

**Chapter 75**  
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## **Chapter 75**

### **Zoning Ordinance**

#### **Article 1**

#### **General Provisions and Administration**

##### Part 1. General Provisions

##### § 75-1. Title.

The regulations set forth in this Chapter shall be known and may be cited as the “Zoning Ordinance of the Town of Church Hill, Maryland”.

##### § 75-2. Authority.

The provisions of this chapter are adopted in accordance with the Zoning and Planning authority enumerated in the Town Charter, Md. Code Ann., Land Use Art., as amended from time to time, and other applicable state enabling authority.

##### § 75-3. Purposes.

A. The purposes of this Zoning Chapter are to:

1. Protect and promote the health, safety and general welfare of the public;
2. Facilitate the creation of a convenient, attractive and harmonious Town;
3. Preserve the character of the Town by preventing the harmful effects of prejudicial uses;
4. Provide for appropriately scaled, designed and sited buildings and other structures that are compatible with the natural and built environment; promote environmentally sustainable developments and otherwise provide for the conservation of natural resources of the environment;
5. Conserve properties and their value; to encourage the appropriate uses of land and the appropriate redevelopment of existing uses; to prevent environmental pollution; and
6. Ensure that development occurs in an orderly fashion consistent with the adopted Church Hill Comprehensive Plan.

B. In addition, this Chapter is intended to implement the provisions of Md. Code Ann., Land Use Art., Division I, Md. Code Ann., Nat. Res. Art., Title 8, Subtitle 18, Chesapeake and Atlantic Coastal Bays Critical Area Protection Program; and Md. Code Ann., Nat. Res. Art., Title 5, Subtitle 16, Forest Conservation.



§ 75-4 Interpretation

- A. The provisions of this Chapter shall be interpreted and applied as the minimum requirements for the promotion of the public safety, health, convenience, comfort, and general welfare of the Town of Church Hill.
  
- B. All questions of interpretation and enforcement of this Chapter shall be first presented to the Zoning Administrator and shall be presented to the Board of Appeals on appeal from the decision of the Zoning Administrator. Recourse from the decisions of the Board of Appeals shall be to a court of appropriate jurisdiction, as provided by law, particularly by Md. Code, Ann., Land Use Article Title 4, Subtitle 3.
  
- C. The duties of the Town Commissioners in connection with this Chapter shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this Chapter. With respect to this Chapter, the Town Commissioners shall have only the duties of:
  - 1. Considering and adopting or rejecting proposed amendments to or the repeal of this Chapter, as provided by law.
  - 2. Establishing a Schedule of Fees and charges as provided in Section 75-3 of this Chapter.
  - 3. Appointing the Zoning Administrator, the members of the Planning Commission and the members of the Board of Appeals.

§ 75-5. General Rules of Construction.

The following general rules of construction shall apply to 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 "building" or "structure" includes any part thereof, and the word "building" includes the word "structure".
  
- E. Words and terms not defined herein shall be interpreted in accord with their normal dictionary meaning and customary usage.

§ 75-6. Schedule of Fees, Charges and Expenses.

- A. The Town Commissioners shall establish a Schedule of Fees, charges, and expenses, and a collection procedure, for Zoning Certificates, Zoning Occupancy Permits, appeals, Variance, Special Exceptions, amendments, and other matters pertaining to this Chapter.

B. The Schedule of Fees shall be posted in the office of the Town Clerk and may be altered or amended only by the Town Commissioners.

C. No certificate, permit, Special Exception, Administrative Adjustment or Variance shall be issued unless or until such costs, charges, fees, or expenses, have been paid in full, nor shall any action be taken on proceedings before the Board of Appeals or the Planning Commission unless or until preliminary charges and fees have been paid in full.

#### § 75-7. Conformity Required.

All departments, officials and public employees of the Town who are vested with the authority to issue permits or licenses shall conform to the provisions of this Chapter and shall not issue any permit or license for any use, building, structure, or purpose which would be in conflict with the provisions of this Chapter. Any permit or license, issued in conflict with the provisions of this Chapter, shall be null and void.

#### § 75-9. Conflicting Laws and Regulations.

Whenever any provisions of this Chapter imposes a stricter requirement or a higher standard than is required in any Federal or State Statute or other provision of the Town Code, Town Rule or regulation, the provisions of this Chapter shall govern. Whenever any provision of any Federal or State Statute or other Town Chapter or regulation imposes a stricter requirement or higher standard than is required by these regulations, the provisions of Federal/State or other Town Ordinance or regulation shall govern.

#### § 75-10. Severability.

All provisions of this Chapter are severable as are all provisions of any Ordinance enacted in the future that amend or add any provision to this Chapter. Should any Section or any provision of this Chapter be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Chapter as a whole, or any part thereof, other than the part so held to be unconstitutional or invalid.

#### § 75-11 Effective Date

This Chapter reenacts with amendments the provisions of Emergency Ordinance No. 87/03, effective June 16, 2003, as amended by Emergency Ordinance No. 88/03, effective December 1, 2003, and Ordinance No. 91/04, effective February 27, 2005. It is the intention of the Town Commissioners that the provisions of Ordinances No. 87/03, 88/03 and 91/04 shall remain continuously in effect, except as they may be amended, either at the time of adoption of this Chapter or thereafter. The provisions of Ordinances No. 87/03, 88/03 and 91/04 shall govern any actions taken between the effective date of said Ordinances and the effective date of Ordinance No. 120/09.

#### Part 2. Applicability and General Requirements

§ 75-12. Territorial Application.

The provisions of this Chapter shall apply to all land and improvements located within the incorporated boundaries of the Town of Church Hill, Maryland.

§ 75-13. Subdivision of Land.

Where land is subdivided, the division shall be effected in a manner that will not violate the provisions of this Chapter.

§ 75-14. Yards.

A. No yard or lot existing on June 16, 2003, shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after June 16, 2003, shall meet at least the minimum requirements established by this Chapter.

B. 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 Chapter, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

§ 75-15. Compliance.

A. No person shall use or develop any land or structure within the Town without complying with the applicable provisions of this Chapter.

B. No building, structure, or land shall be used, and no building, structure, or part of a building or structure shall be constructed, extended, moved, structurally altered internally or externally, or enlarged except in conformity with this Chapter and all the regulations herein specified for the zoning district in which it is located.

C. No building or other structure shall 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 Chapter.

Part 3. Administration and Enforcement

§ 75-16. Zoning Administrator.

A. There is hereby established the **Office of Zoning Administrator**. The Zoning Administrator shall be appointed by a majority vote of the Commissioners of the Town of Church Hill, Maryland. The Zoning Administrator shall serve at the pleasure of the Town Commissioners. It shall be the duty of the Zoning Administrator to administer and cause the enforcement of the provisions of this Chapter and to take all actions that are required of him by this Chapter.

B. If the Zoning Administrator shall find that any of the provisions of this Chapter are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The Zoning Administrator shall:

1. Order discontinuance of the illegal use of land, buildings, or structures;
2. Order removal of illegal buildings or structures or of additions, alterations, or structural changes hereto;
3. Order discontinuance of any illegal work being done; or
4. Take any other action authorized by this Chapter to ensure compliance with or to prevent violation of its provisions.

C. The Zoning Administrator shall issue, where lawful and appropriate in accordance with § 75-18, Zoning Certificates for the erection, construction, addition, moving or structural alteration of buildings and structures and for the use of land. No Zoning Certificate shall be issued except in conformity with the provisions of this Chapter.

D. Whenever a violation of this Chapter occurs, or is alleged to have occurred, any person may file a written complaint to the Zoning Administrator, stating fully the causes and basis thereof. The Zoning Administrator shall record properly such complaint, immediately investigate, and take action thereon as provided by this Chapter.

E. When the Town receives an application for any development, subdivision, site plans, rezonings, Special Exceptions, Variance, or timber harvesting permit for land in a Critical Area, the Zoning Administrator shall send official notification thereof and a copy of the application to the Critical Area Commission, as required by the Natural Resource Article 8-1811 and Code of Maryland Regulations 27.03.01.04. The Town shall not process an application for the above items until such time as it receives a notice of receipt from the Chesapeake Bay's Critical Area Commission.

F. Any person or agency aggrieved or affected by a decision of the Zoning Administrator may appeal such decision to the Board of Appeals.

#### § 75-17. Planning Commission.

A. Modifying the provisions of this chapter.

The Planning Commission may, upon the review of a site plan, but only where and as so provided in this chapter, modify certain provisions upon its finding that such modification is the minimum necessary to faithfully implement the purposes of this chapter and implement the adopted Comprehensive Plan. This authority is distinctly different from the authority to grant a variance which authority rests solely with the Board of Appeals.

B. Hearings

1. When the provisions of this Chapter require the Planning Commission to hold a public hearing for receipt of testimony and/or other evidence, it shall fix a time for such hearing and give public notice thereof as well as due notice to the parties in interest. Unless otherwise specified in

this Chapter with respect to a particular action, the Planning Commission shall hold the public hearing within sixty (60) days from receipt of the application giving rise to the requirement of a public hearing and shall give notice of the time and place of such hearing by posting upon the property and publication in a newspaper of general circulation in the Town at least fifteen (15) days prior to the hearing date.

2. At the hearing, any party may appear in person or by agent or attorney.

3. The Planning Commission shall take action upon the matter within forty-five (45) days from the date the hearing is concluded. ([July 17, 2023])

#### § 75-18. Board of Appeals.

##### A. Procedure for Appeals.

1. Appeals to the Board of Appeals concerning the interpretation or administration of a provision of this Chapter may be taken by any person aggrieved by any decision of the Zoning Administrator . Appeals shall be taken by filing with the Board of Appeals and the Zoning Administrator a notice of appeal specifying the grounds thereof within twenty (20) days of the action by the Zoning Administrator that is the subject of the appeal. The Zoning Administrator shall forthwith transmit to the Board all papers constituting the record of the action appealed.

2. The Board of Appeals shall set a date and time for hearing the appeal, give public notice thereof as well as due notice to the parties in interest, and hold the public hearing within sixty (60) days from the date of filing of the notice of appeal. Notice of the time and place of such hearing shall be posted upon the property, if applicable, and published in a paper of general circulation in the Town at least fifteen (15) days prior to the hearing date.

3. At the hearing, any party may appear in person or by agent or attorney.

4. The Board shall decide the appeal and issue a written decision within sixty (60) days from the date of the conclusion of the hearing.

##### B. Procedure for Variances and Special Exceptions.

1. When a request for a Variance from the terms of this Chapter is filed pursuant to Section 75- 35 or when an application for a Special Exception is filed pursuant to Section 75-54, the Board of Appeals shall fix a date and time for the hearing regarding the Variance application, give public notice thereof as well as due notice to the parties in interest, and hold the public hearing within sixty (60) days from the date of filing of the application. Notice of the time and place of such hearing shall be posted upon the property and published in a paper of general circulation in the Town at least fifteen (15) days prior to the hearing date.

2. At the hearing, any party may appear in person or by agent or attorney.

3. The Board shall decide whether to grant or deny the application and shall issue a written decision within sixty (60) days from the conclusion of the hearing.

C. Stay of Proceedings. An appeal to the Board of Appeals of an action of the Zoning Administrator stays all proceedings in furtherance of the action appealed unless the Zoning Administrator certifies to the Board of Appeals, after the notice of appeal is filed with him, that by

reason of facts stated in the certificate, a stay would, in the opinion of the Zoning Administrator, cause imminent peril to life and property. In such case, proceedings shall not be stayed except by an order issued by the Board of Appeals or by the Circuit Court for Queen Anne's County, on application, upon notice to the Zoning Administrator and for good cause shown.

D. Appeals from the Board of Appeals. A person aggrieved by any decision of the Board of Appeals, a taxpayer or the Zoning Administrator may seek review of a decision of the Board Of Appeals by the Circuit Court for Queen Anne's County, in the manner provided by the laws of Maryland and particularly in accordance with Title 7, Chapter 200 of the Md. Rules. ([July 17, 2023])

#### § 75-19. Violations and Penalties.

A. A violation of any of the provisions of this Chapter or failure to comply with any of its requirements shall constitute a municipal infraction, subject to a fine of one hundred dollars (\$100) for the first violation. The fine for each subsequent violation shall be two hundred dollars (\$200). For purposes of this section, a subsequent violation of this chapter shall mean a violation of a section or provision of this chapter which has occurred not more than 30 days, but not less than 24 hours, after the occurrence of a violation of the same section or provision of this chapter upon the same parcel or piece of real property as that of the previous violation, and for which subsequent violation the same person is charged as was charged with the previous violation.

B. A person convicted of a violation of this Chapter, in addition to the penalties set forth in subsection A of this Section, shall pay all costs and expenses involved in the case.

C. Each day on which a violation of this chapter exists shall constitute a separate offense.

D. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person, who causes, commits, participates in, assists in, or maintains a violation of this chapter shall be guilty of a separate offense and shall be subject to the penalties herein provided.

E. Nothing herein contained shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violation of this chapter. The Town may enforce this chapter by civil action for declaratory judgment and/or injunction, in addition or as an alternative to citing the violator for a municipal infraction. In the case of a civil action for declaratory judgment and/or injunction, the Town may recover its legal fees and court costs from the violator.

F. Notwithstanding the foregoing provisions of this Section, violations of Article 7 (Forest Conservation) shall be subject to the provisions of Section 75-155 concerning violations, penalties and enforcement.

#### Part 4. Zoning Certificates and Zoning Occupancy Permits

##### § 75-20. Zoning Certificates.

A. No building or other structure shall be erected, constructed, moved, added to or structurally altered, and no use of land shall be changed with out a certificate therefor issued by the zoning administrator.

B. No permit for the erection, construction, alteration, moving or repair of any building shall be issued until an application has been made for a Zoning Certificate, certifying that the proposed

structure and use conform to the requirements of this Chapter.

C. If the work described in any Zoning Certificate has not begun within one (1) year from the date of issuance thereof, said certificate shall expire. The certificate shall be cancelled by the Zoning Administrator and written notice of such cancellation shall be sent by regular mail to the certificate holder and posted upon the property.

D. If the work described in any Zoning Certificate has not been substantially completed within two (2) years of the date of issuance, unless such work is proceeding satisfactorily as determined by the Zoning Administrator, said permit shall expire. The certificate shall be cancelled by the Zoning Administrator and written notice of such cancellation, including a statement that further work as described in the cancelled certificate shall not proceed unless and until a new Zoning Certificate has been obtained, shall be sent by regular mail to the certificate holder and posted upon the property.

§ 75-21. Zoning Use and Occupancy Permits.

A. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Zoning Use and Occupancy Permit shall have been issued therefor by the Zoning Administrator, stating that the proposed use of the building or land conforms to the requirements of this Chapter. Where a Zoning Use and Occupancy Permit involves a building or structure, the Zoning Administrator may issue the permit only upon first obtaining a building inspection report from the Town building official stating that the building meets applicable requirements of Town Code.

B. No non-conforming structure or use shall be renewed, changed, or extended until the Zoning Administrator shall have issued a Zoning Use and Occupancy Permit. The permit shall state specifically wherein the non-conforming use differs from the provisions of this Chapter.

C. A temporary Zoning Use and Occupancy Permit may be issued by the Zoning Administrator for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion, provided that such temporary permit may require such conditions and safeguards as will protect the safety of the occupants and the public.

§ 75-22. Records and Copies.

The Zoning Administrator shall maintain a record of all Zoning Use and Occupancy Permits and copies shall be furnished upon request to any person.

§ 75-23. Effect of Failure to Comply.

A. Failure to obtain a Zoning Certificate or Zoning Use and Occupancy Permit shall be a violation of this Chapter and punishable under Section 75-17 of this Chapter.

B. Zoning Certificates or Zoning Use and Occupancy Permits issued on the basis of approved site plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction differing with that authorized shall be deemed violation of this Chapter, and punishable under Section 75-17 of this Chapter.

Part 5. Non-conforming Lots and Uses

§ 75-24. Intent of Non-Conforming Provisions.

A. Within the zones established by this Chapter, as it may be amended from time to time, there exist lots, structures, and uses of land and structures which were lawful when created, but which subsequently became prohibited, regulated, or restricted, which uses may be deemed non-conformities pursuant to the terms of this Part 5 and permitted to continue in accordance with the terms hereof.

B. It is the intent of this Chapter not to encourage the survival of non-conformities. Such uses are declared by this Chapter to be incompatible with permitted uses in the zones involved. The provisions of this Chapter are intended to eliminate certain non-conformities. It is further the intent of this Chapter that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same zone.

C. A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of a structure and land shall not be extended or enlarged after the date upon which it became non-conforming by attachment of a building or premises, or by the addition of other uses of a nature which would be prohibited in the zone involved.

D. To avoid undue hardship, nothing in this Chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the date upon which it became non-conforming and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

§ 75-25. Non-conforming Lots of Record.

A. In any zone in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record on or after June 16, 2003. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area, or width, or both, that are generally applicable in the zone, provided that yard dimensions shall conform to the regulations for the zone in which such lot is located, unless a Variance is granted in accordance with the provisions of this Chapter.

B. Where two or more lots with continuous frontage are in single ownership and at least one fails to meet the lot width requirements of this chapter then the following shall apply:

1. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record on or after June 16, 2003, and if all or part of the lots do not meet the requirements for lot width and area as established by this chapter, the lands involved shall be considered to be an undivided parcel for the purposes of this chapter, and no portion of said parcel shall be used or sold which does not meet the lot width or area requirements established by this



Chapter, except as provided below

2. The division of a parcel which leaves remaining or creates any lot with width or area below the requirements stated in this Chapter shall not be permitted, except as provided below:

Upon approval by the Planning Commission of a minor subdivision plan meeting the requirements of this Chapter for the construction of a single-family house, where the following conditions are met:

- a. The property is in the Town Residential (TR) zone,
  - b. The subdivision creates no more than two lots,
  - c. Each lot is at least 50 feet wide except lots that front on Main Street (Md. Route 19), Walnut Street (Md. Route 19) and Sudlersville Road (Md. Route 300) shall be at least 60 feet wide.
  - d. Each lot is at least 10,000 square feet in area,
  - e. The property which forms each lot is now or was occupied by a dwelling connected to the municipal sewer system as of 1981,
  - f. The project is reviewed by the Queen Anne's County Department of Environmental Health and found to meet applicable environmental health regulations.
- C. Within the Critical Area of Church Hill, an individual lot or parcel of land in a Resource Conservation area may be improved with a single family dwelling and related accessory uses if it is otherwise developed in accordance with the requirements of zones with limited development areas provided it complies with the non-conforming uses provisions set forth herein and with the criteria and requirements of the Critical Area Program

§ 75-26. Non-conforming Uses of Land.

Where, on or before June 16, 2003, a lawful use of land existed that was made no longer permissible under the terms of this Chapter or its predecessor ordinances, as enacted or amended, such use may be continued, subject to the provisions of Section 75-26, so long as it remains otherwise lawful, subject to the following provisions:

- A. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Chapter;
- B. No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Chapter.
- C. If any such non-conforming use of land ceases for any reason for a period of more than 90 days, any subsequent use of such land shall conform to the regulations specified by this Chapter for the zone in which such land is located.
- D. On a legal lot of record whereon one non-conforming mobile home is located, the mobile home may be replaced with another mobile home without regard to §75-24 (A) and (B) above provided the replacement mobile home is at least 24 feet wide, is set upon a permanent foundation, is the principal structure on the lot, is constructed under the standards of the Federal Department of Housing and Urban Development, and otherwise meets the requirements of this Chapter.

§ 75-27. Non-Conforming Structures.

Where a lawful structure existed on or before June 16, 2003, that could not be built under the terms of this Chapter or its predecessor ordinances, as enacted or amended, by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No such structure may be enlarged or altered in a way that increases its non-conformity, except as provided in §75-24 (C).
- B. Should such structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at time of destruction as determined by the Zoning Administrator, it shall not be reconstructed as a non-conforming use, however, the lot shall be considered a lot of existing record subject to the limitations of Section 75-23 of this Chapter.
- C. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zone in which it is located after it is moved.

§ 75-28. Non-Conforming Use of Structures.

If a lawful use of a structure or of structure and the parcel upon which it is situated (hereinafter in this Section, collectively, “the premises”) exists at the effective date of adoption or amendment of this Chapter, that would not be allowed in the zone under the terms of this Chapter, the lawful use may be continued subject to Section 75-22 so long as it remains otherwise lawful, subject to the following provisions:

- A. No existing structure devoted to a use not permitted by this Chapter in the zone in which it is located, except dwellings, shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the zone in which it is located.
- B. Any non-conforming use may be extended throughout any parts of a building that were manifestly arranged or designed for use at the time of adoption or amendment of this Chapter, but no such use shall be extended to occupy any land outside such building.
- C. If no structural alterations are made, any non-conforming use of a structure or premises may be changed to another non-conforming use, provided that the Board of Appeals shall find, upon application by the property owner for a change in use, that the proposed use is equally appropriate or more appropriate to the zone than the existing non-conforming use. In permitting such change, the Board of Appeals may require appropriate conditions and safeguards in accord with the provisions of this Chapter.
- D. Any structure or premises in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the zone in which such structure is located, and the non-conforming use may not thereafter be resumed.
- E. When a non-conforming use of a structure or premises is discontinued or abandoned for nine consecutive months or for 15 months during any three-year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the zone in which it is located.
- F. Where non-conforming use status applies to premises including structures, removal or destruction of the structures shall eliminate the non-conforming status of the land.

§ 75-29. Repairs and Maintenance.

A. On any structure devoted in whole or in part to any non-conforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding 10 percent of the current replacement value of the structure, provided that the cubic content of the building, as it existed at the time of passage or amendment of this Chapter shall not be increased.

B. Nothing in this Chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

§ 75-30. Effect of Special Exception Provisions on Non-Conforming Uses.

Any use which would otherwise be deemed non-conforming under the terms of this article, having been permissible in the zone at the time it was established, shall be deemed to be a conforming use without further action if the use is permitted by Special Exception or Conditional Use in the zone in which it is located.

Part 6. Amendments to the Zoning Ordinance

§ 75-31. Amendment.

A. Zoning regulations, restrictions, and boundaries may periodically be amended or repealed.

B. Where the purpose and effect of the proposed amendment is to change the zoning classification, the Town Commissioners shall make findings of fact that include the following matters:

1. Population change;
2. The availability of public facilities
3. Present and future transportation patterns;
4. Compatibility with existing and proposed development for the area;
5. The recommendation of the Planning Commission
6. The relationship of the proposed amendment to the local jurisdiction's plan.

C. The Town Commissioners may grant an amendment to change the zoning classification based on a finding that there was:

1. A substantial change in the character of the neighborhood where the property is located; or
2. A mistake in the existing zoning classification.

D. The Town Commissioners shall keep a complete record of the hearing and the votes of all members.

E. The Town Commissioners not accept an application for a reclassification of the whole or part of any land for which a reclassification has been denied on the merits in the 12 months before the date of the application.

§ 75-32. Initiation of Proposals for Amendment.

Proposals for amendment, supplement, change, modification, or repeal may be initiated by the Town Commissioners on its own motion, by the Planning Commission, or by petition of one or more owners of property to be affected by the proposed amendment, subject to the following provisions:

A. Proposals originated by the Town Commissioners. The Town Commissioners may originate a proposal for supplement, change, modification, or repeal of this Chapter. Each such proposal originated by the Town Commissioners shall be referred to the Planning Commission. Within forty five (45) days of the submission of said proposal, the Planning Commission shall submit to the Town Commission a report containing the Planning Commission's recommendations, including any additions or modifications to the original proposal.

B. Proposals originated by the Planning Commission. The Planning Commission may at any time transmit to the Town Commissioners any proposal for the amendment, supplement, change, modification, or repeal of this Chapter.

C. Proposals originated by a citizen's petition.

1. A property owner may petition for a supplement, change, modification, or repeal of this Chapter. Each petition by one or more owners of property to be affected by a proposal for amendment, supplement, change, or modifications shall be submitted to the Town Clerk, who shall, promptly upon receipt, transmit a copy of the petition to the Planning Commission.

2. The Planning Commission shall, within sixty (60) days of reception of the petition from the Town Clerk, conduct a hearing at which parties in interest and citizens shall have the opportunity to be heard. The Planning Commission may, in its discretion, continue the hearing for a period of no more than sixty (60) days in order to receive additional evidence.

3. Notice of the hearing shall be given as provided in Section 75-32.a. of this Chapter.

4. The Planning Commission shall, within thirty (30) days following the conclusion of the Public Hearing, submit a report to the Town Commissioners containing the Commission's recommendations, including any additions or modifications of the original proposal. Failure to submit a report within thirty (30) days shall be deemed approval of the petition by the Planning Commission.

5. The Town Commissioners shall defer action on a petition until the recommendations of the Planning Commission are received and reviewed or until thirty-one (31) days after the conclusion of the Planning Commission's hearing have elapsed, whichever may occur first.

#### § 75-33. Public Hearing and Notice.

No such amendment, supplement, change, modification, or repeal of the provisions of this Chapter shall become effective for at least ten (10) days after a public hearing by the Town Commissioners at which parties in interest and citizens shall have the opportunity to be heard. At least fifteen (15) days prior to the Public Hearing by the Town Commissioners, or in the case of a proposal initiated by citizen petition pursuant to Section 75-31.c., a hearing by the Planning Commission, the Town Clerk shall:

A. Publish a notice containing the name of the applicant; the date, time, and place fixed for the hearing; and the general nature of such hearing in at least one (1) newspaper of general circulation in the Town once each week for 2 successive weeks.

B. When such hearing concerns a zoning map change or a text amendment affecting a single property or group of properties under common ownership, post in a conspicuous place on the property or properties involved a notice of pending action containing the same information as in (a) above, and give written notice of the time and place of such hearing by Certified Mail to the property owner and applicant, if other than the property owner, and to the owners of property contiguous or adjacent to the affected property, which notice shall include a copy of the proposed amendment.

## Part 7 Administrative Adjustments and Variances

### § 75-34. Purpose of Adjustment

A property owner may seek relief from the strict application of the terms of this Chapter in one of two ways, either by Administrative Adjustment or Variance.

The Zoning Administrator is authorized to determine and make Administrative Adjustments of this Zoning Ordinance that are in harmony with the general purpose and intent of this Chapter, in the specific instances set forth in this Chapter, where the Zoning Administrator makes findings of fact in accordance with the standards prescribed herein and finds that there are practical difficulties in carrying out the regulations of this Zoning Ordinance.

A property owner may apply to the Board of Appeals for a Variance from the strict application of the terms of this Chapter in order to avoid unwarranted hardship to the applicant, provided however that ~~this~~ Part 7 of this article shall be narrowly construed and applied by the Board of Appeals in order to avoid undermining the purpose, integrity, intent and generally uniform application of this Chapter.

### § 75-35 Administrative Adjustment Procedures

A. Application procedures. All applications for Administrative Adjustments shall be filed with the Zoning Administrator on a form provided by the Town.

B. Notice and posting of property. Upon receipt of a request for an Administrative Adjustment, the Zoning Administrator shall send written notice of the request to all property owners whose property line is within 200 feet of the applicant's property line, stating that the property owners have fifteen days from the date of the notice to file a written objection with the Town or the request may be approved administratively. The Zoning Administrator shall send the notices by Certified Mail, Return Receipt Requested. The notices shall be directed to the names and addresses as shown on the current real property tax records for Queen Anne's County. Additionally a sign shall be posted on the property that is the subject of the application advising of the nature of the requested Administrative Adjustment and advising that anyone who objects shall file a written objection with the Town by a date certain, which date shall be at least fifteen days from the date that the sign is posted.

C. Review procedures. In the review of Administrative Adjustment applications, the following procedures shall apply:

1. Staff review. The Zoning Administrator is authorized to approve Administrative Adjustments, after having determined that the submission is complete and finding that the request

meets the requirements of Section 75-34, et seq. of this Chapter for granting an Administrative Adjustment. The Zoning Administrator may distribute copies of the application to the Town Engineer or Town Attorney for review.

2. Comments. If an application is referred to the Town Engineer or Town Attorney, they shall respond to such transmittal by way of written comments to the Zoning Administrator within five (5) business days of receipt of the application.

3. Optional Public Hearing. The Zoning Administrator is not required to conduct a Public Hearing regarding applications for Administrative Adjustments, unless the Zoning Administrator shall receive an objection to the requested Administrative Adjustment within fifteen days of the date that the notice to property owners was sent or within fifteen days of the date that the sign was posted. Upon receipt of an objection, the Zoning Administrator shall be required to conduct a Public Hearing on an application. In the event that a Public Hearing is required, notice of the time and place of such hearing shall be posted on the property and written notice shall be provided to all property owners within 200 feet of the property at least fifteen (15) days prior to the hearing date.

4. Action on application. Within fifteen days of either the conclusion of the time for objection, if no objections are received, or the conclusion of the Public Hearing if an objection is received, the Zoning Administrator shall decide to: (1) approve the application, (2) approve the application subject to specific conditions; or (3) deny the application. The Zoning Administrator's decision shall be based on written findings of fact and may impose such conditions or restrictions upon the premises benefited by an Administrative Adjustment as may be necessary to comply with the standards established in this Chapter and the purposes of this Zoning Ordinance.

5. Notice of decision. The Zoning Administrator shall mail a copy of the decision to the applicant and all other persons previously receiving notice of the application.

§ 75-36. Permitted Administrative Adjustments.

A. Administrative Adjustments from the regulations of this Zoning Ordinance may be granted by the Zoning Administrator only in accordance with the criteria established in this Chapter, and may be granted only for the following:

1. Setbacks. To permit any yard or setback of up to ten percent less than a yard or a setback required by the applicable regulations.

2. Lot coverage. To increase by not more than ten percent the lot coverage restrictions, except that Administrative Adjustments of lot coverage restrictions shall not be permitted in the Critical Area Overlay District.

B. The Zoning Administrator may not approve Administrative Adjustments when the minimum lot width and area requirements for the affected property are not met.

§ 75-37. Required Findings for Administrative Adjustment.

The Zoning Administrator shall not grant an Administrative Adjustment of the regulations of this Zoning Ordinance unless he makes findings based upon the evidence presented in each specific case that:

- A. Practical difficulties. The particular physical surroundings, shape or topographical conditions of the specific property involved result in practical difficulties for the owner, which have not been created by any persons having an interest in the property.
- B. Unique conditions. The conditions upon which an application for an adjustment is based are unique to the property for which the Administrative Adjustment is sought, and are not applicable, generally, to other property within the same zoning classification.
- C. Public safety and welfare. The granting of the adjustment will not be detrimental to the public safety or welfare or be injurious to other property or improvements in the neighborhood in which the property is located.

§ 75-38. Expiration of Administrative Adjustment.

Decision of the Zoning Administrator granting an Administrative Adjustment shall be valid for a period of one year from the date of the decision, unless the building permit is obtained within that period and the erection or alteration of a building is started or the use is commenced within that period. However, the Zoning Administrator may, upon a showing of good cause, grant one six month extension of an Administrative Adjustment, provided that a written application for each extension is filed while the decision is still valid.

§ 75-39. Appeals of Decision on Administrative Adjustment.

Any appeals of a decision of the Zoning Administrator must be made to the Board of Appeals in conformance with the provisions of this Chapter.

§ 75-40. Variances; Processing and Hearing Requirements.

- A. Applications for a Variance shall be submitted to the Zoning Administrator and should include the following:
  - 1. Written statement detailing the specific provisions of this Chapter from which a Variance is sought.
  - 2. The nature and extent of the Variance sought.
  - 3. The special conditions of the property, the nature of, the use and/or development of immediately adjacent property which would make a Variance necessary.
  - 4. Statement addressing each criterion set forth in §75-41 indicating why the Variance should be granted.
- B. The Board of Appeals shall process all applications for Variances in accordance with the provisions of Section 75-16 of this Chapter.
- C. No Variance shall be authorized by the Board until a Public Hearing has been held on it in accordance with the provisions of Section 75-16 of this Chapter.

§ 75-41. Decision on Variances.

- A. Standards

The Board of Appeals shall not vary the regulations of this Chapter unless it makes findings

based upon the evidence presented to it in each specific case that:

1. Owing to conditions peculiar to the property, i.e., the particular physical surroundings, shape or topographical conditions of the property involved, a literal enforcement of the zoning law would result in unnecessary hardship to the owner as distinguished from a mere inconvenience.
2. The conditions upon which a petition for a variation is based are unique to the property for which the Variance is sought, and are not applicable, generally, to other property within the same zoning classification.
3. The alleged difficulty or hardship has not been created by the present owner or any previous owners of the property.
4. The granting of the Variance will be in harmony with the general purpose and intent of this Chapter and will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
5. The Variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion of the public streets, increase the danger of fire, endanger the public safety, or alter the essential character of the neighborhood or district in which the property is located.
6. Within the intent and purpose of this Chapter, the Variance, if granted, is the minimum Variance necessary to afford relief.
7. Where the requested variance involves property located within the Critical Area of the town, the granting of a Variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and will be in harmony with the general spirit and intent of the Critical Area law and the Critical Area Program.
8. Where the requested Variance seeks relief from the strict application of a provision of Article 7 of this Chapter (concerning forest conservation), the applicant must show that the Variance will not impair the spirit or intent of Title 5, Subtitle 16 of the Natural Resources article of the Annotated Code of Maryland and shall not adversely affect water quality.
- B. No non-conforming use of neighboring lands, structures, or buildings in the same zone, and no permitted use of lands, structures, or buildings in other zones shall be considered grounds for the issuance of a Variance.
- C. In granting any Variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Chapter. Violation of such conditions and safeguards, when made a part of the terms under which the Variance is granted, shall be deemed a violation of this Chapter and punishable under Section 75-17 of this Chapter.
- D. Under no circumstances shall the Board of Appeals grant a Variance to allow a use not permissible under the terms of this Chapter in the zone involved, or any use expressly or by implication prohibited by the terms of this Chapter in said zone.
- E. If the Variance concerns property in the Critical Area:
  1. A copy of the application for a Variance will be provided to the Critical Area Commission by the Board of Appeals in a timely manner, but no fewer than 14 calendar days prior to the Board's hearing on the matter.
  2. The Board of Appeals shall promptly forward a copy of its decision to the Critical Area Commission.

## **Article 2**



## **Zoning Districts and Maps**

### Part 1 Establishment of Zoning Districts and Boundaries

#### § 75-42 Zoning Districts Established

The incorporated territory of the Town of Church Hill shall be divided into zoning districts defined in Article 3 and the Overlay Districts defined in Article 4 of this Chapter.

#### § 75-43 Zoning Map

A. The locations and boundaries of the zoning districts are established on the Official Zoning Map, Church Hill, Maryland". The Official Zoning Map and all explanatory material on the map is incorporated by reference and made a part of this Chapter. The Official Zoning Map is located in the Church Hill Town Hall. Copies of the map may be prepared and published for guidance but shall not be considered to supersede the Official Zoning Map.

B. The Official Zoning Map shall be identified by the signature of the Town Commissioners attested by the Town Administrator, and bearing the seal of the Town under the following words: "This is to certify that this is the Official Zoning Map of the Town of Church Hill, Maryland," together with the date of the adoption of this Chapter.

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

D. No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Chapter. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Chapter and punishable as provided under Section 75-17.

#### § 75-44. Replacement of Official Zoning Map.

A. In the event that the Official Zoning Map becomes damaged, destroyed, lost or becomes difficult to interpret because of the nature of number of changes and additions, the Town Commissioners may by resolution adopt a 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 Map and may incorporate validly enacted amendments to the Official Zoning Map, but no such correction shall itself have the effect of amending the original Zoning Ordinance or any

subsequent amendment thereof.

C. The Planning Commission shall certify as to the accuracy of the new Official Zoning Map prior to its adoption by the Town Commissioners.

§ 75-46. Rules for Interpretation of Zone Boundaries.

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

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

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

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

D. Boundaries indicated as parallel to or extensions of features indicated in Subsections A through C above shall be so construed. The scale of the map shall determine distances not specifically indicated on the Official Zoning Map.

E. Where a lot is divided by one or more zone boundary lines, each of said divisions of the lot shall be subject to the regulations of the district in which it is located.

F. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by Subsections A. Through E. above, the Board of Appeals shall interpret the zone boundaries.

§ 75-47 Annexed Lands

Should lands be proposed for annexation to the Town, the Planning Commission, concurrently with the annexation proceedings, shall propose district boundaries for the new lands. Upon adoption of the Resolution for Annexation, the Town Commissioners shall amend the Zoning Map to zone the new lands, and such change shall be effective as of the effective date of said annexation. However pursuant to Md. Ann. Code, Art 23A, Section 9, the Town may not for a period of 5 years following an annexation, permit development of the annexed land for land uses substantially higher, not to exceed 50% density than could be generated for the proposed development in accordance with the zoning classification of Queen Anne's County applicable at the time of the annexation without the express approval of the Board of County Commissioners.

**Article 3**  
**Permitted Uses by Zoning District**

Part 1 General Zoning Districts

§ 75-48 Purpose of Establishing Districts

Zoning districts are established to provide appropriate locations for different types of land uses in a manner intended to implement the Comprehensive Plan of the Town. The appropriate location for a

particular land use is determined by:

- A. The character of the area and current land uses.
- B. The suitability of each district for the uses permitted in each.
- C. The encouragement of the stability of the district and of land values therein.
- D. Environmental considerations.
- E. Recommendations of the Town of Church Hill Comprehensive Plan.

§ 75-49 Establishment of Districts

A. Residential Single Family District (R-SF)

The Residential-Single Family District is intended to promote a pleasant living environment, to create, preserve and protect a primarily single-family detached residential character and to keep these areas free from land uses that are incompatible with and/or might adversely impact single-family neighborhoods.

B. Town Residential District (TR)

The town residential district is intended to promote the development of a pleasant living environment and protect the traditional and primarily single-family character of the area and help to ensure that new infill development or redevelopment is compatible and harmonious with existing residential and institutional activities.

C. Office Professional District (OP)

The office professional district is intended to expand the locations within the existing town for limited business and institutional uses that are compatible with residential surroundings. It is intended that the non-residential uses permitted in this district, shall be designed, landscaped, and operated in ways which are harmonious with adjacent residential uses.

D. Commercial District (C)

The Commercial District is intended to provide locations for commercial and other non-residential uses that are compatible in scale and impact with nearby residential neighborhoods, and to protect and provide a safe and attractive environment for shopping, entertainment, and similar activities.

E. Resource Conservation District (RC)

The Resource Conservation District is intended to protect natural and other environmentally sensitive areas, to provide locations for parkland, recreational activities and open spaces, to secure the role of those lots of record that have been set aside through subdivision for important environmental management and open space functions related to development activities such as storm water management and forest conservation, and to avoid intense development on lands not suitable for development.

§ 75-50 Land Uses by District

Table 1 lists the different uses and zoning districts in which they are permitted. If a use is not specifically identified as a permitted use, it is not a permitted in any district. If a use is specifically listed in Table 1, it takes precedence over general use listings. The letters in Table 1 correspond to the following:

- A. P: Permitted Use: Uses designated by the letter “P” shall be permitted subject to all applicable regulations.
- B. C: Conditional Use: uses designated by the letter “C” shall be permitted subject to certain conditions as set forth in Part 3 of this Article.
- C. SE: Special Exceptions. The Board of Appeals in accordance with Part 2 of this Chapter may authorize uses requiring a Special Exception designated by the letter “SE”.
- D. SC: Special Exception with Conditions. Uses requiring a Special Exception designated with the letters “SC” may be authorized by the Board of Appeals in accordance with Part 2 of this Chapter, subject to certain conditions listed in Part 3 of this Article.

**TABLE 1: PERMITTED USES BY ZONING DISTRICT**

LAND USE CLASSIFICATIONS	<b>P: Permitted Use</b> <b>C: Permitted Use, subject to conditions</b> <b>SE: Special Exception Use</b> <b>SC: Special Exception Use, subject to conditions</b>					
	Zoning Districts					
	Use	R-SF	TR	OP	C	EC
<b>Residential</b>						
Single family residential - detached	P	P	P			P
Single family residential - attached		SC		SC		
Two-family, duplex		P	P			
Apartment over Commercial				P		
Semi-detached dwellings						
Accessory Apartment	P	P	P	P		
Multi-family Dwelling						
Senior Housing Project	SE	SE		SE		
Mobile home						
Bed and Breakfast			C	C		
Group Home	P	P	P	P		
Boarders in Residence	C	C	C			C
Boarding house		SC	SC			
<b>Institutional</b>						
Churches and other buildings for religious assembly	SC	SC	P	P	P	
Monasteries, convents, similar uses accessory to churches	SE	SE	P	P	P	
Public buildings, cultural and administrative (town hall, libraries)	P	P	P	P	P	P
Public buildings, emergency (police, fire, rescue) services		SE		P	P	
Cemeteries (not as an accessory use)						P
Home Day Care	P	P	P	P		
Day Care Center, Nursery School	P	P	P	P	P	
Nursing Home	SC	SC	P	SC	P	
Lodges, clubs, fraternal organizations			P	P	P	
Trade and Vocational Schools			SE	P	P	
Studios for instruction in dance, art, music, similar			P	P	P	
Public/Private Schools	SC			SC	P	
Funeral home	SE	SE	SE	P	P	
Public or non-profit park and/or recreational area	SE	SE	SE	SE	P	P

TABLE 1: PERMITTED USES BY ZONING DISTRICT (continued)

LAND USE CLASSIFICATIONS  Uses	P: Permitted Use C: Permitted Use, subject to conditions SE: Special Exception Use SC: Special Exception Use, subject to conditions					
	R-SF	TR	OP	C	EC	RC
<b>Commercial</b>						
Artists, photographer galleries, studios		C	P	P	P	
Massage Therapy				C	C	
Retail Shops, including service/repair such as clock, jewelry, repair				P	P	
Convenience, grocery, department, variety, hardware, dry goods stores				P	P	
Hotels, motels				P	P	
Inn			SC	P	P	
Resorts, convention centers, similar				P	P	
Personal service shops, salons, shoe repair, dry cleaning				P	P	
Laundromat				C	C	
Health Spa / Fitness Center / Indoor recreational facilities				P	P	
Banks and Financial Institutions			P	P	P	
Movie cinema, theater, places of indoor amusement				P	P	
Professional office	C	C	P	P	P	
Business offices, including finance, insurance, real estate			P	P	P	
Restaurants, Class I and II restaurants				P	P	
Restaurants, Class III restaurants			P	P	P	
Taverns, nightclubs				P	P	
Small-scale manufacturing and assembly such as cabinet making, furniture upholstery, printing and publishing				SC	P	
Business services, plumbing shops, contractor shops				P	P	
sales/service				SE	P	
Kennel/Cattery				C	P	
Animal hospital, veterinarian clinic				C	P	
Nursery for plants				P	P	
Small-scale manufacturing and assembly such as cabinet making, furniture upholstery, printing and publishing				SC	P	
Light Industrial					P	
Warehousing					P	
<b>Automotive</b>						
Filling stations, service stations, automotive repair, full service garage				SC	C	
Motor vehicle sales, rental, service				SC	P	
Automotive body shop				SC	C	
Automobile parking lots			P	P	P	
<b>Unclassified</b>						
Public utility building / facility	SE	SE		SE	P	SE
Garage / Yard Sales	C	C	C	C	C	C
Carnival				SC	SC	
Temporary Buildings Incidental to Construction				C	C	C
Home Occupations	C	C	C	C		C
Dwelling for resident watchman				P	P	

§ 75-51 Public Utility Rights-of-Way

Public Utility Rights-of-Way and structures customarily found to support development in the Town of Church Hill such as telephone, electric, water, sewer, and gas lines, with necessary accompanying and incidental equipment for local distribution are permitted as a matter of right in any district. This does not include utility buildings, towers, or facilities enumerated as part of the definition “Utility Building or Facility” in Article 75-157 of this Chapter.

§ 75-52. Prohibited Uses

Prohibited Uses: The following uses are noxious to the Health, Safety, Morals and general welfare of the community and have associated impacts which require that they be prohibited from any lot within the Town of Church Hill through listing here so as to be clear that no section of this ordinance shall be interpreted to allow them:

- A. The storage or accumulation of junk, junked vehicles or scrap of any kind.
- B. The sale and distribution of medical marijuana, medical cannabis or its derivatives in any forms as a principal or accessory use.
- C. The processing and growing of medical marijuana, medical cannabis, or its derivatives in any form and for any use whatsoever as a principal or accessory use.([April 4, 2016])

Part 2 Special Exceptions and Conditional Uses in General

§ 75-53 Purpose and Intent

- A. There are certain uses, which by their nature or design can have an undue impact upon or be incompatible with other uses of land. These uses may be allowed to locate within given designated zoning districts under the controls, limitations and regulations of a Special Exception or Conditional Use. A Conditional Use may be approved by the Zoning Administrator, while a Special Exception must be approved by the Board of Appeals.
- B. Uses designated as Special Exception (SE) in Table 1 of this Chapter must meet the standards and criteria set forth in Section 75-56 of this Chapter. Uses designated as Special Exception with conditions (SC) in Table 1 must meet both the standards and criteria set forth in Section 75-56 and the additional conditions and standards set forth in the pertinent Subsection of 75-61 of this Article. Uses designated as conditional (C) in Table 1 must meet the conditions and standards set forth in the pertinent Subsection of Section 75-61 of this Article.
- C. Failure to maintain compliance with the applicable conditions set forth in this Part 2 during the entire period of use and occupancy shall be constitute a violation of this Chapter, punishable as set forth in Section 75-17 of this Chapter, and shall result in revocation of the Zoning Occupancy Permit for the property.

§ 75-54 Authorization

In consideration of an application filed with the Zoning Administrator, the Board of Appeals may approve the establishment of those Special Exception uses (SE or SC) that are expressly authorized

in a particular district in Table 1 of this Chapter.

§ 75-55 Status of Special Exception Uses

A. Once a Special Exception has been approved, any site plan, subdivision plat, building permit, or zoning and occupancy permit hereafter submitted for the development or use of the property in accordance with the Special Exception shall conform with the approved Special Exception and no development or use shall be approved by the Zoning Administrator in the absence of such conformance.

B. Once established, the use shall be conducted in strict accordance with any condition or restriction imposed by the Board of Appeals and all other requirements of this Chapter. No use shall be enlarged, expanded, increased in intensity or relocated and no condition of the Special Exception or a new Special Exception shall be modified unless an application is made and approved for an amendment to the Special Exceptions or a new Special Exception is approved.

C. Once a Special Exception use is approved, the use shall not be considered a nonconforming use, but shall be, without further action, considered a conforming one.

§ 75-56. Standards For Granting A Special Exception

The Board of Appeals shall grant a Special Exception only if it finds, from a preponderance of the evidence before it, that any proposed use submitted for a Special Exception will meet all of the following general standards as well as any specific standards or conditions listed for the proposed use.

A. The establishment, maintenance and operation of the Special Exception will not be detrimental to or endanger the public health, safety, or general welfare.

B. The Special Exception shall be such that it will be harmonious in character as well as appropriate in appearance with and will not be injurious to the use and enjoyment of other property in the neighborhood for the purposes already permitted, and shall not substantially diminish and impair property values within the neighborhood.

C. The establishment of the Special Exception use will not impede the normal and orderly development and improvement of surrounding properties for the uses permitted in the district.

D. Adequate utilities, access roads, drainage and necessary facilities have been or are being provided.

E. The Special Exception shall be such that pedestrian and vehicle traffic associated with the use will not be hazardous to or unduly conflict with the existing and anticipated traffic in the neighborhood.

F. The Special Exception shall, in all other respects, conform to the applicable regulations of the district in which it is located, including any use provisions or standards set forth in Chapter.

G. The establishment, maintenance and operation of the Special Exception are consistent with the Town of Church Hill Comprehensive Plan.

§ 75-57 Burden of Proof For Special Exceptions

The applicant for a Special Exception shall have the burden of proof, which shall include the



burden of going forward with the evidence and the burden of persuasion on all issues to be determined by the Board of Appeals.

§ 75-58            Conditions and Restrictions

The Board of Appeals, in approving a Special Exception, may impose such additional conditions and restrictions upon the proposed use as it may deem necessary in the public interest to secure compliance with the provisions of this Chapter and to protect the viability of the implementation of the adopted Church Hill Comprehensive Plan.

§ 75-59.            Application Procedure

A.     The Board of Appeals shall not grant a Special Exception unless and until a written application is submitted indicating the Section of this Chapter under which the Special Exception is sought and stating the grounds on which it is requested.

B.     Applications for a Special Exception shall be submitted to the Zoning Administrator on forms supplied by the Town. The application shall be completed and shall be accompanied by information which will be necessary to evaluate a given proposed category or use. The Zoning Administrator, upon receipt of a properly completed and documented application, shall refer the application along with pertinent evaluation material to the Board of Appeals.

C.     The Board of Appeals shall not grant a Special Exception unless and until the Planning Commission has reviewed the application.

D.     An application for a Special Exception may be made by a property owner, lessee or contract purchaser. A lessee or contract purchaser must file with the application, a copy of the contract or some form of written statement, which indicates endorsement of the application by the property owner.

E.     The Board shall conduct a hearing in accordance with the procedures set forth in Section 75-16 of this Chapter.

§ 75-60            Termination or Revocation Of Special Exceptions

A.     In any case where a Special Exception has not been established within one year after the date of granting the Special Exception, the Special Exception shall expire. However, the Board of Appeals, in its discretion and upon a showing of good cause, may grant up to two successive extensions of the validity period for periods of not longer than six months each, provided that a written request for each extension is filed before the expiration of the initial one-year period or any previous extension thereof.

B.     A Special Exception use, once established, shall be valid for an indefinite period of time, except that, if the use or activity should cease for any reason for a continuous period of one year, the Special Exception shall automatically terminate without notice. The approval of a new Special Exception shall be required prior to any subsequent reinstatement of the use.

C.     A Special Exception shall be revocable on the order of the Board of Appeals at any time because of the failure of the owner or operator of the use covered by the exception to observe all

requirements of law with respect to the maintenance and conduct of the use and all conditions in connection with the exception that were designated in issuing the same. Before revoking any Special Exception, however, the Board of Appeals shall give at least ten (10) days written notice of violation to the property owner, any occupants of whom the Board has actual knowledge, and adjacent property owners. If within ten (10) days, the property owner or an occupant so requests, the Board of Appeals shall hold a hearing on the revocation of the exception, giving written notice of the hearing date by Certified Mail to the property owner, any occupants of whom the Board has actual knowledge, and adjacent property owners.

D. The foregoing provisions shall not be deemed to preclude the use of any other remedy prescribed by law or by this Chapter with respect to violations of the provision of this Chapter.

#### § 75-61 Specific Conditions for Certain Uses

A. Accessory apartment. An accessory apartment shall be a Conditional Use (C) in the TR district and subject to the requirements of that district and the following conditions:

1. The principal dwelling shall be a single-family detached dwelling and shall be located on a lot of at least 10,000 sq. Ft.
2. Only one (1) accessory apartment will be allowed on a lot.
3. At least one (1) off street parking space must be provided for each 650 sq. Ft. of gross floor area for the apartment. Each additional 650 sq. Ft. or portion thereof will require one (1) additional off street parking space.
4. If the accessory apartment is leased, the owner shall reside either in the principal dwelling or in the accessory apartment on the property.
5. The accessory apartment shall contain no more than 800 sq. Ft. of gross floor area.
6. All design and lot dimension requirements for the underlying zoning district shall be met.
7. The exterior appearance of the apartment must be compatible with the principal structure.

B. Single-family attached

A single-family attached housing project shall be a special exception with conditions (SC) use in the TR and C district and subject to the following conditions:

The minimum lot for development of single-family attached (townhouse) project shall be five acres.

C. Bed and breakfast.

A bed and breakfast shall be a Conditional Use (C) in the OP C TR districts and subject to the requirements of the district where located and the following conditions:

1. An owner or manager lives on the premises.
2. The facility is part of a dwelling unit.
3. No separate kitchens are provided.
4. The breakfast shall be served to overnight lodgers only.

5. The facility is operated through a state approved bed and breakfast registry.
6. Adequate off- street parking is provided.
7. The owner meets all requirements of the applicable adopted housing codes.
8. A zoning and occupancy permit for such use is obtained.
9. Fire Marshall and health department approvals are obtained.

D. Boarders in residence.

Boarders in residence is a Conditional Use in the R-SF, TR and OP districts and subject to the requirements of the district where located and provided that no more than two boarders are in residence at any given time.

E. Boarding house.

A Boarding house shall be a Special Exception use with conditions (SC) in the TR AND OP districts subject to the requirements of that district and the following conditions:

1. The minimum lot area shall be 12,000 square feet.
2. No separate kitchens are provided.
3. Adequate off-street parking is provided.
4. The owner meets all requirements of the applicable adopted housing codes.
5. A zoning Use and Occupancy Permit for such use is obtained and renewed annually by application to the Town Zoning Administrator.
6. Fire Marshall and health department approvals are obtained.

F. Churches and other buildings for religious assembly.

A church or other building for religious assembly shall be a Special Exception use with conditions (SC) in the R-SF and TR districts subject to the requirements of the district where located and the following conditions:

1. No building shall be located within 50 feet of any property line.
2. Building coverage shall not exceed 25 percent of the lot.

I. Nursing home.

A nursing home shall be a Special Exception use with conditions (SC) in the R-SF, TR, and C districts subject to the requirements of the district where located and the following conditions:

1. The minimum lot area shall be 20,000 square feet, plus 3,000 square feet of lot area devoted to the use for each occupant above eight occupants.
2. The minimum lot width shall be 100 square feet.
3. All buildings shall be located at least 25 feet from any lot line.

J. Public and private schools.

Public and private schools shall be a Special Exception use with conditions (SC) in the R-SF, TR and C districts subject to the requirements of the district where located and the following conditions.

1. Minimum lot area shall be one acre.
2. Minimum lot width shall be 200 feet.
3. In the TR district, off-street parking shall be provided in the side or rear yard.
4. No building shall be located within 50 feet of any property line.
5. Building coverage shall not exceed 25 percent of the lot.
6. Vegetative screening and buffers shall be provided where the lot abuts residentially used properties or where the site abuts the R-SF zoning district.
7. The maximum attendance (number of students physically present) at any one time shall not exceed one student per 1,000 square feet of the lot area devoted to the use.

K. Art and photography studios and galleries.

Art and photography studios and galleries shall be a Conditional Use (C) in the TR districts subject to the requirements of the district where located and the following conditions.

1. The owner or manager must reside in the dwelling.
2. There shall be no exterior evidence, other than a permitted sign not exceeding two square feet, to indicate that the principal building is being used for any purpose other than that of a dwelling.
3. There is no show window or display window.
4. Only two persons other than the resident artist or photographer may be employed.
5. Off street parking shall be provided in the side or rear yard.
6. Parking requirements of this Chapter shall be met.
7. The total area devoted to the studio or gallery space does not exceed 40 percent of the square footage of the principal dwelling unit.
8. An accessory building may be used for studio or gallery space.

L. Massage therapy.

A massage therapy facility shall be a Conditional Use (C) in the C district subject to the requirements of that district, and the following conditions.

1. Massage is incidental to a principal medical or spa use.
2. Massage therapy is conducted by professionals who are licensed to practice massage or by professional physical therapists.
3. Massage therapy does not include any manipulation to induce sexual stimulation and in the context of massage therapy any such act is presumptively considered a danger to public health, safety, and welfare and is cause for revocation of a zoning and occupancy permit.

M. Inn.

An inn shall be a Special Exception use with conditions (SC) in the OP TR districts subject to the requirements of the district where located, except as herein provided:

1. The minimum lot area shall be 10,000 square feet.
2. Off-street parking shall be provided, preferably in the side or rear yard.

N. Laundromat.

A Laundromat shall be a Conditional Use (C) in the C and EC districts subject to the requirements of the districts where located, and the following conditions:

1. The Laundromat shall not be a free-standing establishment but instead be an ancillary use to an otherwise permitted use developed and primarily operated in a manner that supports the occupants or uses of the permitted use. The hours of operation of the Laundromat shall not extend beyond the hours of operation of the principal use of which the Laundromat is an ancillary use.
2. The laundromat must install a permanent pre-cast concrete lint trap to separate lint from the discharged wastewater and maintain a maintenance log of the lint trap mechanism. Receipts indicating when lint trap was last serviced should be kept on file.
3. All washing machines used in laundromats must have a water factor (WF) rating of 7.5 or higher. The laundromat shall have no more than 4 washers and 2 dryers for use on the premises.
4. The laundromat must have a discharge meter that accurately displays the amount of water the facility is discharging. A log of the daily wastewater discharge must be maintained and submitted monthly to the Town wastewater treatment facility administrators.
5. The laundromat shall function with an onsite wastewater treatment system to recycle the water used in the operation of the washing machines.

O. Professional offices (physician, dentist, architect, attorney, or similar).

Professional offices shall be a Conditional Use (C) in the R-SF and TR district—subject to the requirements of that district, and the following conditions.

1. The professional person must reside in the dwelling.  
There shall be no exterior evidence, other than a permitted sign not exceeding two square feet, to indicate that the principal building is being used for any purpose other than that of a dwelling.
2. There shall be no show window or display window.
3. Only two persons other than the resident professional shall be employed at the premises.
1. Sufficient off-street parking in the side or rear yard must be provided with the minimum being two spaces per professional plus residential requirements.
5. The total area devoted to the professional office use does not exceed 35 percent of the square footage of the principal dwelling unit.
6. An accessory building may be used for professional office.

P. Small scale manufacturing and assembly.

A small-scale manufacturing and assembly facility shall be a Special Exception use with conditions

(SC) in the C district subject to the requirements of that district, and the following conditions:

1. Minimum lot area shall be 10,000 square feet and minimum lot width shall be 150 feet.
2. Total building coverage shall not exceed 25 percent of the lot.
3. All manufacturing and assembly shall be conducted within a completely enclosed building with no open storage of raw, in process, or finished material and supplies or waste material. Finished or semi-finished products manufactured or sold on the premises may be stored in the open only if screened from the street by landscaping, fences, or walls.
4. Notwithstanding the yard regulations for the district, no part of any building, accessory structure, or sign shall be located closer than one hundred (100) feet to any dwelling.
5. Adequate parking and loading space shall be provided off-street for all employees and traffic to the building(s), if necessary, in excess of the minimum requirements of this Chapter.
6. Loading operations shall be conducted at the side or rear of buildings. Service drives or other areas shall be provided for off-street loading, and in such a way that in the process of loading or unloading, no truck will block the passage of other vehicles on the service drive or extend into any other public or private drive, or street used for traffic circulation.
7. No parking or storage of material or products shall be permitted in the required front yard.
8. The front yard shall be landscaped with trees, grass, shrubs, and pedestrian walks and maintained in a neat and attractive condition.
9. All fencing shall have a uniform and durable character and shall be properly maintained.
10. Appropriate sound suppression techniques shall be employed to ensure that the level of noise emanating from within the establishment will not disturb the quiet and enjoyment of property in any nearby residential use.

Q. Animal hospital, Veterinarian Clinic.

An animal hospital or veterinarian clinic shall be a Conditional Use (C) in the C district subject to the requirements of that district, and the following conditions:

1. Minimum lot area shall be 20,000 square feet.
2. All operations in connection with the clinic must be conducted indoors.
3. Vegetative landscaping shall be used along the side lots lines when the site adjoins a residential lot or when the site abuts the R-SF zoning district and must include no less than two sets of coniferous plantings with 5-foot separation plus a hedge.
4. No crematorium or incinerator device may be used on the site in conjunction with the clinic operations.
2. Overnight stays by pets receiving medical care may be permitted.
3. No work on large animals (bovine or equine) is to be performed on the premises.

R. Filling stations, service stations automotive repair, full service garage.

A filling station, service station, automotive repair facility, or full-service garage shall be a Special Exception use with conditions (SC) in the C district and a Conditional Use (c) in the EC district subject to the requirements of the district where located, and the following conditions:

1. No fuel pump, oil draining pit, or other vehicle appliance for serving automobiles shall be located within 25 feet from the front property line.
2. Bulk storage of flammable liquids shall be underground.
3. The entrance and exit of any such establishment shall be at least 50 feet from any residential lot.
4. No storage or stockpiling of tires or any trash shall be permitted.
5. No car wash facilities shall be permitted.
6. All inoperative vehicles shall be completely screened from view of rights-of-way and adjoining properties.
7. An area, enclosed by a wall or fence, screened from view of adjoining properties and rights-of-way shall be established whenever outdoor storage is required.
8. No fuel pumps, structures or buildings shall be erected within 150 feet of any dwelling.
9. All lights shall be diverted toward the station or downward on the lot.
10. Allow wall and/or hedge shall be provided along all rights-of-way, except at points of vehicular access to the lot and except where vehicular sight distance would be compromised.
11. No storage or stockpiling of tires or any trash shall be permitted.

S. Automotive body shop.

An automotive body shop shall be a Special Exception use with conditions (SC) in the C district and a Conditional Use (c) in the EC district subject to the requirements of the district where located and the following conditions:

1. Vegetative screening and buffers shall be provided where the lot abuts properties zoned R-SF or TR.
2. No gasoline shall be dispensed.
3. All lights shall be diverted toward the facility or downward on the lot.
  1. A low wall and/or hedge shall be provided along all rights-of-way, except at points of vehicular access to the lot and except where vehicular sight distance would be compromised.
  2. The entrance and exit of any such establishment shall be at least 50 feet from any residential lot.
  3. There shall be no bulk storage of flammable liquids on the premises.
4. No storage or stockpiling of tires or any trash shall be permitted.

T. Motor vehicle sales, rental, and service.

A motor vehicle sales and/or rental facility shall be a Special Exception use with conditions (SC) in the C district subject to the requirements of that district, and the following conditions:

1. Vegetative screening and buffers shall be provided where the lot abuts residentially used properties or where the site abuts the R-SF zoning district.
2. Maintenance shall only be permitted on vehicles offered for sale or rent by business.
3. All lights shall be diverted toward the facility or downward on the lot.

4. A low wall and/or hedge shall be provided along all rights-of-way, except at points of vehicular access to the lot and except where vehicular sight distance might be compromised.

5. The sale or rental of recreational vehicles, motor homes, heavy trucks, large boats and other large vehicles shall not be permitted.

U. Garage sales, yard sales, estate sales.

A garage sale, yard sale, or estate sale shall be a Conditional Use (C) in the R-SF, TR, OP, C, EC, and RC districts subject to the requirements of the district where located, and the following conditions:

1. Articles for sale consist of personal possessions of the seller.

2. Such sale is not conducted in the same location more than once a week.

V. Carnival or similar transient enterprise.

A carnival or similar transient enterprise shall be a Special Exception use with conditions (SC) in the C and EC districts subject to the requirements of the district where located, except as herein provided:

The use shall be sponsored by an organization qualified under Chapter 424 of the 1941 Acts of the General Assembly of Maryland (Section 249 of Article 27 of the Annotated Code of Maryland).

The use shall not exceed ten (10) days in duration and shall not include any permanent structures.

W. Temporary structure incidental to construction (non-residential).

A temporary structure incidental to construction (non-residential) shall be a Conditional Use (C) in the C, EC, and RC districts subject to the requirements of the districts where located, and the following conditions:

1. Provided that it is removed when construction is finished.

2. The temporary structure is permitted for a period of one year. A one-year extension may be permitted upon application to the Zoning Administrator.

X. Home occupation.

A home occupation shall be a Conditional Use (C) in the R-SF, TR, OP and C, districts subject to the requirements of the districts where located, and the following conditions:

1. The occupation is conducted entirely within the dwelling or accessory building and is clearly secondary to the use of the dwelling for residential purposes

2. The occupation uses no more that 30 percent of the principal dwelling floor area.



3. All employed are residents, except that one full-time non-resident employee may be on the premises.
4. No outside storage of equipment, materials or items to be repaired or sold shall be permitted.
5. No article or commodity is offered for sale or is publicly displayed on the premises except those incidental to the services offered.
6. No display of products may be shown as to be visible from outside the dwelling.
4. No exterior alterations, additions, or changes to the structure shall be permitted in order to accommodate or facilitate a home occupation.
5. Besides the required parking for the dwelling unit, additional parking located to the side or rear yard shall be provided as follows: 1 space for each non-resident employed on the premises and 3 additional spaces for a physician or dentist.
6. A nameplate not larger than 2 square feet attached to the building and illuminated only by indirect lighting is permitted.
7. A home occupation shall not be interpreted to include such uses as tourists' homes, animal hospitals, tea rooms and restaurants.
8. The establishment or operation of a home occupation shall be harmonious with the character of neighboring residential uses and shall not create traffic (pedestrian or vehicular) or parking demands out of character with neighboring properties.

Z. Kennel, cattery.

A kennel or cattery shall be a Conditional Use (C) in the C district subject to the requirements of that district, and the following conditions:

1. A kennel/cattery shall not be a free-standing establishment but instead an ancillary use to an animal hospital or veterinarian clinic and primarily operated in a manner that supports the animal hospital or veterinarian clinic use.
2. The kennel/cattery operator shall follow all applicable regulations of the Queen Anne's County Animal Control Ordinance.

## **Article 4 Overlay Districts**

### Part 1 General Provisions

#### § 75-62 Purpose of Creating Overlay Districts

Overlay Districts are created for the purpose of imposing special regulations in designated areas of the Town to accomplish the purposes set forth for each Overlay District. Overlay District requirements shall be in addition to the zoning district within which the lands placed in the Overlay District lie.

### Part 2. Mixed-Use Overlay District

§ 75-63 Purpose

The Mixed-Use Overlay District is established to:

- A. Promote greater flexibility in the uses permitted in the underlying district, allowing for residential development and/or the development of a mix of land uses that are compatible with each other and the district.
- B. Assure effective control over the location, type, and arrangement of uses appropriate to the Mixed-Use Overlay District.
- C. Cultivate a clear and consistent image for new development within the district.
- D. Bring about a general physical improvement of lands in the district through coordinated and comprehensive development.
- E. Promote the integration of new streets and general circulation patterns into the existing settlement pattern of Church Hill.
- F. Promote the public welfare and otherwise achieve the intent of this Chapter.

§ 75-64 District Boundaries

The boundaries of the Mixed-Use Overlay District are indicated on the Official Zoning Map of the Town of Church Hill.

§ 75-65 Application

- A. In the Mixed-Use Overlay District, the owner or owners may file an application, on a form provided by the Zoning Administrator, for designation as a Mixed-Use project, which designation shall permit the development of uses not permitted by right or Special Exception in the underlying district as permitted in Section 75-68.
- B. The application shall include a development plan as described in Section 75-66.
- C. Approval of the application, complete with the development plan, must be granted by the Planning Commission.

§ 75-66 Development Plan

The application for Mixed-Use project shall include an overall development plan, drawn to an acceptable scale, which shall show:

- A. Existing topography and existing significant natural features.
- B. Proposed street, sidewalk and overall circulation system and parking facilities.
- C. Proposed lot layout.
- D. Proposed reservations for parks, recreational facilities and/or open space.
- E. Proposed location of land uses and all buildings.
- F. Proposed elevations of buildings by type.
- G. Residential densities and use types for each residential area and overall tract density.
- H. A tabulation of the total number of acres in the proposed project and the percentage

thereof designated for each of the proposed dwelling types and land uses and open space.

- I. A statement describing the proposed storm water management, water supply and sewerage disposal facilities and systems.
- J. A statement of the method intended to be used to assure that a consistent and compatible image for new development will be developed within the district, including architectural design, signage, and typical sections for streets and sidewalks.
- K. A statement of the method intended to be used to assure perpetual maintenance to be applied to those areas which are to be used for recreational or other common or quasi-public purposes.
- L. A statement demonstrating the market demand for the project and projected time frame for build-out.

§ 75-67 Administration.

Except as noted in this Section, this article will be administered and enforced through the procedures for site plan review described in Article 6 and the application and approval of a Zoning Certificate and Zoning Use and Occupancy Permit described in Article 1, Part 4 of this Chapter.

§ 75-68 Permitted Uses, Special Exception Uses.

- A. All uses permitted by right in the underlying district and in the TR district shall be permitted by right in the Mixed-Use Overlay District, subject to the authority of the Planning Commission as set forth in Subsection E. below.
- B. All uses permitted by Special Exception in the underlying district and in the TR district shall be permitted by Special Exception in the Mixed-Use Overlay District, subject to the authority of the Planning Commission as set forth in Subsection E. below.
- C. No building or use shall occupy a location other than indicated on the approved development plan.
- D. All changes in land use, use locations, or other material changes shall require amendments to the development plan and the approval by the Planning Commission in accordance with the procedures set forth in Section 75-69. Any application for a material change in an approved development plan shall include the following information:
  - 1. The proposed use of any portion of the land, including open space.
  - 2. Residential density and use types (reductions in density of up to 10% shall not be considered material).
  - 3. Overall tract density types (reductions in density of up to 10% shall not be considered material).
  - 4. Street or sidewalk layout and entrance locations (minor alignment changes shall not be considered material).
  - 5. The use of buffering, screening, landscaping, and other means of separating different and incompatible land uses from each other (minor changes necessitated by detailed engineering considerations in site design shall not be considered material).
  - 6. Overall architectural style and building patterns, and the layout of buildings on lots (minor changes necessitated by detailed engineering considerations in site design shall not be considered material).

- E. The Planning Commission may authorize and/or require deviation from the regulations relating to lot size, lot area per family, lot width, lot depth, front, rear and side yard requirements upon finding that such deviations will help achieve the purposes of this Section.

§ 75-69 Procedures for Approval of Development Plan.

- A. In reviewing the application, the Planning Commission shall consider the purposes of the Mixed-Use Overlay District with a view toward achieving a maximum level of safety, convenience, and amenity for any residents of the planned development and compatibility with the existing settlement pattern of Church Hill. To these ends, the Commission shall consider:
  - 1. The location of buildings, parking areas, and other features with respect to the topography of the lot and its existing natural features such as large trees, ravines, and wetlands;
  - 2. The efficiency, adequacy, and safety of the proposed layout of internal streets, sidewalks, and driveways
  - 3. The adequacy and location of the green areas provided;
  - 4. The location and screening of parking lots;
  - 5. The consistency in building patterns, architectural styles, and signage;
  - 6. The compatibility of the project with the Town as a whole, the relationships between and compatibility among the different uses proposed and the means shown for buffering any incompatible uses from each other;
  - 7. The adequacy of documents concerning the ownership and maintenance of the common land; and
  - 8. Such other matters as the Planning Commission may find have a material bearing upon the stated purposes of the Mixed-Use Overlay District.
- B. If the Planning Commission finds that a proposed development plan meets the purposes and standards of these regulations, it shall recommend approval of the development plan.
- C. After the Planning Commission has approved a development plan, application may be made for the approval of a subdivision plan for all or part of the area included in the development plan, subject to the requirements of the Church Hill subdivision regulations, and/or application may be made for the approval of a site plan, subject to the requirements of Article 6 of this Chapter.
- D. Any departure from the proposed development plan without approval by the Planning Commission shall be cause for revocation of the approved Mixed-Use district development application and any permits approved.

Part 3 Planned Development District

§ 75-70. Purpose

The purpose of these provisions is to permit and encourage, under appropriate design control, diversification and flexibility in the type, location, and size of site for residential buildings, in order

to make the most advantageous use of the terrain, to facilitate the protection and preservation of scenic beauty, to foster the creation of common open spaces, to avoid monotony, and so that there may be a broad range of choice as to kinds of housing accommodations available within neighborhoods. In applying these provisions, no development shall be permitted which would be inconsistent with the intent and purpose of this Chapter or contrary to the Town's Comprehensive Plan.

§ 75-71. Authorization, District Boundaries and Conditions

- A. A planned development district is a Special Exception subject to the terms of Article 3, Part 2 of this Chapter.
- B. Within any residence zone or combination of residence zones, in the case of land capable of subdivision under the applicable zone regulations, the Board of Appeals may authorize deviation from the zone regulations relating to lot size, lot area per family, lot width, lot depth, front, rear and side yard requirements, and may allow any one or a combination of the types of residential structure permitted by this Chapter within the Town; provided that the following conditions are met:
  - 1. The site must be at least five (5) acres.
  - 2. The number of dwellings on the site shall not exceed the number that could be placed on the site if it were developed in conformance with the lot size requirements of the zone in which it is located.
  - 3. Any area which results from the reduction of the area of each lot be provided and maintained as recreation areas to serve the needs of the residents of the development.
  - 4. That community water and sewage disposal systems are available.
  - 5. Clustering shall be considered before other development configurations, so as to create common open space and minimize the expense of installing utilities.

Part 4 Designated Historic Site Provisions

§ 75-72. Purpose.

The intent of this Section is to safeguard the heritage of the Town by protecting and preserving buildings and sites within an area which reflects elements of Church Hill's cultural, social, political, and architectural history; to promote the educational, cultural, and economic value to the public by maintaining said area as a landmark of the Town's history and architecture.

§ 75-73. Historic Review Certificate Required for Designated Historic Sites.

Prior to the issuance of a Building Permit or Certificate of Zoning compliance as required by this Chapter for designated historic sites, a historic review certificate shall be obtained from the Zoning Administrator prior to any building, structure, premise, sign, use or site being erected, constructed, built, created, reconstructed, moved, altered, added to, converted, or demolished.

§ 75-74. Designated Historic Sites Commission.

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

B. In deciding upon applications for historic review certificates, the Commission shall keep in mind the main purpose of this Section and shall consider:

1. The historical and architectural value and significance,
2. The general design, arrangement, texture, material and color of the buildings, site, or structure and appurtenant fixtures in question,
3. The relation of such features to similar features and buildings in the immediate surroundings, and
4. The position of such buildings, structure, or site in relation to the street or public way and to other buildings, structures, and sites.

C. Using the criteria set forth in Subsection B hereof, yard and lot requirements shall be individually established by the Commission as provided for by the schedule of district zones of this Chapter.

D. In applying the criteria set forth in Subsection B., the overriding consideration in granting a historic review certificate shall be a determination that the result will be compatible with Church 75-43 Hill's history.

E. Upon approval of an application, the Commission shall transmit a report to the administrative official stating the conditions upon which approval was granted, and cause a historic review certificate to be issued. Final action shall be taken within thirty (30) days after filing of the request; if not, the application shall be deemed to be approved, except when mutual agreement between the Commission and the applicant has made for an extension of the time limit.

F. Upon disapproval of any application, the Commission shall forward a written statement containing the reasons therefore to the applicant. Notice of such disapproval and a copy of the written statement shall be transmitted to the administrative official.

G. If, in denying the application, the Commission is able to identify changes in the proposal that may make approval possible, the Commission may include such recommendations in its statement of reasons for disapproval; no such recommendations shall bind the Commission to approve a subsequent application

§ 75-75. Proceedings of the Designated Historic Sites Commission.

The Designated Historic Sites Commission shall organize itself, make and adopt rules necessary in the conduct of its affairs, and in keeping with provisions of this Chapter. The Chairman, or in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses. All

meetings shall be open to the public. The Commission shall keep minutes of its proceedings, showing the vote of each member on each question, and shall keep records of its examinations and other official actions, all of which shall be public record.

§ 75-76. Powers and Duties of the Designated Historic Sites Commission.

The Commission shall have the following powers and duties:

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

B. In deciding upon applications for historic review certificates, the Commission shall keep in mind the main purpose of this Section and shall consider:

1. The historical and architectural value and significance,
2. The general design, arrangement, texture, material and color of the buildings, site, or structure and appurtenant fixtures in question,
3. The relation of such features to similar features and buildings in the immediate surroundings, and
4. The position of such buildings, structure, or site in relation to the street or public way and to other buildings, structures, and sites.

C. Using the criteria set forth in Subsection B hereof, yard and lot requirements shall be individually established by the Commission as provided for by the schedule of district zones of this Chapter.

D. In applying the criteria set forth in Subsection B., the overriding consideration in granting a historic review certificate shall be a determination that the result will be compatible with Church Hill's history.

E. Upon approval of an application, the Commission shall transmit a report to the administrative official stating the conditions upon which approval was granted, and cause a historic review certificate to be issued. Final action shall be taken within thirty (30) days after filing of the request; if not, the application shall be deemed to be approved, except when mutual agreement between the Commission and the applicant has made for an extension of the time limit.

F. Upon disapproval of any application, the Commission shall forward a written statement containing the reasons therefore to the applicant. Notice of such disapproval and a copy of the written statement shall be transmitted to the administrative official.

G. If, in denying the application, the Commission is able to identify changes in the proposal that may make approval possible, the Commission may include such recommendations in its statement of reasons for disapproval; no such recommendations shall bind the Commission to approve a subsequent application.

Part 6 Community Character Overlay District

§ 75-81 Purpose

The purpose of this Overlay District is to safeguard the community character of Church Hill as expressed in the architectural features and styles of homes, spatial relationship between structures, and front façade elements. In addition, one of the intentions of the district is to implement the goals of the Comprehensive Plan regarding the maintenance and preservation of community character.

§ 75-82 Procedure

The Planning Commission shall review all site plans submitted for properties within Community Character Overlay District. The submittals shall include renderings that illustrate the appearance of the proposed structure or addition.

§ 75-83 Applicability

A. The development standards shall be applicable to residential structures and accessory structures on residential lots or lots redeveloped as residential requiring site plan review within the Community Character Overlay District. Structures in commercial or institutional use shall comply with the building massing and building setback provisions of the district.

B. Structures within the district shall be subject to the Overlay District development standards in addition to the standards of the zoning district wherein the structure is located. Where a conflict between the development standards exists, the Overlay District standards shall apply.

C. The boundaries of the Community Character Overlay District shall be as shown on the Official Zoning Map.

§ 75-84 Development Standards

A. Structure size

1. Limitation on building footprint: The building footprint of a replacement structure shall be no more than 75 percent greater than the building footprint of the residential structure it is replacing. An addition to the front façade of an existing house shall be no greater than 30 percent of the structure width.

2. Limitation on building height: The height of an addition to an existing house shall not be greater than the original structure. All structures subject to these provisions shall be at least one and a half stories in height. To the maximum extent possible the line dividing the ground level story from the story above shall align with the structures on the immediate adjoining lots.

B. Building setback

1. Front porches and stoops may extend into required front yard setbacks, but shall be no closer than six feet from the front property line unless such structure is as located as of the date of adoption of this ordinance.

2. No residential structure shall be set back further from the front property line than 35 feet unless such structure is located beyond 35 feet as of the date of adoption of this ordinance.

C. Aesthetic character

1. General

a. The structure must bear a substantial resemblance in massing, fenestration, and architectural



detail to other structures in the Community Character Overlay District. For references, see the Town of Church Hill community character inventory.

- b. Principle structures on slab foundations shall not be permitted.
  - c. Detached garages and accessory structures requiring a building permit must be similar in style and construction material to the principal structure.
  - d. Off-street parking shall be to the side or rear of the principal structure.
  - e. Front-loaded attached garages shall not be permitted. Detached garages may not be forward of the rear building line of the principal structure.
  - f. No chain link fences are permitted. Fence materials and orientation of the supporting members must be substantially similar to other fences found in the district.
2. Detail features. All principle structures in the Community Character Overlay District shall include:
- a. An entry feature such as a door transom, fanlight, sidelight, portico, single story columns, pediment above the front door, or a covered stoop.
  - b. A lead walk linking the front entry to the front sidewalk adjoining the public right of way.
  - c. Windows and doors of a style, arrangement, and location that is consistent with neighboring homes.
  - d. Roof eaves of at least 18 inches in width.
  - e. Exterior construction material similar in composition and appearance with neighboring structures.
  - f. A front porch that comprises at least 30% of the width of the structure at the front build-to-line or a covered stoop.
  - g. Plants and shrubs that substantially conceal the house foundation from view from the public right-of-way when the landscaping reaches maturity.

§ 75-85          Modification

The Planning Commission may approve a modification of the Community Character Overlay District development standards on a case-by-case basis. Such modification may only be approved:

- A. For an interim use of a specified duration and when deemed appropriate due to the location, size, surrounding area or configuration of the lot; and
- B. When such modification is found to be consistent with the purposes of the Community Character Overlay District.

**Article 5**  
**Development Requirements**

Part 1 In General

§ 75-88.          Accessory Swimming Pools.

Accessory swimming pools, open and unenclosed, may occupy a required rear or side yard, provided that they are not located closer than six feet to a rear lot line or ten feet to an interior side lot line. A walk space at least three feet wide shall be provided between pool walls and protective fences or barrier walls. Every swimming pool shall be protected by a safety fence or barrier of four

feet (4) in height approved by the Zoning Administrator.

§ 75-89. Visibility at Intersections

On a corner lot in any zone, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between the height of two and a half (2- 1/2) and ten (10) feet above the centerline grades of the intersecting streets in the areas bounded by the street lines of such corner lots and a line joining points along said street lines fifty (50) feet from the point of intersection.

§ 75-90. Flag Lots Prohibited.

Flag lots shall not be permitted in Church Hill.

Part 2. Lot size, Setback and Bulk Requirements.

§ 75-91. Purpose and Applicability.

A. The purpose of lot size and bulk requirements are to ensure that the use of the property does not infringe on the rights of adjacent property owners. These requirements are also intended to ensure that there is adequate light and air for the health and safety of residents, business operators, and patrons. In addition, open space is required to make the entire area an attractive and pleasant place to be. Finally, certain requirements are intended to ensure the fire and rescue personnel and equipment will have sufficient access to the side and rear of structures in an emergency.

B. The lot size and building requirements that follow shall apply to new construction. The Zoning Administrator may approve in accordance with Article 6 of this Chapter, exterior additions to structures existing at the date of adoption of this Chapter which do not meet the minimum side yard setbacks as indicated in this article as long as the structural additions do not further reduce a side yard setback that is less than the minimum required.

§ 75-92. Lot Size and Lot Width.

**Lot Area Width, and Density**

	<b>SF</b>	<b>TR</b>	<b>OP</b>	<b>C</b>	<b>EC</b>	<b>RC</b>
Minimum Lot Width (ft)	85	50 <sup>1</sup>	75	-	-	-
Minimum Lot Size without Public Water (sq. ft.)	14,500	10,000	10,000	-	-	435,600
Minimum Lot Size with Public Water (sq. ft.)	14,500	5,400	10,000	-	-	435,600
Maximum Residential Density Without Public Water (Units per Acre)	2.5	3.7	3.7	-	-	0.1

Maximum Residential Density With Public Water (Units per Acre)	2.5	6.0	3.7	-	-	0.1
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<sup>1</sup> For lots located with frontage on Walnut Street, Main Street and Sudlersville Road, the minimum lot width shall be 75 feet.

§ 75-93. Setbacks and Height.

**Setbacks and Height**

	SF	TR	OP	C	EC	RC
Minimum Front Yard Setback	15	15	15	15	15	35
Minimum Side Yard Setback	12	10	10	10	15	20
Minimum Rear Yard Setback	25	25	25	25	25	25
Maximum Lot Coverage by Buildings	28	30 <sup>1</sup>	30	40	40	-
Maximum Height	30	30	30	35	35	35

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<sup>1</sup> On Lots provided with public water, the maximum percent of the lot covered by buildings shall be 40.

§ 75-94. Exceptions to Lot Size, Setback and Bulk Requirements.

- A. Lot sizes in a subdivision in the R-SF district may, upon approval of the Planning Commission at time of subdivision, be varied, provided that no lot in the subdivision is less than 14,500 square feet.
- B. Adjustment of front yard setbacks in the R-1 and TR districts. Front setbacks shall be equal to the average setbacks for buildings on the same side of the street within 300 feet of the building, or setback 15 feet, whichever is less.
- C. Side or rear yard setbacks
  - 1. Where a side or rear yard lot line of a non-residential use coincides with the side or rear yard lot line of a residential use, a side or rear yard setback shall be provided along such lot line not less than that which would be required under this article for a residential use on the adjacent lot, or 25 feet, whichever is greater.
  - 2. Where a side or rear lot line of a non-residential use coincides with a side or rear lot of another non-residential use, the side or rear lots line may be reduced to zero provided the following three conditions are met.
    - a. Emergency vehicle access and maintenance are addressed.

- b. Approval is given by the Fire Marshall, and
- c. The adjoining property has a compatible use.
- D. Extensions into yard area. The following features may extend into required minimum yard setback areas but only as qualified below:
  - 1. Cornice, canopies, awnings, eaves, or other such similar features, all of which are at least eight feet above grade, may extend up to four feet into any required yard in any district.
  - 2. Chimneys may extend up to two feet into any required side yard in any residential district in the Town.
  - 3. Any uncovered and completely unenclosed patio, terrace, or deck with its floor no higher than that of the first floor level of the building may extend six feet into any required yard, but not nearer to any lot line than a distance of four feet.
- E. Accessory buildings in side and rear yards. Detached and uninhabitable accessory buildings may occupy required side and rear yards but shall not be located closer than six feet from any side property line or three feet from any rear property line.

§ 75-95. Structures Permitted Above Height Limit.

The building height limitations of this Chapter shall not apply to roof structures for housing stairways, tanks, ventilating fans or similar equipment required to operate and maintain the buildings; fire or parapet walls, towers, steeples, flag poles, silos, smoke stacks, masts, tanks, monuments, or other structures or roof ornamentation that project into the air.

§ 75-96. Special Regulations for Two-family Dwellings, Multi-family Dwellings, and Senior Housing Projects.

- A. Each dwelling unit of a two-family dwelling must comply with the minimum lot area per dwelling unit specified in the table of district regulations.
- B. The dwelling units and individual lots of a two-family dwelling or Town house may be sold separately if separate utilities 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.
- C. The following regulations shall apply to multi-family dwellings in any district where multi-family dwellings are permitted and to senior housing projects in any district where senior housing projects are permitted, except as qualified below.
  - 1. The multi-family building or senior housing project shall comply with minimum lot requirements contained in Section 75-202. Each dwelling unit of a multi-family dwelling or a senior housing project need not be located on a lot complying with minimum lot area per family requirements in the table, provided that the average for all dwelling units in the building or project equals or exceeds the minimum requirements, and provided that no lot is created with a lot area less than 3,500 square feet.

2. Lot frontage, measured at a building line, for individual dwelling units of a multi-family dwelling may not be less than 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 multi-family building shall be considered as one building on one lot with side yards required for end units only, in accordance with Section 75-203. Any side yard adjacent to the line of a lot occupied by a detached single-family dwelling or a lot in a residential district shall not be less than 25 feet.
4. No detached garage or carport or other detached accessory building shall be permitted on a lot occupied by a multi-family building.
5. Unless otherwise restricted by district regulations, not more than eight dwelling units shall be included in any one building.
6. The front yards of attached dwelling units shall vary in depth by not less than three feet and the facades shall vary in material and design, such that no more than three abutting units shall have the same front yard depth or the same or essentially the same architectural treatment of facades and roof lines.
7. If non-public areas for the common use and enjoyment of all of the occupants of multi-family buildings are provided, such areas shall be maintained in a satisfactory manner without expense to the general public.
5. Required off-street parking space of one and one-half spaces per dwelling unit shall be provided on the lot or within 150 feet of the lot. Parking for senior housing projects may be reduced upon approval of the Planning Commission.
6. A site plan, including proposed elevations, shall accompany an application for approval of a multi-family development or a senior housing project.
7. The front yard shall be landscaped with trees, grass, shrubs, or pedestrian walks and maintained in a neat and attractive condition.

### Part 3. Parking and Loading

#### § 75-97. Off-street Parking Areas Required.

- A. In all districts, space for parking and storage of vehicles shall be provided in accordance with the schedule of minimum off-street parking requirements by land use set forth in Table 2 of this Chapter.
- B. An off-street parking space shall comprise not less than one hundred eighty (180) square feet per parking stall plus necessary maneuvering space.
- C. Space for maneuvering incidental to parking or un-parking shall not encroach upon any public way.
- D. Every off-street parking space shall be accessible from a public way.
- E. Parking areas associated with public, semi-public, or commercial use shall have an all-weather surface

TABLE 2: SCHEDULE OF MINIMUM OFF-STREET PARKING REQUIREMENTS BY LAND USE

Use	Minimum Required Parking Spaces
<b>Residential</b>	
Single family residential - detached	2/dwelling unit
<del>Single family residential - attached</del>	<del>2/dwelling unit</del>
Two-family, duplex	2/dwelling unit
Semi-detached dwellings	2/dwelling unit
Accessory Apartment	1/dwelling unit
Multi-family Dwelling	1.5/dwelling unit
Senior Housing Project	1/dwelling unit
Mobile home	1.5/dwelling unit
Bed and Breakfast	1/dwelling unit
Boarders in Residence	2/dwelling unit, plus 1/boarder
Boarding house, lodging house	1/unit in house in addition to residential requirement
<b>Institutional</b>	
Churches and other buildings for religious assembly	1/4 seats in main assembly hall
Monasteries, convents	1/6 seats in main assembly hall
Public buildings, cultural and administrative	*
Cemeteries	*
Home Day Care	1/staff
Day Care Center, Nursery School	3/classroom
Nursing home	1/staff + 1/5 residents
Lodges, clubs, fraternal organizations	*
Trade and Vocational Schools	1/3 students
Studios for instruction in dance, art, music, similar	1/5 students
Public/ Private Schools	1/5 students + 1/staff
a) Elementary School	3/teaching station
b) Middle School	3/teaching station + 1/6 seats in main assembly hall
c) High School	3/teaching station + 1/4 seats in main assembly hall
Funeral home	1/4 seats in chapel
Public or non-profit park and/or recreational area	*
<b>Commercial</b>	
Artists, photographer galleries, studios	1/500 s.f... GFA
Massage Therapy	1/300 s.f. GFA
Retail Shops, including service/repair such as clock, jewelry, repair	1/350 s.f. GFA
Convenience, grocery, department, variety, hardware, dry goods stores	1/250 s.f. GFA
Hotels, motels	1/unit + 1/staff
Inn	1/unit + 1/staff
<b>Resorts, convention centers, similar</b>	*
Personal service shops, salons, shoe repair, dry cleaning	1/250 s.f. GFA
Laundromats	1/250 s.f. GFA
<del>Television and radio repair shops, small appliance repair, similar</del>	<del>1/400 s.f. GFA</del>
Health Spa / Fitness Center / Indoor recreational facilities	1/300 s.f. GFA
Banks and Financial Institutions	1/300 s.f. GFA
Movie cinema, theater, places of indoor amusement	1/4 seats
Professional office	2/professional
Business offices, including finance, insurance, real estate	1/400 s.f. GFA
Restaurants, Class I and II restaurants	1/300 s.f. GFA
Restaurants, Class III restaurants	1/250 s.f. GFA
Taverns, nightclubs	1/250 s.f. GFA
Small-scale manufacturing and assembly such as cabinet making, furniture upholstery, printing and publishing	1/staff
Business services, plumbing shops, contractor shops	1/staff
Building materials, lumber yards	*
Kennel/Cattery	1/staff
Animal hospital, veterinarian clinic	1.5/ examining room
Nursery for plants	*
<b>Automotive</b>	
Filling stations, service stations, automotive repair, full service garage	1/pump + 1/service bay + 1/staff
Motor vehicle sales, rental, service	1/300 s.f. GFA
Automotive body shop	1/service bay + 1/staff
Automobile parking lots	N/A
<b>Unclassified</b>	
Public utility building / facility	*
Garage / Yard Sales	N/A
Carnival	*
Temporary Buildings Incidental to Construction	N/A
Home Occupations	1/employed non-resident or 2/physician or dentist
Dwelling for resident watchman	N/A

\* Parking shall be at least 1/staff plus spaces in number as determined by the Planning Commission to serve the visiting public.

§ 75-98. Requirements for Designated Historic Sites.

Subject to approval by the Board of Appeals, off-street parking requirements may be varied or modified for designated historic sites.

§ 75-99. Modification of Parking Requirement.

Should the configuration of the lot, the placement of existing conforming structures, or a change of use to a conforming but more intensive use preclude strict adherence to the requirements of Section 75-97, the Board of Appeals may modify the parking requirements provided that the owner demonstrates:

- A. That adequate public off-street parking is available within reasonable walking distance, and/or;
- B. That on-street parking is available and adequate and that the parking required by the contemplated use will not materially impede the flow of traffic or preempt existing residential parking, and/or;
- C. That the property owner has entered into a written agreement without a specified termination date with a third party to make available the required parking in a private off-street parking lot within a reasonable walking distance of the subject property, provided that the Zoning Occupancy Permit may be revoked in the event that the third-party agreement is terminated or modified to reduce the number of parking spaces available to the subject use, that the agreement contains a provision that it may not be terminated or amended without sixty (60) days notice to the Zoning Administrator, and that a copy of the third-party agreement (and any amendments) is filed with the Zoning Administrator.

§ 75-100. Bicycle Parking Requirements.

A. Except as set forth in Subsection B., in all districts, an applicant for development approval must provide the number of spaces for bicycle parking set forth below (whichever is greater):

- |     |  |                            |
|-----|--|----------------------------|
| 1.  | Boarding houses                            | 2, or 1 per 10 units       |
| 2.  | Bed and breakfast, hotels, motels          | 2, or 1 per 25 employees   |
| 3.  | Retail sales, service operations           | 2, or 1 per 5,000 s.f. gfa |
| 4.  | Office buildings                           | 2, or 1 per 5,000 s.f. gfa |
| 5.  | Museums, libraries, similar                | 4, or 1 per 3,000 s.f. gfa |
| 6.  | Churches, similar                          | 1 per 50 members           |
| 7.  | Community centers                          | 1 per 250 s.f. gfa         |
| 8.  | Schools                                    |                            |
|     | (a) Elementary                             | 1 per 10 students          |
|     | (b) Middle and high                        | 1 per 6 students           |
| 9.  | Indoor amusement                           | 4, or 1 per 50 seats       |
| 10. | Restaurants, ice cream shops, coffee shops | 4, or 1 per 50 seats       |
| 11. | Other commercial                           | 2, or 1 per 50 employees   |

B. A property owner may request that the Planning Commission permit fewer spaces for bicycle parking than would otherwise be required by Subsection A. If the applicant demonstrates to the satisfaction of the Planning Commission that a lesser number of spaces will be adequate to serve the foreseeable needs of the development.

C. Bicycle parking spaces shall be provided in accordance with the amounts required by Subsection A. or B. and with the design regulations in this Section. Each bicycle parking space shall be sufficient to accommodate a bicycle at least six (6) feet in length and two feet wide, and shall be provided with some form of stable frame permanently anchored to a foundation to which a bicycle frame and both wheels may be conveniently secured using a chain and padlock, locker, or other storage facilities which are convenient for storage and are reasonably secure from theft and vandalism. The separation of the bicycle parking spaces and the amount of corridor space shall be adequate for convenient access to every space when the parking facility is full.

1. When automobile parking spaces are provided in a structure, all required bicycle spaces shall be located inside that structure or shall be located in other areas protected from the weather. Bicycle parking spaces in parking structures shall be clearly marked as such and shall be separated from auto parking by some form of barrier to minimize the possibility of a parked bicycle being hit by a car.

2. Bicycle parking spaces shall be located near the entrance of use being served and within view of pedestrian traffic if possible, and shall be sufficiently secure to reasonably reduce the likelihood of bicycle theft.

3. Bicycle parking facilities shall not impede pedestrian or vehicular circulation, and should be harmonious with their environment both in color and design. Parking facilities should be incorporated whenever possible into building design or street furniture.

4. Racks must not be placed close enough to a wall or other obstruction so as to make use difficult. There must be sufficient space (at least 24 inches) beside each parked bike that allows access. This access may be shared by adjacent bicycles. An aisle or other space shall be provided to bicycles to enter and leave the facility. This aisle shall have a width of at least six (6) feet to the front or rear of a bike parked in the facility.

5. Paving is not required, but the outside ground surface shall be finished or planted in a way that avoids mud and dust. Bike parking facilities within auto parking areas shall be separated by a physical barrier to protect bicycles from damage by cars, such as curbs, wheel stops, poles or other similar features.

#### § 75-101. Off-Street Loading Spaces Required.

In any zone in connection with every building or part thereof having a gross floor area of four thousand (4,000) square feet or more that is to be occupied by small-scale manufacturing or assembly, goods display or sales, mortuary, or other uses similarly requiring the receipt and distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building or use, at least one off-street loading space plus one additional such loading space for each ten thousand (10,000) square feet of gross floor area or major fraction thereof. Each loading space shall be not less than ten (10) feet in width, forty-five (45) feet in



length, and fourteen (14) feet in height. Such space may occupy all or any part of any required yard or court, except a front yard. Off-street loading areas shall be adequately screened from neighboring properties and, in addition, no such space shall be located closer than fifty (50) feet to any lot located in any R-SF or TR district, unless wholly within a completely enclosed building or unless enclosed on all sides by a wall or uniformly painted Board fence, not less than six (6) feet in height.

#### Part 4. Landscaping and Screening Requirements

##### § 75-102. Purpose and Intent.

The purpose and intent of this part is to preserve and promote the health, safety, and general welfare of the public; to facilitate the creation of an attractive Town; to conserve natural resources including adequate air and water; to conserve properties and their values; and to encourage the appropriate use of land. More specifically this part is intended to make incompatible uses compatible by requiring a screen or buffer between the uses in order to minimize the harmful impact of noise, dust and other debris, artificial light intrusion, and other objectionable activities or impact conducted or created by adjoining or nearby use. Additionally, this part is intended to require the landscaping of certain parking lots in order to reduce the harmful effect of heat and noise, and the glare of motor vehicle lights; to preserve underground water reservoirs and to permit the return of precipitation to the ground water strata; to act as a natural drainage system and ameliorate storm water drainage problems; to prevent soil erosion; to provide shade and to enhance the blighted appearance to parking lots.

##### § 75-103. Applicability.

The provisions of this article shall apply to all development where Category 1 site plans are filed in accordance with the provisions of Article 6 and to all public and private parking facilities.

##### § 75-104. Landscaping Requirements.

A. A landscaping scheme shall include dimensions and distances and clearly delineate all existing and proposed parking spaces or other vehicle areas, access aisles, driveways, and the location, size and description of all landscaping materials to be used.

B. The landscaping measures shall be completed according to specifications prior to approval of any zoning and occupancy permit.

##### § 75-105. Screening Requirements.

All developments for which Category 1 site plans are required in accordance with the provisions of Article 6 shall be effectively screened on each side that adjoins a residential use. Required screening shall consist of a masonry wall, wooden fence, or an evergreen hedge of not less than forty-two (42) inches high at the time of original planting. Where a masonry wall or wooden fence is utilized, a minimum twenty-four (24) inch landscaping strip outside the fencing shall be planted

with clusters of trees and shrubs with a maximum spacing between clusters of twenty-five (25) feet.

§ 75-106. Perimeter Parking Lot Landscaping.

All off-street parking facilities, whether or not located on the same lot as the use to which it is accessory, containing five (5) or more parking spaces shall meet the following perimeter landscaping requirements.

A. A landscaping strip five (5) feet in width shall be located between the parking facility and the adjoining lot lines.

B. A minimum of one shade tree for every forty (40) feet of lot perimeter shall be planted in the landscaping strip. Deciduous shade trees with ground cover or low shrubs shall be used as the primary landscape material.

C. On the landscaping strip adjacent to a street right-of-way, or to a R-SF or TR district, a compact evergreen hedge, an ornamental wall, or a wooden fence of not less than four (4) feet or greater than six (6) feet in height is required to reduce the visual impact of the parking facility.

§ 75-107. Internal Landscaping of Surface Parking Facility.

Any surface parking facility of twenty-five (25) or more spaces shall be landscaped with shade trees of not less than five (5) percent of the internal area of the surface parking facility. The internal area of a parking facility is defined by the perimeter of the curbs or edge of paving. Planting area should be wide enough to protect the trees from a vehicle's swinging doors and bumper overhang.

§ 75-108. Lighting in Parking Lots.

Any lighting used to illuminate any parking area shall be so arranged as to direct the light away from adjoining premises located in a R-SF or TR zoning district, and from public roads.

§ 75-109. Maintenance.

A. All plant material shall be tended and maintained in a healthy growing condition, replaced when necessary and kept free of refuse and debris. Fences and walls shall be maintained in good repair.

B. The owner, or his agent, shall be responsible for the maintenance, repair and replacement of all landscaping and screening materials as may be required by the provisions of this part.

§ 75-110. Waiver or Modification.

The Planning Commission, under the provisions of Article 6, may approve a waiver or modification of the requirements of this part. Such waiver or modification may be approved:

A. For an interim use of a specified duration, and/or where deemed appropriate due to the

location, size, surrounding area or configuration of the lot; and

B. When such waiver or modification will not have any deleterious effect on the existing or planned development of adjacent properties.

#### Part 5. Building Design Standards

##### § 75-111. Purpose and Applicability.

A. These building design standards recognize that the overall appearance of the Town bears a direct relationship to the social well being of residents and to property values. These standards are intended to promote and protect a cohesive architectural character within the Town.

B. These provisions shall apply to all development in the Town where review is required in accordance with the provisions of article 6 of this Chapter and shall be enforced through the site plan approval process and the attendant notice and review procedures set forth in Article 6.

##### § 75-112. Proposed Elevations Required.

In addition to any site plan submission requirements elsewhere required in this Chapter, a Category 1 site plan shall include proposed elevations prepared by a licensed architect for all buildings and a statement of the methods intended to be used to assure that all proposed new or rehabilitated buildings are developed in a way consistent and compatible with the buildings and uses in the immediate neighborhood.

##### § 75-113. Definitions.

For purposes of this Part 4 of this article, the following terms shall have the meanings indicated:

A. “proportion” refers to the relationship between width and height of building facades.

B. “rhythm” refers to the repetition and space of opening (windows and doors) on individual buildings as compared with adjacent structures. Rhythm also refers to the space of repetitive building masses along a street.

C. “scale” refers to the size (height/width) relationship between adjacent structures. Human scale refers to the comfortable size relationship between buildings and people.

##### § 75-114. Standards.

A. Illustration 1 in Subsection C. of this Section, illustrates the appropriate and inappropriate application of the basic design standards set for the below.

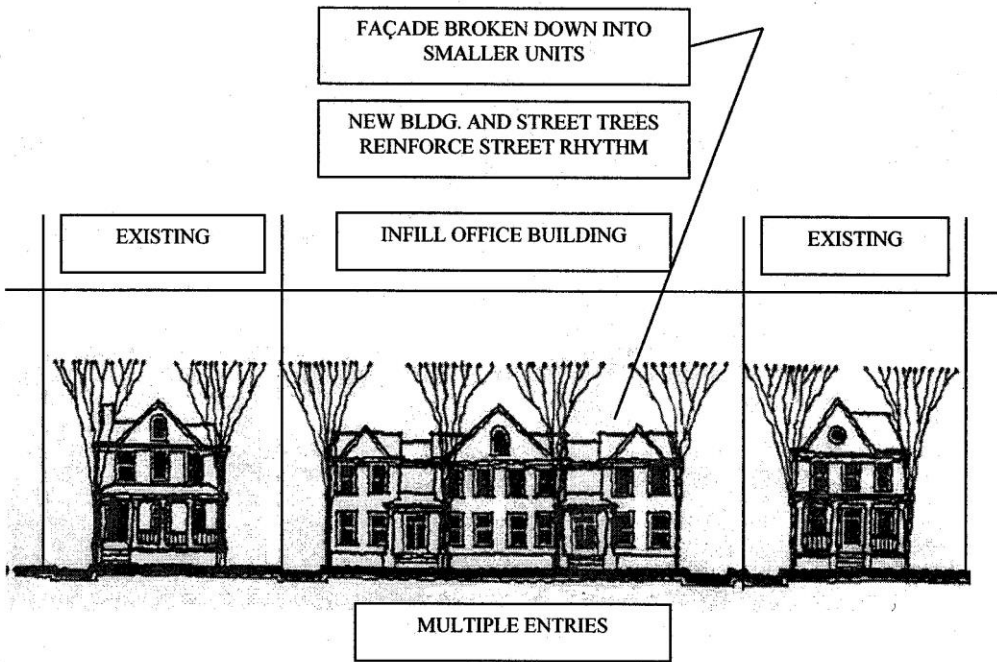
1. The proportional relationship of individual facades shall emphasize the vertical rather than the horizontal.

2. Large disparities between the height, width, and length of a building shall be avoided.
3. Large blank walls shall be avoided. Buildings shall be designed to support a human-scale environment. Each floor level of building walls of residential construction shall be emphasized with two windows. One of the windows on each floor may be substituted with another architectural element such as a chimney, door, garage, deck, or other element that creates visual interest and eliminates blank walls.
4. Buildings and accessory structures shall be compatible with neighboring buildings and structures in terms of height, proportion, rhythm, and scale.
5. All of the design elements of a building shall maintain the same architectural style in terms of proportion, rhythm, and scale as the overall style of the building.
6. Buildings shall be designed to promote a pattern of closely spaced buildings with multiple entrances.
7. Rooftop and exposed mechanical electrical equipment shall be screened from view. Screening shall be architecturally integrated with buildings.
8. Building orientation: buildings and their main entrances shall face the front yard on the lot.
9. In new construction, the roof of buildings should conform to the predominant orientation of roofs on the street.
10. New buildings shall have pitched roofs of no less than 5:12 (5 inches of rise in 12 inches of run).
11. Neighborhood context should dictate the choice of materials for exterior of buildings. Permitted exterior building materials include only the following: brick, natural stone, parged or painted concrete block, wood or wood appearance siding, vinyl or aluminum siding (provided samples are submitted for inspection and approval by the Planning Commission and the colors are muted). Materials prohibited include asbestos, reflective glass, un-parged or unpainted concrete block, glazed brick, porcelain metal panels, permastone and fiberglass.

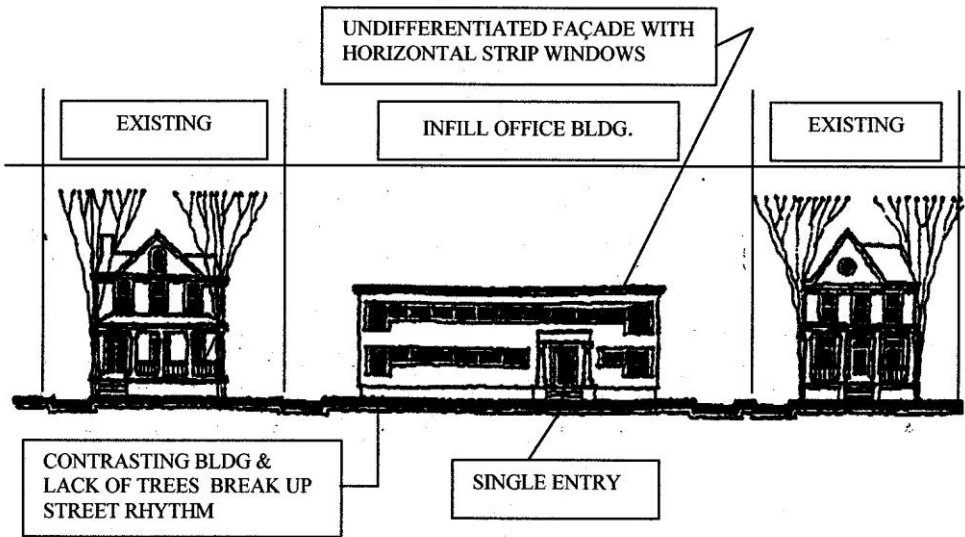
B. The Planning Commission, under the provisions of Article 6, may approve a waiver or modification of the requirements of this part. Such waiver or modification may be approved:

1. For an interim use of a specified duration, and/or where deemed appropriate due to location, size, surrounding area or configuration of the lot; and
2. When such modification will not have any deleterious effect on the existing or planned development of adjacent properties.

C. Illustration 1.



**APPROPRIATE**



**INAPPROPRIATE**

## Part 6. Signs

### § 75-115. Purpose.

These regulations are intended to protect community aesthetics and promote and protect public safety especially traffic safety.

### § 75-116. Administration.

- A. Any sign erected, placed, attached, altered, reconstructed, or modified shall conform to this Chapter. Existing signs shall not be altered or moved unless in compliance with this Chapter.
- B. All site plans reviewed by the Planning Commission as provided for in Article 6 of this ordinance shall include information regarding the location, height, size, and design of all signs to be located on the site.
- C. Unless no permit is required as provided herein, prior to erecting any sign, application shall be made to the Zoning Administrator for a zoning permit to erect such sign.
  - 1. Within thirty (30) days of receiving such application, the Zoning Administrator shall issue such permit if the proposed sign meets the requirements of this Chapter.
  - 2. If such application is denied, then the applicant shall be advised of the reasons therefore, and such applicant shall have the right to appeal such adverse decision to the Circuit Court for Queen Anne's County in accordance with the Title 7 of the Maryland Rules of Procedure.

### § 75-117. Definitions

For the purposes of this Section, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

- A. "Height, Maximum Sign": means the distance from the top of the sign to the unfinished grade of the ground at the base of the sign. For freestanding/monument signs, the height includes the base of the sign.
- B. "Internally Lighted Sign" means a sign that produces light within itself and includes signs that consist of, in whole or in part, exposed glass tubing containing either neon, argon, or other material, regardless of whether the exposed glass material is located inside the window of the use or outside the use to which is refers.
- C. "Sign" means a structure or device, in whole or part, which uses symbolic representations to direct attention to, identify or advertise any activity, person, group of people or thing.
- D. "Temporary Sign" means any sign which has for its purpose the advertising, announcement

or display of information pertaining to an event, condition or situation that is intended to be limited in scope, duration, or time, including, but not limited to, commercial sales events, concerts, plays, on-premise real estate advertisement, on-premise advertisement of contractor lawfully engaged at site, and other commercial or cultural events.

§ 75-118. General Regulations.

- A. No signs shall be attached to utility poles, traffic signal poles, traffic control posts/signs, rocks, or trees.
- B. No signs shall be located on any part of a roof structure.
- C. No internally lighted sign is permitted. No sign shall project intermittent or flashing illumination except for public road or street signs intended to promote traffic safety.
- D. Pennants, streamers, and all other fluttering, spinning, or similar type signs shall be prohibited.
- E. No flashing or rotating signs shall be permitted except that a portion of a sign may indicate a changing time, temperature, or date.
- F. No sign shall be located which will interfere with traffic visibility along the right-of-way of any road or along any internal private driveway existing or entering a site or on any slope or drainage easement of a road.
- G. No sign shall be displayed, visible from the public right-of-way, which uses the words “Stop” or “Danger” or that implies a need for or requirement of stopping or the existence of danger.
- H. Signs attached to a motor vehicle. Signs attached to a motor vehicle are allowed only under the following conditions:
  - 1. The vehicle is parked at a business location being advertised and is a registered, tagged, and operable vehicle and is parked in an approved parking space.
  - 2. If the vehicle is not parked at the business, it cannot be parked in a residential zoning district, unless the vehicle is parked legally at the driver’s residence and is the occupant’s primary means for transportation.
- I. No sign shall be permitted which becomes unsafe, or endangers the safety of a building, premise, or person. The Zoning Administrator shall order such signs to be made safe or repaired or removed and such order shall be complied with within 10-days of the receipt of such order.
- J. No sign shall be permitted which through damage, disrepair or lack of maintenance is or has become impaired in its functionality or blighted in its appearance. The Zoning Administrator shall order such sign to be repaired, replaced, or removed and such order shall be complied with within 45-days of the receipt of such order.
- K. When a sign structure does not include a sign for a period of 120 consecutive days, such sign structure shall be deemed a violation and shall be removed.

§ 75-119. Signs Permitted Without Zoning Permit.

The following signs are permitted without obtaining a Zoning Permit as may be conditioned below:

- A. Official traffic signs when erected by a governmental agency.
- B. Temporary signs provided the following conditions are adhered to:
  - 1. The sign is no larger than 32 square feet in area and 8 feet in height.
  - 2. The sign shall be erected no less than 30 days prior to the event and shall be removed within seven days after the event has occurred or reason for posting has elapsed.
  - 3. If the sign is larger than 4 square feet in area, in no event shall it remain in place for more than 45 consecutive days.
  - 4. In residential districts, no more than two temporary signs shall be permitted on a given property. Where a property has on it one non-temporary sign, only one temporary sign shall be allowed.
- C. Portable signs shall be limited as follows:
  - 1. Hot air balloons are allowed in commercial districts for promotions only, not to exceed 72 hours in a year.
  - 2. Banners are permitted for display periods not to exceed 14 days prior to an event and not to exceed 30 days per year.
  - 3. In commercial districts and for home occupations along state highways in the Town, one placard, easel-type, or a-frame sign per road frontage, not to exceed twelve (12) square feet if one-sided (twenty-four square feet if double-sided), or five (5) feet in total height. The sign must not impede pedestrian traffic or motor vehicle visibility, must be removed before nightfall, and if posted along a road with speed limits greater than 30 miles per hour, must be located at least 60 feet from the road right-of-way.
- D. One sign associated with the opening of a new shopping center or commercial / business development provided:
  - 1. It is no greater than 100 square feet in size and no greater than 8 feet in height.
  - 2. It is not illuminated
  - 3. It is not closer than 25 feet to any road right-of-way or 100 feet from any adjacent lot with a residence on it.
  - 4. It is removed within 6 months of its installation.
- E. One sign associated with the development of a new subdivision shall be permitted provided:
  - 1. It is not greater than 32 square feet in size and no greater than 8 feet in height.
  - 2. It is removed upon the dedication of the public streets and/or utilities within the subdivision or within 2 years of its installation
  - 3. Reinstatement of the sign following the expiration of the 2-year period shall require a zoning permit which permit shall address length of time and location restrictions.
  - 4. A second sign associated with the development of a new subdivision shall be permitted provided the subdivision has frontage on two highways or has two primary points of access.

§ 75-120. Signs in Residential Districts.

Signs permitted in the residential zones, R-SF, TR and in the RC zone, shall be limited to the following:



- A. One unlighted sign on a residential lot, not to exceed four (4) square feet in area, shall be permitted, without obtaining a permit.
- B. One temporary sign on a residential lot, not to exceed four (4) square feet in area shall be permitted without obtaining a permit.
- C. A freestanding sign not to exceed four (4) square feet in area shall be permitted in conjunction with an accessory use on a non-residential lot without obtaining a permit. The base of a freestanding sign shall be solid and designed as an architecturally integrated element of the sign.
- D. A free-standing indirectly illuminated sign not to exceed ten (10) square feet in area identifying an apartment structure, senior housing project, or any approved Special Exception use having a minimum of one hundred (100) feet of street frontage; the maximum height of the sign, inclusive of the base, shall be six (6) feet as measured from the top of the sign to the ground. The base of a freestanding sign shall be solid and designed as an architecturally integrated element of the sign.
- E. A free-standing indirectly illuminated sign not to exceed four (4) square feet in area identifying an approved Special Exception use other than as specified in paragraph c above shall be permitted. The base of a freestanding sign shall be solid and designed as an architecturally integrated element of the sign.
- F. Wall-mounted signs, name plates and projecting signs extending not more than thirty (38) inches from the front of the building are permitted without obtaining a permit to identify allowable non-residential uses including approved Special Exceptions uses in the R-SF, TR and RC districts provided they are compatible with the building and adjacent structures and do not exceed two (2) square feet in area.
- G. In the TR district projecting signs may be as large as (but no larger than) twenty-four inches by eighteen (18) inches (24" x 18") and must be at least seven (7) feet from the ground.
- H. A free-standing indirectly illuminated sign not to exceed ten (10) square feet in area shall be permitted in conjunction with a building of public or semi-public nature having a minimum of one hundred (100) feet of street frontage; the maximum height of the sign, inclusive of the base, shall be six (6) feet as measured from the top of the sign to the ground. The base of a freestanding sign shall be solid and designed as an architecturally integrated element of the sign.
- I. Historical markers/signs shall not exceed ten (10) square feet in area and must be designed to enhance and blend with its historical surrounding.
- II.
- J. No signs may be painted directly on any wall or roof of a building or a fence.
- K. Subject to Planning Commission approval, one free-standing indirectly illuminated entrance sign for a residential subdivision with more than four lots, solely identifying the name of the

subdivision. The sign shall be set back at least 10 feet from any public road right-of-way and not obstruct intersection site lines, shall not exceed 22 feet in area and six feet in height, inclusive of the base, to be measured from the top of the sign to the pre-finished ground. A monument type sign shall be constructed of stone or brick masonry with the sign panel as an architecturally integrated element of the monument. The Planning Commission’s approval shall be based upon a finding that the proposed sign is compatible with the existing character of the public street on which it will front, and the Commission shall consider the architecture of the buildings, and the other structures, monuments, signage, and landscaping, on that street.

§ 75-121. Signs In Commercial Districts.

A. One freestanding sign is permitted per site. The Planning Commission may permit an additional freestanding sign when a lot exceeds five acres in size or has two public street frontages, provided that the signs are architecturally compatible with each other and integrated with the site.

B. Freestanding signs shall not be located within parking lots. In the C district, the height of freestanding signs, inclusive of the base of the sign shall not exceed six feet as measured from the top of the sign to the ground. The area of freestanding signs shall not exceed twenty (20) square feet. The base of a freestanding sign shall be solid and designed as an architecturally integrated element of the sign.

C. The base of all freestanding/monument signs shall be set back a minimum of ten feet from any property line. No part of a freestanding sign shall be located within or overhang into a public or private street right-of-way, sidewalk, or adjoining properties.

D. Signs attached to a building shall not project more than thirty-eight (38) inches from the face of the building and shall have a minimum clearance of eight feet above the ground/sidewalk.

E. Windows signs. No more than 25 percent of a window shall be covered in signs.

F. One marquee sign with removable letters per establishment provided the sign area does not exceed the total allowable sign area.

G. A single building shall have no more than two building signs (single-sided signs attached directly to a building). Signs for separate tenants within the same building shall be consistent and uniform in design, size, and materials used. For buildings with more than two tenants, a directory sign is encouraged.

H. Total sign area per building wall length. The total area of signs shall be as provided in the table below:

<u>Maximum Sign Areas</u>	
<u>Length Of Front Building Wall (ft.)</u>	<u>Maximum</u>

	Square Footage of Sign (sq. Ft.)
10-19	30
20-29	50
30-39	70
40-49	90
50-59	110
60-69	125
70-79	140
80-89	155
90-99	170
>100	See note 3 below
Note 1: Fractions will be rounded off to the closest integral number.	
Note 2: A cumulative measurement shall be taken for businesses sharing party walls.	
Note 3: For building walls which are longer than 100 feet, add one square foot of signage for every linear foot over 100 feet.	
Note 4: For each side of a commercial building that has public store entrances, the signage shall be calculated for the length of that building wall and the signs shall be located only on that side of the building.	
Note 5: Buildings with separate businesses on two or more stories are permitted 50 percent more signage.	
Note 6: For businesses having no permanent buildings, a maximum of 50 square feet of signage is permitted.	
Note 7: On a corner lot, the building wall facing each road shall be used to compute the square footage for signage on that road.	
Note 8: This table does not apply to signs for which square footage limitations are specified (i.e., home occupation signs),	

§ 75-122. Non Conforming Signs.

A. Signs existing prior to the enactment of the ordinance codified in this Section, or any applicable amendment thereto, and not conforming to its provisions shall be considered as legal nonconforming signs and shall be allowed to continue subject to the following restrictions:

1. The nonconforming sign may not hereafter be altered in size, shape, color, wording, graphics or other appearance except for purposes of repair;
2. If the nonconforming sign is removed from its location for a single period of sixty (60) consecutive days or more, it may not be reused or replaced. Any new sign must comply with the requirements of this Section;

3. In the event of a sale, assignment, transfer or other conveyance of the property on which the nonconforming sign is displayed, the new owner or occupant may continue to use and display the nonconforming sign on the same conditions as set forth in this Section;

4. In the event that a business, organization, establishment or other entity is closed, out of business, is inactive or is in anyway not operated for a period of sixty (60) consecutive days, whether because of a transfer in its ownership, financial difficulty, retirement or other reason, the nonconforming sign displayed for such business, organization, establishment or other entity shall be removed and shall not be replaced except in conformance to this Section.

5. The Zoning Administrator, or other Town official designated by the Board of Town Commissioners, shall record and catalog the signs in the Town in existence of the date of the enactment of the ordinance codified in this Section and shall designate those which are nonconforming. In any action to enforce the provisions of this Section, it shall be a rebuttable presumption that a sign is not a permitted nonconforming sign if the sign has not been catalogued and recorded as a permitted non-conforming sign.

#### Part 7. General Environmental Standards for Sensitive Areas

##### § 75-123 Land Suitability

###### A. Unsuitable land-not for development

No land shall be subdivided and no site plan shall be approved on land that is determined to be unsuitable for its proposed use by the planning commission for reasons of flooding, being located within the 100-year floodplain, inadequate drainage, excessive slope, severe erosion potential, or any other natural features that may be harmful to the health, safety, and welfare of future residents, property owners, or the community at large.

###### B. Proposed improvements to unsuitable land.

All proposed improvements necessary to make land suitable for development shall be in full compliance with all laws and ordinances regulating such improvements and with any conditions as may be required by the planning commission to reduce risks to health and safety. The ability to mitigate an environmental health concern through proposed improvements in no way guarantees that the planning commission will approve a project on land that is otherwise unsuitable for its proposed use.

###### C. Deed restrictions required

When a sub divider does not intend to develop the property himself or herself and the improvements referenced in paragraph "B" above are necessary to reduce hazards and/or to make land suitable for development, the Planning Commission shall require appropriate deed restrictions to be inserted on every deed and noted on every recorded plat and parcel.

##### § 75-124 Perennial Stream No Disturbance Buffer

###### A. Buffer required

A three hundred (300) foot vegetative buffer from all perennial streams shall be required for all development.

B. Expanded buffer may be required

The perennial stream buffer shall be expanded to include contiguous 100-year floodplain and non-tidal wetlands, hydric soils, highly erodible soils, and soils on slopes greater than fifteen percent (15%) that are contiguous with the perennial stream.

C. Modification of buffer requirement for new development

In the review of a site plan or subdivision plat, the planning commission may modify buffer requirement provided it be not less than one hundred (100) feet if it establishes written findings of fact that:

1. The design, construction and use of the entire site with less than a 300-foot buffer will provide the same or greater protection of water quality as the 300-foot buffer, and the development proposal provides heightened measures to minimize the runoff of storm water from the site and to minimize impervious surfaces and the removal of natural vegetation within 300 feet of the stream; or
2. It is the development of a planned public street that has necessitated an incursion into the buffer and evidence is provided that disturbance will be minimized in so far as possible; or
3. Other public or community facilities are required and evidence is provided that disturbance will be minimized in so far as possible.

D. Modification of buffer requirement for previously developed lots in the review of a site plan or subdivision plat, on a previously developed site, the planning commission may modify the buffer requirement provided it is not less than 50 feet if it establishes written findings of fact that:

1. The total area of impervious surface within 100 feet of the stream would be reduced upon implementation of the proposed plan.
2. If applicable, no impervious surfaces area in the 100-year floodplain remains on the site upon implementation of the proposed plan.

§ 75-125 Intermittent Stream No Disturbance Buffer

A. Buffer required

A 50-foot vegetative buffer from all intermittent streams shall be required for all development.

B. Expanded buffer may be required

The intermittent stream buffer shall be expanded to include contiguous 100-year floodplain and non-tidal wetlands, hydric soils, highly erodible soils, and soils on slopes greater than 15 percent that are contiguous with the stream.

C. Modification

In the review of a site plan or subdivision plat, the Planning Commission may modify this buffer requirement provided the buffer is not less than 25 feet if it establishes written finding of fact that:

1. The development proposal provides heightened measures to minimize the runoff of storm water from the site and to minimize impervious surfaces and the removal of natural vegetation within 50 feet of the stream; or
2. It is the development of a planned public street or other infrastructure that has necessitated an incursion into the buffer and evidence is provided that disturbance will be minimized in so far as possible; or
3. It is the development of other necessary public or community facilities that has necessitated an incursion into the buffer and evidence is provided that disturbance will be minimized in so far as possible.

§ 75-126 Non-Tidal Wetland Buffer

A. Buffer required

A 50-foot setback from all non-tidal wetlands shall be required for all development around the extent of the delineated non-tidal wetland except as permitted by the U.S. Army Corps of Engineers and the State of Maryland, Department Of Natural Resources, Non-Tidal Wetland Division.

B. Expanded buffer may be required

The wetland buffer shall be expanded to include contiguous 100-year floodplain and non-tidal wetlands, hydric soils, highly erodible soils, and soils on slopes greater than 15 percent that are contiguous with the wetland.

C. Modification

In the review of a site plan or subdivision plat, the planning commission may modify this buffer requirement provided the buffer is not less than 25 feet upon establishing written findings of fact that:

1. That the development proposal provides heightened measures to minimize the runoff of storm water from the site and to minimize impervious surfaces and the removal of natural vegetation within 50 feet of the wetland; or
2. It is the development of a planned public street or other infrastructure that has necessitated an incursion into the buffer and evidence is provided that disturbance will be minimized in so far as possible; or
3. It is the development of other necessary public or community facilities that has necessitated an incursion into the buffer and evidence is provided that disturbance will be minimized in so far as possible.

§ 75-127 Steep Slopes

A. No disturbance of steep slopes

No structure, impervious surface or other land disturbance shall occur on any slope with a grade of 15 percent or greater unless the zoning administrator determines that the structure, impervious surface or land disturbance is necessary for stabilization of the slope.

**B. Buffer**

A minimum 50-foot buffer shall be established between development activities and the crest of slopes in excess of 25 percent, Article 6 Site Plans.

**Article 6  
Site Plans**

Part 1. General Requirements

§ 75-128. Applicability.

Site plans, prepared and approved in accordance with the provisions of this article, shall be required to assist Town administrative officials in the review of applications for building permits and to assure compliance with all applicable requirements of this Chapter. No building permit or use and occupancy permit shall be issued for the construction, rehabilitation or use of any building or structure except in accordance with an approved site plan.

§ 75-129. Developments and Uses Requiring a Site Plan.

Site plans are divided into two categories;

A. Category 1 site plan review. All commercial and institutional developments, multi-family dwellings, senior housing projects, and attached dwelling units require Category 1 site plan review.

B. Category 2 site plan review. Single-family detached dwellings, bed and breakfast facilities, inns, Boarding houses, accessory uses, and rehabilitation projects require Category 2 site plan review. This category is for projects with minor impact which require less information than for Category 1 projects and can be reviewed and approved in a shorter time period.

§ 75-130. Processing Procedure.

A. The applicant shall submit a completed application, the appropriate fee and the site plan to the Zoning Administrator.

B. The Zoning Administrator shall review the application for completeness and will refer the application to the appropriate individuals or agencies for review, comment and/or approval.

C. The Planning Commission will review and take action on all Category 1 site plans.

D. The Zoning Administrator will review and take action on all Category 2 site plans.

E. For all Category 1 site plans submitted for review, the Planning Commission shall:

1. Submit written notice to the applicant by first class mail, such to be postmarked at least ten

(10) days before the day of the meeting to discuss the site plan, and

2. Shall submit written notice to all owners of property adjoining and immediately across the street from the subject property. Such written notice shall state the date, time, place and subject matter of the meeting to discuss the site plan, and the name of the applicant. Such notice shall be sent by first class mail and post marked not less than ten (10) days before the day of the meeting.

F. When all review and approvals have been completed, the Zoning Administrator will sign the application and site plan to indicate completion of review and approval by the Town. No building permit shall be issued until this approval has been given.

G. The Zoning Administrator shall assure that the project is completed in conformance with the approved site plan before issuing a zoning and occupancy permit.

§ 75-131. Expiration and Revisions.

A. Approval of a site plan submitted under the provisions of this article shall expire two (2) years after the date of such approval unless a building permit has been obtained for construction in accordance with the site plan. The Planning Commission may grant an extension after review provided that the request for extension is filed no less than thirty (30) days prior to the expiration of the permit.

B. Any site plan may be revised in the same manner as originally approved, except revisions that are deemed to be minor by the Zoning Administrator. Minor changes will be accepted in writing from the applicant for review and comment by appropriate agencies.

§ 75-132. Bonding Requirements

Before the Zoning Administrator issues a certificate of use and occupancy, either all the work must be completed or the remaining work must be bonded. Completion bonds apply only to the construction of roads, driveway entrances, soil stabilization or landscaping.

Part 2. Site Plan Preparation

§ 75-133. Procedure for Preparation of Category 1 Site Plans.

A. Site plans involving engineering, architecture, landscape architecture or land surveying shall be respectively certified by the appropriate engineer, architect, landscape architect or land surveyor authorized by the State of Maryland to practice as such.

B. Site plans shall be prepared to a scale of one-inch equals thirty feet (1"=30') or larger. The sheet shall be 24" by 36". A site plan may be prepared in one or more sheets to show clearly the information required and to facilitate the review and approval of the plan.

§ 75-134. Required Information on Category 1 Site Plans.



All Category 1 site plans shall be submitted to the Zoning Administrator in three (3) legible copies. Category 1 site plans shall contain the following information:

- A. The project name and the name, address and telephone number of the landowner and builder/developer.
- B. The location, height, ground coverage and use of all structures.
- C. For each residential building, the number and type of dwelling units, classified by the number of bedrooms, and the total floor area, if any, to be used for commercial purposes.
- D. The floor areas of all non-residential buildings and the proposed use of each.
- E. The locations of recreational and other open spaces.
- F. Calculations of building coverage, density, open space, numbers of parking spaces, and areas of land use.
- G. All existing and proposed streets and easements, numbers and widths; and existing and proposed utilities.
- H. A landscaping scheme, including dimensions and distances and the location, size and description of all proposed landscape material as required by the provisions of Article 5, part 4.
- I. Existing vegetation, proposed removal of vegetation, and proposed replacement of vegetation.
- J. If the project is in the Critical Area Overlay District, the project must meet the Critical Area Plan requirements.
- K. Location, type size and height of fencing, retaining walls and screen planting as required by the provisions of Article 5, Part 3 of this Chapter.
- L. A parking plan, showing all off-street parking, related driveways, loading spaces and walkways, indicating type of surfacing, size, angle of stalls, width of aisles and a specific schedule showing the number of parking spaces provided and the number required by Article 5, Part 2.
- M. Sufficient information to show how the physical improvements associated with the proposed development interrelates with existing or proposed development of record on adjacent properties.
- N. All existing and proposed water and sanitary sewer facilities, indicating all pipe sizes, types and grades and where connection is to be made to the utility system.
- O. Provisions for the adequate disposition of natural and storm water, indicating the location, size, type and grade of ditches, catch basins and pipes and connections to existing drainage system,

and on-site water retention where deemed appropriate and necessary by the Zoning Administrator. If the project is in the Critical Area Overlay District, show how the proposed measures will reduce storm water run-off pollutant loadings by at least 10% below that of pre-development levels.

P. Provisions for the adequate control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures that will be implemented during all phases of clearing, grading and construction.

§ 75-135. Required Information on Category 2 Site Plans.

All Category 2 site plans shall be submitted to the Zoning Administrator in one (1) legible copy. Category 2 site plans shall contain the following information:

A. The project name and the names, addresses and telephone numbers of the landowner and builder/developer.

B. A drawing showing the location, height, ground coverage and use of all structures.

C. If applicable, front, side and rear yard setbacks, as well as street access and easements.

D. If applicable, provisions for the adequate disposition of natural and storm water, indicating the location, size, type and grade of ditches, catch basins and pipes and connections to existing drainage system, and on-site water retention where deemed appropriate and necessary by the Zoning Administrator.

E. If applicable, provision for the adequate control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures that will be implemented during all phases of clearing, grading and construction.

F. If applicable, show existing vegetation, proposed removal of vegetation, and proposed replacement of vegetation.

G. Other information that may be required by the Zoning Administrator to assure compliance with all applicable regulations.

§ 75-136 Impact Studies May Be Required.

A. Impact studies

To assist the Planning Commission and Zoning Administrator in determining the nature and extent of off-site impacts of a proposed development, they are authorized to require applicants for development plan or plat approval, or for extensions of approved plans or plats, to prepare studies of the impacts of a proposed development on such factors including town infrastructure, such as water and sewer, streets, and highways in the town and in the vicinity of the development, the

town's fiscal and budget conditions, area environmental conditions including considerations related to light, air, view sheds, and the flow and quality of water offsite to area streams.

B. Reasonable standards

The Planning Commission and Zoning Administrator shall find that such studies meet reasonable professional and technical standards before accepting them for review. The Town may establish written standards and specifications for the scope and detail necessary for any required studies.

C. Studies submitted prior to approval

If impact studies are determined to be required, no preliminary site plan or subdivision plat shall be approved nor shall an approved plan be extended, prior to such studies being completed to the satisfaction of the Planning Commission or other approving authority or appropriate official.

§ 75-137. Procedure for Processing

A. Upon receipt of the site plan, the Planning Commission shall conduct a review soliciting comments from other technical agencies, departments, agencies, and officials, Federal, State and County, as the Planning Commission may deem appropriate.

B. The site plan shall be approved if it meets the requirements of this Part 2, the other requirements of this Chapter and all other Federal, State, and Town regulations and all necessary permits and approvals have been obtained.

C. The Planning Commission shall approve, conditionally approve, or reject a site plan within sixty (60) days from the filing of the application.

D. Notice of such action shall be given in writing to the applicant.

§ 75-138. Construction of Required Improvements.

A. Upon approval of a site plan, the applicant shall then execute a Public Works and Utilities Agreement with the Town and 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.

A. After construction has been completed, inspection of site improvements shall be made by those departments specified by the applicable requirements.

B. For residential developments, mobile home parks and campgrounds, the approved site plan shall be recorded in the office of the clerk of the court. Prior to recording, a public works agreement guaranteeing the construction of all required improvement shall be executed between the developer and the Town.

C. The installation of improvements shall not bind the Town to accept such improvements or

the maintenance; repair and operation thereof; requirements for said improvements shall be in addition to (not in lieu of) any other legal requirements.

§ 75-139. Expiration and Extension.

Approved site plans shall be valid for a one (1) year period and shall expire at the end of that period unless building construction has begun. Upon written request by the applicant, within ninety (90) days of the expiration of said approval, the Planning Commission may give a one (1) year extension. Such request shall be acknowledged, and a decision rendered there upon, not more than thirty (30) days after filing of said request.

Part 3. Annexations

§ 75-140 Annexation Review Generally

A. Applicability

No annexation resolution shall be acted on by the Town Commissioners until the Planning Commission has reviewed the proposed annexation and the concept development plan, if any as may be required by §75-133 of this ordinance, and provided a recommendation to the Town Commissioners regarding the annexation.

B. Planning Commission review

The Planning Commission shall make findings of fact with respect to each of the following and shall forward such findings along with its recommendation to the Town Commissioners for consideration.

1. The proposed annexation area is contiguous and adjoining the existing corporate area of the Town.
2. The annexation will not create any unincorporated area that is bound on all sides by real property presently within the corporate limits of the Town, real property proposed to be within the corporate limits of the Town as a result of the annexation or any combination of such properties.
3. The degree of conformance of the proposed annexation to the comprehensive plan in general and the plan's adopted municipal growth element in particular.
4. The existing and future availability of public facilities and services that may be considered reasonably to be necessitated by the proposed of the annexation property.
5. The viability and practicality of public and/or private plans to extend, enlarge, or otherwise make existing Town facilities and services, and other utilities and services available to the annexation property.
6. A schedule for extending to the proposed annexation area each municipal service performed by the Town at the time of the annexation and how such improvements will be financed.
7. The impact of the contemplated development of the annexation property on the Town's fiscal condition and budget.

C. Planning Commission recommendation

1. The Planning Commission's written recommendation to the Town Commissioners on each annexation shall, in addition to addressing those issues identified in Section B above, address the following:

A. Whether the annexation should be approved or denied by the Town Commission and any conditions related thereto.

B. If applicable, whether the concept development plan is favorable and what changes if any should be made thereto prior to approval of the annexation.

C. The impact of the annexation on the planning and timing of infrastructure and the Town's budget plan for infrastructure development.

2. The Planning Commission shall propose a zoning classification for the property.

§ 75-141 Annexation Concept Development Plan

A. Concept plan required

1. A concept development plan, prepared to standards established by the Planning Commission, shall be required to assist the Town in the review of any proposed annexation wherein the Town is not the initiating party.

2. Where applicable, a concept development plan shall be officially introduced by the Town Commissions along with the annexation resolution, it shall be made part of the official record of the public hearing on the annexation and it shall be recorded in the land records of Queen Anne's County by the applicant upon annexation.

B. Exceptions to required concept development plan.

The following two conditions must be found by the Town Commissioners, if an annexation is to proceed without a concept development plan:

1. The eventual use of the property and its impact on its neighborhood is constrained by its relatively small size, being one acre or less, and the proposed zoning is fully consistent and compatible with the surrounding land use pattern; and

2. Adequate safeguards can be set forth in the annexation agreement to ensure that the Town's interests are protected and advanced without need for a concept plan.

C. Future development to conform to concept development plan

1. When a site plan or subdivision plat is proposed for a property that is the subject of an annexation concept development plan, the plan or plat shall substantively conform to the annexation concept development plan.

2. The Zoning Administrator or Planning Commission shall not accept a site plan or subdivision plat for review that does not substantially conform to its concept development plan as set forth in paragraph D of this Section, except as provided in paragraph 3 below.

3. The Planning Commission may accept a site plan or subdivision plat for review that does not substantially conform with a required annexation plan if all of the following conditions are met:

- a. The Planning Commission first holds a public hearing wherein the applicant shall be asked to explain the proposed deviations;
- b. The Planning Commission finds that the proposed deviations are not inconsistent with the Town Comprehensive Plan;
- c. The proposed deviations would not materially impact the ability of the Town to provide public water and sanitary sewer services or other services and facilities; and
- d. The proposed deviations would not require a change in the zoning district to implement unless that change is found to be consistent with the Town Comprehensive Plan.

4. The Planning Commission is under no obligation to approve a plan or plat that deviates from an annexation concept development plan but, provided the conditions in paragraph 3 above are met, it shall review the site plan or subdivision plat under the standard processing procedures provided for in this article.

D. Standards for substantial conformance

The Planning Commission shall apply the standards below in determining if a site plan or subdivision plat is in substantial conformance with its annexation concept plan. To be found in substantial conformance, a development plan shall not:

1. Propose a land use, a pattern of residential densities, or an arrangement of land uses other than that shown on the concept development plan.
2. Propose a different type of housing or commercial development that would, in the judgment of the Planning Commission, (1) materially increase the impact to area infrastructure and public services beyond that which was contemplated in the concept development plan or (2) not serve the same public need contemplated by the concept development plan (e.g. need for affordable housing, senior housing, etc.).
3. Result in the reduction of the land area collectively planned to be set aside for natural area preservation, buffering, forest conservation, common open space, and/or recreation by more than three percent or one-half (1/2) acre whichever is lesser.
4. Increase the number of dwelling units by more than five percent for any residential project of 100 units or less, or more than three percent for any residential project of more than 100 dwelling units.
5. Increase the square footage of non-residential building space in a manner that would, in the judgment of the Planning Commission, materially increase the impact to the natural environment or materially intensify the impact to area infrastructure and/or public services or affect the ability of public service providers to adequately serve the proposed development.
6. Increase the amount of impervious surface area by more than five percent for any project less than 40 acres in size or by more than three percent for any project larger than 40 acres.
7. Materially change the arrangement of streets, sidewalks, and trails, the general location of intersection(s), and the proposed access /circulation plan for the site.
8. Change in any material way the extent, scale, provision, or timing of any off-site infrastructure project required or contemplated by the concept development plan or annexation agreement if applicable

## **Article 7**

### **Forest Conservation**

#### Part 1. General Provisions

##### § 75-142. Purpose.

State law requires a unit of local government having Planning and Zoning authority to develop a local forest conservation program, consistent with the intent, requirements, and standards of Title 5, Subtitle 16 of the Natural Resources article of the Annotated Code of Maryland. That subtitle permits a municipality to assign its obligations in this regard to the county in which such municipality is located. The Town of Church Hill has, pursuant to the authority, heretofore delegated its obligations with respect to the implementation of a forest conservation program to Queen Anne's County. However, the Town Commissioners have determined that the interests of efficiency dictate that the Town henceforth undertake direct responsibility for meeting the State's forest conservation requirements by the adoption of this Forest Conservation Program.

##### § 75-143. Effective Date and Subsequent Amendments.

This Article is hereby enacted and becomes effective February 27, 2004. This Article may be amended as required. All amendments to this article are subject to the approval of the Department of Natural Resources.

##### § 75-144. Application.

Except as provided in Section 75-139 of this article, this article applies to

- A. Any public or private subdivision plan or application for a grading or sediment control permit by any person, including a state or local government on areas of 40,000 square feet or greater.
- B. A public utility not exempt under Subsections 75-139.E and F of this Article;

##### § 75-145. General Requirements.

- A. A person making application for subdivision or local agency project plan approval, a grading permit, or a sediment control permit on an area of land greater than 40,000 square feet shall:
  - 1. Submit to the Zoning Administrator a forest stand delineation located; and
  - 2. Use methods approved by the Planning Commission, as provided in the Town of Church Hill Forest Conservation Technical Manual, to protect retained forests and trees during construction.

B. If a unit of government or a person using state funds makes application to conduct a regulated activity, the provisions of COMAR 08.19.04 apply.

§ 75-146. Exemptions.

This article does not apply to:

A. Highway construction activities under Natural Resources Article, §5-103, Annotated Code of Maryland;

B. Areas governed by the Chesapeake Bay Critical Area protection law, Natural Resources Article, §§8-1801—8-1817, Annotated Code of Maryland, including those areas into which Critical Area forest protection measures have been extended under Natural Resources Article, §5-1602(c), Annotated Code of Maryland;

C. Agricultural activities not resulting in a change in land use category, including agricultural support buildings and other related structures built using accepted best management practices, except that a person engaging in an agricultural activity clearing 40,000 square feet or greater of forest within a 1-year period, may not receive an agricultural exemption, unless the person files a Declaration of Intent as provided for in Section 75-140 of this article which includes:

1. A statement that the landowner or landowner's agent will practice agriculture on that portion of the property for 5 years from the date of the declaration; and
2. A sketch map of the property which shows the area to be cleared;

D. The cutting or clearing of public utility rights-of-way licensed under Public Utility Companies, §§ 7-207 and 7-208 or 7-205, Annotated Code of Maryland, or land for electric generating stations licensed under Public Utility Companies, §§ 7-207 and 7-208 or 7-205, Annotated Code of Maryland, if:

1. Required certificates of public convenience and necessity have been issued in accordance with Natural Resources article, §5-1603(f), Annotated Code of Maryland; and
2. Cutting or clearing of the forest is conducted to minimize the loss of forest;

E. Routine maintenance or emergency repairs of public utility rights-of-way licensed under Public Utility Companies, §§ 7-207 and 7-208 or 7-205, Annotated Code of Maryland;

F. Except for a public utility subject to Subsection E of this Section, routine maintenance or emergency repairs of a public utility right-of-way if:

1. The right-of-way existed before the effective date of this article; or
2. The right-of-way's initial construction was approved under this article;

G. A residential construction activity conducted on an existing single lot of any size of record at the time of application, or a linear project not otherwise exempted under this article, if the activity:



1. Does not result in the cumulative cutting, clearing, or grading of more than 40,000 square feet of forest;
2. Does not result in the cutting, clearing, or grading of a forest that is subject to the requirements of a previous Forest Conservation Plan approved under this article; and
3. Is the subject of a Declaration of Intent filed with the Zoning Administrator, as provided for in Section 75-140 of this article, stating that the lot will not be the subject of a regulated activity within 5 years of the cutting, clearing, or grading of forest;

H. An activity required for the purpose of constructing a dwelling house intended for the use of the owner, or a child or a grandchild of the owner, if the activity:

1. Does not result in the cutting, clearing, or grading of more than 40,000 square feet of forest; and
2. Is the subject of a Declaration of Intent filed with the Zoning Administrator, as provided for in Section 75-140 of this article, which states that transfer of ownership may result in a loss of exemption;

I. A preliminary plan of a subdivision approved before July 1, 1991;

J. A real estate transfer to provide a security, leasehold, or other legal or equitable interest, including a transfer of title, of a portion of a lot or parcel, if:

1. The transfer does not involve a change in land use, or new development or redevelopment, with associated land-disturbing activities; and
2. Both the grantor and grantee file a Declaration of Intent, as provided for in Section 75-140 of this article.

#### § 75-147. Declaration of Intent.

A. The purpose of a Declaration of Intent is to verify that a proposed activity is exempt under Natural Resources article, §§5-103 and 5-1601—5-1612, Annotated Code of Maryland, and this article.

B. A person seeking an exemption under Subsections 75-139.C, G, H, and J of this article shall file a Declaration of Intent with the Zoning Administrator.

C. The Declaration of Intent is effective for 5 years.

D. The existence of a Declaration of Intent does not preclude another exempted activity on the property subject to a Declaration of Intent, if the activity:

1. Does not conflict with the purpose of any existing Declaration of Intent; and
2. Complies with the applicable requirements for an exempted activity.

E. If a regulated activity on the area covered by a Declaration of Intent occurs within 5 years of the effective date of the Declaration of Intent:

1. There shall be an immediate loss of exemption; or

2. There may be a noncompliance action taken by the Planning Commission or Zoning Administrator, as appropriate, under this article.

F. An applicant may apply for a regulated activity on that area of the property not covered under a Declaration of Intent if the requirements of this article are satisfied.

G. The Zoning Administrator may require a person failing to file a Declaration of Intent or found in noncompliance with a Declaration of Intent to:

1. Meet the retention, afforestation, and reforestation requirements established in Sections 75-137 through 75-154 of this article;

2. Pay a noncompliance fee of \$5.00 per square foot of forest cut or cleared under a Declaration of Intent;

3. Be subject to other enforcement actions appropriate under Natural Resources article, §§5-1601—5-1612, Annotated Code of Maryland, and this article; or

4. File a Declaration of Intent with the Zoning Administrator.

H. The requirements for a Declaration of Intent may be satisfied by a Forest Management Plan for the entire tract, prepared by a forester licensed in Maryland according to Business Occupations and Professions article, Title 7, Annotated Code of Maryland, which outlines management practices needed to meet the stated objectives for a minimum of 5 years.

I. In its determination of appropriate enforcement action, the Zoning Administrator may consider whether failure to file a Declaration of Intent by a person required to file is a knowing violation of this article.

J. Agricultural activities. A Declaration of Intent may be part of an amended sediment and erosion control plan which ensures that the activity meets the conditions for an exemption as stated in Section 75-139.c of this article.

#### § 75-148. Annual Report.

A. On or before March 1 of each year, the Planning Commission shall submit to the Department of Natural Resources a report which contains the:

1. Number, location, and type of projects subject to the provisions of this Article;

2. Amount and location of acres cleared, conserved, and planted in connection with a development project;

3. Amount of reforestation and afforestation fees and noncompliance penalties collected and expended;

4. Costs of implementing the forest conservation program;

5. Location and size of all Forest Mitigation Banks approved during the past year with a description of the priority areas afforested or reforested by the bank;

6. Number of acres debited from each Forest Mitigation Bank since the last annual report; and

7. Forest Mitigation Banks inspected since the last annual report.

B. Biennial review by the Department of Natural Resources  
The Planning Commission shall submit the necessary documentation to comply with COMAR 08.19.02.04.

## Part 2. Forest Stand Delineation

### § 75-149. Criteria.

A. A forest stand delineation shall be submitted at the initial stages of subdivision or site plan approval, before a grading permit application, or before a sediment control application is submitted for the tract being developed.

B. The delineation shall be prepared by a licensed forester, licensed landscape architect, or a qualified professional who meets the requirements stated in COMAR 08.19.06.01a.

C. The delineation shall be used during the preliminary review process to determine the most suitable and practical areas for forest conservation and shall contain the following components:

1. A topographic map delineating intermittent and perennial streams, and steep slopes over 25 percent;
2. A soils map delineating soils with structural limitations, hydric soils, or soils with a soil k value greater than 0.35 on slopes of 15 percent or more;
3. Forest stand maps indicating species, location, and size of trees and showing dominant and co-dominant forest types;
4. Location of 100-year floodplains;
5. Information required by the Town of Church Hill Forest Conservation Technical Manual; and
6. Other information the Planning Commission determines is necessary to implement this article.

D. If approved by the Planning Commission, a simplified delineation, a concept plan or plat, preliminary plat or plan, sediment control plan, or other appropriate document, verified by a site visit, if appropriate, may substitute for the forest stand delineation if:

1. No forest cover is disturbed during a construction activity; and
2. Designated to be under a long term protective agreement.

E. The Planning Commission shall consider a simplified forest stand delineation, or other substitute plan described in Subsection 75-142.D, complete if it includes:

1. All requirements under Subsections 75-142.C.1, 2, 4, and 5 of this Section;
2. A map showing existing forest cover as verified by field inspection; and
3. Other information required by this article.

F. An approved forest stand delineation may remain in effect for a period not longer than 5 years.

G. Time for submittal.

1. Within 60 calendar days after receipt of the forest stand delineation, the Planning Commission shall notify the applicant whether the forest stand delineation is complete and correct.
2. If the Planning Commission fails to notify the applicant within 60 days, the delineation shall be treated as complete and correct.
3. The Planning Commission may require further information or provide for an additional 15 calendar days under extenuating circumstances.

Part 3. Forest Conservation Plan

§ 75-150. General Provisions.

A. In developing a Forest Conservation Plan, the applicant shall give priority to techniques for retaining existing forest on the site.

B. If existing forest on the site subject to a Forest Conservation Plan cannot be retained, the applicant shall demonstrate to the satisfaction of the Planning Commission:

1. How techniques for forest retention have been exhausted;
2. Why the priority forests and priority areas cannot be left in an undisturbed condition. Priority forest and priority areas are defined in Section 75-147.3.
3. If priority forests and priority areas cannot be left undisturbed, the sequence for afforestation and reforestation will be followed in accordance with Subsection 75-149.C.
4. Where on the site in priority areas afforestation or reforestation will occur in compliance with Subsection 75-149.F.

C. The applicant shall demonstrate to the satisfaction of the Planning Commission that the requirements for afforestation or reforestation onsite or offsite cannot be reasonably accomplished if the applicant proposes to make a payment into the local Forest Conservation Fund or to purchase credits from a Forest Mitigation Bank.

D. Non-tidal wetlands. A regulated activity within the net tract area that occurs wholly or partly in areas regulated as non-tidal wetlands under environment article, title 9, Annotated Code of Maryland, is subject to both the non-tidal wetlands regulatory requirements and the requirements of this law, subject to the following:

1. Any area of forest in the net tract area, including forest in non-tidal wetlands that is retained, shall be counted towards forest conservation requirements under this law;
2. For the purpose of calculating reforestation mitigation under this article, a forested non-tidal wetland permitted to be cut or cleared and required to be mitigated under environment article, Title 9, Annotated Code of Maryland, shall be shown on the Forest Conservation Plan and subtracted on an acre-for-acre basis from the total amount of forest to be cut or cleared as part of a regulated activity;
3. Non-tidal wetlands shall be considered to be priority areas for retention and replacement;
4. Forested non-tidal wetland identification and delineation should be included at the earliest stage of planning to assist the applicant in avoidance and reduction of impacts to the non-tidal

wetlands and to avoid delay in the approval process.

§ 75-151. The Preliminary Forest Conservation Plan

A. A preliminary Forest Conservation Plan shall be prepared by a licensed forester, a licensed landscape architect, or a qualified professional who meets the requirements stated in COMAR 08.19.06.01a.

A preliminary Forest Conservation Plan shall:

1. Be submitted with the preliminary plan of subdivision or proposed site plan and the appropriate fee as set by the Town Commissioners;
2. Include the approved forest stand delineation for the site;
3. Include a table that lists the proposed values of the following, in square feet:
  - a. Net tract area,
  - b. Area of forest conservation required, and
  - c. Area of forest conservation that the applicant proposes to provide, including both onsite and offsite areas;
4. Include a clear graphic indication of the forest conservation provided on the site drawn to scale, showing areas where retention of existing forest or afforestation or reforestation is proposed;
5. Include an explanation of how the provisions of Section 75-143 have been met;
6. In the case of afforestation or reforestation, include a proposed afforestation or reforestation plan;
7. Include a proposed construction timetable showing the sequence of forest conservation procedures;
8. Show the proposed limits of disturbance;
9. Show proposed stockpile areas;
10. Incorporate a proposed 2-year maintenance agreement that shows how areas designated for afforestation or reforestation will be maintained to ensure protection and satisfactory establishment; and
11. Other information the Planning Commission determines is necessary to implement this article.

C. The review of the preliminary Forest Conservation Plan shall be concurrent with the review of the preliminary subdivision or site plan.

D. During the different stages of the review process, the preliminary Forest Conservation Plan may be modified, with the payment of the appropriate fees, provided the Planning Commission approves of the changes.

§ 75-152. The Final Forest Conservation Plan.

A. A final Forest Conservation Plan shall be prepared by a licensed forester, a licensed landscape architect, or a qualified professional who meets the requirements stated in COMAR 08.19.06.01a.

B. A final Forest Conservation Plan shall:

1. Be submitted with the following:
  - a. A final subdivision plan,
  - b. A final project plan,
  - c. An application for a grading permit, or
  - d. An application for a sediment control permit; and
  - e. The appropriate application fee;
2. Show proposed locations and types of protective devices to be used during construction activities to protect trees and forests designated for conservation;
3. In the case of afforestation or reforestation, include an afforestation or reforestation plan, with a timetable and description of needed site and soil preparation, species, size, and spacing to be used;
4. Incorporate a binding 2-year maintenance agreement specified in COMAR 08.19.05.01 that details how the areas designated for afforestation or reforestation will be maintained to ensure protection and satisfactory establishment, including:
  - a. Watering, and
  - b. A reinforcement planting provision if survival rates fall below required standards, as provided in the Town of Church Hill forest conservation technical manual;
5. Incorporate a long-term binding protective agreement as specified in COMAR 08.19.05.02 that:
  - a. Provides protection for areas of forest conservation, including areas of afforestation, reforestation, and retention, and
  - b. Limits uses in areas of forest conservation to those uses that are determined by the Planning Commission to be consistent with forest conservation, including recreational activities, pedestrian and bicycle path activities, and forest management practices that are used to preserve forest;
6. Include the substantive elements required under Subsections 75-144 b 2-5, 7-9, and 11 of this article, as finalized elements of the Forest Conservation Plan; and other information the Planning Commission determines is necessary to implement this Article.

C. Time for submittal.

1. Within 45 calendar days after receipt of the final Forest Conservation Plan, the Planning Commission shall notify the applicant whether the Forest Conservation Plan is complete and approved.
2. If the Planning Commission fails to notify the applicant within 45 calendar days, the plan shall be treated as complete and approved.
3. The Planning Commission may require further information or extend the deadline for an additional 15 calendar days under extenuating circumstances.
4. At the request of the applicant, the Planning Commission may extend the deadline under extenuating circumstances.

D. The Planning Commission shall not grant final approval of a subdivision or site plan, nor shall the Zoning Administrator issue a zoning permit under Article 6, until final approval of the final Forest Conservation Plan.

E. The Planning Commission may revoke an approved Forest Conservation Plan if it finds that:

1. A provision of the plan has been violated;
2. Approval of the plan was obtained through fraud, misrepresentation, a false or misleading statement, or omission of a relevant or material fact; or
3. Changes in the development or in the condition of the site necessitate preparation of a new or amended plan.

F. The Zoning Administrator may issue a stop work order against a person who violates a provision of this article or a regulation, order, approved Forest Conservation Plan, or maintenance agreement.

G. Upon revocation of an approved Forest Conservation Plan, the Zoning Administrator shall notify the violator in writing and provide an opportunity for a hearing.

#### Part 4. Afforestation and Reforestation

##### § 75-153. Afforestation Requirement.

A person making application after the effective date of this Chapter for subdivision or project plan approval, a grading permit, or a sediment control permit for an area of land of 40,000 square feet or greater, shall:

A. Conduct afforestation on the lot or parcel in accordance with the following:

1. A tract having less than 20 percent of the net tract area in forest cover shall be afforested up to at least 20 percent of the net tract area for the following land use categories:

- a. Agriculture and resource areas (the RC zoning district);
- b. Medium density residential areas (the TR zoning district);

2. A tract with less than 15 percent of its net tract area in forest cover shall be afforested up to at least 15 percent of the net tract area for the following land use categories:

- a. Institutional development areas (the C zoning district),
- b. High density residential areas (the TR zoning district),
- c. Mixed-Use areas (the C zoning district),
- d. Commercial and industrial use areas (the C zoning district), and
- e. Planned development areas (granted as a Special Exception in any residential zoning district).

B. Comply with the following when cutting into forest cover that is currently below the afforestation percentages described in Subsections 75-146 A 1 and A 2 of this article:

1. The required afforestation level shall be determined by the amount of forest existing before cutting or clearing begins; and
  2. Forest cut or cleared below the required afforestation level shall be reforested or afforested at a 2 to 1 ratio and added to the amount of afforestation necessary to reach the minimum required afforestation level, as determined by the amount of forest existing before cutting or clearing began.
- C. When the applicant conducts afforestation in compliance with this Section, priority must be given whenever feasible to afforestation in areas shown in the Comprehensive Plan that promote or provide forest connectivity.

§ 75-154. Retention.

The following trees, shrubs, plants, and specific areas are considered priority for retention and protection and shall be left in an undisturbed condition unless the applicant has demonstrated to the satisfaction of the Planning Commission that reasonable efforts have been made to protect them and the plan cannot reasonably be altered:

- A. Trees, shrubs, and plants located in sensitive areas including the 100-year floodplain, intermittent and perennial streams and their buffers, steep slopes, non-tidal wetlands, and critical habitat areas;
- B. Contiguous forest or areas of forest shown in the Comprehensive Plan that connect the largest undeveloped or most vegetated tracts of land within and adjacent to the site and provide or promote forest connectivity.
- C. Trees, shrubs, or plants determined to be rare, threatened, or endangered under:
1. The Federal Endangered Species Act of 1973 in 16 U.S.C. §§1531—1544 and in 50 CFR 17,
  2. The Maryland Non-game and Endangered Species Conservation Act, Natural Resources Article, §§10-2a-01--10-2a-09, Annotated Code of Maryland, and
  3. COMAR 08.03.08;
- D. Trees that:
1. Are part of an historic inventory adopted by the Town,
  2. Are associated with an historic structure listed in an historic inventory adopted by the Town,
- or
3. Have been designated by the state or the Planning Commission as a national, state, or county champion tree; and
- E. Any tree having a diameter measured at 4.5 feet above the ground of:
1. 30 inches or more, or
  2. 75 percent or more of the diameter, measured at 4.5 feet above the ground, of the current state champion tree of that species as designated by the department of Natural Resources.

§ 75-155. Forest Conservation Threshold for Reforestation.



A. There is a forest conservation threshold established for all land use categories, as provided in Subsection B of this Section. The forest conservation threshold means the percentage of the net tract area at which the reforestation requirement changes from a ratio of 1/4 acre planted for each acre removed above the threshold to a ratio of 2 acres planted for each acre removed below the threshold.

B. After reasonable efforts to minimize the cutting or clearing of trees and other woody plants have been exhausted in the development of a subdivision or site plan, grading and sediment control activities, and implementation of the Forest Conservation Plan, the Forest Conservation Plan shall provide for reforestation, purchase of credits from a Forest Mitigation Bank, or payment into the Forest Conservation Fund, according to the formula set forth in Subsections B. and C. of this Section and consistent with Part 3 of this Article, and the following forest conservation thresholds for the applicable land use category:

<u>Category of use</u>	<u>Threshold percentage</u>
(1) Agricultural and resource areas- RC zoning district	50 percent;
(2) Medium density residential areas- TR zoning district	25 percent;
(3) Institutional development areas- C zoning district	20 percent;
(4) High density residential areas- TR zoning district	20 percent;
(5) Mixed-Use and planned unit development areas- C zoning district	15 percent;
(6) Commercial and industrial use areas- C zoning district	15 percent;
(7) Planned development areas- (granted as a Special Exception in any residential zoning district)	15 percent.

C. Calculations.

1. For all existing forest cover measured to the nearest 1/10th acre cleared on the net tract area above the applicable forest conservation threshold, the area of forest removed shall be reforested at a ratio of 1/4 acre planted for each acre removed.

2. Each acre of forest retained on the net tract area above the applicable forest conservation threshold shall be credited against the total number of acres required to be reforested under Paragraph C 1 of this Section. The calculation of the credit shall be according to the criteria provided in the Town of Church Hill Forest Conservation Technical Manual.

3. For all existing forest cover measured to the nearest 1/10th acre cleared on the net tract area below the applicable forest conservation threshold, the area of forest removed shall be reforested at a ratio of 2 acres planted for each acre removed below the threshold.

§ 75-156. Sequence for Afforestation and Reforestation.

A. After techniques for retaining existing forest on the site have been exhausted, the preferred sequence for afforestation and reforestation, as determined by the Planning Commission, is as follows:

1. Forest creation in accordance with a Forest Conservation Plan using one or more of the following:
    - a. Transplanted or nursery stock,
    - b. Whip and seedling stock, or
    - c. Natural regeneration where it can be adequately shown to meet the objective of the State Forest Conservation Technical Manual;
  
  2. Upon adoption by the Town of a tree management plan that conforms with the Economic Growth, Resource Protection, and Planning Act of 1992, or in any other designated area approved by the Planning Commission, the use of:
    - a. Street trees selected and placed according to the guidelines in the Town of Church Hill road ordinance as a permissible step in the priority sequence for afforestation or reforestation and with a mature canopy coverage may be granted full credit as a mitigation technique, and
    - b. Acquisition of an offsite protection easement on existing forested areas not currently protected as a mitigation technique, in which case the afforestation or reforestation credit granted may not exceed 50 percent of the area of forest cover protected;
  
  3. When all other options, both onsite and offsite, have been exhausted, landscaping as a mitigation technique conducted under an approved landscaping plan that establishes a forest at least 35 feet wide and covering at least 2,500 square feet of area.
- B. A sequence other than the one described in Subsection A of this Section may be used for a specific project, if necessary, to achieve the objectives of the Town Comprehensive Plan, or to take advantage of opportunities to consolidate forest conservation efforts.
- C. The preferred sequence for afforestation and reforestation shall be established in accordance with the following after all techniques for retaining forest cover onsite have been exhausted:
1. Those techniques that enhance existing forest and involve selective clearing or supplemental planting onsite;
  2. Onsite afforestation or reforestation where the retention options have been exhausted, using methods selected in accordance with Subsection F of this Section, and the location being selected in accordance with this Subsection;
  3. Offsite afforestation or reforestation in the same watershed or in accordance with an approved master plan where the applicant has demonstrated that no reasonable alternative onsite exists, or where:
    - a. Any onsite priority areas for afforestation or reforestation have been planted in accordance with this Subsection; and
    - b. The applicant has justified to the Planning Commission's satisfaction that environmental benefits associated with offsite afforestation or reforestation exceed those derived from onsite planting.
- D. In the priority cases for afforestation and reforestation, the method shall be selected in accordance with § 7-404 A, and the location shall be selected in accordance with § 7-404 F of this Section.

E. Offsite afforestation or reforestation may include the use of Forest Mitigation Banks which have been so designated in advance by the Planning Commission.

F. The following shall be considered priority for afforestation or reforestation:

1. Establish or enhance forest buffers adjacent to intermittent and perennial streams, and to widths of at least 50 feet;
2. Establish forest connectivity in those areas shown in the Comprehensive Plan;
3. Establish or increase existing forested corridors to connect existing forests within or adjacent to the site and, where practical, forested corridors should be a minimum of 300 feet in width to facilitate wildlife movement;
4. Establish or enhance forest buffers adjacent to critical habitat areas where appropriate;
5. Establish or enhance forested areas in the 100-year floodplains;
6. Establish plantings to stabilize slopes of 25 percent or greater and slopes of 15 percent or greater with a soil k value greater than 0.35 including the slopes of ravines or other natural depressions;
7. Establish buffers adjacent to areas of differing land use when appropriate, or adjacent to highways or utility rights-of-way;
8. Establish forest areas adjacent to existing forests to increase the overall area of contiguous forest cover, when appropriate; and
9. Use native plant materials for afforestation or reforestation, when appropriate.

G. A person required to conduct afforestation or reforestation under this article shall accomplish it within 1 year or two growing seasons, whichever is a greater time period, following development project completion.

§ 75-157. Use of a Forest Mitigation Bank.

A. If a person subject to this article demonstrates to the satisfaction of the Planning Commission that requirements for reforestation or afforestation onsite or offsite cannot be reasonably accomplished, the person may contribute credits from a Forest Mitigation Bank. A credit is required for each tenth of an acre of an area of required planting.

B. The credits shall be debited from an approved Forest Mitigation Bank within 90 calendar days after development project completion.

§ 75-158. The Establishment of Forest Mitigation Banks.

A. A person may create a Forest Mitigation Bank from which applicants may purchase credits to meet the afforestation and reforestation requirements of this article.

B. The Forest Mitigation Bank shall:

1. Afforest or reforest an area of land in accordance with a Forest Mitigation Bank agreement;
2. Be protected by an easement, deed restrictions, or covenants which require the land in the bank to remain forested in perpetuity and are enforceable by the Town;
3. Limit the use of the land in the bank to those activities which are not inconsistent with forest

conservation such as recreational activities, forest management under a forest conservation and management program under Tax-property Article, §8-211, Annotated Code of Maryland, or activities specified in a forest management plan prepared by a licensed forester and approved by the Planning Commission;

4. Use native plant materials for afforestation or reforestation unless inappropriate; and
5. Cause trees to be planted which:
  - a. Establish or enhance forested buffers adjacent to intermittent and perennial streams to widths of at least 50 feet;
  - b. Establish or increase existing forested corridors, which, where practical, should be a minimum of 300 feet in width to facilitate wildlife movement, to connect existing forests within or adjacent to the site;
  - c. Establish or enhance forest buffers adjacent to critical habitat areas where appropriate;
  - d. Establish or enhance forested areas in 100-year floodplains;
  - e. Stabilize slopes of 25 percent or greater;
  - f. Stabilize slopes of 15 percent or greater with a soil k value greater than 0.35 including the slopes of ravines or other natural depressions;
  - g. Establish buffers adjacent to areas of differing land use where appropriate, or adjacent to highways or utility rights-of-way; or
  - f. Establish forest areas adjacent to existing forests to increase the overall area of contiguous forest cover, when appropriate.

C. A person proposing to create a Forest Mitigation Bank shall submit to the Planning Commission

1. Completed application on a form approved by the Planning Commission which has been signed by an authorized individual in conformance with COMAR 08.19.04.02I;
2. Forest Mitigation Bank plan which contains a:
  - a. Vicinity map of the proposed mitigation bank site;
  - b. Simplified forest stand delineation which meets the criteria in Section 75-142;
  - c. Detailed afforestation or reforestation plan, which shall include a timetable and description of the site and soil preparation needed, species, size, and spacing to be utilized, prepared by a licensed Maryland forester, a licensed landscape architect, or a qualified professional who meets the requirements stated in COMAR 08.19.06.01a; and
  - d. Proposed 2-year maintenance agreement that:
  - e. Sets forth how the areas afforested or reforested will be maintained to ensure protection and satisfactory establishment,
  - f. Complies with COMAR 08.19.04.05C(4)(A), and
  - g. Includes watering and reinforcement planting provisions if survival falls below required standards;
3. Copy of the deed to the property;
4. Survey or other legally sufficient description of the bank site for inclusion in the deeds of easement, deed restrictions, or covenants;
5. Title report or other assurance that:

a. The property is not encumbered by any covenants or other types of restrictions which would impair the property's use as a Forest Mitigation Bank; and

b. There is legally sufficient access to the Forest Mitigation Bank site which can be used by the Planning Commission and its assignees to inspect the Forest Mitigation Bank.

6. Description of the system to be used by the person owning and operating the Forest Mitigation Bank to identify and keep track of which portions of the bank have been debited to meet an applicant's offsite afforestation or reforestation requirements.

D. The owner of an approved Forest Mitigation Bank shall enter into an agreement with the Town which contains:

1. The approved reforestation or afforestation plan;

2. The approved system for marking and tracking which portions of the bank have been debited; and

3. An acknowledgment that the bank may not debit any portion of the afforested or reforested land until 2 years of successful growth has been achieved unless the banker has posted a bond or alternate form of security.

§ 75-159. Recommended Tree Species List.

Tree species used for afforestation or reforestation shall be native to Queen Anne's County, when appropriate, or selected from a list of approved species established by the Planning Commission.

§ 75-160. Financial Security for Afforestation and Reforestation.

A. A person required to conduct afforestation or reforestation under this article shall furnish financial security in the form of a bond, an irrevocable letter of credit, or other security approved by the Town. The surety shall:

1. Assure that the afforestation, reforestation, and the associated maintenance agreement are conducted and maintained in accordance with the approved Forest Conservation Plan;

2. Be in an amount equal to the estimated cost, as determined by the Town, of afforestation and reforestation; and

3. Be in a form and of a content approved by the Town.

B. After one growing season, the person required to file a bond under Subsection a of this Section may request reduction of the amount of the bond or other financial security by submitting a written request to the Planning Commission with a justification for reducing the bond or other financial security amount, including estimated or actual costs to ensure afforestation or reforestation requirements are met.

C. The Town shall determine whether a lesser amount is sufficient to cover the cost of afforestation or reforestation, taking into account the following:

1. The number of acres;

2. The proposed method of afforestation or reforestation;

3. The cost of planting materials or replacement materials;

4. The cost of maintenance of the afforestation or reforestation project; and
5. Other relevant factors.

D. If, after two growing seasons, the plantings associated with the afforestation or reforestation meet or exceed the standards of the Town of Church Hill Forest Conservation Technical Manual, the amount of the cash bond, letter of credit, surety bond, or other security shall be returned or released.

E. The Town's forest conservation program may incorporate the financial security set forth in Subsections 75-154 A through D of this article or in COMAR 08.19.05.01B.

§ 75-161. Standards for Protecting Trees from Construction Activities.

A. Prior to project construction the developer shall identify edges of protected forest areas in the field and clearly delineate with a four (4) foot high turkey wire mesh fence or a material acceptable to the Town. Six-foot anchor posts shall be driven two (2) feet into the earth on eight (8) foot spacing. This fencing shall be placed outside the critical root zones of the tree line. In addition, protective signs for specimen trees and/or forest areas shall be installed prior to construction. Locations for the protective fence and signs shall be shown on the approved final Forest Conservation Plan. The protective devices shall remain in place for the duration of the two-year maintenance agreement period or until final stabilization of adjacent soil is completed, whichever is longer.

B. Before cutting, clearing, grading, or construction begins on a site for which a Forest Conservation Plan is required by this article, the applicant shall schedule a site visit with the Zoning Administrator or his or her designee, in order to demonstrate that protective devices have been erected according to the final Forest Conservation Plan.

Part 5. Penalties

§ 75-162. Enforcement.

**A. Noncompliance fees**

1. A person found to be in noncompliance with this article, regulations adopted under this article, the Forest Conservation Plan, or the associated 2-year maintenance agreement, shall be assessed by the Planning Commission the penalty of \$3.00 per square foot of the area found to be in noncompliance with required forest conservation.

2. Money collected under Subsection A.1. Of this Section shall be deposited in the Forest Conservation Fund as required by Section 75-150 of this article, and may be used by the Planning Commission for purposes related to implementing this article.

**B. Violation**

1. In addition to the provisions under Subsection A. of this Section, a person who violates a provision of this article or a regulation or order adopted or issued under this article is liable for a penalty not to exceed \$1,000, which may be recovered in a civil action brought by the Planning Commission.

2. Each day a violation continues is a separate violation.

C. The Planning Commission may seek an injunction requiring the person to cease violation of this article and take corrective action to restore or reforest an area.

D. The Planning Commission may utilize the enforcement provisions under COMAR 08.19.06.03.

#### Part 6. Forest and Tree Conservation Definitions

In this Article the following terms have the meanings indicated.

**Afforestation:** the establishment of a forest on an area from which forest cover has been absent for a long period of time; or the planting of open areas which are not presently in forest cover.

**Agriculture and Resource Area:** land in Town zoned in the resource conservation zoning district.

**Agricultural Activity:** a farming activities including plowing, tillage, cropping, installation of best management practices, seeding, cultivating, and harvesting for production of food and fiber products (except commercial logging and timber harvesting operations), the grazing and raising of livestock, aquaculture, sod production, orchards, nursery, and other products cultivated as part of a recognized commercial enterprise.

**Applicant:** a person who is applying for subdivision or project plan approval or a grading or sediment control permit, or who has received approval of a forest stand delineation or Forest Conservation Plan.

**Approved Forest Management Plan:** a document approved by the department of Natural Resources forester assigned to the county in which the property is located; and which operates as a protective agreement for forest conservation as described in the Natural Resources article, §§5-1607(E)—(F), Annotated Code of Maryland.

**Caliper:** the diameter measured at 2 inches above the root collar.

**Champion Tree:** the largest tree of its species within the United States, the State, Queen Anne's County, or municipality.

**Commercial and Industrial Uses:** manufacturing operations, office complexes, shopping centers, and other similar uses and their associated storage areas, yarding and parking areas. Such uses are only permitted in the Town's commercial zoning district.

Comprehensive Plan: the Comprehensive Plan of the Town of Church Hill.

Critical Habitat Area: a critical habitat for an endangered species and its surrounding protection area. A critical habitat area shall be likely to contribute to the long-term survival of the species; be likely to be occupied by the species for the foreseeable future; and constitute habitat of the species which is considered critical under Natural Resources article, §§4-2A-04 and 10-2A-06, Annotated Code of Maryland.

Critical Habitat For Endangered Species: a habitat occupied by an endangered species as determined or listed under Natural Resources article, §§4-2A-04 and 10-2A-04, Annotated Code of Maryland.

Declaration of Intent: a signed and notarized statement by a landowner or the landowner's agent certifying that the activity on the landowner's property:

- a. Is for certain activities exempted under this article or Natural Resources article, §§5-103 and 5-1601—5-1612, Annotated Code of Maryland,
- b. Does not circumvent the requirements of this article or Natural Resources article, §§5-103 and 5-1601—5-1612, Annotated Code of Maryland, and
- c. Does not conflict with the purposes of any other Declaration of Intent; or the document required under COMAR 08.19.01.05 or this article.

Development Project: the grading or construction activities occurring on a specific tract that is 40,000 square feet or greater. It includes redevelopment.

Development Project Completion: for the purposes of afforestation, reforestation, or payment into a fund:

- a. The release of the development bond, if required;
- b. Acceptance of the project's streets, utilities, and public services by the Planning Commission; or
- c. Designation by the Planning Commission that a development project has been completed, or a particular stage of a staged development project, including a planned development district, has been completed.

Forest: a biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater. It includes areas that have at least 100 live trees per acre with at least 50 percent of those trees having a 2-inch or greater diameter at 4.5 feet above the ground and larger; and areas that have been cut but not cleared. It does not include orchards.

Forest Conservancy District Board: the Forestry Board created for each State Forest Conservancy District under Natural Resources article, §§5-601—5-610, Annotated Code of Maryland.

Forest Conservation: the retention of existing forest or the creation of new forest at the levels set by the state or Planning Commission.

Forest Conservation and Management Agreement: an agreement as stated in tax-property article,



§8-211, Annotated Code of Maryland.

Forest Conservation Technical Manual: the Town of Church Hill's Technical Manual incorporated by reference, used to establish standards of performance required in preparing Forest Stand Delineations and Forest Conservation Plans.

Forest Conservation Plan: a plan approved pursuant to Natural Resources article, §§5-1606 and 5-1607, Annotated Code of Maryland.

Forest Cover: the area of a site meeting the definition of forest.

Forest Management Plan: a plan establishing best conservation and management practices for a landowner in assessment of the resource values of forested property.

Forest Mitigation Bank: an area of land which has been intentionally afforested or reforested for the express purpose of providing credits for reforestation requirements.

Forest Mitigation Bank agreement: an agreement entered into by an individual owning a Forest Mitigation Bank and the Town which commits the banker to certain procedures and requirements when creating and operating the Forest Mitigation Bank.

Forest Mitigation Bank Plan: a plan submitted for approval of a Forest Mitigation Bank to the Planning Commission, and approved by the Town, by an individual proposing to establish a Forest Mitigation Bank.

Forest Stand Delineation: the methodology for evaluating the existing vegetation on a site proposed for development, as provided in the Town of Church Hill Forest Conservation Technical Manual.

Growing Season: the period of consecutive frost-free days as stated in the current soil survey for Queen Anne's County published by the National Cooperative Soil Survey Program, 16 U.S.C. §590 (A) - (F).

High Density Residential: land within the Town zoned within the TR residential zoning district.

Institutional Development Area: schools, colleges and universities, military installations, transportation facilities, utility and sewer projects, government offices and facilities, golf courses, recreation areas, parks, and cemeteries.

Intermittent Stream: a stream in which surface water is absent during a part of the year as shown on the most recent 7.5 minute topographic quadrangle published by the United States Geologic Survey as confirmed by field verification.

Landscaping Plan: a plan drawn to scale, showing dimensions and details for reforesting an area at least 35 feet wide and covering 2,500 square feet or greater in size, using native or indigenous plants when appropriate; and which is made part of an approved Forest Conservation Plan.

**Linear Project:** a project which is elongated with nearly parallel sides; is used to transport a utility product or public service not otherwise contained in an application for subdivision, such as electricity, gas, water, sewer, communications, trains, and vehicles; and may traverse fee simple properties through defined boundaries, or established easement rights.

**Lot:** a unit of land, the boundaries of which have been established by subdivision of a larger parcel, and which will not be the subject of further subdivision, as defined by Natural Resources article, §5-1601, Annotated Code of Maryland, and this article without an approved Forest Stand Delineation and Forest Conservation Plan.

**Maintenance Agreement:** the short-term management agreement associated with afforestation or reforestation plans required under Natural Resources article, §5-1605, Annotated Code of Maryland, and this article.

**Medium Density Residential:** land in Town zoned in the R-1 residential zoning district

**Mixed-Use Development:** a single, relatively high density development project, usually commercial in nature, which includes two or more types of uses.

**Natural Regeneration:** the natural establishment of trees and other vegetation with at least 400 woody, free-to-grow seedlings per acre, which are capable of reaching a height of at least 20 feet at maturity.

**Net Tract Area:** the total area of a site including both forested and non-forested areas to the nearest 1/10 acre, except in agriculture and resource areas and where forest clearing is restricted by the Zoning Ordinance or subdivision regulations. In agriculture and resource areas, the part of the total tract for which land use will be changed or will no longer be used for primarily agricultural activities, reduced by that area where forest clearing is restricted by the Zoning Ordinance or subdivision regulations. For a linear project the net tract area is the area of a right-of-way width, new access roads, and storage; or the limits of disturbance as shown on an application for sediment and erosion control approval or in a capital improvements program project description.

**Non-Tidal Wetlands:**

a. An area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation; and

b. Considered a non-tidal wetland in accordance with the publication known as the "Federal Manual For Identifying And Delineating Jurisdictional Wetlands," published in 1989 and as may be amended and interpreted by the U.S. Environmental Protection Agency. Non-tidal wetlands do not include tidal wetlands regulated under Natural Resources Article, Title 9, Annotated Code of Maryland.

Offsite: outside of the limits of the area encompassed by the tract.

Onsite: within the limits of the area encompassed by the tract, including an area classified as a 100-year floodplain.

100-Year Flood: a flood which has a 1 percent chance of being equaled or exceeded in any given year. Except for class iii waters (natural trout streams), a body of water with a watershed less than 400 acres is excluded.

100-Year Floodplain: an area along or adjacent to a stream or body of water, except tidal waters, that is capable of storing or conveying floodwaters during a 100-year frequency storm event, or a 100-year flood.

Perennial Stream: a stream containing surface water throughout an average rainfall year, as shown on the most recent 7.5 minute topographic quadrangle published by the United States Geologic Survey, as confirmed by field verification.

Person: the federal government, the state, the county, Town, or other political subdivision of the state, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any of their affiliates, or any other entity.

Planned Development District: a development comprised of a combination of land uses or varying intensities of the same land use in accordance with an integrated plan that provides flexibility in land use design approved by the Planning Commission. The Board of Appeals grants planned development districts as an Overlay District by Special Exception when the project meets certain criteria.

The Planning Commission: the Town of Church Hill Planning Commission

Site Plan: a construction, grading, or sediment control activity on an area of 40,000 square feet or greater.

Public Utility: any transmission line or electric generating station; or water, sewer, electric, gas, telephone, or television cable service line.

Reforestation, Reforested: the creation of a biological community dominated by trees and other woody plants containing at least 100 live trees per acre with at least 50 percent of those trees having the potential of attaining a 2-inch or greater diameter measured at 4.5 feet above the ground, within 7 years; or the establishment of a forest according to procedures set forth in the Town of Church Hill Forest Conservation Technical Manual.

a. "Reforestation" or "reforested" includes landscaping of areas under an approved landscaping plan establishing a forest at least 35 feet wide and covering 2,500 square feet or more of area.

b. "Reforestation" or "reforested" for a linear project involving overhead transmission lines may consist of a biological community dominated by trees and woody shrubs with no minimum height or diameter criteria.

Regulated Activity: any of the following activities, when that activity occurs on a unit of land which is 40,000 square feet or greater:

- a. Subdivision;
- b. Grading;
- c. An activity that requires a sediment control permit; or a
- d. Site plan submitted to the Town.

Retention: the deliberate holding and protecting of existing trees, shrubs, or plants on the site according to established standards as provided in the Town of Church Hill Forest Conservation Technical Manual.

Sediment Control Permit: the authorization of an activity regulated under a sediment control plan as provided in environment article, Title 4, Annotated Code of Maryland.

Seedling: an unbranched woody plant, less than 24 inches in height and having a diameter of less than 1/2 inch measured at 2 inches above the root collar.

Selective Clearing: the careful and planned removal of trees, shrubs, and plants using specific standards and protection measures under an approved Forest Conservation Plan.

Stream Buffer: all lands lying within 50 feet, measured from the top of each normal bank of a perennial or intermittent stream.

Subdivision: any division of a unit of land into 2 or more lots or parcels for the purpose, whether immediate or future, of transfer of ownership, sale, lease, or development.

Subdivision Regulations: the Town of Church Hill subdivision regulations

Town of Church Hill Forest Conservation Technical Manual: the latest edition of the State Forest Conservation Technical Manual.

Timber Harvesting: a tree-cutting operation affecting 1 or more acres of forest or developed woodland within a 1-year interval that disturbs 5,000 square feet or more of forest floor. It does not include grubbing and clearing of root mass.

Tract: a property or unit of land subject to an application for a grading or sediment control permit, subdivision approval, site plan approval, or areas subject to this law.

Tract For A Planned Development District: the entire property subject to a planned development district.

Tree: large, branched woody plant having one or several self-supporting stems or trunks that reach a height of at least 20 feet at maturity.

Variance: a granting of relief from Natural Resources Article, §§5-1601—5-1612, Annotated Code of Maryland, or this article by a body of government authorized to do so. It does not mean a Zoning Variance.

Watershed: all land lying within an area described as a sub-basin in water quality regulations adopted by the Maryland Department of the Environment under COMAR 26.08.02.08.

Whip: an unbranched woody plant greater than 24 inches in height and having a diameter of less than 1 inch measured at 2 inches above the root collar.

Zoning Administrator: The Zoning Administrator of the Town of Church Hill.

Zoning Ordinance: The Town of Church Hill Zoning Ordinance.

## **Article 8**

### **Critical Area Regulations**

#### Part 1. Critical Area Program Purpose and Goals

##### §75-163. The Church Hill Critical Area Program.

The Church Hill Critical Area Program consists of the Church Hill Zoning Ordinance, including the Official Critical Area Map.

##### §75-164. Goals and Implementation.

The goals of the Church Hill 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 conveyances or, that have run off from surrounding lands;
2. Conserve fish, wildlife, and plant habitat; and
3. Establish land use policies for development in the Critical Area that accommodates growth as well as addresses the environmental impacts that the number, movement, and activities of people may have on the area.

##### §75-165. 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 Church Hill Zoning Ordinance, Article 8.

§75-166. Critical Area Overlay District Map.

A. The official Critical Area Overlay District Map is maintained in force as part of the official Zoning Map for Church Hill. The official Critical Area Map delineates the extent of the Critical Area Overlay District that shall include:

1. All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the Statewide Wetland Maps, and all state and private wetlands designated under Title 16 of the Environment Article of the Annotated Code of Maryland, and
2. All land and water areas within 1,000 feet beyond the landward boundaries of state or private wetlands and the heads of tides designated under Title 16 of the state or private wetlands and the heads of tides designated under Title 16 of the Environment Article of the Annotated Code of Maryland.

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

1. Intensely Developed Area (IDA).
2. Limited Development Area (LDA).
3. Resource Conservation Area (RCA).

C. The Critical Area Overlay District Map may be amended by the Town Commissioners in compliance with the provisions in this Article, the Maryland Critical Area law, and Critical Area Regulations.

§75-167. General Requirements

A. Development and redevelopment shall be subject to the habitat protection area requirements prescribed in this article.

B. Reasonable accommodations for the needs of disabled citizens.

1. An applicant seeking relief from the Critical Area standards contained in this article in order to accommodate the reasonable needs of disabled citizens shall have the burden of demonstrating by a preponderance of evidence the following:
  - A. The alterations will benefit persons with a disability within the meaning of the Americans with Disabilities Act;
  - B. Literal enforcement of the provisions of this article would result in discrimination by virtue of such disability or deprive a disabled resident or user of the reasonable use and enjoyment of the property;
  - C. A reasonable accommodation would reduce or eliminate the discriminatory effect of the provisions of this article or restore the disabled resident's or user's reasonable use or enjoyment of the property;

- D. The accommodation requested will not substantially impair the purpose, intent, or effect, of the provisions of this article as applied to the property; and
  - E. The accommodation would be environmentally neutral with no greater negative impact on the environment than the literal enforcement of the statute, ordinance, regulation or other requirement; or would allow only the minimum environmental changes necessary to address the needs resulting from the particular disability of the applicant/appellant.
2. The Board of Appeals shall determine the nature and scope of any accommodation under this article 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 article. 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.
  3. 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 article. 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.

§75.168. Districts - Intensely Developed Areas – 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.

§75.169. 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 article;
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 or 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 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 article. Church Hill 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 15 percent or greater, as measured before development, shall be prohibited unless the project is the only effective way to maintain or improve the stability of the slope and is consistent with the policies and standards for limited development areas.
  6. Except as otherwise provided in this subsection, lot coverage as defined in §75-186 critical area definitions 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 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 summarizes the limits set forth in (a) through (c) above:

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 Church Hill 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 areal 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 areal 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 Church Hill 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. Forests and developed woodlands which have been cleared before obtaining a Town permit is a violation and shall be replanted at three times the areal extent of the cleared forest
    - 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 areal extent of the cleared forest; and
    - D. If the areal extent of the site limits the application of the reforestation standards in this section the applicant may be allowed to plant 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.

§75-170. Resource Conservation Areas - 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 article.
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 article.
4. Nothing in this section shall limit the ability of a landowner 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.

§75-171. Land Use and Density; Permitted Uses.

- A. Permitted uses in the Critical Area shall be limited to those uses allowed by the underlying zoning districts as modified by both Table 5 and the supplemental use standards provided in §75.172 provided such uses meet all standards established for the Critical Area Overlay District.

Table 5: Permitted Uses in the Critical Area

Item	Use Description	Land Use Management Designation		
		IDA	LDA	RCA
	Legend: P= Permitted If Allowed In The Underlying Zoning District PC = Permitted With Conditions If Allowed In The Underlying Zoning District NP = Not Permitted			
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	NC
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				
4.80	Private Pier	P	P	P
5.00	Recreation			
5.10	Golf Course	P	P	PC
6.00	Industrial			

	<b>Legend:</b> P= Permitted If Allowed In The Underlying Zoning District PC = Permitted With Conditions If Allowed In The Underlying Zoning District NP = Not Permitted	<b>Land Use Management Designation</b>		
6.10	Existing Industrial Uses	P	P	PC
6.20	New Industrial Uses	P	PC	NP
6.30	Non-Maritime Heaving 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	Sludge Facilities	PC	PC	PC

**B. Maximum Permitted Density**

1. The maximum permitted density for properties located in the Church Hill Critical Area shall be as follows:
  - A. In the Intensely Developed Area, maximum density shall be as permitted by the underlying zoning.
  - B. In the Limited Development Area, maximum density shall be as permitted by the underlying zoning.
  - C. In the Resource Conservation Area, maximum density shall be one dwelling unit per 20 acres.
2. Calculation of 1 per 20 acre density of development.  
in calculating the 1 per 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:
    1. The density of development on the upland portion of the parcel may not exceed one dwelling unit per eight (8) acres; and
    2. 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 State Department of the Environment.

§75-172 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 See Table 5 (#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 same sewage disposal system as the primary dwelling unit and:
  - A. Is located within the primary dwelling unit or its entire perimeter is within 100 feet of the primary dwelling unit and does not exceed 900 square feet in 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 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 article and the grandfathering provisions in §8 and may require growth allocation.

C. New Institutional Uses (#2.20)

1. New institutional facilities and uses, except those specifically listed below shall not be permitted in Resource Conservation Areas (RCAs).
2. Certain institutional uses may be permitted in Resource Conservation Areas (RCAs) if allowed in the underlying zoning district and if the use complies with all requirements for such uses in this article. These institutional uses are limited to:
  - A. A cemetery that is an accessory use to an existing use; provided manmade lot coverage is limited to 15 percent of the site or 20,000 square feet, whichever is less; and
  - B. 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 article and the grandfathering provisions in §8 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 article. These commercial uses are limited to:
  - A. A home occupation as an accessory use on a residential property and as provided for in this article;
  - 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 Town of Church Hill 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 article.
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, 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 article.

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 Non-Commercial Boat Docking and Storage (4.30)

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 article provided that:

1. These facilities may not offer food, fuel, or other goods and services for sale and shall provide adequate and clean sanitary facilities;
2. The facilities are community-owned and established and operated for the benefit of the residents of a platted and recorded riparian subdivision;
3. The facilities are associated with a residential development approved by the Town for the Critical Area and consistent with all state requirements and the requirements of this article applicable to the Critical Area;
4. 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
5. If community piers, slips, or moorings are provided as part of the new development, private piers in the development are not allowed.

I. Number of Slips or Piers Permitted.

The number of slips or piers permitted at the facility shall be the lesser of §1 or §2 below:

1. 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
2. A density of slips or piers to platted lots or dwellings within the subdivision in the Critical Area according to the following schedule:

Table 6 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

J. 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
  - (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.

K. Research Areas (4.50)

Water-dependent research facilities or activities operated by state, federal, or local agencies or educational institutions may be permitted in the buffer, if non-water-dependent structures or facilities associated with these projects are, to the extent possible, located outside of the buffer.

L. Fisheries Activities (4.60)

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.

M. [Reserved.]

N. Golf Course (5.10)

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.

O. 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.

2. Expansion of existing industrial facilities and use in the Resource Conservation Area shall be subject to the non-conforming use provisions of this article and the grandfathering provisions in §8 and may require growth allocation.

P. New Industrial Uses (6.20)

1. New industrial uses shall not be permitted in Resource Conservation Areas
2. New, expanded or redeveloped industrial facilities may only be permitted in Limited Development Areas if permitted use in the underlying zoning district and provided such facilities meet all requirements for development in the LDA.
3. New, expanded or redeveloped industrial or ort-related facilities and the replacement of these facilities may be permitted only in those portions of Intensely Developed Areas that have been designated as buffer management areas.

Q. Non-Maritime Heavy Industry (6.3)

Non-maritime heavy industry may be permitted if:

- (A) The site is located in an Intensely Developed Area; 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.

R. 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 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.

S. 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 Department of the Environment.

T. 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 Department of the Environment.

U. 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.

§75-173 Growth Allocation.

Acreage and Designation

A. Growth Allocation Acreage

Growth allocation available to Church Hill includes:

1. An area equal to five (5) percent of the RCA acreage located within Church Hill; and
2. Growth allocation available to Church Hill as provided for by Queen Anne's County.

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 Church Hill 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 Town Commissioners 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.

§75-174 Standards for Designation.

A. 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 Intensely Developed Area IDA or LDA;  
or
  - (B) They are a grandfathered residential, commercial or industrial use, which existed as of January 1, 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 Church Hill's growth allocation may be located in Resource Conservation Areas (RCAs) except as provided in subsection (9) below;
5. New Limited Development Areas or Intensely Developed Areas 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. 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. 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 article for such areas, shall be so designated on the Church Hill Critical Area Maps and shall constitute an amendment to this article subject to review by the Church Hill Planning Commission and approval by the Town Commissioners and the Critical Area Commission as provided herein.
9. If Church Hill 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.

#### B. Additional Factors

In reviewing map amendments or refinements involving the use of growth allocation the Planning Commission and Town Commissioners shall consider the following factors:

1. Consistency with Church Hill's 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.

## Part 2. Administration and Enforcement.

### §75-175. 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 articles.
2. If any existing use does not conform with the provisions of this article, its intensification or expansion may be permitted only in accordance with the variance procedures in 9.

#### B. Residential density on grandfathered lots

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 article.

1. A legal parcel of land, not being part of a recorded or approved subdivision that was recorded as of December 1, 1985.
2. And that received a building permit subsequent to December 1, 1985, but prior to January 1, 1988.

3. Land that was subdivided into recorded, legally buildable lots, where the subdivision received final approval between June 1, 1984 and December 1, 1985.
4. 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 article or the area of the land has been counted against the growth allocation permitted under this article.

### C. Consistency

Nothing in this section may be interpreted as altering any requirements of this article related to water-dependent facilities or habitat protection areas.

## §75-176. Variances.

### A. Applicability

Church Hill has established provisions where, owing to special features of a site or other circumstances, implementation of this article or a literal enforcement of provisions within this article would result in unwarranted hardship to an applicant, a critical area variance may be obtained.

1. In considering an application for a variance, the Board of Appeals shall presume that the specific development activity in the Critical Area, that is subject to the application and for which a variance is required, does not conform with the general purpose and intent of natural resources article, Title 8 Subtitle 18, COMAR Title 27, and the requirements of this article.
2. Unwarranted hardship means that without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.

### 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 article would result in unwarranted hardship;
2. A literal interpretation of the provisions of this article will deprive the applicant the use of land or a structure permitted to others in accordance with the provisions of this Critical Area Ordinance;
3. The granting of a variance will not confer upon an applicant any special privilege that would be denied by this article to other lands or structures within the Critical Area;
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 critical area and the granting of the variance will be in harmony with the general spirit and intent of the critical area law and this article.

#### 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. The Board of Appeals shall follow its established procedures for advertising and notification of affected landowners.

1. After hearing an application for a Critical Area variance, the Board of Appeals shall make written findings reflecting analysis of each standard.
2. If the variance request is based on conditions or circumstances that are the result of actions by the applicant, the Board of Appeals shall consider that fact.
3. The applicant has the burden of proof and the burden of persuasion to overcome the presumption of nonconformance established in A above.
4. The Board of Appeals 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 Board of Appeals shall make written findings as to whether the applicant has overcome the presumption of nonconformance as established in A above, and if applicable B 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. Town officials or staff or any other government agency; or
3. Any other person deemed appropriate by the Board of Appeals.

#### E. Appeals

Appeals from decisions concerning the granting or denial of a variance under these regulations shall be taken in accordance with all applicable laws and procedures 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 article.

#### 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 this article is maintained including, but not limited to the following:

1. Adverse impacts resulting from the granting of the variance shall be mitigated as recommended by the Planning Commission, but not less than by planting on the site at the rate of at least three to one per square foot of the variance granted.
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. No permit for the activity that was the subject of the application will be issued until the applicable 30-day appeal period has elapsed.

§75-177. 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. Church Hill 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.

C. 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.

§75-178. Amendments.

A. Amendments the Town Commissioners may from time to time amend the Critical Area provisions of this article. Changes may include, but are not limited to amendments, revisions, and modifications to these zoning regulations, Critical Area maps, implementation procedures, and local policies that affect Church Hill's Critical Area. All such amendments, revisions, and modifications shall also be approved by the Critical Area Commission as established in §8-1809 of the Natural Resources article of the Annotated Code of Maryland. No such amendment shall be implemented without 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. 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 the Town Commissioners upon proof of a mistake in the existing zoning. This requirement does not apply to proposed changes to a zoning map that meet the following criteria:

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 article 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 Town Commissioners.
2. The Town Commissioners 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 Church Hill.
3. After the Town Commissioners approve an amendment, they shall forward their decision and applicable resolutions along with the amendment request to the Critical Area Commission for final approval.

§75-179. Enforcement.

A. Consistency

The Critical Area provisions of this article, in accordance with the Critical Area Act and criteria supersede any inconsistent law, article or plan of Church Hill. In the case of conflicting provisions, the stricter provisions shall apply.

B. Violations

1. No person shall violate any provision of this article. Each violation that occurs and each calendar day that a violation continues shall be a separate offense.
2. Each person who violates a provision of this article shall be subject to separate administrative civil penalties, abatement and restoration orders, and mitigation for each offense.
3. Noncompliance with any permit or order issued by the town related to the critical area shall be a violation of this article and shall be enforced as provided herein.

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 article, the Town shall take enforcement action including:

1. Assess administrative civil penalties as necessary to cover the costs associated with performing inspections, supervising or rendering assistance with identifying and citing the violation, issuing abatement and restoration orders, 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 town commissioners or their designee may obtain access to and enter a property in order to identify or verify a suspected violation, restrain a development activity, or issue a citation if the Town has probable cause to believe that a violation of this article 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 article 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 article 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 Church Hill 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 article.

G. Cumulative remedies the remedies available to the Town under this article 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 article, an administrative order, a permit, a decision, or other imposed condition.
2. The pendency 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 article in accordance with the variance provisions of this article. 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 article.

1. An appeal is taken by filing a written notice of appeal with the Board of Appeals in accordance with the provisions of this article 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.

Part 3. The 100-Foot Buffer

§75-180. 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 part. The provisions of this chapter do not apply to an area of the buffer that is designated as a buffer management area (BMA) under Sec. 75-182. The minimum 100-foot buffer shall be delineated in the field and shall be shown on all applications as follows:

- A. The minimum 100-foot buffer is delineated based on existing field conditions landward from:
  - 1. The mean high water line of tidal water;
  - 2. The edge of each bank of a tributary stream; and
  - 3. The upland boundary of a tidal wetland.
- B. The buffer shall be expanded beyond the minimum 100-foot buffer as described in A(1) above and the minimum 200-foot buffer as described in A(3) below, to include the following contiguous land features:
  - 1. 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;
  - 2. A nontidal wetland to the upland boundary of the nontidal wetland;
  - 3. The 100-foot buffer that is associated with a nontidal wetland of special state concern as stated in COMAR §26.23.06.01;
  - 4. For an area of hydric soils or highly erodible soils, the lesser of:
    - (A) The landward edge of the hydric or highly erodible soils; or
    - (B) Three hundred feet where the expansion area includes the minimum 100-foot buffer.
- C. 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:
  - 1. An expanded buffer in accordance with A(2) above; or
  - 2. 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.
- D. The provisions of A(3) above do not apply if:
  - 1. The application for subdivision or site plan approval was submitted before July 1, 2008, and legally recorded (subdivisions) or received approval (site plans), by July 1, 2010;
  - 2. The application involves the use of growth allocation.

§75-181. Permitted Activities.

#### A. Buffer Disturbance

If approved by the Town, disturbance to the buffer is permitted for the following activities, provided mitigation is performed in accordance with an approved buffer management as required per section e of this part:

1. A new development or redevelopment activity associated with a water-dependent facility; or
2. a shore erosion control activity constructed in accordance with COMAR 26.24.02, COMAR 27.01.04, and this article;
3. A development or redevelopment activity approved in accordance with the variance provisions of this article;
4. A new development or redevelopment activity on a lot or parcel that was created before January 1, 2010 where:
  - (a) the buffer is expanded for highly erodible soil on a slope less than 15 percent 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.

#### B. 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 section e below 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 an in-kind replacement of a structure.
3. When the buffer is not fully forested or fully established in existing, naturally occurring woody or wetland vegetation, the buffer shall be established through planting in accordance with COMAR 27.01.09.01-1.
4. The Town may authorize an applicant to deduct from the total establishment requirement an area of lot coverage removed from the buffer if:
  - (a) the lot coverage existed before the date of January 1988 or was allowed by local procedures; and
  - (b) the total area is stabilized with native vegetation.

#### C. 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, special exception and a permit from the Town and the county health department for the installation, repair or replacement of a septic system.
2. All authorized development activities shall be mitigated according to COMAR 27.01.09.01-2h.
3. Mitigation for a development or redevelopment activity in the buffer or for the removal of an individual tree, developed woodland, or forest shall be calculated according to COMAR 27.01.09.01-2c(1).
4. All unauthorized development activities in the buffer shall be mitigated at a ratio of 4:1 for the area of disturbance in the buffer.
5. 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

D. 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 and 4.
2. A variance to the planting and mitigation standards of this article is not permitted.

E. Required Submittal of Buffer Management Plans.

An applicant that is required to plant the buffer to meet establishment or mitigation 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 part 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 specify 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 or tree and/or shrub clearing 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.

4. The Town will not approve a buffer management plan unless:
  - (a) the plan clearly indicates that all planting standards under §D 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 article.
  - (A) a permit for development activity will not be issued for a property that has the violation.
8. An applicant shall post the property proposed for subdivision with durable signs prior to final recordation in accordance with COMAR 27.01.09.01-2.
9. Buffer management plans that includes natural regeneration shall follow the provisions of COMAR 27.01.09.01-4.

#### F. 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 Church Hill'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.

#### G. 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.

§75-182. 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 Church Hill'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.

#### Part 4, Other Habitat Protection Areas

##### §75-183. 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 include:

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.

##### §75-184. Standards.

- A. 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 location of threatened and endangered species and species in need of conservation on 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 Resources.
- C. The applicant shall obtain approval of the Habitat Protection Plan from the Planning Commission or the appropriate designated approving authority. The specific protection and conservation measures included in the plan shall be considered conditions of approval of the project.

##### § 75-185. Environmental Impact Assessment.

- A. Applicability

The Planning Commission or Board of Appeals may require an Environmental Impact Assessment (EIA) for the following:

- (1) Development or redevelopment activities in the Critical Area requiring site plan approval;
- (2) Development or redevelopment activities in the Critical Area requiring subdivision approval;
- (3) Development or redevelopment activities within a Habitat Protection Area other than a detached single family dwelling;
- (4) An application for growth allocation; or
- (5) An application for a variance other than for detached single-family dwelling.

## **Article 9 Definitions**

### Part 1. Definitions of Terms

#### § 75-187. Definitions.

As used in this Chapter the following terms shall have the meaning indicated.

#### 1. Accessory Building or Structure.

An accessory building is a subordinate building or a portion of the main building, the use of which is customarily incidental to or customarily found in connection with, and (except as otherwise provided in this replace) located on the same lot as the main building or principal use of the land.

#### 2. Accessory Use.

An accessory use is one that is clearly incidental to or customarily found in connection with, and (except as otherwise provided in this replace) is located on the same lot as the principal use of the premises. When the term "accessory" is used in this replace, it shall have the same meaning as "accessory use".

#### 3. Accessory Apartment.

A separate dwelling unit in the principal dwelling on a lot or in an accessory building on the same lot as the principal dwelling approved for occupancy of no more than two persons, provided the owner lives in the principal unit on the premises.

#### 4. Agriculture.

The use of land for the purpose of farming, dairying, pasturing, agriculture, horticulture, floriculture, viticulture, fish culture, and animal and poultry husbandry. The processing, packaging, or manufacture of agricultural products is not included.

#### 5. Alley.

A minor way that is used primarily for vehicular service access to the back or the side of properties otherwise abutting a street.

6. Anadromous Fish.

Fish that travel upstream (from their primary habitat in the ocean) to freshwater in order to spawn.

7. Animal Hospital/Veterinarian Clinic.

Any establishment maintained or operated by a licensed veterinarian for the immunization, hospitalization, surgery, diagnosis, prevention and treatment of diseases and injuries to animals.

8. Apartment.

A part of a building, consisting of a room or suite of rooms intended, designed, and used as a residence by an individual or a single family and containing cooking and housekeeping facilities.

9. Basement.

That portion of a building between the floor and ceiling which is wholly or partly below grade and having at least one-half of its height below grade.

10. Best Management Practices BMP's):

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 BMP's 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.

11. Billboard (see signs):

A large sign, normally erected by the outdoor advertising industry, and most often advertising off-site products or services.

12. Board.

The Board of Appeals of Church Hill.

13. Boarder.

Any person, in an owner-occupied single-family dwelling, who is given lodging with or without food by someone in exchange for a fee.

14. Boarding House.

An owner-occupied single-family dwelling where, for compensation and by prearrangement for definite periods, lodging, meals, or lodging and meals are provided for three or more boarders but not more than five boarders containing no more than four guest rooms or rental units.

15. Buffer.

Naturally vegetated area or vegetated area established or managed to protect aquatic, wetland, shoreline, and terrestrial environments from man-made disturbances.

16. Buildable Area.

The area of that part of the lot not included within the yards or open spaces required by this Chapter.

17. Buildable Width.

The width of that part of a lot not included within the yards or open spaces required by this Chapter.

18. Building.

Any structure having a roof supported by columns or walls for the housing or enclosure of persons or property of any kind.

19. Building, Completely Enclosed.

Any building having no outside openings other than properly framed doors, windows, and ventilation openings.

20. Building, height of.

The vertical distance from the grade to the highest point of the coping of a flat roof, or to the deck lines or highest point of 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 30 feet of a street, the height of such building shall be measured to the highest point of coping or parapet.

21. Cluster Development.

Residential development in which dwelling units are concentrated in a selected area or areas of the development tract so as to provide natural habitat or other open space uses on the remainder.

22. Colonial Nesting Water Birds.

Nesting water birds including herons, egrets, terns, and glossy ibis which for purposes of nesting congregate in relatively few areas, thereby creating regional populations of these species which are highly susceptible to local disturbances.

23. Conservation Easement.

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.

24. Day Care Center.

A day nursery, child Boarding home, day camp, summer camp, foster home, or other place for the reception, Board, or care for compensation of children under sixteen years of age.

25. Density.

Number of dwelling units per acre within a defined and measurable area.

26. Developed Woodlands.

Areas containing approximately one (1) or more acres of land, which contain predominantly trees and natural vegetation and which may also contain residential, commercial, or industrial structures and uses.

27. District, Residential.

Any district designated in this replace as a residential district under this replace.

28. Documented Breeding Bird Areas.

Forested areas where the habitation of forest interior dwelling birds during the breeding season has been demonstrated as a result of on-site surveys using standard biological survey techniques.

29. Drive-In.

A term used to describe an establishment designed or operated to serve a patron while seated in an automobile parked in an off-street parking space.

30. 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.

31. Dwelling, Single Family.

A building designed for or occupied exclusively by one family.

32. Dwelling, Two Family.

A building designed for or occupied exclusively by two families living independently of each other.

33. Dwelling, Multiple-Family.

A building designed for or occupied exclusively by three or more families living independently of each other.

34. Dwelling, Semi-Detached.

A one family dwelling with one wall in common with only one adjacent dwelling.

35. Dwelling, Attached.

One family dwelling on a permanent foundation, the walls on two sides of which are in common with the walls of adjoining dwellings and are party walls.

36. Dwelling Unit.

A room or group of rooms occupied or intended to be occupied as separate living quarters by a single family or other group of persons living together as a household or be a person living alone.

37. Family.

An individual or two or more persons who are related by blood, adoption or marriage living together and occupying a single housekeeping unit with single culinary facilities, or a group of not more than four (4) persons living together by joint agreement and occupying a single housekeeping unit with single culinary facilities on a non-profit, cost-sharing basis. Domestic servants, employed and residing on the premises shall be considered as part of the family.

38. Farm.

A tract of land in actual agricultural use being five (5) acres or more in area.

39. 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, but not including major repair work such as motor replacement, body and fender repair, or spray painting.

40. Flag Lot.

A lot having access to a public or private right-of-way only by a narrow strip of land held in fee simple ownership.

41. Floor Area.

A. 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 faces of the exterior walls or from the centerline of walls separating two buildings but not including: (1) attic space providing headroom of less than seven feet; (2) basement space not used for retailing; (3) uncovered steps or fire escapes; (4) accessory water towers or cooling towers; (5) accessory off-street parking spaces; and (6) accessory off-street loading spaces.

B. Residential buildings: the sum of the gross horizontal areas of the several floors of a dwelling, exclusive of garages, basements, and open porches, measured from the exterior faces of the exterior walls.

42. Forest.

A biological community dominated by trees and other woody plants covering a land area of approximately one (1) acre or more. This also includes forests that have been cut, but not cleared.

43. Forest Interior Dwelling Bird.

Species of birds, which require relatively large forested tracts of land in order to breed successfully (e.g., various species of flycatchers, warblers, vireos, and woodpeckers).

44. Frontage.

A. Street Frontage: all of the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.

B. Lot frontage: the distance for which the front boundary line of the lot and street line are coincident.

45. Garage, Private.

A garage used for storage purposes and having a capacity of not more than four automobiles or not more than two 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 than one commercial vehicle, and that one of not more than one-ton capacity, and space may be rented for not more than two vehicles

to persons other than occupants of the buildings to which such garage is accessory.

46. Grade.

An elevation 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.

47. Group Home

A residential structure that is licensed as a residential care facility or child foster care facility under Maryland law to provide room, board, and supervised and/or medical care, for no more than four residents.

48. 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.

49. Highly Erodible Soils.

Soils with a slope greater than fifteen percent (15%); or soils with a k-value greater than .35 and with slopes greater than five percent (5%).

50. Historic Waterfowl Staging And Concentration Area.

An area of open water and adjacent marches where waterfowl gather during migration and throughout the winter season. These areas are "historic" in the sense that their location is common knowledge in that these areas have been used consistently during recent times.

51. Home Day Care.

A State of Maryland licensed facility operated in a residence by the owner of the residence for no more than eight people, excluding residents, where care is given principally during daylight hours to children under the age of 18, or persons with functional impairments due to advanced age or disability. Provided adequate and safe parking, loading and unloading areas are found to be available for the facility by the Zoning Administrator, and that such parking, loading and unloading areas will not interfere with the flow of traffic on the adjoining road(s). [Jun 20, 2016]

52. Home Occupation.

Any occupation which is clearly incidental and secondary to the use of the premises for dwelling purposes and carried out by a member of a family residing on the premises, and in connection with there is no display or storage of materials or generation of substantial volumes of vehicular or pedestrian traffic or parking demand of other exterior indication of the home occupation or variation from the residential character of the building.

53. Hospital.

A building or group of buildings, having room facilities for overnight patients, used for providing services for the inpatient 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 an integral part of the



hospital operations.

54. Hotel.

A building in which lodging or boarding and lodging are provided for more than fifteen persons, primarily transient, or with more than ten 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, which are herein separately defined. A hotel may include restaurants, taverns, clubrooms, public banquet halls, ballrooms, and meeting rooms.

55. Hydric Soils.

Soils that are wet frequently enough to periodically produce anaerobic conditions, thereby influencing the species composition and/or growth, of plants in or on those soils.

56. Hydrophytic Vegetation.

Plants cited in "vascular plant species occurring in Maryland wetlands: (Dawson 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.

57. Inn

A facility that provides for accommodation of overnight guests and may include a Class III restaurant wherein the owner of the business lives on the premises.

58. 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 contractors' equipment, tanks, casks, cans, barrels, boxes, drums, piping, bottles, glass, old iron, 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.

59. Kennel/Cattery.

Any establishment for the commercial breeding, boarding, grooming, sale or training of dogs and/or cats for which a fee is charged and more than 6 dogs or cats are kept on the premises.

60. K-Value.

Soil erodibility factor in the universal soil loss equation. It is a quantitative value that is experimentally determined.

61. Land Clearing.

Any activity that removes the vegetative ground cover.

62. 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.

63. Loading Space.

A space within the main building or on the same lot, providing for the standing, loading or unloading of trucks, having minimum area of 540 square feet, minimum width of 12 feet, a minimum depth of 35 feet, and a vertical clearance of at least 14.5 feet.

64. Lodging House.

Same as rooming house.

65. Lot.

A parcel of land which may include one or more platted lots, occupied or intended for occupancy by a use permitted in this replace, including one main building together with its accessory buildings and the yard areas and parking spaces required by this replace, and having its principal frontage upon a street or upon an officially approved place.

66. Lot Area.

The total horizontal area within the lot lines of the lot.

67. Lot, Corner.

A lot abutting upon two or more streets at their intersection.

68. Lot, Depth Of.

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

69. Lot Interior.

A lot other than a corner lot.

70. Lot Line.

The boundary line of a lot.

71. Lot, Through (double frontage).

A lot having a frontage on two approximately parallel streets or places.

72. Lot Width.

The horizontal distance between the side lot lines measured at the required front yard line.

73. Major Street Or Highway.

A street or highway so designated on the major thoroughfare plan of Queen Anne's County.

74. Marina.

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 boat-related services are rendered.

75. Motel, Motor Court, Tourist Court, Or Motor Lodge.

A building in which lodging, or Boarding and lodging, are provided and offered to the public for compensation. As such, it is open to the public in contradistinction to a boarding or lodging house, or a multiple dwelling; 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.

76. Non-Conforming Use.

A building or land which does not conform with the height, area, or use regulations of the district on which it is located.

77. Non-Point Source Pollution.

Pollution generated by diffuse land use activities rather than from an identifiable or discrete facility.

78. Non-Tidal Wetlands.

Lands where the water table is usually at or near the surface, or lands where the soil or substrate is covered by shallow water at some time during the growing season. One or both of the following usually characterize these lands: a) at least periodically, the lands support predominantly hydrophytic vegetation; and b) the substrate is predominantly undrained hydric soils.

79. Nursing Home.

Same as convalescent home. Includes rest homes, convalescent home and homes for the aged and shall mean a place devoted primarily to the treatment and care of any persons suffering from illnesses, diseases, deformities or injuries, not requiring extensive care but who do require care in excess of room and Board and who need medical, psychological, nursing, convalescent or chronic care.

80. Offsets.

Structures or actions that compensate for undesirable impacts.

81. Parking Space, Off-Street.

An all-weather surfaced area not in a street or alley and having an area of not less than 180 square feet, exclusive of driveways, permanently reserved for the temporary storage of one 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.

82. Place.

An open, unoccupied space other than a street or alley permanently reserved as the principal means of access to abutting property.

83. Planning Commission.

A commission of five members appointed by the Town Commissioners whose duties are defined in Section 3, Article 66b of the Annotated Code of Maryland.

84. Premises.

A lot, together with all buildings and structures thereon.

85. Reforestation.

Establishment of a forest through artificial regeneration or natural reproduction.

86. Regulations.

The whole body of regulations, text, charts, tables, diagrams, maps, notations, reference, and symbols, contained or referred to in this replace.

87. 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 or used as a permanent dwelling and not including culinary facilities.

88. Resort

A building or group of buildings containing guest rooms on a site, a large portion of which is devoted to recreational activities such as tennis, horseback riding, swimming, and golf. A resort may furnish services customarily furnished by a hotel including restaurants, taverns, and convention facilities.

89. Restaurant.

A. Class I restaurant: includes fast food restaurants. This is a type of restaurant other than a bakery; bake shop, candy or ice cream store, which provides as a principal use the sale of foods and beverages in a ready-to consume state, for consumption off of the premises. These restaurants may have sit-down seating and delivery service but may not provide dancing, live entertainment, the service of alcoholic beverages, or a bar. They may have some outdoor dining and drive up services

B. Class II restaurant: this type of food service establishment has as a substantial portion of its business the carryout of foods for immediate consumption. These types of restaurants may not have bars, dancing, live entertainment, or drive-in, drive-through service windows. The service of alcoholic beverages shall be beer and wine only served on the premises with meals or sold pre-packaged for off-premises consumption. The establishment does not provide more than ten seats. Food items prepared for consumption generally are not pre-packaged but are made to specific order. A limited number pre-packaged items may be sold but only as accessory to the principal use of service of food for immediate consumption.

C. Class III restaurant: this type of restaurant is an establishment whose principal business is the sale of foods or beverages to the customer in a ready-to-consume state. Carry out goods may constitute no more than ten percent of the business. This type of restaurant may include a bar, dancing, and live entertainment as regulated within the specific zoning districts. These restaurants do not have drive-up or drive-through services. Catering or delivery is permitted as an accessory use. Patrons are customarily provided with menus and are served their food or beverages by a restaurant employee at the same table or counter at which the food is consumed.

90. Riparian Habitat.

Habitat that is strongly influenced by water and which occurs adjacent to streams, shorelines, and wetlands.

91. Seasonally Flooded Water Regime.

That condition which exists when surface water is present for extended periods, especially early in the growing season, and that when surface water is absent, the water table is often near the land surface.

92. Senior Housing Project.

A comprehensively planned residential community for residents over the age of 55 years. A senior housing project may contain areas devoted to support services in addition to housing such as social and recreational uses for the residents and their guests. A senior housing project may range from conventional forms of development that are simply age-restricted, to specialized assisted living facilities. For the purpose of definition however, senior housing project is distinct from nursing home. Senior housing project may be composed of various housing types including detached, attached and multi-family types of dwellings.

93. Servants' Quarters.

Living quarters within a portion of a main building or in an accessory building located on the same lot with the main building, used for servants employed on the premises, such quarters having no kitchen facilities or separate utility meters, and not rented or otherwise used as a separate dwelling.

94. Sign.

Any device designed to inform, or attract the attention of persons not on the premises on which the sign is located, provided that the following shall not be included in the application of the regulation herein:

A. Signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers; names of occupants of premises not having commercial connotations.

B. Flags and insignias of any government except when displayed in connection with commercial promotion.

C. Legal notices; identification, information, or directional signs erected or required by governmental bodies.

D. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights.

E. Signs directing and guiding traffic and parking on public or private property, but bearing no other content matter.

95. Signs, Number and Surface Area.

For the purpose of determining number of signs, a sign shall be considered to be a single display

surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

The surface area of a sign shall be computed as including the entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area.

96. Sign, On-Site.

A sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

97. Sign, Off-Site.

A sign other than an on-site sign.

98. Site Plan.

A drawing illustrating a proposed development and prepared in accordance with the specifications of this replace.

99. Special Exception.

A Special Exception is a use that would not be appropriate generally or without restriction throughout the zone, but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare.

100. Species In Need Of Conservation.

Fish and wildlife species 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 Sections 10-2A-06 and 4-2A-03, Natural Resources article of the Annotated Code of Maryland.

101. Soil Conservation And Water Quality Plans.

Those land-use plans for farms which show farmers how to make the best possible use of their soil and water resources while protecting and conserving those resources for the future. Such land-use plans are in the format of a document containing a map and related plans which indicate: a) how the landowner plans to treat a farm unit; b) which best management practices (BMP's) the landowner plans to install to treat undesirable conditions; and c) the schedule for applying those BMP's.

102. Stable, Private.

An accessory building, not related to the ordinary operation of a farm, for the housing of not more than four horses or mules owned by a person or persons living on the premises and which horses or

mules are not for hire or sale.

103. 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 horses or mules, whether or not such stable is operated for remuneration, hire, sale, or stabling.

104. Steep Slopes.

Slopes of fifteen percent (15%) or greater incline.

105. 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 be no floor next above it, then the space between such floor and the ceiling next above it.

106. Story, Half.

A space under a sloping roof which has the line of intersection or roof decking and wall face not more than three feet above the top floor level, and in which space, not more than two-thirds of the floor area is finished for use. A half-story containing independent apartments for living quarters shall be counted as a full story.

107. Street.

A public or private thoroughfare, which affords the principal means of access to abutting property.

108. Street Line.

A dividing line separating a lot, tract, or parcel of land and a contiguous street.

109. Structural Alteration.

Any alteration, interior or exterior, to an existing structure, which changes its size, shape, appearance, or other characteristics. Does not include normal maintenance such as painting, replacement of rotted wood, repair of screens, replacement of major appliances, and the like.

110. Structure.

Anything constructed or erected, the use of which requires more or less permanent location on the ground, or attached to something having a permanent location on the ground, including, but without limiting the generality of the foregoing, trailers or mobile homes, signs, swimming pools, fences, backstops for tennis courts, and pergolas.

111. Swimming Pools.

Any portable pool or permanent structure containing a body of water 18 inches or more in depth and 250 square feet or more of water surface area, intended for recreation 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.

112. Townhouse.

A single-family dwelling forming one of a group or series of three 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.

113. Trailer or Mobile Home.

Any vehicle, covered or uncovered, used for living, sleeping, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses, or skirting, 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.

114. Trailer Park, Trailer Court, Or Mobile Home Park.

Any site, lot, field, or tract of land upon which is located one 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 park or court.

115. Tributary Streams.

Perennial and intermittent streams noted on the most recent U.S. Geological Survey 7-1/2 minute topographic quadrangle maps (scale 1:24,000).

116. Utility Building Or Facility.

Includes transformer stations or structures housing switching equipment and regulators, power transmission lines, radio and television towers, transmitter towers, and cell towers, hydroelectric lines, dams, power plants, transmission lines, substations, pumping and boosting stations, pipelines, administrative, construction, maintenance and storage facilities, and water and sewage treatment facilities.

117. 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.

118. Waterway Line.

A line marking the normal division between land and a waterway as established by the Administrator or by Town ordinance.

119. Wildlife Corridor.

Strip of land having vegetation that provides habitat and a safe passageway for wildlife.

120. 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 replace.

121. 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, or in the case of flag lots the closest parallel abutting lot line from the front of the building, 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.

122. 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.

123. 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 building or any projections thereof.

*Originally adopted on December 7, 2009 as Ordinance No. 120-09.*

*Recommended to the Commissioners of the Town of Church Hill, Maryland by unanimous vote of the Church Hill Planning Commission on February 13, 2012. It was then referred back to the Planning Commission to address issues raised by the Commissioners of the Town of Church Hill. On September 10, 2012 the Planning Commission approved revisions to the recommended draft and recommended this revised draft to the Commissioners of the Town of Church Hill by unanimous vote. Revised and re-adopted after a Public Hearing on February 4, 2013 as Ordinance 150-13. It was then referred back to the Planning Commission to address issues raised by the Commissioners of the Town of Church Hill. On February 16, 2016 the Planning Commission approved revisions to the recommended draft and recommended this revised draft to the Commissioners of the Town of Church Hill by unanimous vote. Revised and re-adopted after a Public Hearing on April 4, 2016 as Ordinance 158-16.*

*Ordinance 160-16 was passed after a public hearing on June 20, 2016.*

*Amended by Ordinance 180-23 on July 17, 2023.*

*Ordinance 181-23 was passed after a public hearing on November 6 2023.*

*The date of any amendment will appear below the amended paragraph in brackets ([ ]).*