

**ARTICLE 10. ADMINISTRATIVE PROVISIONS**Section 10-1. Administration and Enforcement

1. Zoning Inspector - A Zoning Inspector designated by the Town Administrator shall administer and enforce this Ordinance. He may be provided with the assistance of such other persons as the Town Administrator may direct.

If the Zoning Inspector shall find that any of the provisions of this Ordinance 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. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.

2. Construction Authorization Required
  - a. No building or other structure shall be erected, moved, added to, changed in use, or structurally altered without a construction authorization therefore issued by the Town Zoning Administrator. Building and occupancy permits shall be subsequently obtained from the Cecil County Building Inspector.
  - b. No nonconforming structure or use shall be maintained, renewed, changed or extended until a construction authorization has been issued by the Town and subsequent building and occupancy permits, as necessary, have been issued by the County. The construction authorization shall state specifically wherein the nonconforming use differs from the provisions of this Ordinance.
  - c. The Zoning Administrator shall maintain a record of nonconforming structures and uses from the date of the adoption of this Ordinance for the purpose of identifying such nonconformities.
  - d. No construction authorization shall be issued except in conformity with the provisions of this Ordinance, except after written order of the Board of Appeals.
  - e. If the work described in any construction authorization has not begun within six (6) months from the date of issuance, said authorization shall be revoked in accordance with Section 9-23.
  - f. A construction authorization shall be valid for a period of one (1) year unless revoked as outlined in section e above or may be extended for cause, up to one year, following review and approval

of request for extension by the Zoning Administrator. [AMENDED PER ORDINANCE 2010-02-01]

- g. The Town shall maintain a record of all construction authorizations and copies shall be furnished upon request to any person. Failure to obtain a construction authorization shall be a violation of this Ordinance and punishable under Article 10, Section 10 of this Ordinance.
  - h. Large scale phased projects are exempt from the limitations of this section and shall require separate review and approval of construction authorizations for each separate phase, consistent with the overall master site plan. Construction time frames may be negotiated by the Planning Commission and may be linked to completed phases or predetermined milestones, subject to inspection and acceptance by the Town. [ADDED PER ORDINANCE 2010-02-01]
3. Application for Construction Authorization

All applications for construction authorizations shall be accompanied by a site plan, plot plan, or plat in duplicate or as required by the Zoning Administrator, showing, with dimensions, the lot lines, the building or buildings, the location of buildings on the lot, topographic features, and such other information as may be necessary to provide for the enforcement of these regulations, including, if necessary, a boundary survey, location survey, deed and a staking of the lot by a competent surveyor and complete construction plans. The drawings shall contain suitable notations indicating the proposed use of all land and buildings. The original copy of such application and plats or plans shall be kept in the offices of the Zoning Administrator and approved duplicate shall be returned to the applicant.

4. Construction Authorization Issued Prior to Effective Date of This Ordinance

No construction authorization lawfully issued by the Zoning Administrator prior to the effective date of this Ordinance, or of any amendment hereto, and which authorization, by its own terms and provisions, is in full force and effect at said date, shall be invalidated by the passage of this Ordinance, or any such amendment, but shall remain a valid and subsisting authorization subject only to its own terms and provisions and ordinances, rules, and regulations appertaining thereto, and in effect at the time of the issuance of said authorization provided, that all such authorizations shall expire not later than sixty (60) days from the effective date of this Ordinance, unless actual construction shall have theretofore begun and continued pursuant to the terms of said authorization.

5. Construction and Use to be as Provided in Applications, Plans and Construction Authorizations

Construction authorizations issued on the basis of site plans and applications approved by the Zoning Administrator authorize only the use, arrangement, construction and construction location and construction set forth in such approved plans and applications, and no other use, arrangement, construction or construction location. Use, arrangement, or construction differing with that authorized shall be deemed a violation of this Ordinance, and punishable as provided by Article 10, Section 10 hereof. In addition, revocation may occur in accordance with Section 9-23.

6. Requirements for Occupancy

A boundary and/or location survey that verifies a house, a townhouse, a commercial structure or an industrial structure are located as shown on recorded plats or an approved site plan are required prior to the time of occupancy as determined by the Zoning Administrator, Planning Commission or Board of Appeals.

Section 10-2. Site Plan Review Required for Certain Uses

1. The purpose of site plans is to assure detailed compliance with applicable provisions of enacted regulations and to prescribe standards for the design and construction of site improvements. Development requiring site plan approval shall be permitted only in accordance with all specifications contained on an approved site plan, and shall not be undertaken until the site plan is approved and all required construction permits have been obtained subsequent to such approval.
2. Applicability. Prior to issuing a construction authorization or building permit for construction, expansion or change in use, a site plan and supporting documentation shall be submitted to Town. All development or land use activities within the Town shall require site plan review before being undertaken, except the following:
  - a. Construction or expansion of a single-family dwelling and ordinary accessory structures, and related land use activities.
  - b. Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this Ordinance.
  - c. Ordinary repair or maintenance or interior alterations to existing structures or uses.

- d. Exterior alterations or additions to existing structures which would not increase the square footage of the existing structure by more than 500 square feet.
  - e. Infill or redevelopment projects unless determined by the Zoning Administrator to be of a scope and/or scale requiring more detailed review.
  - f. All signs except in conjunction with new development.
  - g. A Special Exception Application that has no change to the footprint of the building or buildings, no change to traffic or traffic flow, no change to the parking lot and/or layout and no site changes whatsoever. The only change is to the interior layout of the building or buildings. [ADDED PER ORDINANCE 2010-02-01]
3. Planning Commission review of the site plan shall include, but is not limited to the following considerations:
- a. Adequacy and arrangement of vehicular traffic access and circulation, including emergency vehicle access.
  - b. Location, arrangement, appearance and sufficiency of off-street parking and loading.
  - c. Location, arrangement, size and design of buildings, lighting and signs.
  - d. Relationship of the various uses to one another and their scale.
  - e. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and noise buffer between adjacent uses and adjoining lands.
  - f. Adequacy of storm water and sanitary waste disposal.
  - g. Adequacy of structures, roadways and landscaping in areas susceptible to flooding and ponding or erosion.
  - h. Compatibility of development with natural features of the site and with surrounding land uses.
  - i. Adequacy of floodproofing and flood prevention measures consistent with the flood hazard prevention regulations of the Federal Emergency Management Agency.
  - j. Adequacy of open space for play areas, informal recreation and the retention of natural areas such as wildlife habitats, wetlands and wooded areas.

4. Copies of a preliminary site plan in a number directed by the Zoning Administrator, an application and appropriate filing fee for the above uses shall be submitted to the Zoning Administrator who shall review the plans for compliance with these regulations and the requirements for preliminary site plans, and he shall transmit said plans to the Planning Commission with his staff comments for review at the next regular meeting of the Planning Commission, if the plans are submitted forty-five (45) days prior to said meeting.
5. The Planning Commission shall examine the proposed development with respect to the traffic and circulation patterns, internal and external, relation to major thoroughfares, utilities, drainage, and community facilities, existing or future, the preservation of trees or historic sites, provision for open space, and in general with the objective of insuring a durable, harmonious, and appropriate use of land in accord with the objectives of the Comprehensive Plan. No public hearing shall be required for site plan review under this section and notification of whether the proposed plan is approved, approved subject to conditions, or disapproved shall be provided to the applicant in writing within fifteen (15) days following the meeting. If specified conditions are met in revised plans, the Zoning Administrator may approve minor changes in site plans after approval by the Planning Commission and approve issuance of construction authorization accordingly, if, in the Administrator's opinion, such changes do not substantially alter the original approval or conditions attached thereto.
6. Nothing in this section shall be interpreted to permit the granting of a variance or exception to the regulations of this Ordinance or to abridge the procedures or requirements of the laws and ordinances governing the subdivision of land.
7. Construction of required improvements.
  - a. Upon approval of a site plan, the applicant shall then secure the necessary construction permits from appropriate agencies before commencing work. The applicant may construct only such improvements as have been approved by the Planning Commission or appropriate Town review and agency approvals.
  - b. After construction has been completed, inspection of site improvements shall be made by the departments certifying to the applicable requirements as shown on the site plan.

### Section 10-3. Requirements of Preliminary Site Plans

Site Plan shall be prepared and certified by an engineer, architect, landscape architect, or land surveyor duly registered to practice in the State of Maryland.

The regulations, rules and requirements of Articles 12, 13 and 14 dealing with open space, sensitive areas, buffer requirements, forest conservation and landscaping shall apply to any and all site plans of all property.

Prior to submitting a preliminary site plan the applicant shall submit a concept site plan. The concept plan is less detailed and specific than a major site plan in terms of the exact arrangement of buildings, parking areas, open spaces, access points, and any other site design features. The purpose of the concept site plan is to receive Planning Commission comments on aspects of the development at early stages of project design without requiring an undue amount of final design work on the part of the developer. No construction authorization can be issued based upon the results of the Planning Commission's review of a concept site plan. [AMENDED PER ORDINANCE 2010-02-01]

A Preliminary site plan shall be submitted within one (1) year of the Planning Commission's review of a tentative site plan. A final site plan shall be submitted and approved within one (1) year of an approved preliminary site plan.

The preliminary site plan shall be clearly drawn to a scale as specified below and shall show the following:

1. An area or vicinity map showing such information as the names and numbers of adjoining roads, streams, bodies of water, railroads, subdivisions, election districts, or other landmarks sufficient to clearly identify the location of the property.
2. A boundary survey plat of the entire site at a scale that provides legibility without undue size and which shows the following:
  - a. Existing topography at two (2) or five (5) foot contour intervals;
  - b. Slopes in excess of fifteen (15) percent;
  - c. Existing and proposed regraded surface of the land;
  - d. Location of natural features such as streams, major ravines, drainage patterns and within the area to be disturbed by construction, trees measuring greater than 12" in diameter to be retained;
  - e. Floodplain boundaries (100 year);
  - f. Location and area extent of all soils exhibiting the following characteristics as determined by the Soil Survey:

- (1) Septic Limitations,
  - (2) Wet soils,
  - (3) Hydric Soils and soils with hydric properties, and
  - (4) Highly erodible soils (soils on slope greater than 15 percent, or soils on slope greater than 5 percent with K values greater than 0.35).
3. A detailed drawing showing:
- a. Location, proposed use, and proposed dimensions including height of all buildings (delineate all existing buildings and structures);
  - b. Location of all parking and loading areas, with ingress and egress drives thereto;
  - c. Location of outdoor storage (if any);
  - d. Location and type of recreational facilities (if any);
  - e. Location of all existing or proposed site improvements, including streets, curbs, gutters, storm drains, sidewalks, culverts, retaining walls, fences, stormwater management facilities as well as any sediment and erosion control structures and shore erosion structures;
  - f. Description, method, and location of water supply and sewerage disposal facilities; proposed location and dimensions of utility right-of-way; proposed fire protection measures;
  - g. Location, size, and type of all signs; and
  - h. The location, size, and type of vehicular entrances to the site; proposed pedestrian access;
  - i. In addition to the information required above, the detailed drawing shall show the following information on the Site Plans for development in the Critical Area Overlay District ("CAO"):
    - (1) Location of the Critical Area Overlay District Boundary, the Buffer and other buffer areas, open space areas, forested areas and landscaping (the plan shall show all areas to be maintained as landscaping and the type of plantings to be provided and the means by which such landscaping will be permanently maintained shall be specified;

- (2) Location of all Habitat Protection Areas described in the Critical Area Program;
- (3) Location of all contiguous forested areas adjacent to the site;
- (4) Location of tidal and non-tidal wetlands on the site;
- (5) Location of existing water-dependent facilities on and adjacent to the site, including the number of existing slips and moorings on the site;
- (6) The location and extent of existing and/or proposed erosion abatement approaches;
- (7) A detailed drawing locating shore erosion abatement techniques to be included with the site plan.

4. Computation of:

- a. Total lot or site area;
- b. Building Floor area for each type of proposed use;
- c. Building ground coverage (percentage);
- d. Road area;
- e. Number and area of off-street parking and loading spaces; and
- f. General open space area.
- g. In addition to the computations required above, the following additional computations will be submitted with all site plans for development in the Critical Area Overlay District ("CAO"):
  - (1) Total area in the Critical Area Overlay District ("CAO");
  - (2) Total man-caused impervious surfaces areas and percentage of site;
  - (3) Separate computations of the total acres of existing forest cover in the Buffer and in the Critical Area;
  - 4) Total area of the site that will be temporarily disturbed during development and area that will be permanently disturbed. Disturbed is defined as any activity occurring on an area which may result in the loss of or damage to existing natural vegetation.

5. Commercial or Industrial uses must include:
  - a. Specific uses proposed;
  - b. Maximum number of employees for which buildings are designed;
  - c. Type of energy to be used for any manufacturing processes;
  - d. Type of wastes or by-products to be produced by any manufacturing process;
  - e. Proposed method of disposal of such wastes or by-products;
  - f. Location of outdoor lighting facilities; and
  - g. A copy of proposed deed restrictions, covenants or by-law or other instruments designed to provide for continuing maintenance and control of common areas;
  - h. The architectural design of buildings shall be shown by front elevations, photographs or architectural renderings. Where a variety of designs are proposed each shall be shown.
  - i. Other information as may be specified in the regulations for industrial or commercial uses in the Town of North East Zoning Ordinance or additional information in the opinion of the Planning Commission which is required by the Planning Commission to aid in the review of the project shall be submitted.
6. In addition to the information above, the site plans for development in the Critical Area Overlay District ("CAO") shall be accompanied by the following as appropriate:
  - a. A Forest Conservation Plan in accordance with Article 14;
  - b. A Habitat Protection Plan including the comments of the Maryland Forest, Park and Wildlife Service, which are required if a Habitat Protection Area (not including the Buffer) is on or adjacent to the site;
  - c. A Stormwater Management Plan;
  - d. A Sediment and Erosion Control Plan; and
  - e. An Environmental Assessment Report which provides a coherent statement of how the proposed development addresses the goals and objectives of the Town of North East Chesapeake Bay Critical Area Program. At a minimum the Environmental Assessment shall include:

- (1) A statement of existing conditions, e.g., amount and types of forest cover, amount and type of wetlands, discussion of existing agriculture activities on the site, soil types, topography, etc.
  - (2) Discussion of proposed development project, including number and type of residential units, amount of impervious surfaces, proposed sewer treatment and water supply, acreage devoted to development, proposed open space and habitat protection areas;
  - (3) A discussion of the proposed development's impacts on water quality Habitat Protection Areas; and
  - (4) Documentation of all correspondence and findings.
7. The Zoning Administrator may waive any information requirements listed in this section or accept a modified site plan if it determined that minor site plan contains the information reasonably required in order to make an informed determination as to whether the requirements established by this Ordinance for approval of a minor site plan have been met.
  8. Final site plans and plats shall include, as applicable, sediment and erosion control, grading, forest conservation, and stormwater management approvals by the appropriate approving authority.

#### Section 10-4. Expiration and Extension

1. Approval of site plans shall be for a one (1) year period and shall expire at the end of such period unless building construction has begun.
2. Upon written request by the applicant, within thirty (30) days prior to the expiration of said approval, a one (1) year extension may be given by the Planning Commission.
3. Such request shall be acknowledged and a decision rendered thereon not more than thirty (30) days after filing of said request.
4. Failure to comply with any deadlines set forth above shall result in the expiration of any approval previously granted.

#### Section 10-5. Requirements for Final Site Plan

The following information shall appear on the record site plan, in addition to the information required:

1. Seals
  - a. The impressed seal of the licensed engineer or surveyor responsible for the plat.

- b. The impressed corporation seal, if the applicant is a corporation.
  - c. The impressed seal of a notary public or other qualified officer acknowledging owner's statement of intent.
2. Acknowledgements
- a. A statement to the effect that the applicant is the owner of the property shown on the final site plan and that it is with their consent and that it is desired to record the same.
  - b. Acknowledgement of said statement before an officer authorized to take acknowledgements.
3. The following signatures shall be placed directly on the plat in black india ink:
- a. The signatures of the owner or owners of the land. If the owner of the land is a corporation, the signature of the president and secretary of the corporation shall appear.
  - b. The signature of the notary public or other qualified officer acknowledging the owner's statement of intent.
  - c. The signature of the licensed engineer or surveyor who prepared the site plan.
  - d. The signature of the chairman and secretary of the Planning Commission.
  - e. The signature of the Town Engineer, when applicable.
  - f. The signature of the Mayor and Commissioners, when applicable.
  - g. The signature of the Deputy State Health Officer of Cecil County, when applicable.

Section 10-6. Procedures for Approval of Site Plans for Special Exception Uses

Where the provisions of this Ordinance require the submittal of site plans for a conditional use, the following regulations shall apply:

- 1. Copies of a preliminary site plan in a number directed by the Zoning Administrator, an application and appropriate filing fee shall be filed with the Board of Appeals. The preliminary site plan shall comply with the requirements of this article and shall be accompanied by such other written or graphic material as may be necessary or desirable in aiding the decisions of the Board of Appeals. In addition, the site plan shall

- comply with any other requirements set forth in specific sections dealing with specific uses as well as Section 10-3.
2. The Planning Commission shall review the site plan for compliance with the requirements of this Ordinance. The Planning Commission may make reasonable additional requirements including, but not limited to, those which may be imposed by the Board of Appeals or Article 10, Section 3, especially requirements as to utilities, drainage, landscaping and maintenance thereof, lighting, signs, and advertising devices, screening, access ways, curb cuts, traffic control, height of buildings and setback of buildings, necessary to protect adjoining uses. The site plan shall be amended in accordance with the requirements of the Planning Commission before being submitted to the Board of Appeals for its consideration. The Planning Commission shall forward to the Board of Appeals the application for approval of site plan, supporting documents and the site plan, along with the Planning Commission's recommendation.
  3. Following approval by the Board of Appeals, a final site plan in the form of a final plat shall be prepared, filed and recorded. This final site plan shall comply with the specifications of the Board of Appeals, the requirements of this Article, and applicable laws, regulations, and ordinances governing the subdivision of land. Permits shall be issued in accordance with the approved, filed, and recorded site plan.
  4. An irrevocable letter of credit or any other surety acceptable to and approved by the Town shall be filed for or deposited in escrow with the Town, in an amount sufficient to insure completion of such requirements as may be imposed by the Board of Appeals and/or Planning Commission.
  5. Special exception applications for signs do not require a site plan. A sketch or drawing which depicts the dimensions, design and location of the sign is required.
  6. Special exception applications for change in use that do not require a site plan in accordance with Section 10-2 shall require a sketch or drawing which depicts at a minimum the following information: dimensions of the property labeled, dimensions of the existing building labeled and dimensions of the proposed changes labeled. The sketch or drawing shall be submitted at a scale of  $\frac{1}{4}$  in. = 1 ft. or to a scale approved by the Director of Planning. The Director of Planning may request additional information if they believe it is required to support the application. [ADDED PER ORDINANCE 2010-02-01]

#### Section 10-7. Amendments and Additions to Site Plans

The procedure for amendment of the boundaries, or for a change in the extent of land use for an approved site plan, shall be the same as for a new application, except that minor amendments of an approved site plan or of the

conditions attached to a conditional use or site plan may be approved by the Planning Commission at a regular meeting, after written reports by the Zoning Administrator and without a public hearing, provided that such change or amendment:

1. Does not conflict with the specific requirements of this Ordinance;
2. Does not change the general character or content of an approved development plan or use;
3. Applies to an approved condition originating with the Planning Commission and not the Mayor and Commissioners;
4. Has no appreciable effect on adjoining or surrounding property;
5. Does not result in any substantial change of major external access points;
6. Does not increase the approved number of dwelling units or height of buildings; and
7. Does not decrease the minimum specified yards and open spaces or the minimum specified parking and loading spaces.

Section 10-8. Duties of Zoning Administrator, Board of Appeals, Town Commissioners and Courts on Matters of Appeal

It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator and/or his designee and that such questions shall be presented to the Board of Appeals only on appeal from the decision of the Zoning Administrator and/or his designee, and that recourse from the decisions of the Board of Appeals shall be to the courts as provided by law and particularly by Article 66B, Section 4.08, Annotated Code of Maryland; and considering rezonings.

It is further the intent of this Ordinance that the duties of the Town Commissioners in connection with this Ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure of deciding such questions shall be as stated in this section and this Ordinance. Under this Ordinance the Town Commissioners shall have only the duties of (1) considering and adopting or rejecting proposed amendments or the repeal of this Ordinance, as provided by law, and (2) of establishing a schedule of fees and charges as stated in Section 10-9.

Section 10-9. Schedule of Fees, Charges and Expenses

1. The Town Commissioners shall establish a schedule of fees, charges, and expenses, and a collection procedure, for construction authorizations, appeals and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the offices of the Zoning Administrator.

2. No authorization, special exception, 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 unless or until preliminary charges and fees have been paid in full.
3. When an owner or applicant makes application to the Town for review of plans or plats (herein referred to as "Plans") including but not limited to site plans, construction plans, utility plans, landscaping and buffer plans, lighting plans, infill/redevelopment plans and/or subdivision plans, a Development Expense Agreement shall be executed between the Mayor and Commissioners and owner of the property or properties included in such plans. The Development Expense Agreement shall require that an escrow fee be collected by the Town in sufficient amount to offset administrative costs associated with the review/approval process associated with said plans, including but not limited to engineering review fees, legal fees, development plan reviews, review of issues related to plans, etc.

#### Section 10-10. Interpretation, Purpose and Conflict

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by this Ordinance to interfere with, or abrogate or annul any easements, covenants, or other agreement between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon height of buildings, or required larger open spaces than are imposed or required by other resolutions, ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Ordinance shall govern. If, because of error or omission in the Zoning District Map, any property in the jurisdiction of this Ordinance is not shown as being in a zoning district, the classification of such property shall be classified "R-1" Single-Family Residential, until changed by amendment.

#### Section 10-11. Enforcement, Violation and Penalties

It shall be the duty of the Zoning Administrator to enforce the provisions of this Ordinance and to refuse to issue any permit for any building, or for the use of any premises which would violate any of the provisions of said Ordinance.

In case any building is erected, constructed, reconstructed, altered, repaired, or converted to any building or land use in violation of this Ordinance, the Zoning Administrator is authorized and directed to institute any appropriate action to put an end to such violation.

It shall be the duty of all officers and employees of the Town to assist the enforcing officer by reporting any seeming violation in new construction, reconstruction, or land uses.

1. Complaints Regarding Violations

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

2. Penalties for Violations

Violation of the provisions of this Ordinance or failure to comply with any of its requirements shall constitute a municipal infraction. Any person or corporation who violates this Ordinance or fails to comply with any of the requirements shall upon conviction thereof be fined not more than \$400.00 and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. (AMENDED PER ORDINANCE 2008-12-01)

The owner or tenant of any building, structure, premises, or part thereof, and any architect, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

Nothing herein contained shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 10-12. Vested Rights

A property owner's right to develop is vested as of June 28, 2006 if the Town has granted final approval of a site plan, subdivision plat or issued a construction authorization by the Town.

Section 10-13. Amendments

1. The regulations, restrictions and boundaries set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed by the Mayor and Commissioners provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard.
2. Zoning amendments include zoning text amendments, zoning map amendments and comprehensive rezoning. Zoning text amendments are revisions to the zoning regulations as set forth in the Ordinance. Zoning map amendments are individual requests for revisions to the official zoning map or maps and may include revision of district boundaries and/or revision of zoning district classification of one or more properties. Comprehensive rezoning is a Town initiated rezoning occurring

immediately after adoption of a new or revised comprehensive plan and may involve a more or less complete reconsideration of the zoning text and/or zoning maps as they relate to the goals, objective, policies and recommendations of the comprehensive plan.

3. Initiation of Amendments

- a. Petitions for zoning map amendments may be initiated by anyone owning interest in the property or properties for which the zoning map amendment is being requested. Petitions for zoning map amendments shall be submitted to the Zoning Administrator in such form and accompanied by such information as may be required by the Mayor and Commissioners.
- b. Petitions for zoning text amendments may be initiated by any person and shall be submitted to the Zoning Administrator in such form and accompanied by such information as may be required by the Mayor and Commissioners.
- c. The Planning Commission may originate proposed zoning text and/or zoning map amendments.
- d. Comprehensive rezoning may only be initiated by the Mayor and Commissioners.

4. Notice of Hearing

No such action by the Mayor and Commissioners may be taken on a zoning amendment until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of the public hearing, together with a summary of the proposed regulations, restrictions, or boundary shall be published in at least 1 newspaper of general circulation in the Town once each week for 2 consecutive weeks, with first such publication of notice appearing at least 14 days prior to the hearing.

5. Withdrawal, Continuation, or Postponement

- a. Any zoning amendment petition may be withdrawn. All withdrawals shall be in writing, signed by the petitioner and may be submitted only by the petitioner or his/her authorized representative. No petition may be withdrawn after the commencement of a public hearing to consider the petition. Withdrawals shall be submitted to the Zoning Administrator prior to the hearing on the petition. Application fees will not be refunded in the case of a withdrawal.
- b. Hearings on zoning amendment petitions which have not been concluded will be continued to a day, time, and location determined by the Planning Commission or Mayor and

Commissioners as may be the case immediately before the initial hearing is suspended. It shall not be necessary to re-advertise a continued hearing or re-post the property. No written notification to the petitioner(s), zoning counsel or protestant(s) is necessary.

- c. Any zoning amendment petition may be postponed. All requests for postponement shall be in writing, signed by the petitioner and may be submitted only by the petitioner or his/her authorized representative. No petition may be postponed after the commencement of a public hearing to consider the petition. Request for postponement shall be submitted to the Zoning Administrator prior to any hearing on the petition. If postponement occurs after notice of public hearing has been posted, the applicant shall be responsible for the additional cost of re-advertising any public hearings. Postponements may be for no more than sixty (60) days, at which time the application shall be considered withdrawn.

#### 6. Reconsideration After Denial

Whenever a petition requesting an amendment, supplement, or change has been denied by the Mayor and Commissioners, such petition, or one substantially similar, shall not be reconsidered sooner than one year after the previous denial unless initiated by the Planning Commission.

#### 7. Referral to the Planning Commission

- a. Before taking any action on any proposed amendment, supplement or change, the Mayor and Commissioners shall submit the same to the Planning Commission for its recommendations and report. Failure of the Commission to report within sixty (60) days after the first meeting of the Planning Commission subsequent to the proposal referred to the Planning Commission shall be deemed an approval thereof.
- b. The Planning Commission may hold a public hearing on any proposal, amendment, supplement or change before submitting its report to the Mayor and Commissioners.
- c. If a public hearing is held by the Planning Commission, the notice of the hearing shall be as specified in Section 4 above. The Planning Commission public hearing shall be conducted as follows:
  - (1) The applicant shall be given ample time to present his/her petition to the Planning Commission. In so doing the applicant may call on expert witnesses to support his request.

- (2) The Zoning Administrator may present a staff report representing a review of the application by the Town staff. The staff report shall include, without limitation, the following matters: population change, availability of public facilities, present and future transportation patterns, compatibility with existing and proposed development for the area, the relationship of such proposed amendment to the North East Comprehensive Plan, and a recommendation for approval or denial of the proposed amendment.
- (3) The Planning Commission shall ask such questions of either the applicant, any witnesses, or the staff as may be necessary in deciding its approval or denial of the application.
- (4) The public shall be given an opportunity to testify or ask questions of the applicant, his witnesses, or the planning staff. The Planning Commission may in turn question those testifying and may place a reasonable time limit for such testimony.
- (5) Where the purpose and effect of the proposed amendment is to change the zoning classification or zoning district boundary of a property, the Planning Commission shall make findings of fact in each specific case including, but not limited to, the following matters:
  - (a) Population change.
  - (b) Availability of public facilities.
  - (c) Present and future transportation patterns.
  - (d) Compatibility with existing and proposed development for the area.
  - (e) The relationship of such proposed amendment to the North East Comprehensive Plan.
- (6) The Planning Commission may recommend in favor of a requested reclassification based on a finding that there has been a substantial change in the character of the neighborhood where the property is located or that there was a mistake in the existing zoning classification.

## 8. Mayor and Commissioners Action on Amendments

- a. Before approving or disapproving any application for zoning amendment, the Mayor and Commissioners shall hold at least one (1) public hearing as specified in Section 4 above. The Mayor and

Commissioners shall hold a public hearing, as set forth in Section 4, within sixty (60) days after receipt of the Planning Commission's recommendation.

- b. Prior to holding the public hearing, the property in question shall be posted.
  - c. In reaching a decision on zoning amendments, the Mayor and Commissioners shall make findings of fact in each specific case. Where the purpose and effect of the proposed amendment is to change the zoning classification, the Mayor and Commissioners shall make findings of fact in each specific case including, but not limited to, the following matters:
    - (1) Population change.
    - (2) Availability of public facilities.
    - (3) Present and future transportation patterns.
    - (4) Compatibility with existing and proposed development for the area.
    - (5) The relationship of such proposed amendment to the North East Comprehensive Plan.
  - d. The Mayor and Commissioners may grant the requested zoning map amendment upon a finding that there was a substantial change in the character of the neighborhood where the property is located or that there was a mistake in the existing zoning classification.
9. Mayor and Commissioners Approval of MPC Floating Zone and MPC Plan.
- a. The Mayor and Commissioners may approve or disapprove the proposed MPC floating zone map amendment and associated MPC Plan as provided in Section 5-16.
  - b. The provisions of the section regarding the procedures and requirements of public hearings shall also apply to requests for floating zone designation except that it shall not be necessary to prove change in the character of the neighborhood or mistake in the original zoning of the property in order to gain approval.

Section 10-14. Amending the Critical Area Overlay District ("CAO")

Procedures and criteria for amending the "CAO" Critical Area Overlay District shall be a provided in Section 5-12.

#### Section 10-15. Newly Annexed Territory

All territory hereafter annexed to the Town of North East shall be given the zoning classification which most closely approximates the zoning classification which it enjoys under the Cecil County Zoning Ordinance prior to its annexation, except for any such newly annexed property which is given a different classification at the time of annexation by the annexation resolution and the proper procedures set forth under the laws of the State of Maryland.

All new area annexed to the Town which are located in the Chesapeake Bay Critical Area and which have been approved for Growth Allocation under the provisions of the Cecil County Growth Allocation Point Design System shall be required to develop in accordance with development plans approved by the County and used as the basis for awarding the growth allocation.

#### Section 10-16. Separability Clause

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

#### Section 10-17. Repeal of Conflicting Ordinances: Effective Date

All ordinances or parts of ordinances in conflict with this zoning ordinance, or inconsistent with the provisions of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect. Adopted June 28, 2006, and made effective July 8, 2006.

#### Section 10-18. Amendments for Floating Zone Districts

1. The provisions of this Article regarding the procedures and requirements of public hearings and findings of fact to be made regarding applications for zoning map amendments shall also apply to requests for floating zone district designation except that it shall not be necessary to prove change in the character of the neighborhood or mistake in the original zoning of the property in order to gain approval. For floating zone districts the test for approval or denial shall be any finding requirements for the specific floating zone district, compatibility with the neighborhood and consistency with the Comprehensive Plan.
2. Procedures to maintain a floating zone district once granted. Within three years of the granting of a floating zone district, 75 percent of the public improvements devoted to such use or uses as may be permitted in the zoning district shall be completed; otherwise, the zoning shall revert automatically to its prior district classification. The property owners have the ability to petition the Mayor and Commissioners for an extension.

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