

## Article IV Floating and Overlay Zoning Districts

### *§ 190-106. Manufactured Home Development Floating District - MHD*

#### A. Purpose

The MHD District is established to provide opportunity for manufactured home rental communities and manufactured home subdivisions at appropriate locations.

#### B. Procedure for approval

The procedure for establishing a MHD District is the same as the zoning map amendment procedure in Article IX of this chapter.

#### C. Districts permitted

Manufactured Home Development Floating Districts may be approved only in areas zoned Agricultural Conservation (AC), Countryside Preservation (CP), Town Conservation (TC) and Town Residential (TR).

#### D. Concept plan

- (1) A concept plan shall be submitted with the rezoning application. The plans or plat shall be of sufficient detail to determine if the development generally complies with the site plan and design standards for manufactured home developments.
- (2) The final site plan or final subdivision plat may be approved once the rezoning is approved. Final plans and plats shall be based on the concept plan or plat submitted with the rezoning application.
- (3) If a final site plan or final subdivision plat is not approved within two years of the effective date of the Manufactured Home Development rezoning, the County Council may reclassify the property back to its original zoning designation.

#### E. Additions to existing developments

All enlargements of, or extensions to, any existing manufactured home development shall meet all the requirements of this chapter except for the 10-acre minimum required area.

#### F. Types of development

A manufactured home development may include a manufactured home rental community or a manufactured home subdivision or a combination rental community and subdivision.

#### G. Required findings

The County Council shall make the following findings prior to approving a Manufactured Home Development Floating District:

- (1) The manufactured home development is designed to produce an environment of stable and desirable residential character.

- (2) Public facilities and services will be adequate to accommodate the development. These public facilities and services include roads, water, sewer, schools, police and fire protection, and any other facilities and services deemed appropriate.
- (3) Property in the vicinity of the manufactured home development will not be adversely affected.

H. Site plan and design standards for manufactured home rental communities

- (1) Minimum total area: 10 acres.
- (2) Maximum gross density: six dwelling units per acre.
- (3) Minimum site area for each manufactured home: 5,000 square feet. Each individual home site shall be defined by landscape plantings and/or low-level decorative fencing.
- (4) Setbacks
  - (1) Minimum setback of any structure from adjacent County or state roads: 50 feet.
  - (2) Minimum setbacks from adjoining property lines:
    - (a) 50 feet whenever the community abuts an AC, CP, WRC, RC or TC District
    - (b) 25 feet when the community abuts any other district.
- (5) Minimum distance between manufactured homes or enclosed extensions: 20 feet.  
  
 This distance may be reduced through a waiver petition in accordance with §190-186 based on findings that the design of the rental community and location of the homes closer together will still provide adequate light, ventilation and privacy.
- (6) All interior access drives shall be privately owned and maintained by the owner/operator of the rental community. Access drives shall be at least 20 feet wide, paved, and approved by the Talbot County Department of Public Works.
- (7) Minimum structure setback from internal access drives: 25 feet.
- (8) No manufactured home may have direct access onto a County or state road.
- (9) Adequate sanitary facilities shall be required for the development. The water supply system shall also be designed to be adequate for fire protection needs.
- (10) All utilities, including but not limited to electric, cable television and telephone lines shall be placed underground.
- (11) A manufactured home rental community shall be enclosed on all sides with a permanently maintained natural or artificial barrier/buffer, such as a sight-obscuring wall or fence, or a continuous opaque buffer of trees or shrubs, at least six feet in height. A waiver to reduce the perimeter buffer requirement may be granted in accordance with §190-186. The Planning Commission may also increase all or part of the perimeter buffer requirement, if it is in the best interest of the surrounding

neighborhood. Structures used to meet this standard may be located within the required perimeter structure setback.

(12) Open space

- (1) Not less than 10 percent of the total area of a manufactured home rental community, exclusive of perimeter setback areas, shall be devoted to accessible and usable open space and recreation areas.
- (2) At least 50 percent of the open space and recreational land shall be designed for active recreation.

Upon a recommendation of the Planning Commission and approval by the Planning Director, passive recreational activities may be substituted for active recreational activities if justified by the projected composition of the residents of the proposed development.

- (13) All access roads, parking areas and walkways shall be illuminated at night. Illumination shall not cast any glare beyond the perimeter of the development.
- (14) Refuse collection areas shall be screened from public view.
- (15) Pedestrian walkways may be required to connect manufactured home sites with parking areas, park facilities and recreation and open space areas.
- (16) Pervious areas within the manufactured home rental community shall be kept in grass lawn or covered by natural or planted landscaping treatment. The planting of trees to provide shade and screen objectionable views is encouraged.
- (17) Retail manufactured home sales lots are prohibited within a manufactured home rental community.
- (18) Recreational vehicles shall not be occupied as living quarters within the community.
- (19) Every manufactured home within the community shall be certified as meeting the current National Manufactured Housing Construction and Safety Standards.
- (20) Minimum manufactured home gross floor area: 600 square feet.
- (21) Manufactured homes may not be used exclusively for storage purposes.
- (22) Every manufactured home in the rental community shall have a canopied or covered entranceway/porch at least 64 square feet in size. A waiver of this standard may be granted in accordance with §190-186.
- (23) One utility building is permitted for each manufactured home. Such building shall be located on the individual manufactured home site, and shall not exceed exterior dimensions of 12 feet by 12 feet and shall not exceed 10 feet in height.
- (24) Every manufactured home, together with all enclosed extensions or structural additions shall be installed upon an approved anchor tie-down system and shall be securely anchored thereto so as to prevent the home from shifting or overturning. The undercarriage of every manufactured home shall be suitably hidden by some form of opaque skirting.

I. Design standards for manufactured home subdivisions

- (1) Minimum total area: 10 acres.  
  
For a combination manufactured home subdivision and rental community, the minimum total combined area shall be 10 acres.
  - (2) Maximum gross density: six dwelling units per acre. Density calculation shall be based on the total acreage of the subdivision.
  - (3) Minimum lot size: 5,000 square feet. Maximum lot size: 10,000 square feet. Each subdivision lot shall be defined by perimeter landscape plantings and/or low-level decorative fencing.
  - (4) Minimum setback of any structures from adjacent preexisting County or state roads and adjoining property lines: 25 feet.
  - (5) All lots shall be provided access onto internal access drives which may be either County or private roads. Access of lots directly onto preexisting County or state roads is prohibited.
  - (6) Setbacks. Front: 25 feet. Side: 10 feet. Rear: 10 feet.
  - (7) Adequate sanitary facilities shall be required for the development. The water supply system shall also be designed to be adequate for fire protection needs.
  - (8) All utilities, including but not limited to electric, cable television and telephone lines, shall be placed underground.
  - (9) A manufactured home subdivision shall be enclosed on all sides with a permanently maintained natural or artificial barrier/buffer, such as a sight-obscuring wall or fence, or a continuous opaque buffer of trees or shrubs, at least six feet in height. A waiver to reduce the perimeter buffer requirement may be granted in accordance with §190-186. The Planning Commission may also increase all or part of the perimeter buffer requirement, if it is in the best interest of the surrounding neighborhood. Such buffer may be located within the required twenty-five-foot perimeter setback for all structures.
  - (10) Open Space
    - (1) Not less than 10% of the total area of a manufactured home rental community, exclusive of perimeter setback areas, shall be devoted to accessible and usable open space and recreation areas.
    - (2) At least 50% of the open space and recreational land shall be designed for active recreational activities.
  - (11) All access roads, parking areas and walkways shall be illuminated at night. Illumination shall not cast any glare beyond the perimeter of the subdivision.
  - (12) Refuse collection areas shall be screened from public view.
  - (13) Pedestrian walkways may be required.
  - (14) Pervious areas within the subdivision should be kept in grass lawn or covered by natural or planted landscaping treatment. The planting of trees to provide shade and screen objectionable views is encouraged.
-

- (15) An approved stormwater management and sediment and erosion control plan is required.
- (16) Every manufactured home within the subdivision shall be certified as meeting the current National Manufactured Housing Construction and Safety Standards.
- (17) Minimum manufactured home gross floor area: 600 square feet.
- (18) Manufactured homes may not be used exclusively for storage purposes.

Every manufactured home shall have a canopied or covered entranceway/porch at least 64 square feet in size. A waiver of this requirement may be granted in accordance with §190-186 if the Planning Commission finds that the standardized design of the unit already incorporates a covered porch or entryway.

- (19) One utility building is permitted for each manufactured home. Such building shall be located on the individual manufactured home site, and shall not exceed exterior dimensions of 12 feet by 12 feet and shall not exceed 10 feet in height.
- (20) Every manufactured home, together with all enclosed extensions or structural additions shall be installed upon an approved anchor tie-down system and shall be securely anchored thereto so as to prevent the home from shifting or overturning. The undercarriage of every manufactured home shall be suitably hidden by some form of opaque skirting.

***§ 190-107. Affordable Housing Floating District - AH***

**A. Purpose and intent.**

- (1) The Affordable Housing Floating District is intended to increase the supply of affordable housing in Talbot County in appropriate locations near incorporated towns where facilities and services are most easily accessible.
- (2) This district allows flexibility in housing types (excluding manufactured and mobile homes), design and density. In exchange for this flexibility, the developer of the AH District must ensure that at least one half of the units in the development are offered at a cost affordable to families earning no more than the Talbot County median income.
- (3) The AH District is also intended to promote economical and efficient land use, an improved level of amenities, harmonious physical development, and creative design consistent with the best interest of the County and the area in which it is located.

**B. Procedure for approval**

The procedure for establishing an Affordable Housing Floating District is the same as the procedure set forth in Article IX for amendments to the official zoning maps.

C. Districts permitted

An affordable housing floating district may only be approved in areas zoned TR and TC outside Chesapeake Bay Critical Area.

D. Concept Plan

A concept plan shall be submitted with the rezoning application. The plans or plat shall be of sufficient detail to determine if the development generally complies with the site plan and design standards for an affordable housing floating district.

E. Required findings

The County Council shall make the following findings prior to approving an Affordable Housing Floating District:

- (1) The affordable housing development is designed to produce an environment of stable and desirable residential character;
- (2) Public facilities and services will be adequate to accommodate the development. These public facilities and services include roads, water, sewer, schools, police and fire protection, and any other facilities and services deemed appropriate.
- (3) Property in the vicinity of the affordable housing development will not be adversely affected; and
- (4) At least 50 percent of the total dwelling units in the development will be initially sold to an owner-occupant or rented to a tenant at an amount affordable to families earning no greater than the County median income as determined by the Talbot County Council.

F. Permitted uses

- (1) Detached single-family dwellings;
- (2) Semidetached and attached single-family dwellings such as duplexes, triplexes, quadraplexes, townhouses, atrium houses, patio houses, zero lot line houses, and the like;
- (3) Parks, playgrounds, community centers and other noncommercial recreation and cultural facilities such as tennis courts, swimming pools, game rooms, libraries, and the like;
- (4) Public uses and buildings;
- (5) Family day-care facilities; and
- (6) Accessory uses customarily associated with higher density residential development, as approved by the Planning Commission.

G. Site plan and design standards

- (1) Minimum total area: 10 acres.

- (2) Maximum gross density: up to eight dwelling units per acre, as approved by the Planning Commission.
- (3) Open space. Not less than 20 percent of the area of an Affordable Housing Floating District development, exclusive of perimeter setback areas, shall be in community open space. At least 50 percent of the open space area shall be designed for active recreation.
- (4) Setbacks
  - (1) Minimum setback of any structures within the Affordable Housing Floating District development from adjacent County or state roads and adjoining property lines: 50 feet.
  - (2) All other interior setbacks shall be determined by the Planning Commission during subdivision and/or site plan review.
- (5) All dwelling units shall have access via private internal access roads and shall not directly access adjacent County or state roads.
- (6) Off-street parking requirements shall be determined by the Planning Commission during site plan review. At a minimum, two spaces shall be required for each dwelling unit.
- (7) Adequate sanitary facilities shall be required for the development. The water supply system shall also be designed to be adequate for fire protection needs.
- (8) All utilities, including but not limited to electric, cable television and telephone lines shall be placed underground.
- (9) The AH District development shall be enclosed on all sides with a permanently maintained natural or artificial buffer, such as a sight-obscuring wall or fence, or a continuous buffer of trees or shrubs, at least six feet in height. A waiver to reduce or modify the perimeter buffer requirement may be granted in accordance with §190-186. The Planning Commission may increase all or part of the perimeter buffer requirement, if it is in the best interest of the surrounding neighborhood.
- (10) All access roads, parking areas and walkways shall be illuminated at night. Illumination shall not cast any glare beyond the perimeter of the development.
- (11) Refuse collection areas shall be screened from public view.
- (12) Pedestrian walkways may be required to connect dwellings with parking areas, community facilities and recreation and open space areas.
- (13) Pervious areas within the development shall be kept in grass, lawn or covered by natural or planted landscape treatment. The planting of trees to provide shade and screen objectionable views is encouraged.
- (14) Additional information. In addition to the concept site plan or subdivision plat the following information may be required:
  - (1) Building elevations, sections, floor plans and site sections to clearly define the character of the development.

- (2) Landscaping and screening plans showing open spaces, plantings, existing and proposed tree cover, and recreational facilities and areas.
- (3) Existing streets and proposed internal circulation plans for vehicles and pedestrians.
- (4) Information regarding surrounding land uses.
- (5) Information regarding the development team, development schedule and property management plan.
- (6) Information and guarantees regarding the development's pricing structure to meet the affordability requirement.
- (7) Specifications and performance bonds for all required site improvements.

*§ 190-108. Historic District Overlay District*

A. Purpose

The purpose of the Historic District Overlay District is to provide for the preservation of structures in the County which have historic value together with their appurtenances and environmental settings in order to:

- (1) Safeguard the heritage of the County by preserving the areas therein which reflect elements of its cultural, social, economic, political, or architectural or archaeological history;
- (2) Foster rural and civic beauty;
- (3) Promote the preservation, and where permitted and appropriate, the use of historic districts for the education, welfare, and pleasure of the residents of the County; and
- (4) Strengthen the local economy.

B. Designation of historic districts

- (1) The County Council may establish, change, and define Historic Districts which are of local, state or national historic or architectural significance following the procedures set forth in Article IX for amendments to the official zoning maps.
- (2) Historic Districts may include structures, archaeological sites, lots, tracts of land, as well as portions thereof. The term "structure" shall be defined as in the criteria set forth by the Secretary of the Interior for listing of properties on the National Register of Historic Places.
- (3) The County Council may only establish a Historic District after receiving the consent of the property owner and a recommendation from the Historic Preservation Commission.

C. Application for permission to build, alter, or demolish

- (1) Before the construction, alteration, reconstruction, moving or demolition of any structure within a designated Historic District and before any changes take place which would affect either the exterior appearance of a structure or the character of its related environment within the designated Historic District, the person proposing to make the changes shall file with the Historic Preservation Commission an application for permission to build, alter, reconstruct, move or demolish.
- (2) Every such application shall be referred to and accepted or rejected by the Historic Preservation Commission. No permit for any change may be granted until the Commission has acted on the application as provided in this section.

D. Factors for consideration in reviewing plans

- (1) In reviewing the plans for construction or change, the Historic Preservation Commission shall give consideration to:
  - (1) The effect of the proposed changes on the general character of the designated Historic District, weighing their impacts on the integrity of both structures and the related environment;
  - (2) The historic and aesthetic appropriateness of new design proposals for historically significant structures; and
  - (3) Documentation about the structure and the historic district that is on file at the Talbot County Office of Planning and Zoning.
- (2) In judging the compatibility of proposed changes, the Historic Preservation Commission:
  - (1) Shall rely on the objective standards set forth in the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.
  - (2) May, in addition, consider any pertinent factors relevant to the case but not specifically addressed in the Secretary's guidelines and standards.

E. Only exterior features to be considered

The Historic Preservation Commission shall consider only exterior features of a structure and shall not consider any interior arrangements.

F. Strictness and leniency in judgment of plans

The Historic Preservation Commission:

- (1) Shall be strict in its judgment of plans for those structures deemed to be valuable according to studies performed for districts of historic or architectural value.
- (2) Shall be lenient in its judgment of plans for structures of little value or for plans involving new construction, unless such plans would seriously impair the historic or architectural value of the structures or environment of the designated Historic District.

- (3) Is not required to limit new construction, alteration, or repairs to the architectural style of any one period.

G. Structures of unusual importance

- (1) If an application is submitted for construction, alteration, reconstruction, moving or demolition of a structure and the Historic Preservation Commission considers preservation of the site or structure to be of unusual importance, the Commission shall attempt, with the owner of the structure, to formulate an economically feasible plan to preserve the site or structure.
- (2) Unless the Historic Preservation Commission is satisfied that the proposed work or changes will not materially impair the historic or architectural value of the structure, the Commission shall reject the application, filing a copy of its rejection with the Planning Director. The application shall not be renewed in less than one year.
- (3) Should the Historic Preservation Commission conclude that no economically feasible plan can be formulated, it shall have 90 days from the time it so concludes to negotiate further with the owner, and other parties, in an effort to find a means of preserving the building or structure.
- (4) If a site or structure is considered to have historic value, the Historic Preservation Commission may approve an application despite the fact that the change comes within the provisions of subsections (1) through (3) above if:
  - (1) The structure is a deterrent to a major improvement program which will be of substantial benefit to the County, or
  - (2) Retention of the structure would cause undue financial hardship to the owner, or
  - (3) Retention of the structure would not be in the best interest of a majority of persons in the community.

H. Open Historic Preservation Commission meetings and records; right to appear

- (1) All meetings of the Historic Preservation Commission shall be open to the public.
- (2) Any interested person or his representative is entitled to appear and be heard by the Historic Preservation Commission before it reaches a decision on any matter.
- (3) The Historic Preservation Commission shall keep an open record of its resolutions, proceedings, and actions which shall be kept available for public inspection.
- (4) The Historic Preservation Commission shall not reject an application without first providing notice to the applicant of its intention to do so and providing the applicant the opportunity to appear before the Commission and be heard.

I. Historic Preservation Commission certificate of approval; failure of Commission to act

- (1) The Historic Preservation Commission shall file with the Planning Director written notification of its approval, modification, or rejection of all applications and plans submitted to it for review.

- (2) Work shall not be commenced on any such project until a certificate of approval has been filed, and no building permit for such change or construction shall be issued unless and until such certificate of approval has been received.
- (3) The failure of the Historic Preservation Commission to act upon a pending application within 45 days from the date the application was filed shall be deemed to constitute automatic approval of the proposed change unless an extension of this forty-five-day period is agreed upon mutually by the applicant and the Commission.

J. Ordinary maintenance; completion of work under prior permit

- (1) Nothing in this section shall be taken or construed to prevent work and repairs on any structure coming under the heading of ordinary maintenance.
- (2) For the purposes of this section, ordinary maintenance is defined as that which does not alter the architecture or environment of the designated historic district.
- (3) Nothing in this section affects the right to complete any work covered by a permit issued prior to the date upon which the Historic District was established.

K. Special provisions for removing Historic District designation

- (1) A property owner of a site within an Historic District Overlay may request to have the Historic District Overlay modified or removed from the site if this section is amended so as to substantially alter the effect of the Historic District zoning on an existing Historic District.
- (2) If such an amendment is made to this section, the Historic Preservation Commission shall notify all existing Historic District property owners within 30 days of the effective date of the amendment. The property owner shall have 30 days from notification to request in writing to the County Council to have the Historic District Overlay modified or removed.
- (3) If a request is made, the following procedures shall occur:
  - (1) The Historic Preservation Commission shall hold a public hearing to receive comments from all interested parties, and forward its recommendation to the County Council.
  - (2) The County Council may then introduce an amendment to the Official Zoning Maps in accordance with Article IX to remove the property in question from the Historic District Overlay.

*§ 190-109. Historic Rehabilitation Overlay District - HRO*

A. Purpose

The rehabilitation incentives provided by Historic Rehabilitation Overlay Districts ("HRO Districts") are intended to encourage the maintenance, preservation, and rehabilitation of historic resources in the County. These rehabilitation incentives are intended to encourage and to enable property owners to preserve historic resources by allowing creative but appropriate uses that maintain the integrity of historically significant properties.

B. Designation of districts

- (1) The County Council may establish, change, and define Historic Rehabilitation Overlay Districts following the procedures set forth in this section.
- (2) The County Council shall not establish an HRO District without the consent of the property owner.

C. Applicability

- (1) This section shall apply to historic resources that:
  - (1) Have applied for designation as an Historic District Overlay District, or that are already within a Historic District Overlay District, and
  - (2) Meet all of the requirements of this section.
- (2) Compliance with all requirements of this section permits, but does not require, the County Council to approve any request for rezoning to the Historic Rehabilitation Overlay District.

D. Rehabilitation incentives allowed

Rehabilitation incentives that may be granted include adaptive reuse, and waiving or varying restrictions or requirements of this chapter.

E. Application content

Applications shall include the following information:

- (1) The property owner's name;
- (2) The street address and tax map reference for the parcel(s) for which the HRO District is requested;
- (3) The historic resource, as well as portions thereof, for which the HRO District is requested;
- (4) A description of the specific rehabilitation incentive(s) being requested;
- (5) Applications for adaptive reuse, in addition to the foregoing information, shall also include the following:
  - (1) Detailed, scaled drawings depicting the proposed project;
  - (2) A plan for maintenance, preservation, or rehabilitation of the historic resource prepared by a qualified preservation professional containing all information required by the Historic Preservation Commission, the Planning Office, Planning Commission, and County Council. The preservation professional shall meet the Secretary of the Interior's Professional Qualifications Standards appropriate to their field of expertise (36 CFR 61);
  - (3) An estimate of the cost of maintenance, preservation, or rehabilitation from a qualified preservation professional, and qualified licensed contractor;

- (4) A written statement of all sources and amounts of any funds granted by any agency, public or private, for the purpose of maintenance, preservation, or rehabilitation;
- (5) A written statement regarding the availability and utilization of investment tax credits;
- (6) A written statement complete with a full set of architectural drawings (where appropriate) which clearly outline and depict the proposal by the applicant for rehabilitation incentive(s);
- (7) A plan defining access, parking, signage, setbacks, landscaping, screening and buffering, and noise, use, capacity, and traffic restrictions as necessary to ameliorate or eliminate any adverse effect on the surrounding area from the adaptive reuse, or modification, and other site design elements as may be reasonably requested by the Planning Office; and
- (8) Such additional or supplemental information as may be requested by the Historic Preservation Commission, Planning Office, Planning Commission, or County Council.

F. Review and approval

(1) General

- (1) Applications for creation of HRO districts may be proposed in conjunction with or subsequent to a proposal to designate the subject property as a Historic District Overlay District.
- (2) The procedure for establishment of an HRO District is the same as the procedure set forth in Article IX for amendments to the official zoning maps.
- (3) Applications for adaptive reuse or modification of an adaptive reuse within an established HRO District, or for modification, expansion, or change to an HRO District may be made at any time. Such applications shall require prior approval by the County Council in accordance with the procedures for establishment of an HRO District, including Historic Preservation and Planning Commission review and recommendations.
- (4) The burden of proof is on the applicant to demonstrate compliance with all of the criteria by a preponderance of the evidence.

(2) Planning Director Review

The Planning Director shall conduct any investigation he deems necessary, and shall submit the application to the Historic Preservation Commission and the Planning Commission.

(3) Historic Preservation Commission and the Planning Commission Review

- (1) The Historic Preservation Commission and the Planning Commission shall each provide public notice, schedule, and conduct separate public

hearings on the application in accordance with their respective rules of procedure.

- (2) The Historic Preservation Commission and the Planning Commission may request the applicant to furnish any additional material or information deemed necessary to determine the propriety of granting the rezoning request.
  - (3) In evaluating the application, the Historic Preservation Commission and the Planning Commission shall separately make independent findings based on evidence concerning the criteria in the following sections applicable to each commission.
  - (4) Based on their written findings, the Historic Preservation Commission and the Planning Commission shall each make separate recommendations to approve, disapprove, or approve with specified conditions.
  - (5) The recommendation of the Historic Preservation Commission shall be forwarded both to the Planning Commission and to the County Council.
  - (6) The recommendation of the Planning Commission shall be forwarded to the County Council within 15 days of the Planning Commission hearing. The 60-day requirement in Article IX §190-173.D. for transmittal of the Planning Commission recommendation to the County Council does not apply.
- (4) The Historic Preservation Commission shall use the following criteria:
- (1) The standards otherwise applicable for a Historic District Overlay District in §190-108. The proposed rehabilitation incentive(s) will not impair the aesthetic, architectural, or historic integrity of the historic resource, or portions thereof, or the aesthetic, architectural, or historic integrity of the Historic District Overlay District;
  - (2) The rehabilitation incentive(s) serve(s) to compensate the property owner for the potential economic burden that the maintenance, preservation, and proposed rehabilitation may entail; and
  - (3) The rehabilitation incentive(s) would result in:
    - (a) Substantial restoration of the significant architectural features or exterior architectural appearance of the historic resource;
    - (b) A maintenance plan for the historic resource that will ensure the upkeep and continued maintenance of the resource over the expected life of the project; or
    - (c) Some other substantial, specific, measurable benefit to the maintenance, preservation, rehabilitation, or historical significance of the resource.
- (5) Planning Commission review
- (1) The Planning Commission shall consider the following:

- (a) Impact of the proposed rehabilitation incentive(s) on the surrounding area,
  - (b) The compatibility of the proposed rehabilitation incentive(s) with surrounding land uses, and
  - (c) The importance of preservation of the character of the surrounding area.
- (2) The Planning Commission may recommend approval of the application only upon a showing by the applicant that the proposed rehabilitation incentive(s) would not significantly impair the integrity or character of the surrounding area.
  - (3) The Planning Commission may recommend conditions and restrictions on access, parking, signage, setbacks, landscaping, screening and buffering, other site design features, noise, use, capacity, and traffic restrictions to ameliorate or eliminate any adverse effect on the surrounding area from the proposed rehabilitation incentive(s).
- (6) County Council review
    - (1) The County Council may request the applicant to furnish any additional material or information deemed necessary to determine the propriety of granting the rezoning request.
    - (2) The County Council shall consider the recommendations of the Historic Preservation Commission and the Planning Commission. The findings and recommendations of either Commission to the County Council are not binding, and the County Council may exercise independent review, judgment, and discretion with respect to the findings, recommendations, or conditions, if any, of either Commission.
    - (3) The County Council shall make written findings of fact based on evidence in the record that:
      - (a) The proposal complies with all requirements in this section for review and consideration by the Historic Preservation Commission and Planning Commission, respectively,
      - (b) The proposed adaptive reuse will promote the maintenance, preservation, or rehabilitation of the historic resource,
      - (c) Allowing adaptive reuse will enhance the character of the historic resource and, if the proposed reuse is commercial, the public's opportunity to enjoy the resource,
      - (d) The adaptive reuse will not have a detrimental effect upon other properties within the Historic District Overlay District or other properties in the surrounding area, including adverse impacts on traffic, noise, light, view blockage or other impacts which are incompatible with adjacent properties or the surrounding area. and

- (e) The proposal meets general criteria set forth in Article IX for zoning map amendments §190-174.B.
- (4) The County Council may approve, disapprove, or approve the application with conditions, and may impose the same, modified, or different conditions than those recommended by the Historic Preservation Commission or the Planning Commission.
- (5) In approving the request, the Council may waive or vary specified requirements, including limitations on permitted uses in the underlying district(s), for historic resources located within an HRO District.

This section shall not be used as the basis for waiving or varying any other requirements of this chapter except as specifically set forth in the application and approval.

G. Approval of plan refinements

- (1) The Planning Director may approve minor refinements and revisions to plans for a Historic Rehabilitation Overlay District. The Planning Director may request comments from the Historic Preservation Commission and/or the Planning Commission in evaluating whether the refinements are consistent with the County Council’s decision on the original proposal.
- (2) If the Planning Director finds that proposed revisions are not minor refinements, County Council approval is required. The County Council may request comments from the Historic Preservation Commission and/or the Planning Commission on the revisions.

*§ 190-110. Gateway Overlay District (GD)*

A. Purpose

The purpose of the Gateway Overlay District (GD) is to consider and incorporate the long-range development plan for the towns and County within the sensitive roadway corridors that enter and exit the towns. Gateway areas are intended to preserve a scale and design that is compatible with the community’s vision for the area.

B. Designation of district

Gateway Overlay Districts may be established by the County Council within roadway corridors meeting the purpose of the GD, in accordance with the procedure set forth in Article IX for amendments to the official zoning maps.

C. Applicability; roadway classes

- (1) Standards established in this section apply to new development activity in the Gateway Overlay Districts that are shown on the official zoning maps. These standards are in addition to standards for the underlying district established elsewhere in this chapter.
- (2) There are four classes of Gateway Overlay District roadways:

- (1) Principal Arterial Highway -- US Rt. 50 (Easton and Trappe)
- (2) Minor Arterial Highway -- MD Rt. 33 (St. Michaels), MD Rt. 328 (Easton), MD Rt. 331 (Easton), MD Rt. 333 (Oxford)
- (3) Major Collector Road -- MD Rt. 309 (Easton)
- (4) Minor Collector Road -- Barber Road (Trappe)

D. General standards

(1) Buffer yard.

Permitted uses and structures in the buffer yard shall be limited to access entrances, utilities, pedestrian paths, sidewalks, gateway signage, fences, or similar uses or structures approved by the Planning Commission.

(2) Landscaping

- (1) Mechanical equipment and refuse storage and removal areas
  - (a) All mechanical equipment and refuse storage and removal areas shall be screened by a landscape buffer from any public roadway.
  - (b) Where compliance is not possible, the Planning Commission may approve substitution of landscape features, such as fencing or other indigenous materials, to establish an attractive buffer.
- (2) Plant materials for landscape buffers and buffer yards
  - (a) Plant materials for landscape buffers and buffer yards may include a mix of trees, shrubs, grasses, flowers and hedges.
  - (b) Selection of plant materials shall be subject to constraints due to easements and traffic safety.
  - (c) Minimum planting caliper size for trees: three inches.
  - (d) The property owner is responsible for the proper care and maintenance, and replacement if necessary, of all landscape materials.

(3) Signage

- (1) Freestanding signs
  - (a) Maximum number per property: one
  - (b) Maximum height: eight feet.
  - (c) Maximum sign face area: 60 square feet per side
  - (d) Shall be landscaped at the base
  - (e) May be located in the landscaped portion of the buffer yard if made of a natural or decorative material
  - (f) Signs mounted on a single free-standing pole are prohibited.

- (2) Wall signs. The maximum sign area is 75 percent of that permitted by the underlying zoning district. For example, 100 square feet of sign area permitted in underlying district translates to 75 square feet in the GD.
  - (3) Signage shall be compatible with the style and character of adjacent properties and the principal building to which it relates.
- (4) Lighting
  - (1) Lighting shall be downward cast and contained on the site using shielded fixtures with full cutoff recessed flush lenses.
  - (2) Parking lot lights may be incorporated into a street light scheme to illuminate public and private streets and pedestrian paths
- (5) Pedestrian access
  - (1) Lots located within a Town's designated growth area, as identified in the County Comprehensive Plan, shall provide for a pedestrian walkway separate from the parking area and linking adjacent parcels.
  - (2) Where construction of a walkway is not practical at the time of development, a 10-foot easement shall be dedicated for future use.
- (6) Access and parking
  - (1) Parking areas shall not be permitted within a buffer yard.
  - (2) Parking areas shall be located to the side or rear of the principal building except that not more than three parking spaces may be located in front of the building, outside the buffer yard.
  - (3) All parking areas shall be landscaped from the view of any public road and include a landscape buffer of not less than ten feet in depth, consisting of a continuous three-foot high hedge or other landscape materials, unless the screening requirement is met by planting within the required buffer yard.
  - (4) All required parking spaces shall be located on the lot with the building or use unless shared with an adjacent property.
  - (5) For retail sales and service establishments, development of up to 25 percent of the parking spaces required by Article V may be deferred by the Planning Commission provided there is a shared parking agreement with adjoining uses of similar or less intensive activity and with inter-parcel connections linking the two properties.
  - (6) Curb cuts shall be consolidated and parallel service roads shall be created where possible.
  - (7) Inter-parcel connections are required where practical. Properties providing connections are permitted to share off-street parking space requirements, as indicated in subsection (e) above.

- (8) New lots in the AC, CP, WRC, TC, RC, RR and TR Districts shall achieve access through use of County roads, shared entrances or private roads.
- (7) Mechanical equipment
  - (1) Fixed mechanical equipment for ventilation, refrigeration or other operational uses are not permitted within the buffer yard and must be located to the side or rear of the principal building as defined.
  - (2) Side and rear-yard setbacks for such equipment shall be the same as required for principal structures in the underlying zoning district.
- (8) Refuse areas
  - (1) Refuse areas are not permitted within a buffer yard and must be located to the side or rear of the principal building.
  - (2) Side and rear-yard setbacks for such refuse area shall not be less than ten feet unless a common refuse area is shared by adjacent properties.
- (9) Design and height of structures

The following guidelines and standards are intended to create a cohesive streetscape as buildings are constructed or enlarged.

- (1) The design of new structures or additions to existing structures shall be generally compatible in scale and bulk with existing development in the vicinity, as demonstrated by architectural elevations or renderings submitted with the site plan.
- (2) Maximum building height: 35 feet.

E. Specific standards for GD on principal arterial highways

- (1) Depth of Gateway Overlay District:  
500 feet from the edge of right-of-way line adjacent to the roadway.
- (2) Front building setback:
  - (1) GC, LC, LI districts: from 40-foot minimum to 100-foot maximum.
  - (2) Residential/Agriculture (TR): 100-foot minimum.
  - (3) All other districts: 150 foot minimum.
- (3) Buffer yard and landscaping: Within the setback areas described in (2) above:
  - (1) Non-residential/Non-agriculture district: 40-foot buffer yard of which 20 feet must be landscaped.
  - (2) Residential/Agriculture (TR): 25-foot buffer yard of which 20 feet must be landscaped.

- (3) All other districts: 75-foot buffer yard of which 25 feet must be landscaped.

F. Specific standards for GD on minor arterial highway

- (1) Depth of Gateway Overlay District:  
200 feet from the edge of right-of-way line adjacent to the roadway.
- (2) Front building setback:
  - (1) GC, LC, LI districts: from 40-foot minimum to 100-foot maximum.
  - (2) Residential/Agriculture (TR): 50-foot minimum.
  - (3) All other districts: 150 foot minimum.
- (3) Buffer yard and landscaping: Within the setback areas described in (2) above:
  - (1) GC, LC, LI districts: 20-foot buffer yard of which 20 feet must be landscaped.
  - (2) Residential/Agriculture (TR): 25-foot buffer yard of which 20 feet must be landscaped.
  - (3) All other districts: 75-foot buffer yard of which 25 feet must be landscaped.

G. Specific standards for GD on major collector highway

- (1) Depth of Gateway Overlay District:  
200 feet from the edge of right-of-way line adjacent to the roadway.
- (2) Front building setback:
  - (1) GC, LC, LI districts: from 40-foot minimum to 100-foot maximum.
  - (2) Residential/Agriculture (TR): 50-foot minimum.
  - (3) All other districts: 100 foot minimum.
- (3) Buffer yard and landscaping: Within the setback areas described in (2) above:
  - (1) GC, LC, LI districts: 20-foot buffer yard of which 20 feet must be landscaped.
  - (2) Residential/Agriculture (TR): 25-foot buffer yard of which 20 feet must be landscaped.
  - (3) All other districts: 50-foot buffer yard of which 25 feet must be landscaped.

H. Specific standards for GD on minor collector highway

- (1) Depth of Gateway Overlay District:  
100 feet from the edge of right-of-way line adjacent to the roadway.
- (2) Front building setback:
  - (1) GC, LC, LI districts: 50-foot minimum.
  - (2) Residential/Agriculture (TR): 50-foot minimum.
  - (3) All other districts: 100-foot minimum.
- (3) Buffer yard and landscaping: Within the setback areas described in (2) above.
  - (1) GC, LC, LI districts: 25-foot buffer yard of which 20 feet must be landscaped.
  - (2) Residential/Agriculture (TR): 25-foot buffer yard of which 20 feet must be landscaped.
  - (3) All other districts: 25-foot buffer yard of which 20 feet must be landscaped.

I. Waiver

Any requirement of the Gateway Overlay District may be waived by the Planning Commission in accordance with §190-186 when, due to an unusual physical characteristic of the site, compliance with such requirement would create practical difficulty or unreasonable hardship.

*§ 190-111. Easton Airport Overlay District*

A. Purposes

- (1) The purpose of the Easton Airport Overlay District is to prevent structures, temporary structures, or other objects from constituting hazards or obstructions to aircraft operating to, from, or in the vicinity of the Easton Municipal Airport.
- (2) The purpose of the larger area defining the proximity of the airport is to inform residents and businesses undertaking development activity about the presence of the airport.

B. Establishment

- (1) The boundaries of the Easton Airport Overlay District are shown on the Official Zoning Maps.
- (2) Proximity is defined as a two-mile area measured from any point on the center line of the runway(s).

C. Heights of hazard or obstruction

The heights that would constitute a hazard or obstruction to aircraft vary at different locations on the ground in the vicinity of the airport. These heights are identified on an “Airport Airspace Drawing” that is maintained by Easton Airport.

D. Regulations

- (1) No building, structure, tree or any object of natural growth shall be erected, altered, allowed to grow or be maintained to a height that would constitute a hazard or obstruction to aircraft operating to, from, or in the vicinity of the Easton Municipal Airport.
- (2) Prior to giving zoning approval for any proposed construction activity in the Easton Airport overlay district the Planning Director shall:
  - (1) Consider the comments of the manager of the Easton Airport with respect to the effects of the proposed construction activity on airport airspace used by aircraft operating to, from, or in the vicinity of the Easton Airport.
  - (2) Based on these comments, condition any approval for the development activity with conditions necessary to prevent a hazard or obstruction to aircraft.
  - (3) Provide the applicant with Federal Aviation Administration Form “Notice of Proposed Construction or Alteration” or the equivalent FAA form.
- (3) Subdivision plats and site plans for land in the proximity of the airport shall be annotated to indicate the proximity to the airport.

***§ 190-112. Buffer Management Area Overlay District - BMA***

A. Purposes

- (1) The Buffer Management Area Overlay District recognizes areas where existing patterns of development prevent the shoreline development buffer from fulfilling its natural functions. In such areas special regulations apply to accommodate limited use of shoreline areas while protecting water quality and wildlife habitat to the extent possible, and providing for mitigation measures where encroachment of the shoreline development buffer takes place.
- (2) In Buffer Management Areas certain types of development activities are permitted to encroach into the shoreline development buffer without the need for a variance.

B. Establishment

- (1) Amendments to the official zoning maps to create Buffer Management Areas shall be submitted and heard following the procedures for County Council applications in Article IX.
- (2) A request for individual property reclassification may not be considered with the exception of commercial, institutional, or industrial sites or those properties adjacent to an existing mapped Buffer Management Area.

C. Standards for Decision

The Council shall decide whether to grant approval based on the following findings and standards with respect to the community in which the mapping amendment is requested:

- (3) That existing patterns of residential, commercial, industrial and institutional development prevent the shoreline development buffer from fulfilling its functions for water quality protection and conservation of wildlife habitat;
- (4) That the lots in the proposed Buffer Management Area were created prior to August 13, 1989;
- (5) That the principal structures in the proposed Buffer Management Area are located within the shoreline development buffer;
- (6) That other development activities (i.e., accessory structures, access roads, septic systems, rip-rap and bulkheading, etc.) impact the shoreline development buffer; and
- (7) That the shoreline development buffer does not contain forest cover.

D. Requirements in Buffer Management Areas

Requirements for Buffer Management Areas are in Article VI §190-146.