

## Article VII Signs

### *§ 190-149. Permit required*

- A. No sign may be erected, moved, enlarged, illuminated or substantially altered except in accordance with the provisions of this Article. Repainting or changing the message of a sign shall not in and of itself be considered a substantial alteration.
- B. Signs may be constructed, erected, moved, enlarged, illuminated or substantially altered only in accordance with a sign permit issued by the Department of Permits and Inspections, unless exempt from the sign permit requirement under this Article VII.
- C. In the case of a lot occupied or intended to be occupied by multiple business enterprises (e.g., a shopping center), sign permits shall be issued in the name of the lot owner or his agent rather than in the name of the business requesting a particular sign. The County shall be responsible for enforcing only the provisions of this section and not the provisions of any lease, formula for allocating sign area among tenants, or other private restriction.

### *§ 190-150. Other sign requirements*

In addition to the requirements of this Article, signs shall comply with the sign requirements in Article III for a particular land use, and the sign requirements in Article IV for a specific overlay or floating district.

### *§ 190-151. Signs excluded from regulation*

The following signs are exempt from the sign permit requirement and other requirements of this Article, except for the standards specified in this section:

- A. Signs not exceeding six square feet in area that are customarily associated with residential use and that are not of a commercial nature, such as:
  - (1) Signs giving property identification names or numbers or names of occupants;
  - (2) Signs on mailboxes or newspaper tubes; and
  - (3) Signs relating to private parking or warning the public against trespassing or danger from animals.
- B. Signs erected by, on behalf of, or pursuant to the authorization of a government body, including legal notices, identification and informational signs, and traffic, directional, or regulatory signs but not including state game signs or gas pricing signs.
- C. Official signs of a noncommercial nature erected by public utilities.
- D. Flags or insignia of a government or nonprofit organization when not displayed in connection with a commercial operation or as an advertising device.

- E. On-premises traffic signs, limited to the following:
  - (1) Such signs shall be located on the same property as a business or institutional use and shall direct traffic, vehicular or pedestrian, to locations on the property.
  - (2) Signs shall not exceed four square feet each.
  - (3) Signs shall bear no advertising matter.
  - (4) Examples of permitted signs include "Deliveries in Rear", "Customer Parking", and "Service Entrance."
- F. Church signs, limited to the following:
  - (1) Church bulletin boards and church identification signs are permitted.
  - (2) One sign shall be permitted per abutting street.
  - (3) Signs shall not exceed 16 square feet each. Signs shall not be internally illuminated.
  - (4) In the TR District abutting Route 50, freestanding church identification signs with a message center that has a total area of not more than 60 square feet.
- G. Signs painted on or permanently attached to licensed motor vehicles that are not primarily used as freestanding signs.
- H. One sign identifying a home occupation, limited to six square feet in area.
- I. One property security system identification sign, limited to 50 square inches in area.
- J. Political signs, subject to the following standards:
  - (1) No political sign shall be erected on County-owned property or County road right-of-way.
  - (2) Signs within a state highway right-of-way shall comply with requirements of the State Highway Administration.
  - (3) Before posting a political sign on private property, permission must be granted by the property owner or his or her representative.
  - (4) Political signs shall not exceed the following limits on sign area:
    - (1) In the AC, CP, WRC, TR, TC, RC and RR Districts: six square feet in sign area.
    - (2) In the LC and VC Districts, if the lot on which the sign is located has less than 200 feet of frontage on the street to which that sign is primarily oriented: 50 square feet in sign area.
    - (3) In the LC and VC Districts, if the lot on which the sign is located has more than 200 feet of frontage on the street to which that sign is primarily oriented: 75 feet in sign area.
    - (4) In the GC or LI Districts: 100 square feet in sign area.

- (5) Location of political signs on private property shall not interfere with traffic safety and shall conform to the requirements of AASHTO, “A Policy on Geometric Design on Highways and Streets.”

*§ 190-152. Permit exemptions and regulations for certain temporary signs*

- A. The following temporary signs are permitted without a sign permit and are not subject to the requirements of this article for maximum sign area and maximum number of signs. However, such signs shall conform to the requirements set forth below and other applicable requirements of this Article.
  - (1) Real estate signs, subject to the following:
    - (1) Such signs shall indicate that the real estate on which the sign is located is for sale, lease, or rent, and may identify the owner or agent.
    - (2) Each sign shall not exceed four square feet in area. Up to two, one-square-foot readers advertising the agent's name, waterfront property, open house, etc., may be attached to the real estate sign, but in no case shall the overall square footage of the sign exceed six square feet in area.
    - (3) All signs shall be removed within 14 days after sale, lease, or rental.
    - (4) One sign per lot is permitted. For double-fronting lots, corner lots, or waterfront lots, a single sign on each street frontage or water frontage may be erected.
  - (2) Construction site identification signs.
    - (1) Such signs may identify the project, the owner or developer, architect, engineer, contractor and subcontractors and funding sources, and may contain related information including but not limited to sale or leasing information.
    - (2) Not more than one such sign may be erected per site, per contractor, and it may not exceed 32 square feet in area. For single-family residential projects, one sign per contractor, not to exceed six square feet in area, is permitted.
    - (3) Such signs shall not be erected prior to the issuance of a building permit and shall be removed within 10 days after the issuance of the final occupancy permit
  - (3) Temporary window signs.
    - (1) Shall be attached to the interior of a building window or glass door.
    - (2) Such signs, individually or collectively, may not cover more than 50 percent of the surface area of the transparent portion of the window or door to which they are attached.
  - (4) Displays, including lighting.

- (1) Limited to displays erected in connection with the observance of County, state, or federally recognized holidays.
    - (2) Such signs shall be removed within 10 days following the holidays.
  - (5) Special event signs
    - (1) Such signs shall provide information on a grand opening, fair, carnival, circus, festival, or similar event that is to take place on the lot where the sign is located, that runs not longer than two weeks, and is unlike the customary activities associated with the property where the special event is to be located.
    - (2) Such signs may be erected not sooner than two weeks before the event and must be removed not later than three days after the event.
    - (3) Such signs shall not exceed two per event and 32 square feet of sign area per sign.
  - (6) Signs identifying agricultural test plots, not exceeding four square feet in area.
  - (7) Signs advertising produce stands.
    - (1) Each stand may have up to two signs:
      - (a) One flat wall sign not to exceed 50 square feet in area, and
      - (b) One freestanding sign not to exceed 32 square feet in area.
    - (2) Produce stands located on property abutting US Route 50 shall be permitted up to two signs:
      - (a) One flat wall sign not to exceed 50 square feet in area, and
      - (b) One freestanding sign not to exceed 64 square feet in area. The cumulative sign area shall not exceed 82 square feet.
    - (3) Signs shall not be erected until April 15 and shall be removed by the end of the local produce season or no later than November 30 of each year.
  - (8) Temporary signs not covered in the foregoing categories, subject to the following:
    - (1) Not more than one such sign may be located on any lot.
    - (2) No such sign may exceed four square feet in surface area.
    - (3) Such sign may not be displaced for longer than three consecutive days nor more than 10 days out of any 365-day period.
- B. Other temporary signs not listed shall be regarded and treated in all respects as permanent signs, except that temporary signs shall not be included in calculating the total amount of permitted sign area.

***§ 190-153. Defining the number of signs***

- A. A sign is a single display surface containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, each element shall be considered a separate sign.
- B. A two-sided or multisided sign shall be regarded as one sign so long as:
  - (1) For a V-type sign, the two sides are at no point separated by a distance that exceeds five feet; and
  - (2) For a double-faced (back-to-back) sign, the distance between the backs of each face of the sign does not exceed two feet.

***§ 190-154. Computation of sign area***

- A. The area of a sign includes the entire area that can be enclosed within a single, continuous perimeter enclosing the lettering, numbers, figures, designs, and lighting, together with material or color forming the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed.
- B. If a sign has a wall, awning, canopy, marquee or other part of a structure as its background, the sign area is the smallest area that can be enclosed within a single, continuous line drawn to include all letters, designs, tubing, illumination or other components of the sign, including intervening spaces.
- C. The sign area shall not include supporting framework, bracing or posts that are clearly incidental to the display itself.
- D. If the sign consists of more than one section or module, all of the area, including area between sections or modules, shall be included in the sign area.
- E. For double-faced (back-to-back) signs:
  - (1) If the two sign faces are not more than two feet apart, the sign area is the area of one face. The area of the larger face shall be used if the two faces are of unequal area.
  - (2) If the two sign faces are more than two feet apart, both faces shall be included in the sign area.
- F. For signs with no discernible sides, such as spheres or other shapes not composed of flat planes, the sign area shall be calculated as the entire surface area of the sign.
- G. For other two-sided, multisided, or three-dimensional signs, the sign area includes the total of all sides designed to attract attention or communicate information that can be seen at any one time from one vantage point.

***§ 190-155. Area of wall signs***

- A. The total wall sign area on any lot shall not exceed the limitations in this section. All wall signs except temporary signs shall be included in this calculation.

- B. The maximum area of wall signs on a lot fronting on one street or a lot with no street frontage shall be:
- (1) In the VC or LC Districts:
    - (1) For lots with less than 200 lineal feet of street frontage: 75 square feet;
    - (2) For lots with at least 200 lineal feet of street frontage but less than 600 lineal feet: 100 square feet;
    - (3) For lots with 600 or more lineal feet of street frontage: 200 square feet.
  - (2) For commercial or industrial uses in the AC, CP, WRC or TC Districts: 75 square feet.
  - (3) For nonconforming commercial or industrial uses in the AC, CP, WRC, TR, TC, RC or RR Districts: 50 square feet
  - (4) In the GC or LI Districts: 200 square feet.
- C. If a lot has frontage on more than one street, the total wall sign area shall not exceed 1.5 times the maximum wall sign area permitted for lots fronting on one street. The total wall sign area oriented toward a particular street may not exceed the maximum wall sign area permitted for a lot fronting on one street.
- D. The area of a wall sign may not exceed 50% of the total area of the wall on which the sign is located.
- E. A maximum of 200 square feet of wall sign area shall be allowed on public buildings and structures abutting state highways and erected on real property owned and/or leased by Talbot County.
- F. The maximum allowed wall sign area may be increased 10% for a principal building with a front setback of at least 100 feet. The sign area may be increased an additional 10% for each additional 100-foot increment of front setback.

*§ 190-156. Number of freestanding signs*

- A. In the VC and LC Districts or for commercial, industrial and institutional uses in the AC, CP, WRC, TR, TC, RC and RR Districts, no lot shall have more than one freestanding sign
- B. In the GC and LI Districts, the number of freestanding signs shall be limited to the following, except as provided in C below:
  - (1) One freestanding sign on lots with less than 200 feet of frontage on a public street;
  - (2) No more than two freestanding signs on lots with at least 200 and less than 600 feet of frontage on a public street; and,
  - (3) Three freestanding signs on a lot with 600 or more feet of frontage on a public street.
- C. One freestanding sign shall be permitted for shopping malls, plazas and structures with multiple businesses, regardless of the extent of public street frontage.

***§ 190-157. Area of freestanding signs***

- A. In a VC or LC District, or for commercial, industrial and institutional uses in the AC, CP, WRC, TR, TC, RC or RR Districts, the area of freestanding signs shall be limited to the following:
  - (1) On lots with less than 200 feet of frontage on the street toward which the sign is primarily oriented, no more than 50 square feet;
  - (2) On lots with at least 200 feet of frontage on the street toward which the sign is primarily oriented, no more than 75 square feet.
- B. For nonconforming commercial or industrial uses in the AC, CP, WRC, TR, TC, RC and RR Districts, no more than 50 square feet.
- C. In the GC or LI Districts:
  - (1) Where one freestanding sign is allowed, sign area shall not exceed 100 square feet.
  - (2) Where two freestanding signs are allowed, the sign area shall not exceed 100 square feet, and no single sign shall exceed 50 square feet in area.
  - (3) Where three freestanding signs are allowed, the total sign area shall not exceed 150 square feet, and no single sign shall exceed 50 square feet in area.
  - (4) In shopping malls, plazas, and structures with multiple businesses, the total sign area shall not exceed 150 square feet and only one sign shall be allowed.

***§ 190-158. Subdivision and multifamily development entrance signs.***

- A. At each entrance to a residential subdivision or multifamily development, a single sign identifying the subdivision or development shall be permitted.
- B. The area of the sign shall not exceed four square feet per lot or unit with a maximum size not to exceed 32 square feet.

***§ 190-159. Location and height requirements.***

- A. No part of a freestanding sign shall exceed a height of 20 feet measured from ground level.
- B. No sign may extend above a parapet or be placed upon or above a roof surface, except that for purposes of this section, roof surfaces constructed at an angle of 75° or more from horizontal shall be regarded as wall space.
- C. This subsection shall not apply to displays, including lighting, erected in connection with the observation of County, state, or federally recognized holidays on the roofs of residential structures.
- D. No sign attached to a building may project more than two feet from the building wall.
- E. No sign or supporting structure may be located in or over any portion of a public right-of-way. Signs may be located in a required setback area.

- F. No sign may be located so that it interferes with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public streets or private roads.

***§ 190-160. Sign illumination***

- A. Lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into a public road right-of-way or premises.
- B. Signs may be backlit, provided that the lighting source is adequately diffused as determined by the Planning Director.
- C. No sign within 150 feet of a residential zone shall be illuminated between 11:00 p.m. and 6:00 a.m., unless the impact of such lighting beyond the boundaries of the lot where it is located is entirely inconsequential as determined by the Planning Director.
- D. Illuminated tubing or strings of lights that outline property lines, sales areas, roof lines, doors, windows, or similar areas are prohibited.
- E. No sign may contain or be illuminated by flashing or intermittent lights or lights of changing degrees of intensity, except signs indicating the time, date or weather conditions.
- F. Subsections D and E above do not apply to temporary signs erected in connection with the observance of County, state, or federally recognized holidays.

***§ 190-161. Prohibited signs***

The following signs are prohibited in all districts:

- A. Off-premises signs except those exempted from regulation or permit requirements under this Article VII.
- B. Signs that revolve, are animated or utilize movement or apparent movement, such as banners, streamers, animated display boards, pennants, and propellers, except that:
  - (1) Signs that only move occasionally because of wind are not prohibited if their movement is not a primary design feature of the sign and is not intended to attract attention to the sign.
  - (2) This restriction shall not apply to flags or insignia permitted by §190-151.D or to signs indicating the time, date, or weather conditions.
- C. Any sign that by its location, color, size, shape, nature, or message tends to obstruct the view of or be confused with official traffic signs or other signs erected by governmental agencies.

***§ 190-162. Construction and maintenance of signs***

- A. Signs and components thereof, including supports, braces, and anchors, shall be kept in a state of good repair.

- B. Freestanding signs shall be securely fastened to the ground or to a substantial supportive structure so that there is virtually no danger that the sign or supportive structure may be moved by the wind or other forces of nature and cause injury to persons or property.
- C. If a sign advertises a business, service, commodity, or other enterprise or activity that is no longer operating or being offered, that sign shall be considered abandoned and shall, within 30 days after such abandonment, be removed by the sign owner, the owner of the property where the sign is located, or other party having control over such sign.
- D. If the message portion of a sign is removed, leaving only the supporting "shell" of a sign or the supporting braces, anchors, or similar components, the owner of the sign or the owner of the property where the sign is located or other person having control over such sign shall, within 30 days of the removal of the message portion of the sign, either replace the entire message portion of the sign or remove the remaining components of the sign.
- E. Unlawful cutting of trees or shrubs to enhance signs.

No person may, for the purpose of increasing or enhancing the visibility of a sign, damage, trim, destroy, or remove any trees, shrubs, or other vegetation located:

- (1) Within the right-of-way of a public road, unless the work is done pursuant to written authorization from Talbot County or the State of Maryland.
- (2) On property that is not under the ownership or control of the person doing or responsible for such work, unless the work is done pursuant to the express authorization of the person owning the property where such trees or shrubs are located.
- (3) In any area where such trees or shrubs are required to remain under a permit issued under this chapter.

***§ 190-163. Nonconforming signs.***

- A. On-premise signs that lawfully existed on November 9, 1991, and were nonconforming to the height, size, or spacing limitations by no more than 10%, or were nonconforming to setback requirements, are permitted to remain in their existing location subject to the remaining requirements of this subsection.
- B. Signs that were lawfully installed after November 9, 1991, and are nonconforming due to revisions to bulk requirements, are permitted to remain at their existing location subject to the remaining requirements of this subsection.
- C. All other on-premises signs not complying with the requirements of this Article were required to be removed within three years of November 9, 1991. All off-premises signs were required to be removed within two years of November 9, 1991. Any such signs still in existence are in violation of this chapter and subject to the enforcement provisions of this chapter.

- D. No nonconforming sign may be enlarged or altered in such a manner as to aggravate the nonconforming condition, nor may illumination be added to any nonconforming sign.
- E. A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this chapter.
- F. If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all the provisions of this chapter, and the remnants of the former sign structure shall be cleared from the land. For purposes of this section, a nonconforming sign is "destroyed" if damaged to an extent that the cost of repairing the sign to its former stature or replacing it with an equivalent sign exceeds more than 50% of its present value.
- G. The message of a nonconforming sign may be changed so long as this does not create any new nonconformities (for example, by creating an off-premises sign under circumstances where such a sign would not be allowed).
- H. Subject to the other provisions of this section, nonconforming signs may be repaired and renovated so long as the cost of such work does not exceed within any twelve-month period 50% of the value (tax value if listed for tax purposes) of such sign.
- I. If a nonconforming sign advertises a business, service, commodity, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall be removed within 30 days after such abandonment by the sign owner, owner of the property where the sign is located, or other person having control over such sign.

## **Article VIII Nonconforming Lots, Structures and Uses**

### *§ 190-164. General*

#### A. Intent

This Article is intended to allow nonconforming lots, uses and structures to continue, but to limit the number and extent of nonconforming uses and structures by prohibiting or restricting their enlargement, reestablishment after abandonment, or reconstruction after substantial destruction.

#### B. Authority to continue

Except as otherwise provided in this Article, any nonconforming lot, structure or use may continue provided it remains otherwise lawful.

#### C. In-kind replacement

As used in this Article, the term "in-kind replacement" means the replacement of a structure with another structure that is substantially identical to the original structure in all dimensions including footprint area, height, width, length and use. An in-kind replacement may include minor modifications or relocations, such as differences in roof-line, exterior materials and design, as determined by the Planning Director.

*§ 190-165. Boathouses and other structures located over water*

Structures located over water, including boathouses and excluding piers, shall not be expanded or enlarged. In-kind replacement of existing boathouses shall be permitted.

*§ 190-166. Certification of nonconforming status*

A. Application by owner

(1) A property owner may request a determination from the Planning Director that a lot, structure or use is legally nonconforming. The request shall include:

- (1) Documentation that the lot was legally created.
- (2) Documentation that the structure was legally constructed, to include all structure dimensions.
- (3) Documentation that the use was legally established, to include documentation of the area of land and structures devoted to the nonconforming use.

(2) Burden of proof

- (1) The burden of establishing the legal nonconforming status shall be upon the owner of the land.
- (2) The casual, temporary, intermittent or illegal use of land is insufficient to establish the existence of a nonconforming use or structure.
- (3) The existence of a nonconforming use on part of a premise shall not be construed to establish a nonconforming use on the entire premises.

(3) Certificate of nonconformity

Upon finding that a legal nonconforming lot, structure or use exists, the Planning Director shall issue a certificate of nonconformity. The certificate shall specify the nature and extent of the legal nonconformity, including the land and building area devoted to a nonconforming use.

B. Appeal

The Planning Director's determination may be appealed to the Board of Appeals within 30 days of certificate issuance.

C. Register of certificates

The Planning Director shall maintain a register of certificates issued for nonconforming lots, structures and uses.

*§ 190-167. Nonconforming uses*

A. Change of use

A nonconforming use shall not be changed to any use other than a use currently permitted in the zoning district in which it is located.

B. Relocation or reconstruction of structure occupied by a nonconforming use

A structure utilized for a nonconforming use shall not be moved, or razed and rebuilt, unless the use is changed to a permitted use or unless approved by the Planning Director as an in-kind replacement.

C. Minor modification with Planning Director approval

The Planning Director shall have authority to approve the following minor modifications of nonconforming uses:

- (1) Minor alterations that do not increase or relocate the area devoted to a nonconforming use. These include installment of fencing or landscaping for buffering, driveway or access improvements, handicapped access ramps, and other minor site or building features.
- (2) Replacement of a nonconforming mobile or manufactured home with another mobile or manufactured home, provided that the replacement home:
  - (1) Is in the same general location;
  - (2) If larger, is no more than 20 percent larger in gross floor area than the home being replaced; and
  - (3) Complies with the setback requirements for the zoning district unless a variance is granted.

D. Expansion and major modification of nonconforming uses

Expansion of a nonconforming use, or modifications to site improvements deemed major by the Planning Director, shall be permitted only if approved by the Board of Appeals and shall be subject to the following restrictions and criteria:

- (1) Applications shall be subject to the procedures and requirements of Article IX for Board of Appeals applications.
- (2) Expansion of structures utilized for nonconforming uses shall be limited to no more than 20 percent of the gross floor area of the nonconforming use, or 1,000 square feet of additional gross floor area, whichever is less.
- (3) Expansion of areas of a nonconforming use not involving structures, such as outdoor parking and storage, shall be limited to no more than 10 percent of the site area existing on the date the use became nonconforming.
- (4) The Board of Appeals shall evaluate applications for expansion or modification of a nonconforming use applying the standards for special exceptions in §190-180. The Board of Appeals shall consider the recommendation of the Planning Commission on proposed expansions and alterations of nonconforming uses.

E. Reconstruction if destroyed

- (1) A nonconforming use that is destroyed by fire or natural cause may be restored or reconstructed at the same location, provided that:
  - (1) A building permit for restoration/reconstruction shall be issued only to the person(s) who owned the property at the time of the destruction.

- (2) Restoration must be started within one year of the destruction and completed in accordance with the building permit.
- (3) The Planning Director may grant a single extension of this time limit, for a period not to exceed one year, only to the same property owner.
- (2) The restored use shall not increase the extent of the nonconformity.
- (3) A restored or rebuilt structure that is to be occupied by the nonconforming use must be an in-kind replacement of the destroyed structure.
- (4) If the use is not replaced or restored within the required time period, any future use on the site shall comply with the current zoning requirements.

F. Abandonment

If a nonconforming use is discontinued or abandoned for 12 consecutive months, the land or structure shall not thereafter be used except in conformity with the regulations of the district in which it is located. Cessation of the use for the purpose of repairing or remodeling the building or other site improvements shall not constitute discontinuance or abandonment.

*§ 190-168. Nonconforming lots*

A. Improvement of nonconforming lots

A legally existing lot that does not meet current size and width requirements:

- (1) Shall not be treated as a separate lot if it is combined for zoning purposes with another lot as provided in §190-117.
- (2) If it is not combined for zoning purposes with another lot, it may be improved, provided that the proposed improvements will comply with all other requirements of this chapter and applicable environmental regulations, including required setbacks, lot coverage limits, provision of stream and wetland buffers, protection of wetlands, forest conservation requirements and stormwater management.
- (3) In addition to A (1) and (2) above, if located within the Critical Area, a nonconforming lot may be improved if the proposed development activity is in full compliance with Critical Area purposes and requirements. The extent of development on the site shall be limited as necessary to allow compliance with Critical Area standards within the constraints of the nonconforming lot.

B. Consolidation or reconfiguration of lots

- (1) The proposed consolidation or reconfiguration of existing lots of record within the Critical Area shall not:
  - (1) Result in a greater number or development rights, lots or dwelling units in the Critical Area than the existing configuration of all legally created lots; or
  - (2) Create any additional riparian lots; or
  - (3) Increase or Intensify impacts associated with riparian access.

- (2) Proposed consolidation or reconfiguration of lots shall identify Habitat Protection Areas and result in no greater impacts to any Habitat Protection Area than as compared to the extent of impacts that could have resulted from the existing lot configuration. Protective measures shall be provided to minimize impacts and restoration measures to mitigate for impacts.

C. Improvement or Development activity on nonconforming lots

- (1) A legally existing lot that does not meet current lot size or width requirements shall not be treated as a separate lot if it is combined for zoning purposes with another lot or parcel as provided in §190-117.
- (2) If it is not combined for zoning purposes with another lot or parcel, it may be developed, improved or reconfigured provided that the proposed improvement will comply with all other requirements of this Chapter and applicable environmental regulations, including required setbacks, lot coverage limits, preservation of habitat protection areas to include streams, wetlands and forest.
- (3) If located within the Critical Area, a nonconforming lot may be improved if the proposed development activity is in full compliance with Critical Area purposes and requirements. The extent of development on the site shall be limited as necessary to allow compliance with Critical Area standards within the constraints of the nonconforming lot.
- (4) If the proposed development activity does not comply with all Critical Area standards:
  - (a) If possible, the lot shall be consolidated with adjacent lots under common ownership to reduce or eliminate nonconformity and allow compliance with Critical Area standards;
  - (b) If lot consolidation is not possible, variances may be considered in accordance with the standards for evaluating variances given in §190-182.

D. Division of parcel with two or more primary dwellings

- (1) A parcel or lot that has been developed with two or more primary single-family residences prior to August 13, 1989, in the Critical Area and June 22, 1991, in the Non-Critical Area may be divided into lots that do not conform to the density provisions of this Chapter. The subdivision shall comply in all other respects to the provisions of this Chapter.
- (2) In no case shall the property be divided into more lots or parcels than there are existing single-family residences. One residence must be located on each parcel.
- (3) Property containing employee residences, guest residences, or hotel or motel uses may not be divided under this section.

*§ 190-169. Nonconforming structures*

A. Expansion that does not increase nonconformity

Expansion of a nonconforming structure is permitted if the proposed area of expansion complies with setback and other bulk requirements.

B. Variance required to expand

A variance from the Board of Appeals is required to expand a nonconforming structure if the expanded area does not comply with bulk requirements, except as provided in C and D below.

C. Minor expansion of a nonconforming structure

(1) The decision on a minor expansion of a nonconforming structure shall be made by the Planning Director. A proposed expansion of a nonconforming structure may be submitted as a minor expansion if:

(1) The expansion encroaches no further than the existing structure into a required setback.

(2) For structures within the Critical Area but outside the Shoreline Development Buffer, the expansion will not enlarge the existing structure by more than 20 percent of the gross floor area of the structure existing on August 13, 1989.

(3) For structures outside the Critical Area, the expansion will not enlarge the existing structure by more than 20 percent of the gross floor area existing on June 22, 1991.

(2) The application shall be processed and evaluated in accordance with the procedures and the standards for minor variances in §190-182.

D. Administrative variance for expansion of a nonconforming structure

(1) An administrative variance application is an application to expand a nonconforming structure that is located within the Critical Area and within the Shoreline Development Buffer. The decision on an administrative variance application shall be made by the Planning Director. A proposed expansion of a nonconforming structure within the Shoreline Development Buffer may be submitted as an administrative variance application if the application meets the following limits.

(1) The expansion does not encroach any further than the existing structure into the Shoreline Development Buffer;

(2) The proposed addition will not enlarge the existing structure by more than 20 percent of the gross floor area of the structure existing on August 13, 1989; and,

(3) Both the Buffer area and the entire site will comply with the lot coverage requirement for the site or, if nonconforming to the lot coverage requirement, the proposed expansion will not increase the site's lot coverage. (See §190-136 for lot coverage requirements.)

- (2) The application shall be processed and evaluated in accordance with the procedures and standards for evaluating administrative variance applications in §190-182.

E. Expansion of nonconforming structures in the Critical Area Shoreline Development Buffer

For expansion of a nonconforming structure within the Shoreline Development Buffer, whether approved by the Planning Director or the Board of Appeals, the following additional requirements apply:

- (1) Natural vegetation of an area twice the extent of the additional disturbance allowed shall be created in the Buffer or on the property if planting in the Buffer cannot be reasonably accomplished.
- (2) If planting on-site or off-site cannot be reasonably accomplished, a fee-in-lieu of planting shall be assessed as established by the fee schedule adopted by the County Council. The fee will be dedicated to County tree planting programs within the critical area.
- (3) All plantings on the subject site shall be subject to an approved plantings plan.
- (4) The expansion shall be reviewed for compliance with the stormwater quality goals of Chapter 164, Stormwater Management, of the Talbot County Code.

F. Reconstruction of nonconforming structures

A nonconforming structure may be demolished and replaced in the same location, or restored after damage or destruction caused by fire or natural cause, without approval of variances, provided that all of the following requirements are met:

- (1) A building permit for restoration/reconstruction shall be issued only to the person(s) who owned the property at the time of the demolition or destruction.
- (2) Construction must be started within one year of the demolition or destruction and completed in accordance with the building permit.
- (3) The Planning Director may grant a single extension of this time limit, for a period not to exceed one year, only to the same property owner.
- (4) The replacement shall be in-kind.
- (5) Increases in the elevation of a building required by floodplain regulations shall not be counted as an increase in height unless the elevation increase creates additional gross floor area.
- (6) If the Planning Director determines that a proposed replacement or restoration is not in-kind, the new structure shall be permitted only with approval of the applicable variances.
- (7) A replacement structure shall not be expanded through the administrative variance provisions. Any expansion of a replacement structure that does not comply with a required setback shall require a variance application to the Board of Appeals.

G. Relocation of nonconforming structures

A nonconforming structure may be relocated or demolished and replaced at a different location on the same lot provided that:

- (1) The relocated structure complies with all bulk requirements; or,
- (2) The Board of Appeals grants the necessary variances; or,
- (3) A minor variance application may be submitted for a decision by the Planning Director if the relocated structure lessens the extent of the nonconformity; is of the same or smaller dimensions than the original structure; and is located in the same general area of the lot.
- (4) An administrative variance may be submitted for a decision by the Planning Director for structures within the Shoreline Development Buffer, provided that:
  - (1) The relocated structure lessens the extent of the nonconformity; is of the same or smaller dimensions than the original structure; and is located in the same general area of the lot; and,
  - (2) Both the buffer area and the entire site will comply with the lot coverage requirement or, if nonconforming to the lot coverage requirement, the proposed relocation will not increase the site's lot coverage. (See §190-136 for lot coverage requirements.)
- (5) The procedures and the standards for evaluating variances in §190-182 shall apply.