

Article IX Administration

§ 190-170. General application and review procedures

Applications submitted pursuant to this chapter shall be processed in accordance with the procedures of this section and any other procedures established in this chapter for a specific decision-making body or type of application.

A. Pre-submission meetings

- (1) A pre-submission meeting with staff of the Planning Office is required for site plans and optional for all other applications required under this chapter, and shall be scheduled by the Planning Office at their request or upon request of the applicant.
- (2) In addition to the applicant or his representative(s) and the Planning Office, the meeting may include representatives of any public agency that may have an interest in or be affected by the proposed development.
- (3) The purpose of the meeting is to discuss the nature of the proposed application, the characteristics of the particular site, and the information that will be required to be submitted with the application.

B. Submission of applications

(1) Application forms and submittals

- (1) The Planning Director shall publish applications forms and a checklist of required information for all applications authorized by this chapter.
- (2) The required information for special exceptions, variances and administrative appeals shall include the materials required by Chapter 21 of the Code.
- (3) The Planning Director shall have the authority to request additional information not specifically listed on the application forms to ensure compliance with this Code.
- (4) All applications must be accompanied by required fees in accordance with the fee schedule established by the County Council.

(2) Review for completeness

All applications shall be submitted to the Planning Office. Within no more than 15 days of receipt of an application, the Planning Director shall determine whether the application is complete. If the Planning Director determines that the application is not complete, the applicant shall be notified in writing, specifying the deficiencies, listing additional information that must be supplied, and stating that no further action will be taken by the County on the application until the additional material is submitted.

(3) Coordinated processing

If more than one type of application is required by this chapter for a particular development proposal, the Planning Director will, to the extent possible, provide for concurrent review of applications related to the same proposed development or activity.

C. Notification of Critical Area Commission

- (1) If an application for a zoning map amendment, special exception, variance, site plan or subdivision plan involves development located wholly or partially within the Critical Area:
 - (1) The Planning Director shall send the application to the Critical Area Commission at least two weeks prior to a scheduled public meeting before the decision-making body for the application.
 - (2) The Planning Director shall notify the Critical Area of the decision to approve or deny the application within 10 days of the decision.
 - (3) If the application is for a variance to a Critical Area requirement, the County shall provide the Critical Area Commission with a copy of the written decision approving or denying the variance within 10 working days after the decision is issued.
- (2) Comments received from the Critical Area Commission in response to an application shall be forwarded to the body considering the application for its consideration at the public hearing or public meeting. No final decision shall be made on the application until the County has received notification that the application was received by the Critical Area Commission.
- (3) Amendments to the Critical Area requirements of this chapter and applications for growth allocation, if approved by the County Council, require approval by the Critical Area Commission in accordance with §190-173.G below.

§ 190-171. Fees

A. Fee schedule

The County Council shall establish by resolution a schedule of fees for applications, licenses and other items for which a fee is required. Required fees shall be paid at the time of filing. Processing of an application shall not commence until required fees are paid.

B. Third party review

Where the requirements of this Chapter for a particular application or land use authorize an agency, board or commission of Talbot County to obtain third party review of material submitted with the application, the cost of such review shall be paid by the applicant.

§ 190-172. Public Notice

Public notice shall be provided of public meetings or hearings required by this chapter as specified below, unless different requirements are specified in this chapter for the particular type

of application. Public notice requirements for Board of Appeals hearings are in Chapter 21 of the Code.

A. Publication of agendas

- (1) An agenda shall be published for public meetings or hearings held under the provisions of this chapter. The agenda shall be published prior to the meeting, shall be available to the public in the Planning Office, and shall be made available through other means as required by specific provisions of this chapter, by the Rules of Procedure of the particular body, or as deemed appropriate by the Planning Director.
- (2) The agenda shall include the date, time and location of the public meeting or hearings and shall list, for each application, the file or case number, the location of the property, and the type of application.

B. Posting of property

Where this chapter requires posting of property, the following shall apply:

- (1) The applicant shall post the property which is the subject of the meeting or hearing with a sign furnished by the Planning Director. The sign shall not be less than two feet high and two feet wide, shall indicate generally the nature of the application, and shall provide the telephone number of the Planning Office.
- (2) The sign shall be:
 - (1) Located within 10 feet of the right-of-way of the most traveled public road abutting the property;
 - (2) If no public road abuts the property, placed and oriented in such a manner as most readily may be seen by the public, as designated by the Planning Director;
 - (3) Maintained in a visible location and free from obstruction by vegetation until after the conclusion of the last public hearing or public meeting on the application.
- (3) The sign shall be posted for at least 15 days prior to the meeting date and removed within five days after the conclusion of the last public meeting or hearing on the application.
- (4) If the applicant is a person other than the owner or the owner's attorney, agent or a person otherwise privy with the owner, and the applicant files an affidavit stating that the owner is unwilling to permit the posting of any such sign, the posting shall be made by the Planning Director.
- (5) At the meeting or hearing, the applicant shall affirm by affidavit that he has fully complied with this provision and has continuously maintained the posting in compliance with this provision up to the time of the meeting.

C. Newspaper publication

Where this chapter requires newspaper publication of a public meeting or hearing notice, the following shall apply:

- (1) The meeting or hearing shall be advertised once in a newspaper of general circulation in the County at the applicant's expense.
- (2) The publication date shall be not more than 15 days prior to the meeting date.
- (3) The advertisement shall state:
 - (1) The date, time and location of the meeting or hearing;
 - (2) A summary of the purpose of the proceeding in sufficient detail to inform the public of the nature of the proceeding;
 - (3) The location of the property, its area, name of owner, file or case number of the proceeding, and the name of the governmental body before whom the meeting is to be conducted; and
 - (4) Other information deemed necessary by the Planning Director to adequately inform the public of the proceeding.

D. Notice to adjacent property owners

Where this chapter requires that notice of the meeting or hearing be mailed to adjacent property owners, the following shall apply:

- (1) The Planning Office shall mail a notice of the meeting by regular mail, postage prepaid, to the owners of all adjacent property. The applicant shall bear the cost of the mailing.
- (2) The notices shall be postmarked at least 15 days prior to the meeting or hearing.
- (3) Adjacent properties shall include:
 - (1) Properties contiguous to the property with which the meeting is concerned;
 - (2) Properties separated from the property by a road, easement or right-of-way; and,
 - (3) Properties within 1,000 feet whose line of sight to the subject property is entirely over water.
- (4) The applicant shall furnish the Planning Director with a complete, accurate and up-to-date list of all such property owners.
- (5) The notice shall be mailed to the address to which the real estate tax bill on the property is sent.
- (6) The notice shall contain the same information as the required newspaper advertisement for the hearing.
- (7) Failure of a person to receive the notice prescribed in this section shall not impair the validity of the public meeting or hearings.
- (8) If a meeting is held and continued, re-notification of the adjacent property owners shall not be required.

§ 190-173. Procedures for text amendments and County Council applications

A. Types of applications

This section and other applicable sections of this chapter authorize the following applications to the County Council:

- (1) Amendments to the text of this chapter.
- (2) Amendments to the official zoning maps.
- (3) Applications for use of growth allocation in the Critical Area.
- (4) Applications for establishment or enlargement of solid waste disposal sites.

B. Persons authorized to apply

- (1) Amendments to the official zoning maps or the zoning text, including zoning map amendments in the Critical Area that require growth allocation, may be initiated by the County Council, Planning Commission, or Planning Director.
- (2) In addition to the applications authorized by (1) above,
 - (1) A proposed amendment to the text of this chapter may be submitted by any interested person; and,
 - (2) A proposed amendment to a zoning map, an application for growth allocation, or an application for a solid waste disposal site may be submitted by a person with a committed financial, contractual or proprietary interest in the property affected by the amendment.

C. Planning Director's report

The Planning Director shall prepare a staff report and recommendation on the application.

D. Planning Commission recommendation

The Planning Commission shall consider the application and the Planning Director's recommendation at a public meeting and make a recommendation. The Planning Director shall submit the recommendations and any pertinent information to the County Council within 60 days of acceptance of a complete application.

E. Introduction, public hearing, decision

- (1) After receiving the recommendations of the Planning Director and Planning Commission on a proposed amendment to the text of this chapter, the Council shall determine whether or not the proposal warrants the introduction of legislation.
- (2) The County Council shall introduce legislation for the proposed amendment to the official zoning maps, for the proposed solid waste disposal facility, or for the proposed text amendment.
- (3) The Council shall hold a public hearing on the legislation.
- (4) The public hearing shall be advertised in accordance with the requirements for posting, newspaper publication, and notice to adjacent property owners specified in §190-172 of this Article. Notification of adjacent property owners and posting

of the property shall not be required for sectional or comprehensive amendments to the official zoning maps or for zoning text amendments.

- (5) A complete record shall be kept of the hearing, including the vote of all members of the Council in deciding all questions relating to the application.

F. Council members to visit property

The Council shall not approve or disapprove an amendment to the official zoning maps until a site visit has been made by a majority of the Council members to inspect the physical features of the property and determine the character of the surrounding area. A site visit shall not be required for sectional or comprehensive amendments to the official zoning maps.

G. Approval by Chesapeake Bay Critical Area Commission

- (1) These provisions apply to all applications for amendments to the County's Critical Area Program, including revisions to the Critical Area requirements of this Chapter, requests for use of growth allocation, and amendments to Critical Area maps.
- (2) Such applications, if approved by the County Council, shall be submitted by the County to the Critical Area Commission for approval. By state law, the Commission has 130 days to act on a request. If no action is taken in 130 days, the request will be considered approved.
- (3) The County's request for approval of amendments to its Critical Area Program shall include all relevant information necessary for the Critical Area Commission Chairman, and as appropriate, the Commission, to evaluate the changes. The Chairman, and as appropriate, the Commission, shall determine if the program changes are consistent with the purposes, policies, goals and provisions of the Critical Area law and the Commission's criteria.
- (4) In accordance with the determination of consistency as outlined above, the Chairman, or as appropriate, the Commission shall:
 - (1) Approve the proposed program refinement or amendment and notify the local jurisdiction; or,
 - (2) Deny the proposed program refinement or amendment; or,
 - (3) Approve the proposed program refinement or amendment subject to one or more conditions; or,
 - (4) Return the proposed program refinement or amendment to the local jurisdiction with a list of changes to be made.
- (5) A request denied by the Critical Area Commission, or returned with changes to be made, may be reconsidered by the County Council. Such a request may be revised by the applicant to address the reasons for Critical Area Commission decision. The revised request shall be submitted to the Planning Director for reconsideration by the County Council within 90 days of Critical Area Commission denial. An extension of the 90 day deadline may be requested for a

specific period of time, if the applicant can demonstrate, to the satisfaction of the Planning Director, circumstances beyond the applicant's control.

H. Effective date

An application approved by the County Council shall take effect 60 days after the Council bill is passed, and upon approval by the Critical Area Commission if required.

§ 190-174. Amendments to the official zoning maps

A. Procedures

Applications to amend the official zoning maps shall be submitted and processed in accordance with the requirements of this Article for County Council applications.

B. Factors to be considered

The Council shall consider findings of fact including, but not limited to, the following when making a decision on a proposed amendment to the official zoning maps:

- (1) Consistency with the purposes and intent of the Talbot County Comprehensive Plan;
- (2) Compatibility with existing and proposed development and land use in the surrounding area;
- (3) Availability of public facilities;
- (4) The effects on present and future transportation patterns; and
- (5) The effect on population change within the immediate area.

C. Standards for decision

- (1) After a review of the applicable findings, the Council may grant a zoning map amendment based upon one of the following findings:
 - (a) That there was a substantial change in the character of the neighborhood where the property is located; or
 - (b) That there was a mistake in the existing zoning classification.
- (2) The findings given in (1) above shall not be required to establish a floating or overlay district or to approve a comprehensive or sectional zoning map amendment.
- (3) The fact that an application for a zoning map amendment complies with all the specific requirements and purposes set forth in this chapter shall not be deemed to create a presumption that the proposed amendment would be compatible with surrounding land uses and is not, in itself, sufficient to require approval.

D. New application after denial of map amendment.

- (1) If an application to amend the official zoning maps is denied, either in whole or in part, no application shall be submitted to rezone all or part of the same property for at least one year from the date of the decision.

- (2) The Council may allow an applicant to withdraw an application at any time. However, if the request for withdrawal is made after publication of the newspaper notice of the public hearing, no application shall be submitted to rezone all or part of the same property for at least one year from the advertised public hearing date, unless the Council specifies that the time limit shall not apply.

E. Changing of official zoning maps.

The Planning Director shall change the official zoning maps within 60 days after the adoption of any amendments and shall provide a copy to the Critical Area Commission within 120 days.

§ 190-175. Text amendments to Critical Area provisions

A. Procedures

Applications to amend the text of the Critical Area provisions of this chapter shall be submitted and processed in accordance with the requirements of this Article for County Council applications.

B. Consistency with Critical Area law

Amendments to the Critical Area text provisions shall be consistent with Maryland State Critical Area law.

C. Impact on habitat

Any amendment shall not result in permitting uses that would adversely affect any wildlife or plant habitats as a result of a use's intrinsic nature and potential impact.

D. Prohibited development

Proposed amendments shall not be granted if they would allow uses in the Critical Area that are prohibited by the Critical Area requirements, §190-132.

§ 190-176. Applications for use of growth allocation in the Critical Area

A. Purpose

This section governs the rezoning of land within the Critical Area from the current district to a zoning district allowing more intensive development. Growth allocation is used when land is rezoned from a district classified as Resource Conservation Area (RCA) to a Limited Development Area (LDA) or Intensive Development Area (IDA) classification, or when land is rezoned from an LDA to an IDA classification. The RCA, LDA and IDA classifications are defined in Article I.

This section also governs the use of growth allocation to allow expanded lot coverage for certain land uses in the Critical Area.

B. Zoning map amendments not requiring growth allocation

Amendments to the official zoning maps from a zoning district with an LDA classification to another zoning district with an LDA classification, or from a zoning district with an IDA classification to another zoning district with an IDA classification

shall not require growth allocation, but shall instead be heard following the procedures and standards for a zoning map amendment prescribed in this Article.

C. Allowed acreage for growth allocations

(1) Total acreage in the Resource Conservation Area allowed to be rezoned to a district allowing more intensive development

- (1) Not more than 1,213 acres of the Critical Areas of the County, including all land lying within the Critical Area within incorporated towns, shall be rezoned from the RC District (or town zoning districts established for the Resource Conservation Area of the Critical Area) to any other zoning district.
- (2) Of these 1,213 acres, the following acreages were originally reserved for towns for growth allocation associated with annexations:

Acreage reserved	Town reserved for
155 acres	Easton
195 acres	Oxford
245 acres	St. Michaels

- (3) The remaining 618 acres are reserved for the County, but may be transferred to the towns through the process for supplemental growth allocation.
- (4) When 1,092 acres (90% percent of 1,213 acres) have been approved for growth allocation, the County shall request permission from the Maryland Critical Area Commission to double the maximum acres that may be reclassified from the RC District (or comparable town districts) from 1,213 to 2,426 acres. Upon Critical Area Commission approval, the County shall reserve acreage for each town.
- (5) If the Commission approves the doubling of acreage that may be rezoned under this subsection, the County will have its full allocation of 2,554 acres for growth as specified in the County's Critical Area Plan:

$$\begin{aligned} & 1,213 \text{ acres (original limit)} \\ & + 1,213 \text{ acres (potential additional limit)} \\ & + 128 \text{ acres [amount reserved in Subsection C(2)] below} \\ & = 2,554 \text{ acres.} \end{aligned}$$

(2) Acreage allowed to be reclassified from Limited Development Area (LDA) to Intensely Developed Area (IDA)

- (1) Not more than 128 acres of the Critical Area, including land within incorporated towns, shall be rezoned from a zoning district classified as LDA to a zoning district classified as IDA.

- (2) Of the 128 acres, 24 acres are reserved for the Town of Easton, 44 acres for the Town of Oxford, and 24 acres for the Town of St. Michaels for growth allocation within the town limits or for annexations. The remaining 36 acres is reserved for the County for growth allocation outside the towns.

D. Submission and review procedures

- (1) An application for a zoning map amendment requiring growth allocation shall include:
 - (a) A concept plan;
 - (b) Appropriate environmental reports, maps and studies to provide sufficient information to permit the Planning Commission to review the application for consistency with the County's Critical Area regulations;
 - (c) Preliminary comments from Maryland Department of the Environment, Department of Natural Resources and the Army Corps of Engineers, for the resources listed within the Growth Allocation application; and
 - (d) Critical area map confirming the classification of the land area equals the requested number of acres proposed for change.
- (2) The concept plan shall consist of all application items to include:
 - (1) Property boundaries;
 - (2) Field run topography and natural features;
 - (3) For a proposed subdivision, the general location of proposed lots, structures, and roads;
 - (4) For a proposed commercial or industrial use, the general location of proposed structures, stormwater management, paved areas and open space;
- (3) The application shall be submitted and heard in accordance with the process established in this Article for applications to amend the official zoning map, except that the concept plan shall be reviewed concurrently as indicated below.
- (4) The Planning Director may circulate the concept plan to applicable reviewing agencies for comments.
- (5) The zoning application shall not be considered by the Planning Commission until the Planning Director finds that the development shown on the concept plan has the potential to comply with applicable requirements in subsequent subdivision or site plan review.
- (6) The Planning Commission shall make recommendations on the proposed rezoning, request for growth allocation and concept plan.
- (7) The applicant may revise the concept plan to address the Planning Commission's comments and recommendations. The revised application shall repeat the initial

review process and the Planning Commission's recommendation on the revised application shall be forwarded to the County Council.

- (8) If the County Council approves the application:
 - (1) The County Council may impose conditions on the concept plan, stating the reasons for such actions.
 - (2) The Council may condition its approval of growth allocation on the provision of specific public benefits in furtherance of the implementation strategies of the Comprehensive Plan.
- (9) Upon approval by the County Council, the County shall request approval by the Critical Area Commission of the use of a portion of the County's growth allocation, as provided in §190-173.G. The County's request shall:
 - (1) Be accompanied by the approved application with pertinent plans and environmental reports and studies; and,
 - (2) State how the Council has applied the standards of this section. The Commission shall ensure that the standards have been applied in a manner that is consistent with the purposes, policies, goals and provisions of the Critical Area law and the criteria of the Commission.
- (10) Following approval of the growth allocation request by the County Council and the Critical Area Commission, the applicant may submit subdivision or site plan applications for review as provided by this Chapter.
 - (1) The subdivision or site plan shall be substantially in accordance with the concept plan approved by the County Council.
 - (2) The Planning Commission in its approval of the subdivision or site plan may approve minor deviations from the concept plan resulting from more detailed engineering and site design. Significant changes must be approved by the County Council in accordance with the procedures for the original application.
- (11) Reversion of Approval
 - (1) As a condition of approval, the County Council may require that a project receiving growth allocation, and not located within a town, be substantially completed within three years of the date of approval by the Critical Area Commission, or the zoning may revert to the prior zoning district upon a recommendation of the Planning Commission and approval by the County Council.
 - (2) The Planning Commission shall determine whether a project is substantially complete, but at a minimum the project must have received final subdivision recordation or final site plan approval, and completed all public improvements, such as roads, sewer and water facilities, in accordance with the approved plans.
 - (3) Upon receipt of a written request by the property owner or the applicant, a time extension may be granted to the three-year period,

upon a recommendation by the Planning Commission and approval by the County Council.

E. Standards

In deciding whether to approve or disapprove an application for a zoning map amendment requiring growth allocation, the County Council shall evaluate the three components of the application: the zoning map amendment, the requested growth allocation, and the concept plan. All of the standards given below shall be used in evaluating the application.

- (1) The standards and factors for amendments to the official zoning map (§190-174.B and C) shall be used to evaluate the proposed rezoning and growth allocation. In addition, the Council shall consider the following factors in evaluating the request for growth allocation:
 - (1) Whether applicable requirements of the County's Critical Area Program, zoning ordinance and subdivision regulations have been met.
 - (2) In addition to meeting the minimum requirements of the Critical Area regulations, the project design shall enhance the habitat value or improve water quality in the area. For example, afforestation may exceed the 15 percent requirement or best management practices for stormwater management may be installed on portions of the site to remain in agricultural use.
 - (3) For residential development, a community pier shall be provided rather than individual piers.
 - (4) The past, present, and anticipated need for future growth of the County as a whole.
 - (5) The location, nature, and timing of the proposed growth allocation in relation to the public interest in ordered, efficient, and productive development and land use.
 - (6) The protection of the public health, safety and welfare.
 - (7) Whether the proposed growth allocation, subject to the proposed concept plan, will fulfill public purposes through the provision of public facilities, implementation of Comprehensive Plan strategies, or advancement of the land use policies and objectives of the Comprehensive Plan.
- (2) The Council may approve the application only if it finds that the proposed concept plan will:
 - (1) Create lots or parcels that maximize opportunities for clustered development that protect habitat and agricultural resources;
 - (2) Locate structures to minimize impact on habitat protection areas and agricultural areas;
 - (3) Provide a minimally disturbed shoreline development buffer;

- (4) Minimize soil erosion and runoff;
 - (5) Maximize protection of eroding shorelines;
 - (6) Have a minimal impact or cause an improvement to stormwater, floodplain and stream characteristics;
 - (7) Minimize impacts on nontidal wetlands;
 - (8) Maximize protection of plant and wildlife habitats, particularly for threatened and endangered species, plant and wildlife common to the Chesapeake Bay Region, and anadromous fish propagation waters; and
 - (9) Maximize protection of forests.
- (3) The County Council shall also make findings based on the growth allocation standards of MD Natural Resources Article §8-1808.1(c) and may establish conditions of approval that are consistent with the intent of the County's Critical Area Program.
 - (4) When considering growth allocation requests for rezoning from the RC District, priority shall be given based on the district requested in the following order: VC, TR, RR, LC, GC, LI. When considering growth allocation requests for rezoning from the RR, TR, or VC District, priority shall be given based on the district requested in the following order: LC, GC, LI.
 - (5) Standards for location of IDAs or LDAs

When expanding or locating new Intensely Developed Areas (IDA) or Limited Development Areas (LDA), the County shall use the following guidelines:

- (1) Locate a new IDA within an LDA or adjacent to an existing IDA.
- (2) Locate a new LDA adjacent to an existing LDA or an existing IDA.
- (3) Locate a new LDA or IDA in a manner that minimizes impacts to habitat protection areas as defined in COMAR 27-01-09 and in an area and manner that optimizes benefits to water quality.
- (4) If a new LDA or IDA is in a Resource Conservation Area (RCA), locate it at least 300 feet beyond the landward edge of tidal wetlands or tidal waters, unless alternative measures for enhancement of water quality and habitat that provide greater benefits to the resources are approved by the Critical Area Commission.
- (5) Locate a new IDA or LDA in a manner that minimizes their impacts to the defined land uses of the Resource Conservation Area.
- (6) A new IDA or LDA involving the use of growth allocation shall conform to all criteria of the County for such areas, shall be so designated on the County Zoning Map and shall constitute an amendment to this program subject to review and approval by the County Planning Commission, the County Council and the Critical Area Commission.

- (7) No more than one-half of the County's allocated expansion may be located in RCAs. However, if the County is unable to locate a portion of its growth allocation as set out in paragraphs (a) and (b) above, then a larger portion of the allocated expansion which cannot be so located may be located in the RCA in addition to the half of the expansion allowed by this paragraph. An applicant shall cluster development in an area of expansion authorized under this paragraph.
- (8) For purposes of this section, adjacency means at least 25 percent of the perimeter of the subject parcel has a common land boundary with the existing LDA or IDA

(6) Calculating area of growth allocation

The following standards shall be used to determine the area of growth allocation to be deducted when the designation of a parcel or a portion of a parcel is changed through the growth allocation process:

- (1) Subdivision of any parcel of land that was recorded as of December 1, 1985, and classified as RCA where all or part of the parcel is identified by the County as a growth allocation area, shall result in the acreage of the entire parcel, not in tidal wetlands, being deducted from the County's growth allocation, unless the development envelope concept outline in paragraph (b) below is used.
- (2) In order to allow some flexibility in the use of growth allocation when development is only proposed on a portion of the property, the following method of calculation may be used. On a parcel proposed for the use of growth allocation, a single development envelope may be specified, and the acreage of the development envelope rather than the acreage of the entire parcel shall be deducted from the County's growth allocation if the development envelope meets the following criteria:
 - (a) The development envelope shall include individually owned lots, required buffers, lot coverage, roads, utilities, stormwater management measures, on-site sewage disposal measures, any areas subject to human use such as active recreation areas, and any additional acreage needed to meet the development requirements of the criteria. The required buffers refer to the minimum 100-foot buffer and the 25-foot nontidal wetlands buffer.
 - (b) Only one development envelope shall be established per parcel of land.
 - (c) If a development envelope is proposed in the RCA, a minimum of 20 acres must remain outside of the development envelope or the acreage of the entire parcel must be deducted. If the original parcel in the RCA is less than 20 acres, then the acreage of the entire parcel must be deducted. If there is a permanently protected Resource Conservation Area (an area protected by easement)

adjacent and contiguous to a residue that is less than 20 acres, that will result in a minimum 20-acre residue, then the entire parcel does not have to be deducted.

- (d) The minimum 20-acre residue outside of the development envelope may be developed at an RCA density unless some type of permanent protection exists that restricts development.
- (3) For growth allocation proposed in the RCA, a 300-foot naturally vegetated buffer is strongly encouraged and where it is provided, it shall not be deducted even if the buffer does not meet the 20-acre requirement.
- (7) Guidelines for annual use of growth allocation acreage
Within any one calendar year, zoning map amendments requiring growth allocation should not exceed the following acreages:
 - (1) Not more than 100 acres should be approved by the County for rezoning from the RC District to any other zoning district; and,
 - (2) Not more than 20 acres should be rezoned from zoning districts in the LDA classification to zoning districts in the IDA classification.
- (8) Approval of growth allocation
 - (1) The fact that an application for growth allocation complies with the specific requirements and standards shall not be deemed to create a presumption that the proposed growth allocation would be compatible with surrounding land uses, and is not, in itself, sufficient grounds to require approval.

F. Process for awarding supplemental growth allocation to towns

- (1) If a town has used all of the growth allocation designated for its use under this section, the town may apply for supplemental growth allocation which, if granted, shall be subtracted from the growth allocation reserved for the County's use.
- (2) Upon request for supplemental growth allocation by a town, the County Council may transfer growth allocation to the town, and may impose conditions, restrictions, and limitations upon the use of the supplemental growth allocation as the Council considers appropriate. Such requests shall comply with the following requirements:
 - (1) Application process. The applicant proposing to use the growth allocation shall file the application with the town. In addition to complying with all town requirements, the applicant shall provide the information required by this section (see subsection D, "Submission and review procedures", in this section) and shall comply with the design standards of this chapter. The town shall forward the application to the County Council for consideration and review within five working days.

- (2) Staff and Planning Commission review. The planning staff and Planning Commission shall review the application in accordance with the procedures required by this Article for growth allocation and zoning map amendments, except that municipal and county staff reports shall be forwarded to the Planning Commissions of both jurisdictions, and the planning staff shall schedule a joint hearing on the application before the Planning Commissions of both jurisdictions. The Chairperson of each Planning Commission shall co-chair the hearing. Each Planning Commission shall vote separately and make its recommendations to its respective council or commission. Each Planning Commission shall provide a copy of its recommendations to the other jurisdiction.
- (3) Council review. The county and town councils or commissions shall hold a joint hearing on the application, co-chaired by the designated Chairperson of each council or commission which may be coordinated jointly with the Critical Area Commission. The county and municipal councils or commissions shall make their respective decisions separately as independent entities. The County Council shall evaluate the application in accordance with Subsection E, “Standards” in this section.
- (4) Amendments to approved projects. Any substantive amendment to the concept plan for an approved project shall be subject to County Council review and approval for a period of five years following the date of initial approval.

G. County review of growth allocation requests within towns

- (1) Growth allocation requests for property within a town that has been annexed within five years of the request shall be reviewed by the County for consistency with the County Comprehensive Plan.
- (2) Growth allocation requests for property that has been in the town for more than five years prior to the request does not require review by the County; however, the towns shall inform the County of the rezoning and growth allocation to ensure that the total reserve acres, listed above, are not exceeded.

H. Review for property within designated growth areas in the Comprehensive Plan

- (1) Annexation requests for property in designated growth areas on the County Comprehensive Plan shall be reviewed by the County for consistency with the County Comprehensive Plan and shall be subject to all current ordinances regulating annexations.
- (2) The County shall not act on a rezoning request within a designated growth area until an annexation request for the property has been denied by the town or until 12 months after an annexation request for the property has been submitted to the town, whichever occurs first. If the County approves a rezoning request not associated with an annexation request for property within a designated growth

areas, then the acreage of the property rezoned shall be subtracted from the acres reserved for the Town for growth allocation in §190-176.C.

- (3) The location of growth allocation requests within towns or growth allocation requests associated with annexation requests is not limited to the designated growth areas; however, the total acres reserved per town shall not be exceeded.

I. Land uses in RC District requiring growth allocation for expansion

Certain uses in the RC District listed in Article III, Additional Regulations for Specific Uses, are permitted to increase lot coverage only with issuance of growth allocation. The process for granting growth allocation for specific RC uses is as follows:

- (1) Application for growth allocation shall accompany an application for site plan approval. The application shall indicate the area and number of growth allocation acres requested.
- (2) The application shall be reviewed in accordance with the procedures and standards for major site plans within the Critical Area.
- (3) When the Planning Director determines that the site plan can proceed to Planning Commission review, the Planning Commission shall review the application and Planning Office staff report for both the site plan and the application for growth allocation at a public meeting.
- (4) Upon approval of the site plan, the Planning Director shall forward the site plan and the recommendations of the Planning Director and Planning Commission on the growth allocation request to the County Council.
- (5) After receiving the recommendations of the Planning Director and the Planning Commission, the Council shall hold a public hearing
- (6) In deciding whether to approve or disapprove an application for growth allocation for expansion of specific uses in the RC District, the Council shall consider the following:
 - (1) Consistency with the purposes and intent of the Talbot County Comprehensive Plan;
 - (2) Compatibility with existing and proposed development and land use in the surrounding area;
 - (3) Availability of public facilities;
 - (4) The effects on present and future transportation patterns;
 - (5) The effect of population change within the immediate area;
 - (6) The past, present, and anticipated need for future growth of the County as a whole;
 - (7) The location, and nature of the proposed use and/or expansion of the use; and
 - (8) The protection of the public health, safety and welfare.

- (7) The fact that an application for a growth allocation complies with all the specific requirements and purposes set forth in this chapter shall not be deemed to create a presumption that the proposed growth allocation would in fact be compatible with surrounding land uses and is not, in itself, sufficient to require approval.

§ 190-177. County Council Permit for Solid Waste Disposal Facilities

The establishment or enlargement of a solid waste disposal facility shall require a permit from the County Council. In reviewing such permit applications, the following procedures shall apply.

- A. After an application is accepted, the Planning Office shall transmit it to state approval authorities. The application shall not be scheduled for a public meeting before the Planning Commission until any additional information required by state agencies is provided by the applicant.
- B. After reviewing public input, County and State agency comments, and Planning Commission recommendations, the Council shall approve, approve with conditions or deny the permit application for a solid waste disposal facility.
- C. The Council decision shall be based upon its determination as to whether the application complies with the requirements of this chapter and adequately protects and safeguards the public health, safety and welfare of the inhabitants of the surrounding residences and of the County.

§ 190-178. General procedures for Board of Appeals applications

Procedures for Board of Appeals applications are given in Chapter 20, Board of Appeals and Chapter 21, Board of Appeals Rules of Procedure, of the County Code.

§ 190-179. Administrative appeals

Any person aggrieved by a final order or decision of the Planning Director, Planning Commission or Historic Preservation Commission may file an administrative appeal with the Board of Appeals in accordance with Chapters 20 and 21 of the County Code.

§ 190-180. Special exceptions

- A. Purpose
Special exception uses are not generally compatible with the purposes of the zoning districts in which they may be approved without additional standards and may have potential adverse impacts. These uses require detailed review of a particular location, design and configuration to determine, against specific standards, the desirability of permitting its establishment on a proposed site. Special exceptions may require additional regulations and conditions to protect abutting landowners and to preserve the character of the area.
- B. Authority
 - (1) Special exception uses, as listed in the General Table of Land Uses in Article III, require approval by the Board of Appeals.

- (2) Before deciding on a special exception application, the Board of Appeals shall consider the recommendation of the Planning Commission.

C. General standards

A special exception may be granted only when the Board of Appeals finds from a preponderance of the evidence that the proposed use will satisfy all of the following standards:

- (1) The use will be consistent with the purposes and intent of the Talbot County Comprehensive Plan.
- (2) The use will comply with the standards of the zoning district, in which it is located, except as those standards may have been modified by the granting of a variance.
- (3) The scale, bulk and general appearance of the use will be such that the use will be compatible with adjacent land uses and with existing and potential uses in its general area, and will not be detrimental to the economic value of neighboring property.
- (4) The use will not constitute a nuisance to other properties and will not have significant, adverse impacts on the surrounding area due to trash, odors, noise, glare, vibration, air and water pollution, and other health and safety factors or environmental disturbances.
- (5) The use will not have a significant adverse impact on public facilities or services including roads, schools, water and sewer facilities, police and fire protection or other public facilities or services.
- (6) The use will not have a significant adverse effect upon marine, pedestrian or vehicular traffic.
- (7) The use will not produce traffic volumes which would exceed the capacity of public or private roads in the area or elsewhere in the County, based on the road classifications established in Chapter 134, the Talbot County Roads and Bridges Ordinance, and other applicable standards for road capacity.
- (8) Any vehicle access to proposed off-street parking areas and drive-in facilities will be designed to minimize conflicts between vehicular, bicycle and pedestrian traffic and to minimize impacts on adjacent properties and on public or private roads. In addition, any resulting commercial and truck traffic should not use a residential street nor create a hazard to a developed residential area.
- (9) The use will not significantly adversely affect wildlife with respect to the site's vegetation, water resources, or its resources for supplying food, water, cover, habitat, nesting areas, or other needs of wildlife.
- (10) The use will not significantly adversely affect adjacent existing agricultural uses.

D. Additional requirements for special exceptions in the Critical Area

- (1) In addition to the general standards for special exceptions, the Board of Appeals shall determine whether the findings and requirements listed below for each use

have been met. The Board shall consider the recommendation of the Planning Commission regarding these criteria.

- (1) The requirements listed in Article III, Additional Regulations for Specific Uses for the use;
 - (2) For piers, marinas, and water-oriented public recreation, education, research areas, the requirements listed in §190-147.
- (2) The applicant is responsible for proving compliance with each finding and requirement, and consistency with this chapter and the intent of the Critical Area Law. Information necessary for responding to these required findings, if not available locally, shall be obtained from appropriate state and federal agencies.

E. Modification

Approved special exceptions may be modified as follows.

(1) Minor amendments

The Planning Director may authorize the following minor amendments to an approved special exception:

- (1) Minor amendments in the size and location of drainage ways, driveways, landscape elements or other similar features based on technical or engineering considerations.
 - (2) Minor amendments to the shape or bulk of buildings, provided the modified dimensions comply with all requirements of the zoning district and do not allow buildings closer to property lines or otherwise adversely affect neighboring properties.
 - (3) The addition of minor accessory uses or structures that do not result in an increased impact on neighboring properties.
- (2) Expansion and major amendments

The Board of Appeals may approve expansions and major amendments, as specified below, in accordance with the procedures for the original special exception approval:

- (1) Expansion or enlargement of the use, or of the structures or facilities occupied by the special exception.
 - (2) Modifications to conditions of approval required by the Board of Appeals.
 - (3) Other changes to the use, or to the structures or facilities occupied by the use, deemed by the Planning Director to be major modifications.
- (3) No amendment to a condition of approval imposed by the Board of Appeals shall be considered except on grounds of new evidence or proof of change of conditions.

F. Expiration of a special exception

A special exception shall lapse and become null and void eighteen months following the date on which it was approved, unless:

- (1) Prior to the expiration date, construction is commenced and diligently pursued toward completion; or
- (2) The use for which the permit was granted is commenced within eighteen months; or
- (3) An application for renewal is granted by the Board of Appeals prior to the expiration date for not more than one eighteen month period.

G. Transfer to subsequent owner

A special exception shall be transferable, without formal or written confirmation, to subsequent owners of a property. Any conditions attached to the approval are binding on subsequent owners of the site.

§ 190-181. Reasonable accommodation for the needs of disabled citizens

A. Purpose

This section provides standards for the Board of Appeals to apply to administrative appeals for alterations to residences and businesses, where such alterations are for the benefit of disabled persons and would not be possible under the requirements of this Chapter.

B. Authority

Notwithstanding any other provision of this chapter, the Board of Appeals may make reasonable accommodations for the benefit of disabled persons upon application by a property owner.

C. Standards

An applicant shall have the burden of demonstrating by a preponderance of the evidence that:

- (1) The alterations will benefit persons with a disability within the meaning of the Americans with Disabilities Act;
- (2) Literal enforcement of the requirements of this chapter would result in discrimination by virtue of such disability or deprive a disabled resident or user of the reasonable use and enjoyment of the property;
- (3) A reasonable accommodation would reduce or eliminate the discriminatory effect of the requirements or restore the disabled resident's or user's reasonable use or enjoyment of the property;
- (4) The accommodation requested will not substantially impair the purpose, intent, or effect of the requirements of this chapter as applied to the property;
- (5) If the property is located in the Critical Area, the accommodation would:

- (1) Be environmentally neutral with no greater negative impact on the environment than the literal enforcement of the statute, ordinance, regulation or other requirement; or
- (2) Allow only the minimum environmental changes necessary to address the needs resulting from the particular disability of the applicant/appellant.

D. Board of Appeals decision

- (1) The Board of Appeals shall determine the nature and scope of accommodation under this section and may award different or other relief than requested after giving due regard to:
 - (1) The standards given in this section;
 - (2) The purpose, intent, or effect of the requirements from which relief is requested; and
 - (3) The size, location, nature, and type of accommodation proposed and whether alternatives exist which could accommodate the need with less adverse effect.
- (2) Upon termination of the need for any accommodation, the Board of Appeals may require, as a condition of approval, that the property be restored to comply with all applicable requirements.

§ 190-182. Variances

A. Authority

- (1) The Board of Appeals or the Planning Director may authorize a variation or modification from the bulk requirements or numerical parking standards of this chapter subject to the standards given in this section.
- (2) The Planning Director shall make decisions on minor variances and administrative variances as described in this section. All other variances shall be heard and decided by the Board of Appeals.
- (3) A variance may not be granted to the following:
 - (1) Density, minimum lot size and minimum lot width requirements.
 - (2) Requirements not related to the location or dimensions of structures, such as number of employees and time of operation.
 - (3) Requirements that are conditions under which a particular special exception may be granted by the Board of Appeals.

B. Minor variances

- (1) A minor variance may be granted by the Planning Director for:
 - (1) A request to vary any bulk requirement in an amount not to exceed 10 percent of the stated requirement; and

- (2) A minor expansion of a nonconforming structure, provided the structure is not located within the Shoreline Development Buffer and the proposed expansion complies with the limits established in §190-169, Nonconforming Structures, for a minor expansion.
- (2) A recommendation from the Planning Commission shall be required for a minor variance for:
 - (1) A structure or site currently conforming to bulk requirements; or,
 - (2) Minor expansion of a nonconforming structure if the requested variance is from a Critical Area requirement.
- (3) The Planning Director may request a recommendation from the Planning Commission for minor variance applications other than those listed in (2) above.

C. Administrative variances

- (1) An administrative variance is a variance for expansion or relocation of a nonconforming structure within the Shoreline Development Buffer subject to the limits established in §190-169, Nonconforming Structures, for administrative variances.
- (2) A recommendation from the Planning Commission is required for all administrative variances.

D. The Planning Director shall approve or deny a minor variance or administrative variance pursuant to the standards for variances provided below. The Planning Director's decision may be appealed to the Board of Appeals.

E. Standards for variances to non-Critical Area provisions

In order to vary or modify the non-Critical Area provisions of this chapter, the Planning Director or Board of Appeals must determine that the application meets all of the following criteria:

- (1) Unique physical characteristics exist, such as unusual size or shape of the property or extraordinary topographical conditions, such that a literal enforcement of the provisions of this chapter would result in practical difficulty or unreasonable hardship in enabling the applicant to develop or use the property;
- (2) The need for the variance is not based upon circumstances which are self-created or self-imposed;
- (3) Greater profitability or lack of knowledge of the restrictions shall not be considered as sufficient cause for a variance;
- (4) The variance will not be contrary to the public interest and will not be a detriment to adjacent or neighboring properties; and
- (5) The variance shall not exceed the minimum adjustment necessary to relieve the practical difficulty or unreasonable hardship.

F. Standards for variances to Critical Area provisions

- (1) In order to grant a variance to the Critical Area provisions of this chapter, the Planning Director or Board of Appeals must determine that the application meets all of the following criteria:
 - (1) Special conditions or circumstances exist that are peculiar to the land or structure such that a literal enforcement of the provisions of this chapter would result in unwarranted hardship.
 - (2) A literal interpretation of the Critical Area requirements of this chapter will deprive the property owner of rights commonly enjoyed by other property owners in the same zoning district.
 - (3) The granting of a variance will not confer upon the property owner any special privilege that would be denied by this chapter to other owners of lands or structures within the same zoning district.
 - (4) The variance request is not based on conditions or circumstances which are the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed, nor does the request arise from any condition relating to land or building use, either permitted or nonconforming, on any neighboring property.
 - (5) The granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat, and the granting of the variance will be in harmony with the general spirit and intent of the state Critical Area Law and the Critical Area Program.
 - (6) The variance shall not exceed the minimum adjustment necessary to relieve the unwarranted hardship.
 - (7) If the need for a variance to a Critical Area provision is due partially or entirely because the lot is a legal nonconforming lot that does not meet current area, width or location standards, the variance should not be granted if the nonconformity could be reduced or eliminated by combining the lot, in whole or in part, with an adjoining lot in common ownership.
- (2) In considering an application for a variance to Critical Area requirements, the Board of Appeals or Planning Director shall presume that the specific development activity in the Critical Area for which a variance is required does not conform with the general purpose and intent of the Natural Resources Article, Title 8, Subtitle 18, COMAR Title 27, and the requirements of the County's Critical Area Program. The applicant has the burden of proof to overcome this presumption of nonconformance.
- (3) The Board of Appeals or Planning Director shall:
 - (1) Make written findings, based on competent and substantial evidence, as to whether the applicant has overcome the presumption of nonconformance established in paragraph (2) above; and,

- (2) Base their written findings on evidence introduced and testimony presented by the applicant, the County or any other government agency, or any other person deemed appropriate by the County, with due regard for the person's experience, technical competence, and specialized knowledge.
- (4) If the Board of Appeals or Planning Director finds that the activity or structure for which a variance is requested commenced without permits or approvals and:
 - (1) Does not meet each of the variance criteria under this subsection, the Board of Appeals or Planning Director shall deny the requested variance and order removal or relocation of any structure and restoration of the affected resources; or
 - (2) Does meet each of the variance criteria under this subsection, the Board of Appeals or Planning Director may grant approval to the requested variance.
- (5) The Board of Appeals or Planning Director may impose conditions on the use or development of a property which is granted a variance.
- (6) The County shall not issue a permit for the activity that was the subject of the variance to a Critical Area requirement until the 30-day appeal period has elapsed.

G. Expiration of variance

- (1) A variance shall be implemented within 18 months following the date of approval. Upon written request before expiration of the initial time limit and for good cause shown, the approving authority may extend the variance approval for not more than one like period. Failure to implement the approval within the prescribed time voids the approval.

§ 190-183. Use Certificates

A. Purpose

Use certificates provide a means for administrative review and approval of temporary uses and certain land uses that require periodic approval or are permitted subject to compliance with conditions.

B. Uses requiring a use certificate

A use certificate shall be required for temporary uses and for any land use for which Article III requires a use certificate.

C. Procedures

- (1) An application for a use certificate may require a plot plan or, if applicable, a copy of the approved site plan. The Planning Director shall send the application to other agencies having jurisdiction over the proposed use.
- (2) The Planning Director may refer the application to the Planning Commission for its recommendation on conditions or standards necessary to ensure that the

proposed use meets the standards for temporary uses or the requirements for a particular use.

- (3) The Planning Director shall issue the certificate if:
 - (1) The proposed use complies with all requirements of this Chapter.
 - (2) The proposed use complies with Health Department requirements.
 - (3) The proposal does not require changes to site improvements such as structures, parking, access and buffering, and does not require site plan review in accordance with §190-184. If a site plan is required, the site plan process shall be followed instead of the use certificate process.

D. Revocation

The Planning Director may revoke a use certificate if requirements of this Chapter or conditions of approval are violated.

§ 190-184. Site Plans

A. Purpose and authority

- (1) The site plan process ensures that proposed development conforms to the purposes, standards and requirements of this chapter as well as other County, state and federal requirements applicable to the use and development of land.
- (2) There are three types of site plans: major, minor and administrative.
 - (1) Decisions on major site plans shall be made by the Planning Commission.
 - (2) Decisions on administrative and minor site plans shall be made by the Planning Director.
 - (3) The Planning Director may refer a minor site plan to the Planning Commission for its recommendation.

B. Development requiring site plan approval

A site plan shall be required for the following:

- (1) The development, establishment or enlargement of any nonagricultural use except the uses listed in subsection C below.
- (2) Agriculturally-related commercial or industrial uses or structures.
- (3) Agricultural structures over 6,000 square feet in gross floor area if located within 500 feet of a town boundary.
- (4) Livestock or poultry houses, or waste storage lagoons or structures, if located within 1500 feet of a town boundary, except that a site plan shall not be required for expansion of an existing livestock or poultry house, or waste storage lagoon or structure, provided that:
 - (1) The use or structure was in existence as of July 1, 2003;

- (2) The use or structure has been continuous and has not been abandoned or discontinued for more than 1 year; and
- (3) The municipal boundary in existence as of July 1, 2003 has been changed through annexation to now include a parcel within 1500 feet of the existing agricultural facility subject to this requirement.

C. Development not requiring site plan approval

A site plan shall not be required for the following:

- (1) Single-family dwellings, guest houses, employee dwellings, duplexes, and accessory residential structures.
- (2) Agricultural uses and structures, except those listed in subsection B above.

D. Development requiring an administrative site plan

An administrative site plan shall be required for a change in use from one approved use to a similar approved use in which the new use requires no exterior site alterations such as expanded parking, loading or storage areas or other outdoor uses.

E. Development requiring a minor site plan

A minor site plan shall be submitted for an addition or accessory structure for a use requiring a site plan, provided that:

- (1) The addition or accessory structure is less than 300 square feet in gross floor area; and
- (2) Minor site plans submitted after the effective date of this chapter add a cumulative total of no more than 300 square feet to the primary structure(s) or no more than 300 square feet in accessory structures.

F. Plan submission

- (1) Applications for site plan approval shall be submitted subsequent to a preapplication meeting in accordance with §190-170.
- (2) As a result of a preapplication meeting, the Planning Office shall determine whether the project requires an administrative, minor or major site plan and shall notify the applicant in writing.

G. Review process for administrative site plans

- (1) The Planning Director shall transmit administrative site plan applications to reviewing agencies for their written comments.
- (2) An administrative site plan shall be approved by the Planning Director upon written concurrence of all appropriate agencies.
- (3) Within 30 days of acceptance of a complete application for an administrative site plan, the Planning Director shall either approve, approve with conditions or deny the plan.

H. Review process for major and minor site plans

- (1) The Technical Advisory Committee (TAC) shall review all major and minor site plans. TAC provides a vehicle for agencies to coordinate comments on plan applications, to jointly review plans, and to resolve issues of conflict or common concern. The TAC reviews plans for compliance with applicable local, state and federal requirements.
- (2) There are two types of staff-level plan review meetings:
 - (1) TAC Meetings, for review of initial or substantially amended site plan submittals, and
 - (2) Compliance review meetings (CRM), for review of site plans that have been resubmitted with minor corrections and amendments. The CRM provides coordinated agency review to ensure that all conditions and requirements have been addressed before site plan approval.
- (3) All TAC meetings shall be open to the public without public participation. Interested persons may submit written comments to the Planning Director within seven days after the TAC meeting
- (4) Upon determining that a site plan application is complete, the Planning Director shall schedule the application for the next available TAC meeting, and shall send the plan to the TAC agencies and other appropriate government agencies for review.
- (5) The Planning Director shall have the authority to limit the number of items on the agenda of each TAC meeting.
- (6) Within 10 days following the TAC meeting, the Planning Director shall transmit to the applicant the comments of the reviewing agencies on the proposed site plan.
 - (1) If the Planning Director determines that the plan is in substantial compliance with applicable requirements, the comments from reviewing agencies shall be transmitted by the Planning Office to the applicant, and the plan shall be scheduled for a CRM or Planning Commission meeting as appropriate; or,
 - (2) If the Planning Director determines that the plan is not in substantial compliance with the applicable requirements, the Planning Office shall transmit the comments of reviewing agencies and notify the applicant that they must repeat TAC review prior to proceeding to CRM or Planning Commission.
- (7) The applicant must submit a revised site plan addressing the agency comments within nine months. If a revised plan is not submitted within this period, a new site plan application is required. .
- (8) The steps in paragraphs (4) through (6) above shall be repeated as required by the reviewing authority.

I. Major site plan procedures

- (1) The Planning Commission shall hold a public meeting on major site plan applications.

- (2) Once the Planning Director determines that the plan is in substantial compliance with applicable requirements, the Planning Office shall schedule the plan for the next available public meeting before the Planning Commission.
- (3) The Planning Director or Planning Commission may require that the applicant hold a community meeting. The community meeting shall be:
 - (1) Required if the Planning Director or Planning Commission determines that a community meeting will help in raising and resolving site design issues.
 - (2) Organized and held by the applicant in a location convenient to community residents.
 - (3) Open to all interested persons.
 - (4) Held no less than 15 days after a notice approved by the Planning Director is mailed by the applicant to community organizations for neighboring communities and to the owners of abutting property and property separated from the site by a road right-of-way.
 - (5) Summarized in a report from the applicant to the Planning Director.
- (4) Historic Preservation Commission review
 - (1) The Planning Director or Planning Commission may request Historic Preservation Commission review of major site plans if the property shown on the site plan contains a historic resource identified in the Comprehensive Plan, or is contiguous to a property containing a historic resource identified in the Comprehensive Plan.
 - (2) The Historic Preservation Commission review of the proposed site plan shall be at a public meeting.
 - (3) The Commission may provide written comments to the Planning Director which addresses the impact of the proposed development on the historic resource and, if applicable, means of mitigating any adverse impact.
 - (4) The Planning Commission shall give consideration to, but shall not be bound by, comments of the Historic Preservation Commission.
- (5) The Planning Director shall prepare a report to the Planning Commission which addresses the following:
 - (1) Compliance with the Comprehensive Plan;
 - (2) Compliance with design standards;
 - (3) Access and traffic circulation;
 - (4) Effect on surrounding development;
 - (5) Effect on community facilities;
 - (6) Impact on historic resources;

- (7) Open space; and,
 - (8) Available utilities.
- (6) The Planning Commission shall review the application and the Planning Director's report at a public meeting and approve, disapprove, or approve the plan subject to conditions. The Planning Commission may defer action to a subsequent Planning Commission meeting to allow further review. The Planning Director shall notify the applicant in writing of the Planning Commission's action.
- (7) Revised plan submission based on Planning Commission action
- (1) If the major site plan is disapproved or approved subject to conditions, the applicant shall submit a revised plan addressing deficiencies or conditions of approval.
 - (2) The revised plan shall be reviewed at a TAC meeting or CRM, as deemed appropriate by the Planning Director. Subsequent to the TAC meeting or CRM, the Planning Director shall notify the applicant in writing whether the revised plan addresses deficiencies, is in compliance with the Planning Commission conditions of approval, or needs further revision.
 - (3) If the plan was disapproved by the Planning Commission, the revised plan shall be scheduled for another Planning Commission meeting, subject to TAC review.

J. Bonds and sureties for improvements and plantings

Prior to approval of a site plan, the owner or developer shall enter into a development agreement with the County, as provided in §190-185, wherein the applicant shall agree to construct required improvements, including installing required plantings, as approved by the County.

K. Approval of site plans

- (1) The Planning Director may approve an administrative or minor site plan upon concurrence of reviewing agencies.
- (2) For a major site plan, after the Planning Office notifies the applicant that the plan is in compliance with Planning Commission conditions of approval, as set forth in paragraph I(7)(b) above, the applicant shall submit to the Planning Office the required number of copies of the final site plan.
- (3) After receiving all required materials, the Planning Office shall provide the applicant with a notice of approval of the site plan.

L. Building permit.

- (1) The notice of approval for the site plan shall accompany all building permit applications for the site.
- (2) No building permit shall be issued for any improvement except as shown on the approved site plan.

M. Review of site plans for uses requiring a special exception

If a special exception is required for a use shown on a site plan, the applicant may choose either of the following procedures:

- (1) The applicant may submit a special exception application. If the special exception is approved by the Board of Appeals, the applicant may then submit the site plan application.
- (2) The applicant may submit the special exception application and site plan application at the same time. The site plan shall be reviewed in accordance with this section. The application shall be heard by the Board of Appeals after the Planning Commission has made a recommendation on the special exception and after the site plan has been approved or approved subject to conditions.

N. Expiration of approved site plan; extension

- (1) Approval of a site plan shall expire one year after the date of such approval unless building permits have been obtained for construction.
- (2) A single, one-year extension of the approval may be granted by the Planning Director, with the recommendation of appropriate agencies or the Planning Commission, as determined by the Planning Director. The applicant must submit a written request for an extension at least 30 days prior to the expiration of the site plan. The Planning Director shall issue a decision on the request for an extension within 60 days of receiving the request.

O. Revision of approved site plan

A site plan may be revised by the same procedures as the original approval. In addition, the Planning Director may approve minor changes to site plans approved by the Planning Commission, if such changes:

- (1) Comply with the Planning Commission's conditions of approval;
- (2) Do not alter the impact of the development on natural or historic resources;
- (3) Are internal to the site and do not affect setbacks, landscaping or buffering along the perimeter of the site;
- (4) Do not increase the area of the building by more than 300 square feet or 10 percent of the gross floor area, whichever is less;
- (5) Do not increase the lot coverage by more than 300 square feet; and
- (6) Do not change the location or design of access points to public roads.

§ 190-185. Developer agreements

A. Purpose

Developer agreements shall be used when a developer is required to install public or private improvements or plantings as a condition of approval of a site plan, subdivision plan or other development approval. A developer agreement is not required if a public works agreement administered by the Department of Public Works is required for the improvement.

B. Provisions of developer agreements

- (1) The agreement shall be in a manner and form approved by the County Attorney.
- (2) The agreement shall require that the applicant install at his expense the required improvements or plantings and provide for completion of work within a given period of time.
- (3) To assure the County that the required improvements or plantings will be installed in accordance with the developer agreement, the developer shall furnish to the County a surety acceptable to the County in an amount sufficient to cover the cost of installation.
- (4) The developer agreement shall include provisions for insurance, funding, performance bonds and maintenance bonds to assure that the work is completed and protected in accordance with the specifications.
- (5) In the event of default, the agreement shall assign to the County the right of immediate access to any security to complete necessary improvements.
- (6) The developer agreement shall also include provisions for settlement of disagreements during the course of construction such that suitable and timely remedies are available without undue hardship to the owner, contractor, developer, or County.
- (7) The developer agreement shall provide for the expiration of the agreement at the time that a site plan approval expires if the plan is not implemented.
- (8) Construction, planting and development authorized by a developer agreement shall be performed in accordance with all applicable federal, state and local requirements.
- (9) The Planning Director shall have the authority to require and administer developer agreements on behalf of the County. The Planning Commission shall make recommendations on developer agreements for major site plans and major subdivision plans.

§ 190-186. Waivers

A. Purpose

The waiver process allows applicants to request relief from strict compliance with certain provisions of these regulations. This process provides flexibility to address constraints unique to a particular site by authorizing the Planning Director or Planning Commission to waive certain requirements while approving alternative solutions that accomplish the purposes of this chapter.

B. Applicability

A waiver may be granted only to provisions of this chapter for which the requirements specifically state that the provision is subject to a waiver application.

C. Procedures

- (1) Waiver applications shall be submitted in accordance with §190-170 of this Article and accompanied by the required fee.
- (2) A waiver application shall be submitted at the same time as or during review of the application requiring the waiver. A waiver application may be submitted in conjunction with an application for approval of a site plan, subdivision plan or certificate of use.
- (3) For site plans or subdivision plans that require TAC review, any necessary waiver application must accompany the plan on the TAC agenda.
- (4) The Planning Commission shall make decisions on all waiver applications for major site plans, major subdivision and revision plats unless or except as otherwise defined herein.
- (5) The Planning Director shall make decisions on waiver applications for minor site plans, minor subdivision and revision plats and certificates of use unless or except as otherwise defined herein. The Planning Director may request a recommendation from the Planning Commission on any waiver application.

D. Criteria for evaluation of waiver applications

The Planning Commission or Planning Director shall evaluate waiver applications based upon the following criteria:

- (1) The waiver shall not have the effect of nullifying the intent and purposes of this chapter.
- (2) Granting the waiver will not be detrimental to the public health, safety or welfare, or injurious to other property.
- (3) The conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable generally to other property.
- (4) Because of the particular physical surroundings, shape or natural features of the specific property involved, one of the following findings is made:
 - (1) A particular hardship to the applicant would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out, or,
 - (2) The purposes of this chapter are better accomplished by the alternative proposal made in the waiver application.
- (5) The waiver complies with any criteria required by the specific section of this chapter from which a waiver is requested.

§ 190-187. Short-Term Rental Licenses

A. Application

An application for a short-term rental license shall be jointly executed and submitted by all record title holders of the property. The application shall include:

- (1) Proof that the applicant(s) can satisfactorily monitor the use of the short-term rental property by having either a principal residence in Talbot County or by having made arrangements with an agent with either a principal residence in Talbot County or whose home or office is within 30 miles of the short-term rental unit (resident agent).
- (2) Proof that the applicant(s) have notified all adjacent property owners using the following procedure:
 - (1) Notification shall be by certified mail, return receipt requested, to the address provided on the annual Talbot County tax bill.
 - (2) Adjacent property owners include those whose properties are contiguous, those whose properties are across a roadway, waterway, easement or right-of-way and all other property owners within 1,000 feet of the short-term rental building.
 - (3) The notification must state the intention to conduct short-term rentals on the premises and must include the property owner(s) name, address and phone numbers and the name, address, phone number, facsimile, cell phone, e-mail, and internet address of any resident agent.
- (3) An address and telephone number where they and their agent(s), if applicable, may be contacted 24 hours a day during any short-term rental period. The property owner's and agent's name, address, and telephone number shall be made available by the Planning Office upon request to any neighbor and any other person who may be affected by the short-term rental.
- (4) Proof of appropriate insurance coverage for rental use in the minimum amount of \$500,000.
- (5) Other information as needed to demonstrate compliance with the requirements of this section and the requirements of Article III for short term rentals.

B. Issuance of License

The Planning Director shall issue a short-term rental license, provided that:

- (1) The short-term rental license shall be issued in the name of all record title holders.
- (2) The license application is reviewed and approved by the Talbot County Health Department, the Department of Inspections and Permits, and other applicable reviewing agencies.
- (3) The facility will comply with the requirements listed in Article III for short term rentals.
- (4) The license shall be issued for one year. The Planning Director shall issue an annual renewal provided the property owners submit a written request for renewal accompanied by:
 - (1) Proof of current compliance with the requirements of Article III for short term rentals.

- (2) Proof that all appropriate Talbot County accommodation taxes for the subject property have been paid. Before renewing the license, the Planning Director may require submission of the appropriate year's Federal 1040 form, Schedule E, Schedule C or other appropriate forms and schedules to determine whether the accommodation taxes have been paid.

C. Nontransferable license

A short-term rental license shall be nontransferable. If a property is transferred or if an annual license is not renewed, a new application is required.

D. Denial of license; revocation

The Planning Director may decline to issue, decline to renew or revoke a short-term rental license based on the following:

- (1) False, inaccurate, incomplete or incorrect statement in any application or renewal.
- (2) Any serious or repeated infraction, disturbance, nuisance, failure to monitor, or other problem or violation occurring during a short-term rental.
- (3) Violation of any law or ordinance with respect to the short-term rental, or any term, condition, or restriction of the short-term rental license.
- (4) Failure to pay the Talbot County Accommodations Tax.

E. Procedure for addressing complaints

(1) Receipt of complaints by Planning Director

Persons owning property in the vicinity of a short-term rental property may submit a written complaint to the Planning Director about violations of this section or specific problems caused by the short-term rental property.

(2) Mediation by Short-Term Rental Review Board

Upon receipt of any complaint, the Planning Director, the complainant(s) or the holder of the short-term rental license may request a hearing before the Short-Term Rental Review Board for the purpose of seeking a mutually agreeable solution. The Short-Term Rental Review Board shall function as a mediator. Participation shall not be obligatory, shall be by mutual consent, and the findings and recommendations of the Short-Term Rental Review Board shall not be binding.

(3) Planning Director public hearing and decision

- (1) The licensee or the complainant may elect not to participate in mediation before the Short-Term Rental Review Board, or to reject any of its findings or recommendations.
- (2) The party electing not to participate, or to reject the Board's findings or recommendations, shall notify the Planning Director in writing within 30 days from receipt of the findings or recommendations of the Short-Term Rental Review Board.

- (3) Upon receipt of this notification, or if either party does not appear at the hearing of the Short-Term Rental Review Board, or if the licensee does not comply with recommendations of the Short-Term Rental Review Board within the time period specified by the Board, the Planning Director shall schedule a public hearing on the complaint(s). The Planning Director shall conduct the public hearing using Rules of Procedure published by the Planning Office and shall render a written decision, which shall be mailed to the licensee and any complainant(s). The Planning Director's decision shall be binding on all parties.
 - (4) The Planning Director shall provide notice of a public hearing before the Short-Term Rental Review Board, and of a public hearing before the Planning Director, by sending a written notice by certified mail to the complainant(s) and to all owners of the short-term rental property at least 15 days prior to the hearing.
- (4) Appeal to Board of Appeals

The licensee and complainant shall have the right to appeal the Planning Director's decision to the Board of Appeals

§ 190-188. Enforcement

A. Authority.

This Chapter shall be administered and enforced by the Planning Director and the Chief Code Compliance Officer, who may delegate such duties and responsibilities as they determine appropriate and who may be assisted by subordinate enforcement officials. Such enforcement officials shall have authority to issue administrative orders, determine reasonable abatement periods and procedures, enter into abatement agreements on behalf of Talbot County, issue civil citations, and exercise such other incidental powers as are necessary or proper to enforce the terms of this Chapter. The Chief Code Compliance Officer shall have authority pursuant to Chapter 58 to assess civil monetary penalties for violations of this Chapter 190.

B. Right of entry.

The Planning Director, Chief Code Compliance Officer, and their subordinate enforcement officials shall have the right to enter upon open land to perform their duties under the terms of this Chapter. No enforcement official may enter any building or structure without permission from the owner or occupant except pursuant to a warrant issued by a court of competent jurisdiction and accompanied by a police officer who shall serve and execute the warrant.