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**THE  
ST. MARY'S COUNTY  
SUBDIVISION ORDINANCE**



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**EFFECTIVE**

**MAY 13, 2002**

**(Amended December 2, 2002)**

**(Amended March 24, 2003)**

**(Amended May 25, 2004)**

**(Amended August 11, 2006)**

**(Amended September 4, 2008)**

**(Amended July 28, 2009)**

**BOARD OF COUNTY COMMISSIONERS  
MISSION STATEMENT**

**St. Mary's County Government will:**

- **be responsive and accountable to the county's citizens;**
- **provide high quality, cost effective and efficient services;**
- **preserve the county's environment, heritage and rural character; and**
- **foster opportunities for present and future generations.**

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**AUTHORITY**

Pursuant to the authority and provisions of Title 5, Article 66B, Section 5.01, et. seq. of the Maryland Annotated Code, the following regulations governing the subdivision of land within the unincorporated areas of St. Mary's County, Maryland, are hereby established.

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1 **ARTICLE 1. GENERAL PROVISIONS**

2 **CHAPTER 10 TITLE, PURPOSE AND ORGANIZATION**

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3 Sections:

- 4 10.1 Title.
- 5 10.2 Authority.
- 6 10.3 Purpose.
- 7 10.4 Organization of the Subdivision Ordinance.
- 8 10.5 Applicability.
- 9 10.6 Minimum Standards.
- 10 10.7 Approval of Subdivision Plat.

11 **10.1. Title.**

12 This document shall be known as the “St. Mary’s County Subdivision Ordinance” and may also be referred  
13 to as “the Subdivision Ordinance”, or “this Ordinance”.

14 **10.2. Authority.**

15 Pursuant to the authority and provisions of Title 5, Article 66B of the Maryland Annotated Code, the  
16 following regulations governing the subdivision of land within the unincorporated areas of St. Mary’s  
17 County, Maryland are hereby established.

18 **10.3. Purpose.**

19 This Subdivision Ordinance is intended:

- 20 1. To guide, regulate and control the division, portioning and conveyance of land within the  
21 unincorporated area of St. Mary’s County in a manner consistent with the St. Mary’s County  
22 Comprehensive Plan, Comprehensive Zoning Ordinance and Article 66B of the Maryland  
23 Annotated Code.
- 24 2. Land shall be suitable for the purpose for which it is subdivided and adequate and effective public  
25 facilities shall be available, as determined by the Planning Commission. In addition, the public  
26 improvements shall conform to and be compatible with all other County laws, regulations, plans,  
27 programs and standards.
- 28 3. To protect and provide for the public health, safety, and general welfare and to prevent  
29 overcrowding of land and undue congestion of population.
- 30 4. To encourage the orderly and beneficial development of all parts of the County.
- 31 5. To protect and conserve the value of land throughout the County and the value of buildings and  
32 improvements upon the land, by minimizing conflicts among the uses of land and buildings.
- 33 6. To guide public and private policy and action in order to provide adequate, effective and efficient  
34 public facilities and services.
- 35 7. To provide the most beneficial relationship between the uses of land and buildings and the  
36 circulation of traffic throughout the County, having particular regard to the avoidance of  
37 congestion in the streets and highways, and the pedestrian traffic movements appropriate to the  
38 various uses of land and buildings, and to provide for proper location and width of streets and  
39 building lines.
- 40 8. To establish reasonable standards of design and procedures for subdivisions and resubdivisions, in  
41 order to further the orderly layout and use of land; and to insure proper legal descriptions and  
42 recording of subdivided land.
- 43 9. To prevent the pollution of air, surface waters; to assure the adequacy of drainage facilities; to  
44 safeguard the water table; and to encourage the wise use and management of natural resources  
45 throughout the County in order to preserve the integrity, stability, and beauty of the County and the  
46 value of the land.

1 10. To preserve for open space through the most efficient and effective design and layout of the land,  
2 including the use of average density in providing for minimum width and area of lots, while  
3 preserving the density of land as established by the County Comprehensive Zoning Ordinance.

4 **10.4. Organization of the Subdivision Ordinance.**

5 This Ordinance consists of four (4) articles. Without superseding the specific regulations set forth in each  
6 article, the general structure and content of the articles are as follows:

7 1. **Article 1: General Provisions.** The overall organization and applicability of the regulations are  
8 included in this article. General rules are provided for interpretation, conflicts with other laws and  
9 regulations, relation to deed restrictions and prior regulations, construction of language, and  
10 severability.

11 2. **Article 2: Administration.** This article outlines detailed procedures for the administration of this  
12 Ordinance, including responsibilities of decision-making bodies, common procedures that apply to  
13 all development applications, notice and public hearing procedures, and requirements for (a)  
14 administrative decisions; (b) appeals of administrative decisions; (c) vested rights and authority to  
15 continue nonconforming projects; and (d) amendments to the Ordinance.

16 3. **Article 3: Subdivision Standards and Approvals.** This article establishes Base Districts (rural,  
17 residential, commercial and mixed use, industrial and office, and commercial marine) and Special  
18 Districts (overlay districts and floating zones) and states their purposes, establishes specific  
19 Zoning Districts and their specific purposes, and establishes basic development standards for the  
20 Zoning Districts.

21 4. **Article 4: Enforcement.** This article provides for the prosecution of violations of this Ordinance.

22 **10.5. Applicability.**

23 The provisions of this Ordinance shall apply to the partitioning and use of all land within the  
24 unincorporated areas of St. Mary's County unless expressly and specifically exempted or provided  
25 otherwise in this Ordinance. No subdivision may be undertaken without prior authorization, or exemption  
26 from regulation, by this Ordinance. All regulated development shall comply with the standards, criteria, and  
27 procedures of this Ordinance and any other applicable statute, law or regulation.

28 **10.6. Minimum Standards.**

29 Unless otherwise provided herein, the provisions of this Ordinance are minimum standards necessary to  
30 accomplish the purposes of this Ordinance, and nothing herein is intended, nor shall it be construed to,  
31 prevent any development or land use in St. Mary's County from exceeding the minimums.

32 **10.7. Approval of Subdivision Plat.**

12/2/ 33 Until a plat of the subdivision is approved in accordance with these regulations or is deemed otherwise  
02 34 legally of record, no land within the unincorporated area of St. Mary's County shall be subdivided nor shall  
35 any lot be sold or transferred, building erected, or subdivision plat recorded.

1 **CHAPTER 11 RULES**

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2 Sections:

- 3 11.1 Purpose.
- 4 11.2 General Rules.
- 5 11.3 Rules for Construction of Language.
- 6 11.4 Severability.

7 **11.1. Purpose.**

8 The purpose of this chapter is to establish general rules for the application of this Subdivision Ordinance.  
9 The meaning and construction of words and phrases defined in this chapter apply throughout this  
10 Ordinance. Definitions of general terms are presented in Article 5. Definitions.

11 **11.2. General Rules.**

- 12 1. **Zoning Permit Required.** No preliminary subdivision plat shall be approved by the Planning  
13 Commission until a valid zoning permit is obtained by the applicant from the Planning Director.
- 14 2. **Compliance Required.** No person, firm or entity may use, occupy, or develop land or structures, or  
15 any part thereof, or authorize or permit the use, occupancy, or development of land or structures  
16 under the control of such person, except in accord with all applicable provisions of this Ordinance.
- 17 3. **Lot of Record.** Every building hereafter erected, reconstructed, converted, moved, or structurally  
18 altered shall be located on a lot of record. There may be more than one principal building or use on  
19 a lot of record provided, however, that each such principal use shall be assessed density of  
20 residential use or intensity (F.A.R.) of non-residential use as if on a subdivided lot.
- 21 4. **Conflict with Other Laws and Regulations.** Where a conflict occurs between this Ordinance and a  
22 state statute or another county ordinance or regulation, the more restrictive provision shall control.
- 23 5. **Relation to Deed Restrictions and Other Private Agreements.** This Ordinance does not abrogate  
24 or annul a private easement, covenant, agreement, deed restriction, recorded plat or other  
25 restrictive covenant. If, however, this Ordinance imposes a greater restriction than that imposed by  
26 such easement, covenant, agreement, recorded plat, deed restriction, or other restrictive covenant,  
27 this Ordinance shall control. In no circumstances, however, shall the County have any obligation  
28 to enforce a restrictive covenant, easement, or equitable servitude, not required as a condition of  
29 approval for any development activity or land use.
- 30 6. **Relation to Prior Regulations.** This Ordinance does not validate or legalize a division of land  
31 established, developed or maintained in violation of a prior ordinance, county resolutions or  
32 ordinances, easements, covenants, agreements, plots, deed restrictions or other restrictive  
33 covenants running in favor of the County in effect prior to the effective date of this Ordinance.

34 **11.3. Rules for Construction of Language.**

35 The following rules shall apply to the construction of language in this Ordinance:

- 36 1. The specific controls the general.
- 37 2. Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as  
38 follows:
  - 39 a. "And" indicates that all connected words or provisions apply;
  - 40 b. "Or" indicates that the connected words or provisions may apply singly or in any  
41 combination; and
  - 42 c. "Either or" indicates that the connected words or provisions apply singly but not in  
43 combination.
- 44 3. In case of conflict between the text and a diagram, the text controls.

- 1 4. References to departments, commissions, boards, and other offices or instrumentalities are to those  
2 of St. Mary's County, unless otherwise indicated.
- 3 5. A reference to days is to calendar days unless otherwise indicated in this Ordinance or specified by  
4 state law. If a deadline falls on a weekend or County holiday, the time for performing an act is  
5 extended to the next working day. A working day is any day that is not a Saturday, Sunday or  
6 official County holiday.
- 7 6. In computing a period of days, the day of the act or event from which the designated period of  
8 days begins to run is excluded, and the last day of the period is included, unless the last day is not  
9 a working day. If the last day is not a working day, the period runs until the end of the next day  
10 which is a working day. In computing a period of less than seven days, Saturdays, Sundays and  
11 County holidays are excluded.
- 12 7. Use of "shall," "will" or "must" is mandatory; "should" is directive, but not binding, and "may" is  
13 permissive.
- 14 8. Use of "including," "includes," "such as," "additional," or "supplemental" is illustrative and not  
15 intended as an exhaustive listing, unless the context clearly indicates the contrary.
- 16 9. Section and subsection headings contained in this Ordinance are for convenience only and do not  
17 govern, limit, modify or in any manner affect the scope, meaning or intent of any provision of this  
18 Ordinance.
- 19 10. Words used in the present tense include the future, words masculine in gender shall include the  
20 feminine gender and words used in the singular include the plural, and the plural, the singular,  
21 unless the context clearly indicates to the contrary.

22 **11.4. Severability.**

23 If any provision, section, subsection, sentence, paragraph, clause or phrase or portion of this Ordinance is  
24 adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance  
25 shall not be affected. If any application of this Ordinance to a particular structure, land or water is adjudged  
26 unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to  
27 any said structure, land or water not specifically included in said judgment.

1 **ARTICLE 2. ADMINISTRATION**

2 **CHAPTER 20 AUTHORITY OF REVIEWING/DECISION MAKING BODIES AND OFFICIALS**

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3 Sections:

- 4 20.1 Board of County Commissioners.
- 5 20.2 Planning Commission.
- 6 20.3 Board of Appeals.
- 7 20.4 Director of Department of Planning and Zoning.
- 8 20.5 Technical Evaluation Committee (TEC).

9 **20.1. Board of County Commissioners.**

10 1. ***Powers and Duties.*** In addition to any authority granted by general or special law, the Board of  
11 County Commissioners shall have the following powers and duties under the provisions of this  
12 Ordinance:

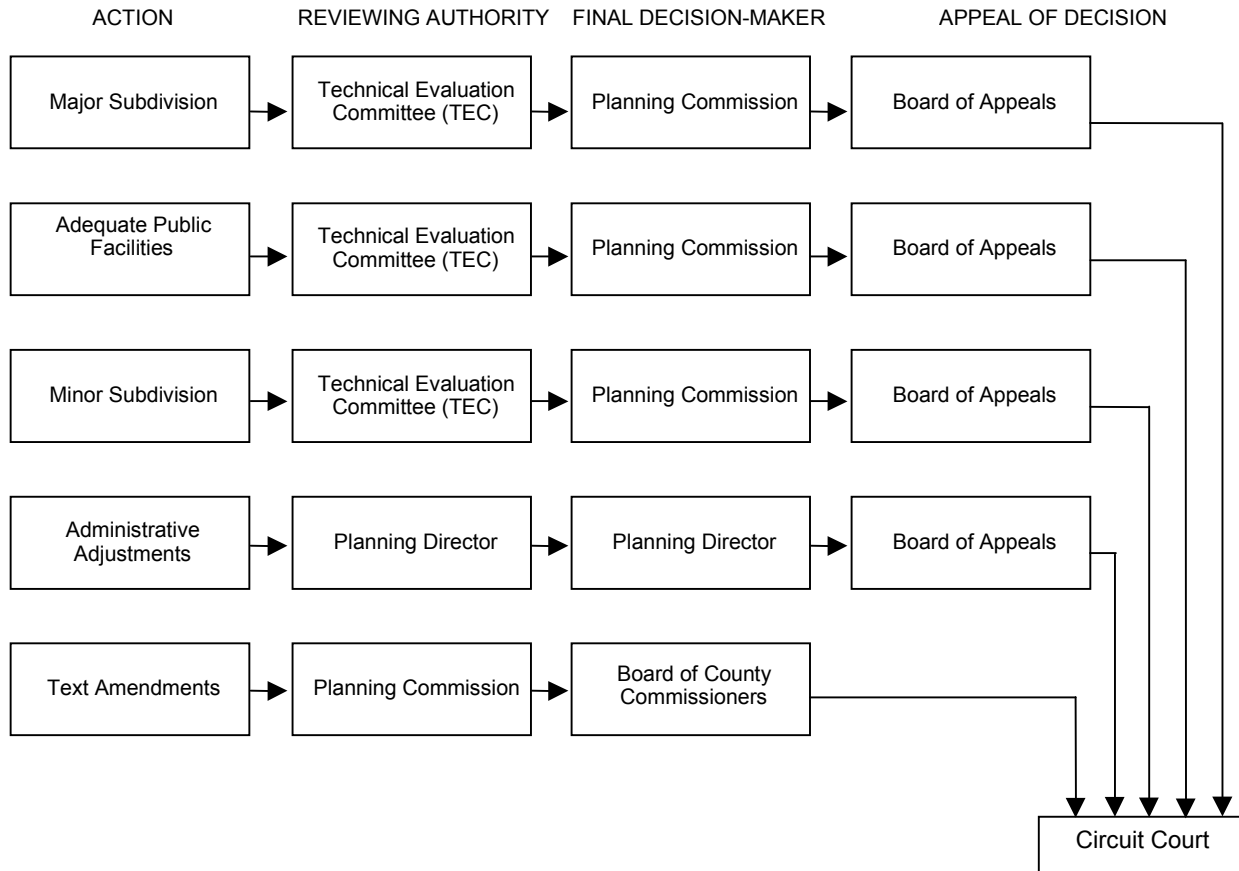
13 a. To initiate, review, hear, consider and approve or disapprove the adoption of an  
14 Ordinance to amend the text of this Ordinance pursuant to Chapter 25 of this Ordinance.

15 2. ***Decision-Making Responsibilities.*** See Figure 20.1 for a summary of the Board's decision-making  
16 responsibilities as they relate to Planning Commission, the Board of Appeals and the Planning  
17 Director.

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Figure 20.1

Decision Making Responsibilities Under this Ordinance



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**20.2. Planning Commission.**

1. **Establishment.** The St. Mary's County Planning Commission, (the "Commission"), is established pursuant to Section 3.01 of Article 66B of the Maryland Annotated Code.
2. **Commission Membership.** The Commission consists of seven members appointed by the County Commissioners.
3. **Powers and Duties.** Without limiting the authority otherwise denied, the Commission shall have the following powers and duties under this Ordinance:
  - a. To review, hear, consider, and make recommendations to the County Commissioners to approve or disapprove the adoption of an ordinance to amend the text of this Ordinance.
  - b. To report annually to the Board of County Commissioners on development and planning activities and Comprehensive Plan implementation.
4. **Meetings and Rules.** The Commission shall meet at least once a month. One such meeting shall be a regular meeting that shall be selected and published annually prior to the first regular meeting scheduled in January. Additional meetings may be scheduled at the call of the Chairman at such times as the Commission may determine. In accordance with Maryland Annotated Code, Article 24, Section 4-201, et seq., all meetings shall be open to the public. Any person may appear and testify at a public hearing either in person or be represented by duly authorized agent or attorney. The Commission may request testimony at its hearings for purposes of securing technical and/or factual evidence from experts or any County agency or office. The Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent abstains, shall indicate such fact.

**20.3. Board of Appeals.**

1. **Establishment.** The Board of Appeals for St. Mary's County is established and designated the "Board of Appeals" pursuant to Section 4.07 of Article 66B of the Maryland Annotated Code.
2. **Board Membership.** The Board consists of five members appointed by the County Commissioners.
3. **Powers and Duties.** Without limiting the authority otherwise denied, the Board of Appeals shall have the following powers and duties under this Ordinance:
  - a. To hear and decide appeals when it is alleged by an aggrieved person that there is an error in any order, requirement, decision, or determination made in regard to the administration of this Ordinance or of any amendments adopted pursuant thereto.
  - b. To authorize, upon appeal in specific cases, a variance from the terms of this Ordinance as will not be contrary to the public interest, and when, owing to special conditions, the enforcement of the provisions of this Ordinance will result in practical difficulty or unwarranted hardship. Only those variances shall be allowed that accomplish the purpose and intent of the regulations of this Ordinance and are consistent with the Comprehensive Plan.
  - c. To adopt and promulgate such rules and regulations as it shall deem necessary in the conduct of its hearings.
4. **Meetings and Rules.** All meetings of the Board of Appeals shall be held at the call of the chairman, and at such other times as the Board may determine. In accordance with Maryland Annotated Code, Article 24, Section 4-201, et seq. all hearings conducted by the Board shall be open to the public. Any person may appear and testify at a hearing either in person or be represented by a duly authorized agent or attorney. The chairman, or in his absence the acting chairman, may administer oaths and compel attendance of witnesses. The Board may request testimony at its hearings for purposes of securing technical and/or factual evidence from experts or any County agency or office. The Board may require a report and recommendation from the

1 Planning Commission on variances and the Planning Commission shall file said report within 30  
2 days of the request by the Board. The Board shall keep minutes of its proceedings, showing the  
3 vote of each member upon each question and indicating if a member is absent or abstains.

- 4 5. **Decision of Board of Appeals.** The Board of Appeals shall have all the powers of the  
5 administrative officer from whom the appeal is taken. In exercising its powers, the Board of  
6 Appeals may, in conformity with the provisions of this Ordinance:

- 7 a. Wholly or partly reverse the order, requirement, decision, or determination from which  
8 the appeal is taken;
- 9 b. Wholly or partly affirm the order, requirement, decision, or determination from which the  
10 appeal is taken;
- 11 c. Modify the order, requirement, decision, or determination from which the appeal is taken;  
12 or
- 13 d. Issue a new order, requirement, decision, or determination. The Board of Appeals shall  
14 have all the powers of the administrative officer from whom the appeal is taken.

- 15 6. **Finality of Decisions of the Board of Appeals.** All decisions and findings of the Board of Appeals  
16 on appeals or on applications for a variance shall be final administrative decisions and shall be  
17 subject to judicial review as prescribed in Section 4.08 of Article 66B of the Maryland Annotated  
18 Code. All decisions of the Board of Appeals shall become final upon the adoption of a written  
19 order, which shall be rendered in writing within 60 days of the close of the public hearing.

20 **20.4. Director of Department of Planning and Zoning.**

21 This Ordinance shall be administered and enforced by the Director of the St. Mary's County Department of  
22 Planning and Zoning, (the "Planning Director"), who shall be appointed by the County Commissioners.

- 23 1. **Powers and Duties.** The Planning Director shall have the following powers and duties:

- 24 a. To administer and enforce the provisions of this Ordinance.
- 25 b. To approve or disapprove applications for a variance from dimensional requirements  
26 pursuant to 22.4, Administrative Variances..
- 27 c. To determine, with input from other agencies, the adequacy of public facilities (APF)  
28 affected by applications for minor subdivision approval.
- 29 d. To provide expertise and technical assistance to the Board of County Commissioners,  
30 Planning Commission, Board of Appeals, or Historic Preservation Commission, upon  
31 request.
- 32 e. To establish application requirements and schedules for review of applications and  
33 appeals, to formulate and promulgate rules and procedures, and to take any other actions  
34 necessary to implement and enforce the provisions of this Ordinance.
- 35 f. To ensure that the Department of Planning and Zoning (DPZ) will conduct and manage  
36 various planning studies, accept and process applications, collect and file applicant data,  
37 and maintain files. Coordinate input from other agencies, assure that cooperating  
38 agencies have conducted their normal reviews and provide recommendations to the  
39 Planning Commission and the Board of County Commissioners on various planning  
40 issues and development applications.

- 41 2. **Specific Enforcement Responsibilities.** The Planning Director shall have all necessary authority  
42 on behalf of the Board of County Commissioners to enforce the provisions of this Ordinance,  
43 including remedying any condition found to be in violation of this Ordinance, by bringing  
44 appropriate legal action or proceedings to gain compliance with the Ordinance. The Planning  
45 Director shall be guided in all actions pursuant to this Ordinance by the purposes, intent, and  
46 standards set forth in the respective articles of the Ordinance.

- 1 a. *Enforcement of Planning Commission and Board of Appeals decisions.* It shall be the  
2 duty of the Planning Director to assure compliance with the decisions of the Planning  
3 Commission and the Board of Appeals.
- 4 b. *Enforcement of Minimum Requirements.* In enforcing the minimum requirements and  
5 standards of this Ordinance and assuring compliance with decisions of the Board of  
6 Appeals, Planning Commission or Board of County Commissioners and conditions  
7 imposed by these bodies on planned developments, the Planning Director shall have the  
8 authority to:
- 9 (1) Investigate inquiries and complaints relating to building and land use activities  
10 and to take action when appropriate; and
- 11 (2) Issue civil citations and penalties, as may be prescribed by resolution of the  
12 Board of County Commissioners, against any person, firm, or corporation that  
13 shall violate this Ordinance; and
- 14 (3) Post stop work orders on any lot, parcel, site, structure, or property that is in  
15 violation of any section of this Ordinance. The Planning Director may require  
16 that all work and activity shall immediately cease on the designated premises,  
17 and may remove and suspend the zoning permit issued for the project until the  
18 violation is rectified. A fine may be levied against any person, firm, or  
19 corporation that shall violate the stop work order.
- 20 3. ***Records of the Planning Director.*** The Planning Director shall keep records of all subdivision  
21 plats and variances or appeals and decisions of the Planning Commission and Board of Appeals.
- 22 **20.5. Technical Evaluation Committee (TEC).**
- 23 The Technical Evaluation Committee (TEC) is established and consists of a designated representative from  
24 the St. Mary's County Department of Planning and Zoning, the State Highway Administration, the St.  
25 Mary's Soil Conservation Service, St. Mary's Health Department, the St. Mary's Metropolitan Commission  
26 and the St. Mary's County Department of Public Works and Transportation, and from other state and  
27 County departments and agencies as designated by the Board of County Commissioners. A citizen  
28 appointed by the Board of County Commissioners serves on the TEC as well. For purposes of reviewing  
29 development in the Critical Area, the TEC shall also include the County's environmental planner. The  
30 Planning Director shall serve as the chair of the TEC. The TEC shall be responsible for advising the  
31 Planning Director in the review of subdivision applications and any other application for a proposed  
32 activity requiring approval pursuant to this Ordinance.



1 **CHAPTER 21 GENERAL APPLICATION AND PUBLIC HEARING PROCESS**

2 Sections:

- 3  
4 21.1 General Application Procedures.  
5 21.2 Actions Requiring Public Hearings.  
6 21.3 Public Hearing Notice Requirements.  
7 21.4 Public Hearing Procedures.

8 **21.1. General Application Procedures.**

9 All applications that the provisions of this Ordinance require to be reviewed by the Technical Evaluation  
10 Committee shall be processed in accordance with the following procedures:

- 11 1. **Determination of Completeness of Application.** Applications for development approvals shall be  
12 submitted on the appropriate form designated by the Planning Director. After receipt of an  
13 application, the Planning Director shall determine whether the application is complete. The time  
14 period allowed for review of an application shall not begin until the application is determined to be  
15 complete. If the application is not complete, the Planning Director shall notify the applicant in  
16 writing within three days, specifying the deficiencies of the application and the additional  
17 information that must be supplied and advising the applicant that the County will take no further  
18 action on the application until the deficiencies have been corrected.
- 19 2. **Remedy of Deficiencies.** If the applicant fails to correct the specified deficiencies by the end of the  
20 business day following the notification of deficiency, the application for development approval  
21 shall be deemed withdrawn and will be returned to the applicant with any fees that have been paid.
- 22 3. **Extensions of Time.**
- 23 a. Upon written request, the Planning Director may, for good cause shown and without any  
24 notice or hearing, grant extensions of any time limit imposed on an applicant by this  
25 Ordinance. An extension of time may also be granted by any body acting pursuant to this  
26 Ordinance unless this Ordinance expressly provides otherwise. The cumulative  
27 extension(s) of time granted by such extension or extensions shall not exceed twice the  
28 length of the original period.
- 07/28/09 29 b. Notwithstanding the above paragraph, and in light of economic conditions, for approvals  
30 subject to the discretion of the Planning Director and needing extension between the  
31 dates of January 1, 2008 and December 31, 2010, the Planning Director may, upon  
32 written request, extend valid approvals for an additional two years. This provision applies  
33 to any projects that have received approvals or extensions under any prior ordinance and  
34 that are grandfathered pursuant to the provisions of Chapter 27 of the Ordinance.
- 35 4. **Fees.** The application shall be accompanied by all required fees. The applicant shall also be  
36 responsible for payment of all expenses incurred providing any public notice required by Section  
37 21.3. Application fees and refund policy shall be as established by resolution of the Board of  
38 County Commissioners.
- 39 5. **General Development Review Process.** Figure 21.1 summarizes the general development review  
40 process under this Ordinance, which is described in detail in the following parts of this chapter.

41 **21.2. Actions Requiring Public Hearings.**

- 42 1. **Variances and Appeals of Administrative Decisions.** The Board of Appeals shall hold at least one  
43 public hearing to review, consider, and approve, approve with conditions, or deny each application  
44 for a variance, or to consider an appeal from any administrative decision made pursuant to this  
45 Ordinance. Such hearing shall be held after public notification pursuant to Section 21.3.
- 46 2. **Amendments to the Text of this Ordinance.** The Planning Commission shall conduct at least one  
47 public hearing to formulate a recommendation regarding any text amendment to this Ordinance.  
48 The Board of County Commissioners shall hold at least one public hearing on an amendment to  
49 the text of this Ordinance following receipt of the Planning Commission recommendation. Such

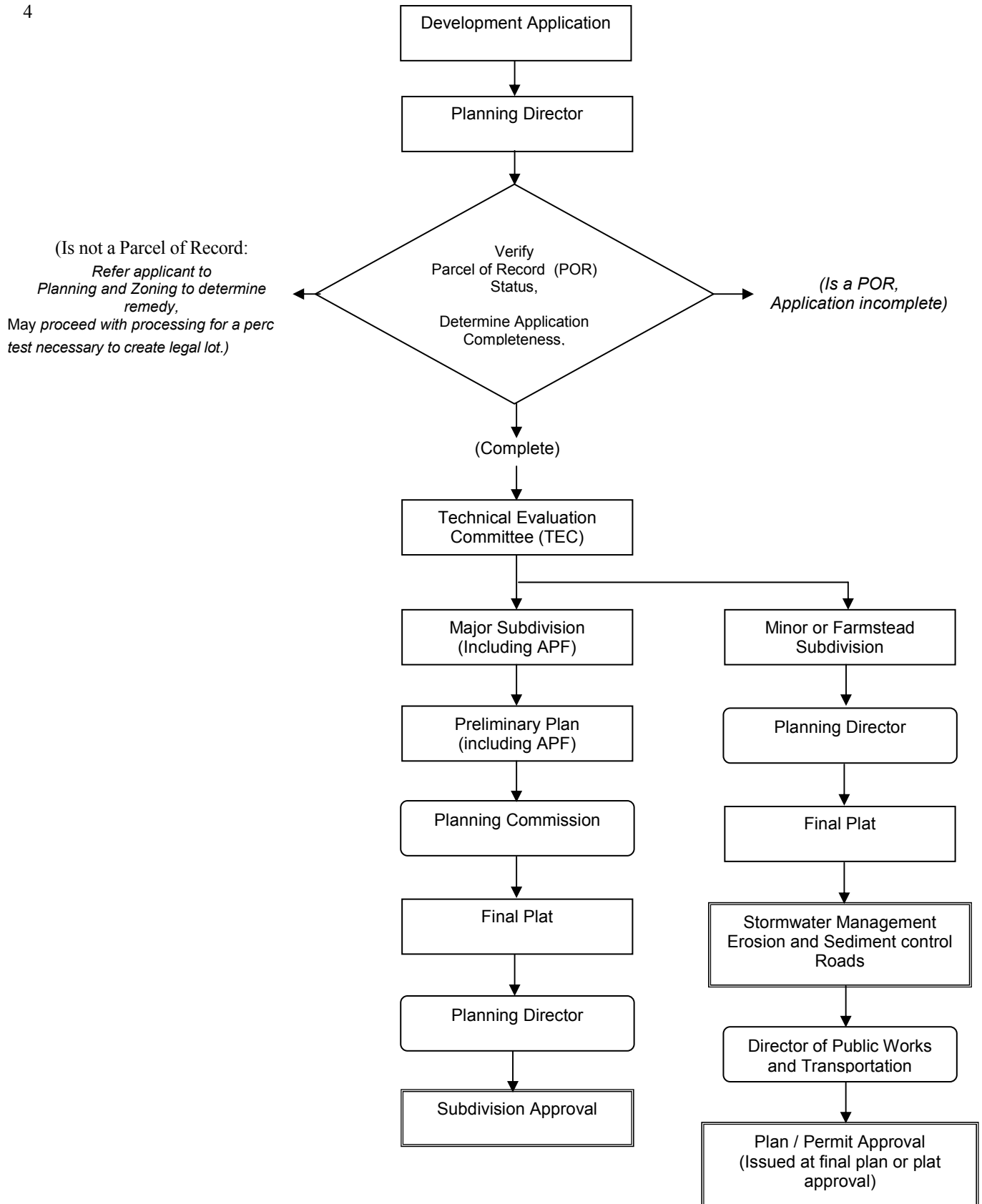
1           hearings may be held jointly upon the concurrence of the Planning Commission and the Board of  
2           County Commissioners.

3   **21.3.   Public Hearing Notice Requirements.**

4   Providing all the information necessary for notice of all public hearings required under this Ordinance shall  
5   be the responsibility of the applicant. The applicant shall supply the information in the form established by  
6   the Planning Director, and the information is subject to the approval of the Planning Director pursuant to  
7   the standards and requirements of this section.

1 Figure 21.1  
 2  
 3  
 4

Development Review Process to create new lots



- 1 1. **Publication.** At least 15 calendar days in advance of the public hearing on an application for any  
2 development approval, Ordinance amendments or appeal listed in Section 21.2, the Department of  
3 Planning and Zoning shall give notice of such public hearing. Notice shall be published in a  
4 newspaper of general circulation in St. Mary's County once each week for two successive weeks.
- 5 2. **Mailing.** At least 15 calendar days before the public hearing on an application for any variance  
6 appeal or Ordinance amendment, listed in Section 21.2, the applicant shall send notice by  
7 registered or certified mail in a format provided by the County to all owners of contiguous  
8 property (as shown on the latest published property tax records of the Maryland Department of  
9 Assessment and Taxation), including lands across any public or private rights-of-way adjacent to  
10 the land subject to the application. Notice shall be given to each individual property owner if an  
11 affected property is held in common ownership. In the case of a request for a variance from  
12 Section 30.11.3.c. the maximum allowable lots on a private right-of-way, all property owners,  
13 whether their property is contiguous or not contiguous with the subject property, shall be informed  
14 of the scheduled public hearing by registered or certified mail. Required notice shall also be given  
15 to a municipality if the application concerns land adjacent to its municipal boundaries. The  
16 applicant shall provide the Planning Director, in an approved form, with names and addresses of  
17 all property owners required to receive notice of a public hearing pursuant to this Ordinance.
- 18 a. **Contents of Notice for Mailing.** The notice for any public hearing or meeting to be  
19 mailed required by this section shall state the substance of the application and the date,  
20 time, and place of the public hearing or meeting, and the place where such application  
21 may be inspected by the public. The notice shall also advise that interested parties may  
22 appear at the public hearing or meeting and be heard with respect to the application.
- 23 3. **Requirements for Posting Notice.** At least 15 calendar days in advance of the public hearing, the  
24 property(ies) subject to an application listed in Section 21.2 shall be posted by the applicant with a  
25 notice on a block printed sign at least 24 inches x 36 inches. The applicant shall notify the  
26 Department of Planning & Zoning the same day notice is posted.
- 27 a. Content. Posted notice shall contain the following information:
- 28 (1) Application number and property owner name  
29 (2) Request (as defined by the Department of Planning & Zoning).  
30 (3) Date, time, and location of the hearing.  
31 (4) A statement that the file is available at the Department of Planning and Zoning  
32 for public review and comment.
- 33 b. Location. One notice shall be posted for each 500 feet of frontage along a public street.  
34 The sign(s) shall be located on the property no more than 25 feet from the front property  
35 line and shall be clearly visible from the nearest public road or street. Where the land  
36 does not have frontage on a public street, signs shall be posted within the nearest street  
37 right-of-way with an attached notation indicating generally the direction and distance to  
38 the land that is the subject of the application.
- 39 c. Removal. The applicant shall remove the sign after the hearing on the application has  
40 concluded. If the sign is removed through no fault of the applicant before the hearing,  
41 such removal shall not be deemed a failure to comply with the standards or grounds to  
42 challenge the validity of any decision made on the application.
- 43 d. Exemption. This posting requirement shall not apply during amendment of these  
44 regulations generally, which would apply to the entire County.

45 **21.4. Public Hearing Procedures.**

46 A public hearing held pursuant to the provisions of this Ordinance shall comply with the following  
47 procedures:

- 48 1. **Scheduling the Public Hearing.** When an application requires a public hearing, the hearing shall  
49 be scheduled to occur within a reasonable time, allowing for the complexity of the case, available  
50 staff resources, and public notice requirements.

- 1     **2.     *Conduct of Public Hearing.***
- 2             a.     *Rights of All Persons.* Any person may appear at a public hearing and submit evidence  
3                     orally or in writing, either individually or upon written authorization as a representative  
4                     of a person or an organization. Each person who gives testimony at a public hearing may  
5                     be duly sworn, shall be identified as to name and address, and, if appearing on behalf of a  
6                     person or an organization, shall state the name and mailing address of the person or  
7                     organization being represented.
- 8             b.     *Exclusion of Testimony.* The body conducting the public hearing may exclude testimony  
9                     or evidence that it finds to be irrelevant, immaterial, unduly repetitious, or otherwise  
10                    inadmissible.
- 11            c.     *Ruling on Objections.* The body or official conducting the hearing shall rule on all  
12                    objections made during the hearing.
- 13            d.     *Continuance of Public Hearing.* The body or official conducting the public hearing may,  
14                    upon the body's or official's own motion, continue the public hearing or meeting to a  
15                    fixed date, time, and place without additional notification. Two-thirds of the voting  
16                    members present at the hearing or meeting at which a quorum is present shall be required  
17                    for a continuance. An applicant may request and be granted a continuance at the  
18                    discretion of the body or official conducting the public hearing only upon good cause  
19                    shown.
- 20     **3.     *Record of Public Hearing or Meeting.***
- 21             a.     *Recording of Public Hearing or Meeting.* Except where required otherwise by statute,  
22                     the body or official conducting the public hearing or meeting shall record the public  
23                     hearing or meeting by any appropriate means. A copy of the public hearing or meeting  
24                     record may be acquired upon request to the Planning Director and payment of a fee to  
25                     cover the cost of duplication of the record.
- 26             b.     *The Record.* The minutes; tape recordings; all applications, exhibits, papers and reports  
27                     submitted in any proceeding before the decision-making body or official; and the  
28                     decision of the decision-making body or official shall constitute the record.
- 29             c.     *Location of Record and Inspection.* All records of decision-making bodies or officials  
30                     shall be public records, open for inspection at the offices of the decision-making body or  
31                     official during normal business hours and upon request.
- 32             d.     *Examination and Copying of Application and Other Documents.* Any person may  
33                     examine an application and materials submitted in support of or in opposition to an  
34                     application in the appropriate County office. Copies of such materials shall be made  
35                     available at reasonable cost, subject to copyright laws.
- 36     **4.     *General Procedures for Findings and Decisions.***
- 37             a.     *General.* Action shall be taken in compliance with any time limits established in this  
38                     Ordinance and as promptly as possible in consideration of the interests of the citizens of  
39                     St. Mary's County and the applicant, and shall include a clear statement of approval,  
40                     approval with conditions, or disapproval.
- 41             b.     *Findings.* Except for those of the Board of County Commissioners, whose decisions  
42                     shall be made by motion, ordinance, or resolution, as appropriate, all decisions made  
43                     following a public hearing shall be in writing and shall include at least the following  
44                     elements:
- 45                    (1)     A summary of the information presented before the decision-making body or  
46                             official;
- 47                    (2)     A summary of all documentary evidence submitted to the decision-making body  
48                             or official and which the decision making body or official considered in making  
49                             the decision;

- 1                   (3)     A statement of the policies of the Comprehensive Plan and the general purposes  
2                   of this Ordinance that are relevant to the findings and the standards as required  
3                   by this Ordinance;
- 4                   (4)     A statement of specific findings of fact or other factors considered, as  
5                   appropriate, with specific reference to the relevant standards set forth in this  
6                   Ordinance; and
- 7                   (5)     A statement of approval, approval with conditions, or disapproval.
- 8           c.       *County Attorney Signature.* Before any decision shall become final, the County Attorney  
9           or designee shall approve the decision as to form and legal sufficiency.
- 10   5.       *Notification.* A letter notifying the applicant of the decision of the decision-making body or  
11       official shall be sent by first-class mail, postage prepaid, within 10 days of the decision. A copy of  
12       the decision shall also be made available to the applicant at the offices of the decision-making  
13       body or official during normal business hours, within a reasonable period of time after the  
14       decision has been rendered.

1 **CHAPTER 22 ADMINISTRATIVE DECISIONS**

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2 Sections:

- 3 22.1 Environmental Permits.  
4 22.2 Parcel of Record; Lot of Record.  
5 22.3 Forms, Information, and Specifications Required.  
6 22.4 Administrative Variances.  
7 22.5 Zoning and Building Permits.  
8 22.6 Schedule of Fees, Fines, and Penalties.

9 **22.1. Environmental Permits.**

10 No building, structure, or land or any part thereof shall be used, created, enlarged or subdivided until an  
11 environmental permit is issued if required pursuant to Chapter 71, Resource Protection Standards of the St.  
12 Mary's County Comprehensive Zoning Ordinance.

13 **22.2. Parcel of Record; Lot of Record.**

14 Except as provided herein, no permit pertaining to the use of land or buildings shall be issued by any  
15 cooperating agency, department, or employee unless a parcel of record or lot of record exists. Any permit  
16 or authorization issued in conflict with the provisions of this Ordinance shall be null and void.

17 **22.3. Forms, Information, and Specifications Required.**

18 An application for subdivision approval shall be made to the Director of Planning and Zoning on forms  
19 provided for that purpose. The Planning Director shall require and be furnished with all plans and  
20 documents as may be required to determine compliance with the provisions of this Ordinance and decisions  
21 of the Board of Appeals, the Planning Commission and the Board of County Commissioners. Subdivision  
22 applications shall be accompanied by the items specified in Chapter 30, or as many thereof as the Planning  
23 Director deems pertinent, and such additional information as the Planning Director may require to  
24 determine compliance with the provisions of this Ordinance and decisions of the Board of Appeals, the  
25 Planning Commission, and the Board of County Commissioners.

26 **22.4. Administrative Variances.**

- 27 1. An applicant seeking a variance may request the same directly of the Board of Appeals, pursuant  
28 to Chapter 21, without first applying to the Planning Director.
- 29 2. **Purpose.** The purpose of Administrative Variances is to delegate to the Planning Director  
30 approval authority to apply the standards for variance for proposed construction activities  
31 requesting relaxation of the minimum lot dimensions or minimum setback standards of Schedule  
32 32.1 of the St. Mary's County Comprehensive Zoning Ordinance, or the elevation requirement for  
33 substantially renovated historic structures located in the 100-year floodplain.
- 34 3. **Variance from Dimensional Requirements.**
- 35 a. **Application.** A person may apply to the Planning Director for a variance from the  
36 dimensional requirements specified in the Comprehensive Zoning Ordinance. An  
37 administrative variance may not reduce specified dimensional requirements by more than  
38 50 percent. The application shall be made on a form and in a manner prescribed by the  
39 Planning Director.
- 40 b. **Procedure.** The Planning Director shall conduct a public hearing on the application for  
41 the variance. The hearing shall be open to the public, and anyone in attendance shall  
42 have an opportunity to be heard concerning the application. Prior to the hearing, the  
43 applicant shall provide notice in the manner provided in this Section 21.3 of the  
44 Ordinance.
- 45 c. **Decision.** Within 15 days of the close of the hearing, the Planning Director shall decide  
46 the issue raised by the application. The decision shall be in writing and provide a brief  
47 explanation of the law, the standards for variance, and facts that support the decision. In  
48 making the decision, the Planning Director may grant the variance only in cases where

1 strict compliance with the terms of the Ordinance would result in practical difficulty or  
2 unwarranted hardship that have not been caused by act of the applicant or the applicant's  
3 predecessors in title. The Planning Director shall not grant a variance if to do so would  
4 violate the spirit and intent of this Ordinance, the Comprehensive Plan, or functional or  
5 area plans in the Comprehensive Zoning Ordinance, or cause or be likely to cause  
6 substantial injury to the public health, safety, and welfare. The Planning Director shall be  
7 guided in making this decision by the considerations set forth in Section 24.3, General  
8 Standards for Granting Variances of the Comprehensive Zoning Ordinance.

9 **4. Denial of Application.**

- 10 a. If the application is denied, the Planning Director shall take no further action on another  
11 application for substantially the same proposal on the same premises until after 2 years  
12 from the date of such denial.

13 **5. Appeal of Administrative Decisions.**

- 14 a. Appeals of decisions made pursuant to this section may be filed to the Board of Appeals  
15 by an aggrieved person within 30 days of the date of the Planning Director's decision.

16 **22.5. Zoning and Building Permits.**

17 A zoning permit shall be required as specified in the Comprehensive Zoning Ordinance before any  
18 application may be filed for subdivision approval. A building permit shall be required in accordance with  
19 the building code adopted by the Board of County Commissioners before start of construction.

20 **22.6. Schedule of Fees, Fines, and Penalties.**

21 The County Commissioners may establish by resolution a schedule of fees, charges, expenses, and fines  
22 and a collection and refund procedure for subdivision approval, variances, appeals, violations, and other  
23 matters pertaining to this Ordinance. The schedule of fees shall be available from the Department of  
24 Planning and Zoning and may be altered or amended only by the County Commissioners.

1 **CHAPTER 23 APPEALS**

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2 Sections:

- 3 23.1 Scope of Appeals  
4 23.2 Stay of Proceedings on Appeal.  
5 23.3 Postponement.  
6 23.4 Continuance.  
7 23.5 Appeals.

8 **23.1. Scope of Appeals.**

- 9 1. An appeal may be filed with the Board of Appeals by:  
10 a. Any person aggrieved by any order, requirement, decision, or determination made in  
11 regard to the administration or the enforcement of this Ordinance, as may be amended  
12 from time to time;  
13 b. Any officer, department, board, or bureau of the County.  
14 2. Such appeal shall be taken within 30 days of the date of the action being appealed by filing an  
15 application for Board of Appeals review with the Department of Planning and Zoning. An  
16 application for appeal shall identify with specificity all grounds for the appeal.  
17 3. The Planning Director shall process the application and forward it, along with all papers  
18 constituting the record of the action appealed to the Board of Appeals.

19 **23.2. Stay of Proceedings on Appeal.**

20 An appeal shall stay all proceedings in furtherance of the action appealed unless, after notice of the appeal  
21 has been filed with him or her, the Planning Director certifies to the Board of Appeals that by reason of fact  
22 stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such  
23 case, proceedings shall only be stayed if the Board or court of competent jurisdiction grants such an order.

24 **23.3. Postponement.**

25 Requests for postponement of a scheduled hearing shall be filed in writing with the secretary of the Board  
26 of Appeals prior to the date of hearing, and shall be accompanied by a sum of money sufficient to pay the  
27 cost of advertising the postponement and the rescheduled hearing. The granting of such requests shall be at  
28 the discretion of the chairman of the Board of Appeals. The Board may, upon its own initiative, postpone a  
29 scheduled hearing at any time. Hearings may not be postponed for more than 30 days unless the Board of  
30 Appeals and all interested parties agree. Failure of an appellant to reschedule a hearing within the agreed  
31 period in accordance with Chapter 21 shall constitute withdrawal of the appeal.

32 **23.4. Continuance.**

33 The Board of Appeals may, at the Board's sole discretion, continue a hearing to another time once the  
34 hearing has started. However, the Board shall announce the location, date and hour of the continued  
35 hearing while in session, unless new notice is provided as required by Section 21.3.

36 **23.5. Appeals.**

37 The Board of Appeals shall render a decision within a reasonable time, but in no instance more than 60  
38 days following the close of the hearing. Any person or party aggrieved by a decision of the Board may  
39 appeal that decision to the Circuit Court for St. Mary's County.



1 **CHAPTER 24 VESTED RIGHTS AND AUTHORITY TO CONTINUE NONCONFORMING**  
2 **PROJECTS**

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3 Sections:

- 4 24.1 Purpose.  
5 24.2 Vested Rights.  
6 24.3 Grandfathering Provisions.  
7 24.4 Grandfathering of Phasing Plans and Schedules.  
8 24.5 Effect of Previous Regulations.  
9 24.6 Annual Update.

10 **24.1. Purpose.**

11 The purpose of this Chapter is to permit the continuation of projects for which certain plan approval has  
12 been given prior to the effective date of applicable ordinance changes or revisions.

13 **24.2. Vested Rights.**

14 St. Mary's County recognizes and accepts the standard of vested rights as established by Maryland common  
15 law.

16 **24.3. Grandfathering Provisions.**

17 Transitional provisions to be known as grandfathering provisions are hereby adopted to provide for the  
18 continuance of certain development activities. No extensions of the stated time periods below shall be  
19 granted, except as noted in Section 24.4.2, below.

20 1. **Subdivisions:** Subdivisions shall be vested pursuant to the provisions listed below.

03/24/03

21 a. **Major Subdivisions:** Projects that have been granted preliminary subdivision plan  
22 approval prior to May 13, 2002 will have a maximum of two years from the date of such  
23 approval to be granted final subdivision approval. From the date of final subdivision  
24 approval a project will have two years in which to record the final record plat, else be  
25 subject to the requirements of this Ordinance. Those projects with approved "phasing"  
26 plans under the previous zoning ordinance (#90-11, as amended) shall have three years  
27 from May 13, 2002, until it shall be required that all future phases shall meet the current  
28 Ordinance requirement except density.

03/24/03

29 b. **Minor Subdivisions:** Projects that have been processed through the Technical Evaluation  
30 Committee (TEC) prior to May 13, 2002 shall have twelve months (from adoption of this  
31 amendment) to achieve final subdivision or site plan approval.

32 2. **Planned Unit Developments:** Grandfathering of a Planned Unit Development as approved by the  
33 Board of County Commissioners shall be governed by Chapter 44, Section 44.4.3.b of the  
34 Comprehensive Zoning Ordinance

05/25/04

35 3. **Private Right-of-Ways:** Private right-of-ways recorded before May 13, 2002 may serve up to five  
36 (5) lots or an unlimited number of farmsteads. Development or subdivision proposals after May  
37 13, 2002 for more than five (5) lots, excluding farmsteads, to be served by a private right-of-way  
38 may only be approved by the Planning Commission pursuant to Section 30.11.4 of this Ordinance,  
39 or by variance.

40 **24.4. Grandfathering of Phasing Plans and Schedules.**

41 1. All commercial or residential phasing plans and schedules approved prior to the enactment of this  
42 Ordinance shall remain in effect. Construction and development relating to such plans may be  
43 completed in accordance with the terms of the previously approved phasing or staging plan. Any  
44 revisions proposed under this chapter shall conform with all Maryland state rules, regulations, and  
45 statutory provisions, and any construction standards as set forth in the rules, regulations, and  
46 ordinances of St. Mary's County, in effect when the applicant applied for a revision to the phasing  
47 or staging plan and schedule, unless said plans, schedules, and/or revisions are exempted under  
48 said rules, regulations statutory provisions, and/or ordinances.

- 1 2. Any applicant shall be allowed to apply for a revision to any phasing or staging plan and schedule  
2 grandfathered under the provisions of this chapter, and such revisions may be approved by the  
3 Planning Commission provided the applicant can show that there are compelling circumstances to  
4 warrant a revision. In no case shall the duration of any phasing or staging plan and schedule be  
5 extended more than five years beyond the effective date of this Ordinance. The Planning  
6 Commission shall consider the following factors in determining whether to approve applications  
7 for revisions:
- 8 a. The extent to which any delay was caused by the action or inaction of the applicant as  
9 opposed to other factors beyond the control of the applicant;
- 10 b. The amount of investment not including architectural and engineering costs made in the  
11 project as of the date of the application for revision;
- 12 c. Any impact to the health and welfare of the County cause by the revision or any delay  
13 associated therewith; and
- 14 d. Market conditions.
- 15 3. **Continuation of Project:** Project development may proceed in accordance with the plan approved  
16 unless the approval expires by failure to act within the defined time periods as stated above. In the  
17 case of expiration, re-approval shall be in conformity with all provisions of this Ordinance.

18 **24.5. Effect of Previous Regulations.**

19 To the extent that projects are grandfathered under this section, the provisions of Ordinance 90-11, as  
20 amended, and regulations in effect at the time of plan approval, shall remain in full force and effect.

21 **24.6. Annual Update.**

22 An annual update of development commenced during the past year and plans for development in the  
23 upcoming year shall be presented to the Planning Commission by the developer of the project.  
24

1 **CHAPTER 25 AMENDMENTS**

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2 Sections:

3 25.1 Purpose and Authority.

4 25.2 Requirements for Amendments.

5 25.3 Review Procedures.

6 25.4 Action by Board of County Commissioners on Receipt of Planning Commission's  
7 Recommendation.

8 25.5 Record.

9 **25.1. Purpose and Authority.**

10 1. **Purpose.** The purpose of this Chapter is to provide a means for changing the text of this  
11 Ordinance.

12 2. **Authority.** The Board of County Commissioners may, upon receipt of a recommendation from the  
13 Planning Commission, supplement, modify, or repeal provisions of the text of this Ordinance.

14 **25.2. Requirements for Amendments.**

15 Any application to amend, supplement, modify, or repeal any portion of this Ordinance shall be filed with  
16 the Planning Director in such form and accompanied by such information and fees as may be required by  
17 the Planning Director.

18 **25.3. Review Procedures.**

19 The Planning Commission upon application or upon its own motion shall promptly consider amendment of  
20 this Ordinance through the conduct of a public hearing. Generally, within 60 days from its final hearing,  
21 the Planning Commission shall transmit its recommendations for approval or disapproval to the County  
22 Commissioners.

23 1. **Review by Departments and Agencies.** Upon determination by the Planning Director that an  
24 application is complete the application shall be promptly submitted for comment and review to  
25 TEC agencies. Following notification that this administrative review is complete, the applicant  
26 must request in writing that the Planning Director submit an application for amendment. The  
27 Planning Commission shall conduct a public hearing according to the provisions of Chapter 21  
28 and forward a recommendation to the Board of County Commissioners.

29 **25.4. Action by Board of County Commissioners on Receipt of Planning Commission's**  
30 **Recommendation.**

31 Before approving or disapproving any application for amendment, the Board of County Commissioners  
32 shall hold at least one public hearing in accordance with the procedures for notice and public hearings set  
33 forth in Chapter 21 of this Ordinance. At the sole discretion of the Planning Commission and the Board of  
34 County Commissioners, such public hearing may be held concurrent with the public hearing of the  
35 Planning Commission on the application.

36 **25.5. Record.**

37 The record of all amendments shall include any request, all documents or communications submitted  
38 regarding the proposal, the recorded testimony from all public hearings held on the proposal, any reports or  
39 communications to or from any public officials or agencies concerning the proposal, and the final decision  
40 of the County Commissioners. The record shall be open to public inspection and shall be maintained in the  
41 office of the Planning Director.



1 **ARTICLE 3. SUBDIVISION STANDARDS AND APPROVALS**

2 **CHAPTER 30 GENERAL SUBDIVISION PLATTING**

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3 Sections:

- 4 30.1 Purpose.
- 5 30.2 Permits and Approvals Required.
- 6 30.3 Types of Subdivisions.
- 7 30.4 Authority.
- 8 30.5 Preliminary Plan.
- 9 30.6 Preliminary Plan Application Procedures.
- 10 30.7 Preliminary Plan Amendments.
- 11 30.8 Final Plat.
- 12 30.9 Final Plat Approval.
- 13 30.10 Final Plat Amendments.
- 14 30.11 Private Roads.
- 15 30.12 Nonresidential Subdivision Standards.
- 16 30.13 Lot and Right-of-way Requirements.
- 17 30.14 Public Improvement and Infrastructure Requirements.

18 **30.1. Purpose.**

19 The purpose of this Chapter is to:

- 20 1. Ensure the orderly subdivision and development of land.
- 21 2. Establish procedures and standards for subdivisions in order to further the orderly layout and use  
22 of land, and to ensure proper legal descriptions and monumenting of subdivided land.
- 23 3. Provide for the coordination of streets and other roadways and the installation of public utilities  
24 and other public facilities
- 25 4. Provide for the dedication or reservation of rights-of-way or easements for improvements within  
26 proposed subdivisions.
- 27 5. Provide for adequate light, air, and privacy, to secure safety from fire, flood, and other danger, and  
28 to prevent overcrowding of the land and undue congestion of population.
- 29 6. Guide the future growth and development in accordance with the Comprehensive Plan.

30 **30.2. Permits and Approvals Required.**

- 31 1. ***Subdivision Plat Required.*** No person shall subdivide land for the purpose of creating a building  
32 site without preparing and recording a final subdivision plat in full compliance with the provisions  
33 of this Article and all other State and local laws and regulations applying to subdivisions. The  
34 owner who desires to subdivide land for the purpose of creating one or more building sites shall be  
35 required to submit a plat of subdivision to the Department of Planning and Zoning, which is  
36 responsible for coordinating the processing of such plats. The subdivision plat must be prepared in  
37 accordance with the requirements of this Chapter.
  - 38 a. Divisions of land exempt from subdivision plat requirements may be established by deed,  
39 provided the deed is approved by the Planning Director prior to the recordation of the  
40 deed.
  - 41 b. If a parcel created through agricultural division, or any part thereof, is developed for  
42 nonagricultural use, a subdivision plat must be recorded prior to issuance of building  
43 permit.

- 1 2. **Sale or Transfer of Lots.** Until a final subdivision plat is approved and recorded in accordance  
2 with this Ordinance, no land within the unincorporated area of St. Mary's County shall be  
3 subdivided, nor shall any lot be sold or transferred or any building erected.
- 4 3. **Permits and Certificate of Occupancy.** No permits for grading, or for construction of buildings,  
5 roads, or storm water management and no Certificate of Occupancy shall be issued for any  
6 development within a subdivision until the final plat has been recorded and fees and bonds  
7 required by this Ordinance are paid.
- 8 4. **Appeals.** Any person or persons aggrieved by any action of the Planning Director or Planning  
9 Commission pursuant to this Article may appeal within 30 days of the action to the Board of  
10 Appeals.
- 11 5. **Voiding of Plats.**
- 12 a. Any plat or any part of a plat may be vacated by the owner, at any time before the sale of  
13 any lot therein, or by all the owners, by a written instrument, in recordable form declaring  
14 that plat to be null and void.
- 15 b. The instrument shall be approved by the Planning Commission in like manner as plats of  
16 subdivisions. The Planning Commission may reject any instrument that abridges or  
17 destroys the public rights in any public uses, improvements, streets or alleys within the  
18 subdivision.
- 19 c. The instrument, once recorded, shall render the subdivision a nullity and divest all public  
20 rights in the streets, alleys and public grounds, and all dedications laid out or described  
21 on the plat.

22 **30.3. Types of Subdivisions.**

- 23 1. **Residential Subdivisions.** Residential subdivisions shall be classified as one of the following:
- 24 a. **Minor Subdivision.** A Minor Subdivision is the division of a parcel or lot of record which  
12/2/02 25 creates 1 to 5 lots or any number of farmsteads. .
- 26 b. **Major Subdivision.** A Major Subdivision is any subdivision that involves a division of a  
27 parcel of record into more than 5 lots.
- 28 c. **Farmstead Subdivision.** Minor subdivision of any number of lots, each of which is at  
29 least 15 acres in size.
- 30 2. **Nonresidential Subdivisions.** Commercial and Industrial subdivisions shall be subject to all the  
31 requirements of site plan approval set forth in the Comprehensive Zoning Ordinance.  
32 Nonresidential subdivisions shall require a public or private right-of-way for access to lots, and an  
33 approved entrance at public roads, and are subject to the public road standards or other road  
34 design/construction standards. Site plan approval and subdivision plat approval may proceed  
35 simultaneously at the discretion of the Planning Commission.
- 12/2/02 36 3. **Boundary Line Adjustment.** A plat which has the effect of adjusting property boundaries of lots  
37 of record.
- 38 4. **Plat Exempt Division.**
- 39 a. An exempt division, created without making provisions for roads, water supply or  
40 sewage disposal or other public improvements, is permitted under the following  
41 circumstances:
- 42 (1) To settle estate or other court ordered partitions.
- 43 (2) To add land to an existing agricultural parcel.
- 44 (3) To transfer land for purposes other than development.
- 45 (4) To transfer land to immediate family for development in the future.

- 1 (5) For road right of way dedication or acquisition.
- 2 b. Plat Exempt Divisions may be established by deed, provided the deed is approved by the
- 3 Department of Planning and Zoning prior to transfer and recordation.
- 4 c. In all cases (1) through (4) above, or when a Plat Exempt Division parcel is proposed to
- 12/2/02 5 be converted to a building lot, a standard subdivision plat must be recorded prior to
- 6 issuance of a building permit.
- 7 **30.4. Authority.**
- 8 1. **Residential and Non Residential, Boundary Line and Plat Exempt Subdivision.** The Planning
- 9 Commission is vested with the authority to review, approve, conditionally approve and disapprove
- 10 plats for subdivisions of land.
- 11 2. **Delegation.** The Planning Commission may delegate authority to the Planning Director to:
- 12 a. Approve minor subdivision plats (including farmsteads), boundary line adjustment plats,
- 13 and plat exempt divisions; and
- 14 b. Approve final plats for major subdivisions and nonresidential subdivisions (provided that
- 15 Planning Commission approval of the final plat was not a condition of approval for the
- 16 Preliminary Plan); and
- 17 c. Review and approve minor amendments and adjustments to approved plats, in
- 18 accordance with the criteria established in this Chapter.
- 19 **30.5. Preliminary Plan.**
- 20 1. **Purpose.** A Preliminary Plan is a formal submission of a plan for the proposed subdivision.
- 21 Approval of a Preliminary Plan shall constitute Planning Commission acceptance of the land use
- 22 mix, development intensity, general street drainage and lot patterns, general location of parks and
- 23 open space lands, and the general layout of pedestrian and bicycle trails, except that these may be
- 24 modified in conjunction with subsequent approvals if additional information reveals development
- 25 constraints that are not evident during Preliminary Plan review.
- 26 2. **When a Preliminary Plan Is Required.** Approval of a Preliminary Plan shall be required for any
- 27 subdivision that shall require major subdivision or nonresidential subdivision approval. No final
- 28 plat shall be approved until a Preliminary Plan for the property has been approved.
- 29 3. **Sketch Plan Required.** Where the proposed subdivision proposes activity upon 75 percent or less
- 30 of the parent tract, the applicant must submit a Sketch Plan.
- 31 a. A Sketch Plan may be submitted to the Planning Commission for approval prior to
- 32 submission of a Preliminary Plan or shall accompany a Preliminary Subdivision Plan
- 33 where application of plan approval is made for 75 percent or less of the land area of the
- 34 parcel within which the development will occur.
- 35 b. The Sketch Plan shall contain the following information:
- 36 (1) Accurate sketch of the property to scale.
- 37 (2) Record owner of property.
- 38 (3) Vicinity sketch.
- 39 (4) Identification of adjacent property owners.
- 40 (5) Topographic information in sufficient detail to determine drainage patterns and
- 41 sedimentation or grading permit problems.
- 42 (6) Proposed access to public right-of-way.
- 43 (7) Generalized identification of existing features on the site, including vegetation,
- 44 drainage patterns, structures and other site improvements.

- 1 (8) Proposed siting of water and sewage facilities for the entire parcel.
- 2 (9) Proposed siting of structures and their uses.
- 3 (10) Proposed siting of parking facilities.
- 4 (11) Proposed siting of vehicular and pedestrian circulation facilities.

5 c. A Sketch Plan may be amended in the same manner as with a Preliminary Plan.

6 4. **Preliminary Plan Approval.**

7 a. If the Preliminary Plan is approved by the Planning Commission, the applicant shall be  
8 advised in writing of such action. Approval of the Preliminary Plan shall not constitute  
9 approval of the Final Plat. The Preliminary Plan and conditions of its approval shall  
10 serve as a guide in the preparation of the final subdivision plat.

11 b. Approval of the Preliminary Plan shall be valid for a period not to exceed 2 years. Unless  
12 the final plat is submitted within the required time period, the Preliminary Plan approval  
13 shall be void.

14 5. **Criteria for approval of a Preliminary Plan.** In approving a Preliminary Plan, the Planning  
15 Commission shall make each of the following findings:

16 a. The proposed development, including lot sizes, density, access and circulation, is  
17 consistent with the Comprehensive Plan and applicable zoning standards and is  
18 compatible with the existing and/or permissible future use of adjacent property.

19 b. Sufficient number of access points for ingress and egress are provided. Generally, two  
20 access points are required, with no less than one access point for each 75 lots or fraction  
21 thereof and reservation of land or dedication of rights-of-way to allow interconnection of  
22 subdivision streets to adjacent parcels, subdivisions and for connection to planned roads.

23 c. Public facilities are adequate in accordance with the provisions of Chapter 70 of the St.  
24 Mary's County Comprehensive Zoning Ordinance, Adequate Public Facilities.

25 d. Is consistent with the Annual Growth Policy, including approval of a phasing plan if  
26 proposed or if required by said Annual Growth Policy.

27 e. Access to adjoining land is provided for in the proposed plan and will allow development  
28 of those adjoining lands in accordance with this Ordinance. Street system adequacy shall  
29 be based on the street system's ability to safely accommodate trips from existing and  
30 planned land uses on the existing and proposed street system.

31 f. The drainage, erosion control, and construction proposed comply with accepted  
32 engineering and construction practices and the requirements of this Ordinance.

33 g. The lot, block, and street layout are consistent with the subdivision design standards of  
34 this Ordinance.

35 6. **Conditions on Approvals.** In approving a Preliminary Plan, the Planning Commission may impose  
36 modifications or conditions to the extent necessary to insure compliance with the standards of this  
37 Ordinance.

38 **30.6. Preliminary Plan Application Procedures.**

39 1. **Submission Procedures.** An application for approval of a Preliminary Plan shall be submitted to  
40 the Department of Planning and Zoning on or before the due date for submissions to the Technical  
41 Evaluation Committee (TEC). The application form approved by the Planning Director shall  
42 establish the appropriate number of plats to be submitted and other submission requirements.

43 2. **Prerequisites.** In addition to any submission requirements specified on the application form, an  
44 application for a Preliminary Plan must be accompanied by the following:

45 a. Zoning permit application.

9/4/08

- 9/4/08 1 b. A phasing plan if proposed by the applicant or if required by the County's Annual Growth  
2 Policy (i.e. greater than 25 lots).
- 3 c. An approved Forest Stand Delineation or an approved waiver from the Forest  
4 Conservation provisions in the Comprehensive Zoning Ordinance.
- 5 d. A certificate of title.
- 6 3. **Completeness Review.** The Planning Director shall check the submittal for completeness. If, in the  
7 opinion of the Planning Director, an application is incomplete, the applicant shall be notified and  
8 shall have one (1) business day to make the application complete or withdraw the plan. If the  
9 applicant does not respond within one (1) business day, the application will be rejected. Complete  
10 applications will be referred to the TEC for review and comments.
- 11 4. **Preliminary Plan Requirements.** Preliminary plans shall be at a scale of 1 inch to 100 feet, except  
12 that a scale of 1 inch to 200 feet may be used if the plan involves property over 100 acres in size.  
13 At least one copy shall be at a scale of 1 inch to 600 feet to facilitate uniform addressing. The  
14 preferred paper size is 24" x 36", with the maximum sheet size of 36" x 48". The plan application  
15 form and accompanying documents shall show the following information for the site and for 200  
16 feet around the perimeter of the site.
- 17 a. Site Data.
- 18 (1) The date.
- 19 (2) North point and scale.
- 20 (3) Vicinity map to an appropriate scale, showing location of the property and  
21 nearest major road intersection.
- 22 (4) Tax map, grid, parcel number.
- 23 (5) Election district.
- 24 (6) Zoning permit application number.
- 25 (7) Current deed reference.
- 26 (8) Tract size.
- 27 (9) Current zoning and allowable density.
- 28 (10) Current water and sewer category, and proposed changes.
- 29 (11) The names and addresses and phone numbers of the property owner, the  
30 subdivider, and the engineer and/or surveyor.
- 31 (12) The proposed subdivision name.
- 32 (13) Boundary lines with bearings and distances, corner markers and reference  
33 monuments.
- 34 (14) Locations, names, classifications, and present right-of-way widths of adjacent  
35 streets, alleys or public or private ways.
- 36 (15) Location, zoning and names of adjacent subdivisions and of owners of adjacent  
37 property.
- 38 (16) Location, dimension and purpose of existing easements.
- 39 (17) Location and size of existing water and sewer facilities, including wells and  
40 pumping stations, and storm drain culverts on or adjacent to the property.
- 41 (18) Proposed use of property, proposed density, total number of lots, parcels and  
42 out-parcels, typical lot sizes and acreage of parcels and out-parcels, phasing,  
43 water and sewer capacity requirements, and anticipated build out schedule.

- 1           b.       Natural features.
- 2                   (1)       Physical features of the property, including water courses, shore lines, wetlands,  
3                               100 year flood plains, existing structures and steep slopes.
- 4                   (2)       Environmental features of the property, including tree lines and specimen trees,  
5                               soil types and preliminary forest conservation plan.
- 6                   (3)       Topographic information approximately equivalent to two foot contours on land  
7                               less than 5 percent gradient and five foot contours on land more than 5 percent  
8                               gradient. Topography shall extend a minimum of 100 feet beyond the property  
9                               line. Source of topography and datum shall be referenced.
- 10                  (4)       If all or part of the site is in the critical area, the additional requirements for  
11                               Critical Area Plans shall be provided.
- 12           c.       Proposed development.
- 13                   (1)       The names, location, widths, classifications and centerline dimensions of all  
14                               proposed streets, alleys, public ways and private drives.
- 15                   (2)       Number of lots served by each private drive.
- 16                   (3)       Required building restriction lines, buffer yards and setbacks, or a typical detail  
17                               of the building envelope.
- 18                   (4)       Proposed lot lines with approximate dimensions and lot numbers.
- 19                   (5)       Location of sidewalks and pedestrian circulation routes; location and use of  
20                               proposed public areas, including parklands, and phasing of same.
- 21                   (6)       Method of water supply and fire suppression proposed:
- 22                               (a)       Information shall be provided in sufficient detail in engineering study  
23   including on-site and off-site system adequacy as well as the method of  
24   water supply and capacity required.
- 25   i.       All residential subdivisions of 25 lots or more must connect to  
26   a public water system. All non-residential subdivisions and  
27   development in the Development Districts must connect to a  
28   public water system if it is within 1,750 feet of an existing line  
29   of sufficient capacity. All development in Town Centers and  
30   Village Centers within 1,750 feet of an existing public eater  
31   system with sufficient capacity must connect to the public  
32   water system.
- 33                   (7)       Information shall be provided in sufficient detail in an engineering study to  
34                               determine method of sewage disposal proposed, including for community  
35                               sewerage systems, on-site and off-site system adequacy as well as method of  
36                               sewage treatment and capacity required. For areas that have been tested for  
37                               percolation rates, show location of percolation tests and sewerage reserve areas.
- 38                   (8)       Erosion and Sediment Control Plan as required and in accordance with the  
39                               Stormwater Management, Grading, Erosion and Sediment Control Ordinance.
- 40                   (9)       Preliminary drainage area map, a conceptual storm drain layout and method and  
41                               approximate location of storm water quality and quantity treatment proposed,  
42                               including preliminary storm water management calculations.
- 43                   (10)      Location and general description of proposed off-site improvements.
- 44                   (11)      Anticipated vehicle trip generation rates, and affected roads and intersections  
45                               between the proposed subdivision and the nearest County arterial or state  
46                               highway in all directions. A traffic study will be required if more than 50 peak

- 1 hour trips are generated by the project, and must be submitted and approved  
2 prior to Planning Commission approval.
- 3 (12) Entrance location, minimum site distance available in each direction,  
4 acceleration and deceleration lane dimensions, by-pass lane dimensions, nearest  
5 driveways and/or street intersection locations, and monumental signage entrance  
6 features if proposed.
- 7 5. **Comments on Preliminary Plans.** Agency comments may be both general and specific in nature.  
8 Comments that are general in nature are intended to address compliance with the Comprehensive  
9 Plan and public health and safety issues. Agencies should point out existing problems in the  
10 vicinity of the proposed activity, such as historical drainage and flooding conditions, poor soils,  
11 erosion, planned roadway improvements, traffic flow, roadway classification, etc. Comments that  
12 are specific in nature should reference the specific sections of the Ordinance or other regulations  
13 that are being addressed. Agencies may also comment upon whether the plat meets their rules and  
14 regulations and meets the requirements for adequacy of public facilities (APF) as defined in the  
15 Comprehensive Zoning Ordinance. Each TEC agency shall supply comments on a form approved  
16 by the Planning Director, and returned to the Planning Director. The Planning Director will  
17 distribute comments from TEC agencies to the applicant within approximately 30 calendar days  
18 following that submission deadline.
- 19 6. **Planning Commission Action.** A Preliminary Plan may be submitted to the Planning Commission  
20 review and approval following receipt by the applicant of agency comments. The reviewing  
21 agencies must have indicated that the plan is acceptable or can be made acceptable with additional  
22 information through specified modifications. The Planning Director shall prepare a staff report for  
23 distribution to the Planning Commission, the applicant and appropriate TEC agencies prior to the  
24 meeting, and will incorporate appropriate agency review comments into the report. The Planning  
25 Director shall present the plat to the Planning Commission. The applicant may also present the plat  
26 and answer questions from the Planning Commission. The Planning Commission shall approve  
27 the application, approve it with conditions or deny it.
- 28 7. **Preliminary Plan Approval.** Preliminary Plan approval shall not be granted until such time that  
29 the easement for any crossing of the land owned by the Board of County Commissioners known as  
30 the "Old Railroad Right-of-way" is approved by the Board of County Commissioners.
- 31 **30.7. Preliminary Plan Amendments.**
- 32 Amendments to Preliminary Plans may be initiated by the owner of property subject to the following  
33 provisions:
- 34 1. **Minor Amendments.** The Planning Director may approve minor amendments for:
- 35 a. Changes in the internal alignment of roads that do not affect external properties;  
36 b. Changes in internal parcel boundaries that do not abut external property lines;  
37 c. Changes in setbacks along internal property lines;  
38 d. Changes in the routing of trails and pedestrian ways; or  
39 e. Changes in the orientation of buildings on internal parcels.
- 40 2. **Major amendments.** The following are deemed major amendments and require Planning  
41 Commission approval:
- 42 a. Increased number of dwelling units or square feet of nonresidential building area;  
43 b. Increased trip generation or demand for public utilities;  
44 c. Decreased public or private open space area; or  
45 d. Increased volume or velocity of storm water runoff from the development.

1 **30.8. Final Plat.**

- 2 1. **Final Plat Required.** There shall be a Final Plat for each major subdivision and nonresidential  
3 subdivision that receives Preliminary Plan approval, and for minor or farmstead subdivisions  
4 which do not require Preliminary Plan approval. No subdivision plat shall be recorded unless and  
5 until a Final Plat has been approved as provided in this Chapter. Plat Exempt Divisions are  
6 exempt from this requirement.
- 7 2. **Final Major and Minor Plat Approvals.** The final plat shall be approved, approved with  
8 conditions or disapproved by the Planning Commission or Planning Director, as the case may be,  
9 in accordance with the procedures established in Chapter 21 of this Ordinance. The decision shall  
10 be in the form of a written letter to the applicant.
- 11 3. **General Criteria for Final Plat Approval.** A Final Plat may be approved upon demonstration of  
12 compliance with the following criteria:
- 13 a. The proposed subdivision conforms to all relevant requirements of this Ordinance and  
14 any conditions of Planning Commission Preliminary Plan approval, if applicable.
- 15 b. The lot and block layout provides for safe and convenient vehicular, service and  
16 emergency access, efficient utility service connections, and adequate buildable area in  
17 each lot for planned uses.
- 18 c. Rights-of-way and easements of adequate size and dimension are provided for the  
19 purpose of constructing the street, utility, and drainage facilities needed to serve the  
20 development. This includes requests to the Board of County Commissioners for  
21 permission to cross the railroad right-of-way.
- 22 d. The proposed subdivision provides sufficient land necessary to satisfy the requirements  
23 of the open space standards for the zoning district where the subdivision is located.
- 24 e. The proposed land subdivision is designed in such a manner as to allow for continued  
25 development of adjacent, undeveloped lands.
- 26 f. For farmstead subdivisions, a finding that no further resubdivision of any farmstead lot  
27 may be approved including restrictive plat notes to govern this prohibition.

28 **30.9. Final Plat Approval.**

- 29 1. **Final Plat Preparation and Submittal Requirements.**
- 30 a. The Final Plat shall include the following documents at a minimum:
- 31 (1) Evidence that the final plat has been prepared in accordance with the approved  
32 Preliminary Plan, and includes any modifications required by the Planning  
33 Commission.
- 34 (2) Record Plat. The final plat shall be legible, drawn accurately and to scale, and  
35 shall be submitted for recordation using black ink on transparent mylar or linen,  
36 or other black line process on transparent mylar or linen comparable to original  
37 quality that will conform to archival standards. The size of the sheets shall be  
38 18" by 24", including a margin of 1/2" outside ruled border lines. The minimum  
39 letter size shall be 1/10 inch. The final plat shall be prepared in accordance with  
40 the final plat checklists approved by the Planning Director.
- 41 (3) Construction Plans. If required, construction plans for public facilities shall be  
42 submitted as part of the final plat. Construction plans shall conform to the design  
43 requirements of the review agencies as set forth in the checklists approved by  
44 each review agency.
- 45 (4) Forest Conservation Plan. The Forest Conservation Plan and worksheet shall be  
46 prepared in accordance with the Comprehensive Zoning Ordinance.

- 1 (5) Other agreements. All covenants, restrictions, TDRs, offsite easements, letters of  
2 permission, wetland permits and special conditions or other agreements  
3 necessary for the approval of the final plat.
- 4 (6) Property Corners. A certification by a Registered Professional Land or Property  
5 Line Surveyor that reference monuments have been or will be set.
- 6 b. A final plat for a major subdivision shall be submitted directly to the appropriate review  
7 agencies for comment and approval. A final plat for a minor or farmstead subdivision  
8 may be submitted directly to the appropriate review agencies after initial TEC review is  
9 completed in accordance with Chapter 21.
- 10 c. Unless an extension is granted by the Planning Commission, a final plat shall be filed  
11 with the Planning Director no more than 2 years after approval of the Preliminary Plan.
- 12 d. If plans and plats are prepared and submitted in a digital format, the County shall also  
13 require submission of a digital file of the site plan or plat that is registered to NAD83  
14 horizontal and NGVD 88 vertical datum. All digital plat submissions shall be submitted  
15 prior to recordation of the Final Plat in accordance with this section and the requirements  
16 of the Maryland Real Property Article.

17 2. **Action on Final Plat.** Upon approval of the final plat by each review agency, that agency shall  
18 submit evidence of final approval to the Planning Director, with a copy to the applicant. Upon  
19 receipt of all approvals, the applicant shall submit to the Planning Director the required number of  
20 reproducible and paper copies of the plat. The Planning Director shall circulate the plat as may be  
21 required to the Metropolitan Commission, the Health Department and the Department of Public  
22 Works & Transportation (DPWT) for signatures, sign the plat and have the plat recorded.

23 3. **Approval, Not Acceptance.** Approval of the final plat shall not be deemed to be acceptance of any  
24 street, alley, public space, utility or other physical improvements shown on the Final Plat. Such  
25 improvements may be formally accepted by the County as evidenced by an appropriate deed of  
26 dedication in recordable form and delivered to the County and executed by the County for  
27 acceptance.

28 4. **Completion of Improvements.** Except as provided in this Ordinance, a condition of final plat  
29 approval shall include the execution of a Public Works Agreement to ensure completion of all  
30 street, sanitary, and other public improvements as stipulated on the final plat.

31 **30.10. Final Plat Amendments.**

32 Amendments to final plats may be initiated by the owner and will be evaluated pursuant to the procedures  
33 for final plat approval established in this Chapter.

34 **30.11. Private Roads.**

05/25/04 35 1. **Purpose.** The purpose of shared driveway and private road standards is to provide options to  
36 retain rural character, reduce costs, and to allow more control, security, and sense of identity when  
37 public roads are not needed for circulation. These standards are intended to provide for the safety  
38 of the property owners by requiring adequate access for fire, emergency, medical and law  
39 enforcement vehicles. It provides for the continued uninterrupted use of the access for all of the  
40 owners by establishing a durable roadway and easement, and assigns responsibility for continued  
41 maintenance of the access.

42 2. There shall be no private roads nor any private easement used for the purpose of primary access to  
43 any lot unless constructed and maintained in accordance with the following:

05/25/04 44 a. Private roads may be provided for in accordance with the standards set forth in Section 3  
45 below. The plat and any deed conveying any lot or lots served by private road or private  
46 easement must contain an acknowledgment by the owner that the County shall have no  
47 liability for such roads and such acknowledgment must also be included on the record  
48 plat and in the deed transferring the lot in order to notify a purchaser of a lot in a  
49 subdivision on a private road. A Road Maintenance Agreement meeting the requirements

05/25/04

- 1 of the Department of Land Use and Growth Management shall be recorded with the Final  
2 Subdivision Plat for any private road in a subdivision.
- 12/2/02 3 3. **Exemptions.** Private right-of-ways recorded before May 13, 2002 may serve up to five (5) lots  
4 without complying with this section.
- 05/25/ 5 4. **Family Conveyance Provisions:** The Planning Commission may approve an additional lot(s) on a  
04 6 private road for purposes of a family conveyance, providing the following requirements are met:
- 05/25/ 7 a. The sale or transfer of such lot(s) shall be limited to the property owner(s) of record on or  
04 8 before (the effective date of this amendment).
- 9 b. The lot to be conveyed shall only be conveyed to a family member, being father, mother,  
05/25/ 10 son, daughter, grandfather, grandmother, grandson, or granddaughter of the grantor.  
04 11
- 12 c. A family member shall not receive more than one lot.
- 05/25/ 12 d. The property owner shall demonstrate that the private road is adequate to accommodate  
04 13 the additional traffic generated by the lot(s). Private roads created within a property  
14 being subdivided shall meet the private road standards of this Ordinance.
- 15 e. After approval of a family conveyance, and prior to the recordation of the plat, the  
05/25/ 16 grantor of the family conveyance shall enter into an agreement with the County that:  
04 17
- 18 (1) contains the grantor's obligations under this section;
- 19 (2) is recorded in the land records of St. Mary's County;
- 05/25/ 20 (3) is noted on the subdivision plat; and  
04 21
- 22 (4) prohibits the grantee from transferring the conveyed lot to a third party for at  
23 least five years from the date of final approval of the family conveyance, except  
in a case of severe hardship, as determined by the Director of Land Use and  
Growth Management.
- 05/25/ 24 f. Access on and use of the private road must be assured by the property owner.  
04 25
- 26 g. A grantee of a lot created by these provisions may not be a grantee in another  
conveyance in the same subdivision or any other subdivision using these provisions.
- 05/25/ 27 h. The provisions of this section shall not prohibit the conveyance of interest in a lot to a  
04 28 third party as security for a mortgage or deed of trust.
- 05/25/ 29 5. **General Provisions.**  
04 30
- 31 a. For private roads, the design vehicle shall be an emergency response/service/delivery-  
32 type vehicle (30-foot single unit truck). For local streets, the design vehicle shall be a  
33 school bus. For higher classification and commercial streets, the design vehicle shall be a  
tractor trailer/ladder truck-type vehicle (WB-50).
- 05/25/ 34 b. Private roads shall be included in an overall development plan and shall be approved by  
04 35 the Planning Commission and/or Director of Land Use and Growth Management
- 36 c. Subdivisions consisting of five (5) residential lots or less, or farmstead subdivisions, may  
05/25/ 37 be served by a private road. All subdivisions, except farmsteads and lots approved  
04 38 through the family conveyance provisions of this Ordinance, proposed with six (6) lots,  
39 or more, shall be served by public roads in accordance with the provisions contained  
40 herein.
- 41 d. A Private Road Maintenance Agreement for private roads, access easements to farmstead  
42 lots, and shared driveways shall be recorded with the record plat.
- 43 e. Minimum safe stopping sight distance shall be assured with information provided by the  
44 design engineer.

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- f. In the event that the maximum allowable number of lots having access is exceeded, or is otherwise approved by a variance, all further divisions of land must front on a public road and are subject to the regulations and standards for public roads.
- g. Private roads shall normally intersect with a public road; must have no other public or private streets dependent upon it for access; and must serve no traffic except that associated with the lots having direct driveway access to it.
- h. There shall be no more than one driveway connection from any site or lot to any street, except where separate entrances and exit driveways may be necessary to safeguard against hazards and to avoid congestion. Additional driveways should also be considered for large tracts and uses of extensive scope, if traffic flow on adjacent roads will be facilitated by the additional connections.
- i. Where topographic and other conditions are reasonably usable, provision should be made for circulation driveway connections to adjoining lots of similar existing or potential use when such driveway connections will facilitate fire protection services or when such driveway will enable the public to travel between two existing or potential uses, open to the public generally, without need to travel upon a public road.
- j. Driveways into site should have proper grades and alignments, as well as transition grades and sight distances, for safe, convenient and efficient access and should meet the public road right-of-way and travel ways of the public road in a manner that conforms with the provisions of this Ordinance.
6. **Design Standards.** In addition to the private road standards shown above and in Table 30.11.6, the following shall apply:
- a. **Easements.** Shared driveways and private roads shall reserve easements immediately adjacent and parallel to the private right-of-way of at least ten feet (10') in width on both sides of the right-of-way. The easement shall be utilized by public utilities, including but not limited to the installation of electric, gas, telephone, water, sewer and cable television service, together with the right to trim interfering trees and brush, together with a perpetual right of ingress and egress for installation, maintenance and replacement of such lines.
- b. **Road Names.** Approved private road name suffixes shall be Place, Path, Terrace, Circle, Lane, Loop, Alley and Way. Sign type and placement shall be in accordance with the Manual of Design and Construction Standards.
- c. **Verticle Clearance.** Private roads shall be designed with a minimum 20 and 30 foot unobstructed private right-of-way for rural and urban developments, respectively. A minimum unobstructed vertical clearance of fourteen feet (14') shall be provided.
- d. **Turnouts.** There shall be areas where two vehicles can easily pass each other at least every 500-600 feet. Turnouts shall be provided every 1,000 feet to accommodate the turnaround movements of emergency and other service-type vehicles.
- e. **Materials.** A maximum of five (5) residential lots shall be served by a shared private driveway, except for farmstead lots, for which there is no maximum. Residential single lot and shared driveways serving up to five (5) lots should be constructed using a minimum of a four inch thick layer of compacted aggregate base. A double surface treatment is recommended in light traffic situations to ensure a dust-less surface.
- f. **Corner Clearance.** In general, for commercial and industrial developments, no internal access connection may be proposed within 40' of the intersection with the entrance and the adjacent collector road. Unless the applicant demonstrates practical difficulty, all proposed commercial and industrial developments greater than 100,000 square feet shall provide a minimum corner clearance of 250 feet from an arterial public roadway.
- g. **Dimensions.** Rural private roads shall be constructed with two-foot wide unimproved shoulders. The minimum horizontal radius for driveways serving up to five lots shall be

1 50 feet (50'). The minimum width for joint-use non-residential driveways shall be 20  
2 feet (20'), however, the driveway shall be sized to serve the traffic generation of the lots  
3 served.

4 h. *Location.* Driveways for new corner lots shall be located at least 80 feet from an  
5 intersection of two (2) public roads.

6 i. *Paving.* For commercial and industrial developments, an all weather surface shall be  
7 designed and certified by the submitting engineer to ensure the pavement section is  
8 adequate to accommodate the site generated traffic, sub-grade conditions, vehicle  
9 loading, and design vehicle turning movements.

10 j. *Entrances and Access.*

11 (1) Entrances onto a public road shall be constructed in accordance with the  
12 Department of Public Works and Transportation Manual of Design and  
13 Construction Standards, as amended from time to time, and the provisions  
14 contained herein.

15 (2) Residential driveway access shall be limited to cul-de-sacs, local roads and  
16 minor collector roads. Multi-family and cluster subdivisions shall have direct  
17 access to a public road.

18 (3) Direct residential access to major collectors and arterials shall be permitted only  
19 when no feasible alternative exists. In such cases, a minimum separation  
20 between driveways and/or entrances of 150 feet, measured from centerline shall  
21 be maintained.

22 (4) Visibility of a driveway crossing a road right-of-way line shall not be impaired  
23 between a height of 2.5 feet and 7 feet for a depth of 5 feet from the street  
24 property line, as viewed from the edge of the right-of-way on either side of the  
25 driveway at a distance of 50 feet or at the nearest property line intersecting the  
26 street property line, whichever is less.

27 (5) Commercial and industrial entrances shall be constructed in accordance with  
05/25 28 State Highway Administration practices, standards established in this Ordinance  
04 29 and any applicable guidelines, Table 30.11.6, or plates approved by the Director  
30 of Public Works and Transportation.

31 (6) Construction entrances must be installed prior to any activity on the site.

32 (7) All entrances shall be designed with sufficient capacity to minimize queuing of  
33 entering vehicles on any road or street.

34 (8) Driveway entrances shall not be constructed in or partially in any intersection  
35 fillet and should be located so as to provide safe and efficient traffic operations.  
36 Where less than 30 feet of separation is provided between the centerlines of  
37 adjacent residential driveways, a shared entrance shall be provided.

38 (9) The minimum entrance width for joint-use driveways shall be 18 feet for the  
39 first twenty-five feet (25'). The remainder of the shared driveway shall be a  
40 minimum of sixteen feet (16') in width. The remainder of any driveway serving  
41 one dwelling unit may be decreased to ten feet (10') in width.

42 (10) A separate driveway entrance pipe schedule shall be required and shown on the  
43 design plans for all individual and shared driveways whose corresponding ditch  
44 flow exceeds five cubic feet per second (5cfs).

45 (11) Shared driveway entrances shall be bonded before plat recordation and installed  
46 by the applicant prior to Use and Occupancy Permit for any lots served by the  
47 entrance.

- 1 k. *Disclosure.* Disclosure shall be given to purchasers of lots served by private right-of-  
 2 ways in accordance with the Subdivision Regulations indicating that lots served by  
 3 private right-of-ways shall not be maintained by the County, nor shall said private right-  
 4 of-ways be considered for acceptance into the County Highways Maintenance System  
 5 until such is improved to the appropriate County Road Standards at the individual lot  
 6 owner(s) expense. The record plat shall be required to contain similar language prior to  
 7 approval.

05/25/04 8 **Table 30.11.6. Private Road Standards.**

Road Type	Design Speed	Minimum Width (ft.)	Min. Horizontal Radius (ft.)	Additional Standards
Private Road (Rural)	20 mph	18'	90'	Addition of 2 foot shoulders Five (5) lot maximum
Private Road (Urban)	15 mph	20'	90'	Shall serve a maximum of five (5) residential lots
Shared Driveway (Rural)	none	16'	50'	Shall serve a maximum of five (5) residential lots  For rural and urban residential access
Shared Driveway (Urban)	none	18'	50'	
Single Lot Driveway	none	10'	20'	Increase width to 15' for circulation and perimeter access  For ADT < 1500 vehicles, otherwise 30' width is required
Commercial (One-way)	20 mph	11'	90'	
Commercial (Two-way)	20 mph	22'	90'	

9 **30.12. Nonresidential Subdivision Standards.**

10 In addition to the general criteria for approval of all subdivisions, the applicant shall demonstrate to the  
 11 satisfaction of the Planning Commission that the street, parcel and block pattern proposed for a  
 12 nonresidential subdivision is specifically adapted to the uses anticipated and takes into account other uses  
 13 in the vicinity. The following standards shall apply:

- 14 a. Adjacent residential areas shall be buffered or screened from potential nuisances  
 15 associated with a proposed commercial or industrial subdivision, including the provision  
 16 of extra depth in parcels backing up on existing or potential residential development and  
 17 provisions for a permanently landscaped buffer strip as necessary or as required by the St.  
 18 Mary's County Comprehensive Zoning Ordinance.
- 19 b. Streets carrying nonresidential traffic, especially truck traffic shall not normally be  
 20 extended to the boundaries of adjacent existing or potential residential areas.
- 21 c. Where appropriate, pedestrian access to adjacent commercial areas and to adjacent  
 22 schools, parks and public uses shall be provided.

23 **30.13. Lot and Right-of-way Requirements.**

24 1. ***Lot Design.***

- 25 a. *Lot Dimensions.* Lot size, width, shape and orientation shall be appropriate for the  
 26 location and the type of development or use proposed for the subdivision, taking into  
 27 account that standards of the districts where the subdivision is located, the  
 28 recommendations of the TEC and any approved or adopted local, County, State or federal  
 29 plan determined applicable by the Planning Commission. Irregularly shaped lots that in  
 30 the opinion of the Planning Commission are created for the purpose of circumventing a  
 31 regulation of this Ordinance are prohibited. Irregularly shaped lots, discontinuous tracts

1 identified as one lot, or other configurations which provide in the opinion of the Planning  
2 Commission necessary land solely to meet the on-site sewage disposal or access  
3 requirements of this Ordinance, are also prohibited. These provisions do not apply to  
4 existing lots of record.

5 b. *Lot Frontage on Private Roads or Driveways.* Every residential lot shall abut on a street  
6 or road which has been dedicated to public use or which has acquired the status of a  
7 public road, except as permitted to be located on a private road, as set forth at Section  
8 30.11, above.

9 c. Driveway and Intersection Separation/access shall be as provided in Section 30.11,  
10 above.

11 (1) Hardship exemption. In cases where a hardship is demonstrated, the Planning  
12 Commission may modify the separation required, provided that any  
13 modification does not create an operational or safety hazard based on  
14 recommendations by the Director of the Department of Public Works &  
15 Transportation.

16 d. *Side Lines.* Side lines of interior lots shall be roughly perpendicular to the street line, or  
17 radial to a curved street line, unless determined by the Planning Commission that a  
18 variation from this rule will result in a more functional layout.

19 e. *Double Frontage Lots.* Double frontage lots, meaning a block having only 1 tier of lots  
20 between 2 streets or roads, should access the lower classification roadway and shall not  
21 be approved except where unusual topography, orientation or the size of the subdivision  
22 permit no other feasible way to subdivide.

23 f. *Major Subdivision Design Criteria.* Major subdivisions in the RPD and RL shall:

24 (1) Cluster lots on 50 percent or less of the lots(s), tract(s), or parcel(s) proposed for  
25 major subdivision; and

26 (2) Incorporate at least three (3) of the following into the project design:

27 (a) Avoid use of cul-de-sacs and use alternative turnarounds for  
28 unavoidable dead-end streets.

29 (b) Avoid use of flag lots.

30 (c) Utilize shared driveways established by deed restrictions and plat notes  
31 on at least 50 percent of the lots.

32 (d) Provide on-lot stormwater detention and infiltration that is protected  
33 through plat notes and deed restrictions.

34 (e) Provide open section roads (no curb) and vegetated open channels in  
35 the street right of way to convey and treat stormwater runoff from road  
36 and site.

37 (f) Limit impervious surface coverage within development envelope to 15  
38 percent through plat notes and deed restrictions.

39 (g) Preserve structures or sites listed on the state historic sites inventory or  
40 National Register of Historic Sites by incorporating them into the  
41 overall design for the project, setting them aside on protected open  
42 space parcels consistent with recommendation of the historic sites  
43 planner, or by negotiating and donating a MD Historical trust easement  
44 or establishing a local Historic District for the structure and  
45 surrounding land (local, State and federal grants and tax incentive may  
46 apply).

47 (h) Establish environmental easements with a private land trust, the County  
48 or the State for permanent open space protection and post easement

- 1 boundaries with signs stating purpose and allowable uses/activities  
2 within the easement
- 3 (i) Provide greenway(s) on the site which preserve and establish sections  
4 of designated Maryland "Green infrastructure" corridors, routes listed  
5 in the Maryland Greenways Atlas or which connect to existing adjacent  
6 federal, State or local parklands or private greenways.
- 7 (j) Construct onsite walking and biking paths within greenway, open space  
8 areas or road rights of way.
- 9 (3) Minimize disturbance to open space on sensitive areas, except that public  
10 utilities, sewage reserve areas and private utility be provided access through  
11 open space areas.
- 12 2. **Major Subdivision Mitigation Measures.** Major subdivisions in the RPD and RL shall incorporate  
13 at least one (1) of the following mitigation measures into the project design:
- 14 a. Increase width of resource protection buffers if required by the Comprehensive Zoning  
15 Ordinance, by 50 feet and do not include buffers within the lot boundaries.
- 16 b. Establish or enhance natural forest vegetation in unforested resource protection buffers.  
17 (plant or allow natural revegetation of at least 30 linear feet of 50 feet wide buffer per  
18 new lot)
- 19 c. Plant or pay a fee-in-lieu to plant or protect riparian forest buffers off site. (minimum  
20 1,500 square feet per lot at \$0.40/ sq.ft.).
- 21 3. **Right-of-way Design.**
- 22 a. *General Provisions.* The general road design standards established in the St. Mary's  
23 County Comprehensive Zoning Ordinance shall apply to rural and urban roads and  
24 represent the minimum acceptable design standards.
- 25 b. *Mapped Roads or Streets.* Subdivision plats shall include roads and streets identified on  
26 the Comprehensive Plan, or its subsequently adopted amendments. Where applicable,  
27 such plats shall include applicable recommendations of the State Highway Administration  
28 related to state roads and access thereto.
- 29 c. *Continuation of Roads.* The subdivision plat shall provide for continuation of any  
30 existing roads or streets, whether constructed or recorded, in accordance with the  
31 requirements of this Ordinance, unless otherwise determined by the Planning  
32 Commission. No road, separated from a county maintained road or a road maintained by  
33 any other public agency shall be improved or accepted by the Board of County  
34 Commissioners unless suitable connecting road to the existing road is improved to meet  
35 public road standards.
- 36 d. *Interparcel Access.* Unless prohibited by environmental constraint streets shall be  
37 extended to the property line to give opportunity for access to adjacent parcels. Streets  
38 and rights of way shall be aligned and connection constructed to a street or right of way  
39 that has been extended to the property line on an adjacent parcel.
- 40 e. *Secondary Residential Streets.* Secondary residential streets shall be planned to  
41 discourage their use by non-local traffic.
- 42 f. *Dedication of Right-of-Way.* Where public roadway improvements are officially planned,  
43 the Department of Public Works and Transportation may require that additional right-of-  
44 way shall be dedicated to the Board of County Commissioners.
- 45 g. The designation of street name suffixes shall be standardized in accordance with the Road  
46 Naming Manual.

1 4. **Future Subdivision.** A tract proposed for subdivision into large parcels with the possibility or  
2 intention of future subdivision (rather than immediate development) shall be divided so as to allow  
3 for future opening of streets and such further logical subdivision as can be foreseen.

4 5. **Vacating Rights-of-way.** The Department of Public Works and Transportation shall not  
5 recommend vacating of any street dedicated to and accepted by the public if it will adversely  
6 affect the proper functioning of the existing street system or a future street plan prepared by, or  
7 approved by, the Planning Commission or Board of County Commissioners.

8 **30.14. Public Improvement and Infrastructure Requirements.**

9 1. **Dedication and Construction of Roads, Sidewalks and Related Improvements.**

10 a. Public Roads with appurtenant sidewalks, drainage, street trees, and other integral  
11 facilities in each new subdivision, must be constructed by the applicant in accordance  
12 with the standards and specifications in the St. Mary's County Road Ordinance.

13 b. The minimum length of a public road shall be two hundred and fifty (250) feet.

14 2. **Monuments.** The applicant shall place a minimum of two (2) permanent reference monuments in  
15 the subdivision. Monuments shall be located at 2 property corners, shall be shown on the record  
16 plat, shall be spaced as far apart as possible but be within sight of a single point.

17 a. Monuments shall be located on street right-of-way lines, at street intersections, angle  
18 points of curve or block corners. They shall be spaced as far apart as possible but that  
19 both are within sight of a single point, the sight lines being contained wholly within the  
20 street limits.

21 b. Such permanent reference monuments shall be stone or concrete at least 18 inches in  
22 length and 4 inches square or have a 4-inch diameter with suitable center point and shall  
23 be set flush with the ground.

24 3. **Storm Drainage and Overlot Grading.** Applicant shall provide stormwater management, drainage  
25 and grading improvements according to the requirements of The St. Mary's County Stormwater  
26 Management, Grading, Erosion and Sediment Control Ordinance.

27 a. The storm water drainage system shall be separate and independent of any sanitary sewer  
28 system.

29 b. **Dedication of Drainage Easements.**

30 (1) Where a development is traversed by a natural drainage course or stream, there  
31 shall be provided a drainage easement, a minimum of 50 feet in width,  
32 conforming substantially with the line of such watercourse for the purpose of  
33 maintaining, improving, or protecting such drainage facilities. This easement  
34 area shall be designed to the 100-year flood plain level.

35 (2) Required storm drainage easements and surface drainage easements should be  
36 identified and recorded as a part of the record plat. Maintenance responsibilities  
37 for surface drainage easements shall be identified as the landowner or respective  
38 home owners association where applicable.

39 (3) The applicant shall dedicate, either in fee or by drainage easement of land on  
40 both sides of existing watercourses, to a distance to be determined by the  
41 Planning Commission on recommendation of the Director of Department of  
42 Public Works and Transportation.

43 (4) Where topography or other conditions are such as to make impractical the  
44 inclusion of drainage facilities within road rights-of-way, perpetual unobstructed  
45 easements at least 20 feet in width for such drainage facilities shall be provided  
46 across property outside the road right-of-way and with satisfactory traversable  
47 access to the road. Easements shall be clearly indicated on the plat with metes  
48 and bounds. Drainage easements shall be carried from the road to a natural

- 1 watercourse or to other drainage facilities and be adequate to accommodate the  
2 top width of the design flow, access and maintenance requirements.
- 3 (5) When a proposed drainage system will carry water across private land outside  
4 the subdivision, appropriate drainage rights must be secured and indicated on the  
5 plat with the respective recordation information.
- 6 c. *Maintenance within Drainage Easements*
- 7 (1) The applicant shall establish a maintenance easement in favor of the County that  
8 extends a minimum of 10 feet beyond the limits of drainage improvements. All  
9 areas of the drainage easement outside this maintenance easement shall remain  
10 the responsibility of the landowner.
- 11 (2) Adjustments in roadway grades, culvert or storm drain design may be required  
12 in order to limit the easement areas requiring maintenance by the County and to  
13 reduce headwater impacts on adjacent/abutting properties.
- 14 4. ***Right-of-way, Drainage, and Slope Easements.*** If subdivision approval is applied for with lots  
15 abutting road rights-of-way, which are less than standard width for the proposed type of roadway,  
16 the developer will be required to dedicate the additional right-of-way, drainage, and slope  
17 easements necessary to obtain the necessary width. Permanent easements will be required for  
18 perpetual maintenance by the County. Temporary easements may be obtained for the required  
19 clearing and grading needed to construct the permitted improvements.
- 20 5. ***Water and Sewer Systems.***
- 21 a. Community water supply and sewage disposal. Installation of community water supply  
22 and sewage disposal shall be designed, constructed and dedicated in accordance with the  
23 St. Mary's County Comprehensive Water Sewage Plan. Community water and sewerage  
24 systems shall be designed and constructed in accordance with the St. Mary's County  
25 Metropolitan Commission Sewerage Use Ordinance, St. Mary's County Metropolitan  
26 Commission Standards Specifications for Water and Sewerage Construction, and any  
27 other requirement set forth in this Ordinance.
- 28 b. Private wells and septic systems. Private wells and septic systems may be approved  
29 subject to the requirements of the Health Department and Maryland Department of the  
30 Environment in areas where community water and sewerage systems are not permitted,  
31 required or available according to the St. Mary's County Comprehensive Water and  
32 Sewerage Plan.
- 33 c. All sewage reserve areas (SRA) for new residential lots shall be located within the  
34 boundaries of the lot the SRA is designed to serve, or for new commercial lots within ½  
35 mile of the new commercial lot. This shall not apply to existing lots of record.
- 36 d. New sewage reserve areas to serve proposed lots shall not be located within Sensitive  
37 Areas as defined in Chapter 71 of the St. Mary's County Comprehensive Zoning  
38 Ordinance.
- 39 e. No new subdivision may be approved unless the lots will be served by a water and  
40 wastewater disposal system as required by the St. Mary's County Comprehensive Zoning  
41 Ordinance, as amended.
- 42 6. ***Utilities.***
- 43 a. The applicant is responsible for installing telephone and electric lines. Prior to recording,  
44 the applicant must show evidence from the appropriate utilities that sufficient lines exist,  
45 or that satisfactory arrangements have been made to have necessary lines installed.
- 46 b. Public utility easements of a minimum total of 10 feet in width shall be provided along all  
47 lot property lines as may be required. Proper coordination shall be made between the  
48 applicant and the utility company/authority for the establishment of utility easements

- 1                    along adjoining properties/lots. A utility access to each lot must be shown on the plat of  
2                    all subdivisions.
- 3    7.    **Street Lights and Traffic Control Signal Warrants.** The applicant shall provide street lights in  
4                    accordance with the requirements and standards prescribed in the Road Ordinance.
- 5    8.    **Adequate Public Facilities.** All adequate public facilities requirements shall be met as provided in  
6                    the Comprehensive Zoning Ordinance.
- 7    9.    **Installation of Improvements.** All public improvements and infrastructure shall be completed or  
8                    assured as provided in the Comprehensive Zoning Ordinance, the Road Ordinance and the  
9                    Stormwater Management, Erosion and Sediment Control Ordinances.
- 10   10.   **Streetscape Improvements.** Trees for streetscape plantings shall be as recommended for the site  
11                    and soil conditions. Survival of trees is to be considered and use of native species is preferred.  
12                    Use of trees not found in the Department of Planning and Zoning Recommended List of Trees for  
13                    Street Planting requires approval from the Department of Public Works and Transportation.
- 14   11.   **Transit Bus Shelters.**
- 15                    a.        Where a curb and gutter are present, there shall be a minimum of four feet clearance from  
16                    the face of the curb to any portion of the bus shelter. Where no curb is present the front  
17                    of the bus shelter shall be at least ten feet from the edge of the main traveled roadway.  
18                    Transit bus shelters may not be located within five feet of any fire hydrant or  
19                    handicapped parking space and shall be at least 300 feet from another bus shelter.

**CHAPTER 31 OPEN SPACE RESERVATION, DEDICATION AND FEES IN LIEU**

Sections:

- 31.1 Purpose.
- 31.2 Reservation and Dedication Requirements.
- 31.3 Minimum Recreational Site Dedication for Public Use.
- 31.4 Areas Unsuitable for Public Use.
- 31.5 Dedication Following Approval.
- 31.6 Reservation of Lands for Private Use.
- 31.7 Alternative Procedure.
- 31.8 Appeals.

**31.1. Purpose.**

The purpose of this Chapter is to establish standards and procedures for establishing open space and recreational lands within new subdivisions. Such lands may either be held in private ownership or dedicated to public ownership as determined by the Planning Commission upon recommendation of the Recreation and Parks Advisory Board.

**31.2. Reservation and Dedication Requirements.**

1. **Recreational Land Use.** The minimum area of land within each major subdivision, multi-family development, or planned development to be platted as reserved and maintained as open space, or dedicated for parks, playgrounds or other passive and/or active recreational uses shall be calculated as provided in Schedule 31.2.1. The dedication or reservation may be whether publicly owned or privately owned as determined by the Planning Commission.

**Schedule 31. 2.1: REQUIRED RECREATIONAL LAND DEDICATIONS**

<b>Single-Family Lot Size</b>	<b>Minimum Percentage of Total Land in Subdivision to be Reserved for Open Space/ Recreational Use</b>
10,000 sq. ft. to 14,999 sq. ft.	12.0%
15,000 sq. ft. to 19,999 sq. ft.	9.0%
20,000 sq. ft. to 43,559 sq. ft.	6.0%
43,560 sq. ft. (One acre) to 87,119 sq. ft.	3.0%
87,120 sq. ft. (two acres) or more	2.0%
<b>Attached Single-Family, Townhouse, Multiple-Family and Apartments, Mobile Home Park, Planned Development</b>	<b>Minimum Percentage of Total Land in Subdivision to be Reserved for Open Space/ Recreational Use</b>
All lots/units/apartments	1,300 sq. ft. per lot, unit, or apartment

2. The Planning Commission may require the dedication or reservation of land areas in excess of the minimum required by Schedule 31.2.1. In determining whether to require the dedication or reservation of more area than is minimally required, the Planning Commission shall consider the following:
  - a. The recommendations of adopted plans prepared by local, County, State and federal agencies applicable to the potential public land;

- b. The physical, social and economic circumstances existing where the County subdivision is located;
- c. The size and character of the proposed subdivision;
- d. The benefits to the public and residents of the proposed subdivision to be derived from requiring dedication of land, and

3. The Planning Commission may approve transfer of ownership of reserved or dedicated lands to the county, a homeowners association or land conservation group. In all cases where the dedicated land is to remain under the private ownership of the applicant or its successors, the applicant shall submit appropriate and specific arrangements for the perpetual management and maintenance of such land for Planning Commission approval.

**31.3. Minimum Recreational Site Dedication for Public Use.**

In general, land reserved or dedicated for publicly owned recreational uses shall have a minimum area of 10 acres. Less than 10 acres may be accepted if the area adjoins an existing or proposed park and the Recreation and Parks Advisory Board recommends inclusion of the land in the County's park system. If the publicly owned recreational open space area is less than 10 acres, the Planning Commission, upon endorsement by the Recreation and Parks Advisory Board may require that areas be located at a suitable place on the edge of the subdivision to allow for the possibility of adding land at such time as the adjacent land is subdivided.

**31.4. Areas Unsuitable for Public Use.**

The Planning Commission shall have the final authority in determining whether land proposed for dedication to public use is suitable for such uses. The Planning Commission may either refuse to approve the dedication, or it may require the rearrangement of lots in the proposed subdivision or residential development to provide for an acceptable alternative site (or sites) for public use. In its determination of whether a site is suitable for public use, the Planning Commission shall consider the following factors:

- 1. Any criteria for the intended public use adopted by the Department of Recreation and Parks;
- 2. The natural features of the proposed site; and
- 3. The location and shape of the proposed site in relation to existing, planned or proposed public amenities in the area of the land proposed for dedication.

In its evaluation of the natural features of a site proposed for public use by the applicant, the Planning Commission may require the applicant, at the applicant's expense, to perform soil borings or provide other detailed topographical/subsurface information not otherwise required by this section. Such information provided to the Planning Commission must be certified by the applicant's engineer. Unless the applicant agrees to pay for the necessary site preparation costs, the Planning Commission may refuse a site if the Planning Commission determines that the natural features of the site will require significant site preparation work (such as extensive excavation of rock, extensive grading or grading of steep slopes, remedial environmental measures, or similar work) to prepare the site for the intended public use.

**31.5. Dedication Following Approval.**

Whenever the dedication of land to public use is approved by the Planning Commission the applicant shall formally dedicate the land to the County by written instrument in recordable form satisfactory to the County Attorney.

**31.6. Reservation of Lands for Private Use.**

If the applicant does not propose the dedication of recreational or open space lands for public use or such an offer dedication is rejected by the Planning Commission, the lands shall be reserved for the use and enjoyment of lot owners or residents of the proposed subdivision or residential development. The applicant shall provide areas for active or passive recreational use of the lot owners or residents. The applicant shall submit proof satisfactory to the Planning Commission that the recreational or open space lands will be permanently reserved for the beneficial use and enjoyment of lot owners or residents. The recreational or open space lands so reserved may be conveyed to a homeowners association provided the applicant makes satisfactory provision for the financial responsibility of the association. All covenants,

1 deeds, and restrictions regarding the lands so reserved shall be in recordable form and shall be approved as  
2 to form and sufficiency by the County Attorney.

3 **31.7. Alternative Procedure.**

4 Money in lieu of land may be required by the Planning Commission upon the recommendation of the  
5 Recreation and Parks Board. Such contributions shall be made in an amount and at a time as specified by  
6 resolution of the Board of County Commissioners.

7 **31.8. Appeals.**

8 The applicant shall appeal any reservation or dedication required by the Planning Commission to the Board  
9 of Appeals, within thirty (30) days of the Planning Commission's decision.



1 **ARTICLE 4. ENFORCEMENT**

2 **CHAPTER 40 ENFORCEMENT**

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3 Sections:

- 4
- 5 40.1 Actions in Violation of this Ordinance.
  - 6 40.2 Procedure for Prosecution of Violations.
  - 7 40.3 Actions to Remedy Violations.
  - 8 40.4 Penalties.
  - 9 40.5 Conflict of Laws.

10 It shall be the duty of the Planning Director to enforce this Ordinance and to take action as set forth in the  
11 Ordinance necessary to abate violations and achieve compliance. The Planning Director may bring to the  
12 attention of the Planning Commission, Board of County Commissioners, or County Attorney any violations  
13 or lack of compliance herewith.

14 **40.1. Actions in Violation of this Ordinance.**

- 15 1. It shall be unlawful for any person, whether as owner, principal, agent, employee or otherwise, to  
16 violate any provisions of this Ordinance, to permit any such violation, or to fail to comply with the  
17 requirements of this Ordinance, including, but not limited to, the following:
- 18 a. To erect any building, structure, or sign, or to construct, reconstruct, alter, repair, convert  
19 or maintain any building, structure or sign or other improvement contrary to any of the  
20 provisions of this Ordinance or to use operate or maintain any building, structure, sign or  
21 land contrary to any provision of this Ordinance.
  - 22 b. To transfer or sell any parcel in a proposed subdivision before a plat of such subdivision  
23 has been approved by the Planning Commission in accordance with the provisions of this  
24 Ordinance and filed for recordation with the Office of the Clerk of the Circuit Court of St.  
25 Mary's County.
  - 26 c. To subdivide any lot or any parcel of land, by the use of metes and bounds description for  
27 the purpose of sale, transfer, or lease without complying with the requirements of this  
28 Ordinance.
  - 29 d. To fail, after percolation tests have been taken, to ensure that the test hole is covered or  
30 backfilled, immediately and completely.
- 31 2. It shall be unlawful for any lessee to use the leased premises for any activity not permitted for  
32 under this Ordinance.

33 **40.2. Procedure for Prosecution of Violations.**

- 34 1. Upon becoming aware of any violation of this Ordinance, the Planning Director may serve notice  
35 of such violation on the person committing or permitting the same, and if such violation has not  
36 ceased within the time specified by the Planning Director, the Planning Director shall institute  
37 such action as may be necessary to terminate the violation.
- 38 2. The Planning Director or his designees may serve a citation noting a municipal civil infraction to a  
39 person believed to be committing or permitting a violation of this Ordinance or the owner(s) of  
40 record of the property where the violation occurs. A copy of the citation shall be retained by the  
41 Planning Director and shall bear a certification attesting to the truth of the matters set forth therein.  
42 The citation shall contain:
- 43 a. The name and address of the person charged;
  - 44 b. The nature of the violation;
  - 45 c. The place and time of the violation;
  - 46 d. The amount of the fine assessed;

- 1 e. The manner, location, and time in which the fine may be paid; and  
2 f. The person's right to elect to stand trial in the District Court of St. Mary's County for the  
3 violation.

4 3. A person who receives a citation may elect to stand trial for the offense in the District Court of St.  
5 Mary's County, by filing a notice of intent to stand trial. The notice shall be given at least five  
6 days before the date of payment as set forth in the citation. On receipt of the notice of intention to  
7 stand trial, the Planning Director shall forward to the District Court a copy of the citation and the  
8 notice. On receipt of the citation, the District Court shall schedule the case for trial and notify the  
9 defendant of the trial date. All fines, penalties, or forfeitures collected by the District Court for  
10 violations shall be remitted to St. Mary's County.

11 4. If a person who receives a citation for a violation fails to pay the fine by the date of payment set  
12 forth on the citation and fails to file a notice of intention to stand trial, a formal notice of the  
13 violation shall be sent to the person's last known address. If the citation is not satisfied within 15  
14 days from the date of the notice, the person is liable for an additional fine not to exceed twice the  
15 original fine. If, after 35 days, the citation is not satisfied, the zoning official may request  
16 adjudication of the case through the District Court. The District Court shall schedule the case for  
17 trial and summon the cited person to appear.

18 5. Adjudication of a violation under this section is not a criminal conviction, nor does it impose any  
19 of the civil disabilities ordinarily imposed by a criminal conviction.

20 6. In a proceeding before the District Court, the violation shall be prosecuted in the same manner and  
21 to the same extent as set forth for municipal infractions in Article 23A, Section 3(b)(8) through  
22 (15) of the Maryland Annotated Code.

23 7. If a person is found by the District Court to have committed a municipal infraction violation, that  
24 person shall be liable for the costs of the proceedings in the District Court in addition to the fine(s)  
25 levied.

26 **40.3. Actions to Remedy Violations.**

27 In addition to the imposition of any monetary penalties provided in this Ordinance, the County may initiate  
28 an injunction, mandamus, or any other appropriate action to prevent the erection, construction,  
29 reconstruction, alteration, repair, conversion, maintenance, sale or use in violation of any provision of this  
30 Ordinance, to restrain, correct, or abate the violation; to prevent the occupancy of the building, structure or  
31 land which is the subject of the violation, or to prevent any illegal act, conduct, business, or use in or about  
32 the premises. Except in the event of an emergency, private dwellings shall require appointment prior to  
33 entry.

34 **40.4. Penalties.**

35 1. Pursuant to Article 66B, 7.01 of the Maryland Annotated Code, the Board of County  
36 Commissioners may provide for civil penalties for any violation of this Ordinance by establishing  
37 a schedule of fines. Each day in which any such violation occurs, or in which such person fails to  
38 perform the duties required of him or to comply with the provisions of those sections, shall  
39 constitute a separate offense. Any person who violates a provision of this Ordinance shall become  
40 liable to the County for any expense, loss, or damage occasioned by the County by reason of such  
41 violation.

42 **40.5. Conflict of Laws.**

43 If the provisions of any other law, ordinance, or regulation of the County or the State shall be in conflict  
44 with the provisions of this Ordinance, the more stringent or restrictive provision shall control.

1 **ARTICLE 5. DEFINITIONS**

2 **CHAPTER 50 DEFINITIONS**

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3 **Accessory Structure, Building or Use.** A building or use that is all of the following: a) constructed or  
4 located on the same zoning lot as the principal main building is or use served, except as may be specifically  
5 provided elsewhere in this Ordinance; b) clearly incidental to, subordinate in purpose to, and serving the  
6 principal use; and c) either in the same ownership as the principal structure, building or use or is clearly  
7 operated and maintained solely for the comfort, convenience, necessity, or benefit of the occupants,  
8 employees, customers, or visitors of the principal use.

9 **Basement.** That portion of a building having more than one-half (1/2) of its height below lot grade  
10 elevation.

11 **Bona-Fide Agricultural Use or Activity.** In the Critical Area agriculture means all methods of production  
12 and management of livestock, crops, vegetation, and soil. This includes, but is not limited to, the related  
13 activities of tillage, fertilization, pest control, harvesting, and marketing. It also includes, but is not limited  
14 to, the activities of feeding, housing, and maintaining of animals such as cattle, dairy cows, sheep, goats,  
15 hogs, horses, and poultry and handling their by-products. Outside the Critical Area agriculture means  
16 farming activities including plowing, tillage, cropping, installation of best management practices, seeding,  
17 cultivating, and harvesting for production of food and fiber products (except commercial logging and  
18 timber harvesting operations), the grazing and raising of livestock, aquaculture, sod production, orchards,  
19 nursery, and other products cultivated as part of a recognized commercial enterprise.

20 **Building, Detached.** A building surrounded by an open space on the same lot.

21 **Certificate of Occupancy.** The certificate issued by the Director of Permits and Inspections or designee  
22 which permits the use of a building or premises in accordance with the approved plans or permits and the  
23 provisions of law for the use and occupancy of the building in its several parts, together with any special  
24 stipulations or conditions of the zoning permit.

8/11/06 25 **Cluster Development.** A residential cluster development encourages and permits variations in  
26 developments by allowing variation in lot size, lot dimensions, and lot coverage from that which is  
27 normally required in the applicable zoning district. Dwelling units are concentrated in a selected area or  
28 selected areas of the development tract in order to provide natural habitat or other open space uses  
29 (including agriculture) on the remainder.

30 **Community Sewerage System.** Any system, whether publicly or privately owned, serving multiple lots,  
31 dwelling units, businesses, commercial or industrial establishments for the collection, transportation and  
32 disposal of sewage or industrial wastes of liquid nature, including various devices for the treatment of such  
33 sewage and industrial wastes, as defined by the Comprehensive Water and Sewerage Plan.

34 **Community Water Supply.** A source of water and a distribution system, including treatment and storage  
35 facilities, whether publicly or privately owned, multiple lots, dwelling units, businesses or commercial or  
36 industrial developments, as defined by the Comprehensive Water and Sewerage Plan.

37 **Comprehensive Plan.** The Comprehensive Plan for St. Mary's County (*Quality of Life in St. Mary's*  
38 *County - A Strategy for the 21<sup>st</sup> Century*), as approved by the Board of County Commissioners, including  
39 any amendments or extensions.

40 **County Commissioners.** The Board of County Commissioners for St. Mary's County Maryland.

41 **County Road.** A public road or street which is part of the Highway Maintenance System of St. Mary's  
42 County.

43 **County.** The County of St. Mary's, Maryland.

44 **Critical Area.** All lands and waters defined in Section 8-1807 of the Natural Resources Article, Annotated  
45 Code of Maryland and modification(s), if any, to these areas through inclusions or exclusions proposed by  
46 the County Commissioners and approved by the Maryland Chesapeake Bay Critical Area Commission as  
47 specified in said Section 8-1807.

48 **Department.** St Mary's County Department of Planning and Zoning.

- 1 **Develop Land.** To change the runoff characteristics of a parcel of land in conjunction with residential,  
2 industrial, commercial, or institutional construction or alteration.
- 3 **Developable Land.** Land that is unconstrained by such conditions as steep slopes, floodplains, or adverse  
4 soil or water conditions that preclude development, and that does not have a significant environmental  
5 resource identified such as wetland or critical riparian habitats.
- 6 **Developed Woodland.** Those area of 1 acre or more in size that predominately contain trees and natural  
7 vegetation and which also include residential, commercial or industrial structures or uses. On individual  
8 lots or parcels of less than 1 acre, individual trees, woody vegetation, as well as natural vegetation and  
9 forests contribute to the developed woodland coverage for the larger vicinity and shall be subject to the  
10 provisions of this Ordinance.
- 11 **Developer.** A person with freehold, possessory or contractual interest in land proposed for development.
- 12 **Development.** The construction or substantial alteration of open lands, or agricultural, residential,  
13 commercial, industrial, institutional, or transportation facilities or structures including any man-made  
14 change to improved or unimproved real estate, including, but not limited to buildings and other structures,  
15 dredging, fill, grading, paving, clearing, excavation, dumping, extraction, or storage of equipment or  
16 materials. Development includes the process of subdivision.
- 17 **Driveway.** A private access road, drive or lane to an individual residence which is contained within the lot  
18 or parcel and is not intended to serve any other lot or parcel of land.
- 12/2/0219 **Farmstead.** A lot of 15 acres or more in single ownership.
- 20 **Frontage Zoning Lot.** The length of all the property of such zoning lot fronting on a street measured  
21 between side lot lines.
- 22 **Immediate family.** A person who is either the applicant's father, mother, son, daughter, grandfather,  
23 grandmother, grandson, or granddaughter.
- 24 **Impervious Surfaces.** All buildings, road, parking and driveways, paving, patios, decks, sidewalks,  
25 stoops, porches, steps, walkways, piers, swimming pools constructed on a lot which reduce the infiltration  
26 capacity of the land or result in increased storm water runoff. Wooden decks and walkways (or portions  
27 thereof) elevated above finished grade by minimum of the width of the deck and having shrub or ground  
28 cover plantings beneath are considered pervious.
- 29 **Loading Space or Loading Berth.** A space within the main building or on the same lot which provides for  
30 the standing, loading or unloading of trucks or other vehicles.
- 31 **Logo.** A trademark or company name symbol.
- 32 **Lot.** A portion of a subdivision or tract of land having frontage on a street or road which is intended for  
33 development and which meets the requirements as a legal building site per this Ordinance.
- 34 **Lot Area, Gross.** The area of a horizontal plane bounded by the front, side, and rear lot lines, but not  
35 including any area occupied by the waters of a duly recorded lake or river, or State tidal wetlands.
- 36 **Lot Depth.** The mean horizontal distance between the front lot line and rear lot line of a lot, measured  
37 within the lot boundaries.
- 38 **Lot Line Rear.** Any boundary of a lot that is not a front lot line or a side lot line but generally running  
39 parallel to opposite of a front lot line.
- 40 **Lot Line, Front.** That boundary of a lot that is along an existing or dedicated public street, or, where no  
41 public street exists, is along a public way.
- 42 **Lot Line, Side.** Any boundary of a lot that is not a front lot line or a rear lot line but generally running  
43 perpendicular to the front or rear lot lines.
- 44 **Lot Of Record.** A parcel of land which has been legally subdivided and recorded in the Land Records of  
45 St. Mary's County, Maryland. A parcel is considered to be legally subdivided if it was created using the  
46 following criteria: A) it was created prior to March 15, 1978; B) it was created by subdivision plat

- 1 approved by the Planning Commission or its administrative personnel; or C) it was an approved deeded  
2 division as authorized by the subdivision regulations and approved by the Department of Planning and  
3 Zoning.
- 4 **Lot Width.** The horizontal distance between the side lot lines of a lot measured at the narrowest width  
5 within the first 30 feet of lot depth immediately in back of the front yard setback line.
- 6 **Lot, Corner.** A lot situated at the intersection of two (2) or more streets. On a corner lot, the front lot line  
7 is defined as that lot line which contains the narrowest of all street frontages abutting a public street or  
8 public/private right-of-way. However, for lots abutting any street designated as minor collector or higher in  
9 classification, all lot lines abutting such higher order streets shall be deemed front lot lines.
- 10 **Lot, Interior.** A lot other than a corner or reversed corner lot.
- 11 **Lot, Reversed Corner.** A corner lot, the street side lot line of which is substantially a continuation of the  
12 front lot line of the first lot to its rear.
- 13 **Lot, Through.** A lot having a pair of opposite lot lines along two (2) more or less parallel public streets,  
14 and which is not a corner lot. On a "through lot", both street lines shall be deemed front lot lines.
- 15 **Lot, Zoning.** A single tract of land located within a single block under contiguous ownership that meets the  
16 minimum requirements for a permitted use as set forth in the St. Mary's County Comprehensive Zoning  
17 Ordinance.
- 18 **Mobile Home Park.** Any site, lot, parcel, or tract of land that is improved, used, or intended for the  
19 accommodation of mobile homes that are used for living purposes.
- 20 **Net Tract Area.** Except in agriculture and resource areas, the net tract area is the total area of a site,  
21 including both forested and non-forested areas, to the nearest 1/10 acre, reduced by the area found to be  
22 within the boundaries of the 100-year floodplain. In agriculture and resource areas, the part of the total  
23 tract for which land use will be changed or will no longer be used for primarily agricultural activities,  
24 reduced by the area found to be within the boundaries of the 100-year floodplain.
- 25 **Off-Street Loading Facilities.** A site or portion of a site located off of a public road devoted to the loading  
26 or unloading of motor vehicles or trailers, including loading berths, aisles, access drives, and landscaped  
27 areas.
- 28 **Off-Street Parking Space.** The space located off of a public road, designed, intended, used or required to  
29 park one passenger vehicle.
- 30 **Open Space Related Terms**
- 31 Common Usable Open Space. Useable open space available for use by the occupants of more than  
32 one dwelling unit; controlled and maintained by a property owner or an incorporated non-profit  
33 homeowner's association; or dedicated in fee to, and maintained by, a public agency and devoted  
34 to use by residents who will occupy the dwellings. Does not include any space with a dimension  
35 of less than 10 feet in any direction or an area of less than 100 square feet.
- 36 Open Space. Any land developed or undeveloped, reserved or dedicated as yards, parks,  
37 landscaped green areas, and recreational areas, and is exclusive of areas developed for of-street  
38 parking, structures and streets.
- 39 Private Open Space. An open area outside of a building adjoining and directly accessible to a  
40 dwelling unit, reserved for the exclusive use of residents of the dwelling unit and their guests.
- 41 Shared Open Space. An open area within a residential development reserved for the exclusive use  
42 of residents of the development and their guests.
- 43 Usable Open Space. Outdoor areas open to the sky on the ground, or on a roof, balcony, deck,  
44 porch, or terrace designed and accessible for outdoor living, recreation, pedestrian access, or  
45 landscaping by all residents for whom the space is intended. Does not include street right-of-way,  
46 public or private surface easements, accessory buildings, open parking areas, driveways, and  
47 access ways for the dwellings, land area utilized for garbage and refuse disposal or other servicing

1 maintenance, or required front or corner side yards. Also, does not include any space with a  
2 dimension of less than 6 feet in any direction or an area of less than 36 square feet. Suitable  
3 recreational structures designed to be consistent with the intent of this definition may be  
4 considered usable open space.

5 **Outlot.** A piece or tract of land that remains within a subdivision but which does not meet the minimum  
6 requirements of the Ordinance for a lot and is therefore not useable as a building site.

7 **Outparcel.** A tract of land designated on a subdivision plat for future development, or not designated for  
8 any specific purpose, that has not been evaluated for compliance with the requirements of this Ordinance  
9 for adequate facilities or zoning requirements and is therefore not useable as a legal building site.  
10 Outparcels may be the subject of a record plat or resubdivided provided the lot(s) created meet all  
11 requirements of the Ordinance prior to plat approval.

12 **Parcel.** In the context of subdivision platting per this Ordinance, a parcel is either a tract of land platted for a  
13 designated purpose other than as a legal building site (e.g. to meet the open space requirements of the  
14 Ordinance; to provide a well site, to provide a sewerage disposal parcel,) or a tract of land that may meet  
15 zoning requirements for area, width, depth, etc., but is not intended for development due to environmental  
16 constraints, density restrictions or other legal encumbrances.

17 **Parcel of Land.** A contiguous legally-created lot, parcel, outlot, outparcel or residue owned and recorded  
18 as the property of the same persons, or controlled by a single entity.

19 **Parcel of Record.** An individual parcel of land outside the Chesapeake Bay Critical Area (CBCA) recorded  
20 separately in the land records of St. Mary's County, Maryland as of March 15, 1978, or an individual parcel  
21 of land within the CBCA recorded separately in the land records of St. Mary's County, Maryland as of  
22 December 1, 1985. Only County or State road rights-of-way that existed on March 15, 1978, shall be  
23 considered parcels dividers which divide a parcel into two (2) or more parcels of record.

24 **Planned Development or Planned Unit Development.** A parcel of land or contiguous parcels of land of a  
25 size sufficient to create its own environment, controlled by a single landowner or by a group of landowners  
26 in common agreement as to control, to be developed as a single entity, the environment of which is  
27 compatible with adjacent parcels and the intent of the zoning district or districts in which it is located; the  
28 developer or developers may be granted relief from specific land use regulations and design standards, and  
29 may be awarded certain premiums in return for assurance of any overall quality of development, including  
30 any special feature which will be of exceptional benefit to the community as a whole and which would not  
31 otherwise be required by this Ordinance.

32 **Planning Director.** The Director of the St. Mary's County Department of Planning and Zoning or his  
33 designee.

34 **Plat.** As used in this Ordinance, plat shall be a map of a tract of land showing boundaries of individual  
35 properties and streets, easements and rights-of-way prepared in accordance with this Ordinance as an  
36 instrument for recording of real estate interests with the County Clerk and Recorder.

37 **Premises.** A zoning lot, together with all buildings and structures thereon.

38 **Principal Use.** A main or primary use of land, as distinguished from an "accessory use". More than one  
39 principal use may exist on a tract if done so completely in accordance with this Ordinance.

40 **Private Road.** A private access, drive or lane to more than one residence which is contained within the lot  
41 or parcel and which is not dedicated to the County.

42 **Project Approval.** The approval of development, other than development by a State or local government  
43 agency, in the Critical Area by the appropriate local approval authority. The term includes approval of  
44 subdivision plats and site plans; inclusion of areas within floating zones; issuance of variances, and  
45 conditional use permits; and issuance of zoning permits. The term does not include approval of building  
46 permits.

47 **Property Lines.** The lines bounding a zoning lot, as defined herein.

48

- 1 **Public right-of-way.** Any street, avenue, boulevard, highway, sidewalk or alley or similar place which is  
2 owned or controlled by a governmental entity.
- 3 **Public Sewerage System** Any system for the collection, transportation, and disposal of sewage or  
4 industrial wastes of a liquid nature, including various devices for the treatment of such sewage and  
5 industrial wastes as defined by the Comprehensive Water and Sewerage Plan that serves two or more  
6 individual lots, dwelling units, businesses, commercial or industrial establishments, and is owned or  
7 operated by an incorporated municipality, St. Mary's County Metropolitan Commission, or an agency of  
8 St. Mary's County, the State of Maryland, or the Federal Government.
- 9 **Public Water Supply System.** A source of water supply and distribution system that includes treatment  
10 and storage facilities, serves two (2) or more individually owned lots, dwelling units, businesses,  
11 commercial or industrial establishment, and is owned and/or operated by an incorporated municipality, St.  
12 Mary's County Metropolitan Commission, or an agency of St. Mary's County, the State of Maryland, or the  
13 Federal Government.
- 14 **Public Way.** Any sidewalk, street, alley, highway, or other public thoroughfare.
- 15 **Receiving Parcel.** A lot or parcel of land in a zoning district where permitted, on which development rights  
16 transferred from a sending parcel are used.
- 17 **Residue.** An obsolete term used on subdivision plats prior to March 1, 1994 to identify land that has not  
18 been platted as a lot of record. However, given approval for access, water supply, sewage disposal and  
19 environmental zoning permits, a "residue" may be used as a legal building site. A residue may be the  
20 subject of a record plat to create additional building lots or be resubdivided provided the lot(s) created meet  
21 all requirements of the Ordinance prior to plat approval.
- 22 **SCD.** St. Mary's County Soil Conservation District .
- 23 **SHA.** Maryland State Highway Administration.
- 24 **Shared Facilities.** A water or sewerage system which serves more than one lot of land or more than one  
25 user on a single lot of land with water or sewerage systems located on the individual lots or on parcels  
26 owned in common by the users.
- 27 **Site.** Any tract, lot or parcel of land or combination of tracts, lots or parcels of land which are in one  
28 ownership, or are contiguous and in diverse ownership where development is to be performed as part of a  
29 unit, subdivision, or project as shown on an application.
- 30 **Stormwater Management.** For quantitative control, a system of vegetative and structural measures that  
31 control the increased volume and rate of surface runoff caused by man-made changes to the land; and for  
32 qualitative control, a system of vegetative, structural, and other measures that reduce or eliminate pollutants  
33 that might otherwise be carried by surface runoff.
- 34 **Street.** A public or private right-of-way which affords a primary means of vehicular access to abutting  
35 property, whether designated as a street, avenue, highway, road, boulevard, lane throughway, or however  
36 otherwise designated, but does not include driveways to buildings.
- 37 **Subdivision, Farmstead.** Minor subdivisions in which all lots are 15 acres or larger.
- 38 **Subdivision, Major.** Any subdivision not defined as a minor, or farmstead subdivision.
- 12/2/02 39 **Subdivision, Minor.** The division of a parcel of record or lot which creates 1 to 5 lots or any number of  
40 farmsteads.
- 41 **Subdivision.** Subdivision means the division of a lot, tract, or parcel of land into two or more lots, plats,  
42 sites, or other division of land for the purpose, whether immediate or future, of sale or of building  
43 development provided that this definition of a subdivision shall not include a bona fide division or partition  
44 of agricultural land not for development purposes.
- 45 **Variance.** A modification only of density, bulk, or area requirements of this Ordinance where such  
46 modification will not be contrary to the public interest and where owing to conditions peculiar to the  
47 property, and not the results of any action taken by the applicant, a literal enforcement of the Ordinance

1 would result in unnecessary hardship in the Chesapeake Bay Critical Area or practical difficulty in other  
2 areas of the County.

3 **Yard.** A required open space on a zoning lot within a building or structure may occupy or obstruct the  
4 space from its lowest level to the sky, except as otherwise permitted in this Ordinance. A "yard" extends  
5 along a lot line, and to a depth or width specified in the yard requirements for the zoning district in which  
6 such zoning lot is located. Also, the area between the lot line and the building setback line.

7 Corner side yard. A side yard on the street side of a corner lot.

8 Front Yard. A yard extending along the full length of the front lot line of the zoning lot.

9 Rear Yard. A yard extending along the full length of the rear lot line of the zoning lot.

10 Side Yard. A yard extending along a side lot line measured from the front yard to the rear yard.

11 Side Yard, Corner. A side yard which adjoins a public street

12 Side Yard, Interior. A side yard that is located immediately adjacent to another zoning lot or to an  
13 alley separating such yard from another zoning lot.

14 Transitional Yard. That yard which must be provided on a zoning lot in a commercial zoning district  
15 which adjoins a zoning lot in a residential zoning district, or that yard which must be provided on a  
16 zoning lot in either a residential or commercial zoning district.

17 **Zoning Permit.** A written statement or certificate issued by the Planning Director authorizing buildings,  
18 structures, or uses in accordance with the provisions of the Comprehensive Zoning Ordinance.