

ARTICLE IX ZONING DISTRICTS

Part I Zoning Districts

Section 1. Districts Established

The incorporated area of the Town of Elkton shall be divided into ten (10) zoning districts: "RP", Resource Protection District; "R-1", Town Estate District; "R-2", Suburban Residential District; "R-3", Urban Residential District; "MH", Manufactured Home Park District; "R-O" Residential-Office District; "C-1", Central Business District; "C-2", Highway Commercial District; C-3, Highway Interchange District; and "BI", Business and Industrial District. The districts shall be established to regulate and restrict the location of residences, trades, industries, and buildings erected or altered for specific uses; to regulate and limit the height and bulk of buildings hereafter erected or structurally altered; to regulate and limit population density and the intensity of the use of lot areas; and to regulate and determine the areas of yards, courts, and other open spaces with and surrounding such buildings.

Section 2. Residential Districts

1. R-1: Town Estate -- Low Density

The intent of this district is to provide for low-density single-family detached residences and supporting uses. This zone is located in areas of the Town where low-density single-family development patterns are generally established or where services and facilities will be adequate to serve the anticipated population. This zone is designed to secure for residents a comfortable, healthy, safe, and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in non-residential districts. The Comprehensive Plan should be used to determine the location of this zone. This zone is also intended to provide for minor in-filling of existing neighborhoods consistent with their zoning and character at the time of enactment of this Ordinance. Such neighborhoods are relatively uniform in character and stable. The regulations permit future development consistent with existing character. In general, re-subdivision of lots in existing subdivisions to create additional building lots is not permitted.

2. R-2: Town Residential -- Medium Density

The intent of this district is to provide for medium-density single-family detached residences and supporting uses. This zone is located in areas of the Town where medium-density single-family development patterns are generally established or where services and facilities will be adequate to serve the anticipated population. The Comprehensive Plan should be used to determine location of this zone. This zone is also intended to provide for minor in-filling of existing neighborhoods consistent with their zoning and character at the time of enactment of this Ordinance. Such neighborhoods are relatively uniform in character and stable. The regulations permit future development consistent with existing character. In general, re-subdivision of lots in existing subdivisions to create additional building lots is not permitted.

3. R-3: Multi-Family Residential

This zone is primarily for multi-family dwellings and supporting uses at a higher density than is provided for in either R-1 or R-2 zones. Within this zone, a variety of housing-types mixes -- including single-family, two-family, duplexes, townhouses, and apartments -- are encouraged in order to provide for a mix in housing prices, household size, age groups, and lifestyles. Residential cluster is encouraged for development on minimum lot areas to provide for additional open space for common use by local residents as well as by the adjacent community. Recreation, health, and social service facilities for the elderly and handicapped are also encouraged in this zone.

4. MH: Manufactured Home Park Residential;

The purpose of the MH Park District is to provide a safe, convenient, and attractive environment for mobile homes within the Town and to facilitate the provision of housing for low- and moderate-income families. The district requires suitable standards to be met for the expansion of existing mobile home parks or the establishment of new mobile home parks.

Section 3. Commercial/Business Districts

1. R-O: Residential-Office District

The purpose of this district is to provide for a mixture of residential uses and business uses that are not unduly disruptive of high density residential areas located in the same district. Generally this district covers the mixed use areas bordering the commercial center of the Town.

2. C-1: Central Commercial

The purpose of this district is to provide appropriate locations for select commercial activities. Provision is made for accommodation of a wide range of business pursuits, retail sales and office and service activities which serve the needs of citizens of the area. The district is designed to preserve, and to encourage the continued development, as well as redevelopment, of the Central Business area consistent with the unique land use mix which currently exists. Generally this district covers the historic commercial center of the Town and as such is intended for the conduct of general business to which the public requires direct and frequent access, but which is not characterized either by constant heavy trucking other than stocking and delivery of light retail goods, or by any nuisance factors other than associated by incidental light and noise of congregation of people and passenger vehicles. This district also provides for some residential uses.

3. C-2: General Commercial

The intent of this zone is to provide for the local and regional oriented business with a variety of office and commercial uses that are not suitable for location in other zones. This zone is primarily automobile accessible and allows for more intensive uses than the C-1 zone. This zone is adjacent to major transportation routes and is in locations where new development can be grouped with existing compatible development.

4. C-3: Highway Interchange Commercial

The intent of this zone is to provide for the concentration of a variety of business and light industrial uses in planned developments serving as regional employment centers in the vicinity of the I-95/MD 273 Interchange. Planned (mixed use) Business development located on sites that exhibit a park-like character while protecting the environment as well as the surrounding community are encouraged. These zones are located where larger areas of land permit horizontal expansion of sufficient size to provide on-site storage, parking, and landscaped areas and can be reasonably served by a complete array of community facilities. The office park location also provides for ready access to the regional transportation network.

Section 4. Industrial District

1. BI: Business and Industrial District

The purpose of this District is to provide areas in which the principal use of land and buildings is for business services, light manufacturing and assembly plants, processing storage, warehousing, wholesaling and distribution. It is the intent that permitted uses be conducted so that noise, odor, dust, and glare of each operation is confined within an enclosed building.

Section 5. Planned Development Districts

1. PUD: Planned Unit Development, Mixed-Use. The intent of this zone is to provide for a mixture of multi-family residential uses with certain provisions for commercial activities to serve primarily a resident population. This zone is particularly pedestrian-oriented and is related to the more intensive uses of a town center, although the commercial activities are of a scale that is less intensive than those permitted in the Commercial zones. This less-intense activity is to be achieved through setback, height, and lot size requirements that are more restrictive than those in other commercial zones. The residential/commercial mixed-uses allowed in this zone are appropriate to encouraging "infill" development and renovation adjacent to the existing town center at a pedestrian scale that would act as a buffer to more intensive commercial uses.

2. B-P: Planned Business Park District. The BP Planned Business Park District is intended to encourage innovative and creative design of commercial, business and industrial development; facilitate use of the most advantageous construction techniques; and maximize the conservation and efficient use of open space and natural features. The districts are designed to further the purposes and provisions of the Comprehensive Plan and to conserve public fiscal resources; efficiently utilize public facilities; and provide a broad range of economic opportunities to present and future residents of the Town.

Section 6. Resource Protection District

RP: Resource Protection District. The Resource Protection includes those existing natural areas in the own which are likely to remain in their natural state or developed in low intensity uses such as parkland. These areas include steep land, floodplains, Resource Conservation Areas (RCA) associated with the Chesapeake Bay Critical Area Program, stream valley and buffers, wetlands, and town parklands. The purpose of the Resource

Protection District is to provide special regulatory protection for the land and water resources and to recognize general areas, where sensitive natural features and other development constraints limit uses or where special land use development requirements are imposed for the express purpose of protecting and enhancing water quality in the Chesapeake Bay and its tributaries and maintaining or protecting sensitive wildlife habitats. Included in this classification are areas best suited for open space or low intensity recreation uses. Permitted development in these areas should be strictly regulated, to ensure minimum adverse environmental impacts, with special attention given to maintaining natural conditions.

Section 7. Floating Zones

- 1.** Purpose. Floating zones are zones that have areas designated for them in the Elkton Comprehensive Plan but are not mapped out in detail at the time of adoption of the most recent comprehensive revision to the Elkton Zoning Ordinance. The purpose of the designated floating zones is to permit the mapping of areas for land uses that require land area over the next 20 years. The designated floating zone provides a mechanism for the establishment of the district in appropriate areas, limiting the areas to be zoned and setting conditions that must be met by any development proposal seeking such a designation. Further, the procedure is two-stage so that the initial costs are not prohibitive.
- 2.** Designation of Floating Zones. The following Special Zoning Districts are designated as floating zones:
 - a.** Planned Unit Development - PUD
 - b.** Planned Business Development District - B-P
 - c.** Growth Allocation District - GA

The Town Commissioners and Planning Commission find that it is not able to locate these areas with precision in advance and that it is desirable to leave specific locations and conditions for future determination as the Town grows and specific needs develop.

Part II Special Overlay District -- Highway Corridor

Section 1. Purpose

1. The purpose of establishing this overlay district is to protect and/or enhance the aesthetic and visual character of the Town of Elkton and to provide for and promote orderly growth of the same. The overlay district regulations are intended to supplement the regulations of the underlying zoning districts and to provide for the harmony and compatibility of development along the highway corridors. All development proposed within this District shall be subject to the procedures, standards, and guidelines specified in the following sections, in addition to those standards pertaining to the particular base zoning district in which the development occurs. In particular, the purpose of the Special Overlay District is as follows:
 - a. To encourage and better articulate positive visual experiences along the Town's major existing and proposed highways.
 - b. To provide for the continued safe and efficient use of these roadways.
 - c. To maintain natural beauty and scenic, cultural, and historic character of the corridor, particularly distinctive views, vistas, and visual continuity.
 - d. Minimize intersection and site access points.

These purposes will be accomplished through evaluation of proposed developments within this zoning district by the Planning Commission which shall review the location, character and appearance of new development in a positive manner. It is the purpose of such review to determine, in a cooperative fashion with the applicant, whether a proposed plan meets the guidelines and other standards of this zoning district.

2. The Highway Corridor Overlay Zoning District shall include all lands within 500 feet of each side of the center line of the following rights-of-way: U.S. 40, I-95, MD 213 and MD 279. The approximate boundary of the overlay district shall be shown on the Official Zoning Map and shall be shown as a surveyed line by the applicant on each property subject to review.

Section 2. Affected Development

1. All development plan applications for development located in the Highway Corridor Overlay District shall be reviewed by the Planning Commission. All changes subject to approval by the Commission shall receive such approval before proceeding. If a portion of the corridor will not be visible from the road once the project is completed, the Commission may waive review of that portion.
2. Development Activity Permitted Within The District.
 - a. There shall be no alteration of the existing condition of the lands, uses or structures within the Special Overlay District from the date of enactment of this section henceforth except as provided for by this section or by other sections of this Article.

- Pecan (*Carya illinoensis*)
- Southern Magnolia (*Magnolia Grandflora*)
- American Chestnut (*Castanea Dentata*)

8. Considerable damage to or the death of trees may result if more than six (6) inches of soil is added around the base of a tree, more than 30 percent of circumferential bark is removed, or more than 30 percent of the root system is removed. In addition, asphalt paving, building construction, and soil compaction too close to trees may cause their destruction. Accordingly, it shall be the responsibility of the developer to institute alternative site designs to assure the best chance of tree survival whenever these criteria cannot be adhered to.
9. Those trees designated for preservation in accordance with the provisions of this Ordinance as shown on the approved landscape plan shall be marked with bright blue ribbons encircling the tree trunk at a height of four (4) feet above the ground, and a four (4)-foot high barricade will be constructed around the tree at the drip line prior to the start of construction.
10. As a condition of approval under this Ordinance, the applicant may be required to plant replacement trees for trees approved for removal as part of the final plan. In requiring replacement trees, the following will be considered:
 - a. the intended use of the property;
 - b. the existing or pre-development tree coverage, sizes, and types;
 - c. the number, size, type, and location of natural trees proposed for preservation by the applicant;
 - d. the grading, road, building, parking, and drainage requirements.

Section 4. Retention of and/or Creation of a Minimum Visual Buffer along Highway Corridor Right-of-Ways

1. Each approved application for development shall provide a minimum visual buffer between the right-of-way line of the subject roadway and all proposed structures and parking areas. The purpose of the minimum visual buffer is to soften the appearance of structures and parking lots from the road, to screen vehicular headlight glare on and off site, and to lessen spill-over light from on-site lighting. The buffer shall be continuous, except as set forth in 2. below, and be no less than the requirements for Bufferyard B contained in Article XVIII and Appendix C depth across the existing right-of-way line or from the new right-of-way line should the application under consideration be required to or voluntarily provide a dedication of or easement for proposed roadway purposes. The minimum Bufferyard depth shall not occur at the high activity areas of a project. These areas include, but are not limited to, building entrances, drop-offs, and drive-thrus.

To determine the average depth of the minimum visual buffer, measurements shall be taken at intervals not greater than ten (10) feet perpendicular to the property line. Side buffer areas required by other sections of this Ordinance and deep, narrow land areas shall not be used when calculating the minimum visual buffer. Where lagoons and

drainage swales occur in the minimum visual buffer because of natural land forms or drainage patterns, additional buffer depth and vegetation shall be required to augment the screening effect.

2. The intent of the minimum visual buffer is to leave the naturally occurring buffer vegetation intact for its softening effect. This buffer may be enhanced or created, where such vegetation is insufficient or non-existent, with trees and shrubs of a variety of species appropriate to Town character. If the minimum visual buffer already has trees of protected size and species as noted in Article XVIII, their preservation is required. Where masses of native shrubs are present, their preservation with minimum disturbance is strongly encouraged. While complete screening of a project is not required, sufficient plant material shall be installed to accomplish the softening effect required in 1. above. In order to maintain the screening effect, existing vegetation shall not be limbed-up from the ground more than five (5) feet to the lowest branches. However, if understory planting is planned, existing vegetation may, with the approval of the Zoning Administrator, be limbed-up to a height that will provide adequate sunlight to those plants. Minimum height and caliper of new trees shall be consistent with provisions of the tree protection requirements in Section 3 of this Part. Minimum height of new shrubs used to create the minimum visual buffer shall be three (3) feet.

Section 5. Exemptions From Buffer Requirements

Exemptions, whether partial or total, from the bufferyard provisions may be granted if it can be sufficiently demonstrated that such bufferyard will have a deleterious visual effect upon an existing situation or that through the preservation of existing treestand or other unique natural vegetative resource, particular effort on the part of a developer in protecting the existing natural environment warrants the relaxation of bufferyard requirements. The following outlines those anticipated situations where the bufferyard requirement may be relaxed or removed.

1. Protection of existing visual environment. In the following cases where the characteristics of the existing visual environment would be detracted from by the provision of a required bufferyard:
 - a. Views and Vistas of existing buildings which exhibit a high degree of aesthetic value serving to heighten the visual experience, serve as important points of spatial identification, contain value as important historical resources.
 - b. Views and Vistas of existing natural landscape/topographical features of a particular locale which correspond to certain high points affording panoramic views, views to settlement clusters, views of water, valleys, and other elements of the physical landscape.
 - c. Views and Vistas to existing recreational/open space areas, whether natural or man-made, which serve to contribute to the overall visual environment. Uses such as golf-courses, local parks, cemeteries.
 - d. Views and Vistas to which give the observer an awareness of a locations inherent character related to views of farmland, pastures, water activities, such as docks or other maritime activities specific to the area.

2. Protection of proposed visual environment. In the following cases, where a proposed development intended to further enhance or protect the existing visual environment would be visually affected by the required bufferyard:
 - a. A proposed development which by virtue of the characteristics of its structures indicates innovation of design, a unique relationship with the site, represents a focal point, establishes a particular identifying element for the locale.
 - b. A proposed development which exhibits innovative or unique uses of site landscaping, or which combines in the use of the site open recreational areas such as described above.
3. Retention of existing natural attributes of the site. In this case, significant steps must be taken by a developer to preserve significant tree stands, topographic characteristics, even in the event that such elements are in locations where they are not wholly visible. The intent is to provide incentives to retain the features of the existing natural environment rather than encourage its destruction, and then to remedy the situation with new plantings.
4. Management of existing and proposed resources. In order to encourage management programs for visual natural resources, so that the continuation of such resource is assured, bufferyard requirements may be reduced or waived.

Section 6. Permitted Activity in Minimum Visual Buffer Before and After Development

1. No existing vegetation of any type, size, or origin shall be altered or removed unless it satisfies the tree protection requirements of Section 3 of this Part.
2. Within the minimum visual buffer there shall be no development, clearing, grading, or construction activity, except for the following:
 - a. Roadway and/or driveway access to the portion of the site not in the minimum visual buffer provided that it is approximately perpendicular to right-of-way.
 - b. Provision for water, sanitary sewer, storm drainage, electrical, telephone, natural gas, cable, etc. service lines provided they are approximately perpendicular to the right-of-way. In the event that utilities must be installed approximately parallel to the road right-of-way, an equal amount of buffer may be required to substitute for the area of vegetation removal. Permission for easement and right-of-way disturbance and clearing for such services shall be more favorably considered when such activity is consolidated with vehicular access routes.
 - c. Pedestrian and bicycle paths designed to provide continuous connection along the road corridor, provided that they can be constructed without materially reducing the screening and visual softening capacity of the vegetation buffer.
 - d. Lighting fixtures only for approved signs or if, for safety reasons, they cannot be placed outside the buffer and then only when electric utility lines serving these

fixtures and necessary easements can be established and constructed without reducing the screening and visual softening capacity of the vegetation buffer.

- e. Signs in accordance with the sign regulations in Article XVI reasonable effort should be made to locate all signage outside of the buffer.
- f. Clear sight distances at the permitted entrances and exits to any development as needed to provide for reasonable traffic safety, in accordance with accepted traffic engineering practices.
- g. The addition of plantings, earth forms, or other visual buffers that, in the opinion of the Commission, would better achieve the purpose set out in Appendices B and C than would otherwise be the case.

Section 7. Architectural Review

1. Guidelines. The compatible relationship of architecture along highway corridors is of public concern. The intent of the architectural review is not to stifle innovative architectural design but to assure respect for, and reduce incompatible and adverse impacts on, the visual experience from the roadway. To accomplish this, the Planning Commission shall use the following guidelines in reviewing proposed structures, site improvements, signs, and streetscape improvements:
 - a. Proposed development shall avoid excessive or unsightly grading, indiscriminate earth moving or clearing of property, and removal of trees and vegetation that could cause disruption of natural water courses or disfigure natural land forms.
 - b. Proposed development shall be located and configured in a visually harmonious manner with the terrain and vegetation of the parcel and surrounding parcels. Structures shall impede, as little as reasonably practical, scenic views from the main road or from existing structures and the natural environment. Structures shall not dominate, by excessive or inappropriate height or mass, any general development, adjacent building, or natural landscape in an incompatible manner.
 - c. The architectural design of structures and their materials and colors shall be visually harmonious with the overall appearance, history, and cultural heritage of the Town, with natural land forms and existing vegetation and with other development plans approved by the Town. Specific consideration shall be given to compatibility with adjacent properties where such projects demonstrate the Town's character.
 - (1) Large work area doors or open bays shall not open toward or face the highway.
 - (2) Heating, ventilating, and air conditioning equipment, duct work, air compressors, other fixed operating machinery shall be either screened from view or located so that such items are not visible from the highway. Large trash receptacles, dumpsters, utility meters, above-ground tanks, satellite dishes, antennas, etc., shall be similarly treated, as practicably as possible.

- (3) Mobile homes and office-type mobile units shall be screened from view from the highway and equipped with skirting on all sides.
 - (4) All development, including those in which the principal facade is oriented to the interior of the lot, shall be designed so that all facades visible from the roadway or from adjacent sites shall be completed in an aesthetically pleasing manner.
 - (5) No temporary structures are permitted except those used in conjunction with and during construction projects.
 - (6) Fencing along the highway right-of-way is discouraged, but, if used, such fencing shall be of quality materials (brick, stone, wood) and shall be landscaped to minimize visibility from the highway.
 - (7) Long monotonous facade designs including, but not limited to, those characterized by unrelieved repetition of shape or form or by unbroken extension of line shall be avoided.
 - (8) Materials with similar texture and appearance as appropriate to the Town's character.
 - (9) Generally, no more than three colors per building should be used. Semi-transparent stains are recommended for application on natural wood finishes.
 - (10) The location and dimensions of wall signs shall be indicated and shall maintain compatibility with architectural features of the building.
 - (11) Architectural lighting shall be recessed under roof overhangs or generated from concealed source, low level light fixtures.
 - (12) Building massing should reflect proportion and scale appropriate to the existing Town design.
- d. The landscape plans for the proposed development shall provide visually harmonious and compatible setting for structures on the same lot and on adjoining or nearby lots and shall blend with the surrounding landscape. Natural appearing landscape forms are strongly encouraged; formal plans and the appearance of straight hedges are discouraged. Landscaping shall be required between buildings and sidewalks, parking lots and driveways. The scale of the proposed landscaping shall be in proportion to the building.
 - e. Site lighting shall be of low-intensity from a concealed source, shall be of a clear white light that does not distort colors, and shall not spill over into adjoining properties, buffers, roadways, or in any way interfere with the vision of on-coming motorists.
 - f. To the extent that they relate to aesthetic considerations, the design and construction techniques of the proposed development shall respond to energy

consumption and environmental quality considerations such as heat loss, heat gain, air emission, and runoff water quality.

g. Streetscape Improvements and External Changes.

- (1)** Streetscape improvements include those architectural or functional facilities or structures that occur on site but are not part of the building and that encourage and facilitate human interaction with the environment. Examples include, but are not limited to the following: decorative light fixtures, fountains, sculpture, benches and tables, planters, retaining walls, pedestrian and bicycle paths, bicycle parking structure, trash receptacles and enclosures, vendor areas, bollards, and fences. These improvements shall be designed to be consistent with all guidelines listed above, and shall be reviewed for aesthetic functionality and compatibility with the Town's character.
- (2)** Decorative, low-level intensity, non-concealed source lighting that defines vehicular and/or pedestrian ways may be acceptable if part of a lighting master plan. It is strongly discouraged as general lighting for a development. The master plan must show the relationship of the fixtures and the light patterns to each other, to the project site, to unit development, and to the highway corridors.
- (3)** External changes to streetscape improvements and existing structures and sites subject to review by the Commission shall be consistent with all guidelines and standards in this section. External changes of a minor nature include external color and structural material changes, parking lot additions and alterations, relocation of accessory structures, and similar minor changes as determined by the Zoning Administrator. Some minor external changes may also require development plan approval (see Article IV).

h. Signs, permanent.

- (1)** Applicants for new or replacement signs in the Special Overlay District shall apply to the Planning Commission for review at the time of full development review or as a separate application.
- (2)** The Planning Commission is hereby authorized to approve or disapprove the appearance of features of such proposed signs and the Administrator's approval shall be given only after the Commission's approval is granted.
- (3)** All signs shall meet all requirements of Article XVI.
- (4)** The amount of information on signs shall be no more than is necessary to provide reasonable identification of the name of the business to the passerby. While corporate logos that are part of a business name or business identification are authorized within Article XVI, color, size, and subject matter are reviewed under subsection (1).

- (5) An integrated sign system design shall be required for all new Planned Developments (PDs), commercial and residential subdivisions, office complexes, and shopping centers within the Highway Corridor District. The establishment of integrated sign systems for existing developments is strongly encouraged. These systems shall be reviewed for materials, colors, shapes, sizes, compatibility with architecture, and establishment of unity of design for the development. Individual signs shall be reviewed for conformance with such sign systems, whether newly established or existing.
- (6) Materials, colors, and shapes of proposed signs shall be compatible with the related building(s). Size and proportions shall not be a dominant feature of the site and shall be judged by sizes and proportions of signs on adjacent and nearby properties that are compatible with the Town's character.
- (7) Spot-lighting of signs shall be restricted to not more than one 150-watt light per side for sign faces up to 40 square feet and nor more than two 150-watt lights per sign faces over 40 square feet. The sign base and/or proposed landscaping shall be designed to shield the light from on-coming motorists and to conceal the light fixture.

i. Signs, temporary.

- (1) Temporary signs within the Special Overlay District shall comply with the design guidelines set forth in this section for colors and materials and with Article XVI and shall be reviewed for such compliance by a committee of staff members including the Zoning Administrator.
- (2) In the case of multiple principals (for example, owner, developer, architect, engineer, contractor, or real estate or leasing agent), all information shall be contained on a single sign not to exceed the maximum size and height allowed in Article XVI.
- (3) Temporary signs within the corridor shall not be lighted.

- 2. Following project completion, all design features required by the Town or shown on approved plans shall be maintained in good condition by all subsequent owners of the property. Changes proposed shall require approval by the Commission.

Section 8. Waivers of Corridor Requirements

The Planning Commission may waive one or more of the specific requirements of the Special Overlay District upon a showing by the applicant that these corridor regulations impose an undue hardship due to the peculiar configuration, topography, or location of the tract, or that the proposed project demonstrates the use of highly innovative architectural, site planning, or land use techniques. The Commission may approve any waiver to the minimum extent necessary to allow the project to be constructed. The applicant for any such waiver shall have the burden of showing that the proposed project, with such waiver granted, will be as good or better than a project developed in compliance with the District regulations in terms of environmental

protection, aesthetic enhancement, land use compatibility, and traffic considerations. The grant or denial of a waiver by the Commission pursuant to this section may be appealed to the Town Commissioners.

Section 9. Planning Commission Review

1. **Applicability.** All development proposed in the Special Overlay District and other applicable projects shall submit an application to the Zoning Administrator for review by the Planning Commission. Such application shall be reviewed for consistency with the guidelines and standards found in this Article and according to the submission and review requirements in this article. When a project lies within the jurisdiction of a private architectural review committee (ARB), the Planning Commission shall receive such (ARB)'s written notice of action prior to review.
2. **Requirement of Complete Application; Minimum Items for Review.** All applications for this review shall be complete according to the requirements of this article before being reviewed by the Zoning Administrator for conformance with all standards and guidelines of this Article. No application for review shall be reviewed until the minimum items of submission required by this article have been submitted in a format acceptable to the Zoning Administrator.
3. **Application Content.** Applications submitted for review shall be considered complete if they conform to all provisions of Article IV, in addition to the information directly related to those additional provisions to be addressed as part of the special overlay district review including:
 - a. Tree survey and protection as described in Section 3 of this Part.
 - b. The boundaries of the Highway Corridor Overlay Zoning District.
 - c. Required Bufferyard according to Section 4 of this Part.
 - d. Signage.
 - e. Building elevations.
 - f. Proposed streetscape drawings.
 - g. Any additional information for consideration of performance criteria.
4. **Filing fee** in the amount specified in Article IV.
5. **Prior to review,** written notice of action by the applicable private (ARB) shall be submitted to the Administrator.

Section 10. Plan Review Procedures of Application for Corridor Review

All applications for special Overlay District review shall be submitted and reviewed according to the procedures set forth in this section.

1. Complete applications shall be submitted not less than twenty-one (21) days before the Commission meeting at which the applicant wishes to be reviewed.
2. The Commission shall act on an application within sixty (60) days of its being found complete by the Zoning Administrator.
3. Applicants shall be informed in writing of the outcome of their review. The Commission shall direct its determination and findings to the Zoning Administrator and the applicant in writing not more than five working days after taking action.
4. Upon review of a project within the jurisdiction of a private (ARB), the Commission may accept, modify, or deny the (ARB's) action.
5. In addition to those items required elsewhere in this article, an application for development plan approval shall be considered complete by the Zoning Administrator only when the Commission's final approval with written recommendations and findings shall be received by the Zoning Administrator, except when the sixty (60) day period for action has been exceeded.

Part III Historic Overlay Zone

Section 1. Purpose

1. Safeguard the heritage of the Town by preserving areas and structures which reflect elements of its cultural, social, economic, political, or architectural history or pre-history;
2. Stabilize and improve property values in the area of historic districts and strengthen the local economy;
3. Foster civic beauty;
4. Promote the use and preservation of historic districts for the education, welfare, and pleasure of the residents of the Town, County, the State of Maryland, and the United States of America;
5. Develop an awareness among property owners of the value of preserving, protection and restoring areas of historical significance; and
6. Enable the Town government to identify and officially designate structures and sites of historical and cultural importance to the Town in order to protect, preserve, and promote the continued use and enhancement of the identified structures and sites; and, in order to make such structures and sites eligible for specific benefits conferred by this and other Town ordinances and policies which may be adopted.

Section 2. Definitions

The following definitions shall be construed to include the future, the singular to include the plural, and the plural to include the singular.

1. *Appurtenances and Environmental Settings.* Includes walkways, driveways (whether paved or not), trees, landscaping, rocks and open space located within the existing or proposed Historic Overlay Zone.
2. *Commission.* The Elkton Planning Commission.
3. *Committee.* The Elkton Historic and Architectural Review Committee.
4. *Day.* A business day when the Elkton Town government is open for business.
5. *Historic Overlay Zone.* An area, designated by the Elkton Mayor and Commissioners as provided herein, containing significant features, woodlands, vegetation, structures, sites, monuments, landmarks, farmland, and/or archaeological sites. The area shall be accurately described by a metes and bounds description or a boundary survey and posted on the Town Zoning Map. The area shall include such property as is essential for historical or environmental protection. Additional area may be included or added if determined by the Planning Commission to be of benefit or to enhance the Historic Overlay Zone site.
6. *Historic Resource.* A term used to identify a historic site or any item interpreted as a structure, as defined in Structure.

7. *Minimum Maintenance.* A required protective maintenance of historic overlay zoned structures and sites. Minimum maintenance shall be interpreted to be the minimum building codes currently enforced by the Town of Elkton.
8. *Ordinary Maintenance.* That which does not alter the exterior features of a Historic Site or Historic Resource within a Historic Overlay Zone. Exterior features include the architectural style, design, and general arrangement of the exterior; the color, nature, and texture of building materials; and the type and style of all windows, doors, light fixtures, signs, and similar items found on, or related to the exterior of a Historic Site or Historic Resource within a Historic Overlay Zone. Basically, ordinary maintenance is that which will have no material effect on the historical, architectural, cultural, or archaeological value of the Historic Site or Historic Resource within a Historic Overlay Zone. This definition of ordinary maintenance applies, whenever appropriate, to the appurtenances and environmental setting of the property, as well as the building, structure or object itself.

Specific items to be considered as ordinary maintenance include:

- a. Repair or replacement of roofs, gutters, siding, external doors and windows, trim, lights, and other appurtenant fixtures with like materials of like design.
 - b. Landscaping, except the removal of significant healthy trees.
 - c. Paving repair using like materials of like design.
 - d. Repainting of surfaces using the same or substantially the same color.
9. *Structure.* A combination of material to form a construction that is stable; including but not limited to buildings, stadiums, reviewing stands, platforms, staging, observation towers, trestles, bulkheads, piers, wharves, sheds, coal bins, shelter, fences and display signs.

The term "structure" shall include natural and manmade land formations and appurtenances and environmental settings.

The term "structure" shall be interpreted as if followed by the words, "or part thereof."

Section 3. Power to Establish

Section 8.02, Annotated Code of Maryland gives the Town of Elkton the power to designate historic landmarks, and to establish, change, lay out, and define zones which are deemed to be of historic or architectural value, following the procedures as per this section of the Zoning Ordinance.

Section 4. Structural and Site Standards Specifications

The Historic Overlay Zone is a special district to be superimposed on other districts contained in these regulations and is to be so designated by a special symbol for its boundaries on the Zoning Map. The uses, housing types, minimum lot requirements, minimum yard requirements, maximum height, and accessory uses and accessory signs shall be determined by the regulations applicable to the other zone over which the Historic Overlay Zone is superimposed except as the

other zone regulations may be modified by application of the regulations in the Historic Overlay Zone.

Section 5. Permitted Uses

A building or land shall be used only for the following purposes, and, except as provided herein, in each case subject to approval by the Zoning Administrator and in accordance with the standards set forth in this Article and the standards and procedures set forth in this Article.

1. Any use, accessory use, or sign permitted in the zoning district in which the premises are situated and upon which the Historic Overlay Zone is superimposed. The normal maintenance of an historic area or building or the charging of admission fees for visitors or the conduct of visitor tours, or centers or services within the Historic Overlay Zone shall not be considered as commercial uses.
2. Any conditional use permitted in the zoning district in which the premises are located subject to the procedures and standards of this Ordinance for approval of conditional uses and subject in all cases to report by the Historic and Architectural Review Committee in accordance with the purposes and standards of the Historic Overlay Zone.
3. Any special exception or variance permitted in the zoning district in which the premises are located, subject to the procedures and standards of this Ordinance for approval of special exceptions and variances and subject to report by the Historic and Architectural Review Committee and specific findings of the Board of Zoning Appeals regarding the purposes and standards of the Historic Overlay Zone; provided, however, that if said special exception or variance is of such a minor nature as to be exempted from review by the Board of Appeals by the terms of the regulation in the Historic Overlay Zone, then no such review or report shall be required.

Section 6. Historic and Architectural Review Committee

1. Creation of Committee and Membership. Pursuant to Section 8.03 of the Annotated Code of Maryland, the Elkton Mayor and Commissioners may create and appoint members for a "Historic and Architectural Review Committee". The Historic and Architectural Review Committee shall have a membership of five (5) members, all of whom are qualified by special interest, knowledge, or training in such fields, but not limited to said fields, as history, architecture, archaeology, preservation, or urban design; and, two (2) of the five (5) members shall have professional qualifications which shall be determined according to the guidelines set forth in "Procedures for State Certification of Local Government Historic Preservation Programs," as established by the Maryland Historical Trust in February 1985 in one or more of the said fields; and, a majority of said members shall be residents of the Town. All members of the Historic and Architectural Review Committee shall, to the extent possible, be selected to represent the geographical, social, economic, and cultural concerns of the residents of the Town of Elkton.
2. Term of Membership. The members shall be appointed for terms of three (3) years each except that, in making the initial appointments, some appointments shall be established for less than three years in order that, as these initial terms expire, all appointments shall be for three years and shall not expire at the same time. Specifically, the first Chairman of the Committee shall be appointed for a three-year term. Members of the Committee are eligible for reappointment. Any vacancy on a commission shall be filled by the

appointing authority for the unexpired term of the particular position. Town authorities may consult private societies or agencies to request the names of possible members on a commission.

3. **Removal for Cause.** A member may be removed for cause from the Committee by a majority vote of the Mayor and Commissioners.
4. **Chairman.** The Committee shall elect, by the 31st of January each year, a chairman who shall serve for one (1) year. If the Committee fails to elect a chairman by the 31st of January each year the Mayor will appoint a chairman.
5. **Compensation.** The members of the Committee shall serve without compensation but, they may be reimbursed for actual expenses incurred in performance of their duties, provided said expenses are permitted by the budget and approved by the Town Administrator.
6. **Gifts.** The Committee shall have the right to accept and use gifts for the exercise of its functions.
7. **Purchase of Architectural Easements.** The Committee may purchase architectural easements in connection with structures located in or adjacent to the Historic Overlay Zone. Such easement shall grant to the Committee, residents of the Historic Overlay Zones, and the general public the perpetual right to have the exterior appearance of any structure upon which it is applied retained in substantially the same character as when the easement took effect.
8. **Regulations, By-laws, and Rules of Procedure.** The Committee shall adopt its own rules and regulations for organization, conduct of meetings, and other transaction of business. The by-laws and rules of procedure adopted by the Committee shall be available for public inspection.
9. **Meetings.** The Committee shall hold such regular meetings which, in its discretion, are necessary to discharge its duties. At a minimum, the Committee shall hold meetings every three (3) months; however, if an application is filed, the Committee shall hold a public meeting within one (1) month of the filing date to discuss said application. Said meetings shall be open to the public whereby any interested person or his representative is entitled to appear and be heard by the Committee before it reaches a decision on any matter; and all decisions by the Committee shall be made in a public forum. The Committee shall keep an open record of its resolutions, proceedings, and actions which shall be kept available for public inspection during reasonable business hours. Applicants shall be given written notification of the decision of the Committee.
10. **Staff.** There may be appointed and/or assigned to the Committee such employees, including personnel to record minutes of all meetings, and the Town Administrator shall make available to the Committee such services and facilities of the Town, as are necessary or appropriate for the proper performance of duties of the Committee. The Town Attorney shall serve as counsel and the Town staff shall serve as staff to the Committee.

Section 7. Designation of Historic Overlay Zones

1. Designating Body. Historic Overlay Zones shall be designated by the Mayor and Commissioners in accordance with the procedures established by this Ordinance.
2. Petition for Designation or Removal of Designation. Petition for designation of a Historic Overlay Zone or removal of said designation may be initiated by the owner of the site or by that owner's agent, by the Historic and Architectural Review Committee, or by any interested person, group, or organization.
3. Criteria for Designation. The following criteria are to be considered when making the determination to designate a resource eligible for classification as a Historic Overlay Zone.
 - (a) Historic and Cultural Significance. The historic resource:
 - (1) has significant character, interest or value as part of the development, heritage, or cultural characteristics of the Town, County, State, or Nation;
 - (2) is the site of a historic event;
 - (3) is a site that has yielded, or may be likely to yield, information important in prehistory or history;
 - (4) is identified with a person or a group of persons who influenced society; or,
 - (5) exemplifies the cultural, economic, social, political, or historic heritage of the Town.
 - (b) Architectural and Design Significance. The historic resource:
 - (1) embodies the distinctive characteristics of a type, period, style, or method of construction;
 - (2) represents the work of a master craftsman, architect, or builder;
 - (3) possesses high artistic values;
 - (4) represents a significant and distinguishable entity whose components may lack individual distinction; or,
 - (5) represents an established and familiar visual feature of the Town, due to its singular physical characteristics or landscape.
4. Should a Historic Overlay Zone no longer meet the above criteria and the specific criteria for which it was originally designated, the Historic Overlay Zone designation may be removed by legislative action of the Mayor and Commissioners after receipt of a recommendation from the Historic and Architectural Review Committee.

5. Should a Historic Overlay Zone have received Town authorized or administered preservation grants, loans or special property tax incentives, the Mayor and Commissioners may require that those funds received through grants, loans or tax incentives be reimbursed in full to the Town prior to the site being removed from the Historic Overlay Zone designation.

Section 8. Procedures for Petition for Designation or Removal

1. Petitions for Historic Overlay Zone designation or removal of a Historic Overlay Zone designation shall be filed with the Planning Office. The petitions concerning Historic Overlay Zone designation shall include a completed Historic Overlay Zone Application form and additional information as required by the Committee to enable the Committee to make a well informed decision. The application and all attachments shall be forwarded to the Chairman of the Historic and Architectural Review Committee within three (3) days of the application filing date. The Committee shall have (20) days to review the application after it has been discussed at a public meeting held by the Committee before forwarding the Historic Overlay Zone Application, attachments (if applicable), and Committee recommendations to the Mayor and Commissioners.
2. If the Committee feels that more than twenty (20) days are needed in order to make an educated and informed decision, the Committee shall inform the applicant of their request for an extension prior to the terminus of the twenty (20) day period. The applicant shall then send a written response to the Planning official within ten (10) days and the Official shall forward said response to the Committee within three (3) days of receipt of said response. If the applicant fails to send a written response within the designated time period, the petition is null and void and would need to be resubmitted if said applicant wishes to pursue the matter. If the Committee receives a negative reply for an extension, the Committee shall have five (5) days to forward their recommendations to the Mayor and Commissioners. If the Committee fails to act within the designated time period, the application shall be forwarded to the Mayor and Commissioners who must approve the petition.
3. For petitions initiated by other than the owner, the applicant must abide by the following criteria:
 - a. Notify the owner of the property at least fifteen (15) days prior to the Historic and Architectural Review Committee's scheduled meeting to discuss the application;
 - b. Clearly identify the significance of the site with regard to the Town;
 - c. State the need for the site to be designated a Historic Overlay Zone;
 - d. Demonstrate how the public interest will be served by having the site designated a Historic Overlay Zone;
 - e. Demonstrate that the designation will not create an undue burden or hardship for the property owner;
 - f. Consider the property owners' comments and desires; and,

- g.** A unanimous vote of the Mayor and Commissioners will be required to designate the site as a Town Historic Overlay Zone.

Section 9. Outside Consultation Permitted

- 1.** The Historic and Architectural Review Committee may obtain comments from appropriate County, State and Federal agencies; and from appropriate private organizations including, but not limited to, educational institutions and local historical societies; and shall forward its recommendation to the Mayor and Commissioners for action.
- 2.** The Maryland Historic Trust may be designated by the Committee to make an analysis of and recommendation concerning the preservation of structures of historic and architectural value within the area served by the Committee. Such report may include proposed boundaries of districts and the use recommended to be permitted in the districts as well as identify and designate particular structures recommended to be preserved.

Section 10. Mayor and Commissioners Related Duties

- 1.** The Mayor and Commissioners, upon receipt of recommendations regarding a Historic Zone Overlay Application from the Historic and Architectural Review Committee, shall:
 - a.** Schedule a public hearing with relation to the case by publishing a notice of the time and place of such hearing in a newspaper of general circulation in the Town at least fifteen (15) days in advance of said hearing.
 - b.** Inform the affected property owner(s) via written notice to be postmarked at least fifteen (15) days in advance of the scheduled public hearing of the date, time and place of said hearing.
 - c.** Hold a public hearing at which parties in interest and citizens shall have an opportunity to be heard.
 - d.** Prepare a finding of facts based upon the criteria for designation listed in this section of the Ordinance and upon the comments of owners of property within the proposed overlay district.

It shall be the policy of the Town government to carefully consider the impact of any proposed zoning, special exception use, permitted uses (such as, but not limited to, public utility buildings and structures including radio and television broadcasting stations), utility distribution lines, public buildings and structures, public (State, County, or Town) roads and right-of-ways, or development upon officially designated Historic Overlay Zones and, to the greatest degree practical, avoid or minimize any adverse effects.

- e.** Upon finding that a proposed site meets the criteria of this Ordinance, and that such designation is in the general interest of the citizens of Elkton, the Mayor and Commissioners may designate or remove the site as a Town Historic Overlay Zone and cause the site to be posted on or removed from the official Town Zoning Map.

- f.** In the event of a denial of an application, the applicant shall receive a written notification of the reasons for such denial to be postmarked within five (5) days of the Mayor and Commissioners decision.

Section 11. Powers and Duties of the Committee

- 1.** The Historic and Architectural Review Committee shall have the following powers and duties:
 - a.** To maintain and update an inventory of historic resources within the Town.
 - b.** To review applications for designation of or removal of Historic Overlay Zones, and to forward recommendations to the Mayor and Commissioners who will approve or disapprove the designation of or removal of a Historic Overlay Zone.
 - c.** To review and process applications for Historic Area Work Permits.
 - d.** To make recommendations to the Planning Commission on courses of action in the event of subdivision of land within a Historic Overlay Zone as it relates to the preservation of the historic resource, of the architectural setting, and of the environmental setting in which the resource is located.
 - e.** To recommend courses of action to the Planning Commission in the event of subdivision of land containing an identified Historic Resource as it relates to the preservation of the historic resource, of the architectural setting, and of the environmental setting in which the resource is located.
 - f.** To review any legislation and proposal affecting historic preservation, including preparation of master plans, and to make recommendation on said legislation and proposals to appropriate authorities.
 - g.** To research Town historic resources and recommend applicable sites and structures to the Mayor and Commissioners for designation as Historic Overlay Zone(s).
 - h.** To serve as a clearinghouse for information on historic preservation for Town government, individuals, citizens' associations, historical societies, and local advisory committees; to provide information and educational materials for the public; and, to undertake activities to advance the goals of historic preservation in the Town of Elkton.
 - i.** To regularly inform the Maryland Historical Trust of addition or removal of Town Historic Overlay Zones and of new information or data found or researched regarding historic sites or structures in the Town.
 - j.** To employ consultants or other temporary personnel, consistent with Town contract provisions, as deemed necessary to assist the Committee in the accomplishment of its functions. Said consultants or other personnel shall be compensated as may be provided for in the Town budget.

Section 12. Historic Area Work Permits

- 1.** Before the construction, alteration, reconstruction, repair, moving or demolition of any structure is made within a designated Historic Overlay Zone, any proposed changes that would affect the exterior appearance of a structure, the individual(s), firm or corporation proposing to make the construction or change shall file with the Committee a Historic Area Work Permit application for permission to build, alter, repair, reconstruct, move, demolish, or make an addition. If the proposed changes require a Town zoning permit as determined by this Zoning Ordinance, a completed zoning permit shall accompany the Historic Area Work Permit application to be filed with the Committee.
- 2.** Every such application shall be referred to and considered by the Committee and accepted or rejected by the Committee. No permit for any such change may be granted until the Committee has acted thereon as hereinafter provided.
- 3.** Application to the Committee is not required for ordinary maintenance as defined in Definitions.
- 4.** Specific Items Requiring Historic Area Work Permits. A Historic Area Work Permit must be filed for the following specific items whether or not an Elkton Building Permit is required.
 - a.** Repair or replacement of roofs, gutters, siding, external doors and windows, external trim, external lights, and other external appurtenant fixtures, with different materials of different design.
 - b.** Removal of a building, structure, or object, or a visible portion thereof, including out-buildings.
 - c.** New construction or any enlargement, modification, or alteration of the exterior of an existing building, structure or object which require a building permit.
 - d.** Removal, replacement, or enclosure of porches.
 - e.** Basic alteration of materials, including installation of siding, shingles, or masonry facing.
 - f.** Removal of significant healthy trees.
 - g.** Installation or removal of fencing or fence-walls.
 - h.** Permanent installation or removal of shutters.
 - i.** New paving or modification of paving materials in front of building line.
 - j.** Removal, modification, or alteration of exterior architectural features.
 - k.** First time painting, removal of paint or substantially changing the color of paint.
 - l.** Exterior sandblasting.

- m. Performing any grading, excavating, construction, or substantially modifying, changing, or altering the environmental setting.
- n. Erecting or causing to be erected any sign or advertisement (with the exception of those signs which are erected temporarily for such purposes as advertising the sale of the property site or promoting a political viewpoint) on exterior structures or in the environmental setting.
- o. Any other act which does not constitute ordinary maintenance but which modifies, alters, or otherwise affects the exterior features of a Historic Resource within a Historic Overlay Zone.

Section 13. Criteria for Review of Application and Permits for Alterations to Designated Historic Overlay Zones

1. In reviewing applications and permits filed under the provisions of Section 12 of this Part, Historic Area Work Permits, the Historic and Architectural Review Committee shall give consideration to:
 - a. The historic or architectural value and significance of the structures and its relationship to the historic value of the surrounding area;
 - b. The relationship of the exterior architectural features of the structure to the remainder of the structure and to the surrounding area;
 - c. The general compatibility of exterior design, arrangement, texture and materials proposed to be used;
 - d. The extent to which the building or structure would be harmonious with, or incongruous to, the environmental setting of a designated Historic Overlay Zone. It is not the intent of this Ordinance to discourage contemporary architectural expression, or to encourage the emulation of existing buildings or structures of historical architectural interest in specific detail. Harmony or incompatibility will be evaluated in terms of the appropriateness of materials, scale, size, height, and placement of new buildings in their relationship with existing structures; and,
 - e. Any other factors including aesthetic and environmental factors which the Committee deems pertinent.
2. Limitation of Considerations. The Committee normally shall consider only exterior features of a structure, but in cases where the owner voluntarily subjects the interior arrangement and materials to review by the Historic and Architectural Review Committee, those interior features shall also be considered. The Committee shall not disapprove an application except with respect to several factors specified above. Furthermore, the Committee will not limit new construction, alteration or repairs to any one architectural style of a given chronological period.
3. Strictness and Leniency in Judgement of Plans. The Committee shall be strict in its judgement of plans affecting those structures designated as having significant historic or architectural value. The Committee may be lenient in its judgement of plans of structures

of little historic value or for plans involving new construction, unless such plans would seriously impair the historic or architectural value of the surrounding area.

Section 14. Action on Applications for Historic Area Work Permits

1. Applications for issuance of a Historic Area Work Permit shall be filed with the Zoning Administrator. The Historic Area Work Permit Application, provided by the Planning Office, shall have all pertinent information completed upon submittal of the application and, if an Elkton Building Permit is deemed required as per this Ordinance, a completed Building Permit Application must be filed with the said Historic Area Work Permit Application.
2. Upon the filing of a completed application, within three (3) days the Zoning Administrator shall forward the application and all attachments to the Historic and Architectural Review Committee.
3. Upon receipt of the application, the Committee shall schedule a public meeting at which time it will consider the application.
4. After scheduling of a public meeting, the Committee shall forward notice of the public appearance to the property owner (notice to be postmarked at least fifteen (15) days prior to the scheduled public appearance), adjacent property owners (notice to be postmarked at least fifteen (15) days prior to the scheduled public appearance), property owners within the designated Historic Overlay Zone, and to those citizens or organization which the Committee feels may have an interest in the proceedings.
5. At the public meeting, interested persons will be encouraged to comment and written and/or taped minutes of the proceedings will be kept. Specific rules of procedure shall be determined by the Committee.
6. Actions of the Committee.
 - (a) Within fifteen (15) days after an application is presented and reviewed at a Committee's public appearance, the Committee shall make its decision public. However, if subsection 7. under Section 14 of this Part, Action on Applications for Historic Area Work Permits is applicable, an extension shall be granted to the Committee.
 - (b) The Committee shall instruct the Zoning Administrator to:
 - (1) issue the permit; or,
 - (2) issue the permit subject to such conditions as are necessary to insure conformity with the provisions and purposes of this section; or,
 - (3) deny the permit.
 - (c) The applicant shall receive a written notification of the Committee's decision. In the event of a denial of a permit, reasons for such denial shall be included with the written notification.

- (d) If, after a public meeting, the Committee finds that denial of the permit applied for will result in the denial of reasonable use of the property, or impose undue hardship on the owner and, within a period of ninety (90) days after the public appearance, no economically feasible plan for the preservation of the structure has been demonstrated by those seeking preservation, the Committee must then instruct the Zoning Administrator to issue a permit with, if applicable, such reasonable conditions which will further the intent and purposes of this section.
- 7. In the event that any party is aggrieved by a decision of the Committee, then thirty (30) days from the date on which the Committee's decision is made public, said aggrieved party may appeal to the Circuit Court which will review the Committee's decision based on the record of the proceedings before the Committee.
- 8. Miscellaneous provisions:
 - a. The applicant for a permit shall have the responsibility of providing information sufficient to support the application and the burden of persuasion on all questions of fact which are to be determined by the Committee. Properties subject to deeds of easement held by other Historic Preservation organizations shall submit proof of approval of exterior architectural review by the organization holding the easement.
 - b. Any permit issued by the Zoning Administrator may be subject to such conditions imposed by the Committee as are reasonably necessary to assure that work in accordance with the permit shall proceed and be performed in a manner not injurious to those characteristics and qualities of the historic resource which are of historical, architectural, archaeological, or cultural value.
 - c. In the event that there is a conflict between the permit and the requirements of the building code, the permit would control provided that all health and safety requirements are met.

Section 15. Adaptive Reuse of Historic Structures

The Board of Appeals may grant a special exception, adaptive reuse of a historic structure provided:

1. The structure proposed for an adaptive reuse is located in the Historic Overlay Zone and approved as a historically significant structure by the Historic and Architectural Review Committee;
2. The proposed use of the structure is recommended for approval by the Planning Commission and the Historic and Architectural Review Committee;
3. It is shown that exterior changes to the site structure will be minimized; extensions or enlargement of the principal structure and accessory structures may not exceed twenty-five (25) percent of the gross floor area of each individual building above that which existed at the time of the adoption of these regulations. Enlargements shall be designed in keeping with the character of the building;
4. Landscaping is in keeping with character of the building;

5. The site must have access to a public road;
6. The use is complimentary to the character of the structure; and
7. The number of dwellings shall not exceed the density permitted in the district which the structure is located.

Section 16. Applicability

Section 6 of this Part, authorizing the establishment of the Historic and Architectural Review Committee shall become effective immediately. The remainder of this section shall become effective upon the establishment of the Historic and Architectural Review Committee.

Part IV Critical Area District

Section 1. Statement of Intent, Purpose, Applicability and Findings Requirements

1. The purpose of the Critical Area District is to implement zoning regulations and measures designed to protect and enhance water quality and habitat resources located within the Town of Elkton's Chesapeake Bay Critical Area. The geographic area for which the following district regulations apply shall be those lands and waters located within 1,000 feet of the landward boundaries of all tidal waters and tidal wetlands as designated on the Official Elkton Chesapeake Bay Critical Area Maps (See Section 2 of this Part).
2. No person shall develop, alter, or use any land for residential, commercial, industrial, or institutional uses, nor conduct agricultural, fishery or forestry activities in the Elkton Critical Area except in compliance with the applicable provisions contained herein and the Elkton Critical Area Program.
3. The intent of the Critical Area District is to provide special regulatory protection for the natural resources located within the Town's Chesapeake Bay Critical Area and to foster more sensitive development activity in shoreline areas that minimizes adverse impacts to water quality and natural habitats. To ensure this end, no development or resource utilization activity shall be permitted until the applicable Town's approving authority, i.e., Planning Commission, Board of Appeals or Town Commissioners shall make specific findings that the proposed development or activity is consistent with the goals and objectives of the Elkton Critical Area Program.
4. The Critical Area District imposes specific regulations for the development of land within the Elkton Critical Area in addition to those regulations stipulated for the underlying zoning districts in other sections of this Ordinance. In the event of inconsistency between the Critical Area District provisions and the provisions established in other sections of this Ordinance, the more restrictive or stringent provisions shall apply.

Section 2. Official Critical Area District Maps

1. Official Critical Area District Maps shall be prepared and maintained in force as part of the Official Zoning Maps of the Town of Elkton. These maps shall delineate the extent of the Critical Area District that shall correspond to the Chesapeake Bay Critical Area. Within the Critical Area District, there shall be three land use management area classifications, which shall be shown on the Official Critical Area Maps. These land use management area classifications shall be as follows:
 - a. Intensely Developed Areas (IDA's);
 - b. Limited Development Areas (LDA's); and
 - c. Resource Conservation Areas (RCA's).

Note - These land use management areas correspond to the definitions established in the Chesapeake Bay Critical Area Criteria, as amended, for each area and specifically as identified on the Official Elkton Chesapeake Bay Critical Area maps, adopted as part of the Elkton Critical Area Program. Mapped land use management area classifications are

based on land uses established on or before December 1, 1985, except for areas where the land use classification may be changed by granting the Growth Allocation (GA) floating zone district classification as provided in Section 14 of this Part. The Critical Area District Maps may be amended by the Town Commissioners in compliance with amendment provisions in this Ordinance, the Maryland Critical Area Law and Critical Area Criteria.

2. The Critical Area shall include all lands and waters defined in Section 8-1807 of the Natural Resources Article, Annotated Code of Maryland. They include:
 - a. All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the State wetlands maps, and all State and private wetlands designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland.
 - b. All land and water areas within 1,000 feet beyond the landmark boundaries of State or private wetlands and the heads of tides designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland; and
 - c. Modification to these areas through inclusions or exclusion proposed by local jurisdictions and approved by the Critical Area Commission as specified in Section 8-1807 of the Natural Resources Article, Annotated Code of Maryland.
3. The Town Commissioners may elect to delete an area from the Critical Area only at such time as new Official Wetland Maps are adopted by the State of Maryland showing the subject area to be outside of the Critical Area, subject to approval by the Critical Area Commission, or an area of the Critical Area has been approved by the Chesapeake Bay Critical Area Commission for exclusion. The Town Commissioners may elect to add areas to the Critical Area at any time, subject to approval by the Critical Area Commission. Such changes shall be treated as amendments to the Critical Area District.

Section 3. Density Provisions

1. Density in the Intensely Developed Areas (IDAs) shall be as established in the underlying base zone.
2. The development density and minimum lot sizes permitted within a Limited Development Area (LDA) shall be governed by prescriptive densities within the applicable underlying base zoning districts that permit residential use, however in no case may the permitted density exceed 3.99 dwelling units per acre. Determination of density shall be based on the gross site area of the parcel prior to development.
3. Residential densities (not lot sizes) in Resource Conservation Areas (RCAs) shall not exceed one (1) unit per twenty (20) acres regardless of densities permitted in applicable underlying base zones, except as provided in 4. below. Determination of density shall be based on the gross site area of the parcel, excluding tidal wetlands.
4. In determining residential densities for a site, private wetlands may be included in the calculation of one (1) dwelling unit per twenty (20) acre density provided the development density on the upland portion of the site does not exceed one (1) dwelling

unit per eight (8) acres. The area of private wetlands shall be estimated on the basis of vegetative information as designated on the State wetland maps.

- a.** Minimum lot sizes shall be governed by standards applicable to the underlying base zoning districts.
- b.** The one (1) dwelling unit per twenty (20) acre density limitation shall not prevent a bona fide intra-family transfer subject to the following limitations:
 - (1)** Intra-family transfers will be permitted on portions of certain parcels in the Critical Area where it is shown that the parcel was recorded on or before March 1, 1986 and where such parcel is at least seven (7) acres and not more than sixty (60) acres in size.
 - (2)** A bona fide intra-family transfer shall be subject to all requirements of the Town of Elkton Zoning Ordinance and Subdivision Regulations. A notation shall be placed on the final subdivision plat denoting the lot or lots that are created under these provisions.
 - (3)** Subdivision of land under the bona fide intra-family transfer provision contained herein shall be subject to the following limitations:
 - (a)** Parcels seven (7) acres to less than twelve (12) acres cannot be subdivided into more than a total of two (2) lots.
 - (b)** Parcels twelve (12) acres to less than sixty (60) acres cannot be subdivided into more than a total of three (3) lots.
 - (4)** A lot created pursuant to these provisions may not be subsequently conveyed to any person except as provided herein:
 - (a)** Where the conveyance is to a member of the owner's immediate family.
 - (b)** Where the conveyance of the lot is as part of a default on a mortgage or deed of trust.
 - (5)** Lots created pursuant to these provisions shall not be created for purposes of ultimate commercial sale. In addition, any lot created under this section may not be transferred or sold to a third party that is not a member of the owner's immediate family or a holder of a mortgage or deed of trust on the property, unless and until the Planning Commission has determined that the following can be conclusively proved:
 - (a)** A change in circumstances has occurred since the original transfer was made that is not inconsistent with this section and that warrants an exception; or
 - (b)** Other circumstances necessary to maintain land areas to support protective uses of agriculture, forestry, open space, and natural habitats in RCA's warrant an exception.

- c. Deeds of transfer shall include the provisions contained in (5) above as covenants. Such covenants shall prevent the subsequent transfer or sale of a lot or lots created pursuant to the intra-family transfer provisions contained herein to a third party, not a member of the owner's immediate family or a holder of a mortgage or deed of trust on the property, except as provided in (5) above.

Section 4. Nonconforming Development in the Critical Area District (Grandfathering Provisions)

An individual unimproved lot or parcel of land located within the Town of Elkton Critical Area District may be improved in a Resource Conservation Area (RCA) in accordance with Section 11 of this Part, and otherwise developed in accordance with Section 10 of this Part, in a Limited Development Area (LDA) and Section 9 of this Part, in an Intensely Developed Area (IDA) provided they comply with the provisions of Sections 7 and 8 of this Part and further, provided they comply with the following criteria:

1. Any legally buildable single lot or parcel of record established in Town of Elkton prior to March 1989 may be improved, developed or redeveloped with a single-family residence.
2. Any lot on which development activity has legally progressed to the point of pouring foundation footing or installation of structural members, prior to adoption of the Town of Elkton Critical Area Program, will be permitted to complete construction as per existing development approvals (e.g., building permit).
3. Development may take place on lots created prior to June 1, 1984, subject to the limitations on permitted uses contained in this Ordinance. As a condition of approval the Planning Commission may require the consolidation or reconfiguration of lots not individually owned in existing subdivisions.
4. Development may take place on lots subdivided between June 1, 1984 and (**Date of Critical Area Ordinance adoption) for which "interim findings" (Critical Area Law, Section 8-1813) have been made by the Town of Elkton Planning Commission, Board of Appeals, or Town Commissioners.
5. All development permitted under this section shall comply with the Habitat Protection Area and Water-Dependent Facilities standards of this Part and the Elkton Critical Area Program.

Section 5. Buffer Exemption Area Provisions in IDA, LDA, and RCA.

The following provisions shall apply in the Buffer Exemption Areas shown on the Official Critical Area District Map.

1. Intent. The following provisions are intended to accommodate limited use of shoreline areas that have been mapped as Buffer Exemption Areas (BEAs) under the provisions of this Ordinance while protecting water quality and wildlife habitat to the extent possible.
2. Applicability. This section applies only to new development or redevelopment within one hundred (100 feet) of tidal waters, tidal wetlands and tributary streams on lots of record as of (*DATE*) and located in mapped Buffer Exemption Areas as shown on the Official Critical Area Maps.

3. Criteria

- a.** New development or redevelopment activities, including structures, roads, parking areas and other impervious surfaces or septic systems will not be permitted in the Buffer Exemption Area unless the applicant can demonstrate and the Planning Commission finds that there is no feasible alternative. Such findings shall document that the intrusion is the least necessary. A copy of the Planning Commission's findings in this regard shall be available to the Critical Area Commission upon request.
- b.** New development or redevelopment shall minimize the shoreward extent of intrusion into the Buffer Exemption Area and shall not exceed the shoreward extent of adjacent structures whichever is more restrictive. Structures on adjacent properties may not solely be used to determine the setback line. Variances to other setback requirements must be considered before additional intrusion into the Buffer.
- c.** Development may not impact any Habitat Protection Area (HPA) as defined in Section VII of the Elkton Critical Area Program, except the Buffer.
- d.** No natural vegetation may be removed in the Buffer except that required by the proposed construction and any other natural vegetation in the Buffer shall be maintained.
- e.** Any development in the Buffer Exemption Area approved under the provisions of this subsection shall be mitigated as follows:

 - (1)** The extent of the lot or parcel shoreward of the new development or redevelopment shall be required to remain, or shall be established and maintained, in natural vegetation; and
 - (2)** Natural vegetation of an area twice the extent of the impervious surface must be created in a Buffer Exemption offset area on the property or other similar location approved by the Planning Commission.
- f.** An applicant who cannot comply with the planting or offset requirements herein are required to pay into a fee in-lieu program as follows:

 - (1)** For each foot of the Buffer Exemption Area disturbed, \$1.20, and
 - (2)** For any required planting that cannot be implemented on site, \$0.40 per square foot.

Any fee-in-lieu collected under these provisions shall be placed in an account that will assure their use for projects within the Critical Area for the benefit of wildlife habitat, water quality improvement, or environmental education. If it is not possible to carry out offsets or other mitigation within the Critical Area, any plantings or other habitat/water quality improvements will occur within the affected watershed impacted.

- g.** Any required reforestation, mitigation or offset areas shall be designated under a development agreement or other instrument and recorded among the land records of Cecil County.
- h.** The Commission shall make written findings documenting that all the criteria of this section are met including disturbance to the Buffer Exemption area is the least intrusion necessary. These findings shall be available to the Critical Area Commission upon request. Further, the Planning Commission shall report development activity carried out under this section in their semi-annual report to the Critical Area Commission.

Section 6. Buffer Requirements

- 1.** Where a tract of land bordering tidal water, tidal wetlands, or tributary streams in the Critical Area is proposed for development or redevelopment, a Buffer of at least one hundred (100) feet shall be established in natural vegetation (except areas of the Buffer which are planted in vegetation where necessary to protect, stabilize, or enhance the shoreline). No development including septic systems, impervious surfaces, parking areas, roads, or structures, are permitted in the Buffer. However, approved development or expansion of water-dependent facilities, as provided in Section 8 of this Part, are excepted from these Buffer provisions.
- 2.** The Buffer shall be expanded beyond one hundred (100) feet to include contiguous sensitive areas on the parcel whose development or disturbance may impact streams, wetlands, or other aquatic environments. Development may be allowed by the Town on soils having development constraints if it includes mitigation measures that adequately address the identified constraints and that will not have significant adverse impacts on water quality or plant, fish or wildlife habitat.

 - a.** Sensitive areas have the following features: 1) Hydric soils and soils with hydric properties as designated by the Soil Conservation Service; 2) Highly erodible soils; and 3) Steep slopes.
 - b.** This expansion will occur whenever new land development or other land disturbing activities, such as clearing natural vegetation for development, are proposed.
 - c.** The Buffer expansion, when required, shall meet the following standards:

 - (1)** In the case of contiguous steep slopes of fifteen (15) percent of greater, the Buffer shall be expanded four (4) feet for every percent of slope or to the top of slope, whichever is greater in extent.
 - (2)** When required, the Buffer shall be expanded to the upland limit of adjacent hydric soils, soils with hydric properties, and highly erodible soils, within the Critical Area.
 - (3)** The expanded Buffer must be shown on plans required for such development.

3. No natural vegetation shall be removed nor shall the slope of the land surface be altered in the Buffer, including clearing of existing natural vegetation to create new agricultural lands, except as provided below. In addition, limited cutting or clearing of trees and understory is permitted under an approved Buffer Management Plan for the following purposes:
 - a. To provide access to water-dependent uses otherwise permitted;
 - b. To install or construct a shore erosion protection device or measure otherwise permitted;
 - c. For personal use if there is no impairment of water quality and habitat value and trees cut are replaced and provided that it qualifies as a minor impact;
 - d. To remove trees that may result in stream blockage, streambank erosion or damage to structures;
 - e. To prevent the spread of disease afflicting vegetation and the threat of forest fire with the advice and guidance of the Departments of Agriculture and Natural Resources and spread of noxious weeds and plants; or
 - f. To accommodate modifications or redevelopment of existing structures in the Buffer in accordance with Section 5 of this Part.
 - g. For agricultural activity provided that a twenty-five (25) foot buffer and Best Management Practices are in place on that portion of the farm that is within the Critical Area District.
4. Shore erosion protection measures may be installed provided that such measures are consistent with the Town's shore erosion protection policies and provided that the measure has obtained all applicable State and federal permits.
5. Prohibited Uses: Water polluting activities including, but not limited to, storage of vehicles, fuel or chemicals.

Section 7. General Regulations for Development and Land Use within the Critical Area District

1. Except as provided below, uses, accessory uses, and special exception uses shall be those uses permitted within the applicable underlying base zoning district as shown on the Official Zoning Maps.
2. Intensification or expansion of existing industrial, commercial, and institutional facilities and uses may, but not necessarily shall, be permitted in the RCA. A variance, in accordance with Article V, Section 2, is required if such intensification or expansion involves a use which does not conform with provisions the Elkton Critical Area Program.
3. Certain new development, or redevelopment, activities or facilities, because of their intrinsic nature, or because of their high potential for adverse impact on plant and wildlife habitats and water quality, may not be permitted in the Critical Area except in Intensely Developed Areas, and only after the activity or facility has demonstrated to all

appropriate agencies that there will be a net improvement in water quality to the adjacent body of water. These activities include the following:

- a.** Non-maritime heavy industry;
 - b.** Transportation and utility transmission facilities, except those necessary to serve permitted uses, or where regional or interstate facilities must cross tidal waters (utility transmission facilities do not include power plants); or
 - c.** Permanent sludge handling storage, and disposal facilities, other than those associated with wastewater treatment facilities. However, agricultural or horticultural use of sludge under appropriate approvals when applied by an approved method at approved application rates may be permitted in the Critical Area, except in the 100-foot Buffer.
- 4.** Certain new development activities or facilities, or the expansion of certain existing facilities, because of their intrinsic nature, or because of their potential for adversely affecting habitat and water quality, may not be permitted in the Critical Area unless no environmentally acceptable alternative exists outside the Critical Area, and these development activities or facilities are needed in order to correct an existing water quality or wastewater management problem. These include:
 - a.** Solid or hazardous waste collection or disposal facilities, excluding dumpsters and trash receptacles; or
 - b.** Sanitary landfills;
 - c.** Sludge handling, storage, and disposal facilities, other than those associated with wastewater treatment facilities;
 - d.** New commercial or related maritime facilities in the Buffer within Resource Conservation Areas (RCA's);
 - e.** New industrial and maritime industrial uses in the Buffer in Limited Development Areas (LDA's) and Resource Conservation Areas (RCA's); and
 - f.** The application of sludge in the Buffer.
- 5.** The following uses are prohibited:
 - a.** New commercial or related maritime facilities in the Buffer within Resource Conservation Areas (RCA's), including new marinas;
 - b.** New industrial and maritime industrial uses in the Buffer in Limited Development Areas (LDA's) and Resource Conservation Areas (RCA's).
- 6.** Commercial timber harvesting activities or other cutting or clearing of forested land are permitted in the Critical Area provided such activities are conducted in accordance with all standards established in the Town of Elkton Critical Area Program and an approved Timber Harvesting Plan.

7. Agriculture is permitted in the Critical Area provided all agricultural activities and land management practices are conducted in accordance with the standards established in the Town of Elkton Critical Area Program.
8. All development, alteration, or use of any land for residential, commercial, industrial, or institutional purposes, or agricultural, fishery or forestry activities in the Critical Area shall only be done in compliance with the Habitat Protection Program of the Town of Elkton Critical Area Program.

Section 8. Water-Dependent Facility Requirements

1. Proposed new or expanded water-dependent facilities shall demonstrate the following:
 - a. They are water-dependent;
 - b. They meet a recognized private right or public need;
 - c. That the adverse impacts on water quality and fish, plant and wildlife habitat are minimized;
 - d. That, insofar as possible, non-water dependent uses or activities are located outside of the Buffer; and
 - e. That they meet the requirements of the Town of Elkton Critical Area Program.
2. Buildings, structures, and parking areas are prohibited within the Buffer except the following:
 - a. Community piers, individual private piers, docks, launching ramps, and mooring facilities.
 - (1) For community piers, only the following uses may be located in the Buffer provided they are water dependent:
 - (a) slips
 - (b) docks, piers, launching ramps, access roads, and paths provided such roads and/or paths only provide access to the shoreline or water dependent facilities and further provided that the design minimizes impacts to the Buffer
 - (c) loading/unloading areas
 - (2) Where community piers are permitted, the number of slips or piers shall be the lesser of (a) or (b) below:
 - (a) One slip for each fifty (50) feet of shoreline in the subdivision in Intensely Developed Area (IDA's) and Limited Development Areas (LDA's) and one slip per each 300 feet of shoreline in the subdivision in the Resource Conservation Areas (RCA's); or

- (b) A ratio of slips or piers to platted lots or dwellings within the subdivision in the Critical Area District according to the following table:

<u>Platted Lots or Dwellings in the Critical Area</u>	<u>Slips Non-Commercial</u>
up to 15	1 for each lot
16 – 40	15 or 75%, whichever is greater
41 – 100	30 or 50%, whichever is greater
01 – 300	50 or 25%, whichever is greater
over 300	75 or 15%, whichever is greater

- (c) Exempted from (a) and (b) above are the subdivisions recorded prior to (March 8, 1995) intending to create or expand a community pier provided that no more than one slip is provided per lot within the Critical Area District.
 - (d) The Board of Appeals may grant a variance from the provisions of this section in accordance with the Article V, et. seq.
- (3) Where community slips or community piers are permitted the following shall apply:
- (a) These facilities may not offer food, fuel, or other goods and services for sale and shall provide adequate and clean sanitary facilities;
 - (b) These facilities are community-owned and established and operated for the benefit of the residents of a platted and recorded riparian subdivision;
 - (c) Disturbance to the Buffer is the minimum necessary to provide a single point of access to the facilities; and
 - (d) If community piers or slips are provided as part of the new development, private piers in the development are not allowed.
- b. Where permitted, expansion of existing commercial marinas in Resource Conservation Areas (RCA's), and uses accessory thereto are permitted if it is sufficiently demonstrated that expansion will not adversely affect water quality and that it will result in an overall net improvement in water quality at or leaving the site of the marina. Accessory uses shall be limited to twenty-five (25) percent of the first floor area. Only the following uses which are considered "water-dependent" may be located in the Buffer.
- (1) Slips;
 - (2) Docks, piers, launching ramps, access roads and paths provided the area of disturbance and impacts are minimized;

- (3) Loading and unloading areas;
 - (4) Fuel areas;
 - (5) Phone and electric service; and
 - (6) Sewage pump-out;
 - (7) Marina railways and travel lifts;
 - (8) Wet covered repair shops;
- c. Public community beaches and other public and community water-oriented recreation and education or education areas including, but not limited to, publicly owned boat launching and docking facilities and fishing piers may be permitted in the Buffer in Intensely Developed Areas (IDA). These facilities may be permitted within the Buffer in Limited Development Area (LDA) and Resource Conservation Areas (RCA) provided that:
- (1) Adequate sanitary facilities exist;
 - (2) Service facilities are, to the extent possible, located outside the Buffer;
 - (3) Permeable surfaces are used to the extent practicable, if no degradation to groundwater would result;
 - (4) Disturbance to natural vegetation is minimized; and
 - (5) Areas for passive recreation, such as nature study, and hunting and trapping, and for education, may be permitted in the Buffer within Resource Conservation Areas, if service facilities for these uses are located outside the Buffer.
- d. Water-dependent research facilities or activities operated by State, federal or local agencies, or educational institutions, may be permitted in the Buffer, if non-water dependent structures and facilities associated with the project are, to the extent possible, located outside of the Buffer.
- e. Industrial uses, expansion of existing industrial uses located in the Buffer, or expansion of existing maritime industrial uses may only be permitted in IDA, in zones where permitted and located within a Buffer Exemption Area, provided that no industrial structure shall be located within five hundred (500) feet of the Mean High Water Line unless such structures are an integral part of the shipping or receiving of waterborne goods or materials required for the operation of the industrial establishment. Only the following industrial and port related water-dependent facilities may be located within the Buffer in an IDA:
- (1) Docks, piers, and access roads;
 - (2) Freight staging areas;

- (3) Rail lines;
 - (4) Dry docks;
 - (5) Fueling areas; and
 - (6) Public access roads.
3. No structure connected to the shoreline, such as a dock, pier, etc., shall extend outward from the Mean High Water Line from where the structure is connected to the shoreline, more than twenty-five (25) percent of the distance to the Mean High Water Line on the opposite shore, or more than three hundred (300) feet, whichever is the lesser distance. Notwithstanding this provision, no dock or pier shall extend to within the boundaries of any defined navigation channel established by a state or federal agency.
4. New commercial marinas are prohibited in Resource Conservation Areas (RCA). Expansion of existing commercial marina expansion is permitted in RCAs only if it is sufficiently demonstrated that expansion will not adversely affect water quality and that it will result in an overall net improvement in water quality at or leaving the site of the marina.
5. Structures on piers, including boathouses, shall not be permitted.
6. Applications for new and expanded water-dependent facilities shall address the following environmental standards:
 - a. That the activities will not significantly alter existing water circulation patterns or salinity regimes;
 - b. That the water body upon which these activities are proposed has adequate flushing characteristics at the site;
 - c. That disturbance to wetlands, submerged aquatic plant beds, or other areas of important aquatic habitats will be minimized;
 - d. That adverse impacts to water quality that may occur as a result of these activities, such as non-point source run-off, sewerage discharge from land activities or vessels, or from boat cleaning and maintenance operations is minimized;
 - e. That shellfish beds will not be disturbed or be made subject to discharge that will render them unsuitable for harvesting;
 - f. That dredging shall be conducted in a manner, at such time of the year, and using a method, which causes the least disturbance to water quality and aquatic and terrestrial habitats in the area immediately surrounding the dredging operation or within the Critical Area;
 - g. That dredged spoil, except for clean sand for beach nourishment, will not be placed within the Buffer or elsewhere in that portion of the Critical Area which has been designated as a Habitat Protection Area;

- h.** That interference with the natural transport of sand will be minimized;
- i.** That no disturbances will occur to aquatic areas of historic waterfowl staging and concentration areas.

Section 9. Development Standards in Intensely Developed Areas (IDA's)

All uses in the IDA shall be subject to the following development standards and/or conditions in addition to those established in other sections of this Ordinance. Development and redevelopment in those areas designated Intensely Developed Areas (IDA's) shall be subject to the following standards.

- 1.** The following uses may only be permitted in an IDA and only after the applicant has demonstrated that the activity will create a net improvement in water quality to the adjacent body of water.
 - a.** Non-maritime heavy industry;
 - b.** Transportation facilities and utility transmission facilities, except those necessary to serve permitted uses or where regional or interstate facilities must cross tidal waters (utility transmission facilities do not include power plants); and
 - c.** Permanent sludge storage, handling and disposal facilities associated with wastewater treatment facilities.
- 2.** All sites for which development activities are proposed, and which require subdivision approval or site plan review and approval, shall identify environmental or natural features on that portion of the site within the Critical Area.
- 3.** Development and redevelopment shall be subject to the Habitat Protection Criteria prescribed in COMAR 27.01.09 and those habitat protection guidelines in the Town of Elkton Critical Area Program. This information shall be made part of the Environmental Impact Assessment Report as part of the application for site plan review.
- 4.** Development and redevelopment shall be required to identify stormwater management practices appropriate to site development which achieve the following standards:
 - a.** Development and redevelopment proposals shall demonstrate that the Best Management Practices for stormwater assure a ten (10) percent reduction of pre-development pollutant loadings.
 - b.** If the required ten (10) percent improvement will not be achieved, then offsets must be provided as approved by the Town. Offsets may be provided either on or off site as determined by the Town, provided that water quality benefits are equivalent, that the benefits are obtained within the same watershed, and that the benefits can be determined through the use of modeling, monitoring, or other computation of mitigation measures.
- 5.** Development and redevelopment projects shall delineate those site areas not covered by impervious surfaces, and that are to be maintained or established in vegetation. Where vegetation is not proposed, the developer shall demonstrate why plantings for such

portions of the site are impracticable. The types of planting and vegetation proposed shall be in accordance with guidelines established in Section 12 of this Part.

6. Proposed development shall be done so as to protect the hydrologic regime and water quality of identified non-tidal wetlands by providing that development activities and other land disturbances in the drainage area of the wetlands will minimize alterations to the surface or subsurface flow of water into and from the wetland and not cause impairment of water quality or the plant and wildlife and habitat value of the wetland.
7. Development and redevelopment projects shall install vegetative shore erosion control measures (where feasible and appropriate) on portions of the site proposed for development and near such portions if the shore erosion threatens the proposed development portion. Where control of shore erosion cannot be accomplished by vegetative measures and structural measures are required, proposed development must either:
 - a. Construct appropriate structural measures to control shoreline erosion on portions of the site proposed for development and near such portions if the shore erosion threatens the proposed development portion; or
 - b. Set back the development behind the Buffer based on the annual shore erosion rate. To determine the setback, published data on annual erosion rates for the site must be used. (If two (2) or more published rates are available, the highest rate must be used). If published data are not available, either the annual rate is assumed to be two (2) feet per year or the developer shall do a technical study to determine the annual erosion rate. The setback shall be the annual erosion rate times twenty-five (25) years.

Section 10. Development Standards in Limited Development Areas (LDAs)

Development and redevelopment in an area designated Limited Development Areas shall be subject to the following standards.

1. All sites for which development activities are proposed, and which require subdivision approval or site plan review and approval, shall identify environmental or natural features on that portion of site within the Critical Area. This information shall be made part of the Environmental Impact Assessment Report as part of the application for site plan review.
2. Site development shall be designed to assure that features or resources identified as Habitat Protection Areas are afforded protection as prescribed in COMAR 27.01.09 and the Habitat Protection element of the Town of Elkton Critical Area Program.
3. Roads, bridges and utilities serving development that must cross a Habitat Protection Area shall be located, designed, constructed, and maintained so as to provide maximum erosion protection and minimize negative impacts to wildlife, aquatic life and their habitats and maintain hydrologic processes and water quality. When no alternative exists and such infrastructure must cross or be located in Habitat Protection Areas, the developer shall demonstrate that no feasible alternative location for such infrastructure exists and must show how these standards will be met at each phase of the project, i.e., location, design, construction and maintenance.

- 4.** All development activities which cross, or are located adjacent to, tributary streams in the Critical Area shall:

 - a.** Be designed in a manner to reduce increases in flood frequency and severity;
 - b.** Provide for the retention of natural streambed substrate;
 - c.** Minimize adverse impacts to water quality and storm water runoff; and
 - d.** Retain the existing tree canopy so as to maintain stream temperatures in the normal range of variation.
- 5.** Development activities shall be located and designed to provide for the maintenance of the wildlife and plant habitats on the existing site and to maintain continuity with those on adjacent sites. When wildlife corridors exist or are proposed they shall include any existing Habitat Protection Areas and connect large forested areas on or adjacent to the site.
- 6.** Forest and developed woodlands, as defined by the Elkton Critical Area Program, shall be created or protected in accordance with the following:

 - a.** When less than fifteen (15) percent of the site is in forest cover, at least fifteen (15) percent of the gross site area shall be afforested. The location of the afforested area should be designed to reinforce protection to habitats on the site or to provide connections between forested areas when they are present on adjacent sites;
 - b.** Clearing of forest or developed woodland should be minimized. When forests or developed woodlands exist on the site and the proposed development requires the cutting or clearing of trees, areas proposed for clearing shall be identified on the proposed development plan. A grading permit shall be obtained by the applicant prior to any clearing or cutting associated with proposed development. In addition, cutting or clearing associated with development shall be subject to the following limits and replacement conditions:

 - (1)** All forests cleared or developed shall be replaced on not less than an equal area basis on the site or on an alternative site approved by the Planning Commission or the Zoning Official.
 - (2)** No more than twenty (20) percent of the forest or developed woodland within the site proposed for development may be removed (except as provided in (3) below). The remaining eighty (80) percent shall be maintained as forest cover through the use of appropriate instruments (e.g., recorded restrictive covenants).
 - (3)** The clearing of forest or developed woodlands of up to twenty (20) percent shall be replaced on an area basis of one-to-one. A developer may propose clearing up to thirty (30) percent of the forest or developed woodland on a site, provided an area 1.5 times the entire area cleared shall be planted in forest cover;

- (4) If more than thirty (30) percent of the forest on a site is cleared, the forest is required to be replanted at three (3) times the total extent of the cleared forest;
 - (5) If the cutting of forests occurs before a grading permit is obtained, the forest is required to be replanted according to the requirement in (4) above.
 - c. Surety shall be provided to assure forest replacement as required in accordance with Section 12 below.
 - d. The forests and developed woodlands required to be retained or created through afforestation shall be maintained through restrictive covenants, easements, or similar instruments in a form approved by the Town Attorney.
- 7. Development on slopes greater than fifteen (15) percent shall be prohibited unless such development is demonstrated to be the only effective way to maintain or improve slope stability.
- 8. Impervious surfaces shall be limited to fifteen (15) percent of the gross site area except as follows:
 - a. If a parcel or lot one-half acre or less in size existed on or before December 1, 1985, then man-made impervious surfaces are limited to twenty-five (25) percent of the parcel or lot.
 - b. For a lot or parcel one-half acre in size, the Planning Commission may allow an applicant to exceed the impervious surface limit as prescribed herein provided:
 - (1) impervious surfaces on the property have been minimized;
 - (2) water quality impacts associated with runoff from the impervious surface have been minimized or best management practices have been implemented;
 - (3) on-site mitigation or fees-in-lieu are used to offset potential adverse impacts; and
 - (4) the total impervious surface does not exceed the twenty-five (25) percent limit by more than twenty-five (25) percent or five hundred (500) square feet, whichever is greater.
 - c. For a lot or parcel that existed prior to December 1, 1985 and is greater than one-half acre but less than one acre, the Planning Commission may allow an applicant to exceed the impervious surface limits as prescribed herein provided:
 - (1) impervious surfaces on the property have been minimized;
 - (2) water quality impacts associated with runoff from the impervious surface have been minimized or best management practices have been implemented;

- (3) on-site mitigation or fees-in-lieu are used to offset potential adverse impacts; and
- (4) the total impervious surface permitted does not exceed the 5,445 square feet.

d. The allowances described in a, b and c above are summarized in the following table:

Lot/Parcel Size in square feet	Impervious Surface Limit
0 - 8,000	25% of parcel + 500 sf
8,001 - 21,780	31.25% of parcel
21,781 - 36,300	5,445 sf.
36,301 - 43,560	15% of parcel

- 9. Proposed development shall be done so as to protect the hydrologic regime and water quality of identified non-tidal wetlands by providing that development activities and other land disturbances in the drainage area of the wetlands will minimize alterations to the surface or subsurface flow of water into and from the wetland and not cause impairment of water quality or the plant and wildlife and habitat value of the wetland.
- 10. Development and redevelopment projects shall install vegetative shore erosion control measures (where feasible and appropriate) on portions of the site proposed for development and near such portions if the shore erosion threatens the proposed development portion. Where control of shore erosion cannot be accomplished by vegetative measures and structural measures are required, proposed development must either:
 - a. Construct appropriate structural measures to control shoreline erosion on portions of the site proposed for development and near such portions if the shore erosion threatens the proposed development portion; or
 - b. Set back the development behind the Buffer based on the annual shore erosion rate. To determine the setback, published data on annual erosion rates for the site must be used. (If two or more published rates are available, the highest rate must be used). If published data are not available, either the annual rate is assumed to be two (2) feet per year or the developer shall do a technical study to determine the annual erosion rate. The setback shall be the annual erosion rate times twenty-five (25) years.

Section 11. Development Standards in Resource Conservation Areas (RCAs)

1. Development and redevelopment in Resource Conservation Areas (RCA's) shall be subject to the same development standards applicable to the Limited Development Areas (LDA's).
2. The following shall apply to commercial, institutional and industrial facilities in the Resource Conservation Area:
 - a. Existing industrial, institutional and commercial facilities, including those directly supporting agriculture, forestry, aquaculture, or residential development (not exceeding the density specified in Section 3 of this Part, shall be allowed to continue in RCAs.
 - b. Additional land in the RCA may not be zoned for industrial, institutional or commercial development.
 - c. New commercial, industrial or institutional uses in existing structures may be allowed where the underlying zoning classification permits, provided:
 - (1) the existing structure or structures housed a commercial, industrial or institutional use and such commercial, industrial or institutional use has not been abandoned for more than one (1) year; and
 - (2) the proposed new use does not constitute an intensification or expansion of the pre-existing commercial, industrial or institutional use.
 - d. Intensification or expansion of existing industrial, commercial, and institutional facilities and uses may be permitted in the RCA by the Planning Commission. A variance, in accordance with Article V, et seq., must be granted if such expansion or intensification involves a use which the Planning Commission determines does not conform with the provisions of the Elkton Critical Area Program and this Ordinance.
 - e. Certain nonresidential uses may be permitted in Resource Conservation Areas if it is first determined by the Department that the proposed use is one of the following:
 - (1) The proposed use is a home occupation.
 - (2) The proposed use is a resource utilization use and/or activity including agriculture, forestry, and aquaculture provided such use or uses comply with the applicable provisions of the Elkton Critical Area Program, this Ordinance, and other applicable regulations.
 - (3) The proposed use is a golf course, but not including main buildings and/or structures, e.g., club house, pro-shop, etc.
 - (4) The proposed use is a cemetery that is an accessory use to an existing church.

- (5) The proposed use is a bed and breakfast facility located in an existing residential structure, but not a hotel or motel.
- (6) The proposed use is a gun club and skeet-shooting range or similar use but not including main buildings and/or structures, e.g., club house, pro-shop, etc.
- (7) The proposed use is an accessory or supportive use clearly incidental to an existing industrial and commercial facility, including those that directly support agriculture, forestry, aquaculture, or residential development and is located wholly within an existing structure or structures. Any expansion of existing structures may only be approved with growth allocation.
- (8) The proposed use will be completely housed in an existing building or buildings expressly designed for the proposed use and use of the building or buildings has not been abandoned for more than one (1) year.
- (9) The proposed use is a water-dependent research facility or activity operated by State, federal or local agencies, educational institutions, or non-profit organizations provided non-water dependent facilities or structures are, to the extent possible, located outside of the Buffer.
- (10) The proposed use is a commercial water-dependent fisheries facility including but not limited to, structures for crab shedding, fish off-loading docks, shellfish culture operations, and shore-based facilities necessary for aquaculture operations and fisheries activities. These uses may be permitted in the Buffer.
- (11) The proposed use is a public beach or other public water-oriented recreation or education use or activity including, but not limited to publicly owned boat launching and docking facilities and fishing piers. These uses may be permitted in the Buffer.
- (12) The proposed use is a community marina or other non-commercial boat docking and storage facility.
- (13) The proposed use is an essential service as defined in Article II of this Ordinance.
- (14) The proposed use is a public utility structure or service other than essential services as defined in Article II of this Ordinance.
- (15) The proposed use is an emergency service as defined in Article II of this Ordinance.
- (16) The proposed use must be allowed, by-right, under State law in a zoning district that permits detached single family dwellings, i.e., homes emphasizing special services, treatment and care such as group homes of less than nine (9) people and family day care.

- f.** Local government projects may be permitted in Resource Conservation Areas without obtaining growth allocation if the Town Commissioners certify that the proposed project is consistent with the Elkton Critical Area Program and is a project of "local significance". A project of local significance is defined as a public project of minor scale which causes environmental or economic consequences that are largely confined to the immediate area of the parcel of land on which the development is located, does not substantially affect the Elkton Critical Area Program, and is not considered a major development by the Critical Area Commission.
- g.** Except as may be provided in e. and f. above, any additional structures, facilities, or uses not directly related to and a part of an existing industrial, commercial, or institutional use in terms of location, nature, and legal incorporation shall be considered a new use and must be located outside of the RCA.

Section 12. Woodland Reforestation and Afforestation Standards

Where reforestation or afforestation is required, the following minimum standards within the Critical Area District shall be used.

- 1.** The replacement or establishment of forests or developed woodlands shall assure a diversified plant community, but may include other types of tree plantings where necessary to correct an existing soil stabilization problem. Diverse forest plantings shall include:

 - a.** A canopy layer, an understory layer, and a shrub layer; and
 - b.** For each acre of land where woodlands must be replaced or established, plantings shall consist of trees and/or wildlife shrub species spaced approximately at eight (8) foot intervals in rows eight (8) feet apart, or other suitable spacing on a site-by-site basis, that result in a minimum of three hundred (300) stems per acre after the first growing season.
- 2.** A planting plan shall be submitted by the developer to the Zoning Official for approval, and must demonstrate compliance with the minimum standards for reforestation and afforestation specified above. It is required that the planting plan shall be prepared by a licensed forester, landscape architect, or an experienced landscape designer.
- 3.** The planting plan must be prepared in coordination with the approved site plan or preliminary and final subdivision plat and shall show:

 - a.** The site plan, building outlines (remaining and proposed), walls, fences, parking spaces, loading spaces, driveways, walks, storage areas, public rights-of-way, easements and the general location of structures and uses of abutting properties;
 - b.** Existing and proposed grades;
 - c.** Existing vegetative cover to be retained, and the location, general size and type of such vegetation;
 - d.** The method for protecting plant materials during and after construction;

- e. A plant schedule and plan, listing plants to be used (giving their botanical and common names), size at time of planting, and quantity of each;
 - f. An indication of whether plants are balled and burlapped, container grown or bare root; and
 - g. An indication of the spacing and location of all proposed trees, shrubs and ground covers.
4. Plant Materials and Planting Schedule:
- a. Although plant types should be chosen from the recommended plant list available from the Zoning Official or Maryland Forest, Service, plant types that vary from this list may be substituted. Plants for afforestation or reforestation shall be for suitability in regard to their eventual size and spread, susceptibility to diseases and pests, and adaptability to existing soil and climate conditions.
 - b. All planting should be done in the months of March and April of each year. For the first two (2) years, steps should be taken to control competing vegetation.
5. The planting plan shall be accompanied by an estimate of the installation cost for all afforestation and reforestation. Upon approval of the plan and cost estimate, the developer or owner shall enter into a landscape agreement with the Town to provide plantings as required. The landscape agreement shall be in form and substance as approved by the Zoning Official and shall be accompanied by a performance bond or other approved surety executed by the owner or developer in the amount of one hundred (100) percent of proposed plant materials, labor and maintenance costs.
- a. If all afforestation or reforestation is not completed within two (2) years after the first spring planting date following recordation, or if the requirements set forth in the approved planting plan are not met, the surety shall be forfeited (or if a bond or surety has not been posted, payment in full to the Town shall be ordered). The funds so received shall be used by the Town to defray the cost of providing the approved Buffer afforestation or reforestation for the site.
 - b. If the foregoing costs exceed the amount of the deposit bond or other approved surety, the excess shall be paid by the developer.
 - c. All bonds or other forms of surety shall be in a form acceptable to and approved by the Zoning Official.
 - d. All security posted will be held for a period of two (2) years after installation of the planting, to assure the proper maintenance and growth. Failure to maintain the planting or to replace the dead portions thereof shall result in a forfeiture of the surety posted to the extent necessary to replace the dead plant materials.
 - e. The Zoning Official or its designee may from time to time release those portions of the surety which may be appropriate.
 - f. Where existing vegetation is to be used to meet the requirements contained herein, the surety requirement may be modified appropriately. However, to the

extent that existing vegetation is or will be inadequate to meet the standards set herein, a planting plan meeting all of the requirements herein must be submitted.

- g.** All plantings shall be inspected by Town upon notification by the developer or owner, and shall be approved according to the following standards:
 - (1)** The planting shall adhere to the approved plan. Substitutions or revisions may be made with the approval of the Zoning Official.
 - (2)** All plants shall be protected from vehicular encroachment by wheelstops, curbs or other barriers unless distance provides adequate protection.
 - (3)** No planting shall result in vegetative growth exceeding thirty-six (36) inches in height, within thirty (30) feet of any street intersection or otherwise obstruct sightlines.

Section 13. Amendments in Critical Area District

- 1.** Amending the Critical Area Boundary, Land Use Management Classifications, and Exclusion.
 - a.** The Town Commissioners may from time to time, but not more than four times a year, amend the land use management classification of properties in the Critical Area District, exempt certain portions of the Critical Area District from all but the requirements of Sections 7 and 8 of this Part or exclude portions of Town's Critical Area from the Critical Area District.
 - b.** In addition, the Town Commissioners shall complete a comprehensive review and propose any necessary amendments, as required, to the land management classifications, or Critical Area Program at least every four (4) years. The Town Commissioner's Comprehensive Review Report to the Critical Area Commission shall be in accordance with Subtitle 18, Subsection 8-1809 1(c) and (d) of the Critical Area Law.
 - c.** All such amendments shall also be approved by the Maryland Chesapeake Bay Critical Area Commission (Critical Area Commission) as established in Subsection 8-1803 of the Critical Area Law, Subtitle 18. Standards for Critical Area Commission approval of proposed amendments are as set forth in the Critical Area Law, Subtitle 18, Subsection 8-1809 (J), as revised July 1, 1990. The Critical Area Commission process for approval of proposed amendments are as set forth in the Critical Area Law, Subtitle 18, Subsection 8-1809 (d), as revised July 1, 1990.
- 2.** Applications for land use management classification or Critical Area Program amendment or area exclusion shall be processed as any other proposed amendment to this Ordinance and are subject to the Chesapeake Bay Critical Area Commission approval.
- 3.** Requirements for Amendments:
 - a.** Land Use Management Classification - When considering a proposed change of land use management classification, i.e., Intensely Developed Area (IDA),

Limited Development Area (LDA), or Resource Conservation Area (RCA), the Town Commissioners shall not approve amendments unless it is found that there was a mistake in the original classification, or the site will be granted the Growth Allocation (GA) Floating Zone district classification.

b. Adding land to the Critical Area District

(1) The Town Commissioners may amend the Critical Area Boundary to add land to the Critical Area District, including land areas for which property owners have requested such an amendment provided that:

(a) It is documented that the benefits from the additional resource protection afforded the area exceeds the negative impact of any additional development allowed and that provisions are proposed to ensure the continuance of these benefits.

(b) The proposal is supported by competent and material evidence on its benefits for resource protection.

(c) The proposal clearly improves resource protection on primarily undeveloped land.

(d) The extended area is added as a Resource Conservation Area (RCA), and any proposed development meets all RCA requirements.

(e) Five (5) percent of the extended areas that are not nontidal wetlands or publicly-owned land can generate growth allocation for the Town.

(2) Any land or portion added to the Critical Area District under these provisions that has been combined with adjacent Critical Area lands for the purpose of increasing the number of dwelling units that may be placed on the adjacent Critical Area parcel may not be subsequently deleted from the Critical Area District.

Section 14. GA Growth Allocation Floating Zone

1. Designation of Floating Zone

a. The Growth Allocation (GA) District shall be floating zones.

b. The Growth Allocation (GA) District provides for changing the land management classification of Resource Conservation Areas (RCAs) and Limited Development Areas (LDAs) in the Critical Area District. The GA district shall only be permitted on sites or portions of sites that have been awarded reclassification through the Growth Allocation process. These are approved land management classification changes, adopted by the Town Commissioners, as an amendment to the Town of Elkton Critical Area Program and Official Maps.

2. The GA Growth Allocation Floating Zone shall be processed in accordance with the provision of Article XIX.
3. The following are the procedures for accounting for growth allocation acres:
 - a. Subdivision of any parcel of land that was recorded as of December 1, 1985, and classified as RCA or LDA, where all or part of the parcel is classified by the Town of Elkton as a Growth Allocation Floating Zone, shall result in the acreage of the entire parcel counting against the Town of Elkton's Allocation, unless the following conditions obtain:
 - (1) On Qualifying Parcels as described below, on which a change in classification is approved, a development envelope shall be specified, the acreage of which will be counted against the Town's Growth Allocation.
 - (2) The envelope shall include individually owned lots, any required Buffers, impervious surfaces, 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.
 - b. The remainder of the parcel will not count against the Town's Growth Allocation if it is contiguous and at least twenty (20) acres in size, retained its natural features or its use by resource utilization activities (agriculture, forestry, fisheries activities, or aquaculture) and is restricted from future subdivision and/or development through restrictive covenants, conservation easements, or other protective measures approved by the Critical Area Commission. A Forest Management Plan is required for any forested areas in the undeveloped portion of the parcel. Replanting shall be accomplished on lands abandoned from agriculture. Parcels of land that qualify for application of the above guidelines are the following:
 - (1) Those parcels designated as new IDA's which are located within an LDA or adjacent to an existing IDA, and where the development on the parcel is located at least three hundred (300) feet from the edge of tidal waters, tidal wetlands or tributary streams providing such designation:
 - (a) minimizes adverse impacts to agriculture, forest lands, fisheries or aquaculture;
 - (b) minimizes adverse impacts to Habitat Protection Areas; and
 - (c) optimize benefits to water quality.
 - (2) Those parcels designated as new LDA's which are located adjacent to existing LDA's or IDA's and where the development on the parcel is located at least 300 feet from the edge of tidal waters, tidal wetlands, or tributary streams providing such designation conforms to the requirements of (1) (b) and (c) above.

Section 15. Reserved

Part V Floodplain Overlay Zone

This Part incorporates the existing Elkton Floodplain Ordinance by reference with no changes.

Section 1. Reserved

Section 2. Reserved

Section 3. Reserved

Section 4. Reserved

Section 5. Reserved

Section 6. Reserved

Section 7. Reserved

Section 8. Reserved