE EROSION PROTECTION WORKS - Those structures or measures constructed or installed to prevent or minimize erosion of the shoreline in the Critical Area.

SIGNIFICANTLY ERODING AREAS - Areas that erode two feet or more per year.

SMALL SHRUB - A shrub that, when mature, reaches a height no greater than six feet.

SOIL CONSERVATION AND WATER QUALITY PLANS - Land-use plans for farms that show farmers how to make the best possible use of their soil and water resources while protecting and conserving those resources for the future. It is a document containing a map and related plans that indicate:

- A. How the landowner plans to treat a farm unit;
- B. Which best management practices the landowners plans to install to treat undesirable conditions; and
- C. The schedule for applying those Best Management Practices.

SPECIES IN NEED OF CONSERVATION - Those fish and wildlife whose continued existence as part of the State's resources are in question and which may be designated by regulation by the Secretary of Natural Resources as in need of conservation pursuant to the requirements of Natural Resources Article §§ 10-2A-06 and 4-2A-03, Annotated Code of Maryland.

SPECIALITY SHOPS - A retail store which carries only one type of interrelated goods, including book stores, candle shops, cosmetic shops, florist shops, gift shops, hobby and craft supply shops, import shops, jewelry shops, souvenir shops, stationery shops, tack shops, tobacco shops, and wine and cheese shops.

SPOIL PILE - The overburden and reject materials as piled or deposited during surface mining.

STABLE, PRIVATE - An accessory building, not related to the ordinary operation of a farm, for the housing of not more than four (4) horses or mules owned by a person or persons living on the premises and which horses or mules are not for hire or sale.

STABLE, PUBLIC - Any stable for the housing of horses or mules, operated for remuneration, hire, sale or stabling, or any stable, not related to the ordinary operation of a farm, with a capacity for more than four (4) horses or mules, whether or not such stable is operated for remuneration, hire, sale, or stabling.

STEEP SLOPES - Slopes of 15 percent or greater incline.

STORY - That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it or, if there is no floor next above it, then the space between such floor and the ceiling next above it.

STORY, HALF - A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level and in which space not more than two-thirds (2/3) of the floor area is finished for use. A half story containing independent apartments for living quarters shall be counted as a full story.

STREET - A public or private thoroughfare which affords the principal means of access to abutting property.

STREET LINE - A dividing line separating a lot, tract, or parcel of land and a contiguous street.

STRUCTURAL ALTERATIONS - Any change in the supporting members of a building, such as footings, bearing walls, or partitions, columns, beams or girders, or any substantial change in the roof or in the exterior walls, except such repair as may be required for the safety of the building.

STRUCTURE – Building or construction materials or a combination of those materials that are purposely assembled or joined together on or over land or water. Structure includes a temporary or permanent fixed or floating pier, piling, deck, walkway, dwelling, building, boathouse, platform, gazebo, or shelter for the purpose of marine access, navigation, working, eating, sleeping, or recreating.

SUBSTANTIAL ALTERATION - Any repair, reconstruction, or improvement of a principal structure, where the proposed footprint equals or exceeds 50 percent of the existing principal structure.

SUPPLEMENTAL PLANTING PLAN – A description and landscape schedule that shows the proposed species type, quantity, and size of plants to be located within a buffer if natural regeneration does not meet the required stem density.

SURFACE MINING - The breaking of the surface soil in order to extract or remove minerals. Surface mining includes any activity or process constituting all or part of a process for the extraction or removal of minerals from their original location and the extraction of sand, gravel, rock, stone, earth or fill from borrow pits for highway construction purposes or for other facilities. For the purpose of this ordinance, surface mining is also defined as operations engaged in processing minerals at the site of extraction; removal of overburden and mining of limited amounts of any mineral when done for the purpose of prospecting and to the extent necessary to determine the location, quantity or quality of any natural deposit; and mining operations, if the affected land exceeds one acre or more in area.

SWIMMING POOL - Any portable pool or permanent structure containing a body of water eighteen (18) inches or more in depth and two hundred fifty (250) square feet or more of water surface area, intended for recreational purposes, including a wading pool, but not including an ornamental reflecting pool or fish pond or other type of pool located and designed so as not to create a hazard or be used for swimming or wading.

TEMPORARY DISTURBANCE – A short-term change in the landscape that occurs as part of a development or redevelopment activity. Temporary disturbance includes storage of materials that are necessary for the completion of the development or redevelopment activity, construction of a road or other pathway that is necessary for access to the site of the development or redevelopment activity, if the road, or pathway is removed immediately after completion of the development or redevelopment activity and the area is restored to its previous vegetative condition; and grading of a development site, if the area is restored to its previous vegetative condition immediately after completion of the development or redevelopment activity. Temporary disturbance does not include a septic system in a forest or developed

woodland on a lot created before local program approval, if clearing is required. Temporary disturbance also does not include a violation.

THINNING - A forest practice used to accelerate tree growth of quality trees in the shortest interval of time.

THREATENED SPECIES - Any species of fish, wildlife, or plants designated as such by regulation by the Secretary of the Department of Natural Resources that appear likely, within the foreseeable future, to become endangered, including any species of wildlife or plant determined to be a “threatened” species pursuant to the federal Endangered Species Act, 16 U.S.C. § 1431 et seq., as amended.

TOPOGRAPHY - The existing configuration of the earth's surface including the relative relief, elevation, and position of land features.

TOURIST HOME - A building in which lodging or boarding and lodging are provided for not more than fifteen (15) persons, primarily transient, or with not more than ten (10) guest rooms or rental units offered to the public for compensation. As such, it is open to the public, in contradistinction to a rooming, boarding, or lodging house or a multiple dwelling, which are herein separately defined.

TOWNHOUSE - A single-family dwelling forming one (1) of a group or series of three (3) or more attached single-family dwellings separated from one another by party walls, without doors, windows or other provisions for human passage or visibility through such walls from basement to roof, and having roofs which may extend from one of the dwelling units to another.

TRAILER PARK, TRAILER COURT, or MOBILE HOME PARK - Any site, lot, field or tract of land upon which is located one (1) or more occupied trailers or which is held out for the location of any occupied trailer. The terms shall include any building, structure, vehicle or enclosure for use as a part of the equipment for such a park or court.

TRANSITIONAL HABITAT - A plant community whose species are adapted to the diverse and varying environmental conditions that occur along the boundary that separates aquatic and terrestrial areas.

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

TRIBUTARY STREAM - A perennial stream or intermittent stream that has been identified by site inspection or in accordance with local procedures approved by the Critical Area Commission.

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 a variance is requested.

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

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.

WASH PLANT - A facility where sand and gravel is washed during processing.

WATERWAY - Any body of water, including any creek, canal, river, lake or bay or any other body of water, natural or artificial, except a swimming pool or ornamental pool located on a single lot.

WATERWAY LINE - A line marking the normal division between land and a waterway as established by the Administrator or by town ordinances.

WATER-BASED AQUACULTURE - The raising of fish and shellfish in any natural, open, free-flowing water body.

WATER-DEPENDENT FACILITIES - Those structures or works associated with industrial, maritime, recreational, educational, or fisheries activities that require location at or near the shoreline within the Buffer. An activity is water-dependent if it cannot exist outside the Buffer and is dependent on the water by reason of the intrinsic nature of its operation. Such activities include, but are not limited to, ports, the intake and outfall structures of power plants, water-use industries, marinas and other boat docking structures, public beaches and other public water-oriented recreation areas, and fisheries activities.

WATER-USE INDUSTRY - An industry that requires location near the shoreline because it utilizes surface waters for cooling or other internal purposes.

WATERFOWL - Birds that frequent and often swim in water, nest and raise their young near water, and derive at least part of their food from aquatic plants and animals.

WILDLIFE CORRIDOR - A strip of land having vegetation that provides habitat and safe passage for wildlife.

WILDLIFE HABITAT - Those plant communities and physiographic features that provide food, water, cover, and nesting areas, as well as foraging and feeding conditions necessary to maintain populations of animals.

YARD - An open space, other than a court on a lot and unoccupied and unobstructed from the ground upward, except as otherwise provided in this Zoning Ordinance.

YARD, FRONT - A yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the street line and the main building or any projections thereof other than the projections of uncovered steps, uncovered balconies, terraces or uncovered porches. On corner lots, the "front yard" shall be considered as parallel to the street upon which the lot has its least dimension.

YARD, REAR - A yard extending across the rear of the lot between the side lot lines and measured between the rear lot line and the rear of the main building or any projection other than steps, unenclosed porches or entranceways.

YARD, SIDE - A yard between the main building and the side line of the lot and extending from the front yard to the rear yard, and being the minimum horizontal distance between the side lot line and side of the main buildings or any projections thereof.

ARTICLE III ADMINISTRATIVE MECHANISMS

§ 80-9. Creation

- A. Pursuant to the authority and provisions of Article 66B of the Annotated Code of Maryland (1952 Edition), there is hereby created a Municipal Planning Commission for the Town of Millington. Such Commission shall be known as the “Millington Planning Commission” and is hereafter referred to as the “Planning Commission”

§ 80-10. Composition; appointment; terms; vacancies; compensation.

- A. The Planning Commission shall consist of five (5) members.
- B. The members shall be appointed by the Mayor and Council from among the residents of Millington or Millington Postal Code 21651. The terms of such members shall be five (5) years or until their successors take office; provided, however, that the terms of the five (5) members first appointed by the Mayor and Council of Millington shall be one (1), two (2), three (3), four (4) and five (5) years respectively, from the effective date of creation of the Planning Commission, and shall be specified by the Mayor and Council of Millington at the time of appointment.
- C. A vacancy occurring prior to the expiration of the term for which a member of the Planning Commission is appointed shall be filled in the manner of original appointment.
- D. Members may, after a public hearing, be removed for cause by the Mayor and Council.
- E. Members of the Planning Commission shall serve without compensation.
- F. The Planning Commission shall elect a Chairman from among its members. The term of the Chairman shall be one (1) year with eligibility for reelection.

§ 80-11. Rules for transaction of business.

The Planning Commission shall adopt rules for the transaction of its business.

§ 80-12. Powers and duties.

The Planning Commission shall have the powers and duties as now or hereafter provided for in Article 66B of the Annotated Code of Maryland (1957 Edition, as amended).

§ 80-13. Public hearings; method of adoption.

- A. Public hearings.
 - 1. The Planning Commission shall hold public hearings on all plans, regulations and other proposals for which such hearings are required under Article 66B of the Annotated Code of Maryland (1957 Edition, as amended). The Planning Commission shall give at least fifteen (15) days’ notice of such hearings by an advertisement published in a newspaper of general circulation in the town and in an area around the town within one (1) mile from the corporate limits. Such notice shall include the time and place of the hearing, a

description of the proposals to be considered at the hearing, and a place where a copy of such proposals can be obtained. At any such hearings interested persons shall be afforded an opportunity to submit data, views or regulations with respect to the proposals under consideration.

2. A written record shall be prepared of any public hearing held by the Planning Commission.
- B. Any regulations or other proposals in connection with planning and zoning that are recommended or approved by the Planning Commission shall be confirmed by a ye or nay vote in open session.

§ 80-14. Duties of Town Clerk and Attorney filing of materials.

- A. The Town Clerk shall be the chief executive officer of the Planning Commission, and the Appointed Attorney shall serve as attorney for the Planning Commission.
- B. All applications, plats, maps and other matters required to be filed with the Planning Commission by Article 66B of the Annotated Code of Maryland (1957 Edition, as amended) or regulations adopted pursuant thereof shall be deemed filed when filed with the Town Clerk, and the Town Clerk shall be responsible for presenting all such applications, plate, maps and other matters to the Planning Commission for its consideration for action.

§ 80-15. Duties of Commission.

- A. The Planning Commission shall make and approve a plan to be recommended to the Mayor and Council of Millington for adoption and which shall serve as a guide to decisions to ensure the development of public and private property both inside of the Town of Millington and any areas outside of its boundaries which, in the judgment of the Planning Commission, bear relation to the planning responsibilities of the Commission. The plan shall contain as a minimum the elements set forth in § 3.05 of Article 66B of the Annotated Code of Maryland.
- B. Also, as provided in said § 3.05, it shall be the duty of the Planning Commission to recommend the boundaries of the various zoning districts and appropriate regulations to be enforced therein, in order that the Mayor and Council may avail themselves of the zoning powers conferred by the Maryland Code. The Planning Commission shall make a preliminary report and hold at least one (1) public hearing thereon before submitting its final report, and the Mayor and Council shall not hold public hearings or take action until the final report of the Planning Commission has been received.

ARTICLE IV DISTRICTS AND DISTRICT MAP

Part I Zoning Districts

§ 80-16. Districts Established

- A. The incorporated area of the Town of Millington shall be divided into base zoning districts as follows:
- “AR” – Agriculture District;
 - “R-1” – Rural Conservation Residential District;
 - “R-2” – Single Family Residential District;
 - “R-3” – Old Town Residential District;
 - “TC” – Town Center District; and
 - “LI” – Light Industrial.
- B. In addition to the base zoning districts described above, the Zoning Ordinance provides for the following special districts:
- “PN” – Planned Neighborhood District Floating Zone;
 - “GA” – Critical Area Growth Allocation Floating Zone;
 - “CA” – Critical Area Overlay District; and
 - “CD” – Community Design Overlay District.
- C. These districts are established to regulate the location of residences, trades, industries, and buildings erected or altered for specific uses; to regulate and limit the height and bulk of buildings hereafter erected or structurally altered; to regulate and limit population density and the intensity of the use of lot areas; to regulate and determine the areas of yards, courts, and other open spaces with and surrounding such buildings; to protect water quality and sensitive environmental areas; to maintain the traditional visual characteristics of the Town that define its uniqueness and are important to the economic stability of the Town; and to implement the recommendations of the 2009 *Millington Comprehensive Plan*

§ 80-17. Purpose of Districts

- A. AR: Agriculture District

The purpose of the AR Agricultural District is to permit the continuation of existing agriculture land uses within the Town while limiting new agriculture uses to those with the least potential for adverse impacts on adjacent non-agriculture land uses. This classification is intended as an interim zoning designation that will apply until that date being five (5) years from the date of annexation, and that the properties will be rezoned R-1, R-2, and L1-1.

- B. R-1: Rural Conservation District

The purpose of the R-1 District regulations is to provide appropriate protection for the sensitive environmental features located in this district. Development standards emphasize the protection of sensitive environmental areas and wildlife habitats of concern to the State. District standards are set to maintain low residential density consistent with the land use designation under the Town’s Critical Area Overlay District and afford a high level of protection for water quality and existing plant and wildlife habitat.

C. R-2: Single Family Residential

The purpose of the R-2 Single Family Residential District regulations is to protect the single family residential character in established neighborhoods and encourage appropriate infill and redevelopment consistent with the existing character of the surrounding neighborhoods.

Development standards are established to protect the area from incompatible land use uses, while permitting appropriate infill and redevelopment on vacant and underutilized properties. Because of the historic importance of portions of these neighborhoods, strict appearance and development standards apply to infill and redevelopment projects.

D. R-3: Old Town Residential District

The R-3 Old Town Residential District abuts the Town Center on four sides and encompasses the preeminent historic structures in the Town. Nearly 70 percent of the structures are two-story residences built prior to 1925. The purpose of the R-3 District regulations is to maintain the existing architectural character of this residential neighborhood, allow appropriate infill and redevelopment that reflects the site development and architectural characteristics of the district and encourage preservation of landmark structures.

District regulations limit permitted uses to detached single family residential and customary accessory uses. Conversion of multi-family use of residential buildings, not specifically designed and intended as multi-family structures, is not be allowed. Because of the historic importance of these neighborhoods, strict appearance and development standards apply to infill and redevelopment projects.

E. TC: Town Center District

The TC Town Center District encompasses a mix of private and public uses including retail, service, and civic uses as well as detached single family dwellings and apartment buildings. It is Millington's objective to maintain this area as the primary location of commercial activity in the Town. Standards for the TC District are designed to allow for a broad range of uses including business, retail sales, services and office in existing buildings and to encourage appropriate infill and redevelopment for new commercial, business retail, and service uses as well as redevelopment of existing single family dwellings. Conversion of buildings into apartment is not permitted where it preempts first floor non-residential use but residential apartments are permitted above the first floor of existing businesses. Accommodations such as country inns or bed and breakfasts may be permitted as an adaptive reuse of existing buildings. Infill and redevelopment standards, including height, lot area and yard requirements are flexible to encourage infill and redevelopment that reflects the existing land development pattern and the architectural character of the district including buildings that face on and come up to meet the street, parking situated at the rear or side of buildings and connection to the existing sidewalk system. Because of the historic importance of this area, strict appearance and development standards apply to infill and redevelopment projects.

F. LI: Light Industrial

The purpose of this LI District is to provide for a wide variety of light manufacturing, fabricating, processing, wholesale distributing and warehousing uses appropriately located for access by major thoroughfares or railroads. Light industrial uses generally involve small to medium scale industrial

activities including, but not limited to research and development, warehousing and storage activities, light manufacturing and assembly of products, and other similar uses. Light industrial uses usually generate less heavy truck traffic and have fewer adverse environmental effects on surrounding areas, as compared to heavy industrial uses. Commercial uses and open storage of materials are permitted, but new residential development is excluded.

§ 80-18. Special Districts

A. Floating Zone District

1. Purpose. Floating zones provided for uses that may be appropriate for the Town but are not given specific mapped locations at the time of adoption of the most recent comprehensive revision to the Millington Zoning Ordinance. 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 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.
2. Designation of floating zones. The following are designated as floating zones:
 - a. “PN” Planned Neighborhood Development Floating Zone; and
 - b. “GA” Growth Allocation Floating Zone

The Mayor and Council and Planning Commission find 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 future determination as the Town grows and specific needs develop.

B. Overlay Districts

1. Overlay zones build on the underlying zoning by establishing additional or stricter standards and criteria. The standards of the overlay zone apply in addition to those of the underlying zoning district.
2. The following overlay districts shall apply in the corporate limits of Millington:
 - a. “CA” Critical Area Overlay District
 - b. “CD” Community Design Overlay District

§ 80-19. Official Zoning Maps

- A. The incorporated areas of the Town are hereby divided into zoning districts 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 Zoning Ordinance.
- B. The Official Zoning Map shall be identified by the signatures of the Mayor and Council, attested by the Town Administrator, and including the following words: "This is to certify that this is the Official Zoning Map referred to in §80-19 of the Zoning Ordinance for Millington, Maryland," together with the date of the adoption of this Zoning Ordinance.

- C. 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 shall be located in the Town Office and shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the Town.
- D. Official Critical Area Overlay District Map
1. The Official Critical Area Overlay District Map has been prepared for the Town of Millington and shall be maintained in force as part of the Official Zoning Maps referred to in this Zoning Ordinance. The Official Critical Area Map shall be identified by the signatures of the Mayor and Council, attested by the Town Administrator, and including the following words: "This is to certify that this is the Official Critical Area Map referred to in §80-19 of the Zoning Ordinance for Millington, Maryland," together with the date of the adoption of this Zoning Ordinance.
 2. The Official Critical Area Map shall delineate the extent of the CA Overlay District. The Critical Area Overlay District shall include all lands and waters defined in Section 8-1807 of the Natural Resources Article, Annotated Code of Maryland. They include:
 - a. All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the State wetlands maps, and all State and private wetlands designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland.
 - b. All lands and water areas within 1,000 feet beyond the landward boundaries of State or private wetlands and the heads of tides designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland; and
 - c. Modification to these areas through inclusion or exclusion proposed by the Town and approved by the Critical Area Commission as specified in Section 8-1807 of the Natural Resources Article, Annotated Code of Maryland.
 2. Within the designated CA District all land shall be assigned one of the following land use management designations:
 - a. Intensely Developed Area (IDA)
 - b. Limited Development Area (LDA)
 - c. Resource Conservation Area (RCA)

The Critical Area Overlay District Maps may be amended by the Mayor and Council in compliance with amendment provisions in this Zoning Ordinance, the Maryland Critical Area Law and Critical Area Criteria.

§ 80-20. Replacement of Official Zoning Maps

- 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 Mayor and Council may by resolution adopt new Official Zoning Map which shall supersede the prior Official Zoning Map.
- B. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Maps but no such corrections shall have the effect of amending the original zoning map, the Zoning Ordinance or any subsequent amendment thereof. The Planning Commission shall certify as to the accuracy of the new Official Zoning Map and the maps shall be identified by the signature of the Mayor and Council attested by the Town Administrator, 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 maps being replaced*) as part of the Zoning Ordinance of Millington, Maryland."

§ 80-21. Annual map revision; fee.

- A. Any person desiring a copy of said Official Zoning Map shall pay the current cost for each copy thereof to the appropriate Town official. Such fees shall be applied to defray the cost of revising and printing the Official Zoning Map.

§ 80-22. Periodic review of regulations and map.

- A. At least once every five (5) years, the Planning Commission shall review the zoning regulations and the Official Zoning Map to determine whether it is advisable to amend the regulations or the maps, or both, to bring them into accord with the objectives of the *Millington Comprehensive Plan*, to take advantage of new techniques or to encourage improved building practices which may have been developed and which may have application in Millington, to correct deficiencies or difficulties which may have developed in administration or for such other reasons as the Planning Commission may determine.
- B. The Planning Commission shall submit a report on their findings to the Mayor and Council.

§ 80-23. Interpretation of district boundaries.

- A. A zoning district name or letter-number combination shown on the Official Zoning Map indicates that the regulations pertaining to the district designated by that name or letter-number combination extend throughout the whole area in the Town bounded by the district boundary lines, except as otherwise provided by this section.
- B. Where uncertainty exists with respect to the boundaries of the various districts as shown on the Official Zoning Map accompanying and made a part of these regulations, the following rules shall apply:
 - 1. In cases where a boundary line is given a position within a street or alley, easement, canal or navigable or non-navigable stream, it shall be deemed to be in the center of right-of-way of the street, alley, easement, canal or stream, and if the actual location of such street, alley, easement, canal or stream varies slightly from the location as shown on the Zoning District Map, then the actual location shall control.
 - 2. In cases where a boundary line is shown as being located a specific distance from a street

line or other physical feature, this distance shall control.

3. In cases where the district boundaries as shown on the Official Zoning Map approximately coincide with lot lines, the lot lines shall be construed to be the district boundary lines, unless otherwise indicated.
4. In cases where district boundaries as shown on the Official Zoning Map do not coincide or approximately coincide with street lines, alley lines or lot lines and no dimensions are shown, the location of such district boundary lines shall be determined by the use of the scale appearing on the map.

§ 80-24. Regulation of areas under water.

- A. All areas within the limits of the incorporated Town of Millington which are under water are considered to be within a zoning district and controlled by applicable district regulations. District boundaries over water areas are located by noted or scaled dimensions, by relation to physical features, by coincidence with the Town boundary or by a straight line projection of the district boundaries as indicated on the Official Zoning Map.
- B. Straight line district boundaries over water areas shall be assumed to continue as straight lines until they intersect with each other or with the Town boundary.

Part II Planned Neighborhood Development (PND) Floating Zone

§ 80-25. Planned Neighborhood Floating Zone District.

- A. Purpose. The Planned Neighborhood (“PN”) District is a floating zone, which means that while provisions and regulations are made to govern any development within a PN District, no such district will be pre-mapped on the Official Zoning Map. The PN District is intended to permit master planned, mixed-use developments of large tracts of land. The PN District permits development and land use pursuant to an approved Master Development Plan that meets the requirements of the Zoning Ordinance and that is approved by the Mayor and Council at the time the PN zoning is applied to specific land(s). The purpose of the PN is to provide for the development of well-planned, mixed-use neighborhoods that exhibit the following characteristics:
 1. Integrated mix of uses, including residential, commercial, employment/office, civic, and open space;
 2. A range of housing types and densities to accommodate a diverse population of age groups and income levels;
 3. Compact design;
 4. Interconnected streets designed to balance the needs of all users, with sidewalks and on-street parking and implement the recommendations of the transportation element of the Comprehensive Plan;
 5. Open spaces integral to the community; and,
 6. Location adjacent to and extending the fabric of existing development.

- B. It also is the intent of the PN District to promote the following:
1. Implement the recommendations of the *Millington Comprehensive Plan*;
 2. Develop neighborhoods that accommodate and promote pedestrian travel equally as much as motor vehicle trips;
 3. Promote design that results in residentially scaled buildings fronting on, and generally aligned with, streets;
 4. Encourage the inclusion of a diversity of household types, age groups, and income levels;
 5. Promote traditional town building and site development patterns with an interconnected and broadly rectilinear pattern of streets, alleys, and blocks, providing for a balanced mix of pedestrians and automobiles;
 6. Encourage creation of functionally diverse, but visually unified, neighborhoods focused on central squares;
 7. Promote use of neighborhood greens, landscaped streets, boulevards, and “single-loaded” parkways woven into street and block patterns to provide space for social activity, parks, and visual enjoyment;
 8. Provide buildings for civic or religious assembly or for other common or institutional purposes that act as visual landmarks and symbols of identity;
 9. Promote the location of dwellings, shops, and workplaces in close proximity to each other, the scale of which accommodate and promote pedestrian travel for trips within the community;
 10. Preserve open space, scenic vistas, agricultural lands, and natural areas;
 11. Permit design flexibility in order to achieve an appropriate mix of residential and non-residential building uses; and,
 12. Require efficient utilization of designated growth areas.
- C. Applicability. The PN District is intended to apply to large tracts of land of at least twenty-five (25) acres. Smaller tracts may be considered when the development of such land is found to be compatible with an adjacent, existing, or proposed PN type development and/or adjacent Town land uses.
- D. Density Determination.
1. General. The total number of dwelling units permissible in the PN District shall be determined in accordance with the provisions of this section (as adjusted by density bonuses as set forth below) subject to the following:

- a. Areas used for nonresidential purposes shall be subtracted from the Adjusted Tract Acreage, as described in subsection 2 below before determining permissible residential density.
 - b. All dwelling units constructed above commercial uses in a Neighborhood Center shall be permissible in addition to the number of dwelling units otherwise authorized under this Section. The total number of additional dwelling units permitted above commercial uses in the Neighborhood Center area shall be approved by the Planning Commission and in no case shall exceed five percent (5%) of the permissible number of dwelling units.
2. **Base Density Calculation.** Base density shall be determined by the land area yielded through calculations of the Adjusted Tract Acreage determined in accordance with the density factors in 3 below. The minimum residential density for a proposed PN District shall be three and one-half (3 1/2) dwelling units per net tract acre and the maximum residential density shall be six (6) dwelling units per net tract acre. For purposes of calculating the minimum residential density for a proposed PN District, the non-residential acres, the open space acres, and the conservation acres shall be subtracted from the net tract acres.
 3. **Density Factors for Calculating Adjusted Tract Acreage.** The Density Factor is the percentage of the constrained area that shall be used for purposes of calculating density. (e.g., for 10 acres of the constraint “slopes between 15% and 25%”, the formula is $0.75 \times 10 \text{ acres} = 7.5 \text{ acres}$. This is the acres that may be used for density calculation)

Name	Density Factor	Description of Constraint
DF 1	0.00	Existing street right-of-way, Floodways within the 100 year Floodplain
DF 2	0.05	Tidal and non-tidal wetlands. Utility easement for high-tension electrical transmission lines (>69KV)
DF 3	0.25	Steep Slopes; i.e., slopes greater than 25%
DF 4	0.50	100 year floodplain (excluding floodways or wetlands within the floodplain)
DF 5	0.75	Slopes between 15% and 25%
DF 6	1.00	Unconstrained land

E. **General Design Requirements.**

1. Design standards referenced in this section shall be considered as minimum performance standards for the PN District.
2. Planned neighborhoods are intended to provide for a range of complementary uses and may consist of up to four (4) use areas: Single-Family Residential Areas (SRA), Central Residential Areas (CRA), Neighborhood Center Areas (NCA), and Conservation Areas (CA). At a minimum, a planned neighborhood must contain both a SRA and a CA. The four (4) use areas are defined as follows:
 - a. Single-Family Residential Areas (SRA) provides locations for a broad range of housing types, including single-family detached, semi-detached, and attached.
 - b. Conservation Areas (CA) are permanently protected open spaces, including

greens, commons, habitat protection areas, and private non-common acreage.

- c. Central Residential Areas (CRA) are intended to contain a variety of housing options and related uses. These areas are typically located adjacent to primary neighborhood centers.
- d. Neighborhood Center Area (NCA) is the identifiable focal point of each neighborhood and is intended to serve primarily to provide uses that meet the retail and service needs of a traditional community center and its vicinity within one-story and two-story buildings, and may contain other compatible uses, such as civic and institutional uses of community wide importance, specifically including second-floor residential uses.

F. Land Uses in the PN District.

The following uses apply in the PN District. The land use table is intended to permit the following uses, or uses which are substantially similar to the uses set forth herein. Notwithstanding any provision herein, all existing land uses within a PN District shall be permitted to continue until the development of the particular phase of an approved PUD plan.

CLASS	USE DESCRIPTION	PN DISTRICT			
		SRA	NCA	CRA	CA
1.00.000	AGRICULTURAL USES				
	Agriculture				P
	Forestry				P
	Wildlife Conservation & Refuge Area				P
	Greenhouse – on-premise sales permitted				SE
2.00.000	RESIDENTIAL				
	Dwelling – Single Family Detached	P		P	
	Dwelling – Two-Family	P		P	
	Dwelling – Multi-Family	P		P	
	Dwelling – Townhouse	P		P	
3.00.000	ACCESSORY DWELLING				
	- In conjunction with a principal residential use (Limited to one accessory dwelling unit per parcel)	SE		SE	
	- In conjunction with a principal commercial use		SE		
4.00.000	HOME-BASED BUSINESS				
	Home Occupation	P		P	
	Day Care Center, Group		P	SE	
	Bed and breakfast	SE		SE	
5.00.000	INSTITUTIONAL				
	Schools, Public	SE	P	SE	
	Schools, Private	SE	P	SE	
	Churches and parish halls, temples and convents and monasteries, houses of worship	SE	P	SE	

CLASS	USE DESCRIPTION	PN DISTRICT			
		SRA	NCA	CRA	CA
	Libraries, museums		P	P	
	Private Clubs		P		
	Medical facility or clinic for human care		P		
	Funeral Home		P		
6.00.000	RECREATION, AMUSEMENT, ENTERTAINMENT				
	Athletic fields	P			
	Community Center including indoor recreation	P	P	P	
	Indoor recreation		P		
	Theater – indoor		P		
	Privately owned country clubs swimming or tennis clubs approved as part of some residential development	P		P	
7.00.000	EMERGENCY SERVICES				
	Fire Stations without assembly hall	P	P	P	
	Fire Station with Assembly Hall		P	P	
	Rescue squad, ambulance service	P	P	P	
8.00.000	UTILITIES				
	Essential Service	P	P	P	
9.00.000	COMMERCIAL –SERVICE				
	Barber Shop, Beauty Salon, Nail Salon		P		
	Service establishments, including laundry or Laundromat, appliance repair, equipment or instrument repair or rental, dry cleaning pickup station, or plant, hairdresser shop, pet grooming shop, upholstery shop, tailor and other similar uses		P		
	Repair facilities for household items, domestic appliances, clothes, materials, television, radio, or other electronic equipment		P		
	Advertising agencies		P		
	Studios of a photographer, artist and writer, including teaching studios for art, crafts, drama, dance and music		P		
	Bakery		P	P	
	Financial institutions, building and loan associations, savings and loan associations, banks, credit unions, mortgage companies, or finance offices or other financial institutions		P		
	Business uses including insurance, real estate, and computer centers		P		
	Professional uses, including medical, legal, engineering, surveying, and architectural offices and other uses of a similar nature		P		

Key:

P - Permitted use within zoning district or sub-district

SE - Use subject to special exception from the Board of Appeals

G. Development Standards.

1. The following development standards shall apply to the PN District:

- a. The setback, lot size, lot dimensions, lot coverage, minimum floor area, height, and yard requirements in the PN shall be established for each individual project by the Planning Commission in accordance with the *Planned Neighborhood Design Guidelines*. In establishing these requirements the Planning Commission shall consider such factors as the proposed development intensity, density, and the existing character of adjacent neighborhoods.
- b. Land Coverage. The maximum amount of land that may be built over (or covered) by parking lots, roads, sidewalks, or plazas, buildings, or other structures shall be sixty percent (60%) of the gross land area of the PN property(ies).
- c. Minimum Required Open Space:
 - (1) A minimum of twenty percent (20%) of the adjusted tract acreage shall be open space including parks and recreational areas. Not less than fifteen percent (15%) of the minimum required open space shall be in a form usable to and accessible by the residents, such as a central green, neighborhood squares or commons, recreational playing fields, woodland walking trails, other kinds of footpaths, a community park, or any combination of the above. In addition, no more than fifty percent (50%) of the minimum required open space may be comprised of active recreation facilities, such as playing fields, golf courses, tennis courts, etc.
 - (2) Open space land shall be permanently protected through conservation easements or dedications, as may be decided by the Planning Commission, and may be developed for uses consisting of the following:
 - (a) Equestrian facilities, including related stables and pastures;
 - (b) Municipal or public uses, public park or recreation area owned and operated by a public or private nonprofit agency, or governmental or public utility buildings or uses, not to include business facilities, storage of materials, trucking or repair facilities, the housing of repair crews, or private or municipal sanitary landfills; and,
 - (f) Active recreation, if it is non-commercial in nature and provided that no more than fifty percent (50%) of the minimum required open space is so used. Parking areas and any roofed structures associated with the active recreation may not be included within the fifty percent (50%) minimum.
 - (3) The required open space shall be located and designed to add to the visual amenities of neighborhoods and to the surrounding area by maximizing the visibility of internal open space as “terminal vistas” (the building or

landscape seen at the end of a street, or along the outside edges of street curves) and by maximizing the visibility of external open space as perimeter greenbelt land (the undeveloped and permanently protected acreage around a community). Such greenbelt open space shall be designated to provide buffers and to protect scenic views as seen from existing roadways and from public parks.

- (4) PN developments shall include multiple greens, commons, or passive parks measuring a total of at least 1,500 square feet for each dwelling unit, plus five hundred (500) square feet of land for active recreation per dwelling unit.
- (5) Civic greens or squares shall be distributed throughout the neighborhood. A civic green, common or open space shall be located within 1,500 feet of ninety percent (90%) of all residential units in the SRA and CRA areas.

2. Residential Unit Mix

- a. The minimum and maximum percentages of types of residential units for each PN District, and each phase thereof, shall be as set forth in subsection c below.
- b. Each phase of a proposed PN development shall provide housing opportunities for a diverse population mix of age groups and income levels. At a minimum each PN development shall have at least three (3) of the four (4) unit types. Each phase of a proposed PN shall have at least three (3) of the four (4) unit types. The Planning Commission may vary this phase requirement if a majority of its members are satisfied that at build-out three (3) of four (4) unit types are included in the overall PN development.
- c. Residential Unit Mix.

Unit Type	Minimum	Maximum
Detached Single Family Dwelling	50%	80%
Two (2) Family Dwelling	20%	40%
Townhouse	5%	40%
Multi-Family	5%	40%

H. Small Planned Neighborhood Projects. The Mayor and Council may modify the minimum performance standards established in subsection F, herein, for a PN District development of less than twenty-five acres (25) acres provided that:

- 1. The proposed development in the PN District can be integrated with a Master Development Plan for an adjacent and larger PN District project by such features as street extensions, compatible location of SRAs and common areas. In addition, the Mayor and Council must find that the proposed design meets the goals and objectives of the *Millington Comprehensive Plan*, as amended, and the intent of this section; or
- 2. The Mayor and Council find that the proposed PN District is for an infill or transition project between existing developed areas and/or adjacent to a proposed or planned large

scale PN project and that the proposed design of the PN project is consistent with the goals and objectives of the *Millington Comprehensive Plan* and the intent of this section.

3. The design of all PN projects shall be consistent with the *Planned Neighborhood Design Guidelines*.

§ 80-26. Procedure for Approval of a PN Planned Neighborhood Development District

- A. Purpose. The purpose and intent of the PN floating zone amendment process is to permit specific and detailed mapping of areas and to provide for the creation of a Master Planned Community that includes carefully planned, well-designed development projects at appropriate locations.
- B. PN District Design. Applicants for a PN District shall be guided throughout the review process by the *Planned Neighborhood Design Guidelines*. Because it is recognized that design professionals, including architects, landscape architects, and land planners, are trained to strive for creative excellence, the design standards and criteria are not intended to restrict creative solutions or to dictate all design details. The *Planned Neighborhood Design Guidelines* shall serve as a tool for the Town by providing a checklist of elements to be considered. The *Planned Neighborhood Design Guidelines* shall also inform the design professionals of items that shall be considered or included from the outset of the design process.
- C. Application. Application for a floating zone amendment for a PN approval shall be made to the Mayor and Council. Applications shall include:
 1. A written petition for location of a PN District and approval of a Master Development Plan, signed by the owners, and contract purchasers, if any, of the property that is the subject of the petition.
 2. A narrative describing the following:
 - a. Statement of present and proposed ownership of all land within the development;
 - b. Overall objectives of the proposed Master Development Plan and a statement of how the proposed development concept corresponds to and complies with the goals and objectives of this Ordinance, the proposed PN District, and the *Millington Comprehensive Plan*;
 - c. Method of providing sewer and water service (including design, permitting, construction and financing) and other utilities, such as, but not limited to, telephone, gas, and electric services;
 - d. Storm drainage areas and description of storm water management concepts to be applied;
 - e. Method of and responsibility for maintenance of open areas, private streets, recreational amenities, and parking areas;
 - f. School availability and school population impact analysis;
 - g. General description of architectural and landscape elements, including graphic representations; and

- h. If the applicant desires to develop the property in phases, a preliminary phasing plan, indicating:
 - (1) 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.
 - (2) If different land use types are to be included within the Master Development Plan, the plan shall include the mix of uses anticipated to be built in each phase.
- 3. A Concept Master Development Plan, which includes:
 - a. Boundary survey of the area subject to the application;
 - b. Graphic and tabular presentation of proposed site development information that clearly depicts the following, as applicable:
 - (1) Total acreage of subject property and identification of all adjoining landowners;
 - (2) Description of proposed land uses, including residential, commercial, institutional, and recreational;
 - (3) Maximum number of dwelling units, approximate densities of residential areas and anticipated population;
 - (4) Land area and locations generally allocated to each proposed use;
 - (5) Location of proposed roads, public open space, any sensitive resource areas (environmental or cultural), and public facilities; and
 - (6) Maximum non-residential floor area proposed.
- D. Referral of Application to Planning Commission. Upon submission to the Mayor and Council of an Application for a PN District and a Master Development Plan, the Mayor and Council shall refer said application and Master Development Plan to the Planning Commission for its review and recommendations. The referral shall authorize the Planning Commission, the staff of the Town, and any consultants or professionals on behalf of the Planning Commission or the Town to analyze the application and Master Development Plan, in accordance with all applicable review processes and procedures. The Mayor and Council will require the cost of any analysis or consultant or professional be paid for by the applicant. No development may occur until:
 - 1. A PN District has been applied to the property by legislative action of the Mayor and Council;
 - 2. A Master Development Plan for the PN is approved by the Mayor and Council; and
 - 3. A building permit has been issued, following, if applicable, final subdivision plat and/or

site plan approval by all agencies required to approve the plat or site plan.

- E. Master Development Plan submittal to the Planning Commission. After the Mayor and Council refer the application and Master Development Plan, the applicant shall submit the following to the Planning Commission for review and recommendations to the Mayor and Council:

1. Graphic Master Development Plan Requirements:

- a. Master Development Plan that includes the following individual sheets: Single sheets shall not exceed 36" x 48". Plans shall be presented at a scale no smaller than 1" = 400' such that the entire site may be shown on a single sheet.
- (1) The referred Master Development Plan;
 - (2) Boundary Survey, including identification of adjacent property owners;
 - (3) Existing condition information, including (information may be displayed on more than one sheet for clarity):
 - (a) Topographic survey (minimum 1' contour interval);
 - (b) Soils;
 - (c) Forested areas and tree lines;
 - (d) Wetlands, hydric soils, streams, and water features;
 - (e) Steep slopes;
 - (f) Easements and deed restrictions;
 - (g) Roads, driveways, and right-of-ways;
 - (h) Existing buildings;
 - (i) Habitat Protection Areas; and
 - (j) Existing land uses.
 - (4) Proposed open space, protected areas, and public and private parks;
 - (5) Pedestrian and vehicular master plan showing proposed street configuration and hierarchy, and pedestrian walking and biking systems;
 - (6) Detailed plan of at least one (1) phase, showing:
 - (a) Road alignments;
 - (b) Lot configuration;

- (c) Commercial area plan, if applicable;
 - (d) Public and private open space(s);
 - (e) Perspective streetscape (typical for represented phase);
 - (f) Examples of proposed residential and commercial architecture;
 - (g) Plan view, perspective and elevations of private and/or public community facilities; and
 - (h) Plan view, perspective and elevations of entrances including gateway improvements, if applicable.
- (7) Phasing plan, including:
 - (a) The general boundaries or location of each phase. Although the Phasing Plan shall include the information required in subsection an above and subsection c below (in 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.
- b. Studies and reports by qualified professionals:
 - (1) Traffic study that evaluates traffic impacts on proposed entrances on existing public (state, county, and town) roads and major existing intersections within one (1) mile of the project that may be impacted by traffic generated by the proposed project;
 - (2) Nontidal wetlands delineation;
 - (3) Endangered species study prepared by qualified professionals; and
 - (4) Historical and archeological survey.
- c. Master Development Plan Design Standards shall generally conform to the elements of the *Planned Neighborhood Design Guidelines*. The Master Development Plan Design Standards shall provide specific detail regarding:
 - (1) Site design standards in designated neighborhood and/or commercial

areas, including: permitted uses, building types, frontage, setbacks and lot sizes, building heights, parking, street widths and cross-sections, sidewalks, lighting, and road geometry.

- (2) Building standards for designated neighborhood and/or commercial areas, including: size and orientation, building facades, regulated architectural elements (windows, trim, etc.), rooflines, architectural styles, fencing, parking, and signage.
 - (3) Landscape, buffer, and environmental standards, including: location, scope, materials, and scheduling.
 - d. Project Scheduling Information, including: anticipated permitting hearings, approvals, construction start, phasing, anticipated absorption, and completion of key site elements. (Note: This information is understood to be representative of a best estimate and will be used by the Town as a tool for long-range planning activities, but shall not be binding.)
 - e. The Master Development Plan shall also include 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, parkways, walking paths, cycle ways, playgrounds, and open spaces.
 - 2. The Master Development Plan shall comply with requirements of this section and the requested floating zone and may be accompanied by such other written or graphic material that may aid the decisions of the Planning Commission and the Mayor and Council.
 - 3. The Mayor and Council may establish additional and supplemental requirements for the Master Development Plan prior to its referral of the application, if the Mayor and Council determine such requirements are necessary to enable the Mayor and Council to evaluate the particular floating zone amendment request.
- F. Planning Commission Review and Recommendation – PN District Amendment and Master Development Plan.
- 1. The Planning Commission shall review the PN District request and Master Development Plan for compliance with the requirements of this Zoning Ordinance and consistency with the *Millington Comprehensive Plan* and the *Planned Neighborhood Design Guidelines*.
 - 2. The Planning Commission shall evaluate the degree to which the proposed PN District

request and Master Development Plan incorporate and/or address the *Planned Neighborhood Design Guidelines* and furthers the goals and objectives of the *Millington Comprehensive Plan*.

3. The Planning Commission may make reasonable recommendations to the applicant regarding changes to the Master Development Plan proposal, which, in the judgment of the Planning Commission, shall cause the proposal to better conform to the requirements of the *Millington Comprehensive Plan*, the *Planned Neighborhood Design Guidelines*, and the goals and objectives of this Zoning Ordinance. The applicant may revise and resubmit the Master Development Plan to the Planning Commission addressing the Planning Commission's comments.
4. If, after four (4) Master Development Plan re-submissions, the Master Development Plan has not received a favorable recommendation from the Planning Commission, the Planning Commission shall make a negative recommendation to the Mayor and Council setting forth its reasons as to why the Master Development Plan should not be approved.
5. After a public hearing, the Planning Commission shall consider and comment on the findings required of the Mayor and Council, as set forth in G.2, herein, and shall make a favorable or negative recommendation to the Mayor and Council.
6. The Planning Commission shall forward the Master Development Plan, with any revisions, together with written comments and recommendations, and its floating zone comments, to the Mayor and Council for action pursuant to the floating zone and Master Development Plan approval process.

G. Mayor and Council Approval of PN District and Master Development Plan.

1. The Mayor and Council shall review the Master Development 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 Mayor and Council may approve or disapprove the proposed floating zone map amendment and associated Master Development Plan, and shall follow the procedures set forth §80-200 of this Ordinance. Concurrently with the location of a floating zone, the Mayor and Council may approve the Master Development Plan, which, in addition to the provisions of PN District, shall govern the subdivision and/or development of the property. The Mayor and Council may approve the floating zone designation with development subject to approval of a Master Development Plan.
3. In approving PN District floating zone map amendment, the Mayor and Council 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 Mayor and Council may approve the Planned Development District map amendment if it finds that the proposed floating zone amendment is:
 - a. consistent with the *Millington Comprehensive Plan*;

- b. consistent with the stated purposes and intent of the Planned Development District;
 - c. complies with the requirements of this Ordinance; and
 - d. is compatible with adjoining land uses.
 - 4. After approval of a floating zone amendment by the Mayor and Council, two (2) complete copies of the approved Master Development Plan shall be filed with the Town Clerk. One (1) additional complete copy of the approved Master Development Plan shall be filed with the Planning Commission for reference during its subsequent review and approval of subdivision plats and/or site plans.
 - 5. When a Planned Development is to be constructed in phases, final subdivision plat(s) shall not be required for a phase until such time as applications are filed for any applicable federal, state, or local permit for construction of that particular phase.
 - 6. As part of the final Master Development Plan approval, the Mayor and Council shall approve a date for initiation of the proposed development.
 - 7. In the event that a floating zone amendment is approved by the Mayor and Council without subdivision and approval of an associated Master Development Plan, the subject property may not be subdivided until the owner complies with the Master Development review and approval provisions of this Zoning Ordinance, and may not be developed except in conformance with a site plan as required by and in conformance with this Zoning Ordinance.
- H. Additional Required Procedures.
- 1. The administrative procedures for approval of a site plan for property located within the PN District are set forth in § 80-206 of this Zoning Ordinance. Site plans shall conform to the approved Master Development Plan, including the Master Development design standards.
 - 2. The administrative procedures for approval of a subdivision located within the PN District shall be those of the Town's Subdivision Regulations. Final subdivision plats shall conform to the approved Master Development Plan.
 - 3. Any development, site plan or subdivision approval for land in a PN District shall be consistent with the provisions of the PN District as applicable, and the specific Master Development plan applicable to the property, as approved or amended by the Mayor and Council.
- I. Amendment of Master Development Plan. The procedure for amendment of an approved Master Development Plan shall be the same as for a new application, except that minor amendments of a Master Development 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 within the PN District or any phase(s) thereof, 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 enhancement of the architectural design and

landscaping of the area subject to the amendment. Any amendment of a Master Development 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 foregoing, 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 Zoning Ordinance;
 2. Does not prevent reasonable access of emergency vehicle access or deprive adjacent properties of adequate light and air flow;
 3. Does not significantly change the general character of the land uses of the approved Master Development 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.
- J. Conflict with other Articles. Provisions of the PN Floating Zone, when found to be in conflict with other provisions of this Ordinance, shall supersede those other provisions with which they conflict except any provisions related to the Critical Area. Provisions of the PN Floating zone, when found to be in conflict with provisions of the Millington Subdivision Code, shall supersede those provisions with which they conflict.
- K. A PN 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 PN District shall be as set forth in Town of Millington Zoning Ordinance and shall be the basis for approval or denial by the Mayor and Council without the necessity of showing a mistake in the original zoning or a change in the neighborhood.

Part III CD Community Design Overlay District

§ 80-27. Purpose of the District

The purpose of CD Community Design Overlay District is to apply community appearance standards that promote public health, safety, and welfare. Economic objectives include enhancement and preservation of property values. These standards are not intended to restrict imagination or variety, but rather to assist in focusing on design principles that result in creative solutions that will develop a satisfactory visual appearance within the Town.

§ 80-28. Development Subject to Community Appearance Standards

All new development and/or redevelopment within the Community Design Overlay District shall be subject to the performance standards in this section.

§ 80-29. Process for Review

The Planning Commission and/or Board of Appeals shall review development plans as required to ensure the standards specified in this section are met. These standards are in addition to other regulations in this ordinance.

§ 80-30. Standards

A. Relationship of Buildings to Site

1. The site shall be planned to accomplish a desirable transition with the streetscape and to provide for adequate planting, safe pedestrian movement, and parking areas.
2. Parking areas shall be treated with decorative elements, building wall extensions, plantings, berms, or other innovative means so as to screen parking areas from public ways.
3. Without restricting the permissible limits of the applicable zoning district, the height and scale of each building shall be compatible with its site and existing (or anticipated) adjoining buildings.
4. Newly installed utility services and service revisions necessitated by exterior alterations shall be underground where possible.

B. Relationship of Buildings and Site to Adjoining Area

1. Adjacent buildings of different architectural styles shall be made compatible by such means as screens, site breaks, and materials.
2. Attractive landscape transition to adjoining properties shall be provided.
3. Harmony in texture, lines, and masses is required. Monotony of design shall be avoided.

C. Landscape and Site Treatment

1. Where natural or existing topographic patterns contribute to beauty and utility of a development they shall be preserved and developed. Modifications to topography will be permitted where it contributes to good appearance.
2. Grades of walks, parking spaces, terraces, and other paved areas shall provide an inviting and stable appearance for the pedestrian.
3. Landscape treatment shall be provided to enhance architectural features, strengthen vistas and important axes, and provide shade.
4. Unity of landscape design shall be achieved by repetition of certain plant varieties and other materials and by coordination with adjacent development.
5. Plant material shall be selected for interests in its structure, texture and color, and for its ultimate growth. Plants that are indigenous to the area and others that will be hearty,

harmonious to design, and of good appearance shall be used.

6. In locations where plants will be susceptible to injury by pedestrian or motor traffic they shall be protected by appropriate curbs, tree guards, or other devices.
7. Parking areas and traffic ways shall be enhanced with landscaped spaces containing trees or tree groupings.
8. Where building sites limit planting, the placement of trees in parkways or paved areas may be required.
9. Screening of service yards and other places that tend to be unsightly shall be accomplished by use of walls, fencing, plantings, or combinations of these. Screening shall be effective in winter and summer.
10. In areas where general planting will not prosper, other materials such as fences, walls, and paving or wood, brick, stone gravel, and cobbles shall be used. Carefully selected plants shall be combined with such materials where possible.
11. Exterior lighting, when used, shall enhance the adjoining landscape. Lighting standards and building fixtures shall be of a design and size compatible with the building and adjacent areas. Lighting shall be restrained in design and excessive brightness avoided.

D. Building Design

1. Architectural style is not restricted. Evaluation of the appearance of a project shall be based on the quality of its design and relationship to surroundings.
2. Buildings shall have good scale and be in harmonious conformance with permanent neighboring development. Building bulk and scale shall be similar to and consistent with the surrounding neighborhood as evaluated by the bulk of buildings adjacent, abutting and surrounding the proposed development. Larger buildings should be designed to adhere to the existing architectural pattern of the surrounding neighborhood.
3. Primary facades and entries face the adjacent street with a connecting walkway that does not require pedestrians to walk through parking lots or across driveways and that maintains the integrity of the existing streetscape.
4. Optimize privacy of residents and minimize infringement on the privacy of adjoining land uses by considering appropriate buffer yards, the placement of windows and door entrances. Create opportunities for interactions among neighbors in common pedestrian circulation areas of the project.
5. Building materials shall be similar to materials of the surrounding neighborhood or use other characteristics such as scale, form, architectural detailing, etc., to establish compatibility. Materials shall have good architectural character and shall be selected for harmony of the building with adjoining buildings. Materials shall be of durable quality. Materials shall be selected for suitability to the type of buildings and the design in which they are used. Buildings shall have the same material, or those that are architecturally harmonious, used for all building walls and other exterior building components wholly or

partly visible from public ways.

6. All planned uses, building types, and landscaping will be included on the preliminary plans and will demonstrate the relationships of the proposed development with existing off-site development in the context of the adjacent community.
7. In any design in which the structural frame is exposed to view, the structural material shall be compatible within themselves and harmonious with their surroundings.
8. Building components, such as windows, eaves, doors, parapets, etc., shall have good proportions and relationships to one another.
9. Colors shall be harmonious and shall use only compatible accents.
10. Mechanical equipment or other utility hardware on roof, ground, or buildings shall be screened from public view with materials harmonious with the building, or they shall be so located as not to be visible from public ways.
11. Exterior lighting shall be part of the architectural concept. Fixtures, standards, and all exposed accessories shall be harmonious with building design.
12. Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form, and siting shall be used to provide visual interest. In multiple building projects, variable siting of individual projects shall be used to prevent a monotonous appearance.

E. Miscellaneous Structures and Street Hardware

1. Miscellaneous structures and street hardware shall be designed to be part of the architectural concept of design and landscape. Materials shall be compatible with buildings, scale shall be appropriate, colors shall be in harmony with buildings and surroundings, and proportions shall be attractive.
2. Lighting in connection with miscellaneous structures and street hardware shall adhere to standards set forth for site, landscape, buildings, and signs.

F. Maintenance - Planning and Design Factors

1. Continued good appearance depends upon the extent and quality of maintenance. The choice of materials and their use, together with the types of finishes and other protective measures shall be conducive to easy maintenance and upkeep.
2. Materials and finishes shall be selected for their durability and wear as well as for their beauty. Proper measures and devices shall be incorporated for protection against the elements, neglect, damage, and abuse.
3. Provisions for washing and cleaning of buildings and structures, and control of dirt and refuse shall be incorporated in the design. Configurations that tend to catch and accumulate debris, leaves, trash, dirt, and rubbish shall be avoided.

- G. Application information should 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 500 feet of the proposed development site). These descriptions shall include documenting photographs and an analysis of the prominent architectural features, and as applicable shall address the following:
 - (a) Site location and Topography;
 - (b) Street Connections;
 - (c) Pedestrian Pathways;
 - (d) Lot Coverage;
 - (e) Impervious Surfaces;
 - (f) Building Orientation;
 - (g) Roofs;
 - (h) Massing and Proportions;
 - (i) Entryways;
 - (j) Windows;
 - (k) Garage Doors;
 - (l) Finishes and Materials;
 - (m) Ornamentation; and
 - (n) Building and other Colors.
 3. A description of the proposed development including:
 - (a) Elevations of all proposed buildings;
 - (b) Plot plan showing the existing and proposed footprint of structures on the property; and
 - (c) A statement describing how the proposed development is compatible these appearance standards.

Part IV CA Critical Area Overlay District

§ 80-31. Implementation of the Critical Area Program Purpose and Goals

A. The Millington Critical Area Program

1. The Millington Critical Area Program consists of the Millington Zoning Chapter including the Official Critical Area map. Related provisions may be found in the Millington Subdivision Regulations.

B. Goals.

The goals of the Millington Critical Area Program are to accomplish the following:

1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or run off from surrounding lands;
2. Conserve fish, wildlife, and plant habitat; and
3. 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.

C. Regulated activities and applicability.

Any applicant for a permit or license to pursue activities within the Critical Area, including but not limited to, development or redevelopment, grading, sediment and erosion control, timber harvesting, shoreline erosion control, installation of a septic system and drain field, operation of a waste collection or disposal facility, operation of a commercial or private marina or other water-related commercial or industrial operation (whether public or private), mining (whether surface or sub-surface) or quarrying, farming or other agriculture-related activities shall have such permits or licenses issued by the Town after review to determine compliance with the Millington Zoning Ordinance.

D. Critical Area Overlay District Map. The Official Critical Area Overlay District Map is maintained in force as part of the Official Zoning Map for Millington as described in §80-19.

E. General Requirements

1. Development and redevelopment shall be subject to the Habitat Protection Area requirements prescribed in this Ordinance.
2. Reasonable accommodations for the needs of disabled citizens.
 - a. An applicant seeking relief from the Critical Area standards contained in this Ordinance in order to accommodate the reasonable needs of disabled citizens shall have the burden of demonstrating the following:
 - (i) The alterations will benefit persons with a disability within the meaning

of the Americans with Disabilities Act;

- (ii) Literal enforcement of the provisions of this Ordinance would result in discrimination by virtue of such disability or deprive a disabled resident or use of the reasonable use and enjoyment of the property;
 - (iii) 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;
 - (iv) The accommodation requested will not substantially impair the purpose, intent, or effect, of the provisions of this Ordinance as applied to the property; and
 - (v) The accommodation would be environmentally neutral with no greater negative impact on the environment than the literal enforcement of the statute, ordinance, regulation, or other requirement, or would allow only the minimum environmental changes necessary to address the needs resulting from the particular disability of the applicant or appellant.
- b. The Board of Appeals shall determine the nature and scope of any accommodation under this Ordinance 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 Ordinance. 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 Appeals may require, as a condition of approval, that upon termination of the need for accommodation, that the property be restored to comply with all applicable provisions of this Ordinance. Appropriate bonds may be collected or liens placed in order to ensure the Town's ability to restore the property should the applicant fail to do so.

§ 80-32. Intensely Developed Areas.

A. Development standards.

For all development activities in the Intensely Developed Areas, 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 destruction of forest and woodland vegetation;
2. All 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 impact on wildlife, aquatic life, and their habitats; and
 - c. Maintain hydrologic process and water quality.
- 3. 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 so as 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 storm water.
- 4. All development and redevelopment activities shall include storm water 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 *Critical Area 10% Rule Guidance Manual – Fall 2003* and as may be subsequently amended.

§ 80-33. Limited Development Areas.

A. Development standards.

For all development activities in the Limited Development Areas, the applicant shall identify any environmental or natural feature described below, and shall meet all of the following standards:

- 1. Development and redevelopment shall be subject to the water-dependent facilities requirements of this Ordinance;
- 2. 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.
- 3. 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 so as 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 storm water.
4. If there is a wildlife corridor system identified by the Department of Natural Resources, Wildlife Heritage Service on or near the site which can be enhanced by additional plantings, the applicant shall incorporate a wildlife corridor system that connects the largest undeveloped or most vegetative tracts of land within and adjacent to the site in order to provide continuity of existing wildlife and plant habitats with offsite habitats. The wildlife corridor system may include Habitat Protection Areas identified in this Ordinance. Millington shall ensure the maintenance of the wildlife corridors by requiring the establishment of conservation easements, restrictive covenants, or similar instruments approved by the Town through which the corridor is preserved by public or private groups, including homeowners associations, nature trusts and other organizations.
5. Development on slopes greater than 15 percent, 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.
6. Except as otherwise provided in this subsection, lot coverage is limited to 15% of a lot or parcel or any portions of a lot or parcel that are designated LDA.
- a. If a parcel or lot of one-half acre or less in size existed on or before December 1, 1985, then lot coverage is limited to twenty-five (25%) of the parcel or lot.
 - b. If a parcel or lot greater than one-half acre and less than one acre in size existed on or before December 1, 1985, then lot coverage is limited to fifteen percent (15%) of the parcel or lot.
 - c. If an individual lot one acre or less in size is part of a subdivision approved after December 1, 1985, then lot coverage may exceed fifteen percent (15%) of the individual lot; however the total lot coverage for the entire subdivision may not exceed fifteen percent (15%).
 - d. Lot coverage limits provided in § (a) and § (b) above may be exceeded, upon findings by the Planning Commission or its designee that the following conditions exist:
 - (i) The lot or parcel is legally nonconforming. A lot or parcel legally developed as of July 1, 2008 may be considered legally nonconforming for the purposes of lot coverage requirements.
 - (ii) Lot coverage associated with new development activities on the property have been minimized;
 - (iii) For a lot or parcel one-half acre or less in size, total lot coverage does not exceed the lot coverage limits in § (a) by more than twenty-five percent (25%) or five hundred square feet (500 square feet), whichever is greater;

- (iv) For a lot or parcel greater than one-half acre and less than one acre in size, total lot coverage does not exceed the lot coverage limits in §(b) or five thousand, four hundred and forty-five (5,445) square feet, whichever is greater;
- (v) The following table summarizes the limits set forth in § (i) through § (iii) above:

Table A6d Lot Coverage Limits

Lot/Parcel Size (Square Feet)	Lot Coverage Limit
0 – 8,000	25% of parcel + 500 SF
8,001 – 21, 780	31.25% of parcel
21,780 – 36,300	5,445 SF
36,301 – 43,560	15% of parcel

- e. If the Planning Commission or its designee makes the findings set forth in § (d) above and authorizes an applicant to use the lot coverage limits set forth in that paragraph, the applicant shall:
 - (i) 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
 - (ii) 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.
 - (iii) If the applicant cannot provide appropriate storm water treatment and plantings due to site constraints, then the applicant shall pay a fee to Millington in lieu of performing the on-site mitigation. The amount of the fee shall be \$1.50 per square foot of the required mitigation.
7. The alteration of forest and developed woodlands shall be restricted and shall be mitigated as follows:
- a. The total acreage in forest and developed woodlands within 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 percent 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 area extent of the forest or developed woodlands cleared, including the first 20 percent of the forest or developed woodlands cleared.

- d. An applicant may not clear more than 30 percent of a forest or developed woodlands on a lot or parcel, unless the Board of Appeals grants a variance and the applicant replaces forest or developed woodlands at a rate of 3 times the area extent of the forest or developed woodlands cleared.
 - e. If an applicant is authorized to clear any percentage of forest or developed woodland the remaining percentage shall be maintained through recorded, restrictive covenants or similar instruments approved by the Town.
- 8. The following are required for forest or developed woodland clearing as required in § (7) 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 Millington shall be posted to assure satisfactory replacement as required in § (7) above and plant survival;
 - b. No clearing is allowed until the Town has issued a permit;
 - c. Clearing of forest or developed woodlands that exceed the maximum area allowed in § (7) above or prior to the issuance of a permit shall be replanted at three times the area extent of the cleared forest; and
 - d. If the area extent of the site limits the application of the reforestation standards in this section the applicant may be allowed to plant offsite or pay a fee in lieu of planting.
- 9. If no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodland cover of at least 15 percent.
 - a. The applicant shall designate, subject to Town approval, 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 Town.
 - c. The applicant may be allowed to pay a fee in lieu of planting to meet the requirements of this subsection provided in lieu fees can be used to implement a comprehensive offset strategy developed by the Town and approved by the Critical Area Commission.

§ 80-34. Resource Conservation Areas.

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 Ordinance.

2. Land within the Resource Conservation Area may be developed for residential uses at a density not to exceed one dwelling unit per 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 Ordinance.
4. Nothing in this section shall limit the ability of a land owner to participate in any agricultural easement program or 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 dwelling unit per 20 acres.

§ 80-35. Land Use and Density

A. Permitted Uses

1. Permitted uses in the Critical Area shall limited to those uses allowed in the underlying zoning classification as modified by Table 1a and the supplemental use standards in §80-36 provided such uses meet all standards established for the Critical Area Overlay District.

Table A1a Permitted Uses

	LEGEND: P = Permitted if allowed in the underlying zoning district PC = Permitted with conditions if allowed in the underlying zoning district NP = Not permitted	Land Use Management Designation		
Item	Use Description	IDA	LDA	RCA
1.00	RESIDENTIAL			
1.10	Accessory Dwelling Unit	P	P	PC
2.00	INSTITUTIONAL			
2.10	Existing institutional uses	P	P	PC
2.20	New institutional uses	P	P	NP
2.30	Cemetery	P	P	PC
2.40	Group Home	P	P	PC
2.50	Day Care	P	P	PC
3.00	COMMERCIAL			
3.10	Existing commercial uses	P	P	PC
3.20	New commercial uses	P	P	NP
3.30	Home occupation	P	P	PC
3.40	Bed and breakfast facility	P	P	PC
4.00	MARITIME/WATER DEPENDENT			
4.10	Expansion of existing commercial marinas	P	P	PC
4.20	New marina, commercial	P	P	NP
4.30	Community piers and noncommercial boat docking and storage	P	P	PC
4.40	Public beaches and public water-oriented recreational and educational areas	P	P	PC
4.50	Research Areas	P	P	PC
4.60	Fisheries activities	P	P	P
4.70	Structures on Piers	PC	PC	PC
4.80	Private pier	P	P	P
5.00	RECREATION			
5.10	Golf course	P	P	PC
6.00	INDUSTRIAL			
6.10	Existing industrial uses	P	P	PC
6.20	New industrial uses	P	PC	NP
6.30	Non-maritime heavy industry	P	NP	NP
7.00	TRANSPORTATION/PARKING/COMMUNICATIONS/UTILITIES			
7.10	Utility transmission facilities	PC	PC	PC
8.00	PUBLIC/QUASI-PUBLIC			
8.10	Sanitary landfill; rubble fill	PC	PC	PC
8.20	Solid or hazardous waste collection or disposal facilities	PC	PC	PC
8.30	Sludge Facilities	PC	PC	PC

B. Maximum Permitted Density

1. The maximum permitted density for properties located in the Millington Critical Area shall be as shown in Table B1.

Table B1
Maximum Residential
Density (Dwelling Units Per Acre)

Land Use Management Designation		
IDA	LDA	RCA
Density permitted by Underlying Zoning	Density permitted by Underlying Zoning	1 dwelling unit per 20 acres

2. Calculation of 1-in-20 acre density of development.

In calculating the 1-in-20 acre density of development that is permitted on a parcel located within the Resource Conservation Area, the Town:

- 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:
 - (i) The density of development on the upland portion of the parcel may not exceed one dwelling unit per eight (8) acres; and
 - (ii) The area of private wetlands shall be estimated on the basis of vegetative information as designated on the State wetlands maps or by private survey approved by the Town, the Commission, and the Maryland Department of the Environment.

§ 80-36. Supplemental Use Standards

The following supplemental use standards apply to the permitted uses listed in Table A (1) (a) above and shall apply when the permitted use is allowed in the underlying zoning district.

A. Accessory Dwelling Unit (1.10)

1. If a permitted use in the underlying zoning district, one additional dwelling unit (accessory dwelling unit) as part of a primary dwelling unit may be permitted in the Resource Conservation Area (RCA) provided the additional dwelling unit is served by the Millington sewer system 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 total

enclosed areas; 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.
2. 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
3. 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.

B. Existing institutional uses (2.10)

1. Existing institutional facilities shall be allowed in Resource Conservation Areas.
2. Expansion of existing institutional facilities and uses in the Resource Conservation Area shall be subject to the non-conforming use provisions of this Ordinance and the Grandfathering provisions in §80-38 and may require growth allocation.

C. New institutional uses (2.20)

1. New institutional facilities and uses, except those specifically listed shall not be permitted in Resource Conservation Areas (RCAs).
2. Certain institutional uses may be permitted if allowed in the underlying zoning district and if the use complies with all requirements for such uses in this Ordinance. These institutional uses are limited to:
 - a. A cemetery that is an accessory use to an existing church; provided manmade lot coverage is limited to 15 percent of the site or 20,000 square feet, whichever is less;
 - b. A day care facility in a dwelling where the operators live on the premises and there are no more than eight (8) children;
 - c. A group home or assisted living facility with no more than eight (8) residents; and
 - d. Other similar uses determined by the Town and approved by the Critical Area Commission to be similar to those listed above.

D. Existing Commercial Uses (3.10)

1. Existing commercial facilities and uses, including those that directly support agriculture, forestry, aquaculture or residential development shall be allowed in Resource Conservation Areas.
2. Expansion of existing commercial facilities and uses in the Resource Conservation Area shall be subject to the non-conforming use provisions of this Ordinance and the Grandfathering provisions in §80-38 and may require growth allocation.

E. New commercial uses (3.20)

1. New commercial uses, except those specifically listed, shall not be permitted in Resource Conservation Areas (RCAs).
2. Certain commercial uses may be permitted if allowed in the underlying zoning district and if the use complies with all requirements for such uses in this Ordinance. These commercial uses are limited to:
 - a. A home occupation as an accessory use on a residential property and as provided for in this Ordinance;
 - b. A bed and breakfast facility located in an existing residential structure and where meals are prepared only for guests staying at the facility; and
 - c. Other uses determined by the Millington and approved by the Critical Area Commission to be similar to those listed above.

F. Expansion of existing commercial marinas (4.10)

1. Expansion of existing commercial marinas may be permitted within Resource Conservation Areas provided:
 - a. Water quality impacts are quantified and appropriate Best Management Practices that address impacts are provided;
 - b. That it will result in an overall net improvement in water quality at or leaving the site of the marina;
 - c. The marina meets the sanitary requirements of the Department of the Environment; and
 - d. Expansion is permitted under the nonconforming use provisions of this Ordinance.
2. Expansion of existing commercial marinas may be permitted in the Buffer in the Intensely Developed Areas and Limited Development Areas provided that the applicant demonstrates:
 - a. The project meets a recognized private right or public need;
 - b. Adverse effects on water quality, fish, and plant and wildlife habitat are minimized and Best Management Practices are applied to address impacts;
 - c. Insofar as possible, non-water-dependent structures or operations associated with water-dependent projects or activities are located outside the buffer; and
 - d. Expansion is permitted under the nonconforming use provisions of this

Ordinance.

G. New marina, commercial (4.20)

1. New commercial marinas shall not be permitted in Resource Conservation Areas (RCAs).
2. New commercial marinas may be permitted in Limited Development Areas (LDAs) and Intensely Developed Areas (IDAs) if allowed in the underlying zoning, provided:
 - a. New marinas shall establish a means of minimizing the discharge of bottom wash waters into tidal waters.
 - b. New marinas meet the sanitary requirements of the Department of the Environment.
 - c. New marinas may be permitted in the Buffer in the Intensely Developed Areas and Limited Development Areas provided that it can be shown:
 - (i) The project meets a recognized private right or public need;
 - (ii) Adverse effects on water quality, fish, plant and wildlife habitat are minimized and Best Management Practices are applied to address impacts; and
 - (iii) Insofar as possible, non-water-dependent structures or operations associated with water-dependent projects or activities are located outside the Buffer.

H. Community piers and noncommercial boat docking and storage (4.30)

1. 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 Ordinance provided that:
 - a. These facilities may not offer food, fuel, or other goods and services for sale and shall provide adequate and clean sanitary facilities;
 - b. The facilities are community-owned and established and operated for the benefit of the residents of a platted and recorded riparian subdivision;
 - c. The facilities are associated with a residential development approved by the Town for the Critical Area and consistent with all State requirements and the requirements of this Ordinance applicable to the Critical Area;
 - d. Disturbance to the Buffer is the minimum necessary to provide a single point of access to the facilities and Best Management Practices are applied to address impacts; and
 - e. If community piers, slips, or moorings are provided as part of the new development, private piers in the development are not allowed.

2. Number of slips or piers permitted.

The number of slips or piers permitted at the facility shall be the lesser of §a or §b below:

- a. One slip for each 50 feet of shoreline in the subdivision in the Intensely Developed and Limited Development Areas and one slip for each 300 feet of shoreline in the subdivision in the Resource Conservation Area; or
- b. A density of slips or piers to platted lots or dwellings within the subdivision in the Critical Area according to the following schedule:

Table 2b Number of Slips Permitted

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

I. Public beaches and public water-oriented recreational and educational areas (4.40)

1. 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.
2. These facilities may be permitted within the Buffer in Limited Development Areas and Resource Conservation Areas provided that:
 - a. Adequate sanitary facilities exist;
 - b. Service facilities are, to the extent possible, located outside the Buffer;
 - c. Permeable surfaces are used to the extent practicable, if no degradation of groundwater would result;
 - d. Disturbance to natural vegetation is minimized and Best Management Practices are applied to address impacts and Best Management Practices are applied to address impacts; and
 - e. 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.

J. Research areas (4.50)

1. 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.

K. Fisheries activities (4.60)

1. 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.

L. Structures on Piers (4.70)

1. Except as provided in §1, §2, and §3 below, construction of dwelling unit or other non-water-dependent structure on a pier located on State or private tidal wetlands is prohibited.
 - a. A building permit for a project involving the construction of a dwelling unit or other non-water-dependent structure on a pier located on State or private wetlands within the Critical Area may be approved provided a permit was issued by the Department of Natural Resources on or before January 1, 1989.
 - b. A building permit for a project involving the construction of a dwelling unit or other non-water-dependent structure on a pier located on State or private wetlands within the Critical Area may be approved if the following conditions exist:
 - (i) The project is located in an Intensely Developed Area (IDA);
 - (ii) The project is constructed on a pier that existed as of December 1, 1985 that can be verified by a Department of Natural Resources aerial photograph dated 1985, accompanied by a map of the area; and
 - (iii) The project does not require an expansion of the pier greater than 25% of the area of piers or dry docks removed on the same property; however, additional expansion may be allowed in the amount of 10% of the water coverage eliminated by removing complete piers from the same or other properties. If the horizontal surface of a pier to be removed is not intact, but pilings identify its previous size, then that area may be used in determining the additional expansion permitted. The project expansion based on water coverage eliminated can be considered only if all nonfunctional piers on the property are removed except for the project pier. The total expansion may not exceed 35% of the original size of the piers and dry docks removed.
 - c. A building permit for the repair of an existing dwelling unit or other non-water-dependent structure on a pier located on State or private wetlands within the

Critical Area may be approved.

- d. If a structure that is not water-dependent is permitted under the exceptions included in this section, an applicant is required to demonstrate that the project will meet the following environmental objectives using the standards established herein:
 - (i) The construction and operation of the project will not have a long term adverse effect on the water quality of the adjacent body of water;
 - (ii) The quality of storm water runoff from the project will be improved; and
 - (iii) Sewer lines or other utility lines extended for the pier will not affect the water quality of adjoining waters.

M. Golf course (5.10)

- 1. A golf course, excluding main buildings and/or structures such as the clubhouse, pro-shop, parking lot, etc., may be permitted in Resource Conservation Areas (RCAs) provided:
 - a. Such use is a permitted use allowed in the underlying zoning district; and
 - b. Development is in accordance with the official guidance adopted by the Critical Area Commission on August 3, 2005.

N. Existing industrial uses (6.10)

- 1. Existing industrial facilities and uses, including those that directly support agriculture, forestry, or aquaculture may be permitted in Resource Conservation Areas (RCAs).
- 2. Expansion of existing industrial facilities and use in the Resource Conservation Area shall be subject to the non-conforming use provisions of this Ordinance and the Grandfathering provisions in §80-38 and may require growth allocation..

O. New industrial uses (6.20)

- 1. New industrial uses shall not be permitted in Resource Conservation Areas (RCA).
- 2. New, expanded or redeveloped industrial facilities may only be permitted in Limited Development Areas (LDA) if permitted uses in the underlying zoning district and provided such facilities meet all requirements for development in the LDA.
- 3. 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 (IDAs) that have been designated as Buffer Management Areas.

P. Non-maritime heavy industry (6.3)

- 1. Non-maritime heavy industry may be permitted if:

- a. The site is located in an Intensely Developed Area (IDA); and
- b. 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.

Q. Utility transmission facilities (7.10)

- 1. 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 (IDAs); 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.
- 2. These provisions do not include power plants.

R. Sanitary landfill; rubble fill (8.10)

- 1. Sanitary landfills or rubble fills 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.
- 2. Existing, permitted facilities shall be subject to the standards and requirements of the Maryland Department of the Environment.

S. Solid or hazardous waste collection or disposal facilities (8.20)

- 1. Solid or hazardous waste collection or disposal facilities, including transfer stations 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 wastewater management problem.
- 2. Existing, permitted facilities shall be subject to the standards and requirements of the Maryland Department of the Environment.

T. Sludge Facilities (8.40)

- 1. Permanent sludge handling, storage and disposal facilities, other than those associated with wastewater treatment facilities may be permitted in the Critical Area provided:
 - a. The facility or activity is located in an 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.

2. 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.

§ 80-37. Growth Allocation.

A. Growth allocation acreage

Growth allocation available to Millington includes:

1. An areas equal to five (5) percent of the RCA acreage located within Millington and;
2. Growth allocation available to Millington as provided for by Kent and Queen Anne's Counties.

B. Growth Allocation Floating Zone District GA.

1. Purpose. The 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 Millington Critical Area Overlay District. The purpose of the floating zone is to permit a change in the land management classification established in the Critical Area Overlay District on specific sites so that they may be developed to the extent permitted by the underlying zoning classification or the land use management classification. Only projects which have been approved by the Mayor and Council for award of the Critical Area Growth Allocation are eligible for floating zones.
2. Designation of floating zones.
 - a. The Growth Allocation District GA shall be a floating zone.
 - b. The Growth Allocation District GA provides for changing the land management classification of Resource Conservation Areas (RCA's) and Limited Development Areas (LDAs) in the Critical Area Overlay District.

C. Standards.

When locating new Intensely Developed or Limited Development Areas the following standards shall apply:

1. A new Intensely Developed Area shall only be located in a Limited Development Area or adjacent to an existing Intensely Developed Area;
2. A new Limited Development Area shall only be located adjacent to an existing Limited Development Area or an Intensely Developed Area;
3. New Intensely Developed Areas shall be at least 20 acres in size unless:
 - a. They are contiguous to an existing IDA or LDA; or

- b. They are a grandfathered commercial or industrial use, which existed as of January 1988. The amount of growth allocation deducted shall be equivalent to the area of the entire parcel or parcels subject to the growth allocation request.
- 4. No more than one-half of the Millington's growth allocation may be located in Resource Conservation Areas (RCAs) except as provided in §9 below;
- 5. A new Limited Development Area or Intensely Developed Area shall be located in a manner that minimizes impacts to Habitat Protection Area as defined herein and in COMAR 27.01.09 and in an area and manner that optimizes benefits to water quality;
- 6. A new Intensely Developed Areas shall only be located where they minimize their impacts to the defined land uses of the Resource Conservation Area (RCA);
- 7. A new Intensely Developed Area or a Limited Development Area in a Resource Conservation Area shall be located at least 300 feet beyond the landward edge of tidal wetlands or tidal waters;
- 8. New Intensely Developed or Limited Development Areas to be located in Resource Conservation Areas shall conform to all criteria of this Ordinance for such areas, shall be so designated on the Millington Critical Area Maps and shall constitute an amendment to this Ordinance subject to review by the Millington Planning Commission and approval by the Mayor and Council and the Critical Area Commission as provided herein.
- 9. If Millington is unable to utilize a portion of its growth allocation as set out in §1 and §2 above within or adjacent to existing Intensely Developed or Limited Development Areas, then that portion of the growth allocation which cannot be so located may be located in the Resource Conservation Areas in addition to the expansion allowed in §4 above.

D. Additional Factors.

In reviewing map amendments or refinements involving the use of growth allocation the Planning Commission and Mayor and Council shall consider the following factors:

- 1. Consistency with Millington Comprehensive Plan and whether the growth allocation would implement the goals and objectives of the adopted plan. "Consistency with" means that a standard or factor will further, and not be contrary to the following items in the comprehensive plan:
 - a. Policies;
 - b. Timing of the implementation of the plan, of development, and of rezoning;
 - c. Development patterns;
 - d. Land uses; and

- e. Densities or intensities.
2. For a map amendment or refinement involving a new Limited Development Area, whether the development is:
 - a. To be served by a public wastewater system;
 - b. A 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 Intensely Developed Area, 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 storm water management practices and wastewater and storm water discharges to tidal waters, tidal wetlands, and tributary streams; and
 8. Environmental impacts associated with location in a coastal hazard area or an increased risk of severe flooding attributable to the proposed development and/or sea level rise.

§ 80-38. Grandfathering.

- A. Continuation of existing uses.
 1. The continuation, but not necessarily the intensification or expansion, of any use in existence on January 1988 may be permitted, unless the use has been abandoned for more than one year or is otherwise restricted by existing municipal Ordinances.
 2. If any existing use does not conform with the provisions of this Ordinance, its intensification or expansion may be permitted only in accordance with the variance procedures in §80-39.

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 Ordinance.
 - a. A legal parcel of land, not being part of a recorded or approved subdivision, that was recorded as of December 1, 1985
 - b. Land that received a building permit subsequent to December 1, 1985, but prior to January 1988.
 - c. Land that was subdivided into recorded, legally buildable lots, where the subdivision received final approval between June 1, 1984 and December 1, 1985;
 - d. 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 IDA, LDA or RCA requirements in this Ordinance or the area of the land has been counted against the growth allocation permitted under this Ordinance.

C. Consistency.

Nothing in this Section may be interpreted as altering any requirements of this Ordinance related to water-dependent facilities or Habitat Protection Areas.

§ 80-39. Variances. (See Article XIV § 80-151)

§ 80-40. Lot Consolidation and Reconfiguration

A. Applicability

The provisions of this section apply to a 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 Resource Conservation Area and are less than 20 acres in size.

B. Procedure

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

1. Millington will 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 Planning Commission shall issue a final written decision or order granting or denying an application for a consolidation or reconfiguration.
 - a. After a final written decision or order is issued, the Planning Commission 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.

§ 80-41. Amendments

- A. Amendments. (See Article XVI § 80-189)
- B. Zoning 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 Mayor and Council 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:

1. Are wholly consistent with the land classifications as shown on the adopted Critical Area Overlay Map; or
 2. The use of growth allocation in accordance with the growth allocation provisions of this Ordinance is proposed.
- C. Process.
 1. When an amendment is requested, the applicant shall submit the amendment to the Planning Commission for review and research. Upon completing Findings of Fact, these documents shall be forwarded to the Mayor and Council.
 2. Mayor and Council shall hold a public hearing at which parties of interest and citizens shall have an opportunity to be heard. At least fourteen (14) days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in Millington.
 3. After the Mayor and Council approve an amendment, they shall forward their decision and applicable resolutions along with the amendment request to the Critical Area Commission for final approval.

§ 80-42. Enforcement

- A. Consistency.

The Critical Area provisions of this Ordinance, in accordance with the Critical Area Act and

Criteria supersede any inconsistent law, Ordinance or plan of Millington. In the case of conflicting provisions, the stricter provisions shall apply.

B. Violations.

1. No person shall violate any provision of this Ordinance. 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 Ordinance shall be subject to separate administrative civil penalties, abatement and restoration orders, and mitigation for each offense.
3. Noncompliance with any permit or order issued by the Town related to the Critical Area shall be a violation of this Ordinance and shall be enforced as provided herein.

C. Responsible persons.

The following persons may each be held jointly or severally 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.

D. Required enforcement action.

In the case of violations of this Ordinance, 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, and 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, as appropriate, 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.

E. Right to enter property.

Except as otherwise authorized and in accordance with the procedures specified herein, the Mayor and Council 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. Town officials shall make a reasonable effort to contact a property owner before obtaining

access to or enter the property. If entry is denied, the Town may seek an injunction to enter the property to pursue an enforcement action.

F. 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 Critical Area provisions of this Ordinance 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 Ordinance shall receive: written notice of the alleged violation(s) including which, if any, are continuing violations, and 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 Millington 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 recovery by the Town of 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 Ordinance.

G. Cumulative remedies.

The remedies available to the Town under this Ordinance are cumulative and not alternative or exclusive, and the decision to pursue one remedy does not preclude pursuit of others.

H. Injunctive relief.

1. The Town may institute injunctive or other appropriate actions or proceedings to bring about the discontinuance of any violation of this Ordinance, an administrative order, a permit, a decision, or other imposed condition.
2. The tendency of an appeal to the Board of 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.

I. 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 Ordinance in accordance with the variance provisions of this Ordinance. However, the application shall not be reviewed, nor shall a final decision be made until all abatement, restoration, and mitigation measures have been implemented and inspected by the Town.

J. Permits pursuant to a violation.

The Town will 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 §F. above;
2. 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;
3. Performed the abatement measures in the approved plan in accordance with all Town regulations; and
4. Unless an extension of time is approved by the Town because of adverse planting conditions, within 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.

K. Appeals.

An appeal to the Board of 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 Ordinance.

1. An appeal is taken by filing a written notice of appeal with the Board of Appeals in accordance with the provisions of the Ordinance and accompanied by the appropriate

filing fee.

2. An appeal must be filed within thirty (30) days after the date of the decision or order being appealed; and
3. An appeal stays all actions by the Town seeking enforcement or compliance with the order or decisions being appealed, unless the Town certifies to the Board of 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 a court on application of the party seeking the stay.

§ 80-43. The 100-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 for a minimum 100-foot Buffer as described in this section. The minimum 100-foot Buffer shall be delineated in the field and shall be shown on all applications as follows:

1. The minimum 100-foot Buffer is delineated 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. The Buffer shall be expanded beyond the minimum 100-foot Buffer as described in §A1 above and the minimum 200-foot Buffer as described in §A3 below, to include the following contiguous land features:
 - a. A steep slope at a rate of four feet for every one percent 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;
 - d. For an area of hydric soils or highly erodible soils, the lesser of:
 - (i) The landward edge of the hydric or highly erodible soils; or
 - (ii) Three hundred feet where the 300 foot expansion area includes the minimum 100-foot Buffer.
3. Applications for a subdivision or for a development activity on land located within the RCA requiring site plan approval after July 1, 2008 shall include:
 - a. An expanded Buffer in accordance with §A (2) above; or

- b. A Buffer of at least 200 feet from a tidal waterway or tidal wetlands; and a Buffer of at least 100-feet from a tributary stream, whichever is greater.
- 4. The provisions of §A (3) above do not apply if:
 - a. The application for subdivision or site plan approval was submitted before July 1, 2008, and were legally recorded (subdivisions) or received final site plan approval (site plans), by July 1, 2010;
 - b. The application involves the use of growth allocation.

B. Permitted activities.

If approved by the Town, disturbance to the Buffer is permitted for the following activities only

- 1. A new development or redevelopment activity associated with a water-dependent facility or located in an approved Buffer Management Area; or
- 2. A shore erosion control activity constructed in accordance with COMAR 26.24.02, COMAR 27.01.04, and this Ordinance;
- 3. A development or redevelopment activity approved in accordance with the variance provisions of this Ordinance;
- 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 or is expanded for a hydric soil and the expanded Buffer occupies at least 75% 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 new or replacement septic system on a local created before January 31, 1988, where:
 - a. The Health Department has determined that the Buffer is the only available location for the septic system; and
 - b. Mitigation is provided at a 1:1 ratio for the area of canopy cleared of any forest or developed woodland.

C. Buffer establishment in vegetation.

An applicant for a development activity, redevelopment activity or a change in land use that occurs outside the Buffer, but is located on a on a riparian lot or parcel that includes the minimum 100-

foot Buffer, shall establish the Buffer in vegetation if the Buffer is not fully forested or fully established in woody or wetland vegetation. A Buffer Management Plan in accordance with the standards of this §F is required.

1. The provisions of this section apply to:
 - a. Approval of a subdivision;
 - b. A lot or parcel that is converted from one land use to another;
 - c. Development or redevelopment on a lot or parcel created before January 1, 2010.
2. The provisions of this section do not apply to the in-kind replacement of a principal structure.
3. If a Buffer is not fully forested or fully established in woody or wetland vegetation, the Buffer shall be established through planting in accordance with COMAR 27.01.09.01-1.

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 section.

1. Authorized development activities may include a variance, subdivision, site plan, shore erosion control permit, building permit, grading permit, septic system approved by the Health Department on a lot created before January 31, 1988, and special exception.
2. All authorized development activities shall be mitigated for the area of disturbance in the Buffer based on the following type:
 - a. 1:1 for shore erosion control projects;
 - b. 2:1 for riparian water access;
 - c. 2:1 for development or redevelopment of water-dependent utilities;
 - d. 2:1 for public roads, bridges & utilities; and
 - e. 3:1 for any development activity authorized by variance;
 - f. 1:1 for a septic system in a forest or developed woodland on a lot created before January 31, 1988 if clearing is required;
 - g. 0 for a septic system on a lot created before January 31, 1988 if located in existing grass or if clearing is not required.
3. All unauthorized development activities in the Buffer shall be mitigated at a ratio of 4:1 for the area of disturbance in the Buffer.

4. Planting for mitigation shall be planted onsite within the Buffer. If mitigation planting cannot be located within the Buffer, 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.

E. Buffer Planting Standards.

- 1. An applicant that is required to plant the Buffer for Buffer establishment or Buffer mitigation shall apply the planting standards set forth in COMAR 27.01.09.01-2.
- 2. A variance to the planting and mitigation standards of this Ordinance is not permitted.

F. Required Submittal of Buffer Management Plans.

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

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

- 1. A Buffer Management Plan that includes planting for establishment shall be submitted with all other application materials clearly specifies the area to be planted and state if the applicant is:
 - a. Fully establishing the Buffer;
 - b. Partially establishing an area of the Buffer equal to the net increase in lot coverage, or
 - c. Partially establishing an area of the Buffer equal to the total lot coverage.
- 2. Any permit for development activity that requires Buffer establishment or Buffer mitigation will not be issued until the Town approves a Buffer Management Plan.
- 3. An applicant may not obtain final approval of a subdivision application until the Buffer Management Plan has been reviewed and approved by the Town.
- 4. The Town will not approve a Buffer Management Plan unless:
 - a. The plan clearly indicates that all planting standards under §E will be met; and
 - b. Appropriate measures are in place for the long-term protection and maintenance of all Buffer areas.

5. 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 implementation of a Buffer Management Plan; or
 - b. Provides financial assurance to cover the costs for:
 - (i) Materials and installation; and
 - (ii) 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.
6. Concurrent with recordation of a subdivision plat, an applicant shall record a protective easement for the Buffer.
7. If an applicant fails to implement a Buffer Management Plan, that failure shall constitute a violation of this Ordinance. A permit for development activity will not be issued for a property that has the violation.
8. An applicant shall post a subdivision with durable signs prior to final recordation in accordance with COMAR 27.01.09.01-2.
9. Buffer management plans that include natural regeneration shall follow the provisions of COMAR 27.01.09.01-4.

I. Fees-In-Lieu of Buffer Mitigation.

A fee in-lieu of mitigation will be collected if the planting requirements of the Buffer Management Plan 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 Millington's 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% 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;
 - b. For water quality and habitat enhancement projects as approved by the Critical Area Commission or by agreement between the Town and the Critical Area Commission.

J. Shore Erosion Control Projects.

Shore erosion control measures are permitted activities within the Buffer in accordance with the following requirements:

1. An applicant for a shore erosion control project that affects the Buffer in any way, including, but not limited to access, vegetation removal and pruning, or backfilling shall submit a Buffer Management Plan in accordance with the requirements of this section; and
2. Comply fully with all of the policies and criteria for a shore erosion control project stated in COMAR 27.01.04 and COMAR 26.24.06.01.

§ 80-44. Buffer Management Area (BMA) Provisions.

A. Development and Redevelopment Standards.

New development or redevelopment activities, including structures, roads, parking areas and other impervious surfaces 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 Planning Commission finds that efforts have been made to minimize Buffer impacts and the development complies 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 multi-family 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 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 the minimum setback for the zoning district or 25 feet, whichever is greater. 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 shoreward extent of intrusion into the Buffer. New development and redevelopment shall not be

located closer to the water (or the edge of tidal wetlands) than principal structures on adjacent properties or the minimum setback for the zoning district, whichever is greater. In no case shall new development or redevelopment be located less than 50 feet from the water (or the edge of tidal wetlands).

- b. 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 Planning Commission has determined there are no other locations for the structures. The area of new accessory structures shall not exceed 500 square feet within 50 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 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 100-foot 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 § (a) above, may use 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 §a or §b above shall pay into a fee-in-lieu program as follows:
 - (i) Applicants shall submit to the Planning Commission two cost estimates from qualified landscape businesses for planting the equivalent of twice the extent of the development within the 100-foot Buffer. The estimate shall include the cost of stock, planting, staking, mulching and a one year survival guarantee.
 - (ii) The Planning Commission shall determine the amount of the fee-in-lieu based on the average of the two estimates.

- 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 the Millington's Critical Area Program. 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 in the jurisdiction's quarterly reports.
- e. Any required mitigation or offset areas shall be protected from future development through an easement, development agreement, plat notes or other instrument approved by the Town and recorded among the land records of the County.

§ 80-45. Other Habitat Protection Areas.

A. Identification.

An applicant for a 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 includes:

- 1. Threatened or endangered species or species in need of conservation;
- 2. Colonial water bird 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 for a development activity proposed for a site within the Critical Area that is in or near a Habitat Protection Area listed above shall request 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 a Habitat Protection Area on or near 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 Resource.

3. 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.

§ 80-46. Environmental Impact Assessment (EIA)

A. Applicability

The Planning Commission, Board of Appeals or Mayor and Council 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 of Growth Allocation; or
5. An application of a variance other than for detached single family dwelling.

§ 80-47. Reserved

§ 80-48. Reserved

§ 80-49. Reserved

§ 80-50. Reserved

ARTICLE V GENERAL REGULATIONS

§ 80-51. Compliance required.

No building or land shall hereafter be used and no building or part thereof shall be erected, reconstructed, converted, enlarged, moved, or structurally altered unless in conformity with the regulations as set forth in this Zoning Ordinance.

§ 80-52. Encroachment; reduction of lot area.

The minimum yards, height limits, parking space and open spaces, including lot area per family, required by this Zoning Ordinance for each and every building existing at the time of the passage of these regulations or for any building hereafter erected shall not be encroached upon or considered as required yard or open space for any other building, except as hereinafter provided, nor shall any lot area or lot dimensions be reduced below the requirements of these regulations.

§ 80-53. Use of accessory buildings: construction of main building.

No accessory building shall be constructed upon a lot for more than six (6) months prior to beginning construction of the main building. No accessory building shall be used for more than six (6) months unless the main building on the lot is also being used or unless the main building is under construction.

§ 80-54. Availability of copies of other regulations.

Whenever reference is made in this Zoning Ordinance to any other Ordinance, chart, table, schedule, or regulation which itself is not copied herein, a copy of such Ordinance, chart, table, schedule or regulation shall be kept on file in the Town office and available for inspection and reference.

§ 80-55. Construction in special flood hazard areas.

- A. The following regulations are applicable to those areas determined to be special flood hazard areas by the Federal Insurance Administration of the Department of Housing and Urban Development and are shown on the flood hazard boundary maps available in the Town office of Millington.
- B. The authority and responsibility for implementation and enforcement of the floodplain regulations in the Town of Millington are vested in the County Commissioners of Queen Anne's County and of Kent County.
- C. All new construction, substantial improvements or major repairs to any building or structure in a flood hazard area must:
 - 1. Be anchored to prevent movement or collapse.
 - 2. Use flood-resistant materials or equipment.
 - 3. Use construction methods and practices to prevent flood damage.
 - 4. The lowest floor of new construction or substantial improvements must be located:
 - a. For residences, at least two (2) feet above the one-hundred-year flood level.

- b. For nonresidential buildings and structures at least two (2) feet above the one-hundred-year flood level or be flood proofed.
- D. In riverine areas:
 - 1. Designated floodways must be able to pass the one-hundred-year flow.
 - 2. No use will raise the one-hundred-year flood level more than one (1) foot.
 - 3. Encroachments in the floodway must be offset by channel improvements.
- E. In coastal high hazard areas:
 - 1. Nonconforming uses on land below the one-hundred-year level cannot be expanded.
 - 2. New structures or substantial improvements must:
 - a. Be located landward of mean high tide.
 - b. Be elevated above the one-hundred-year level and anchored to piles.
 - c. Have space below the lowest floor free of obstruction.

ARTICLE VI PERMISSIBLE USES

§ 80-56. Use of the Designations P, PC, SE and SC in the Table of Permissible Uses.

When used in connection with a particular use in the Table of Permissible Uses included in this Article, the letter "P" means that the use is permissible in the indicated zone with a zoning permit issued by the Planning Commission. When used in connection with a particular use in the Table of Permissible Uses, the letter "PC" means that the use is permissible in the indicated zone with a zoning permit issued by the Planning Commission provided the conditions stipulated in Article VIII of this Ordinance are met. The letters "SC" mean the conditions of approval stipulated in Article VIII of this Ordinance for the proposed use must be met and a special exception permit must be obtained from the Board of Appeals. The letters "SE" means a special exception permit must be obtained from the Board of Appeals.

§ 80-57. Unclassified Uses.

In the event an applicant wishes to use property for a use which is not specifically identified as a principal permitted use or a special exception use and where such use is not specifically prohibited from the district, the following provisions shall apply:

- A. The Town Administrator shall submit to the Board of Appeals a written request for a determination of the unclassified use.
- B. The Board of Appeals shall review the request as submitted and determine if the proposed use is of a similar character to the district in which it is proposed.
- C. If the Board of Appeals determines that the use is of a similar character and meets the intent of the

principal permitted uses within the district, then it shall instruct the Zoning Administrator to issue a zoning certificate.

- D. In the event that 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.
- E. In no event shall the provisions of this section be used to allow an incompatible use or a use specifically prohibited by this Ordinance within a certain district.
- F. This section shall not apply to the residential districts.
- G. Once a use has been allowed or disallowed by the Board, it shall then be considered classified under the appropriate category in the district.

§ 80-58. Board of Appeals Jurisdiction.

- A. Notwithstanding any other provisions of this article, whenever the Table of Permissible Uses (interpreted in the light of the applicable provisions contained in this article) provides that a use in a nonresidential zone or a nonconforming use in a residential zone is permissible with a zoning permit, a special-exception permit shall nevertheless be required if the Planning Commission finds that the proposed use would have an extraordinary impact on neighboring properties or the general public.
- B. In making this determination, the Planning Commission shall consider, among other factors, whether the use is proposed for an undeveloped or previously developed lot, whether the proposed use constitutes a change from one principal use classification to another, whether the use is proposed for a site that poses peculiar traffic or other hazards or difficulties, and whether the proposed use is substantially unique or is likely to have impacts that differ substantially from those presented by other uses that are permissible in the zoning district in question.

§ 80-59. Permissible Uses and Specific Exclusions.

- A. The presumption established by this Zoning Ordinance is that all legitimate uses of land in the Town are provided for within at least one zoning district in the Town's planning jurisdiction. Because the list of permissible uses set forth in the Table of Permissible Uses cannot be all inclusive, those uses that are listed shall be interpreted liberally to include other uses that have similar impacts to the listed uses.
- B. Notwithstanding Subsection A, all uses that are not listed in the Table of Permissible Uses, even given the liberal interpretation mandated by Subsection 1, are prohibited. Nor shall the Table of Permissible Uses be interpreted to allow a use in one zoning district when the use in question is more closely related to another specified use that is permissible in other zoning districts.
- C. No building or tract of land shall be devoted to any use other than a use permitted hereinafter in the zoning district in which such building or tract of land shall be located, with the exception of the following:
 - 1. Uses lawfully existing on the effective date of this Ordinance.

2. Special exceptions recommended by the Planning Commission and approved by the Board of Appeals.
- D. Uses lawfully existing on the effective date of this Ordinance and rendered non-conforming by the provisions thereof shall be subject to the regulations of Article XIII of this Zoning Ordinance.
- E. The following uses are specifically prohibited in all districts:
1. Any use that involves the manufacture, handling, sale, distribution, or storage of any highly combustible or explosive materials.
 2. Stockyards, slaughterhouses, rendering plants.
 3. Use of a travel trailer or accessory building as a temporary or permanent residence.
 4. Use of a motor vehicle parked on a lot as a structure in which, out of which, or from which any goods are sold or stored, any services are performed, or other business is conducted.
 5. Solid or hazardous waste collection or disposal facilities excluding approved waste water treatment facilities.
 6. Sanitary landfills.
 7. Adult oriented businesses, establishments providing adult entertainment or material, adult oriented commercial enterprises adult nightclub, bar, restaurant, or similar establishment adult bookstore; or massage parlor. See definitions.

§ 80-60. No More Than One Principal Structure 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 2 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 Ordinance:
1. Institutional buildings.
 2. Public or semi-public buildings.
 3. Multiple family dwellings.
 4. Commercial or industrial buildings.
 5. Additional principal structures in permitted mixed-use projects with the prior approval of the Planning Commission.
 6. Condominiums.

§ 80-61. Accessory Uses.

- A. The Table of Permissible Uses classifies different principal uses according to their different impacts. Whenever an activity (which may or may not be separately listed as a principal use in this table) is conducted in conjunction with another principal use and the former use (a) constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or (b) is commonly associated with the principal use and integrally related to it, then the former use may be regarded as accessory to the principal use and may be carried on underneath the umbrella of the permit issued for the principal use. For example, a swimming pool/tennis court complex is customarily associated with and integrally related to a residential subdivision or multi-family development and would be regarded as accessory to such principal uses, even though such facilities, if developed apart from a residential development, would require a separate permit.
- B. The following activities, so long as they satisfy the general criteria set forth above, are specifically regarded as accessory to residential principal uses:
 - 1. Offices or studios within an enclosed building and used by an occupant of a residence located on the same lot as such building to carry on administrative or artistic activities, so long as such activities do not fall within the definition of a home occupation.
 - 2. Hobbies or recreational activities of a noncommercial nature.
 - 3. Yard sales or garage sales, so long as such sales are not conducted on the same lot for more than three days (whether consecutive or not) during any 90-day period.
- C. The following activities shall not be regarded as accessory to a residential principal use and are prohibited in residential districts.
 - 1. Storage outside of a substantially enclosed structure of any motor vehicle that is neither licensed nor operational.
 - 2. Storage of more than two (2) recreation vehicles and/or boat and boat trailer requiring Maryland Registration on a residential lot.

§ 80-62. Permissible Uses Not Requiring Permits.

Notwithstanding any other provisions of this Zoning Ordinance or the Town Code, no zoning or special-exception permit is necessary for the following uses:

- A. Streets.
- B. Access driveways to an individual detached single-family dwelling.
- C. Electric power, telephone, telegraph, cable television, gas, water, and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way.
- D. Neighborhood Essential Services.

§ 80-63. Permissible Uses Tables.

- A. More specific use controls. Whenever a development could fall within more than one use classification in the Table of Permissible Uses, the classification that most closely and most specifically describes the development controls shall apply.
 - B. Permitted uses in the PN Planned Neighborhood Floating Zone are separately enumerated in Article IV, Part II.
 - C. Table of Permissible Uses (see following pages)
- LEGEND:
- P = Permitted Use
 - PC = Permitted Use with Conditions
 - SE = Special Exception Use
 - SC = Special Exception with Conditions

ZONING CLASSIFICATION	AG	R-1	R-2	R-3	TC	LI
USE DESCRIPTION						
AGRICULTURE						
Agriculture, including horticultural, hydroponics, general farming, orchards, groves, or nurseries for growing or propagation of plants, trees, and shrubs on properties of ten (10) acres or more, but not including feeding, housing, and maintaining of animals such as cattle, dairy cows, sheep, goats, hogs, horses, and poultry and handling their by-products.	P	PC	PC			PC
Aquaculture, including accessory processing and sales.	P					
Greenhouses, wholesale or retail	P					
Farm employee housing	SE					
RESIDENTIAL USES						
Detached single-family dwellings	P	P	P	P	P	
Two-family dwellings			PC	PC	PC	
Townhouses				PC	PC	
Multiple-family dwellings				PC	PC	
Bed and Breakfast establishments		PC		PC	PC	
Accessory apartment		SC				
LODGING						
Rooming, boarding, and lodging houses		SC	SC	SC		
Hotel, Motel					SC	
INSTITUTIONAL USE						
Cemeteries		PC				
Churches, temples, and synagogues		PC	PC	PC	PC	PC
Child care center		SC	SC	SC	SC	
Funeral homes		PC	PC	PC	PC	
Group Home		PC				
Government buildings and structures		SC	SC	SC		
Housing for the elderly, Nursing Home, Assisted Living Facility		SC	SC	SC		
Private clubs				SC	SC	

ZONING CLASSIFICATION	AG	R-1	R-2	R-3	TC	LI
USE DESCRIPTION						
Trade, artistic, or technical schools					SC	P
Schools and colleges, public and private		SC	SC	SC	SC	
RETAIL TRADE/COMMERCIAL/SERVICES USES						
Banks					P	
Business services					P	
Car wash.						SC
Computer programming and software services including data banks and data retrieval					P	P
Convenience Store					P	
Duplicating, mailing and copy services					P	P
Dry-cleaning and pressing pickup stations or shops.					SC	
Farm implement sales, service, rental and repair, but not salvage or junk						P
Food service establishments					P	
General offices					P	P
Health Services					P	
Lawn mower and yard and garden equipment sales, service, rental and repair.					SC	
Motor Vehicle and Related Services uses					SC	SC
Offices, general business and professional					P	
Personal services					P	
Parking garages and lots					P	
Private clubs, lodges, and meeting halls.					P	
Professional services					P	
Retail stores					P	
Radio and television stations and studios and recording studios, but not towers					P	
Schools for industrial training, trade, or business.					P	
Specialty shops					P	
RECREATION USE						
Billiard or pool parlors					P	

ZONING CLASSIFICATION	AG	R-1	R-2	R-3	TC	LI
USE DESCRIPTION						
Bowling alley					P	
Dance halls					P	
Golf Courses		PC				
Health clubs					P	P
Indoor model racing tracks and similar activities					P	
Recreational or entertainment establishments, commercial					P	
Recreational uses, non-commercial		PC	PC	PC	PC	
LIGHT INDUSTRIAL USES						
Bakery						P
Blacksmith shops, welding shops, ornamental iron works, and machinery shops						P
Bottling plants						P
Confectionery production						P
Contractors storage yards						P
Dry cleaning plants						P
Electroplating and manufacturing of small parts such as coils, condensers, transformers, and crystal holders						P
Utilities		SC	SC	SC	SC	SC
Food production, packaging, packing and canning						P
Fuel storage yards						P
Ice manufacturing and storage						P
Laundry plants and dry-cleaning establishments (combined operation)						P
Manufacturing of light sheet metal products						P
Manufacturing, compounding, assembling or treatment of articles from the previously prepared materials						P
Manufacturing, compounding, processing or packaging of cosmetics, drugs, perfumes, pharmaceuticals, toiletries and products resulting from biotechnical and biogenetic research and development						P
Manufacturing, fabrication and/or subassembly of aircraft or satellite parts, components, and						P

ZONING CLASSIFICATION	AG	R-1	R-2	R-3	TC	LI
USE DESCRIPTION						
equipment						
Manufacturing of musical instruments, toys, novelties, and rubber and metal stamps						P
Manufacturing of paint not employing a boiling or rendering process						P
Manufacturing of pottery and figurines or other products using previously pulverized clay and kilns fired only by electricity or gas						P
Manufacturing and assembly of electronic components, instruments, and devices						P
Manufacturing and assembly of machine parts, components, and equipment						P
Manufacturing and assembly of medical, scientific or technical instruments, devices and equipment						P
Manufacturing and assembly of mobile, modular, and manufactured homes						P
Manufacturing and assembly of semi-conductors, microchips, circuits, and circuit boards						P
Manufacturing of yeasts, molds, and other natural products necessary for medical and biotechnical research and development						P
Paper products manufacturing						P
Printing, publishing and engraving						P
Research, development, and related activities						P
Sawmills						P
Sign making shop						P
Stone works						P
Tinsmith and roofing services						P
Wood products manufacturing						P
Transportation, communication, and utilities uses						P
Cable communications system						P
Heliports						P
Pipelines						P
Radio and television broadcasting stations, towers, and accessory structures						P
Telephone offices, communication and telecommunication centers						P
Trucking terminals						P

ZONING CLASSIFICATION	AG	R-1	R-2	R-3	TC	LI
USE DESCRIPTION						
Commercial uses:						
General Merchandise						P
Construction Services						P
Lumberyards						P
Retail sales and personal services, dealing primarily with employees in the zone						P
Wholesale trades limited to sale or rental of products intended for industrial or commercial users						P
Animal boarding places						P
Laboratories						
Storage, outdoor						P
Warehousing and storage services including self-storage facilities						P
ACCESSORY USES						
Accessory storage structures with a floor area of more than 1,200 square feet or a height that exceeds 17 feet on parcels less than 5 acres	SE					
Accessory structures for sale or processing farm products raised on the premises on a farm of ten (10) acres or more.	P	P	P			
Accessory open or enclosed storage of farm materials, products or equipment on a farm of ten (10) acres or more.	P	P	P			
Accessory farm buildings, including barns, stables, shed, tool rooms, shops, bins, tanks and silos on a farm of ten (10) acres or more.	P	P	P		P	
Accessory boathouses, piers, and bulkheads		PC	PC	PC	PC	PC
Domestic storage		PC	PC	PC		
Private garage		PC	PC		PC	
Guest houses		P	P		P	
Home Occupation		PC	PC	PC		
Keeping of small animals, insects, reptiles, fish, or birds		PC	PC	PC		
Storage of a recreational vehicle and/or boat and boat trailer		PC	PC	PC		
Swimming pools		PC	PC	PC	PC	
Temporary buildings		PC	PC	PC	PC	PC

ZONING CLASSIFICATION	AG	R-1	R-2	R-3	TC	LI
USE DESCRIPTION						
Accessory off-street parking		PC	PC	PC		
Storage of office supplies or merchandise normally carried in stock in connection with a permitted office, business or commercial use.					P	
Storage of goods or materials used in or produced by permitted commercial and industrial uses and related activities subject to applicable district regulations.					P	P

ARTICLE VII DENSITY DIMENSIONAL REGULATIONS

§ 80-64. Minimum Lot Size.

- A. Subject to the exceptions listed below all lots shall have at least the amount of square footage indicated for the appropriate zoning district.
- B. If the owner of a lot 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 width of lots and lot area, the provisions of such lot-area-per-family and lot-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.

§ 80-65. Residential Density.

- A. Every lot developed for residential purposes shall have the minimum number of square feet of land area per dwelling unit as required by the Schedule of Zone Regulations. In determining the number of dwelling units permitted on a tract of land, fractions shall be rounded to the nearest whole number.

§ 80-66. Density on Lots Where Portion Dedicated to the Town.

- A. Subject to the other provisions of this section, if (1) any portion of a tract lies within an area designated on any officially adopted Town plan as part of a proposed public park, greenway, or bikeway, and (2) before the tract is developed, the owner of the tract, with the concurrence of the Town, dedicates that portion of the tract so designated, then when the remainder of the tract is developed for residential purposes, the permissible density at which the remainder may be developed shall be calculated in accordance with the provisions of this section.
- B. If the proposed use of the remainder is a single-family detached residential subdivision, then the minimum lot size and minimum setbacks in such subdivision may be reduced, as determined appropriate by the Planning Commission to achieve the development, and the permitted density shall be calculated by regarding the dedicated portion of the original lot as if it were still part of the lot proposed for development.
- C. If the proposed use of the remainder is a two-family or multi-family project, then the permissible density at which the remainder may be developed shall be calculated by regarding the dedicated portion of the original lot as if it were still part of the lot proposed for development.
- D. If the portion of the tract that remains after dedication as provided in Subsection A is divided in such a way that the resultant parcels are intended for future subdivision or development, then each of the resultant parcels shall be entitled to its pro rata share of the "density bonus" provided for in Subsections B. and C.

§ 80-67. Minimum Lot Widths.

- 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. The Schedule of Zone Regulations indicates minimum lot widths and depths that are recommended and are deemed presumptively to satisfy the standard set forth in Subsection A.
 - C. No lot created after the effective date of this Ordinance that is less than the recommended width shall be entitled to a variance from any building setback requirement.

§ 80-68. Building Setback Requirements.

- A. Subject to other provisions of this section, no portion of any building 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 this Section §80-69.
 1. If the lot or property line is not readily determinable (by reference to a recorded map, set irons, or other means), the setback shall be measured from the boundary line of any adjacent right-of-way. If the boundary line of the right-of-way is not readily determinable the setback shall be measured from the centerline of the right-of-way and half the width of the right-of-way shall be added to the minimum setback requirement.
 2. Whenever a lot abuts upon a public alley, the alley width may not be considered as a portion of the required yard.
 3. Where these regulations refer to side streets, the Zoning Administrator shall be guided by the pattern of development in the vicinity of the lot in question in determining which of two (2) streets is the side street.
 4. Every part of a required yard shall be open to the sky, except as authorized by this Ordinance and except ordinary projections of sills, belt courses, window air-conditioning units, chimneys, cornices and ornamental features which may project to a distance not to exceed twenty-four (24) inches into a required yard.

§ 80-69. Height, Area and Bulk requirements.

- A. Modification of height regulations.
 1. Except within an area defined as an Airport Approach Zone by the Federal Aviation Agency, the height limitations of this Zoning Ordinance shall not apply to belfries, chimneys, church spires, conveyors, cooling towers, elevator bulkheads, fire towers, public monuments, commercial radio and television towers less than one hundred twenty-five (125) feet in height, silos, smokestacks, tanks, and water towers and standpipes.
 2. Except within an area defined as an Airport Approach Zone by the Federal Aviation Agency, public, semipublic and public service buildings, hospitals, institutions and schools, when permitted in a district, may be erected to a height not exceeding sixty (60) feet, and churches and temples may be erected to a height not exceeding seventy-five (75) feet when the required side and rear yards are each increased by at least one (1) foot for each one (1) foot of additional building height above the height regulations for the district in which the building is located.

B. Lot area.

1. Requirements for lot area per family do not apply to dormitories, fraternities, sororities and other similar living quarters which are accessory to a permitted use and which have no cooking facilities in individual rooms or apartments.
2. Requirements for lot area per family do not apply to rental units in a hotel, motel, motor lodge or tourist home or to rooms in rooming, boarding or lodging housing.

C. Front yards.

1. Where an official line has been established for the future widening or opening of a street or major thoroughfare upon which a lot abuts, the depth of a front or side yard shall be measured from such official line to the nearest line of the building.
2. On through lots, the required front yard shall be provided on each street.
3. There shall be a front yard of at least fifteen (15) feet on the side street of a corner lot in any district: provided, however, that the buildable width of a lot of record at the time of passage of this Zoning Ordinance shall not be reduced to less than twenty-eight (28) feet.
4. Open, unenclosed porches, platforms or paved terraces not covered by a roof or canopy and which do not extend above the level of the first floor of the building may extend or project into the required front or side yard not more than six (6) feet.
5. Where twenty-five percent (25%) or more of the street frontage or where twenty-five percent (25%) or more of the street frontage within four hundred (400) feet of the property in question is improved with buildings that have a front yard (with a variation of six (6) feet or less) that is greater or less than the required front yard in the district, no building shall project beyond the average front yard so established; provided however, that a depth of front yard of more than fifty percent (50%) in excess of the depth of the required front yard in the district in which the lot is located shall not be required. Where forty percent (40%) or more of the street frontage is improved with buildings that have no front yard, no front yard shall be required for the remainder of the street frontage.

E. Side yards.

1. The minimum width of side yards for schools, libraries, churches, community houses and other public and semipublic buildings in residential districts shall be twenty-five (25) feet, except where a side yard is adjacent to a business or industrial district, in which case the width of that yard shall be as required in the Table of District Height, Area and Bulk Requirements for the district in which the building is located.

F. Corner visibility.

1. No sign, fence, wall, hedge, planting, or other obstruction to vision extending to a height in excess of three (3) feet above the established street grade shall be erected, planted or maintained within the area of a corner lot that is included between the lines of the intersecting streets and a straight line connecting them at points twenty (20) feet distant from the intersection of the street lines.

G. Accessory buildings and structures.

1. An ornamental fence or wall not more than three (3) feet in height may project into or enclose any required front or side yard to a depth from the street line equal to the required depth of the front yard. Ornamental fences or walls may project into or enclose other required yards, provided that such fences and walls do not exceed a height of six (6) feet.
2. Accessory buildings which are not a part of the main building, although they may be connected by an open breezeway, may be constructed in a rear yard, provided that such accessory building does not occupy more than thirty percent (30%) of the area of the required rear yard, and provided that it is not located closer than five (5) feet to the rear lot line nor closer than three (3) feet to a side lot line.
3. Filling station pumps and pump islands may occupy the required yards; provided, however, that they are not less than fifteen (15) feet from street lines.

H. Table of Height, Area and Bulk Requirements

Table of Height Area and Bulk Requirements

			Minimum Lot Requirements		Min. Lot Dimensions		Minimum Required Yards			
District	Maximum Height Feet	Stories	Lot Area per Family (sq. ft.)	Lot Area per Unit (sq. ft.)	Lot Width (ft.)	Lot Depth (ft.)	Front Yard Depth	Side Yard Width (ft.) 2 required	Width of Side Yards (ft.)	Rear Yard Depth (ft.)
AR	35	21/2	(1)	(1)	75	200	50	15	25	30
R-1	35	21/2	10,000	10,000	70	100	30	5	15	30
R-2	35	21/2	8,000	8,000	70	100	25	5	15	25
			2-family, 4,000 each (2)	4,000	40	100	30	1,2, or 21/2 Story: 8	20	25
R-3	40	3	1-family, 8,000	8,000	70	100	30	1,2, or 21/2 Story: 8	20	25
			2-family, 4,000 each (2)	4,000	40	100	30	1,2, or 21/2 Story: 8	20	25
			3-family, 4,000 each	8,000	80	100	30	3 story: 10	25	30
			4+ - family, 3,500 each	3,500	80	100	30	3 story: 10	25	30
			Townhouse, 3,500 each (2)	2,000	18	100	30	10	20	25
TC										
- Nonresidential	45	3	NA	NA	NA	NA			(3)	(3)
- Residential	For Dwellings: Same as R-2									
LI-1	45	3	NA	None	None	None	50	20	50	None (4)
(1) The maximum residential density permitted in the AR Agriculture District shall be one dwelling unit per 30 acres. The minimum lot size shall be ¾ of an acre. The maximum percentage of property in lots shall be ten (10) percent.										
(2) See additional regulations pertaining to two-family dwellings and townhouses.										
(3) There shall be a side yard not less than twenty (20) feet in width on the side of a lot adjoining a residential district and there shall be a rear yard not less than thirty (30) feet in depth on the rear side of a lot adjoining a residential district.										
(4) There shall be a rear yard not less than forty (40) feet in depth on the rear side of a lot adjoining a residential district.										

§ 80-70. Reserved

§ 80-71. Reserved

ARTICLE VIII SUPPLEMENTARY USE REGULATIONS

This Article contains regulations to specific uses that supplement the requirements found in other articles of this Ordinance. The following specific supplementary use regulations are applicable to both specific uses permitted by right and to uses permitted by special exception as indicated in Article VI and in the Table of Permissible Uses.

§ 80-72. Accessory Apartment.

The Board of Appeals may permit an accessory apartment as a special exception in the R-1 and R-2 districts subject to the following:

- A. The accessory apartment is second dwelling unit that is part of a one-family detached dwelling and is suitable for use as a complete living facility with provision within the facility for cooking, eating, sanitation and sleeping.
- B. Either the primary unit or accessory unit must be owner-occupied.
- C. No subdivision of property shall be allowed where a second unit has been established unless the subdivision meets all requirements of this Zoning Ordinance and the Millington Subdivision Regulations.
- D. The requirements of this Zoning Ordinance shall also apply to new owners of property where a second unit has been established if the property is sold. All conditions of the use permit, restrictive covenants, and other contractual agreements with the Town shall apply to the property and new owners.
- E. The accessory rental unit may be created only through an internal conversion of the existing living area, basement, or attic. An accessory rental unit may not be created through the conversion of an existing garage. Additional off-street parking is not required.
- F. Only one entrance to the house may be located on the front of the house, unless the house contained additional front doors before the conversion.
- G. The gross floor area of the second unit shall not exceed 500 square feet. An exception to this standard may be authorized upon finding that: the purpose of this Zoning Ordinance is served and strict compliance with the size limitation would require significant structural modifications that would not be required otherwise or adversely affect an historic or architecturally significant building located in the Community Design Overlay District.
- H. The applicant shall apply for a special exception use as defined in this Zoning Ordinance and the owner shall enter into an agreement with the Town, on a form approved by the Town Attorney, agreeing that the property will be owner-occupied.
- I. Owners receiving approvals for second units and establishing the use pursuant to this Zoning Ordinance shall also agree to reimburse the Town for costs of all necessary enforcement actions.
- J. The owner shall submit an agreement that will provide constructive notice to all future owners of the property, of the use and owner occupancy restrictions affecting the property. If owner

occupancy is not possible, the use will terminate, and the structure will be returned to its original condition to the satisfaction of the Administrator.

- K. Second units shall be subject to review after the first year and every two (2) years thereafter. It shall be the responsibility of the property owner to initiate the review and pay applicable fees. Violation of any of the provisions shall be basis for revocation of the use permit.

§ 80-73. Accessory Boathouses, Piers and Bulkheads.

- A. Accessory boathouses, piers and bulkheads are permitted in the all districts subject to the following regulations:
 - 1. A boathouse may not be used as a dwelling, guest house or servants' quarters unless specifically permitted by other sections of this Ordinance.
 - 2. The height of a boathouse shall not exceed twenty (20) feet above mean high water.
 - 3. No boathouse shall exceed twenty (20) feet in width or forty (40) feet in depth.
 - 4. No boathouse shall be built beyond the established bulkhead line or waterway line or closer than ten (10) feet to a side lot line.
 - 5. Boathouses and boat slips, together with other accessory buildings, may occupy no more than thirty-five percent (35%) of a required rear yard.
 - 6. Boat house must comply with the requirements of the CA Critical Area Overlay District.

§ 80-74. Accessory Off-Street Parking.

Accessory off-street parking for one (1) commercial vehicle of not more than one (1) ton's capacity and used by the occupant of a dwelling may be permitted R-1, R-2, R-3 and PN Districts.

§ 80-75. Bed and Breakfast Establishments.

Bed and breakfast establishments are permitted in the R-1, R-2, R-3 and PN Districts subject to the following:

- A. The facility shall operate in accordance with all State and local health and fire code requirements.
- B. Breakfast is the only meal that may be served to a transient visitor; and it must not be provided, for compensation, to any other nonresident of the dwelling unit.

§ 80-76. Car Wash.

The Board of Appeals may permit a car wash as a special exception use in the LI district subject to the following:

- A. The business shall be effectively screened from the view of any abutting land in a residential District or land proposed to be used for residential purposes.

- B. The subject property shall be of sufficient size to accommodate development of the type and scope proposed.
- C. Materials, textures, colors and designs of fences, walls, and screening shall be compatible with the on-site development, the adjacent properties and the neighborhood.
- D. Drive through lanes shall be marked with distinctive pavement markings and/or special striping, and shall not block exit or entry to off-street parking spaces otherwise required on the site.

§ 80-77. Cemeteries

Cemeteries may be permitted in the R-1 District subject to the following:

- A. A minimum parcel area of ten (10) acres for cemeteries shall be established, unless such uses are accessory to a house of worship.
- B. Structures used for interment (including mausoleums and vaults) shall be set back not less than eighty (80) feet from any road bounding the cemetery, and not less than fifty-five (55) feet from any other lot line.
- C. All graves or burial plots shall be set back not less than thirty (30) feet from any public road right-of-way and not less than fifty (50) feet from any adjacent lot line.
- D. The buffer areas created by the setbacks shall be suitably landscaped with trees and shrubs.
- E. Satisfactory arrangements must be made for perpetual maintenance of the cemetery.

§ 80-78. Child Care Center.

The Board of Appeals may permit a child care center as a special exception use in the R-1, R-2 and R-3 TC and PN districts subject to the following:

- A. Applicant shall meet the requirements of appropriate State and local agencies for child care.
- B. Applicant shall provide verification of qualifications to conduct the proposed use.
- C. The Planning Commission may prescribe specific conditions determined necessary to minimize effects of the use on neighboring properties given identification of concerns specific to a particular site.
- D. The facility shall operate in accordance with all State and local health and fire code requirements.

§ 80-79. Churches, Temples, and Synagogues.

Churches, temples and synagogues may be permitted in any district provided:

- A. Structures used primarily for religious activities may be erected to a greater height than permitted in the district in which it is located, provided that the front, side, and rear setbacks shall be increased one foot for each foot by which such structure exceeds the height limitation established for the District in which such structure is located.

- B. Structures erected after the date of passage of this Ordinance shall have their principal means of access from a major street and shall be located on a lot of at least two (2) acres in area.

§ 80-80. Dry-cleaning and Pressing Pickup Stations or Shops

The Board of Appeals may permit a dry-cleaning and pressing pickup stations or shop as a special exception use in the TC district subject to the following:

- A. The facility may not occupy more than two thousand five hundred (2,500) square feet of floor area.
- B. The facility may not use any cleaning fluid whose base is petroleum or one of its derivatives.

§ 80-81. Domestic Storage

Domestic storage in an accessory building or buildings is permitted provided the total square footage of which is not to exceed fifteen percent (15%) of the total area of the required rear yard for lots greater than five thousand square feet (5,000 sq. ft.) and twenty five percent (25%) of the total area of the required rear yard for lots smaller than five thousand square feet (5,000 sq. ft.).

§ 80-82. Funeral Homes.

Funeral homes may be permitted in the R-1, R-2, R-3, TC and PN districts provided the proposed use shall be located in a building which is residential in character and architectural style.

§ 80-83. Golf Courses.

Golf courses not lighted for night play and not including miniature golf courses, putting greens, driving ranges and similar activities operated as a business may be permitted in the R-1 and PN Districts provided:

- A. Any building for a golf shop, locker room and snack bar as an accessory use to a permitted golf course shall not be located closer than one hundred (100) feet to adjoining property lines.
- B. Practice greens and tees may accompany a standard nine-hole or eighteen-hole golf course occupying at least seventy-five (75) acres.
- C. Golf courses located in the CA District shall be developed in accordance with the guidance provided by the Critical Area Commission.

§ 80-84. Group Homes

The Board of Appeals may permit a group home as special exception uses in the R-1 district subject to the following:

- A. A statement shall be submitted by the applicant explaining the character of the facility, the program's policies, goals, means proposed to accomplish these goals, characteristics of the service population and number of residents to be served, operating methods and procedures, and any other aspects pertinent to the facility's program.

- B. All proposed accessory uses shall be identified and the maximum square footage allotted for each use shall be indicated on the site plan.
- C. Subject property shall have frontage on and direct vehicular access to an existing street with sufficient capacity to accommodate any traffic generated by the proposed use.
- D. Parking and loading shall be provided at the rear of the site.
- E. All trash and refuse shall be stored in a self-enclosed storage area at the rear of the site.
- F. The proposed site shall be of sufficient size to accommodate the use without adversely affecting adjacent land uses.
- G. The applicant shall meet the requirements of appropriate State and local agencies for group homes.
- H. The total number of residents and supervisors shall not exceed eight (8) persons.
- I. The facility shall operate in accordance with all State and local health and fire code requirements.

§ 80-85. Home Occupation.

A home occupation which is clearly subordinate to the residential use of the dwelling is permitted in the R-1, R-2, R-3 and PN Districts subject to the following provisions:

- A. A home occupation shall be incidental to the use of a dwelling unit for residential purposes and shall be conducted only by members of the family residing in the dwelling unit, plus no more than one non-resident assistant or employee. No more than fifteen percent (15%) of the floor area of the dwelling unit may be used in connection with a home occupation or for storage purposes in connection with a home occupation.
- B. No more than one home occupation shall be permitted within any single dwelling unit.
- C. A home occupation shall be carried on wholly within the principal building. No home occupation shall be allowed in accessory buildings or detached garages. There shall be no outdoor storage of materials or products on the premises.
- D. There shall not be conducted on the premises the business of selling stocks or merchandise, supplies, or products, except that orders previously made by telephone or at a sales party may be filled on the premises. That is, direct sales of products off display shelves or racks are not allowed, but a person may pick up an order placed earlier as directed above.
- E. The home occupation shall not cause any significant effect associated with the home occupation, such as increased noise, excessive lighting, or offensive odor, which is incompatible with the gases into the sewer system or any other manner of discharging such item in violation of any applicable government code.
- F. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.

- G. A home occupation shall limit any external evidence of an occupation to one identification sign not to exceed two (2) square feet in area.

§ 80-86. Hotel/Motel

The Board of Appeals may permit hotel or motel as special exception uses in the TC district subject to the following:

- A. The applicant shall site new structures to ensure that adjacent properties have visual privacy and sunlight as well as protection from the new development's site illumination, noise, and odor, as applicable.
- B. The applicant shall design structures to complement and contribute to a desirable community character in terms of shape and style, roof lines, color, and materials.
- C. Circulation and parking shall be adequate to fulfill requirements of all proposed uses - principal and accessory. The Board may require a traffic analysis provided by the applicant demonstrating adequacy of the system.
- D. The applicant shall design and site structures to screen from public view unsightly elements such as shipping and loading areas, transformers, dumpsters, and meters.
- E. The applicant shall design the structure roof to screen mechanical equipment from public view and to contribute to an attractive streetscape.
- G. The applicant shall develop the public streetscape between the structure and the street curb as a safe and convenient pedestrian way with attractive amenities such as paving, lighting, seating, shelter, and landscaping.
- H. The applicant shall design fences and retaining walls that are consistent in materials and quality to that of the structure and the adjacent properties.
- J. The applicant shall design and locate signs so that their illumination is directed away from adjacent neighbors.
- J. The applicant shall integrate ground signs into the design of the site and the streetscape.

§ 80-87. Housing for the Elderly and Nursing Home, Assisted Living Facility

The Board of Appeals may permit housing for the elderly or a nursing home or an assisted living facility as a special exception in the R-1, R-2, R-3 and PN Districts subject to the following:

- A. The development must be subject to management or other legal restrictions that require at least eighty (80%) of the units in the project to be occupied by households of persons aged 62 or over.
- B. One or more of the following ancillary, occasional services may be included to serve the residents and possibly nonresident elderly persons:

1. Provision for on-site meal service, medical or therapy facilities;
 2. Space for mobile services, nursing care, personal care services;
 3. Day care for elderly; and
 4. On-site facilities for recreation, hobbies, or similar activities.
- C. The project shall be designed to provide a transition near the periphery of the site, either with open space areas and landscaping, or by designing the structures near the periphery to be harmonious in density and type with the surrounding neighborhood.
- D. Open space areas, recreational facilities, and other accessory facilities shall be developed in each phase of development to meet the needs of the residents. The developer shall provide a schedule for the installation of facilities at the time the project is submitted.
- E. The height, area, and bulk requirements of the R-2 District shall apply.

§ 80-88. Keeping of Small Animals.

Keeping of small animals, insects, reptiles, fish, or birds, but only for personal enjoyment or household use and not as a business is permitted in R-1, R-2, R-3 TC and PN Districts. This provision does not include poultry, other edible fowl, or swine.

§ 80-89. Lawn Mower and Yard and Garden Equipment Sales, Service, Rental or Repair.

The Board of Appeals may permit lawn mower and yard and garden equipment sales, service, rental or repair as a special exception in the TC Districts provided facilities are located in a completely enclosed building.

§ 80-90. Motor Vehicles and Related Services.

The Board of Appeals may permit motor vehicles and related services as a special exception in the TC district subject to the following:

- A. All sales and installation facilities operations shall be conducted within a wholly enclosed structure.
- B. Outdoor display of motor vehicles for sale shall be permitted if areas for this purpose are integrated into the overall site design and are compatible with the adjacent and neighboring properties.
- C. Applicant shall submit a plan indicating outdoor storage areas and screening of such areas. The Board may require additional landscape treatment to address this requirement. Neighboring properties shall be protected from site illumination, noise, and odor.
- D. The applicant shall design structures to complement and contribute to desirable community character in terms of shape and style, roof lines, color and materials.

- E. The applicant shall design and site structures to screen from public view unsightly site elements such as shipping and loading areas, car storage areas, dumpsters, etc.
- F. Pollutant and waste disposal shall be carried out in compliance with applicable Town, State, and Federal regulations.
- G. Where a residential use abuts, buffering shall be provided by the applicant.
- H. Outdoor storage of vehicles, tires, and equipment and the erection or location of accessory structures on the premises shall be prohibited unless approved by the Planning Commission.
- I. The storage of trailers, boats, or trucks shall be prohibited.
- J. Any outdoor storage or refuse area approved shall be fenced and screened from adjacent property.
- K. Materials, textures, colors, and designs of fences, walls and screening shall be compatible with the on-site development, the adjacent properties, and the neighborhood.
- L. Major repair work such as motor replacement, body and fender repair, or spray painting shall be prohibited.
- M. Lighting shall be arranged so as not to reflect or cause glare into any residential district.

§ 80-91. Private Garage.

A private garage used for storage purposes only is permitted in the R-1, R-2 and PN Districts provided:

- A. The garage shall have a capacity of not more than four (4) automobiles or not more than two (2) automobiles per family housed in the building to which the garage is accessory, whichever is the greater.
- B. Space therein may be used for not more than one (1) commercial vehicle of not more than one-ton capacity and space may be rented for not more than two (2) vehicles to persons other than occupants of the buildings to which such a garage is accessory.

§ 80-92. Recreational Uses.

Recreational uses such as tennis courts, swimming pools, and other similar activities operated exclusively for the use of private membership and not for commercial purposes may be permitted in all districts except the AR and LI districts provided:

- A. No such use, structure or accessory use is located closer than fifty (50) feet to any adjoining property line unless such property line fronts on a public street or waterway with a right-of-way not less than twenty-five (25) feet, in which instance the required setback need not exceed twenty-five (25) feet; and
- B. All such facilities must be located on a site having a minimum of five (5) acres.

§ 80-93. Rooming, Boarding, and Lodging Houses.

The Board of Appeals may permit rooming, boarding, and lodging houses as a special exception in the R-1, R-2, R-3 and PN Districts provided:

- A. Facilities for dining shall be in a common location customarily used by a single family in the structure. No separate kitchen shall be provided. Meals shall be provided for rooming house guests and residents only.
- B. Parking and loading shall be provided at the rear of the site.
- C. The Board must find that the rooming or boarding house will not constitute a nuisance because of sidewalk or street traffic, noise, or type of physical activity, and that the use will not tend to affect adversely the use and development of adjoining properties in the immediate neighborhood.
- D. The facility may contain no more than five sleeping rooms.

§ 80-94. Schools and Colleges, Public and Private.

The Board of Appeals may permit public and private schools and colleges as a special exception in the R-1, R-2, R-3, PN and TC districts provided:

- A. The allowable number of pupils permitted to occupy the premises at any one time shall be specified by the Board upon consideration of the following factors:
 - 1. Traffic patterns, including the impact of increased traffic on residential streets.
 - 2. Noise or type of physical activity.
 - 3. Character, percentage and density of existing development and zoning within the community.

§ 80-95. Storage of a Boat, Boat Trailer and Recreational Vehicle.

Storage of no more than two (2) recreational vehicles, boats, or boat trailers is permitted in the R-1, R-2, R-3 and PN Districts provide:

- A. The combined total of recreational vehicles and boat and boat trailer shall not exceed two (2);
- B. The boat has a current Maryland boat registration;
- C. Storage may not be in a front yard; and
- D. None of the equipment may be used for human habitation.

§ 80-96. Swimming Pools and Game Courts.

Swimming pools and game courts, lighted or unlighted, for use of occupants or their guests may be permitted in the any district except the LI district provided:

- A. Accessory swimming pools, open and unenclosed, and game courts may occupy a required rear or side yard, provided that they are not located closer than six (6) feet to a rear lot line or ten (10) feet to an interior side lot line.
- B. A walk space at least three (3) feet wide shall be provided between pool walls and protective fences or barrier walls.
- C. Every swimming pool shall be protected by a forty-eight inch high safety fence or barrier including automatic closing gates subject to approved by the Administrator.

§ 80-97. Temporary Buildings.

Temporary buildings, the use of which is incidental to construction, operations for sale of lots during development being conducted on the same or adjoining tract or subdivision may be permitted in any district provided such buildings shall be removed upon completion or abandonment of such construction.

§ 80-98. Two-family Dwellings, Townhouses and Multi-family Units.

- A. The following regulations shall apply to two-family dwellings in any district where permitted:
 - 1. Each dwelling unit of a two-family dwelling must comply with the minimum lot area per dwelling unit specified in the Table of District Height, Area and Bulk Requirements §80-69 .
 - 2. The dwelling units and individual lots of a two-family dwelling or townhouse may be sold separately if separate utility systems are provided and if separate lots for all dwelling units in a building are created at the same time and in conformance with the applicable regulations and standards governing the subdivision of land.
- B. The following regulations shall apply to townhouses in any district where permitted:
 - 1. The townhouse building shall comply with minimum lot requirements contained in the §80-69, Table of District Height, Area and Bulk Requirements, but each dwelling unit of a townhouse need not be located on a lot complying with minimum lot area and lot area per family requirements in the table, provided that the average for all dwelling units in the building equals or exceeds the minimum requirements, and provided that no lot is created with lot area less than two thousand (2,000) square feet.
 - 2. Lot frontage, measured at a building line, for individual dwelling units of a townhouse may be reduced to not less than eighteen (18) feet. Lot width for end units shall be adequate to provide required front and side yards.
 - 3. For the purpose of the side yard regulations, a townhouse building shall be considered as one (1) building on one (1) lot, with side yards required for end units only, in accordance

with §80-69, Table of District Height, Area and Bulk Requirements. Any side yard adjacent to the line of a lot occupied by a detached single-family dwelling or a lot in a single-family residential district shall not be less than twenty-five (25) feet.

4. Unless otherwise restricted by district regulations, not more than six (6) dwelling units shall be included in any one (1) townhouse building.
 5. The facades of dwelling units in a townhouse shall be varied by changed front yards of not less than three (3) feet and variation in materials or design, so that no more than three (3) abutting units will have the same front yard depth or the same or essentially the same architectural treatment of facades and rooflines.
 6. Provision satisfactory to the Mayor and Council and approved by the Town Attorney shall be made to assure that nonpublic areas for the common use and enjoyment of occupants of townhouses, but not in individual ownership by such occupants shall be maintained in a satisfactory manner without expense to the general public.
- C. Apartments and other multi-family residential units shall be permitted in the R-3, TC and PN districts provided:
1. Maximum density. The density shall not exceed the maximum permitted density for the Zoning District as averaged for the total area.
 2. Code requirements. All structures will comply with all Town, County and State codes.
 3. Setbacks.
 - (a) PN District - All buildings and structures shall be set back according to an approved site plan.
 - (b) TC District - Buildings and structures shall have a minimum front set back according to the prevailing front yard characteristics in the areas, as determined by the Planning Commission.
 - (c) The minimum setback between any two principal buildings on the same lot shall be twenty-five (25) feet.
 4. Area to be landscaped. All lot area not occupied by principal and accessory structures, required off-street parking and loading, access and circulation facilities, or other required areas shall be landscaped by lawns, trees, shrubs, ground cover, and other appropriate materials.

§ 80-99. Utilities.

The Board of Appeals may permit utilities, other than neighborhood essential services, as a special exception in any district provided:

- A. The proposed use does not have an adverse effect on the Comprehensive Plan for development of the community.

- B. The proposed use will not affect adversely the health and safety of residents or workers in the area.
- C. There is a public necessity for the proposed building, structure, or facility at the location selected.
- D. The proposed use will have the least possible detrimental effect to the use or development of adjacent properties or the general neighborhood.
- E. In making these findings, the Board shall consider the following factors, and such other factors as the Board may find to be necessary or important to effectuate its review:
 - 1. Points at which the proposed utility crosses heavily traveled highways or streets, or other arteries of transportation, either existing or proposed;
 - 2. Proximity of the utility to schools, churches, theaters, or other places of assembly, either existing or proposed;
 - 3. Effect upon property values of those who will not be compensated for a taking under the laws of the State; and
- 4. Proximity of the utility to historic sites and structures.

§ 80-100 thru § 80-110. Reserved

ARTICLE IX GENERAL SIGN REGULATIONS

§ 80-111. Statement of intent.

The purpose of this section is to establish minimum regulations for the design and display of signs and to ensure that signage promotes the safety of persons and property, promotes the efficient transfer of general public and commercial information, and protects the public welfare by enhancing the overall appearance and economic value of the community.

§ 80-112. Definitions.

The purpose of this Section is to define certain terms and words pertaining to signs.

ABANDONED SIGN - A permitted sign which was erected on property in conjunction with a particular use which use has been discontinued for a period of thirty days or more, or a permitted temporary sign for which the permit has expired.

ACCESSORY SIGN - A sign relating only to uses of the premises on which the sign is located or products sold on the premises on which the sign is located or indicating the name or address of a building or the occupants or management of a building on the premises where the sign is located.

BANNERS, FLAGS, PENNANTS, AND BALLOONS - Any animated, rotating, fluttering, or non-stationary device made of flexible materials designed to attract attention.

DETACHED SIGN - A sign not attached to or painted on a building, but which is affixed to the ground. A sign attached to a flat surface, such as a fence or wall not a part of a building, shall be considered a detached sign.

DOUBLE-FACED SIGN - A sign with two faces, back to back, which are usually, but not necessarily, parallel, and located not more than 24 inches from each other.

EXISTING SIGN - Any sign that was erected, mounted, or displayed prior to the adoption of this Zoning Ordinance.

FACADE - The entire building wall, including parapet, fascia, windows, doors, canopy, and roof on any street-facing elevation.

FLASHING SIGN - An illuminated sign on which the artificial or reflecting light is not maintained stationary and constant in intensity and color all times when in use. Any sign that revolves or moves, whether illuminated or not, shall be considered a flashing sign.

FLAT SIGN - A sign affixed directly to or painted on or otherwise inscribed on an exterior wall and confined within the limits thereof of any building and which projects from that surface less than 18 (eighteen) inches at all points.

ILLUMINATED SIGN - Any sign designed to give forth artificial light, reflect light from another source, or back-lighted by spot lights or flood lights not a part of or attached to the sign itself.

INDIRECTLY ILLUMINATED SIGN - A sign which does not produce artificial light from within itself but which is opaque and back lighted or illuminated by spotlights or floodlights not a part of or attached to the sign itself or a sign of translucent nontransparent material illuminated from within but with no exposed or exterior bulbs, tubes or other light source.

MARQUEE - A covered structure projecting from and supported by the building, with independent roof and drainage provisions, and which is erected over a doorway or doorways as protection against the weather.

MARQUEE SIGN - Any sign attached to or hung from a marquee.

MURAL SIGN - An expression of public art painted directly on the exterior of a building or on a backing that is affixed to the building and is sanctioned by the property owner.

NONCONFORMING SIGN - Any sign which has a valid permit, was erected or displayed prior to the effective date of this Article or any subsequent amendment hereto, and does not conform with the provisions of this Article.

PORTABLE SIGN - Any sign which is not permanently affixed to a building, structure, or the ground, or which is attached to a mobile vehicle.

PROJECTING SIGN - A sign, other than a wall sign, which projects from and is supported by a wall of a building or structure. The term projecting sign includes a marquee sign.

SEASONAL/HOLIDAY SIGN - A sign, used for emphasizing the celebration of a local or historic American holiday, which is erected for a limited period of time.

SIGN - Any letters, figures, design, symbol, trademark, or illuminating device intended to attract attention to any place, subject, person, firm, corporation, public performance, or merchandise, whatsoever for advertisement, announcement, identification, description, or direction purposes. However, this shall not include any official court or public notices nor the flag, emblem or insignia of a government, school, or religious group when displayed for official purposes.

SIGN AREA - That area within a line including the outer extremities of letters, fixtures, characters, and delineations, or within a line including the outer extremities of the framework or background of the sign, whichever line includes the larger area. The support for the sign, whether it is columns, a pylon, or a building or part thereof, shall not be included in a computation of sign area. Only one side of a double-faced sign shall be included in a computation of sign area. The area of a cylindrical sign shall be computed by multiplying one-half of the circumference by height of the sign.

TEMPORARY SIGN - Any sign or information transmitting structure intended to be erected or displayed for a limited period.

WINDOW SIGN - Any sign which is painted on, applied to, attached to, or projected upon or within the exterior or interior of a building glass area, including doors, or located within a distance equal to the greatest dimension of the window if obviously intended for viewing from the exterior.

WINDOW SIGN, TEMPORARY - A window sign of a temporary nature used to direct attention to the sale of merchandise, or a change in the status of the business, including, but not limited to, sign for sales, specials, going out of business, and grand openings.

§ 80-113. Requirements.

A. General

1. No sign shall be erected, hung, placed, constructed, posted, altered, maintained, relocated or painted in any District except as hereby provided and included in the approved Master Sign Plan.
2. No sign shall be erected, hung, affixed, painted, or otherwise displayed or altered unless a permit has been issued by the Administrator.
3. Any sign existing as of the effective date of this Article which does not have a valid permit from the Town is deemed to be an illegal sign.
4. Every sign shall have good scale and proportion in its design and in its visual relationship to buildings and surroundings.
5. Every sign shall be designed as an integral architectural element of the building and site to which it principally relates.
6. The colors, materials, and lighting of every sign shall be restrained and harmonious with the building and site to which it principally relates.
7. The number of graphic elements on a sign shall be held to the minimum needed to convey the sign's major message and shall be composed in proportion to the sign face.
8. Each sign shall be compatible with the signs on adjoining premises and shall not compete for attention.
9. Identification signs of a prototype design and corporation logos shall conform to the criteria for all other signs.

B. Notwithstanding any other provision of these regulations, no signs visible from the main-traveled way of the public travel ways, which have any of the following characteristics shall be erected or maintained:

1. Signs advertising activities that are illegal under state or federal laws or regulations in effect at the location of such signs or at the location of such activities.
2. Illegal, destroyed, abandoned, or discontinued signs.
3. Signs that are not clean and in good repair.
4. Signs that are not securely affixed to a substantial structure.
5. Signs which attempt or appear to attempt to direct the movement of traffic or which interfere with, imitate, or resemble any official traffic sign, signal or device.
6. Signs which prevent the driver of a vehicle from having a clear and unobstructed view of

at-grade intersections, approaching or merging traffic, official traffic control signs, or other traffic control devices.

7. Signs which have, lasers, strobe lights, or other lights with stroboscopic effect.
8. Signs which use any lighting in any way unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled ways of the highway or is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle.
9. Signs which are erected or maintained upon trees, power poles or painted or drawn upon rocks or other natural features.
10. Balloons, searchlights, clusters of flags, strings of twirlers or propellers, flares, and other displays of a carnival nature; except as architectural features, or on a limited basis as seasonal decorations or grand opening displays, or the following other exceptions:
 - a. Flags of the United States, the state, the Town, foreign nations having diplomatic relations with the United States, and any other flag adopted or sanctioned by the Mayor and Council, provided that such a flag shall not exceed sixty (60) square feet in area and shall not be flown from a pole the top of which is more than forty (40) feet in height. These flags must be flown in accordance with protocol established by the Congress of the United States for the Stars and Stripes. Any flag not meeting any one or more of these conditions shall be considered a banner sign and shall be subject to regulation as such, and

C. Nonconforming Signs

1. Any sign existing as of the effective date of this Article which has a valid permit from the Town but which does not conform to the provisions of this Article, is hereby deemed a nonconforming sign.
2. A nonconforming sign may be maintained only by painting or refinishing the surface of the sign face or sign structure so as to keep the appearance of the sign as it was when the prior permit was issued.
3. Nonconforming signs which are structurally altered, relocated, or replaced shall comply with all provisions of this ordinance.
4. Upon a determination by the Administrator and notice to the permittee that a nonconforming sign has become dilapidated or structurally unsound, such sign shall be removed within thirty days.
5. All signs deemed nonconforming shall be removed or replaced with legal signs within five (5) years of the effective date of this Article.

D. Exemptions

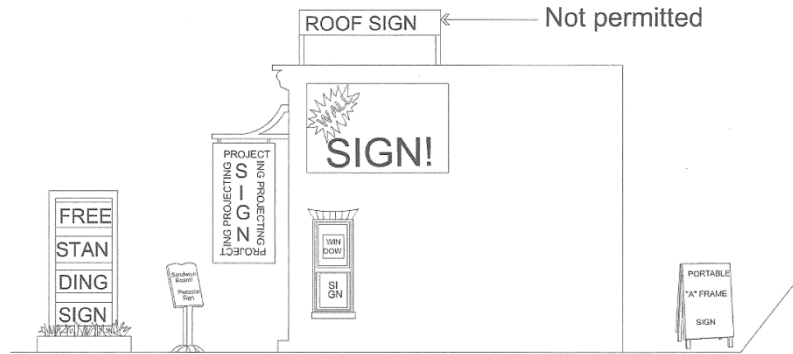
The following signs are exempted from the provisions of these regulations and may be erected or

constructed without a permit, so long as they are in accordance with the structural and safety requirements of the applicable codes:

1. Public signs of a non-commercial nature and in the public interest, erected by, or on the order of a public official such as safety signs, danger signs, trespassing, traffic, memorial plaques, signs of historic interest, civic events, and the like.
2. Institutional signs setting forth the name or simple announcement for any public charitable, educational, or religious institution, located entirely on the premises of that institution, up to an area of fifteen (15) square feet.
3. Temporary, non-illuminated signs not more than ten (10) square feet in area, erected in connection with new construction work and displayed on the premises during such time as the actual construction work is in progress, one (1) such sign for each street frontage.
4. Changing of the copy on a bulletin board, poster board, display encasement or marquee.
5. Temporary non-illuminated signs, not more than six (6) square feet in area, advertising real estate for sale or lease or announcing contemplated improvements of real estate and located on the premises, one (1) such sign for each street frontage.
6. Non-illuminated signs, not exceeding ten (10) square feet in area with letters not exceeding one (1) foot in height, painted, stamped, perforated or stitched on the surface area of an awning, canopy, roller curtain or umbrella.
7. Non-illuminated signs warning trespassers or announcing property as posted.
8. Sign on a truck, bus, or other vehicle while in use in the normal course of business. This section should not be interpreted to permit parking for display purposes of a vehicle to which signs are attached in a district where such signs are not permitted.
9. Signs of political parties and candidates seeking public office; provided that such signs are installed and removed in accordance with Maryland law governing political signs.

SIGN REQUIREMENTS

Sign Types:

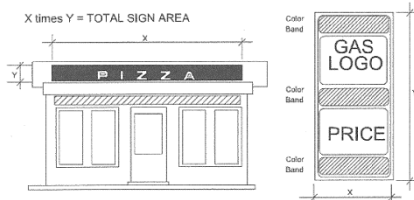


Sign Design

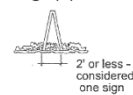
- Good scale and proportion
- Design as integral part of architecture
- Color, materials and lighting restrained
- Graphic elements held to minimum
- Compatible with adjoining premises
- Prototype signs comply with criteria of all signs



Sign Area Computation



Free-Standing Sign(s)



Sign Area - That area enclosed by the periphery connecting the extreme points or edges of a sign. The area shall be determined using the largest sign area or silhouette visible at any one time from any one point. This area does not include the main supporting sign structure, but all other ornamental attachments, inner connecting lines, etc., which are not part of the main supports of the sign are to be included in determining sign area. On a two-sided sign, only one face is counted in computing the sign's area provided the faces are located not more than two (2) feet from each other.

§80-114. Master Signage Plan.

1. A master signage plan shall be required for all commercial businesses, proposed shopping centers, industrial park, institutional or industrial development. No permit shall be issued for an individual sign requirement a permit unless and until a Master Signage Plan has been approved by the Planning Committee.
2. Information required. 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 Administrator may reasonably require.
 - b. Location of buildings, parking lots, driveways, and landscaped areas;
 - c. Computation of the maximum total sign area, the maximum area for individual signs, the height of signs and the number of freestanding signs and banners allowed on the zone lot(s) included in the plan;
 - d. Sign plans and, if requested, 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 future sign of any type, whether requiring a permit or not, except that incidental signs need not be shown.
3. Proposed standards for consistency among all signs affected by the Master Signage Plan with regard to:
 - a. Color scheme;
 - b. Lettering or graphic style;
 - c. Lighting;
 - d. Location of each sign on the buildings;
 - e. Material; and
 - f. Sign proportions.
4. No sign permit shall be issued for a sign included in a master signage plan that does not conform to the standards of the master signage plan. A master signage plan may be amended at any time.
5. The following principles shall control the computation of sign area and sign height.
 - a. Computation of area of individual signs. The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.
 - b. Computation of area of multi-faced signs. The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.
 - c. Computation of height. The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of (1) existing grade prior to construction or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably

be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zone lot, whichever is lower.

§ 80-115. Permitted signs.

- A. Except as otherwise provided, these regulations shall be interpreted to permit signs as approved by the Master Sign Plan.
- B. The following signs are permitted in any district:
 - 1. One name plate, limited in area to two (2) square feet, to identify the owner or occupant of a dwelling or building.
 - 2. One sign, limited in area to two (2) square feet, to identify a permitted home occupation.
 - 3. No trespassing or no hunting signs, without limitation on number or placement, limited in area to two (2) square feet.
 - 4. Directional signs, limited in area to two (2) square feet.
 - 5. One sign, limited in area to ten (10) square feet to identify a farm or approved subdivision.
 - 6. One sign, limited in area to twenty (20) square feet, advertising products raised on the premises.
- C. The following signs are permitted in association with certain public and semipublic uses:
 - 1. A customary church bulletin board, limited in area to twenty (20) square feet.
 - 2. A sign, limited in area to twenty (20) square feet, for identification of permitted public and semipublic uses, recreational uses, or clubs.
- D. The following signs are permitted in association with multi-family dwellings:
 - 1. A sign, limited in area to ten (10) square feet, giving the name and/or address of the owner or management of a multiple-family dwelling or group of multiple-family dwellings. If such sign is placed on a marquee, awning or canopy, the height of letters shall not exceed one (1) foot.
- E. The following signs and amounts of signage are permitted in the TC Town Center District:
 - 1. Flat signs with total aggregate sign area not more than ten percent (10%) of the area of walls fronting on a street, and no one (1) sign with sign area of more than thirty (30) square feet.
 - 2. Projecting signs, if there are no marquee or detached signs, one (1) for each business on the premises, with sign area limited to fifteen (16) square feet.

3. Detached signs, if there are no projecting signs, limited in area to thirty (30) square feet and limited in height to fifteen (15) feet, one (1) for each business on the premises. A group of three (3) or more contiguous stores, such as those forming a shopping center, may combine permitted detached sign area to provide a single sign advertising the group if there are no other detached signs advertising the group and if the combined sign area does not exceed sixty (60) square feet.
 4. Marquee signs, if there are no projecting signs, two (2) for each business on the premises, with sign area for each sign limited to three (3) square feet.
 5. Directional signs, limited in area to two (2) square feet, giving directions to motorists regarding the location of parking areas and access drives, shall be permitted as accessory signs and not included in any computation of sign area.
- F. The following signs and amounts of signage are permitted in the LI Light Industrial District:
1. For permitted business and commercial uses, any sign permitted in the TC Town Center District.
 2. For permitted manufacturing, processing, storage or distributing use, any sign permitted in the TC Town Center, with permitted area of flat signs increased to one hundred: (100) square feet, one (1) for each street frontage or one (1) for each building of more than twenty thousand (20,000) square feet of floor area on the premises, and with permitted area of directional signs increased to ten (10) square feet.

§ 80-116. Height and placement restrictions.

- A. Except as otherwise provided, any sign may be a flat, detached or projecting sign, and, except as otherwise provided, no detached sign shall exceed a height of fifteen (15) feet.
- B. Signs of permitted types and sign area may be placed on walls of buildings other than the front except on side or rear walls facing and within one hundred (100) feet of a residential district.
- C. Unless otherwise specified in these regulations, all signs shall comply with the yard requirements of the district in which they are located, provided that one (1) accessory sign may occupy required yards in a district where such sign is permitted by these regulations if such sign is not more than thirty (30) square feet in area and other requirements of these regulations are complied with.
- D. No sign, portable or otherwise, is to be placed or located to conflict with the vision clearance or other requirements of applicable traffic ordinances.
- E. No signs shall be attached to trees, utility poles or any other unapproved supporting structure.

§ 80-117. Reserved.

§ 80-118. Temporary permits.

- A. The Administrator, upon application may issue temporary permits for the following signs and displays for a period not exceeding thirty (30) days when, in his opinion, the use of such signs and displays would be in the public interest and would not result in damage to private property:
 - 1. Signs advertising a social, civic or cultural event, such as a fair or exposition, play, concert or meeting, sponsored by a governmental or charitable organization.
 - 2. Special decorative displays used for holidays, public demonstrations or promotion for nonpartisan civic purposes.
 - 3. Special sales promotion displays in a district where such sales are permitted, including displays incidental to the opening of a new business.

§ 80-119. Prohibited signs.

The following signs are prohibited in all districts:

- A. Signs that are of a size, location, movement, content, coloring, or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic or street sign or signal.
- B. Signs advertising an activity, business, product, or service no longer conducted on the premises.
- C. Exposed neon tubing.
- D. Roof signs and signs fastened to, or supported by, the roof of a building.
- E. Outdoor advertising structures, poster panels, or billboards, or signs of any other type advertising products or services not available on the premises.
- G. Any sign or sign structure, any portion of which extends above the parapet, building roof line at the soffit, or canopy against which the sign is located.
- H. Except as otherwise provided, no sign whether temporary or permanent, except by a public agency, is permitted within any street or street right-of-way.
- I. Signs painted on or attached to trees, fence posts, rocks, or other natural features, telephone or utility poles.
- J. Portable signs.
- K. Inflatable signs.

- L. Any sign which is not an integral part of the building design shall be fastened to and supported by or on the roof of a building, and no projecting sign shall extend over or above the roofline or parapet wall of a building.

§ 80-120. Reserved

§ 80-121. Illumination.

- A. The light from any illuminated sign shall be so shaded, shielded, or directed that the light intensity or brightness will not be objectionable to surrounding area.
- B. Beacon lights are not permitted.
- C. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.
- D. Neither the direct, nor reflected light from primary light sources shall create a traffic hazard to operators of motor vehicles on public thoroughfares.
- E. No exposed reflective type bulbs or incandescent lamp which exceeds fifteen (15) watts shall be used on the exterior surface of any sign so as to expose the face of the bulb, light, or lamp to any public street or adjacent property.

§ 80-122. Signs for nonconforming uses in residential district.

Permitted signs for a nonconforming business, commercial or industrial use in a residential district shall consist of those signs permitted in the TC Town Center District.

§ 80-123. Unusual signs requiring interpretation of provisions.

- A. Applications for unusual signs or displays which give rise to questions of interpretation of these regulations shall be referred to the Board of Appeals.
- B. If, in the opinion of the Board, the application is not adequately covered by these regulations, the Board may make recommendations for amendment of this Zoning Ordinance.

§ 80-124. Enforcement.

- A. The owner and/or tenant of the premises and the owner and/or erector of the sign shall be held responsible for any violation of these regulations. Where a sign has been erected in accordance with these regulations, the sign company shall be relieved of further responsibility under these regulations after final approval of the sign by the Administrator.
- B. Inspection, Removal, and Safety
 - 1. Signs for which a permit is required may be inspected periodically by the Administrator for compliance with this and other codes of the municipality.

2. All signs and components thereof shall be kept in good repair and in safe, neat, clean, and attractive condition. After due notice has been given as provided below, the Administrator may cause to be removed any sign which shows gross neglect or becomes dilapidated.
3. A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business which advertises is no longer conducted on the premises. If the owner or lessee fails to remove the sign, the zoning administrator shall give the owner thirty (30) days written notice to remove it. Upon failure to comply with this notice, the Administrator or his duly authorized representative may remove the sign at cost to the owner.
4. When a successor to a defunct business agrees to maintain the signs as provided in this Ordinance, this removal requirement shall not apply.

C. Permits

1. Before any permit is issued a Master Sign Plan must be submitted and approved by the Planning Commission. Upon approval of the Master Sign Plan an application shall be filed, together with three (3) sets of drawings and/or specifications, one (1) to be returned to the applicant as may be necessary to fully advise and acquaint the Administrator with the location, construction, materials, manner of illuminating and/or securing or fastening, number of signs applied for and the wording of the sign or advertisement to be carried on the sign.
2. All signs which are electrically illuminated shall require a separate electrical permit and inspection.
3. Upon compliance with the provisions of this Article, the Administrator shall make a decision to issue, deny, or issue with conditions a permit for such sign or sign structure within thirty (30) days of receipt of a complete permit application. Permits shall be numbered and shall contain the following information.
 - a. The type of sign as defined in this Article.
 - b. The street address of the property upon which the sign is proposed to be located and the proposed location of the sign on the property.
 - c. The amount of the fee paid for the permit.
 - d. The date of issuance.
 - e. In the case of a temporary sign, the date of expiration of the permit.
 - f. Each sign requiring a permit shall be clearly marked with the permit number and name of the person or firm placing the sign on the premises.
 - g. All signs shall be erected on or before the expiration of thirty (30) days from the date of issuance of the permit. Otherwise, the permit shall become null and void, and a new permit shall be required.

§ 80-125. Compliance with technical codes and ordinances required.

- A. Structural and safety features and electrical systems shall be in accordance with the requirements of the applicable codes and ordinances.
- B. No sign shall be approved for use unless it has been inspected by the department issuing the permit and is found to be in compliance with all the requirements of this Zoning Ordinance and applicable technical codes.

§ 80-126. Penalties.

- A. The Administrator and duly authorized staff shall have the authority to issue a sign violation notice and shall be empowered to enter upon the premises of any person subject to this Article for the purpose of enforcing the provisions herein.
- B. The Administrator shall remove or cause to be removed any sign erected or maintained in conflict with these regulations if the owner or lessee of such signs, or of the building, structure, or premises on which such sign is located fails to correct the violation within thirty (30) days after receiving written notice of violation from the Administrator.
- C. The sign may be removed at cost to the owner.
- D. The Zoning Administrator may remove a sign immediately and without notice if, in his opinion, the condition of the sign is such as to present an immediate threat to the safety of the public.
- E. Removal of a sign by the Administrator shall not affect any proceedings instituted prior to removal of such sign.
- F. Penalties for violations of the provisions of this Article are contained in Article XVI of this Ordinance.

§ 80-127. Reserved.

§ 80-128. Reserved.

ARTICLE X OFF-STREET PARKING

§ 80-128. Requirements.

Except as otherwise provided in this Zoning Ordinance, when any building or structure is hereafter erected or structurally altered or any building or structure hereafter erected is converted for the uses listed in Column 1 of the chart below, accessory off-street parking spaces shall be provided as required in Column 2 or Column 3 or as required in subsequent sections of this Article.

Column 1	Column 2	Column 3
Use or Use Category	Spaces Required Per Basic Measuring Unit	Additional Requirements
1-, 2-, and 3-family dwellings	2 per dwelling unit	
Church or temple, auditorium or place of assembly	1 per 5 seats or bench seating spaces	Seats in main auditorium only
College or high school	1 per 5 seats in main auditorium	Or 1 per 8 classroom seats, whichever is greater
Elementary, junior high or nursery school	1 per 10 seats in main assembly room	Or 1 per 10 classroom seats, whichever is greater
Country club or golf club	1 per 20% of rated capacity	
Public library, museum, art gallery or community center	1 per 30% of rated capacity	Plus 1 additional space for each 300 sq. ft. of floor area in excess of 1,000 sq. ft.
Multiple-family dwelling, more than 3 dwelling units	1.5 per dwelling unit	Plus 1 per 2 roomers
Private clubs	1 per 30% of rated capacity	Or 1 per 5 active members, whichever is greater
Housing for the Elderly	1 per dwelling unit	
Sanitarium, convalescent home, home for the aged or similar institution	1 per 3 patient beds	
Tourist home, motel, motor hotel, motor lodge or hotel	1 per sleeping room or suite	
Rooming, boarding, or lodging house	1 per sleeping room	
Hospital	1 per 2 patient beds	
Office or office building, post office, studio or clinic	1 per 400 sq. ft. of floor area	3 spaces minimum; 10 spaces minimum for a clinic
Funeral home	1 per 50 sq. ft. of floor area,	30 spaces minimum

Column 1	Column 2	Column 3
Use or Use Category	Spaces Required Per Basic Measuring Unit	Additional Requirements
	excluding storage and work area	
Retail store or personal service establishment or bank	1 per 300 sq. ft. of floor area	Retail food stores over 4,000 sq. ft.: 1 per 150 sq. ft. of floor area
Furniture or appliance store, machinery, equipment and automobile and boat sales and service	1 per 300 sq. ft. of floor area	2 spaces minimum; automobile sales and service, 10 minimum
Auditorium, theater, gymnasium, stadium, arena or convention hall	1 per 5 seats or seating spaces	
Bowling alley	4 per alley	
Food storage locker	1 per 200 sq. ft. of customer service area	
Amusement place, dance hall, skating rink, swimming pool, natatorium or exhibition hall, without fixed seats	1 per 100 sq. ft. of floor area	Does not apply to accessory use
General service or repair establishment, printing, publishing, plumbing, heating, broadcasting station	1 per 3 employees on premises	
Animal hospital	1 per 400 sq. ft. of floor area	4 spaces minimum
Manufacturing or industrial establishment, testing laboratory, creamery, bottling plant, wholesale, warehouse or similar establishment	1 per 2 employees on maximum working shift	Plus space for storage of trucks or other research or vehicles used in connection with the business or industry
Restaurant or other establishment for consumption of food or beverages on the premises	1 per 30% of rated capacity	Plus 1 per 2 employees

§ 80-129. Interpretation of chart.

- A. The use regulations for each district are not affected by arrangement of uses in the chart.
- B. The parking requirements in the chart are in addition to space for storage of trucks or other vehicles used in connection with any use.
- C. The parking requirements in the chart do not limit other parking requirements contained in the district regulations.

- D. The parking requirements in the chart do not limit special requirements which may be imposed with special exception uses.
- E. Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.
- F. Except as otherwise provided, the number of employees shall be compiled on the basis of the maximum number of persons employed on the premises at one (1) time on an average day or average night, whichever is greater. Seasonal variations in employment may be recognized in determining an average day.
- G. The parking space requirements for a use not specifically listed in the chart shall be the same as for a listed use of similar characteristics of parking demand generation.
- H. In the case of mixed uses or uses with different parking requirements occupying the same building or premises or in the case of joint use of a building or premises by more than one (1) use having the same parking requirements, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.
- I. Whenever a building or use is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise to create a need under the requirements of this Article for an increase in parking spaces of ten percent (10%) or more than those required before the change or enlargement, such additional spaces shall be provided on the basis of the change or enlargement. No additional spaces shall be required for the first change or enlargement which would result in an increase of spaces of less than ten percent (10%) of those required before the change or enlargement, but this exception shall not apply to a series of changes or enlargements which together result in a need for an increase in parking space of ten percent (10%) more.

§ 80-130. Flexibility.

- A. The Mayor and Council recognizes that, due to the particularities of any given development, the inflexible application of the parking standards may result in a development either with inadequate parking space or parking space far in excess of its needs. The former situation may lead to traffic congestion or parking violations in adjacent streets as well as unauthorized parking in nearby private lots. The latter situation wastes money as well as space that could more desirably be used for valuable development or environmentally useful open space.
- B. The Planning Commission may permit deviations from the presumptive requirements and may require more parking or allow less parking as deemed appropriate.

§ 80-131. Joint use and off-site facilities.

- A. All parking spaces required herein shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by two (2) or more buildings or establishments, the required spaces may be located and maintained at a distance not to exceed three hundred (300) feet from an institutional building or other nonresidential building served.
- B. Up to 50 percent (50%) of the parking spaces required for theaters, parking auditoriums, bowling alleys, dance halls and night clubs and up to one hundred percent (100%) of the parking spaces

required for a church auditorium may be provided and used jointly by banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used or operated during the same hours as theaters, parking auditoriums, bowling alleys, dance halls and night clubs, and up to one hundred percent (100%) of parking spaces required for schools may be provided and used jointly by a church auditorium: provided, however, that written agreement thereto is properly executed and recorded as specified below.

- C. In any case where the required parking spaces are not located on the same lot with the building or use served or where such spaces are collectively or jointly provided and used, such parking space shall be established by a recorded covenant or agreement as parking space to be used in conjunction with the principal use and shall be reserved as such through an encumbrance on the title of the property to be designated as required parking space, such encumbrance to be valid for the total period the use or uses for which the parking is needed are in existence. A certificate of recording of the covenant or agreement shall be furnished to the Administrator.
- D. Whenever the Planning Commission allows or requires a deviation from the presumptive parking requirements it shall enter on the face of the permit the parking requirements that it imposes.

§ 80-132. Design standards.

- A. Minimum area. For the purpose of these regulations, an off-street parking space is an all-weather surface area not in a street or alley and having an area of not less than one hundred and sixty-two (162) square feet and minimum dimensions of nine (9) feet wide by eighteen (18) feet deep, exclusive of driveways permanently reserved for the temporary storage of one (1) vehicle and connected with a street or alley by a paved driveway which affords ingress and egress for an automobile without requiring another automobile to be moved.
- B. Drainage and maintenance. Off-street parking facilities shall be drained to eliminate standing water and prevent damage to abutting property and/or public streets and alleys and surfaced with erosion-resistant material in accordance with applicable town specifications. Off-street parking areas shall be maintained in a clean, orderly and dust-free condition at the expense of the owner or lessee and not used for the sale, repair or dismantling or servicing of any vehicles, equipment, materials or supplies.
- C. Separation from walkways and streets. Off-street parking spaces shall be separated from walkways, sidewalks, streets or alleys by a wall, fence, curbing or other approved protective device or by distance so that vehicles cannot protrude over publicly owned areas.
- D. Entrances and exits. Location and design of entrances and exits shall be in accordance with the applicable requirements of town traffic regulations and standards. Landscaping, curbing or approved barriers shall be provided along lot boundaries to control entrance and exit of vehicles or pedestrians.
- E. Interior drives. Interior drives shall be of adequate width to serve the particular design arrangement of parking spaces.
- F. Marking. Parking spaces in lots of more than ten (10) spaces shall be marked by painted lines or curbs or other means to indicate individual spaces. Signs or markers shall be used as necessary to ensure efficient traffic operation of the lot.

- G. Lighting. Adequate lighting shall be provided if off-street parking spaces are to be used at night. The lighting shall be arranged and installed to minimize glare on property in any residential district.

- H. Screening. When off-street parking areas for ten (10) or more automobiles are located closer than fifty (50) feet to a lot in a residential district or to any lot upon which there is a dwelling as a permitted use under these regulations and where such parking areas are not entirely screened visually from such lot by an intervening building or structure, there shall be provided a continuous, visual screen with a minimum height of six (6) feet. Such screen may consist of a compact evergreen hedge or foliage screening or a louvered wall or fence.

§ 80-133. Reserved.

ARTICLE XI OFF-STREET LOADING

§ 80-134. Spaces required.

Except as otherwise provided in this Zoning Ordinance, when any building or structure is hereafter erected or structurally altered to the extent of increasing the floor area by twenty-five percent (25%) or more or any building is hereafter converted, for the uses listed in Column 1 of the chart below, when such buildings contain the floor areas specified in Column 2, accessory off-street loading spaces shall be provided as required in Column 3 or as required in subsequent sections of this Article.

Column 1	Column 2	Column 3
Use or Use Category	Floor Area as Defined in § 80-4 (Square Feet)	Loading Spaces Required
Retail store, department store, restaurant, wholesale house, warehouse, general service, manufacturing, or industrial establishment	2,000 to 10,000	1
	10,000 to 20,000	2
	20,000 to 40,000	3
	40,000 to 60,000	4
	Each 50,000 over 60,000	1 additional
Apartment building, motel, hotel, offices or office building, hospital or similar institution, or place of public assembly	5,000 to 10,000	1
	10,000 to 100,000	2
	100,000 to 200,000	3
	Each 100,000 over 200,000	1 additional
Funeral home	2,500 to 4,000	1
	4,000 to 6,000	2
	Each 10,000 over 6,000	1 additional

§ 80-135. Interpretation.

- A. The loading space requirements apply to all districts but do not limit the special requirements which may be imposed in the district regulations
- B. The loading space requirements in this Article do not limit special requirements which may be imposed in connection with special exception uses.
- C. The Board of Appeals may waive or reduce the loading space requirements whenever the character of the use is such as to make unnecessary the full provision of loading facilities, where provision is made for community loading facilities or where provision of loading space requirements is impractical under certain conditions for uses which contain less than ten thousand (10,000) square feet of floor area.

§ 80-136. Mixed uses in one building.

Where a building is used for more than one (1) use or for different uses and where the floor area used for each use for which loading space is required is below the minimum for required spaces, but the aggregate

floor area used is greater than such minimum, then off-street loading space shall be provided as if the entire building were used for that use in the building for which the most spaces are required. In such cases, the Administrator may make reasonable requirements for the location of required loading spaces.

§ 80-137. Design standards.

- A. Minimum size. For the purpose of these regulations, a loading space is a space within the main building or on the same lot, providing for the standing, loading or unloading of trucks, having a minimum area of five hundred forty (540) square feet, a minimum width of twelve (12) feet, a minimum depth of thirty-five (35) feet and a vertical clearance of at least fourteen and five-tenths (14.5) feet.
- B. Loading space for funeral homes. Loading spaces for a funeral home may be reduced in size to ten by twenty-five (10 x 25) feet and vertical clearance reduced to eight (8) feet.
- C. Off-street loading areas shall be maintained in a clean, orderly and dust-free condition at the expense of the owner or lessee and not used for the sale, repair, dismantling or servicing of any vehicles, equipment, materials or supplies.

§ 80-138. Reserved.

ARTICLE XIII NONCONFORMING USES

§ 80-139. Nonconforming uses.

- A. Any use of land or building actually existing at the time of the passage of this Ordinance and which does not conform with the requirements of regulations of the district in which it is located shall be known as a nonconforming uses.
- B. Continuance
 - 1. Except as otherwise provided herein, the lawful use of land or buildings existing at the effective date of this Zoning Ordinance may be continued although such use does not conform to the provisions hereof.
 - 2. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or of a more restricted classification.
 - 3. Whenever a nonconforming use of land or buildings has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.
 - 4. The nonconforming use of a building may be hereafter extended throughout those parts of a building which were lawfully and manifestly arranged or designed for such use at the time of the enactment of this Zoning Ordinance.
- C. Restoration after damage or reconstruction

Nothing in these regulations shall prevent the continuance of a use or the reconstruction of a structure occupied by a lawful nonconforming use destroyed by fire, explosion, act of God or, act of the public enemy, as it existed at the time of such destruction provided that a permit is obtained and reconstruction begun within six (6) months after the occurrence and substantially completed within twelve (12) months, unless an extension is granted by the Board of Appeals.
- D. Discontinuance of nonconforming use

No building or portion thereof used in whole or in part for a nonconforming use which remains idle or unused for a continuous period of one (1) year, whether or not the equipment or fixtures are removed, shall again be used except in conformity with the regulations of the district in which such building or land is located.
- E. Intermittent use

The casual intermittent, illegal use of land or buildings shall not be sufficient to establish the existence of a nonconforming use and the existence of a nonconforming use on a part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.
- F. Ordinary Repair and Maintenance
 - 1. The normal maintenance and repair or the replacement, installation or relocation of non-bearing partitions, fixtures, wiring, or plumbing may be performed on any structure that is

devoted in whole or in part to the nonconforming use or structure.

2. Neither this nor any other provision of this Zoning Ordinance shall be interpreted to authorize any increase in the size or degree of the nonconforming use or structure in violation of the provisions of any other subsection of this section.
3. Nothing in this section shall be deemed to prevent the strengthening or restoring of a structure to a safe condition by order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition.

G. Existence of a nonconforming use

1. Whether a nonconforming use exists shall be a question of fact and shall be decided by the Board of Appeals after public notice and hearing and in accordance with the rules of the Board.
2. Those nonconforming uses in existence prior to adoption of this Zoning Ordinance are hereby validated, albeit the nonconforming use failed to obtain certification from the Administrator.

§ 80-140. Nonconforming structures.

- A. Continuance. A lawful nonconforming structure existing on the effective date of this Article may be continued, repaired, maintained or altered, subject to the provision of this section.
- B. Additions or enlargements to nonconforming structures. A building nonconforming only as to height, area or bulk requirements may be altered or extended, provided that such alteration or extension does not increase the degree of nonconformity in any respect.
- C. Moving of nonconforming structures. A lawful nonconforming building or structure shall not be moved in whole or in part to another location on its lot unless every part of the structure conforms to all site development regulations applicable to the applicable zoning district.
- D. Repair of Nonconforming Structures. Nothing in these regulations shall prevent the repair or reconstruction of a lawful nonconforming building damaged by fire, explosion, act of God or, act of the public enemy provided that the degree of nonconformity is not increased, that a permit is obtained, and construction begun within six months after the occurrence and substantially completed within twelve months, unless an extension is granted by the Board of Appeals.

§ 80-141. Nonconforming lots.

- A. Nonconforming lots of record existing at the time of the adoption of this Ordinance shall be exempt, unless otherwise provided, from the minimum lot area and lot width requirements of each zoning district.
- B. Such lots may be developed with any use allowed by the regulations for the district and must comply with all other site development regulations set forth in this Zoning Ordinance.

§ 80-142. Nonconforming Signs

Refer to Article IXI, § 80-113 of this Ordinance.

ARTICLE XIV BOARD OF APPEALS - APPEALS, VARIANCES, CONDITIONAL USES AND SPECIAL EXCEPTIONS

Part I Board Of Appeals

§ 80-143. Board of Appeals.

- A. The Board of Appeals is hereby created. The Board shall consist of three (3) members. The members shall be appointed by the Mayor and confirmed by the Town Council, and they shall be removable for cause, upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. Of the members first appointed, one (1) shall be appointed for a term of one (1) year, one (1) for a term of two (2) years and one (1) for a term of three (3) years. Thereafter, members shall be appointed for terms of three (3) years each. The Mayor and Council shall designate one (1) alternate member for the Board, who may be empowered to sit on the Board in the absence of any member of the Board, when the alternate is absent, the Mayor and Council may designate a temporary alternate.
- B. The Board shall adopt rules for the conduct of its business, such rules to be made available to the public. For the conduct of any hearing, a quorum shall be not less than two (2) members and an affirmative vote of two (2) members of the Board shall be required to overrule any decision, ruling, or determination of the official charged with enforcement of this Zoning Ordinance or to approve any conditional use or variance. All meetings of the Board shall be open to the public.

§ 80-144. Application procedure; appeals; hearing.

- A. Applications for special exceptions uses and variances may be made by any property owner, tenant, government official, department, board, or bureau. Such application shall be made to the Administrator in accordance with rules adopted by the Board. The application and accompanying maps, plans or other information shall be transmitted promptly to the Secretary of the Board, who shall place the matter on the docket, advertise a public hearing thereon and give written notice of such hearing to the parties in interest. The Administrator shall also transmit a copy of the application to the Planning Commission, which may send a recommendation to the Board or appear as a party at the hearing.
- B. An appeal to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the Town affected by any decision of the Town Administrator or Planning Commission. Such appeal shall be taken within thirty (30) days after the decision appealed from by filing with the Administrator and with the Board a notice of appeal, specifying the grounds thereof. The Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the Administrator certifies to the Board that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall be not stayed other than by a restraining order granted by the Board or by a court of record, on application and on notice to the Administrator and on due cause shown.
- C. The Board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest and decide the same within sixty (60) days following the hearing. Upon the hearing, any party may appear in person or by agent or by attorney. Public notice of hearing shall consist of publication at least fifteen (15) days prior to the

hearing in a newspaper of general circulation in the Town, specifying the time, place and nature of the hearing. In addition, the Board shall cause the date, time, place and nature of the hearing to be posted conspicuously on the property in accordance with the rules of the Board. In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be made and, to that end, shall have all the powers of the Administrator.

- D. The Board shall keep minutes of its proceedings and other official actions, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the Board and shall be a public record. The Chairman of the Board or, in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses.

§ 80-145. Powers of Board of Appeals.

- A. The Board of Appeals shall have the following powers:
1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the administration or enforcement of this Zoning Ordinance.
 2. To hear and decide on applications for special exceptions uses upon which the Board is specifically authorized to pass under this Zoning Ordinance.
 3. To authorize upon appeal in specific cases, such area variances from the terms of this Zoning Ordinance as will not be contrary to the public interest where, owing to special conditions, the enforcement of the provisions of this Zoning Ordinance will result in practical difficulties and injustices, but which will most nearly accomplish the purpose and intent of this Zoning Ordinance.

§ 80-146. Lapse of special exception or variance.

After the Board of Appeals has approved a special exception use or granted a variance, the special exception use or variance so approved or granted shall lapse after the expiration of one (1) year if no substantial construction or change of use has taken place in accordance with the plans for which such conditional use or variance was granted or if the Board does not specify some longer period than one (1) year for good cause shown, and the provisions of these regulations shall thereafter govern.

§ 80-147. Amendment of special exception or variance.

The procedure for amendment of a special exception use or variance already approved or a request for a change of conditions attached to an approval shall be the same as for a new application, except that, where the Administrator determines the change to be minor relative to the original approval, he may transmit the same to the Board with the original record without requiring that a new application be filed.

§ 80-148. Appeals to courts.

Appeals to courts from a decision of the Board of Appeals may be filed in the manner prescribed by

applicable law.

§ 80-149. Conditions attached to approvals.

- A. Where, in these regulations, special exception uses are permitted, provided they are approved by the Board of Appeals, and where the Board is authorized to decide appeals or approve certain uses, and where the Board is authorized to approve variances, such approval, decision or authorization shall be limited by such conditions as the case may require, including the imposition of requirements for any or all of the following:
1. Prohibition against outside signs or advertising structures except professional directional signs.
 2. Limitation of signs as to size, type, color, location or illumination.
 3. Amount, direction and location of outdoor lighting.
 4. Amount and location of off-street parking and loading space.
 5. Cleaning or painting of buildings or structures.
 6. Gable roof or other roof type.
 7. Building construction and materials.
 8. Building connected or disconnected with other buildings.
 9. Exits or entrances, doors and windows.
 10. Paving, shrubbery, landscaping or ornamental or screening fences, walls or hedges.
 11. Time of day or night for operating.
 12. Prohibition against storefronts.
 13. Prohibition against structural changes.
 14. Control or elimination of smoke, dust, gas, noise or vibration caused by operations.
 15. Requirements for termination of a use, based on lapse of time or such other conditions as the Board may specify.
 16. Such other conditions as are necessary.

Part II Variances.

§ 80-150. Variances.

- A. Subject to the provisions of § 80-151 of this Article, the Board shall have the power to grant the

following variances:

1. A variation in the yard requirements in any district so as to relieve practical difficulties and injustices in cases when and where, by reason of exceptional narrowness, shallowness or other unusual characteristic of size or shape of a specific piece of property at the time of the enactment of such regulation or restriction or by reason of exceptional topographical conditions or other extraordinary situation or condition of such piece of property or by reason of the use or development of property immediately adjacent thereto, the strict application of each regulation or restriction would result in peculiar and exceptional practical difficulties to the owner of such property.
2. Such grant of variance shall comply, as nearly as possible, in every respect with the spirit, intent and purpose of this Zoning Ordinance, it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable and exceptional practical difficulty, as distinguished from variations sought by applicants for purposes or reasons of convenience, profit or caprice.
3. No such variance shall be authorized by the Board unless it finds all of the following:
 - a. That the variance will not cause a substantial detriment to adjacent or neighboring property.
 - b. That the variance will not change the character of the neighborhood or district.
 - c. That the variance is consistent with the Comprehensive Plan and the general intent of this Zoning Ordinance.
 - d. That the practical difficulty or other injustice was caused by the following:
 - (1) Some unusual characteristic of size or shape of the property.
 - (2) Extraordinary topographical or other condition of the property.
 - (3) The use or development of property immediately adjacent to the property.
 - (4) That the practical difficulty or other injustice was not caused by the applicants own actions.
4. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Zoning Ordinance.

§ 80-151. Specific Provisions for Variances in the Millington Critical Area.

- A. Applicability. The Town has established provisions where, owing to special features of a site or other circumstances literal enforcement of the CA District provisions of this Zoning Ordinance would result in unwarranted hardship to an applicant, a variance may be obtained. In considering an application for a variance, the Board of Appeals shall presume that the specific development activity in the CA District, that is subject to the application and for which a variance is required,

does not conform with the general purpose and intent of Natural Resources Article, Title 8 Subtitle 18, COMAR Title 27, and the requirements of this Zoning Ordinance.

- B. Standards. The provisions for granting such a variance shall include evidence submitted by the applicant that the following standards are met:
1. Special conditions or circumstances exist that are peculiar to the land or structure involved and that a literal enforcement of provisions and requirements of this Ordinance would result in unwarranted hardship;
 2. A literal interpretation of the provisions of the CA District provisions will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the CA District;
 3. The granting of a variance will not confer upon an applicant any special privilege that would be denied by this Zoning Ordinance to other lands or structures within the CA District;
 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 non-conforming on any neighboring property; and
 5. The granting of a variance shall not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the CA District and the granting of the variance will be in harmony with the general spirit and intent of the State Critical Area Law.
- C. Process. Applications for a variance will be made in writing to the Board of Appeals with a copy provided to the Critical Area Commission. Notice shall be provided as provided in §80-144. After hearing an application for a variance, the Board of Appeals shall make written findings reflecting analysis of each standard. The applicant has the burden of proof and the burden of persuasion to overcome the presumption of nonconformance established in paragraph A above. The Town shall notify the Critical Area Commission of its findings and decision to grant or deny the variance request.
- D. Findings. Based on competent and substantial evidence, the Town shall make written findings as to whether the applicant has overcome the presumption of nonconformance as established in subsection A above. 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. Appeals. Appeals from decision concerning the granting or denial of a variance under these regulations shall be taken in accordance with all applicable laws and procedures of the Town for variances. Variance decisions by the Board of Appeals may be appealed to the Circuit Court in accordance with the Maryland Rules of Procedure. Appeals may be taken by any person, firm,

corporation or governmental agency aggrieved or adversely affected by any decision made under this Zoning Ordinance.

- F. Conditions and mitigation. The Board of Appeals shall impose conditions on the use or development of a property which is granted a variance as it may find reasonable to ensure that the spirit and intent of the CA District is maintained including, but not limited to the following:
1. Adverse 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 Zoning Administrator or Planning Commission.
 2. New or expanded structures or lot coverage 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. 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.

Part III Special Exceptions

§ 80-152. Intent.

- A. The development and execution of this Zoning Ordinance are based upon the division of the Town into districts within which the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are certain uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts without consideration in each case of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location.
- B. The intent of this Part is to establish procedures and minimum standards to be used as guidelines for the consideration and authorization of those uses classified as special exceptions under the respective District regulations.
- C. The granting of a special exception does not exempt the applicant from complying with all other requirements of this Ordinance or of the law.

§ 80-153. Initiation of Special Exceptions.

Any property owner or other person with an enforceable legal interest in a property may file an application to use such land for one or more of the special exceptions provided in the zoning district in which the land is located.

§ 80-154. Application for Special Exception.

- A. Such application for special exception shall be filed with the Town Administrator on a form prescribed by the Planning Commission.

- B. The application shall be accompanied by such plans and/or data as necessary, and shall include a statement in writing by the applicant and adequate evidence showing that the proposed use will conform to the standards hereinafter set forth. Such application shall be forwarded from the Town Administrator to the Planning Commission for recommendation to the Board of Appeals for review within forty-five (45) days of receipt of the application by the Town Administrator.

§ 80-155. Hearing on Application.

- A. The Board of Appeals shall hold a public hearing on each application for a special exception at such time and place as shall be established by the Board of Appeals. The hearing shall be conducted and a record of such proceedings shall be preserved in such a manner as the Board of Appeals shall, by rule, prescribe from time to time.
- B. Notice is required as provided in §80-144.

§ 80-156. Authorization.

For each application for a special exception, the Board of Appeals shall normally, within ninety (90) days of receipt of the application, conduct its public hearing and report its findings and decisions, including the stipulations or additional conditions and guarantees deemed necessary for the protection of the public interest.

§ 80-157. Standards.

No special exception shall be approved by the Board of Appeals unless such Board shall find:

- A. That the establishment, maintenance, and operation of the special exception will not be detrimental to or endanger the public health, safety, convenience, morals, order or general welfare.
- B. That the special exception will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
- C. That the exterior architectural appeal and functional plan of any proposed structure will not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district, as to cause a substantial depreciation in the property values within the neighborhood.
- D. That adequate utilities, water, sewer or septic system, access roads, storm drainage and/or other necessary public facilities and improvements have been or are being provided.
- E. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- F. That the proposed special exception is not contrary to the objectives of the current Comprehensive Plan for the Town of Millington.
- G. That the special exception shall, in all other respects, conform to the applicable regulations of the

district in which it is located or to the special requirements established for the specific use.

- H. Prior to the granting of any special exception, the Board of Appeals shall stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the special exception as is deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified in herein. In all cases in which special exceptions are granted, the Board of Appeals shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.

§ 80-158. Effect of Denial of a Special Exception.

No application for a special exception which has been denied wholly or in part by the Board of Appeals shall be resubmitted for a period of one year from the date of said order of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Board of Appeals.

§ 80-159. Complaints.

Notice of complaints received by any representative of the Town concerning the operation of any special exceptions shall be transmitted promptly to the Board which shall take appropriate action as provided by law. The complainant shall be notified of the action taken.

§ 80-160. Revocation.

- A. Whenever the Board shall find, in case of any permit heretofore or hereafter granted pursuant to the provisions of this Article that any of the terms, conditions, or restrictions upon which such permit was granted are not being complied with, the Board is authorized, after due notice to all parties concerned and granting full opportunity for a public hearing, to suspend or revoke such permit or take other action as it deems necessary to ensure compliance. The Board is authorized to request and obtain investigations and reports as to compliance from such Town or state agencies or administrative officers as may be appropriate.
- B. Whenever the Board shall determine that a special exception appears to have been abandoned, that an approved special exception is not initiated within one year after the date of approval, that its annual proof referred to above has not been filed within forth-five (45) days of its due date, or that all of the terms and conditions of its grant are not being complied with, the Administrator shall notify the Board and the Town attorney's office. Upon receipts of notice of such determination by the Board, the Board shall issue an order to show cause why such special exception should not be revoked. Notice thereof shall be given to the party to whom the special exception has been granted and to all parties who would be entitled to receive notice of a new application for special exception concerning the property. The applicant shall have 60 days from the date of written notice of expiration to file an appeal of said notice.

§ 80-161. Reserved

§ 80-162. Reserved

ARTICLE XV LANDSCAPING AND ENVIRONMENTAL STANDARDS

Part I Tree Protection

§ 80-163. Findings and Declaration of Policy: Shade Trees.

- A. Finding:
1. Trees are proven producers of oxygen - a necessary element for human survival;
 2. Trees appreciably reduce the ever-increasing environmentally dangerous carbon dioxide content of the air and play a vital role in purifying the air we breathe;
 3. Trees transpire considerable amounts of water each day and thereby purify the air much like the air-washer devices used on commercial air conditioning systems;
 4. Trees have an important role in neutralizing wastewater passing through the ground from the surface to ground water tables and lower aquifers;
 5. Trees, through their root systems, stabilize the ground water tables and play an important and effective part in soil conservation, erosion control, and flood control;
 6. Trees are an invaluable physical, aesthetic, and psychological counterpoint to the urban setting, making urban life more comfortable by providing shade and cooling the air and land, reducing noise levels and glare, and breaking the monotony of human developments on the land, particularly parking areas; and
 7. For the reasons indicated herein, trees have an important impact on the desirability of land and therefore on property values.
- B. Based upon the findings set forth in Subsection A, it is not only desirable but essential to the health, safety, and welfare of all persons living or working within the Town's planning jurisdiction to protect existing trees and, under the circumstances set forth in this article, to require the planting of new trees in certain types of developments.

§ 80-164. Required Trees Along Dedicated Streets.

Along both sides of all newly created streets that are constructed in accordance with the street standards approved by the Mayor and Council, the developer shall at a minimum either plant or retain sufficient trees so that between the paved portion of the street and a line running parallel to and fifty (50) feet from the centerline of the street, there is for every fifty (50) feet of street frontage at least an average of one deciduous tree that has or will have when fully mature a trunk at least twelve (12) inches in diameter.

§ 80-165. Retention and Protection of Large Trees.

- A. Every development shall retain all existing trees eighteen (18) inches in diameter or more unless the retention of such trees would unreasonably burden the development.
- B. No excavation or other subsurface disturbance may be undertaken within the drip line of any tree eighteen (18) inches in diameter or more, and no impervious surface (including, but not limited to, paving or buildings) may be located within twelve and one-half (12½) feet (measured from the center of the trunk) of any tree eighteen (18) inches in diameter or more unless compliance with this subsection would unreasonably burden the development. For purposes of this subsection, a

drip line is defined as a perimeter formed by the points farthest away from the trunk of a tree where precipitation falling from the branches of that tree lands on the ground.

- C. The retention or protection of trees eighteen (18) inches in diameter or more as provided in Subsection A and B unreasonably burdens a developer if, to accomplish such retention or protection, the desired location of improvements on a lot or the proposed activities on a lot would have to be substantially altered and such alteration would work an unreasonable hardship upon the developer.
- D. If space that would otherwise be devoted to parking cannot be so used because of the requirements of Subsections A or B, and, as a result, the parking requirements set forth in the Ordinance cannot be satisfied, the number of required spaces may be reduced by the number of spaces "lost" because of the provisions of Subsections A and B, up to a maximum of fifteen (15) percent of the required spaces.

§ 80-166. Forest Protection

- A. For the alteration of forest and developed woodlands the following requirements shall apply:
 - 1. The total acreage in forest coverage within the Town shall be maintained or preferably increased;
 - 2. All forests that are allowed to be cleared or developed shall be replaced on not less than an equal area basis;
 - 3. No more than twenty (20) percent of any forest or developed woodland may be removed from forest use, except as provided in paragraph 4 below. The remaining eighty (80) percent shall be maintained through recorded, restrictive covenants or similar instruments approved by the Town Attorney; and
 - 4. Developed woodland vegetation shall be conserved to the greatest extent practicable.
- B. For replacement of forest and developed woodland, if more than twenty (20) percent is to be removed from forest use, an applicant may clear or develop not more than thirty (30) percent of the total forest area provided that the afforested area shall consist of 1.5 times the total surface acreage of the disturbed forest or developed woodland area, or both.
- C. In addition, applicants shall adhere to the following criteria for forest and woodland development:
 - 1. A performance bond shall be collected by the Town in an amount determined by the Town to assure satisfactory replacement as required by subsections A and B above;
 - 2. Grading permits shall be required before forest or developed woodland is cleared;
 - 3. Forests which have been cleared before obtaining a grading permit or that exceed the maximum area allowed in A.3 above shall be replanted at three times the area extent of the cleared forest;
 - 4. All forests designated on development plans shall be maintained to the extent practicable, through conservation easements, restrictive covenants or other protective instruments approved by the Town Attorney;

5. The applicant shall designate, subject to the approval of the Town, a new forest area on a part of the site not forested; and
 6. The afforested area shall be maintained as forest cover through easements, restrictive covenants or other protective instruments approved by the Town Attorney.
- D. If the area extent of the site limits the application of the reforestation required or afforestation required in this Part, the Town shall collect a fee-in-lieu in accordance with the following standards:
1. Fee-in-lieu shall be assessed at \$1.50 per square foot of required reforestation or afforestation area;
 2. Fee-in-lieu monies shall be used for the following project to establish forest or developed woodlands on an alternative site or sites where planting is not a condition of development or redevelopment;
 3. Fee-in-lieu monies shall be collected and held in a special fund, which may not revert to the Town's general fund; and
 4. A portion of fee-in-lieu money can be used for management and administrative costs; however, this cannot exceed twenty (20) percent of the fees collected.

Part II Landscape Standards

§ 80-167. Plan Requirements for Landscaping and Screening.

- A. Applicability. A master landscaping plan or screening plan meeting the standards of this part is required for any development, except applications involving a detached single family dwelling unit requiring only a zoning certificate and building permit.
- B. A master landscape or screening plan shall consist of one (1) or more sheets drawn to scale or combined with a site plan and shall include the following information:
1. The location and footprint of all proposed buildings, structures, and facilities on the site and proposed landscaping areas.
 2. The approximate location of rivers or stream branches or natural, intermittent streams or drainage channels, ponds, wooded areas, or other special natural features on the development site.
 3. A tabular summary of type of species, height, diameter, and quantity of shrubbery and trees, including street trees, to be planted within landscaped or screening areas.
 4. The height, length, type and location of fencing and related planting areas to be used for screening purposes.
 5. Location of underground and overhead utilities.
 6. The continuity of proposed open space with contiguous and other nearby open spaces,

existing or proposed.

- C. The plan shall show landscaping proposals for the following areas or facilities where applicable to the type of development proposed.
 - 1. Street trees
 - 2. Buffer yard plantings
 - 3. Foundation plantings
 - 4. Screening for dumpster or other solid waste collection areas
 - 5. Stormwater management retention or detention areas landscaping
 - 6. Above ground utility box screening
 - 7. Parking lot plantings/screening
 - 8. Perimeter plantings
 - 9. Recreation facilities landscaping
 - 10. Loading and unloading space screening
- D. The plan shall be consistent with the specific requirements of a site plan or comprehensive development plan or the specific requirements for the type of development proposed.

80-168. Landscaping Materials.

- A. Whenever landscaping is required, it shall consist of, as a minimum, a combination of grass, trees and shrubs including the following species at the sizes specified, arranged in such a manner as to complement the proposed structure or project and its adjacent neighborhood. The total linear amount of property lines or perimeter of the development site and each lot shall be used as a guide to compute the amount of plantings as required. All such materials may be randomly placed on the site except as may be required to meet the Buffer yard requirements of this Ordinance. Plantings required in other sections of this Zoning Ordinance shall count against the requirements of this part.
- B. Landscaping shall emphasize native species trees, shrubs, and flowers to reduce maintenance, to help ensure longevity, and to reinforce the natural character of the area. Species shall be selected partly on the basis of their visual appeal during different seasons of the year.
- C. Any applicant may incorporate and combine the mitigation requirements for meeting the provisions of the Forest Conservation Act and the State's Non-Tidal Wetlands Act with these provisions. The Planning Commission may approve such mitigation plans as a substitute for compliance with these conditions. Any plan may also use existing trees to count toward the requirements of these guidelines.
- D. The applicant shall be required to post a performance bond with the Town to ensure that any landscape materials that die within eighteen (18) months of planting shall be replaced with the same species and size, and that any landscape material shall be well maintained, specifically irrigated and fertilized, for a total of twenty-four (24) months from time of planting. If landscape

materials are removed, they shall be replaced with material of similar size, shapeliness, function, hardiness, longevity, and appearance.

§ 80-169. Shade Trees.

- A. Shade trees, with a height of more than thirty (30) feet at maturity, shall be a minimum 1.5 inches in caliper and a minimum six (6) feet or more in height at the time of planting and shall be planted in continuous rows along the edges of properties in accordance with the following spacing standards:
 - 1. Residential districts - one per one fifty (50) feet.
 - 2. Commercial districts - one per fifty (50) feet.
 - 3. Industrial district - one per thirty (30) feet.
 - 4. Special exceptions - the requirements for the district in which the use is located or an alternate as may be determined by the Planning Commission, Town Administrator, or Board of Appeals.
 - 5. Maintain a minimum distance of twenty (20) feet from overhead utilities for species that exceed thirty (30) feet at maturity.
- B. Street Trees - Street trees meeting the standards of 1 above shall be planted along internal streets, with at least one tree for every fifty (50) feet of street frontage in residential, commercial, business, institutional and industrial projects.

§ 80-170. Under story (Decorative) Trees.

Under story trees, with a height of less than thirty (30) feet at maturity, shall be one (1) inch in caliper and four (4) feet in height at the time of planting and shall be provided as follows:

- A. Residential districts - none.
- B. Commercial districts - one per fifty (50) feet.
- C. Industrial district - one per seventy-five (75) feet.
- D. Special exceptions - the requirements for the district in which the use is located or an alternate as may be determined by the Planning Commission, Zoning Administrator, or Board of Zoning Appeals.
- E. Maintain a minimum distance of twenty (20) feet from overhead utilities for species that exceed thirty (30) feet at maturity.

§ 80-171. Evergreen Trees.

Evergreen trees shall be at a height of three and one-half (3 ½) to four (4) feet or greater at planting and shall be provided as follows:

- A. Residential districts – none.

- B. Commercial - one per one hundred (100) feet.
- C. Industrial district - one per one hundred fifty (150) feet.
- D. Special exceptions - the requirements for the district in which the use is located or an alternate as may be determined by the Planning and Zoning Commission, Planning Staff, or Board of Zoning Appeals.
- E. Maintain a minimum distance of twenty (20) feet from overhead utilities for species that exceed 30' at maturity

§ 80-172. Shrubs.

Evergreen and deciduous shrubs shall be at a height of eighteen (18) inches to twenty-four (24) inches or greater at the time of planting and shall be provided as measured by the length of the perimeter of the buildings or structures facing any public street or road as follows:

- A. Residential districts - none.
- B. Commercial districts - one per fifteen (15) feet.
- C. Industrial district - one per forty (40) feet.
- D. Special exceptions - the requirements for the district in which the use is located or an alternate as determined by the Planning Commission, Zoning Administrator, or Board of Appeals.

§ 80-173. Alternatives and Additional Landscape Requirements.

As an alternative, an applicant may propose and the Planning Commission or Board of Appeals may approve:

- A. The retention of natural growth on the site to meet the requirements of this section, depending on width, density, and type of natural growth, provided that the Board or Commission may require additional, supplemental plantings to obtain the effect intended by the purpose and intent of these requirements.
- B. Landscaping consisting of a combination of the plantings listed in this article and alternate plantings of various species and sizes.
- C. Landscaping consisting of a combination of architectural materials, including fountains, special bricks, interlocking paving, decorative features, statues, and other combinations of landscaping features, materials, or plantings, including street trees.
- D. Whenever deemed appropriate, the Planning Commission may require installation of a vegetated and/or structural buffer along property lines to protect adjoining residential properties from the potential impacts of a proposed non-residential use and/or to maintain or enhance the general visual character of the property and surrounding area. Buffer standards shall be selected from Appendix B.

§ 80-174. Complementary Plantings

Dwarf and other species may be used only for complementary plantings and no minimum sizes shall be required.

Part III Landscaping of Parking Facilities

§ 80-175. Intent.

It is intended that the application of the landscape standards set forth below will reduce the visual and environmental impacts of large expanses of parking areas. Breaking up of paved parking areas with plantings will provide improved aesthetics and micro-climatic benefits by reducing heat and glare.

§ 80-176. Sites Affected.

- A. New sites. No new parking areas shall hereafter be constructed or used unless landscaping is provided as required by the provision of this Article.
- B. Existing sites. No parking areas shall be expanded, moved, or removed and/or reconstructed unless the minimum landscaping required by the provision of this Article is provided for the property to the extent of its alteration or expansion, but not for the entire property.
- C. Change of use. No use shall be changed to another use for which the Zoning Ordinance requires additional parking over and above that required for the previous use, unless perimeter landscaping as required by this Article is provided for such additional parking. The provisions of this section shall be effective regardless of whether or not new construction is necessary to meet the parking requirements for the new uses. Where new construction will not be necessary to meet the parking requirements, such additional required parking shall be deemed to be on the perimeter for as much as possible of the existing parking area. Where the previous use had no required parking, perimeter landscaping shall be provided for the entire parking area serving the new use. Interior landscaping shall not be required where only the use of the property is changed and no new construction or reconstruction is proposed.
- D. Change of zone. No use of an existing building, structure, or vehicular use area shall be commenced subsequent to a change in zoning unless perimeter landscaping as required herein has been provided.

§ 80-177. 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 area shall be provided.
- B. Except where otherwise specifically required by the Zoning Ordinance, a minimum ten (10) foot wide screening area shall be provided along all abutting property lines of a residential district.
- C. The following requirements shall apply to the design and construction of all parking lots for fifteen (15) vehicles or more:
 - 1. Perimeter Landscaping. A minimum eight (8) foot wide landscaped area shall be provided adjacent to all driveways leading to the lot and around the outer edges of all parking lots.
 - 2. Screening Areas. A minimum ten (10) foot wide screening area shall be provided abutting all residential districts except where a greater distance is required by the provisions of the zoning district in which the parking lot is located.
- D. Each landscape area adjacent to a street right-of-way shall contain a minimum of one tree per forty

(40) feet of landscape area parallel to the right-of-way. In addition, a vegetative screen, 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.

- F. Grass or ground cover shall be planted on all portions of the landscape area not occupied by other landscape material.
- G. Special notes on existing natural vegetation:
 - 1. In all cases where significant natural vegetation exists, as determined by the Town Administrator, there shall be limits of clearing/grading areas established to protect and preserve these natural area. These natural areas will not be disturbed by the installation of any structures, utilities, storm and sanitary sewers, water lines, sediment and erosion control traps, stormwater management systems, signage. Existing landscape material which is proposed to be used to fulfill landscape requirements shall be shown in the required plan.
 - 2. In the case where buffers are created by the application of these standards, no structures, utilities, storm and sanitary sewers, water lines, sediment and erosion control traps, stormwater management systems, and signage shall be permitted.
 - 3. Where pedestrian and bike paths are proposed in the landscape area, such paths shall be meandering in order to preserve the existing trees.
- H. Trees required as a part of the parking lot street right-of-way landscaping may be placed on the right-of-way adjoining such parking area when approved by the Planning Commission. Such trees shall be in addition to any street trees required by the subdivision regulations.
- I. Landscaping in Easements. The required landscape area for parking areas may be combined with a utility or other easement only if all landscape requirements can be met. Otherwise, the landscape area shall be in addition to, and separate from, any easement.
- J. In any parking lot perimeter landscaping area all trees shall be set back at least four (4) feet from the edge of paving where vehicles overhang.

§ 80-178. 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 one hundred fifty-three (153) square feet having a minimum width of eight and one-half (8.5) feet and a minimum length of eighteen (18) feet. There shall be a minimum of four (4) feet to all trees from the edge of paving where vehicles overhang. The minimum landscape area permitted shall be ten (10) percent of the parking area. 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. For purposes of Subsection D below and subject to the limits established in E below, up to 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 and not merely to the extent of its alteration or expansion.

- C. Landscape area. For each 100 square feet, or fraction thereof, of parking lot, five (5) square feet of landscaped area shall be provided. The interior landscaping requirement shall be computed on the basis of the "net parking facility." For the purposes of 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 - number required:
1. For less than 100 spaces one island or peninsula is required for every 7 parking spaces.
 2. For 100 spaces or more, one island or peninsula is required for every 10 spaces.
 3. Each 10 parking spaces shall require an interior planting island.
 4. All interior parking aisles shall end in a landscape island.
- E. Maximum contiguous areas for interior parking lot landscaping. In order to encourage the required landscape areas to be properly dispersed, no required landscape area shall be larger than the following:
1. 350 square feet in parking areas under 30,000 square feet.
 2. 1,500 square feet in parking areas over 30,000 square feet.
- F. Landscape areas larger than the above are permitted as long as the additional area is in excess of the required minimum, except that landscape areas larger than the maximum permitted may be allowed as required landscaping areas in those cases where significant natural vegetation exists.
- G. Minimum plant materials. A minimum of one tree for each two hundred and fifty (250) square feet or fraction thereof of required landscape or for each five (5) spaces of required parking or for each one hundred and sixty-one (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.
- H. Landscaping for service structures. All service structures shall be fully screened, except when located more than thirty-five (35) feet above the established grade, and shall not be visible from a public way to the maximum extent possible, as determined by the Town Administrator. Service structures in an industrial zone shall be fully screened when located within one hundred (100) feet of any zone other than industrial. For the purposes of this article, service structures shall include propane tanks, dumpsters, air conditioning units and condensers, electrical transformers and other equipment or elements providing service to a building or a site.
1. Location of screening. A continuous planting, hedge, fence, wall, or earth mound shall enclose any service structure or loading zone on all sides unless such structure must be frequently moved, in which case screening on all but one side is required. The average height of the screening material shall be one foot more than the height of the enclosed structure. Whenever a service structure is located next to a building wall, perimeter landscaping material, or vehicular use area landscaping material, such walls or screening material may fulfill the screening requirement for that side of the service structure if that wall or screening material is of an average height sufficient to meet the height requirement set out in this section. Whenever service structures are screened by plant material, such

material may count towards the fulfillment of required interior or perimeter landscaping. No interior landscaping shall be required within an area screened for service structures.

2. Protection of screening material. Whenever screening material is placed around any trash disposal unit or waste collection unit that is emptied or removed mechanically on a regular basis, a fixed barrier to contain the placement of the container shall be provided within the screening material on those sides where there is such material. The barrier shall be at least 18 inches from the material and shall be of sufficient strength to prevent possible damage to the screening when the container is moved or emptied. The minimum front opening of the screening material shall be twelve (12) feet to allow service vehicles access to the container.
- I. Interior landscaping for parking areas shall be installed and continuously maintained by the owner.
- J. 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 contained in this Zoning Ordinance.
- K. Unnecessary paving or irregular paving plans are strongly discouraged and, if incorporated in a site plan, shall be subject to approval by the Town.
- L. Alternative parking area landscaping design may be considered by the Planning Commission in cases where unique topography and site constraints dictate such alternative. The innovative use of planting design and materials is encouraged and will be evaluated on the intent demonstrated to fulfill the stated objectives of this Zoning Ordinance.
- M. Landscape material type and quality shall be as follows:
 1. Parking lots and areas that are required to be paved must be shaded by deciduous trees (either retained or planted by the developer) that have or will have when fully mature a trunk at least twelve (12) inches in diameter.
 2. Each tree of the type described in Subsection 1 above shall be presumed to shade a circular area having a radius of fifteen (15) feet with the trunk of the tree as the center, and there must be sufficient trees so that, using this standard, twenty (20) percent of the vehicle accommodation area will be shaded.
 3. Parking areas shall be laid out and detailed to prevent vehicles from striking trees. Vehicles will be presumed to have a body overhang of three feet, six inches.

Part IV Buffers

§ 80-179. Purpose.

- A. One of zoning's most important functions is the division of land uses into districts which have similar character and contain compatible uses. All uses permitted in any district have generally similar nuisance characteristics. Buffer yards will operate to minimize the negative impact of any future use on neighboring properties.
- B. The buffer yard is a combination of setback and a visual buffer or barrier and is a yard or area together with the planting required thereon. Both the amount of land and the type and amount of planting for each buffer yard requirement of this Ordinance are specified and are designed to

ameliorate nuisances between adjacent zoning districts to ensure a desired character along public streets and roads. The planting units required of buffer yards have been calculated to ensure that they do, in fact, function as "buffers."

- C. Buffer yards shall be required to separate different zoning districts from each other in order to eliminate or minimize potential nuisances such as dirt, litter, noise, glare of lights, signs, and unsightly buildings or parking areas, or to provide spacing to reduce adverse impacts of noise, odor, or danger from fires or explosions. Mature woodlands are considered the best buffers and shall be used whenever possible.

§ 80-180. Location of Buffer yards.

Buffer yards shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line. Buffer yards shall not be located on any portion of an existing or dedicated public or private street or right-of-way.

§ 80-192. Determination of Required Buffer yard.

To determine the type of buffer yard required on a parcel or between two parcels or between a parcel and a street, the following procedure shall be used:

- A. Identify whether any portion or property line of the site constitutes a zoning district boundary. If it does, determine the zoning on both sides of the property.
- B. Determine whether the land on the adjoining property is vacant or developed or whether a plat of the subdivision has been approved.
- C. Classify any street adjacent to the proposed use as a local, collector, or arterial street.
- D. Determine the buffer yard required on each boundary (or segment thereof) of the subject parcel by referring to the Tables of Required Buffer yards.
- E. Determine if the proposed development is a use which has buffer yards required to separate that use from certain uses. Then determine the buffer yard required between such uses by referring to the Tables of Required Buffer yards.

§ 80-181. Responsibility for Buffer yards.

- A. When a proposed use adjoins a vacant parcel for which a buffer yard is required by the presence of a zoning boundary, that use shall, at the time of development, provide one-half of the buffer which is required by the Tables of Required Buffer yards.
- B. The second use to develop shall, at the time it develops, provide all additional plant material and/or land necessary to provide the total buffer yard required between those two uses. If the adjoining use had developed without a buffer yard, the second use will be responsible for installing the total buffer yard.
- C. Existing plant material and/or land located on the preexisting (first developed) land use which meets the requirements of this Ordinance may be counted as contributing to the total buffer yard required between it and the second (adjacent) land use to develop.

Tables of Required Buffer yards (See Examples in Appendix B)

	REQUIRED BUFFER YARDS BETWEEN ADJACENT ZONING DISTRICTS					
ZONE	AR	R-1	R-2	R-3	TC	LI-1
AR	--	--	--	--	--	E
R-1	--	--	--	--	--	E
R-2	--	--	--	--	--	E
R-3	--	--	--	--	--	E
TC	--	--	--	--	--	E
LI	E	E	E	E	E	E

REQUIRED STREET BUFFERS	FUNCTIONAL CLASSIFICATION		
ZONING DISTRICTS	ARTERIAL	COLLECTOR	LOCAL
AR, R-1, R-2, R-3, PN	C	B	A
TC	A	A	A
LI	E	E	D

§ 80-182. Buffer yard Requirements.

Illustrations graphically indicating the specification of each buffer yard are contained in Appendix B.

§ 80-183. Buffer yard Use.

A buffer yard may be used for passive recreation or stormwater management. It may contain pedestrian, bike, or equestrian trails provided that: (1) no plant material is eliminated, (2) the total width of the buffer yard is maintained, and (3) all other regulations of the Ordinance are met. (4) In no event, however, shall swimming pools, tennis courts or other such uses be permitted in buffer yards. The Planning Commission may allow substitution or reduction of the buffer yard if it finds that the required buffer yard will obstruct the view of a driver or that the buffer yard is incompatible with the existing streetscape.

§ 80-184. Ownership of Buffer yards

Buffer yards may remain in the ownership of the original developer (and assigns) of a land use, or they may be subjected to deed restrictions and subsequently be freely conveyed, or they may be transferred to any consenting grantees, such as adjoining landowners, the Town of Millington, or a homeowner's association, provided that any such conveyance adequately guarantees the protection of the buffer yards for the purposes of this Ordinance. Final Ownership shall be specified and approved by the Planning Commission.

Part V Environmental Standards for Sensitive Areas

§ 80-185. Environmental Standards

The following provisions shall apply to all development activities requiring site plan or subdivision plat approval.

A. Perennial Stream no-disturbance buffer

1. A one-hundred (100) foot natural buffer from all perennial streams shall be required for all development. Permanent or temporary stormwater and/or sediment control devices shall not be permitted in this Buffer.
2. This buffer requirement may be reduced to no less than seventy-five (75) feet by the Planning Commission for the following:
 - a. If evidence is provided that the design, construction and use of the site will provide the same or better protection of water quality as the one hundred (100) foot buffer, and if evidence is provided that said development will meet all other applicable requirements, as required.
 - b. Road crossings, if disturbance is minimized.
 - c. Other public or community facilities provided disturbance is minimized in so far as possible.

B. Intermittent Stream no-disturbance buffer

1. A fifty (50) foot buffer from all intermittent streams shall be required for all development. Permanent or temporary stormwater management and sediment control devices shall not be permitted in this buffer.
2. This buffer requirement may be waived by the Planning Commission for the following:
 - a. Road crossings, if disturbance is minimized.
 - b. Other public or community facilities provided disturbance is minimized in so far as possible.

C. Sensitive Soil no-disturbance buffer. The one-hundred (100) foot perennial stream buffer shall be expanded to include contiguous 100 year floodplain and nontidal wetlands. In addition, the one-hundred (100) foot perennial stream buffer shall be expanded to include hydric soils, highly erodible soils and soils on slopes greater than fifteen percent (15%) that are contiguous with the perennial stream, any 100 year flood plain adjacent to the stream, or any nontidal wetlands adjacent to the stream to a maximum distance of two hundred (200) feet.

D. Non-tidal Wetland buffer. A twenty-five (25) foot setback from all non-tidal wetlands shall be required for all development around the extent of the delineated nontidal wetland except as permitted by the U.S. Army Corp of Engineers and the State of Maryland, Department of Natural Resources, Non-tidal Wetland Division.

E. Steep Slopes.

The following steep slope provisions shall apply.

1. Grading, removal of vegetative cover and trees, and paving are not permitted on any land in excess of twenty-five percent slope for an area of forty thousand (40,000) square feet.
2. Not more than forty (40%) percent of any land in excess of fifteen percent slope and less than twenty-five percent slope for an area of forty thousand (40,000) square feet shall be cleared of natural ground cover or vegetation in preparation for development.

F. Habitat Protection Areas.

1. Identification.

An applicant for a 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 includes:

- a. Threatened or endangered species or species in need of conservation;
- b. Forest areas utilized as breeding areas by future interior dwelling birds and other wildlife species;
- c. 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 that is in or near a Habitat Protection Area listed above shall request 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 a Habitat Protection Area on or near a 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 Resource.
- 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.

§ 80-186. Reserved

ARTICLE XVI ADMINISTRATION AND ENFORCEMENT

§ 80-187. Changes and amendments.

- A. Initiation of change. The Mayor and Council may from time to time amend, supplement or change, by Ordinance, the boundaries of the districts or the regulations herein established. Any such amendment may be initiated by resolution of the Mayor and Council or by motion of the Planning Commission or by petition of any property owner addressed to the Mayor and Council. Petitions for change or amendment shall be on forms and filed in a manner prescribed by the Planning Commission.
- B. Report from Planning Commission. Before taking any action on any proposed amendment, supplement or change, the Mayor and Council shall submit the same to the Planning Commission for its recommendations and report. Failure of the Commission to report within sixty (60) days after the first meeting of the Planning Commission subsequent to the proposal being referred to the Planning Commission shall be deemed approval.
- C. Notice and hearings. The Planning Commission shall hold a public hearing on any proposed amendment, supplement or change before submitting its report to the Mayor and Council. Notice of public hearing before the Commission shall be given at least fifteen (15) days prior to the bearing by publishing the time, place and nature of the bearing in a newspaper having general circulation in the town. In addition, the Planning Commission shall cause the date, time, place and nature of the hearing to be posted conspicuously on the property, in accordance with the rules of the Commission. The published and posted notices shall contain reference to the place or places within the town where the plans, ordinances or amendments may be examined.
- D. Before approving any proposed change or amendment, the Mayor and Council shall hold a public hearing thereon. Notice of public hearing before the Mayor and Council shall be given at least fifteen (15) days prior to the bearing by publishing the time, place and nature of the hearing in a newspaper having general circulation in the Town.
- E. In reaching a decision on zoning amendments, the Mayor and Council shall make findings of fact in each specific case including, but not limited to, the following matters: population change, adequacy of public facilities, present and future transportation patterns, compatibility with existing and proposed development for the area, the recommendations of the Planning Commission, consistency with the Comprehensive Plan, fiscal impact upon Town government, and the suitability of the property in question to the uses permitted under the existing and proposed zoning classifications; and may grant the amendment based upon a finding that there was a substantial change in the character of the neighborhood where the property is located or that there was a mistake in the existing zoning classification. It shall be the responsibility of the applicant to delineate the boundaries of the neighborhood and to identify the change in the character of the neighborhood.
- F. One-year limitation on reconsideration. Whenever a petition requesting an amendment, supplement or change has been denied by the Mayor and Council, such petition, or one substantially similar, shall not be reconsidered sooner than one (1) year after the previous denial.
- G. The record in all zoning cases shall include the application, all documents or communications submitted regarding the application, the recorded testimony received at the hearing, any reports or communications to or from any public officials or agency concerning the application, and the final

decision of the Mayor and Council. The record shall be open to public inspection and shall be maintained in the Town Office. The burden of proof for any zoning change shall be upon the applicant.

§ 80-188. Amendments for floating zones.

The provisions of this Article 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.

§ 80-189. Critical Area Amendments.

- A. Program changes. The Mayor and Council may from time to time amend the provisions of this Zoning Ordinance that apply to the CA Critical Area Overlay District. CA District amendments include, but are not limited to, amendments, revisions, and modifications to zoning regulations, Critical Area Maps, implementation procedures, and local policies that affect the CA District. 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 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.
- B. Comprehensive reviews. The Town will review its entirety of CA District provision and propose any necessary amendments at least every six (6) years. The anniversary of the date that the adoption of this Zoning Ordinance shall be used to determine when the review shall be completed. Within sixty (60) days after the completion of the review, the Town will send the following information in writing to the Commission:
 - a. A statement certifying that the required review has been accomplished;
 - b. A necessary requests for amendments, refinements, or other matters that the Town wishes the Commission to consider;
 - c. An updated resource inventory; and
 - d. A statement quantifying acreages within each land classification, the growth allocation used, and the growth allocation remaining.
- C. Zoning map amendments. Except for amendments or refinements developed during a six-year comprehensive review, a zoning map amendment in the CA District may only be granted by the Mayor and Council 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 originally adopted Program; or
 - b. The Town proposes the use of growth allocation in accordance with the growth allocation provisions of this ordinance.

- D. Process. When an amendment is requested, the applicant shall submit the amendment to the Planning Commission for review and research. Upon completing Findings of Fact, these documents shall be forwarded to the Mayor and Council. The Mayor and Council shall hold a public hearing at which parties of interest and citizens shall have an opportunity to be heard. At least fifteen (15) days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in the Town. After the Mayor and Council approve an amendment, they shall forward their decision and applicable ordinances and resolutions along with the amendment request to the Critical Area Commission for final approval.
- E. Critical Area Commission review. When the Town submits a request for review and approval of changes to any element of the Zoning Ordinance provisions applicable to the CA District including, but not limited to Zoning Ordinance text or maps, the request will include all relevant information necessary for the Chairman of the Commission, and as appropriate, the Commission, to evaluate the changes. The Chairman, and as appropriate, the Commission, shall determine if the requests for amendment(s) are consistent with the purposes, policies, goals, and provisions of the Critical Area Law and all Criteria of the Commission.
- F. Critical Area Commission decision. In accordance with the determination of consistency outline above, the Chairman, or as appropriate, the Commission will:
 - a. Approve the proposed refinement or amendment and notify the local jurisdiction;
 - b. Deny the proposed refinement or amendment;
 - c. Approve the proposed refinement or amendment subject to one or more conditions; or
 - d. Return the proposed refinement or amendment to the Town with a list of changes to be made.

§ 80-190. Conformity with Zoning Ordinance Provisions.

The regulations set by this Zoning Ordinance within each zone shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except and particularly as hereinafter provided:

- A. No building, structure or land shall hereinafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered externally, unless in conformity with all the regulations herein specified for the zoning district in which it is located.
- B. No building or other structure shall hereafter be erected or altered to: exceed the height; accommodate or house a greater number of families; occupy a greater percentage of lot area; or have narrower or smaller rear yards, front yards, side yards or other open spaces than herein required, or in any other manner contrary to the provisions of this Zoning Ordinance.
- C. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Zoning Ordinance shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.
- D. No yard or lot existing at the time of passage of this Zoning Ordinance shall be reduced in

dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Zoning Ordinance shall meet at least the minimum requirements established by this Zoning Ordinance.

- E. It is the intent of this Zoning Ordinance that it be interpreted as excluding any use that is not expressly permitted whether as a permitted, accessory, or special exception use.

§ 80-191. Permits Required

- A. No building or other structure shall be erected, moved, added to, or structurally altered, or use of land be changed without a zoning certificate (certificate of approval) therefore, issued by the Planning Commission. No zoning certificate shall be issued except in conformity with the provisions of this Zoning Ordinance, except after written order from the Board of Appeals.
- B. No building or other structure shall be erected, nor shall any existing building or structure be moved, added to, enlarged, or structurally altered, and no excavation for any building or other structure shall begin without the issuance of a building permit. When issued, such permit shall be valid for a period of six (6) months.
- C. In addition to the building permit and zoning certificate, the following permits may be required by the Town Administrator:
 - 1. Applications Approved by the Board of Appeals. The Town Administrator shall issue permits in conformance with the written authorization of the Board of Appeals concerning administrative review appeals, special exception permit appeals, dimensional variance appeals, or other appeals as authorized in this Zoning Ordinance.
 - 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.
 - 3. Subdivision Plat. If the permit involves the subdivision of land, an approved subdivision plat shall be required as provided in the Millington Subdivision Regulations.
 - 4. Other Permits. Additional permits, including approvals by other agencies, may be required to enforce the provisions of this Zoning Ordinance.
- D. Permits are issued under this Zoning Ordinance when a review of the application submitted, including the plans contained therein, indicates that the development will comply with the provisions of this Zoning Ordinance if completed as proposed. Such plans and applications as are finally approved are incorporated into any permit issued, all development shall occur strictly in accordance with such approved plans and applications.
- E. Physical improvements to land to be subdivided shall not be commenced without a signed, recorded final plat, a Bond, or Letter of Credit and a public works agreement approved by the Mayor and Council.

§ 80-192. Drawings and plats.

- A. All applications for zoning certificate or building permits shall be accompanied by a drawing containing the information shown in Appendix A or plat, in duplicate or as required by the Town

Administrator.

- B. The drawings shall contain suitable notations indicating the proposed use of all land and buildings. A careful record of the original copy of such applications and plats shall be kept in the office of the Administrator, and a duplicate copy shall be kept at the building at all times during construction.

§ 80-193. Site Plan Review and Approval

- A. Prior to issuing a zoning certificate or building permit for construction, expansion or change in use, a site plan and supporting documentation shall be submitted to the Planning Commission for its review and approval.
- B. The purpose of major site plans is to assure detailed compliance with applicable provisions of enacted regulations and to prescribe standards for the design and construction of site improvements. Development requiring site plan approval shall be permitted only in accordance with all specifications contained on an approved site plan, and shall not be undertaken until the site plan is approved and all required construction permits have been obtained subsequent to such approval.
- C. Applicability. All development or land use activities within the Town shall require site plan review before being undertaken, except the following:
 - 1. Construction or expansion of a single one family dwelling and ordinary accessory structures, and related land use activities.
 - 2. Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this Zoning Ordinance.
 - 3. Ordinary repair or maintenance or interior alterations to existing structures or uses.
 - 4. Exterior alterations or additions to existing structures which would not increase the square footage of the existing structure by more than 500 square feet or have a cost value of less than \$10,000.00.
 - 5. Agricultural or gardening uses.
 - 6. All signs except in conjunction with new development.
- D. Site plan applications shall include the information listed in Appendix A for preliminary and final site plans. The Planning Commission may at its discretion waive any information or preliminary requirements which are not relevant to the proposed use and site.
- E. The Planning Commission's review of the preliminary site plan shall include, but is not limited to the following considerations:
 - 1. Adequacy and arrangement of vehicular traffic access and circulation, including emergency vehicle access.
 - 2. Location, arrangement, appearance and sufficiency of off-street parking and loading.

3. Location, arrangement, size and design of buildings, lighting and signs.
 4. Relationship of the various uses to one another and their scale.
 5. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and noise buffer between adjacent uses and adjoining lands.
 6. Adequacy of storm water and sanitary waste disposal.
 7. Adequacy of structures, roadways and landscaping in areas susceptible to flooding and ponding or erosion.
 8. Compatibility of development with natural features of the site and with surrounding land uses.
 9. Adequacy of flood proofing and flood prevention measures consistent with the flood hazard prevention regulations of the Federal Emergency Management Agency.
 10. Adequacy of open space for play areas, informal recreation and the retention of natural areas such as wildlife habitats, wetlands and wooded areas.
 11. Adequacy of pedestrian access.
- F. The Planning Commission may require additional information which appears necessary for a complete assessment of the project.
- G. Major site plans shall be prepared and certified by an engineer, architect, landscape architect, or land surveyor duly registered to practice in the State of Maryland.
- H. Upon receipt of the major site plan, the Planning Commission shall review the site plan, soliciting comments from other departments, agencies, and officials as may appropriate. The site plan shall be approved if it meets the requirements of this section, Appendix A, other requirements of this Zoning Ordinance and all other Federal, State, and County regulations. Notice of approval or disapproval of the site plan shall be given in writing to the applicant.
- I. Construction of required improvements.
1. Upon approval of a site plan, the applicant shall then secure the necessary construction permits from appropriate agencies before commencing work. The applicant may construct only such improvements as have been approved by the Planning Commission or appropriate Town review and approval agencies.
 2. The Town may require inspection after construction has been completed, inspection of site improvements.
- J. Expiration and Extension
1. Approval of site plans shall be for a two (2) year period and shall expire at the end of such

period unless building construction has begun.

2. Upon written request by the applicant, within thirty (30) days prior to the expiration of said approval, a one (1) year extension may be given by the Planning Commission.
3. Such request shall be acknowledged and a decision rendered thereon not more than thirty (30) days after filing of said request.

§ 80-194. Fees.

- A. The Town shall establish a schedule of fees, charges and expenses and a collection procedure for applications for zoning appeal cases, zoning and map amendments, permits, site plans, sign permits and other matters pertaining to this Zoning Ordinance. Such schedule shall be posted at the Town. The Mayor and Council may amend the fee schedule by resolution.
- B. These fees may include the 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 proposed development and improvement plans.
- C. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal pertaining to this Zoning Ordinance.

§ 80-195. Interpretation; conflict.

- A. In interpreting and applying the provisions of this Zoning Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare.
- B. It is not intended by this Zoning Ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this Zoning Ordinance imposes a greater restriction upon the use of buildings or premises or upon height of buildings or requires larger open spaces than are imposed or required by other resolutions ordinances, rules or regulations or by easements, covenants or agreements, the provisions of this Zoning Ordinance shall govern.
- C. If, because of error or omission in the Zoning District Map, any property in the jurisdiction of this Zoning Ordinance is not shown as being in a zoning district, the classification of such property shall be the zoning classification permitting the lowest residential density until changed by amendment.
- D. Whenever these regulations, subdivision plats, or development plans approved in conformance with these regulations, are in conflict with other local Ordinances, regulations, or laws, the more restrictive Ordinance, regulation, law, plat, or plan shall govern and shall be enforced by appropriate local agencies. When subdivision and development plans, approved by the Planning Commission, contain setback or other features in excess of the minimum Zoning Ordinance requirements, such features as shown on the approved plan shall govern and shall be enforced by the Town. Private deed restrictions or private covenants for a subdivision, which have not been approved by the Planning Commission and made a part of the approved subdivision plan, do not fall within the jurisdiction of enforcement by any Town agency and cannot be enforced by the Town.

- E. To avoid undue hardship, nothing in this Zoning Ordinance shall be deemed to require change in the plans, construction, or designated use of any building or premises on which an application for a certificate or permit was filed with the Town prior to the date of adoption of this Zoning Ordinance or amendment thereto, providing that the application meets all zoning and other requirements in effect on the date of said application. The issuance of said certificate or permit shall be valid only if it is exercised within one hundred and eighty (180) days from the date of issuance of the certificate or permit. "Exercised", as set forth in this section, shall mean that binding contracts for the construction of the main building or other main improvement have been let, or in the absence of contracts, that the main building or other main improvement is under construction to a substantial degree or that prerequisite conditions involving substantial investments shall be under contract, in development, or completed. When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions as set forth in the permit or certificate.

§ 80-196. Enforcement.

- A. It shall be the duty of the Town Administrator to enforce the provisions of this Zoning Ordinance and to refuse to issue any permit for any building or for the use of any premises which would violate any of the provisions of this Zoning Ordinance.
- B. It shall also be the duty of all officers and employees of the Town to assist the enforcing officer by reporting to him any seeming violation in new construction or reconstruction or in the use of land or building.

§ 80-197. Institution of action to end violation.

In case any building is erected, constructed, reconstructed, altered, repaired or converted or any building or land is used in violation of this Zoning Ordinance the Town Administrator is authorized and directed to institute any appropriate action to put an end to such violation.

§ 80-198. Violations and penalties.

- A. Except as may otherwise be provided in this Zoning Ordinance, any person or corporation who shall violate any of the provisions of this Zoning Ordinance or fail to comply therewith or with any of the requirements thereof or who shall build or alter any building in violation of any detailed statement or plan submitted and approved hereunder shall be guilty of a misdemeanor and shall be liable to a fine of not more than one hundred dollars (\$100.00), and each day such violation shall be permitted to exist shall constitute a separate offense.
- B. The owner or owners of any building or premises or part thereof where anything in violation of this Zoning Ordinance shall be placed or shall exist and any architect, builder, contractor, agent, person or corporation employed in connection therewith and who has assisted in the commission of any such violation shall be guilty of a separate offense and, upon conviction thereof, shall be fined as hereinbefore provided.
- C. Additional enforcement provisions apply in the CA District.

APPENDIX A BASIC INFORMATION REQUIRED WITH ZONING AND BUILDING PERMIT APPLICATIONS

NOTE: All plats and plans must be clear and legible. Incomplete plats will be returned to the applicant for completion and re-submission.

Item#	DESCRIPTION	Sketch/ Concept Plan	Minor Site Plan	DEVELOPMENT STAGE		
				General Develop. Plan	Major Site Plan	
					Prelim.	Final
I.	PROJECT-PLAT INFORMATION					
1.	Name, address of owner, applicant, developer and lienholder, date of application.	X	X	X	X	X
2.	Name and address of engineer, land surveyor architect, planner, and/or landscape architect, as applicable, involved in document preparation.	X	X	X	X	X
3.	Date of survey.		X		X	X
4.	Seal, signature and license number of engineer, land surveyor, architect, and/or landscape architect, as applicable involved in document preparation. Each sheet must have a surveyor's seal.		X		X	X
5.	Title block denoting name and type of application, tax map sheet, block and lots, parcel, and street location.	X	X	X	X	X
6.	A vicinity map at a specified scale (no smaller than 1"=200') showing location of the tract with reference to surrounding properties, streets, landmarks, streams, etc. Show all of the property owned according to the Tax Map(s) if only part of the property is to be developed.	X	X	X	X	X
7.	Existing and proposed zoning of tract and adjacent property from Official Zoning Map.	X	X	X	X	X
8.	Adjacent property owners, names, Liber and Folio.	X	X	X	X	X
9.	Title, north arrow and scale (1"=100').		X		X	X
10.	Appropriate signature block for planning director, planning commission chairman, and the health department.		X		X	X
11.	Appropriate certification blocks.		X			X
12.	Certification and dedication by the owner or owners to the effect that the subdivision as shown on the final plat is made with his or her consent and that it is desired to record same.		X			X
13.	Monumentation, location and description.		X			X
14.	Standardized sheets 18"x24" (final - black ink on mylar).		X		X	X
15.	Metes and bounds survey showing dimensions, bearings, curve, data, length of tangents, radii, arc, chords, and central angles for all centerlines and rights-of-way, and centerline curves on streets, datum and benchmark, primary central points approved by the Town Engineer. (Boundary of proposed subdivision can be a deed plot).		X		X	X
16.	Acreage of tract to the nearest thousandth of an acre.	X	X	X	X	X

				DEVELOPMENT STAGE		
					Major Site Plan	
Item#	DESCRIPTION	Sketch/ Concept Plan	Minor Site Plan	General Develop. Plan	Prelim.	Final
17.	Date of original and all revisions.	X	X	X	X	X
18.	Size and location of any existing or proposed structures with all setbacks dimensioned (for concept plan, GDP general location but not setbacks). Include storm drains, culverts, retaining walls, fences, stormwater management facilities, sediment and erosion structures.	X	X	X	X	X
19.	Number of dwelling units.	X	X	X	X	X
20.	Location, dimensions, bearings, names of any existing or proposed roads or streets. The location of pedestrian ways, driveways. Right of way widths. (for GDP, concept plans, general locations).	X	X	X	X	X
21.	All proposed lot lines (width and depth) and area of lots in square feet, number of lots, lot numbers.		X		X	X
22.	Location and type of utilities.		X		X	
23.	Copy and/or delineation of any existing or proposed deed restrictions or covenants.		X		X	
24.	References to protective covenants governing the maintenance of undedicated public spaces or reservations.		X			X
25.	Location and size of proposed Natural Park areas, play grounds and other public areas.	X		X	X	X
26.	Any existing or proposed easement (drainage and utility) or land reserved for or dedicated to public use*. Location, dimensions of proposed reservations, right of ways, open space, buffers, forested areas along with means by which these areas will be permanently maintained.	X	X	X	X	X
27.	Statement of owner dedicating streets, right-of-way, and any sites for public use.		X			X
28.	Development stages or phasing plans (for GDP and concept plans, general phasing). Sections numbered by phase.	X		X		
29.	Total number of off-street parking spaces including ratio and number of units per space.	X	X	X	X	
30.	List of required regulatory approvals/permits.	X	X	X	X	X
31.	List of variances required or requested.	X	X	X	X	X
32.	Requested or obtained design waivers or exceptions.	X	X	X	X	X
33.	Payment of application fees.	X	X	X	X	X
34.	Total area of the site that will be temporarily and/or permanently disturbed.		X		X	
II. SETTING-ENVIRONMENTAL INFORMATION						
35.	All existing streets, water courses, flood plains wetlands, or other environmentally sensitive areas on or adjacent to the site.	X	X	X	X	
36.	Existing rights-of-way and/or easements on or immediately adjacent to the tract.	X	X	X	X	X

Item#	DESCRIPTION	Sketch/ Concept Plan	Minor Site Plan	DEVELOPMENT STAGE		
				General Develop. Plan	Major Site Plan	
					Prelim.	Final
37.	Topographical features of subject property from USGS map or more accurate source at 2'-5' intervals, 50' beyond the boundary, with source stated on maps.	X		X	X	
38.	Field delineated or survey topo.		X			X
39.	General areas of >15% slope shaded and identified as steep slopes.	X	X	X		
40.	Slope analysis of >15% slopes. These areas shall be shaded and identified as steep slopes.				X	X
41.	Forest Stand Delineation (See Zoning Ordinance).		X		X	
42.	Existing system of drainage of subject site and adjacent sites and of any larger tract or basin of which it is a part.		X		X	X
43.	A 100 Year Flood Plain based on FEMA maps.	X	X	X	X	X
44.	Tidal and non-tidal wetland delineation based on NWI maps and field review.	X	X	X	X	
45.	Non-tidal wetlands identification based on field delineation/determination.					X
46.	Location of sensitive areas and their Buffers (Zoning Ordinance).	X	X	X	X	X
47.	Location and width of Buffer yards.	X	X	X	X	X
48.	Soil types based on County Soil Survey.		X		X	
49.	Traffic Impact Study, as required.				X	
50.	Statement of effect on school district and school bus service, as required.				X	
The following additional information items are required in the areas designated Critical Areas						
51.	Location of the Critical Area District boundary and Critical Area designation.	X	X	X	X	X
52.	Number of acres in the Critical Area.	X	X	X	X	
53.	Mean high waterline and landward edge of tidal wetlands.	X	X	X	X	
54.	Location of existing forested areas to be disturbed by construction. Planting plan approved by the Maryland Forest Service (final).	X	X	X	X	
55.	The known locations of HPA's, the habitat of any threatened or endangered species, and the habitat of any Species in Need of Conservation. Habitat Protection Plan reviewed by the Maryland Fish, Heritage and Wildlife Administration.	X	X	X	X	X
56.	The location of the Critical Area Buffer and the expanded Buffer, as required.	X	X	X	X	X
57.	Hydric and highly erodible soils based on the County Soil Survey.	X	X	X	X	
58.	Natural Park management plan, if applicable.					X
59.	Shore erosion protection plan, if applicable.					X

				DEVELOPMENT STAGE		
					Major Site Plan	
Item#	DESCRIPTION	Sketch/ Concept Plan	Minor Site Plan	General Develop. Plan	Prelim.	Final
60.	Environmental assessment.		X	X	X	
61.	Statement of consistency with the Critical Area Program.	X	X	X	X	
III.	PLATS, IMPROVEMENT PLANS, AND CONSTRUCTION INFORMATION					
62.	Subdivision Plat meeting requirements of Perryville Subdivision Regulations.		X			X
63.	Grading and drainage plans including roads, drainage ditches, sediment basins, and berms.		X		X	X
64.	Existing and proposed contour intervals as follows:		X		X	X
	Less than 5% slope = 1 foot					
	5 to 15% slopes = 2 feet or less					
	>15% = as required for construction					
65.	Proposed street grades, typical cross sections and profiles, right-of-way widths, pedestrian ways, total area of roads.		X		X	X
66.	Existing and proposed utility infrastructure plans and profiles including sanitary sewer, water, storm drainage and stormwater management, as appropriate in the case of minor subdivisions.		X		X	X
67.	Grades and sizes of sanitary sewers and waterlines.		X		X	X
68.	Direction and distance to water and sewer if not available on or adjacent to the site with invert and elevation of sewer.		X		X	
69.	Certification from electric and telephone utilities of adequate facilities to serve proposed development.		X		X	
70.	Location of fire hydrants.				X	X
71.	Construction details as required by ordinance.		X			X
72.	Stormwater Management Plan.		X		X	X
73.	Soil Erosion and Sediment Control Plan.		X		X	X
74.	Lighting plan and details, as required.					X
75.	Landscape plan and details, including required Buffer yards.		X		X	X
76.	Forest Conservation Plan				X	X
77.	Proposed street names.				X	X
78.	New block and lot numbers.				X	X
79.	Solid waste management plan.				X	X
80.	Preliminary architectural plan and elevations.				X	X
81.	Required County, State, and/or Federal or approvals, e.g., State Highway Administration, County Public Works, Army CORPS of Engineers, DNR Wetlands Permit/License, MDOE Quality Certification, MDOE sanitary construction permit, local Health Department approvals.		X			X
82.	Department of Public Works signature on final Site Plan					

Item#	DESCRIPTION	Sketch/ Concept Plan	Minor Site Plan	DEVELOPMENT STAGE		
				Major Site Plan		
				General Develop. Plan	Prelim.	Final
83.	Public works agreement and surety instruments.					X

APPENDIX B BUFFERYARD REQUIREMENTS

B-1: Buffer yard Specifications

The following illustrations graphically indicate the specifications of each buffer yard. Buffer yard requirements are stated in terms of the width of the buffer yard and the number of plant units required per one hundred (100) linear feet of buffer yard. The recommended buffer yard should be one of the options illustrated. The "plant unit multiplier" is a factor by which the basic number of plant materials required for a given buffer yard is determined given a change in the width of that yard. The type and quantity of plant materials required by each buffer yard, and each buffer yard option, are specified in this section.

Afforestation and reforestation plantings required under the Forest Conservation requirements contained in the Zoning Code may occur in buffer yards provided such plantings meet the minimum requirements for afforestation or reforestation.

The options within any buffer yard are designed to be equivalent in terms of their effectiveness in eliminating the impact of adjoining uses. Cost equivalence between options was attempted where possible. Generally, the plant materials which are identified as acceptable are determined by the type(s) of soil present on the site. Each illustration depicts the total buffer yard located between two uses.

Whenever a wall, fence, or berm is required within a buffer yard, these are shown as "structure required" in the following illustrations, wherein their respective specifications are also shown. All required structures shall be the responsibility of the higher intensity use.

B-2: Plant Material

The following plant material substitutions shall satisfy the requirements of this section.

- (1) In buffer yards C and D evergreen canopy or evergreen under story trees may be substituted for deciduous canopy forest trees without limitation.
- (2) In buffer yards B evergreen canopy or evergreen under story trees may be substituted as follows:
 - (a) In the case of deciduous canopy forest trees, up to a maximum of fifty (50) percent of the total number of the deciduous canopy trees otherwise required.
 - (b) In the case of deciduous under story, without limitation.
- (3) In all buffer yards, evergreen or conifer shrubs may be substituted for deciduous shrubs without


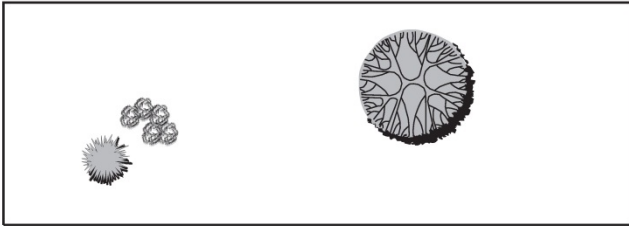
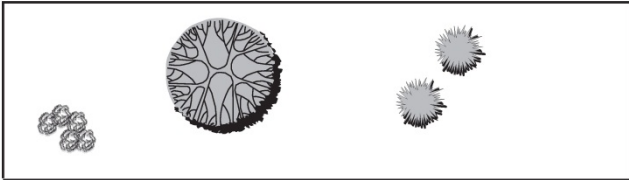
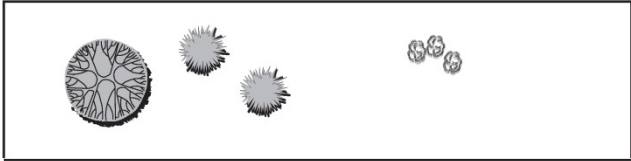
limitation.

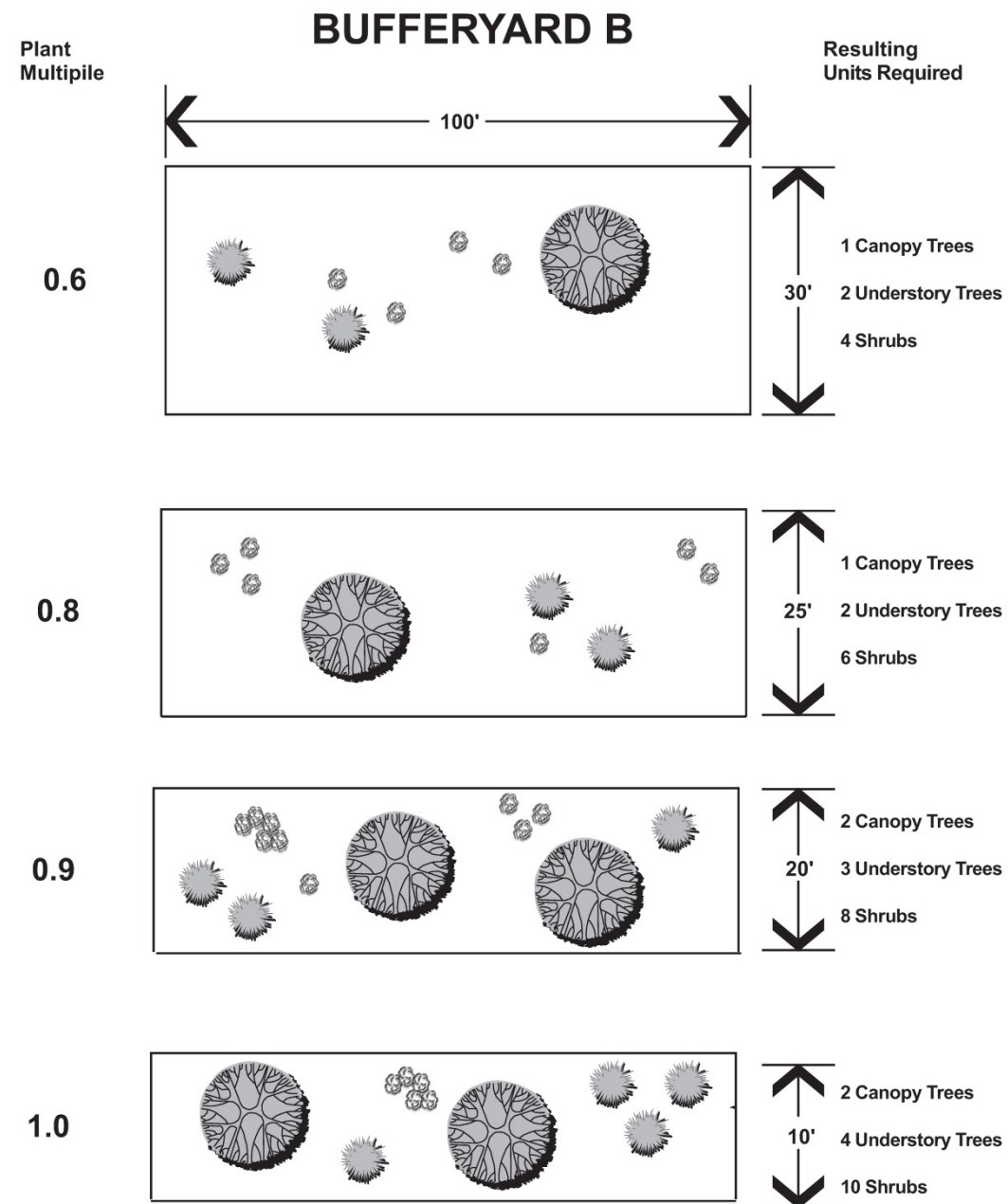
- (4) In all buffer yards required of public service uses, the public service use may substitute evergreen canopy or evergreen under story plant materials for canopy forest trees and under story plant materials, without limitation. If the development on the adjoining use is existing, planned, or deed-restricted for solar access, under story trees may be substituted for canopy trees where canopy trees would destroy solar access. Any existing plant material which otherwise satisfies the requirements of this section may be counted toward satisfying all such requirements.

The exact placement of required plants and structures shall be the decision of each user except that the following requirements shall be satisfied:

- (1) Evergreen (or conifer) class III and IV plant materials shall be planted in clusters rather than singly in order to maximize their chances of survival.
- (2) Berms (B₁ and B₂.) required of buffer yard D options are intended to buffer more significant nuisances from adjacent uses and, additionally, to break up and absorb noise, which is achieved by the varied heights of plant materials between the masonry wall and the noise source.

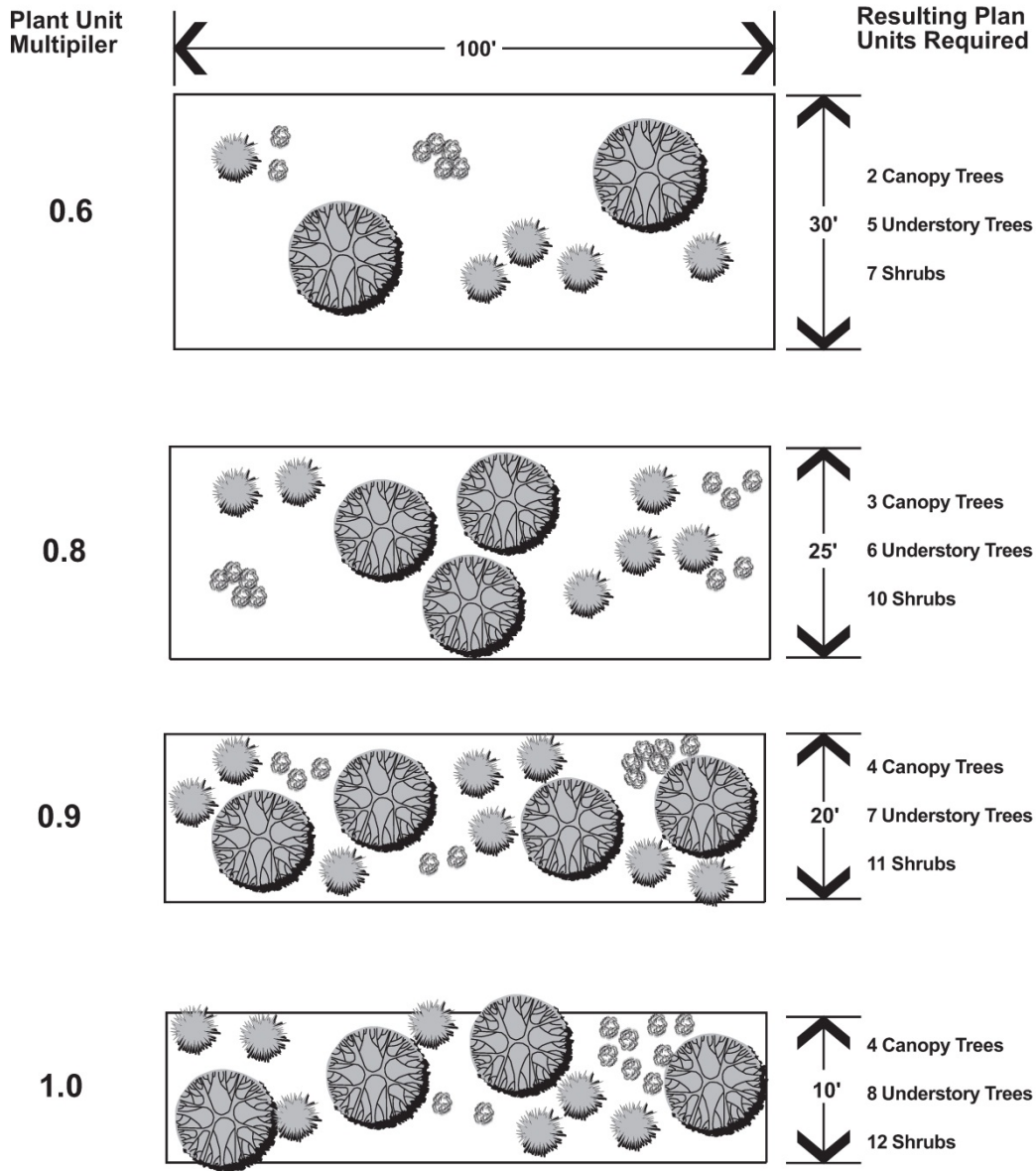
All buffer yard areas shall be seeded with lawn unless ground cover is already established.

BUFFERYARD A		
Plant Unit Multiplier	100'	Resulting Plan Units Required
0.6		25' 1 Understory Trees 2 Shrubs
0.8		20' 1 Canopy Trees 1 Understory Trees 4 Shrubs
0.9		15' 1 Canopy Trees 2 Understory Trees 5 Shrubs
1.0		10' 1 Canopy Trees 2 Understory Trees 6 Shrubs
APPENDIX B Bufferyard Standards	BUFFERYARD A	Millington Maryland

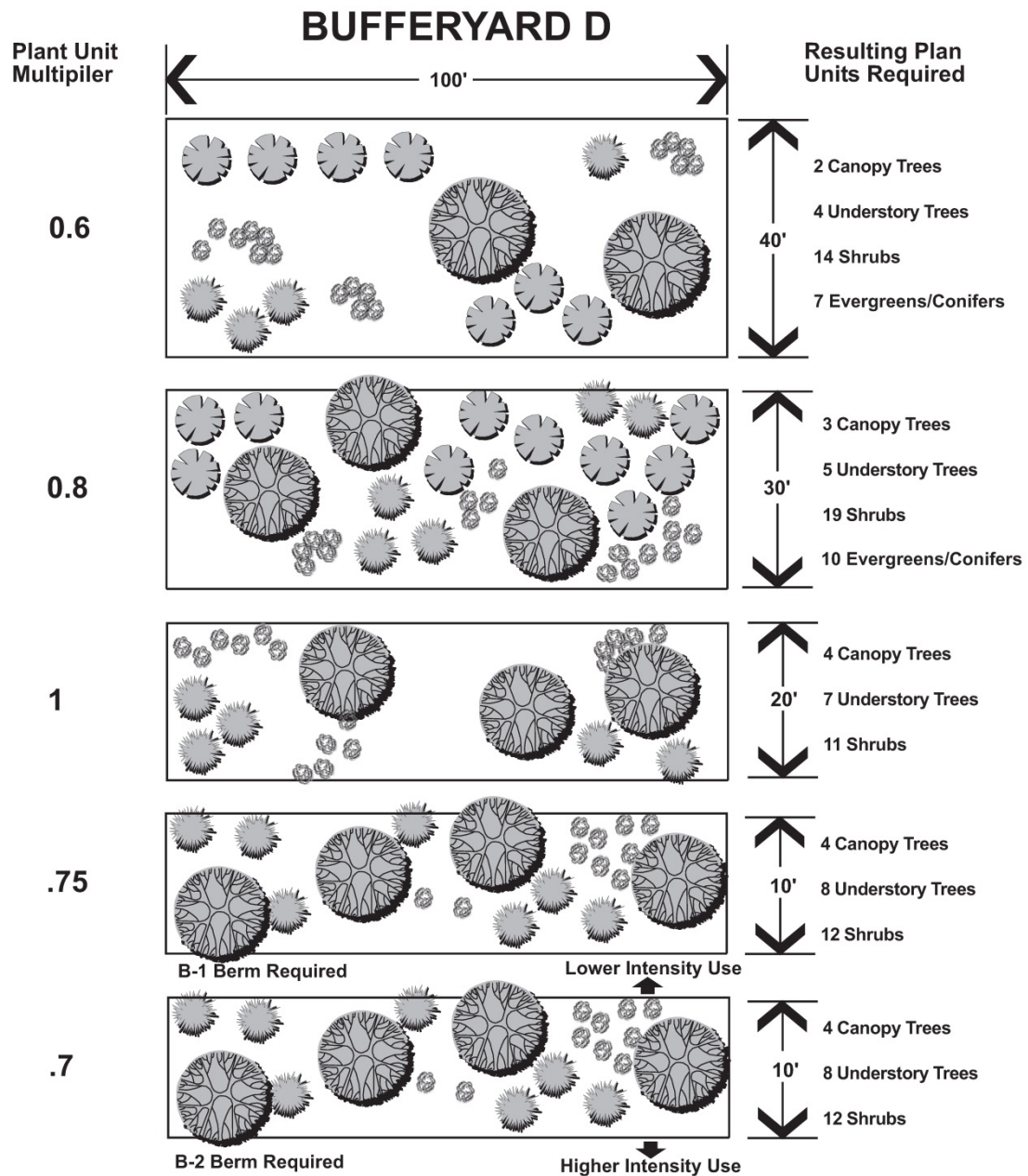


APPENDIX B Bufferyard Standards	BUFFERYARD B	Millington, Maryland
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BUFFERYARD C



APPENDIX B Bufferyard Standards	BUFFERYARD C	Millington, Maryland
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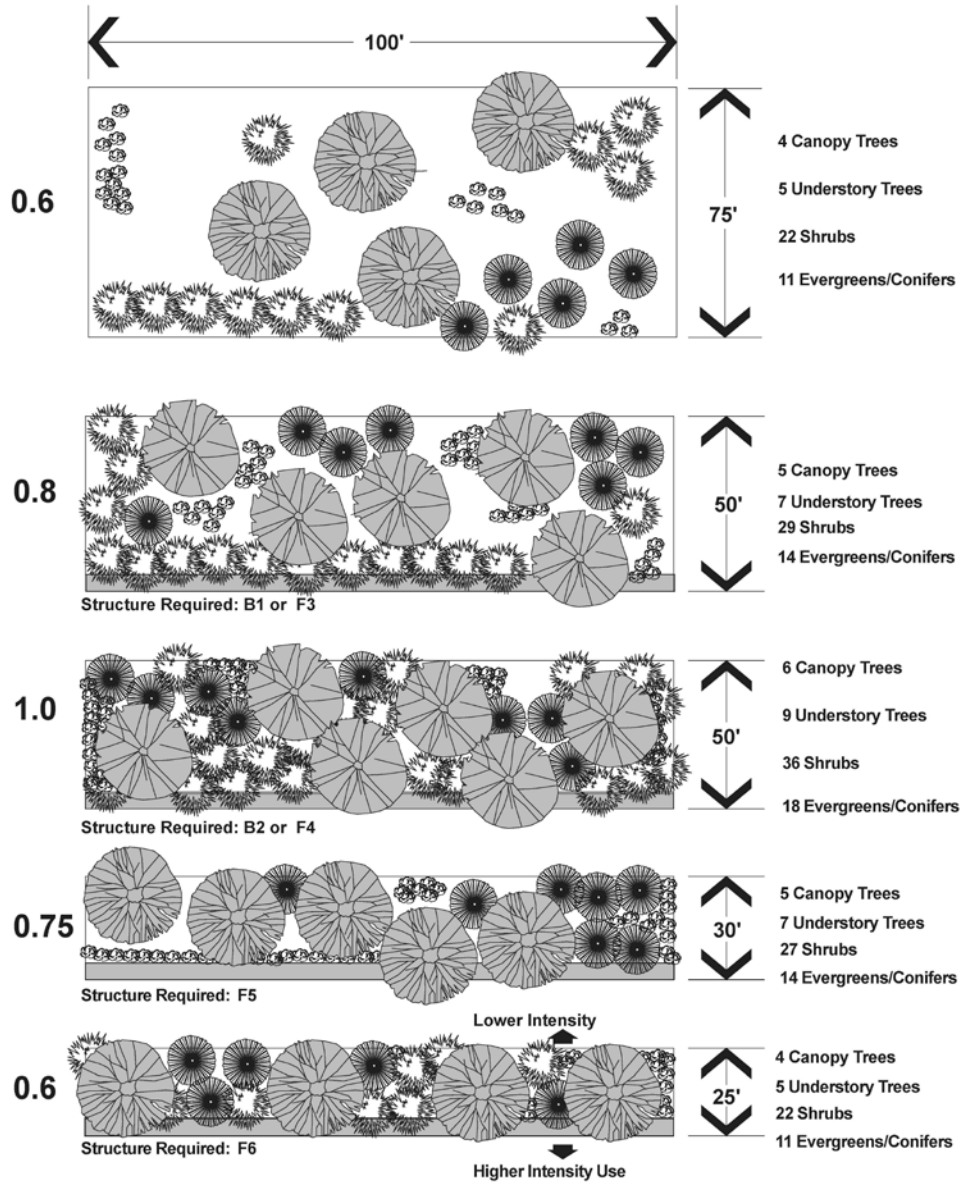


APPENDIX B Bufferyard Standards	BUFFERYARD D	Millington, Maryland
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Plant
Multiple

BUFFERYARD E

Resulting
Units Required

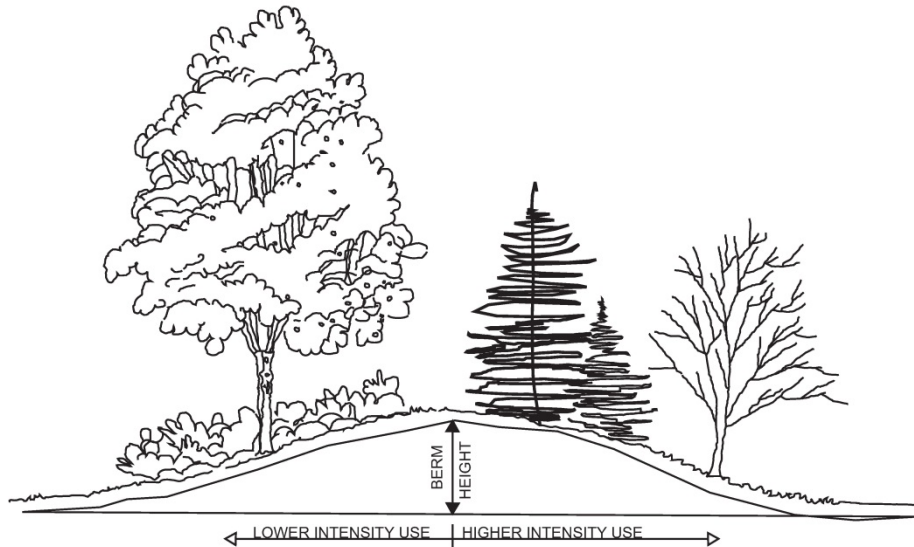


APPENDIX B
Bufferyard Standards

BUFFERYARD E

Millington,
Maryland

BERMS



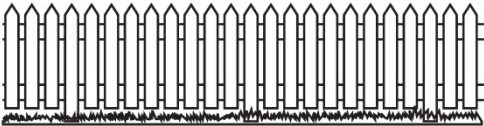
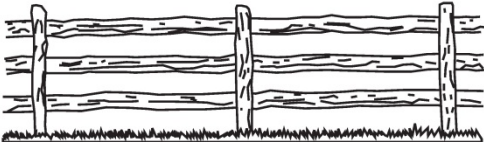
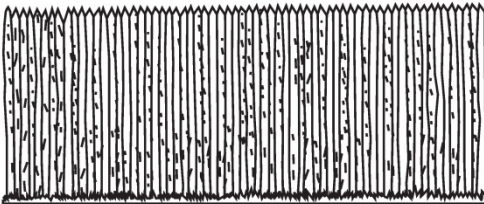
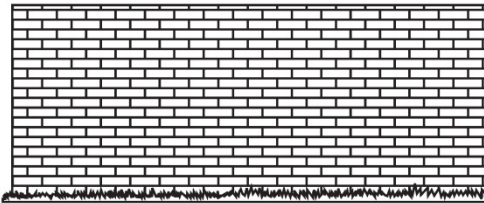
Symbol
B1
B2

Height
4'
6'

Material
Earth
Earth

APPENDIX B Bufferyard Standards	BUFFERYARD BERMS	Millington, Maryland
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FENCES

SYMBOL	HEIGHT	FENCES
F1	44"	 <p>Wood</p>
F2	48"	 <p>Wood Rail</p>
F3	6'	 <p>Wood Stockade</p>
F4	7'	
F5	6'	 <p>Masonry Wall (Poured Concrete, Cement Block, Brick, etc.)</p>
F6	7'	

Appendix B Bufferyard	BUFFERYARD STRUCTURES	Millington, Maryland
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