

## **Proposed Chapter 190**

### **Zoning, Subdivision, and Land Development**

This document provides a summary listing of revisions to the current Chapters 168, “Subdivision Regulations” and 190, “Zoning Regulations” included in the proposed text of Chapter 190, “Zoning Subdivision and Land Development.”

The proposed document is a major rewrite, reorganization and consolidation of the two existing code chapters. Although many existing provisions are unchanged in substance, the reorganization makes it impossible to produce a version that indicates where changes are made. This summary of revisions is intended to make it easier for interested persons to locate revisions of interest.

Consolidating Chapters 168 and 190 into one chapter of the code makes it possible for many definitions and design standards to be shared, avoiding the need for repetition within the Code.

The following listing of revisions is organized in order of the articles and sections in the proposed Chapter 190.

#### **Article I General Provisions**

##### **§190-3. Purpose**

Consolidate the purposes of the zoning regulations, subdivision regulations and Critical Area regulations.

##### **§190-8.**

Abolish “Conforming special exception use(s)” and “conferred special exceptions” as those terms were used in the Talbot County Zoning Ordinance adopted November 24, 1974.

##### **§190-12**

Provide a summary listing of responsibilities established in this Chapter 190 for the County Council, Board of Appeals, Planning Commission, Historic Preservation Commission, Short Term Rental Review Board, Agricultural Resolution Board, Technical Advisory Board and Planning Director.

#### **Article II Base Zoning Districts**

##### **§190-13.C.3**

Refine the AC, CP, TC and WRC Districts adopted by the County Council in 2007 by specifying in more detail the method of calculating density for cluster subdivisions.

### **§190-14. Residential, Village Center and other Rural Districts.**

Proposed text provides more flexibility in average lot size requirements:

- RC: Omit the requirement that each subdivision have an average lot size of either 5 acres or less or 20 acres or more. Instead, the proposed regulations require that all lots created in the district must be either 5 acres or less or 20 acres or larger. Both types of lots are permitted within a subdivision.
- In the VC and TR Districts, retain the maximum 2 acre average lot size, but allow the Planning Commission to approve a larger average lot size based on site constraints. This avoids the need for variances from the Board of Appeals.

#### **§190-14.I.2. Intrafamily Transfers in RC District.**

- Adds a requirement that the recipient of a lot created through intrafamily transfer must build a dwelling on the lot within 18 months of the lot creation.
- Prohibits conveyance of the remaining portion of the original parcel to a different owner until the primary residential structures on lots created through intra-family transfer have been completed and occupied.
- Must be the owner of a qualifying lot as of March 1, 1989.

#### **§190-14.C and 190-15.C.**

Setback requirements:

- Changes the way setbacks are measured. Currently, the setback is measured from the property line. In some cases, the property line extends to the centerline of a street or road. The proposed regulations revise the definition of “setback” to require measurement of the setback from the nearest edge of the road right-of-way or road easement. Article XI; also §190-15.C and 190-14.C.

## **Article III Land Uses**

The Land Use Table is reorganized. All uses are listed alphabetically rather than by categories of land use.

Following are revisions to the Table of Land Uses (§190-16) and the requirements for specific uses in the remainder of Article III.

Add the following new land uses:

- Auction House: Special exception in the AC District.
- Churches: Permitted use in commercial and industrial zones and a special exception in rural, residential and village zones. (Churches were previously removed in error)
- Farm Market: Permitted in AC and CP; special exception in WRC, RC and VC.
- Junkyard: Special exception in LI.
- Marine Contracting: Permitted in VC, LC and GC; special exception in LI.
- Offices, General: Permitted in VC, LC, GC and LI.

- Restoration of Boats, Vehicles and Furniture: Limited to repair and restoration of antique furniture and antique or classic vehicles. Special exception in AC and VC; permitted in LC, GC and LI.
- Retail, Incidental: Allows limited retail space as an accessory use in the LI District.
- Shoreline Stabilization Measures: This is currently listed under “waterfront structures” as bulkheads or riprap.
- Stables, Accessory to Residential Use: Accessory use in all residential districts. This is currently included as one of the uses under “Accessory Residential Uses.”
- Storage, Accessory to Commercial or Industrial Use: Accessory use in VC, LC, GC and LI; requires a simplified site plan so County staff can review for compliance with landscape, buffering and other requirements.
- Storage of inoperable or unregistered motor vehicles accessory to a dwelling: Limit to no more than 2 vehicles on a lot less than five acres if the vehicles are stored outdoors.
- Temporary uses: Permit in all districts subject to limitations. Require a use certificate. These can include portable storage units, carnivals, construction or sales offices on a building site, and other uses. (§190-100.)

Revise requirements for the following land uses:

- Agriculture: Add “value-added processing” as an accessory use to agriculture. Also add value-added uses such as pick-your-own produce operations, corn mazes, cut-your-own Christmas trees farms and flower operations, sales of decorative plant materials, farm tours for fee, and petting zoos.
- Bed and breakfast: Add provision allowing weddings, receptions and similar events, subject to specified limits.
- Dwelling, Accessory Apartment (VC Zone only): In detached accessory structure, increase maximum size from 500 to 900 square feet.
- Home Occupations:
  - Add business and professional offices. Delete the separate “home-based office” use under accessory residential uses.
  - Require renewal of use certificate every two years.
- Inns: Add provision allowing weddings, receptions and similar events.
- Landing Strips: Revise to prohibit helicopter landing facilities.
- Marinas and piers (§190-75):
  - Separate “Marinas,” which have boat docking facilities with related uses, from private or community piers without other uses.
  - Encourage community piers (serving more than one dwelling) rather than private piers (serving only one dwelling). Community piers are an allowed accessory use, while private piers require a special exception. This is the opposite of the current

- regulations, which allow private piers by right and community piers by special exception.
- o Limit the width of piers.
- o Limit the width and length of raised walkways over nontidal wetlands that are used for access to piers.
- Shooting Range, Indoor: Allow as a special exception in VC. This use is currently a special exception in AC, CP, WRC, LC, GC and LI.
- Wireless Communication Towers (§190-105): Add requirements for:
  - o The timing of the balloon test;
  - o Annual reporting of services provided;
  - o Provision of public notice before submittal of an application to the County; and,
  - o A requirement that the application include information on the type of services to be provided by tower users and the expected date when services will commence.

**Article IV. Overlay Districts**  
**§190-110. Gateway Overlay District**

Limit building height to 35-feet (current limit is 40 feet). Add a requirement that the design of new structures or additions be generally compatible in scale and bulk with existing development in the vicinity.

**§190-111. Easton Airport Overlay District**

Rewritten to reflect how applicants and the County need to respond to FAA requirements to limit hazards. Proposed language gives responsibility to County officials to notify Airport manager to review and comment on proposed construction activity within the overlay district.

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

Place the procedures for creation of a Buffer Management Area in Article IV, which contains standards for all of the County’s overlay districts.

**Article V. Development Standards**  
**§190-113. Height**

Include ornamental towers and other design features for residences under the 40-foot height limit. Lack of clarity in the current regulations has led to some design features exceeding the 40-foot residential height limit.

Limit the height of residential accessory buildings to a maximum of 25 feet for lots of 2 acres or less and 30 feet for lots larger than 2 acres.

### **§190-114 Supplemental Setbacks**

For through lots, require compliance with front setback from both streets. Currently, rear setback can be applied to one street.

### **§190-115 Road Frontage, Access, Dedication and Layout**

A fifty-foot minimum road frontage is currently required for AC, WRC, CP, RC, RR, VC, TR and TC. Proposed text applies the frontage requirement to LC, GC and LI as well. Proposed text also adds a requirement that the 50-foot frontage be maintained for the depth of the lot's front setback.

Through site plan review, authorize the County Engineer or Planning Director to require improvement and consolidation of existing access points to a commercial, industrial or institutional use.

Place greater restrictions on the number of lots that can access an existing road when subdivisions are created in RC, RR, TC and TR. §190-115.B(5).

Clarify provisions for dedication of road right-of-way for new subdivisions. §190-115.C.

### **§190-116 Location of sewage disposal areas**

Require that sewage disposal areas be no more than 200 feet from the use that they serve unless a waiver is granted based on criteria listed in the text.

### **§190-117 Structures located across lot lines**

Clarify treatment of adjacent lots in common ownership that have been treated as one lot for purposes of locating a dwelling and other improvements.

### **§190-118 Accessory uses**

The proposed text retains the provision allowing an accessory building on a site with no principal structure as a special exception. Proposed text adds provisions to allow accessory structures without a principal structure:

- As a temporary use prior to and during construction of a principal structure
- If a proposed subdivision creates a lot with an existing private pier but no primary use or structure, the pier may be retained subject to approval of a waiver.

#### **Fences**

- Classify fences as open or closed. Where the current regulations exempt any fence up to 4 feet high from the minimum front setback requirement, the proposed regulations exempt only open fences up to 4 feet high from the front setback.

- Exempt driveway entry features, limited to gates no more than 6 feet in height and supporting posts no more than 7 feet in height, from required setbacks.
- Limit fences for commercial, industrial or agricultural uses to 10 feet in height unless setbacks are met.

**§190-120. Sidewalks and streetlights**

Authorize Planning Director or Planning Commission to require sidewalks for nonresidential development and for residential subdivisions with lot sizes averaging two acres or less.

**§190-122. Landscaping requirements for site plans**

Differs from current regulations in the following:

- Specifies process for waivers of the landscaping requirements.
- Require provision of landscaped area for expansion of commercial or industrial sites.
- Require that parking areas have landscaped islands not less than eight feet in width dividing the parking lot into bays with a maximum of 10 spaces per bay.
- Increase the minimum width of planting strips used for screening along the edge of a commercial or industrial use, parking area, or loading area or outdoor storage area from 5 feet to 10 feet.
- Encourage use of landscaped areas within parking lots for stormwater management.
- Add definitions of landscaped area, landscape buffer, landscape plan and screening.
- Specify the developer’s responsibility to install and maintain landscaping.

**§190-123 Buffers – Streams and Non-tidal Wetlands - Non-Critical Area**

Add a required 25-foot buffer from non-tidal wetlands, consistent with current State law.

Clarify the required expansion of buffers due to the presence of hydric soils, highly erodible soils, or steep slopes. Add a definition of “buffer expansion.”

**§190-127. Subdivision design**

Add the phrase “and provided that the subdivision complies with standards for preservation of environmentally sensitive areas” to current text requiring conservation of agricultural lands. Environmental regulations generally require that protection of these features take priority over protection of agricultural land.

Add standards for pipestem lots:

- Minimum pipestem width of 25 feet.
- No more than two pipestems can have adjacent frontage on a road.

- The pipestem area does not count towards minimum lot size.
- Lots outside the Critical Area shall not have pipestem connection through the Critical Area to create riparian access.

**§190-128. Off-street parking**

Current regulations allow the Planning Director to approve variations from the parking standards. Proposed text states that this approval must be given by the approving authority for the plan, which would be either the Planning Director or the Planning Commission. The text also lists information that must be provided if an applicant proposes to provide a number of parking spaces lower than required.

Allows a reduction in required parking spaces for mixed use sites where the uses have peak parking demand at different times.

Requires that parking spaces be in addition to spaces needed for company vehicles.

Requires compliance with parking standards of the Americans with Disabilities Act (ADA).

Revises the minimum parking standard for some uses and add standards for numerous uses listed in the Table of Land Uses that are not currently addressed.

Require provision of bicycle parking facilities for commercial, industrial or institutional uses.

Require that loading areas be screened and to the side or rear of buildings.

**ARTICLE VI. CRITICAL AREA**

This Article is substantially reorganized and revised to consolidate, clarify, and comply with COMAR Title 27.

A detailed list is provided of forestry or clearing activities and the approvals required prior to undertaking activity.

The County’s Property Maintenance Permit process is added to the Code.

A definition and drawing of a required buffer expansion is added for clarification. Requirements for buffer expansion due to the presence of hydric soils, highly erodible soils or steep slopes are clarified.

Text is revised where required by Maryland HB 1253, enacted in 2008. Key revisions include:

- In Article XI, add definitions of the Resource Conservation, Limited Development and Intensely Developed areas.
- Define “lot coverage” and use this term in place of “impervious surface coverage.”
- Expand the Shoreline Development Buffer to 200 feet from the shoreline for newly created lots within the Resource Conservation Area. The current buffer measurement of 100 feet is retained from tributary streams and in the Limited Development and Intensely Developed areas and all lots recorded in compliance with HB 1253 deadlines.

## Article VIII. Nonconforming Lots, Structures and Uses

Provide a formal process whereby the Planning Director confirms the legal existence of a nonconforming use. The process provides for defining the extent of the site or building occupied by the nonconforming use.

Retain the current prohibition on construction of new boathouses and similar structures. Codify current policy by specifying that these structures shall not be expanded or enlarged, but in-kind replacement of existing boathouses is permitted.

Define “In-kind replacement.”

Provide new standards for nonconforming uses:

- Require approval by the Board of Appeals for expansion of a nonconforming use, subject to the same procedures and standards as special exceptions. Expansions are limited to 20% or 1,000 square feet of area, whichever is less. (Currently, a nonconforming use can be expanded by 20% of building area or 10% of site area with no specified approval process.)
- Allow the Planning Director to approve minor modifications that do not increase the area.
- Allow the Planning Director to approve replacement of a nonconforming mobile home with a similar mobile home.
- Allow replacement of a destroyed nonconforming use in accordance with a permit issued within 12 months of the destruction.
- Provide for loss of legal nonconforming use status if the use ceases for 12 months or more.

For nonconforming lots, add text required by HB 1253 stating that in the Critical Area, nonconforming lots will be consolidated whenever possible to allow compliance with Critical Area requirements.

For nonconforming structures, add the following:

- Continue to use the term “administrative variance” to refer to limited expansion of structures within the Shoreline Development Buffer. Restrict the expansion that the Planning Director can approve through administrative variances to 20 percent of the building’s gross floor area.
- Allow a “minor variance” approved by the Planning Director for expansion of other nonconforming structures, for expansion up to 20 percent of the floor area.
- Allow in-kind reconstruction of destroyed nonconforming structures in accordance with a permit issued within one year of the destruction.
- Allow a minor variance or administrative variance for relocation of nonconforming structure, or demolition and reconstruction in a different location, if the new location lessens the nonconformity.

## Article IX. Administration

### **§190-170. General application and review procedures**

Provide submission procedures. All applications must use forms and lists of required materials published by the Planning Office. This provision replaces the lengthy list of submission requirements currently in the Code for site plans, Critical Area site plans, and subdivision plans.

Where specifically authorized within the Code, allow an agency, board or commission to obtain third party review of material submitted with an application, with the cost of such review to be paid by the applicant.

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

This section does not use the term “growth allocation district boundary amendment,” used extensively in the current regulations. Instead, the text refers to approval of zoning map amendments for which growth allocation is required.

Add a purpose statement to the section.

Require a concept plan with the application. (The current code requires a site plan or subdivision plan.) The concept plan would be reviewed for feasibility, but would not receive the detailed review required for a site plan or subdivision plan.

Replace the standards for location of new LDA or IDA areas as required by SB 751, effective June 1, 2006.

Omit the current requirement that allocation requests be reviewed in October of each year. Retain from the current code the limits on acreage that should be rezoned each year.

Require that annexation requests requiring growth allocation be reviewed for consistency with the Comprehensive Plan. In the current code, this section refers to “Maps 1, 2 and 3” which reflect the annexation areas anticipated in 1991. These maps are no longer accurate.

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

Chapters 20 and 21 of the Code establish authority and procedures for the Board of Appeals. The revised text omits some procedural requirements currently in the Zoning Regulations that duplicate these Chapters.

#### **§190-179. Administrative appeals**

Use the term “administrative appeals” for applications that were previously called “allegations of error.” This is consistent with revisions to Chapter 21 of the County Code, enacted Sept. 26, 2006.

#### **§190-180. Special exceptions**

Consolidate and shorten the General Standards for approval.

Clarify and codify current practice by providing criteria for “minor amendments” to approved special exceptions that can be approved by the Planning Director.

## **§190-182. Variances**

Limit variances to relief from bulk requirements, defined as numerical requirements that govern the size or dimension of lots and the location or dimensions of uses or structures. Bulk requirements include setback, height, area, and coverage requirements.

Prohibit variances to:

- Density, lot size, or lot width requirements;
- Operational standards such as hours of operation and number of employees; and
- Requirements that are conditions under which a particular special exception may be granted by the Board of Appeals

Authorize the Planning Director to grant “minor variances.” These are variances that provide relief of no more than 10 percent of the requirement. Board of Appeals approval would continue to be required for other variances.

Add standards for variances to Critical Area requirements in accordance with State legislation, including SB 694 and HB 1253.

## **§190-183. Use Certificates**

Provide procedures for “use certificates” issued by the Planning Director. Article III requires a use certificate for produce stands, home occupations, temporary uses, and other uses permitted subject to specific requirements. In some cases, the “use certificate” replaces the general term “permit” used in the current regulations. Also see proposed definition of Use Certificate.

## **§190-184. Site Plans**

Replace the current terms “general site plan” and “simplified site plan” with “major site plan” and “minor site plan.”

Add the term “administrative site plan” to provide an efficient method of reviewing proposed changes in use from one permitted use to another.

Place new limits on what is considered a minor site plan. Eliminate the current provision allowing a simplified site plan for additions larger than the 300 square foot limit if the Planning Director determines that the necessary review can be accomplished through the minor site plan process. Limit the cumulative total of additions to 300 square feet, to avoid numerous minor site plans resulting in extensive expansion without major site plan review.

Add more detailed procedures that explain the role of the Planning Director, Planning Commission, Technical Advisory Committee meetings and Compliance Review meetings.

For major site plans, authorize the Planning Director or Planning Commission to require the applicant to hold a community meeting.

For major site plans, require review by the Historic Preservation Commission if a recognized historic resource would be affected.

Provide specific, detailed criteria for determining whether a revision to a major site plan is a minor change that can be approved by the Planning Director.

Extend site plan resubmittal time period from six to nine months.

### **190-185. Developer agreements**

Provide the term “developer agreements” and specify procedures for these agreements to ensure provision by developers of landscaping and other required improvements. Omit the term “subdivision improvement agreements” and delete outdated text on these agreements, which were to ensure completion of road and other improvements that are now administered by the Department of Public Works.

### **§190-186. Waivers**

Create a clearly defined process and approval criteria for waivers from certain requirements such as landscaping and design requirements. Waivers are approved by the Planning Director or the Planning Commission through the site plan or subdivision plan process. Waivers can only be granted if the regulations specifically state that relief can be granted to a certain requirement through the waiver process.

The current regulations use the term waiver in several places but provide no process or clear authority.

### **§190-188. Enforcement**

The current text on enforcement procedures is deleted. The proposed text refers to Chapter 58 of the Code.

## **Article X. Procedures for Subdivision of Land**

This Article substantially revises the subdivision procedures in Chapter 168 of the Code to be consistent with the resolution adopted by the Council in 2005. It also revises the authority structure to provide that major subdivisions are approved by the Planning Commission. This is in accordance with current procedures and the County Charter. The current subdivision regulations, which provide that the Planning Officer approves subdivisions, were not previously updated to reflect the Charter requirement.

The procedures proposed in Article X follow the “Talbot County Plat/Site Plan Review and Approval Process,” dated March 31, 2005 and approved by resolution of the County Council on April 5, 2005. They specify the role of the Planning Director, Planning Commission, Technical Advisory Committee meetings and Compliance Review meetings.

New provisions include:

- Revisions to the definitions of major and minor subdivisions. (See Article XI.) A cumulative limit is placed on the number of lots that can be subdivided before a

subdivision is considered “major,” to ensure that large subdivisions are not created in a piecemeal fashion, one lot at a time through the minor process.

- Clarification that a subdivision plan cannot be substantially modified as it proceeds from the sketch to preliminary stage and from the preliminary to final stage. If a plan is modified it must repeat the review process.
- Provision for review of a master plan allowing applicants to receive input on a plan before sketch plan submission. For major subdivisions, the Planning Commission would review the master plan as an informal agenda item not requiring a decision.
- A requirement for Historic Preservation Commission review of sketch plans for subdivisions containing or contiguous to a property containing a historic resource.
- Authority for the Planning Director or Planning Commission to require the applicant to hold a community meeting on the sketch plan for a major subdivision.
- A limit of nine months as the time period within which a plan must be resubmitted if substantial revisions are needed after the TAC review. After nine months a new plan application, including fees, would be required. This time period is proposed for the sketch, preliminary and final plat stages. The Code currently has no time requirement for resubmission if a plan is disapproved
- A reduction of the required time after the TAC meeting within which the staff must transmit agency comments from 15 days to 10 days. Also, the 30-day time limit for Planning Director action on minor subdivision sketch plans is deleted.
- Expansion of the provisions for revision plats to more clearly explain the purposes of revision plats and to define the difference between a minor and major revision plat.
- A definition and procedures for creation of “common space,” which is land within a subdivision that is dedicated for park or open space purposes and will generally be owned by a homeowners or property owners association, although it could be dedicated to the County for parks or recreation.
- Requirement for a title search prepared by a qualified professional for all major subdivisions.
- Uses the term “Reserved Land Agreement” to refer to agreements requiring permanent protection of land. “Reservation of Development Rights” refers to restrictions that expire after a stated time period.

## Article XI. Definitions

Provide that the Planning Director may refer to the APA Dictionary to define words used and not otherwise defined.

Several new definitions added for consistence with text of code.

Illustrations added for “Buffer Expansion” and “Height, building or structure.”