

TOWN OF LEONARDTOWN
CHAPTER 155. ZONING

§ARTICLE I. General Provisions

§ 155-1. Intent.

A. Whereas, by acts of the General Assembly of Maryland as set forth in Article 66B of the Annotated Code of Maryland, it is provided that for the purpose of promoting health, safety, order, prosperity, the conservation of natural resources and the general welfare, the Commissioners of Leonardtown may, by ordinance, regulate the use of lands and of buildings and other structures; provide the location of those areas which may be used as places of residence or in which agriculture, forestry, trade, industry or other specific uses may be conducted, the height, bulk and size of buildings or other structures, the percentage of land area which may be occupied and the minimum size of yards, courts or other open spaces; provide for amendments and changes therein; require the Leonardtown Planning and Zoning Commission to perform certain duties with reference thereto; appoint and prescribe the powers and duties of the Leonardtown Zoning Board of Appeals; provide for the enforcement of this chapter and provide penalties for violations of this chapter.

B. This chapter is made in accordance with a Comprehensive Plan and in furtherance of a Master Plan of Leonardtown and shall apply to such parts of Leonardtown where Zoning District Detail Maps have been prepared and approved by the Planning and Zoning Commission and the Commissioners of Leonardtown.

C. Leonardtown wants to preserve its historic character. Therefore, all new buildings, except for detached, single-family residences and their accessory buildings, shall be of a traditional style. The determination whether proposed buildings meet this criteria shall be made by the Mayor and Council or their designated representatives on a case-by-case basis.

§ 155-2. Title; applicability.

This chapter shall be known as the "Zoning Ordinance for the Town of Leonardtown, Maryland" and shall apply to the incorporated area of the Town. The extent of applicability of this chapter shall be automatically changed in accordance with the provisions thereof or provisions of state law which may alter the applicability of this chapter.

§ 155-3. Purpose.

The purpose of zoning regulations is set forth in Article 66B of the Code of Public General Laws of Maryland, Maryland Planning and Zoning Enabling Act, of November 1971:

"Such regulations shall be made in accordance with the plan and designed to control congestion in the streets; to secure the public safety; to promote health and the general welfare; to provide adequate light and air; to promote the conservation of natural resources; to prevent environmental pollution; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, recreation, parks and other public requirements. Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its suitability for particular uses and with a view to conserving the value of buildings and encouraging the orderly development and the most appropriate use of land throughout the jurisdiction."

§ 155-4. Definitions.

For the purpose of this chapter, certain terms and words shall be hereby defined:

ACCESSORY APARTMENT

A second dwelling unit either within, or added to, a single-family detached dwelling, or in a separate accessory structure on the same lot as the principal dwelling, that functions as a complete,

independent living facility with provisions for independent cooking, living, sleeping and bathroom facilities. Accessory apartments may also be referred to as “in-law” apartments or “granny flats”.

ACCESSORY USE OR BUILDING

A secondary land use or building customarily incidental to and located on the same lot occupied by the primary use or building. Such accessory building shall not be used for housekeeping purposes. Accessory buildings include, but are not limited to, sheds, unenclosed decks, detached garages, and gazebos.

[Amended 5-20-2008 by Ord. No. 136]

ADULT DAY-CARE FACILITIES

Establishments engaged in providing nonresidential social assistance services to improve the quality of life for adults, the elderly, or persons diagnosed with mental or physical disabilities. These establishments provide for the welfare of individuals in such areas as day care on some periodic basis, or provide a setting for social activities, group support, or companionship. Such facilities may or may not provide meals.

ALLEY

A narrow public thoroughfare which provides only a secondary means of access to abutting properties and is not intended for general traffic circulation, generally less than 30 feet wide.

APARTMENT HOTEL

A building arranged for or containing apartments and individual guest rooms, with or without housekeeping facilities, and which furnishes services ordinarily provided by hotels, such as maid, bellboy, desk and laundry service, and may include a dining room with an internal entrance and primarily for use by tenants of the building, but shall not include public banquet halls, ballrooms or meeting rooms.

ART GALLERY

A public or private facility that is operated as a repository or a collection of works of individual art pieces not mass produced, consisting of one or more of the following: paintings, drawings, etchings or sculptures; may include the sale of the individual art pieces or the sale of related objects and services.

ARTIST STUDIO

A place where any of the commercial activities or a combination of commercial activities listed below occurs:

- i. Art gallery.
- ii. Custom or craft manufacturing, fabrication, and assembly.
- iii. Professional studio engaged in personal instruction for dance, martial arts, photography, music and similar activities.

BASEMENT

That portion of a building between the floor and ceiling which is wholly or partly below grade and having more than 1/2 of its height below grade.

BOARD

The Board of Zoning Appeals of the Town of Leonardtown.

BOARDINGHOUSE, ROOMING HOUSE or LODGING HOUSE

A building other than a hotel or apartment hotel where, for compensation and by prearrangement for definite periods, meals or lodging and meals are provided for three or more persons, but not exceeding 20 persons.

BREEZEWAY

A structure entirely open, except for roof and supporting columns, which connects a residence and accessory building on the same lot.

BUILDABLE WIDTH

The width of that part of a lot to be used for a building and not included within the open spaces herein required.

BUILDING

Any structure having a roof supported by columns or walls for the housing or enclosure of persons or property of any kind.

BUILDING, DETACHED

A building surrounded by open space on the same lot.

BUILDING, MAIN

Any building which is not an accessory building.

BUILD-TO-LINE

The line at which construction of a building facade is to occur on a lot, running parallel to the front property line without setback, and thus ensuring a uniform (or more or less even) building facade line on the street.

[Added 2-12-2006 by Ord. No. 123]

CHILD-CARE CENTERS

Any place, home or institution which receives nine or more children under the age of 14 years, and not of common parentage, for care apart from their natural parents, legal guardians or custodians, when received for regular periods of time for compensation, provided that this definition shall not include public or private schools organized, operated or approved under Maryland laws, custody of children fixed by a court of competent jurisdiction, children related by blood or marriage within the third degree to the custodial person, or to churches or other religious or public institutions caring for children within the institutional building while their parents or legal guardians are attending service, activities or meetings.

CLINIC

An office building or a group of offices for one or more physicians, surgeons or dentists engaged in treating the sick or injured, not including rooms for overnight patients.

CLUB, PRIVATE

Buildings and facilities owned or operated by a corporation, association, person or persons for a social, educational, or recreational purpose, but not primarily for profit which inures to any individual and not primarily to render a service which is customarily carried on as a business.

COMMERCIAL

When used in conjunction with a use shall mean the use is open to the general public and a fee is charged by the owner, lessee, or licensee for a service or a product.

COMMERCIAL SERVICES

Plumbers, electricians, bricklayers, etc.

COMMISSION

The Planning and Zoning Commission of the Town of Leonardtown.

COMMUNICATIONS TOWER

Any structure constructed for the primary purpose of supporting installed antennas, dishes or other devices used for uplink, downlink, relay, broadcast or receipt of radio, television or other communication signals.

A. **COMMERCIAL COMMUNICATIONS TOWER** — Any tower supporting commercial uses or any noncommercial tower at least 100 feet above ground level.

B. **PUBLIC SAFETY COMMUNICATIONS TOWER** — Any tower, of any height, designated by the Leonardtown Commissioners, Editor's Note: Pursuant to the 1989 Charter, the Commissioners of Leonardtown are now the Mayor and Council of the Town of Leonardtown. as a host site for county-owned and -operated emergency communications equipment, which may also include collocated commercial uses, and which may be a permitted use in any zoning district.

C. NONCOMMERCIAL COMMUNICATIONS TOWER — Such tower does not serve any commercial or public safety uses and does not exceed 100 feet in height above ground level, and which may be a permitted use in any zoning district.

COMPATIBILITY

Provision of exemplary site design, architectural design and high-quality materials that are compatible with, and do not negatively alter the character of, the existing neighborhood.

[Added 2-12-2006 by Ord. No. 123]

CONVALESCENT HOME

A building where regular nursing care is provided for more than one person not a member of the family which resides on the premises.

COURT

An unoccupied open space, other than a yard, on the same lot with a building, which is bounded on two or more sides by the walls of such building.

COVERAGE

The percentage of the lot covered by buildings and structures.

DISTRICT

Any section of the Town of Leonardtown within which the zoning regulations are uniform, as established by this chapter.

DOG KENNEL, COMMERCIAL

Any place where more than two adult dogs are kept for a boarding or other fee or any place where more than five adult dogs are kept for any purpose.

DWELLING

Any building or portion thereof designed or used for residential purposes, but not trailers or mobile homes.

A. **DWELLING, SINGLE-FAMILY** — A building designed for use or occupied exclusively by one family only, but not to include a mobile home or habitable travel trailer.

B. **DWELLING, TWO-FAMILY** — A building designed for or occupied exclusively by two families living independently of each other.

C. **DWELLING, MULTIPLE-FAMILY** — A building designed for or occupied exclusively by three or more families living independently of each other, including apartment buildings.

DWELLING UNIT

A room or group of rooms occupied or intended to be occupied as separate living quarters by a single family or other group of persons living together as a household or by a person living alone.

ELDERLY

Persons that are age 55 years and over.

ELEEMOSYNARY OR PHILANTHROPIC INSTITUTION

A private nonprofit organization which is not organized or operated for the purpose of carrying on a trade or business, no part of the net earnings of which inures to the benefit of any member of said organization or individual.

FAMILY

One or more persons occupying a dwelling unit and using common cooking facilities, provided that unless all members are related by blood or marriage, or legal adoption, no such family shall contain more than four (4) non-related persons. Family members related by blood or marriage shall be a father, mother, son, daughter, grandfather, grandmother, grandson and granddaughter.

FAMILY DAY-CARE HOME

A private residence where eight or fewer children receive care and supervision, provided primarily by the permanent resident of said home, for periods of less than 24 hours per day. Such homes are permitted in any zoning district where residential uses are allowed.

FLOOR AREA

A. For commercial business and industrial buildings or buildings containing mixed uses, the sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls or from the center lines of walls separating two buildings, but not including:

- (1) Attic space providing headroom of less than seven feet.
- (2) Basement space not used for retailing.
- (3) Uncovered steps or fire escapes.
- (4) Accessory water towers or cooling towers.
- (5) Accessory off-street parking spaces.
- (6) Accessory off-street loading berths.

B. For residential buildings, the sum of the gross horizontal areas of the several floors of a dwelling, exclusive of garages, basements and open porches, measured from the exterior faces of the exterior walls.

FRONTAGE

A. **STREET FRONTAGE** — All of the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street or, if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.

B. **LOT FRONTAGE** — The distance for which the front boundary line of the lot and the street line are coincident.

GARDEN APARTMENT

A multifamily dwelling with a maximum of three stories in height and with sufficient open space and parking surrounding.

GRADE

A. For buildings having:

- (1) A wall or walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street.
- (2) A wall or walls adjoining more than one street, the average elevation of the sidewalk at the centers of all walls adjoining the streets.
- (3) No walls adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building.

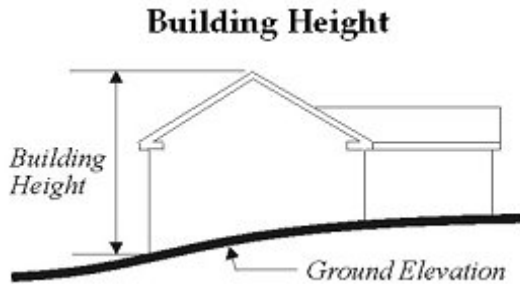
B. Any wall parallel to or within 10° of being parallel to and not more than 15 feet from a street line is to be considered as adjoining the street. Sidewalk grades shall be established by the Town Engineer.

GUESTHOUSE or TOURIST HOME

Living quarters within a detached accessory building located on the same premises with the main building for use by temporary guests of the occupants of the premises, such quarters having no kitchen facilities or separate utility meters and not rented or otherwise used as a separate dwelling.

HEIGHT OF BUILDING

The maximum height of a *building* permitted. Building height is determined from the vertical distance as measured from the lowest ground elevation on the building to the highest point on the *building*, excluding chimneys and antenna.



HOME OCCUPATION

An accessory use as a personal service or profession or use customarily conducted within a dwelling carried on by a member of the immediate family residing in the dwelling, which does not change the residential character of the neighborhood, provided that the use of the dwelling for the home occupation shall be clearly incidental and subordinate to its use for residential purpose by the occupants, and provided that the use occupies not more than 200 square feet of the floor area of such dwelling unit. Generation of substantial volumes of vehicular or pedestrian traffic or parking demand or other exterior indication of the home occupation is prohibited.

HOSPITAL

A building or group of buildings having room facilities for one or more abiding patients, used for providing services for the inpatient medical or surgical care of sick or injured humans, and which may include related facilities such as laboratories, outpatient department, training facilities, central service facilities and staff offices; provided, however, that such related facility must be incidental and subordinate to the main use and must be an integral part of the hospital operation.

HOTEL

A building in which lodging or boarding and lodging are provided for more than 20 persons, primarily transient, and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contradistinction to a boardinghouse, a lodging house or an apartment house, which are herein separately defined. A hotel may include restaurants, taverns or club rooms, public banquet hall, ballrooms and meeting rooms.

HOUSING FOR THE ELDERLY

A building or group of buildings containing dwellings where the occupancy of the dwellings is restricted to persons 55 years of age or older or where the primary occupant is 55 years of age or older. Covenants may be instituted by the builder, project manager, or resident associations, as applicable, to limit minimum age or marital status. This does not include a development that contains convalescent or nursing facilities.

INFILL

The development of vacant, abandoned, passed over or underutilized land within built-up areas of existing communities, where infrastructure is already in place.

[Added 2-12-2006 by Ord. No. 123]

JUNKYARD

A lot, land or structure or part thereof used primarily for the collecting, storage and sale of wastepaper, rags, scrap metal or discarded material or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition and for the sale of parts thereof.

LIVE-WORK UNITS

Building type with office or retail space configured on the first floor, and residential space above.

[Added 2-12-2006 by Ord. No. 123]

LOADING SPACE or LOADING BERTH

A space within the main building or on the same lot providing for the standing, loading or unloading of trucks having a minimum dimension of 12 by 45 feet and a vertical clearance of at least 14 feet. For a funeral home, such space may be reduced to 10 feet by 25 feet and vertical clearance to eight feet.

LOT

A parcel of land which may include one or more platted lots, occupied or intended for occupancy by a use permitted in this chapter, including one main building, together with its accessory buildings, the yard areas and parking spaces required by this chapter, and having its principal frontage upon a street or upon an officially approved place.

LOT AREA

The total horizontal area within the lot lines of the lot.

LOT, CORNER

A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135°.

LOT, DEPTH OF

The main horizontal distance between the front and rear lot lines.

LOT, INTERIOR

A lot, other than a corner lot, with only one street frontage.

LOT LINE

The boundary line of a lot.

LOT, REVERSED FRONTAGE

A lot in which the frontage is at right angles to the general pattern in the area involved. A reversed frontage lot may also be a corner lot or an interior lot.

LOT, THROUGH

A lot, other than a corner lot, with frontage on two streets.

LOT WIDTH

The distance between the side lot lines, measured at the required front yard line.

MIXED-USE

A contributing use, when combined with other uses, that satisfies the day-to-day needs and functions of a walkable neighborhood or community. A mixed-use building may be a live-work unit or separate-use structure situated in a predominantly residential area.

[Added 2-12-2006 by Ord. No. 123]

MOBILE HOME PARK

An area where one or more mobile homes or trailers can be and are intended to be parked, designed or intended to be used as temporary or permanent living facilities for one or more families.

MOBILE HOME or TRAILER

A vehicle used or so constructed as to permit being used as a conveyance upon the public street and highways and constructed in such a manner as will permit occupancy thereof for human habitation, dwelling or sleeping places for one or more persons, provided further that this definition shall refer to and include all portable contrivances used or intended to be used generally for living and sleeping quarters and which are capable of being moved by their own power, towed or transported by another vehicle.

MOTEL

Same as "hotel," except designed to accommodate any number of guests and that the building or buildings are designed primarily to serve tourists traveling by automobile and that ingress and egress to rooms need not be through a lobby or office. Included in this category are motor courts, tourist courts, auto courts, motor hotels and inns.

NONCONFORMING USE

Any building or land lawfully occupied by a use at the time of passage of this chapter or amendment thereto which does not conform with the use regulations of the district in which it is located.

NURSING HOME, REST HOME or CONVALESCENT HOME

A private home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders. Such home does not contain equipment for surgical care for the treatment of disease or injury.

OFFICE

A building or structure or portion thereof wherein services are performed involving predominantly administrative, professional, or clerical operations. An office may be used for professional people such as doctors, lawyers, accountants, etc., or general business offices such as insurance companies, trade associations, investment concerns, real estate companies, but not including any kind of retail or wholesale store or warehouse, except as otherwise provided herein.

PARKING SPACE, OFF-STREET

An all-weather surfaced area not in a street or alley and having an area of not less than 180 square feet, exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by an all-weather surface driveway which affords satisfactory ingress and egress for automobiles.

PLACE

An open, unoccupied space other than a street or alley permanently established or dedicated as the principal means of access to property abutting thereof.

PREMISES

A lot, together with all buildings and structures thereon.

PRIVATE EDUCATIONAL INSTITUTION

Every private school or educational or training institution, however designated, which offers a program of college, professional, preparatory, high school, junior high school, elementary, kindergarten or nursery school instruction or any combination thereof or any other program of trade, technical or artistic instruction and every day camp, day nursery, child-care home and child boarding home which provides supervision of children or infants, but such term does not include:

- A. Any private educational institution which is under the jurisdiction of the County Board of Education; or
- B. Any establishment having a single teacher, tutor or instructor or supervisor and having a maximum attendance of not more than four persons at any one time.

PROFESSIONAL STUDIO

A specific type of arts, recreation and entertainment service use. A place where works of art are created, displayed and/or sold, and/or where instruction of the arts, to students, occurs in the fields of painting, drawing, sculpture, etching, craft work, fine arts, photography, music, or similar fields; but not including health treatment.

REDEVELOPMENT

[Added 2-12-2006 by Ord. No. 123]

- A. Construction in previously developed areas which may include the demolition of existing structures and building new structures, or the substantial renovation of existing structures, often changing form and function. Projects tend to be somewhat larger and more complex than infill projects.

B. The reuse of previously used, nonagricultural land.

RELIGIOUS INSTITUTIONS

A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a recognized religious body organized to sustain public worship. Religious institutions include but are not limited to churches, parish halls, temples, convents, mosques and monasteries.

RETAINING WALL

A structure designed and constructed to resist the lateral pressure of soil when there is a desired change in ground elevation that exceeds the angle of repose of the soil.

SIGNS

For definitions of signs, see Article XVI of this chapter.

SMALL-SCALE COMMERCIAL SERVICES

Uses or shops that service the needs of the community, including personal service facilities and office uses, but not including retail sales. Such uses may include, but are not limited to the following consumer, professional or commercial service establishments: Barber or beauty shop, professional offices, dancing or music school, medical or dental office, photographic studio, and dressmaker/tailor shop. Such uses shall not adversely impact any adjacent residential uses within the PIRD District.

[Added 2-12-2006 by Ord. No. 123]

SPECIAL EXCEPTION

A grant of a specific use that would not be appropriate generally or without restriction. It shall be based on Board of Zoning Appeals findings that certain conditions exist in this chapter to grant special exceptions and that the proposed use conforms to the Master Plan and is compatible with the existing neighborhood.

STORY

That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it; or if there be no floor above it, then the space between such floor and the ceiling next above it.

STORY, HALF

A space under a sloping roof at the top of the building, the floor of which is not more than two feet below the plate, shall be counted as a half story when not more than 60% of said floor area is used for rooms, baths or toilets. A half story containing an independent apartment or living quarters shall be counted as a full story.

STREET

A public thoroughfare which affords the principal means of access to property abutting thereon.

STREET LINE

A dividing line between a lot, tract or parcel of land and a contiguous street.

STRUCTURAL ALTERATIONS

Any change in the supporting members of a building, including but not limited to bearing walls or partitions, columns, beams or girders or any substantial change in the roof or in the exterior walls.

STRUCTURE

Anything other than a fence or retaining wall constructed or erected which requires location on the ground or is attached to something having a location on the ground, including but not limited to advertising signs, billboards, posterboards and mobile homes.

TEARDOWN

Demolition and subsequent replacement of a structure.

[Added 2-12-2006 by Ord. No. 123]

TOWN COMMISSIONERS

The Town Commissioners of Leonardtown.

TOWNHOUSE

A single-family dwelling forming one of a series of three or more attached single-family dwellings separated from one another by party walls without doors, windows or other provisions for human passage or visibility through such walls from basement to roof and having roofs which may extend from one such dwelling unit to another.

TRAVEL TRAILER

A vehicular portable structure designed to be used as a temporary dwelling for travel, camping and recreational purposes. Such units shall not include mobile homes nor exceed 31 feet in length or 7 1/2 feet in width.

UNDERUTILIZED

To utilize less than fully, or below the potential level of use. Underutilized sites or structures may include vacant land, sites occupied by deteriorated or dilapidated structures, or sites which are occupied by structures or uses that, if improved, would enhance the Town tax base, or better serve the needs and improve the character or quality of the neighborhood in which they are located.

[Added 2-12-2006 by Ord. No. 123]

VARIANCE

A modification only of density, bulk, height or area requirements in the Zoning Ordinance where such modification will not be against the public interest and where, owing to conditions peculiar to the property itself, a literal enforcement of the Zoning Ordinance would result in undue hardship. The Board of Zoning Appeals shall decide upon a variance.

YARD

An open space, other than a court, on a lot unoccupied and obstructed from the ground upward, except as otherwise provided in this chapter.

YARD, FRONT

A yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the street line and the main building or any projection thereof other than the projections of uncovered steps, uncovered balconies, terraces or uncovered porches.

YARD, REAR

A yard extending across the rear of the lot between the side lot lines and measured between the rear lot line and the rear of the main building or any projection other than steps, unenclosed porches or entranceways.

YARD, SIDE

A yard between the main building and the side line of the lot and extending from the front yard to the rear yard and being the minimum horizontal distance between the side lot line and side of the main buildings or any projections thereof.

§ 155-5. General organization of regulations.

A. Permitted uses are listed or referenced in a separate article for each district, with the basic height, area and bulk regulations included. Parking regulations and off-street loading regulations applicable to each district are contained in charts or tables following the basic district regulations.

B. These charts or tables and all notations and requirements shown thereon or which accompany them shall be a part of the district regulations of this chapter and have the same force and effect as if all the notations and requirements were fully set forth or described herein.

C. Modifying regulations are contained in the articles for each district or in subsequent articles of this chapter. References in each district direct the reader to these additional regulations.

§ 155-6. Establishment of districts.

In order to regulate and restrict the location of trades, industries and the location of buildings erected or altered for specific uses, to regulate and limit the height or 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 within and surrounding such buildings, the Town shall hereby be divided into nine districts:

R-SF	Single-Family Residential District
R-MF	Multiple-Family Residential District
PUD-M	Mixed Use Planned Unit Development District
C-B	Commercial Business District
C-O	Commercial Office District
C-H	Highway Commercial District
C-M	Marine Commercial District
I/O	Institutional/Office District
R/P	Recreation and Parks District

§ 155-7. Zoning District Map.

Editor's Note: The Comprehensive Zoning Map of the Town was updated, revised and adopted 4-22-2010 by Ord. No. 146. Such land and the district classification thereof shall be as shown on the map designated as the "Zoning District Map of the Town of Leonardtown, Maryland," dated and signed by the Mayor and attested by the Town Clerk, upon adoption. This Zoning District Map and all notations, dimensions, references and symbols shown thereon pertaining to such districts shall be as much a part of this chapter as if fully described herein. The Zoning Map shall be filed as part of this chapter by the Town Clerk. Said map shall be available for public inspection in the office of the Town Clerk, and any later alterations of this map adopted by amendment as provided in this chapter shall be similarly dated, filed, promptly noted on the map and made available for public reference.

§ 155-8. Interpretation of boundaries.

A. A district name or letter or letter-number combination shown on the District Map shall indicate that the regulations pertaining to the district so designated extend throughout the whole area in the municipality and environs bounded by those district boundary lines, except as otherwise provided by this section.

B. Where uncertainty exists with respect to the boundaries of the various districts as shown on the accompanying map, the following rules shall apply:

(1) In cases where a boundary line is given a position within a street or alley, navigable or non-navigable stream, it shall be deemed to be in the center of the street, alley or stream, and if the actual location of such street, alley or stream varies slightly from the location as shown on the Zoning District Map, then the actual location shall control.

(2) In cases where a boundary line is shown as being located a specific distance from a street line or other physical feature, this distance shall control.

(3) Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the map accompanying and made a part of this chapter are

bounded approximately by lot lines, said lot lines shall be construed to be the boundaries of such districts unless said boundaries are otherwise indicated on the map or by ordinance.

(4) In unsubdivided property, unless otherwise indicated, the district boundary line on the map accompanying and made a part of this chapter shall be determined by the use of the scale contained on such map.

§ 155-9. General restrictions.

A. No land may be used except for a purpose permitted in the district in which it is located. Any use not permitted outright or as a conditional use or by special exception shall be prohibited.

B. No building shall be erected, enlarged or structurally altered to the extent of increasing the floor area by 50% or more, except in conformity with the off-street parking and loading regulations of the district in which the building is located.

C. The minimum yards, parking space and open space, including lot area per dwelling unit, required by this chapter for each and every building existing at the time of the passage of this chapter or for any building hereafter erected shall not be encroached upon or considered as required yard or open space for any other building. No lot area shall be reduced below the requirements of this chapter.

D. Every building hereafter erected or structurally altered shall be located on a lot as defined and, except as provided, in no case shall there be more than one main building on one lot.

E. No accessory buildings shall be constructed upon a lot until the construction of the main building has been actually commenced. No accessory building shall be used unless the main building on the lot is also being used. No cellar or basement shall be used as a dwelling prior to substantial completion of the dwelling of which it is a part.

F. New or reconstructed roads shall incorporate bicycle lanes and sidewalks.

ARTICLE II. R-SF Single-Family Residential District

§ 155-10. General provisions.

The regulations set forth in this article or elsewhere in this chapter are the regulations in the R-SF Single-Family Residential District. The purpose of this district is to provide for single-family residential development of spacious character, together with such public buildings, schools, churches, public recreational facilities and accessory uses as may be necessary or are normally compatible with residential surroundings. This district is located to protect existing development of high character and contains vacant land considered appropriate for such development in the future.

§ 155-11. Permitted uses.

No building or premises shall be erected, structurally altered, enlarged or maintained nor shall any land be used, except for the following purposes:

A. Single-family dwellings, detached.

B. Home occupations.

C. Temporary buildings, the uses of which are incidental to construction operations or sales of lots during development being conducted on the same or an adjoining tract or subdivision and which shall be removed upon completion or abandonment of such construction or upon the expiration of a period of two years from the time of erection of such temporary buildings, whichever is the sooner.

D. Accessory buildings and uses, provided that such accessory buildings are not used for housekeeping purposes.

E. Religious institutions, including churches, parish halls, temples, convents and monasteries.

§ 155-12. Special exception uses.

The following uses of land and buildings within the R-SF District shall be allowed only by special exception to this chapter, granted only by the Board of Zoning Appeals. Standards and procedures for special exceptions are contained in Article XVII.

A. Cemetery, including a crematorium if located at least 200 feet from the boundaries of the cemetery.

(1) The minimum area of the cemetery shall be 10 acres, unless associated with a church or limited to use by a family.

(2) Arrangements shall be made satisfactory to the Town Attorney for perpetual maintenance of the cemetery.

B. Private recreational areas, with the following provisions:

(1) All such areas shall be located on a lot with a minimum area of three acres.

(2) Facilities shall be limited to those for games and outdoor uses. Indoor facilities shall include only meeting rooms and locker rooms. Games and building locations shall not be located within 25 feet of the side lot lines and 25 feet of the rear lot lines.

(3) Appropriate fencing and screen planting of all outdoor activity areas shall be required. If parking areas are outside this fencing, then appropriate screening of at least 3 1/2 feet in height shall be constructed around parking areas to protect adjoining property from headlights. The Town Commissioners may require the applicant to file with the Town Clerk a performance bond during the period of construction, reconstruction or alteration, such bond to be in an amount determined by the Town Commissioners to be sufficient to insure completion of landscaping and parking plans as submitted.

(4) Any pumps and filters which are located above ground shall be at least 50 feet from abutting properties.

(5) All lights shall be shielded to reflect or direct light away from adjoining property.

(6) The required off-street parking space shall be computed on the basis of one space for each 5,000 square feet of park area. When pool facilities are included as part of the private recreational facilities, one additional parking space shall be provided for each 100 square feet of pool area. The parking layout and surfacing shall be approved by the Town.

C. Private educational institutions.

D. Public utility installations, including substations and transmission lines, for sewer, water, gas and telephone lines.

E. Hospitals and sanatoriums, but not animal hospitals or clinics.

F. Bed-and-breakfast inns, with the following provisions:

(1) Meals shall be limited to transient guests only. The use of the premises is limited to transient guests and the owner/manager. The kitchen shall not be remodeled into a commercial kitchen unless required by the Health Department.

(2) No long-term rental of rooms shall be permitted. The maximum stay for guests shall not exceed 14 days.

(3) The structure shall serve as the primary residence of the owner or manager, and the bed-and-breakfast use shall be operated as an accessory use to the owner's or manager's residence.

(4) The internal living area and private open area for the owner's and manager's residential use shall be consistent with the underlying zone requirements. A minimum of 40 square feet of common area per guestroom shall be provided. Common areas are dining rooms, reading rooms, living rooms and the like, available to all guests.

(5) Bed-and-breakfast inns shall be required to comply with the St. Mary's County Health Department's requirements.

(6) Clearance must be received by the Planning Commission from the Fire Department prior to issuance of an occupancy permit.

(7) A county business license must be obtained prior to operation.

(8) Two parking spaces, plus one additional space per room to be rented, must be provided. The Town's intent is to maintain existing yards and landscaping. If the applicant is unable to provide on-site parking without destroying existing yards and landscaping, it should provide the Planning Commission with an alternative plan for parking within 300 feet of the structure.

(9) No cooking facilities shall be allowed in the guestrooms.

(10) One sign with a maximum size of six square feet may be displayed at a maximum height of 5 1/2 feet. Its size, color, text, illumination and location shall be covered by the project permit. The words "hotel" or "motel" shall not be allowed.

(11) No retail sales, receptions, private parties, etc., shall be permitted.

(12) The permit to allow the bed-and-breakfast use shall be issued for a period not to exceed two years. Any permit issued is nontransferable. The permit is subject to review at any time and may be revoked after a hearing by the Planning Commission and finding by the Planning Commission that the use has become detrimental to the surrounding neighborhood. No additional fees shall be charged for renewal of permits.

(13) The number of rooms permitted in the bed-and-breakfast inn shall be specified in the conditional use permit.

(14) The structure in which the bed-and-breakfast inn is located shall be at least 50 years of age.

(15) Any changes to the structure of the building, both exterior and interior, required to meet any of the other requirements of this chapter must be reviewed by the Planning Commission prior to the issuance of a conditional use permit.

(16) Any other conditions deemed essential and desirable by the Planning Commission may be imposed on such a use.

G. Accessory Apartments Accessory apartments on lots occupied by a single family residential use subject to the following standards and requirements:

- (1) The principle or accessory unit must be owner occupied for a period not less than seven months in every calendar year.
- (2) The accessory apartment shall be clearly subordinate to the single family dwelling.
- (1) The accessory unit must occupy no more than 35% of the floor area of the principal residential structure and shall have a minimum floor area of 350 square feet and a maximum floor area of 900 square feet.
- (2) At least two off-street parking spaces shall be available for each unit and parking must be screened or placed appropriately to ensure compatibility with the surrounding neighborhood and to reduce visual impact.

- (5) The accessory apartment shall be constructed so that to the degree reasonably feasible, the appearance of the building remains that of the single-family residence. Any separate entrance shall be located so the appearance of a single family home is preserved.
- (6) If the apartment is not a part of the dwelling, it shall be located within 50 feet of the dwelling, shall satisfy the yard requirements or setbacks applicable to residential uses in the R-SF district, and in no case shall it contain less than 350 square feet or more than 900 square feet in gross floor area of enclosed space, including enclosed porches.
- (7) Both units shall have adequate water and sewer facilities.
- (8) No more than one accessory apartment may be permitted on one lot.
- (9) No accessory apartment may be used for commercial accommodations or summer rentals.

§ 155-13. Height, bulk and area requirements.

All standards are summarized in Chart A, Height, Area and Bulk Requirements. Editor's Note: Chart A (155:A1) is included at the end of this chapter. All uses, structures and buildings listed as permitted or approved as special exception in this district shall be located on a lot having a net area of at least 10,000 square feet, with a minimum lot width of 70 feet and a minimum lot depth of 100 feet. The front yard shall have a minimum depth of 25 feet, a minimum width of each of two side yards of eight feet, and a minimum depth of rear yard of 25 feet.

§ 155-14. Home occupations.

Home occupations in residential districts, within the context of the definition of "home occupations" provided in this chapter, are permitted, subject to the following:

- A. No persons other than members of the family residing on the premises shall engage in such occupation.
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and clearly subordinate to its use as a residence, and not more than 200 square feet of the floor area of the dwelling unit shall be used to conduct such occupation.
- C. There shall be no change in the outside appearance of the building or premises other than one sign limited to two square feet in area.
- D. No home occupation shall be conducted in any accessory building.
- E. There shall be no sales, other than products produced by the approved home occupation, on the premises in connection with the occupation.
- F. No equipment or process shall be used which creates noise, vibration, glare, fumes, odors or electrical interference detectable outside of the dwelling unit. The Board of Appeals may approve a home occupation in any district as a special exception use which does not meet the standards stated above.

§ 155-15. (Reserved)

ARTICLE III. R-MF Multiple-Family Residential District

§ 155-16. Permitted uses.

No building or premises shall be erected, structurally altered, enlarged or maintained nor shall any land be used, except for the following purposes:

- A. Single-family dwellings, detached.
- B. Two-family dwellings.

- C. Townhouses.
- D. Home occupations, where such is an accessory use of the building.
- E. Religious institutions.
- F. Private clubs and lodges, except those the chief activity of which is a service customarily carried on as a business.
- G. Eleemosynary and philanthropic institutions.
- H. Temporary buildings.
- I. Accessory buildings and uses.

§ 155-17. Special exception uses.

The following uses of land and buildings within the R-MF District shall be allowed only by special exception to this chapter, granted only by the Board of Zoning Appeals. Standards and procedures for special exceptions are contained in Article XVII.

- A. Hospitals and sanatoriums; in addition, nursing or convalescent homes, which may be constructed to a maximum height of three stories or 45 feet. Animal hospitals or clinics shall not be permitted.
- B. Garden apartments, at a maximum density of 10 dwelling units per acre.
- C. Housing for the elderly, at a maximum density of 12 units per acre and a maximum height of three stories.
- D. Public utility installations for sewer, water, gas and telephone mains, including substations and transmission lines.
- E. Density bonuses.
 - (1) Density bonuses shall be initiated, whereby the owner of land(s) and/or building(s) to be put into multiple-family use would be allowed to increase the maximum density of 10 multiple-family dwellings per acre, up to 12 dwelling units per acre, if the owner will meet the following requirements:
 - (a) Provide additional recreation area or open space for use by all Town residents.
 - (b) Provide common buildings for use by all Town residents.
 - (2) The amount of extra public space and number of extra public facilities provided shall determine the number of extra dwelling units per acre to be allowed.
- F. Private garage for three or more noncommercial vehicles.
- G. Boardinghouse.

§ 155-18. Height, bulk and area requirements.

All standards are summarized in Chart A, Height, Bulk and Area Requirements. Editor's Note: Chart A (155:A1) is included at the end of this chapter. All uses, structures and buildings permitted or approved as special exception in this district shall be located on a lot having an acre, with a maximum of 10 townhouse units per acre. All lots shall have a minimum depth of 100 feet, with a rear yard depth of at least 30 feet (or 35 feet for nonresidential buildings) and a front yard depth of at least 15 feet. All side yards shall be at least 10 feet wide each. No building shall be higher than three stories unless otherwise provided. Accessory buildings

shall be no less than three feet from the side property line and five feet from the rear property line. In all multiple-family areas, such as townhouses, apartment complexes and garden apartments, allowed as special exception, open space shall be provided at a minimum of 60% of the total area of such development. Housing for the elderly, as a Special Exception Use, shall have a maximum height of three stories and a setback of one foot for each foot of building height above 15 feet.

§ 155-19. (Reserved)

ARTICLE IV. Mixed Use Planned Unit Development (PUD-M)

§ 155-20. Purpose.

A. Ingenuity, imagination and design efforts on the part of builders, architects, site planners and developers can produce developments which are in keeping with the traditional neighborhood development character of the Town and the overall land use intensity and open space objectives of this chapter while departing from the strict application of use, setback, height and minimum lot size requirements of the residential zones. The PUD-M District is designed to provide flexibility in development by providing for a mix of residential uses with or without appropriate nonresidential uses, alternative forms of housing and flexibility in the internal relationships of design elements. The purpose of the PUD-M Planned Unit Development Mixed-Uses District is to encourage planned additions to the Town that incorporate design features reflective of the "traditional neighborhood development" characteristics of small, older neighborhoods in the Town. The focus of the development design in this district is shifted from the automobile to the pedestrian. Emphasis is placed on the layout of the streets, the building of a variety of housing types with smaller front yards, the appearance of clearly defined streetscapes and orientation to the existing village center. In design terms, traditional communities are characterized by mixed land uses; grid street patterns; emphasis on pedestrian circulation; intensively used open spaces; architectural character; and a sense of community.

B. The intent of this article is to permit such flexibility for planned unit developments which:

- (1) Permit a creative approach to the development of land and recognize the community character and heritage of Leonardtown through the layout of streets and alleys in a grid or modified grid form.
- (2) Insure that tracts and lots which may be subdivided will preserve the character of the Town by the continuation of elements such as through streets and alleys, sidewalks and shade trees.
- (3) Provide for an efficient use of land, resulting in smaller networks of utilities and streets and thereby lower housing and maintenance costs.
- (4) Enhance the appearance of neighborhoods through preservation of natural features, the provision of underground utilities and the provision of recreation areas and open space in excess of existing zoning, subdivision and Master Plan requirements.
- (5) Provide an opportunity for new approaches to home ownership.
- (6) Provide an environment of stable character compatible with surrounding residential areas.
- (7) Encourage the use of traditional neighborhood development design principles, including those identified in the publication "Development Design Manual, Town of Leonardtown, Maryland" (December 1999).

§ 155-21. Development principles.

A. Minimum Parcel Size, Density and uses.

- (1) Residential density in the PUD-M District shall not exceed five dwelling units per acre. The total number of residential units shall be determined by multiplying the overall acreage of the development

proposed for residential use by five. For purposes of calculating density, lands located in the one-hundred-year floodplain or occupied by tidal or nontidal wetlands shall not be included. Density for those portions of sites with constrained or steep slopes shall be adjusted in accordance with Section 155-59A.

(2) Land in any PUD-M development may be designated for commercial/retail use. Retail stores in excess of 10,000 square feet are special exception and shall be evaluated as described in Article V.

(3) Land in any PUD-M development may be designated for light industrial or office use.

(4) Any land designated for commercial/retail use or light industrial or office use shall be subtracted from the gross acreage of the site and shall not be included in calculating permitted residential density.

(5) The minimum parcel size that may be designated PUD-M is 5 acres

B. Minimum yard, lot size, type of dwelling unit, height and frontage requirements for each use in the PUD shall be waived, provided that the spirit and intent of this chapter are upheld in the total development for the PUD. The Mayor and Council may, at their discretion, require that adherence to minimum zone requirements be accomplished within all or a portion of the perimeter of the site and shall exercise ultimate discretion as to whether the total development plan does comply with the spirit and intent of this chapter and any design guidelines identified in the Town Development Design Manual that they may consider appropriate to the particular development.

C. In all cases, open space shall be provided in minimum amounts of at least 30% of the total area of each PUD. Such open space will be for dedication to the Town or for common ownership by the residents of that planned unit development.

(1) Common open space shall be provided in the form of internal open space and peripheral open space. Internal open spaces should contain a minimum area of 5,000 square feet and should be of a distinct geometric shape, generally rectilinear or square, bounded by streets with curbside parking on a minimum of 50% of its perimeter.

(2) Internal open spaces should be designed as village commons, town square, or urban parks and should be designed as active gathering places for residents and should include places for strolling, sitting, social interaction and informal recreation.

(3) Internal open spaces should be landscaped such that a minimum of 80% of the area is covered with trees, shrubs, lawn and ground cover. Landscaping should utilize elements such as formal gardens, walkways, monuments, gazebos, fountains, park benches, and pedestrian-scale lampposts.

D. Home occupations are permitted. See § 155-14.

§ 155-22. Open space criteria.

A. Open space proposed for either dedication to the Town or common ownership by the residents of that planned unit development shall be retained as open space for park, conservation or recreational use. All areas proposed for dedication to the Town must be acceptable as to size, shape, location and improvement and shown by the applicant to be of benefit to the general public.

B. All park and open space areas shall be fully improved by the applicant as required by the Mayor and Council, including all abutting street improvements.

C. In applications which include proposals for dedication of park and open space areas to the Town, the applicant shall dedicate the same in accordance with the Schedule of Development as approved as a part of the planned unit development applications.

D. Common recreation areas, facilities and open space shall be provided in locations easily accessible to the living units served and where they do not impair the privacy and view of individual dwellings.

E. When parcels are retained for common park, open space and recreation use in a common ownership by the residents of the planned unit development, plans for the improvement and maintenance of those areas shall be approved by the Town.

F. Each proposal for such use, including park areas, private accessways, private parks and recreational facilities and common service facilities, shall be accompanied by appropriate legal documents which assure adequate management and maintenance of common facilities.

(1) Legal instruments providing for dedications, covenants, homeowners' associations and subdivision controls shall:

(a) Place title of common property in a form of common ownership by the residents of the planned unit development, e.g., a duly constituted and legally responsible home association, cooperative, etc.

(b) Appropriately limit the use of common property.

(c) Place responsibility for management and maintenance of common property. The Mayor and Council, at their discretion, may require the applicant to enter into a contract with the Town for maintenance of commonly held properties.

(d) Place responsibility for enforcement of covenants.

(e) Permit the subjection of each lot to assessments for its proportionate share of maintenance costs.

(2) Title of all land dedicated to public use shall be unencumbered at the time of conveyance.

§ 155-23. General criteria.

Development design within this district should place emphasis on the layout of the streets, the building of a variety of housing types with smaller front yards, the appearance of clearly defined streetscapes and orientation to the existing village center. In design terms, traditional communities are characterized by mixed land uses; grid street patterns; emphasis on pedestrian circulation; intensively used open spaces; architectural character; and a sense of community. This zone is to provide for a mixture of residential types 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.

A. Design objectives are as follows:

(1) Dwellings, shops and workplaces generally located in close proximity to each other; the scale of which accommodates and promotes pedestrian travel for trips within the Town.

(2) Modestly sized buildings fronting on, and aligned with, streets in a disciplined manner, uninterrupted by parking lots.

(3) A generally rectilinear pattern of streets, alleys and blocks reflecting the street network of the existing Town which provides for a balanced mix of pedestrians and automobiles.

(4) Squares, greens, landscaped streets and parks woven into the street and block patterns to provide space for social activity, parks and visual enjoyment.

(5) Promotion of civic buildings for assembly or other civic purposes.

(6) A recognizable, functionally diverse, visually unified town center, focused on a village green or square.

(7) A development size and scale which accommodates and promotes pedestrian travel rather than vehicle trips within the Town.

B. Multifamily units, including duplexes, townhouses, and apartments, shall represent no more than 20% of the total number of residential units permitted in a mixed use planned development. The density of development for those portions of the site proposed for multifamily use shall not exceed 10 units per acre. In an area where townhouses are proposed, unless such is waived by the Planning and Zoning Commission, there shall be no more than five townhouse units in any contiguous group, and a variety of building setbacks, color, building materials and facades shall be provided for each contiguous group. Development plans shall avoid undue concentration of multiple-family units.

C. Each planned unit development shall provide for visual and acoustical privacy of each dwelling unit. Fences, walks and landscaping shall be provided for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views or uses and the reduction of noise.

D. Parking shall be provided convenient to all dwelling units (maximum walking distance of 150 feet) and, for all uses, meeting the minimum requirements of Article XI. Driveways, parking areas, walks and steps shall be well paved, maintained and lighted for night use. Screening of parking and service areas shall be encouraged through ample use of trees, shrubs, hedges and screening walls.

E. Access and circulation shall adequately provide for fire-fighting equipment, furniture moving vans, fuel trucks, refuse collection, deliveries and snow removal.

F. All planned unit developments shall provide for underground installation of utilities, including telephone and power in both public and private rights-of-way. Provision shall be made for acceptable design and construction of storm sewer facilities, including grading gutters, piping and treatment of turns to handle stormwaters, prevent erosion and formation of dust.

G. A variety of open space and recreational areas is encouraged, including children's informal play in close proximity to individual dwelling units according to the concentration of dwellings, formal parks, picnic areas, playgrounds, areas of formal recreation activity (such as tennis courts), scenic open areas and communal recreational facilities (such as swimming pools).

H. Sidewalks shall be provided along both sides of all streets unless the Planning and Zoning Commission determines, in certain locations, that circumstances do not warrant sidewalk sections. The pedestrian circulation system and its related walkways shall be insulated as completely as possible from the street system in order to provide separation of pedestrian and vehicular movements. This shall include, when deemed to be necessary by the Planning and Zoning Commission, pedestrian underpasses or overpasses in the vicinity of schools, playgrounds, local shopping areas and other neighborhood uses which generate a considerable amount of pedestrian traffic.

I. Street lights shall be provided and shall not exceed 18 feet in height and be placed at no more than seventy-five-foot intervals on both sides of the street.

J. Fences, four feet in height or less, are permitted in front yards. Frontage fences should be designed to take into account the amenity of the street, surveillance and safety, the security of children and pets and property, and the use of front landscape space.

K. Residential units proposed on all single-family lots shall be located at the "build-to" line, which shall be established by the developer and which shall be located between 15 and 25 feet from the front lot line.

L. When proposed, a front porch shall be placed on the build-to line of the front yard of all lots proposed for single-family use. A front porch shall have a minimum depth of seven feet and a minimum width of 14 feet. In addition to providing for the continuance of the predominant architectural style of existing neighborhoods in Leonardtown, the front porch is intended to provide cover and shade as well as a change in the scale of a building in order to serve as a transition from the height of the dwelling to the front yard, sidewalk, and street.

M. A minimum of 80% of all buildings on a block shall conform to the build-to line, with the remaining 20% allowed to vary by being further set back or permitted to come forward no greater than 25% of the distance between the right-of-way and the build-to line for residential structures.

N. The Mayor and Council may modify the strict application of these standards where it is felt that such would further the objectives of the planned unit development, except it may not grant a variance in the total number of units permitted or the maximum percentage of multiple-family units.

O. Site planning for commercial uses: internal relationships. Commercial buildings shall be so grouped in relation to parking areas that after customers arriving by automobile enter the shopping center, establishments can be visited with a minimum of internal automotive movement. Facilities and access routes for deliveries, servicing and maintenance shall, so far as reasonably practicable, be separated from customer access routes and parking areas. Areas where deliveries to customers in automobiles are to be made or where services are to be provided for automobiles shall be so located and arranged as to prevent interference with pedestrian traffic within the center.

(1) Sites should be developed in a coordinated manner to complement adjacent structures through placement, architecture and size or mass. Where possible, commercial uses requiring floor areas in excess of 10,000 square feet should be designed to appear as several distinct, albeit attached, structures, each with a floor area no greater than 6,000 square feet to reduce the visual impact of a single larger building mass in keeping with the scale of existing structures in Leonardtown.

(2) Whenever possible, commercial buildings on the same site should be clustered and incorporate plazas, courtyards, pocket parks, and other pedestrian use areas.

(3) Sites occupied by commercial uses should be designed to avoid the appearance of domination by automobiles. Positive methods to achieve this guideline include:

(a) Orienting buildings to fronting streets and placing some of the parking at the rear and/or sides;

(b) Designing the required parking area into a series of smaller, discrete, connected lots rather than a large uninterrupted parking lot(s);

(c) Providing sidewalks and well-defined pedestrian walkways through parking areas and from public sidewalks into the site. Well-defined walkways utilize pavers, changes in color, texture, and composition of paving materials and vertical plantings such as trees and shrubs. The minimum width of walkways should be five feet.

(d) Parking areas should be designed to be partially screened from view from adjacent streets and building occupants.

[1] Screening can be accomplished through a number of methods, including:

[a] Orienting buildings away from parking areas;

[b] Placing buildings between streets and parking lots/areas;

[c] Using extensive landscape screening, berms, and architecturally treated walls.

[2] Methods utilized should be designed to accomplish the intended screening while allowing adequate safety and surveillance of the parking areas.

P. Building design for commercial uses.

(1) Buildings should reflect an individual design that has considered site location, conditions, intended use, and the character/building mass of surrounding development. Building designs should reflect an individual style and form and not merely current trends.

(2) A consistent visual identity should be applied to all sides of buildings visible to the general public. All sides should have an equivalent level of quality of materials, detailing and window placement. Abrupt ending of architectural details should be avoided with no radical change in details, features or materials.

(3) Large buildings should avoid long, blank, uninterrupted walls. Positive methods to achieve this objective include building wall offsets regarding modulation, changes in colors and materials, placement of windows and doors, use of porches, porticos or canopies, changes in floor level, and projections that provide building shadows that visually break up long, flat building facades.

(4) Large buildings should avoid long, blank, uninterrupted roof planes. Positive methods to achieve this objective include height variations to give the appearance of distinct elements or offsets in the roof line to provide architectural interest and variety to the massing of the building and to relieve the effect of a single, long roof.

(5) Large buildings should use modulation (defined as a measured setback or offset in a building face) to reduce overall bulk and mass. The planes of exterior walls should not run in one continuous direction more than 50 to 60 feet without an offset or setback. Offsets should be a minimum of three to five feet.

(6) Large buildings should use articulation in a clear rhythm to reduce their perceived size. Articulation is the giving of emphasis to architectural elements (like windows, entries, balconies, etc.) that create a complementary pattern of rhythm, dividing large buildings into smaller identifiable pieces. Articulation in the form of doors, windows and other framed building openings that articulate architectural elements break up the look of a long, blank wall.

(7) Buildings facing streets should incorporate pedestrian-scaled entrances. Pedestrian-scaled entrances are those that provide an expression of human activity or use in relation to building size. Doors, windows, entrances and other features should be designed to respond to the size of the human body and not give the appearance of anonymity or overwhelming the building's users.

(8) Building design should incorporate traditional building materials such as masonry, stone, heavy timbers, brick or other natural-appearing materials.

(9) Building colors should accent, blend with, or complement surroundings. Bright or brilliant colors should be reserved for trim and accents.

(10) Outdoor storage areas, mechanical equipment and trash receptacles should not be visible from adjacent streets and pedestrian walkways. The method of screening such areas from view should be architecturally integrated with the building with respect to materials, shape and size.

(11) Materials used for site features such as fences, screen walls, and signs should be appropriate to the zone district where the development is located and should complement building design through materials, color, shape and size.

§ 155-24. Application and review procedure.

A. The applicant is encouraged to seek the advice of the Town's administrative staff, and/or professional designers, architects, planners, engineers and lawyers in the preparation of plans and documents to implement a planned unit development.

B. In order to benefit the applicant by providing information and guidance before entering into binding commitments or incurring substantial expense, review of planned unit development applications shall proceed in two stages: the concept plan stage and the engineering stage.

(1) The concept development plan and a proposed design code, which establishes the framework for a planned unit development, shall be reviewed by the Planning and Zoning Commission.

(a) The concept development plan application and proposed design code, together with the recommendations of the Planning and Zoning Commission, shall be reviewed by the Mayor and

Council and, after public hearing, approved, approved with modification or disapproved by the Mayor and Council.

(b) The Mayor and Council may deny a planned unit development application if, in their judgment, the proposed development is not consistent with the intent and purpose of this section.

(c) The initial concept development plan application may be reviewed and approved concurrently with the adoption of a Zoning Map for parcels to be annexed to the Town.

(2) After the approval of the concept development plan application, the site plan or subdivision plat, detailing the engineering elements of a planned unit development, with Planning and Zoning Commission recommendations, shall be submitted to and approved or disapproved by the Mayor and Council. The applicant for a planned unit development shall have the burden of proof, which shall include the burden of persuasion on all questions of fact which are to be determined by the Mayor and Council and the Planning and Zoning Commission.

[Amended 5-20-2008 by Ord. No. 139]

C. Procedures for the preparation and filing of a concept development plan are as follows:

(1) The complete concept development plan shall be filed with the Town Clerk and accompanied by the required fees, as established by the Mayor and Council.

(2) Upon receipt, the Town Clerk shall advertise the application for public hearing. The public hearing date shall be established only after the Planning and Zoning Commission has reviewed the subject application for a maximum period of 60 days from the acceptance of the application by the Town Clerk.

(3) The Planning and Zoning Commission may transmit the application to any interested agency for comment. Such agencies may return their comments and recommendations to the Planning and Zoning Commission within 30 days. That Commission shall then review the concept development plan and forward its recommendations to the Mayor and Council, who shall hold the public hearing.

(4) Following the public hearing, the Mayor and Council may approve, approve with modification or deny the concept development plan in whole or in part, based upon the finding that:

(a) The proposed planned unit development does not affect adversely the Town Master Plan or this chapter.

(b) The proposed planned unit development will not adversely affect the health and safety of residents or workers in the area and will not be detrimental to the use or development of adjacent properties or the general neighborhood.

(c) The proposed planned unit development will meet the stated objectives and the standards and performance criteria.

(5) No deviation from the concept development plans so approved for a planned unit development shall be permitted without the approval, as herein provided, of the Mayor and Council or the Planning and Zoning Commission, as the case may be.

(a) Any deviation without the necessary approval shall serve automatically to revoke the original approval and void future actions pursuant to the planned unit development.

(b) Any increase of 5% or more in the number of dwelling units of any type over the number approved in the exploratory stage approval shall be deemed a substantial deviation.

(c) Any increase or decrease of 5% or more in the amounts of land designated for commercial or light industrial uses is considered a substantial deviation.

(d) Any other proposed deviation must be approved by the Mayor and Council.

(6) The concept development plan application shall contain:

(a) A written description of the intended plan of development.

(b) A sketch plan at a hundred-foot scale and proposed design code supporting the above statement, illustrating:

[1] The preliminary location and grouping of dwelling units, nonresidential uses, schools and recreation facilities.

[2] The number of dwelling units proposed and their general location, conceptual illustrations of typical units reflecting their intended exterior appearance and identifying those areas to be subdivided and those to be renter-occupied.

[3] A preliminary vehicular and pedestrian circulation system, including driveways, walkways, parking areas and streets to be dedicated.

[4] A system of open space and recreational uses, with estimates of acreage to be dedicated and that to be retained in common ownership.

[5] A topographic map at a two-hundred-foot scale showing contour intervals at five feet, including all existing buildings, wooded areas, floodplains, wetlands, streams and other significant environmental features.

(c) A preliminary statement indicating how the problems of maintenance and ownership of common facilities will be resolved.

(d) A preliminary schedule of development, including the staging and planning of:

[1] Residential areas to be developed, in order of priority, by type of dwelling unit.

[2] The construction of streets, utilities and other improvements necessary to serve the project area.

[3] The dedication of land to public use.

[4] The construction of nonresidential facilities.

(e) Each of the above elements shall be listed as to their relative order of improvement, with an estimated time schedule for their accomplishment. It is, among other things, the intent of this requirement that the schedule of development be such that a staged implementation of the planned unit development would not result in land use conditions which would establish a precedent for the use of adjoining undeveloped property for purposes other than that shown on the approved planned unit development.

(f) A plat or metes and bounds description of the area within the proposed planned unit development.

(g) The name and address of the owner or owners and their agents.

D. Procedures for the preparation and filing of the site plan or subdivision plat are as follows:

(1) Upon the approval of the exploratory application by the Mayor and Council, the applicant shall prepare and submit to the Planning and Zoning Commission the required studies and material. The process of review shall proceed in accordance with the approved schedule of development; however, the detailed studies may be filed for all or a portion of the subject tract, as required by the Planning and Zoning Commission in each individual case.

(2) The Planning and Zoning Commission shall recommend to the Mayor and Council approval or disapproval of the submitted documents in accordance with the development principles, standards and performance criteria of this article, within the limitations of the exploratory application approved by the Mayor and Council. The Mayor and Council shall have final approval or disapproval of the submitted documents.

[Amended 5-20-2008 by Ord. No. 139]

(3) Upon approval of the site plan or subdivision plat, the applicant shall prepare final record plats, covenants and other required legal instruments. The Planning and Zoning Commission shall approve these upon a finding that they conform to the approved application, that the performance criteria of this chapter are adhered to and that the necessary legal documents, covenants and plats are capable of and can be recorded simultaneously. Minimum units of execution and the staging of such shall be as provided for in the schedule of development.

(4) Following the approval of the site plan or subdivision plat for all or any portion of a planned unit development, the applicant shall cause a subdivision plat of said approval to be filed in the land records of St. Mary's County prior to the sale of any lots. The subdivision plat shall conform to the Town's Subdivision Regulations. Editor's Note: See Ch. 131, Subdivision Regulations.

(5) The site plan shall contain the following elements, to be submitted in accordance with the requirements and procedures of the Planning and Zoning Commission:

(a) A one-hundred-foot-scale site plan showing:

[1] The location of all proposed structures.

[2] Existing grades and proposed rough grading.

[3] Preliminary elevations for all proposed streets to be dedicated.

[4] Wetlands, floodplains, streams, other significant natural features, existing and proposed roads and sidewalks, existing and proposed utility lines and structures, forests, required buffer yards and any other items the Planning and Zoning Commission may require.

[5] Proposed improvements of common and/or public area.

(b) Preliminary drawings of typical single-family, multiple-family and townhouse units to be constructed:

[1] Including site improvements of proposed lots, showing landscaping, walls, fences, patios, sidewalks and treatment of parking area.

[2] Elevations and renderings of typical buildings.

[3] Demonstration that party walls of adjoining attached single-family homes are soundproof.

(c) Storm drainage and engineering plans for sanitary sewer and water lines, including easements for underground utilities.

(d) Final drafts of legal agreements and documents which will be used to satisfy the requirements of § 155-21C, including drafts of proposed deeds of dedication and other legal documents necessary for the transfer of land and structures to public and common ownership and the maintenance and resale, lease, sublease or repurchase of the same thereafter.

(e) Estimates of the costs of maintenance and common facilities and means of financing.

(f) A final schedule of development.

(g) Additional material deemed necessary by the Planning and Zoning Commission to properly review the various elements of the planned unit development.

E. Sectionalized Plats.

- (1) Within the PUD-M district the Town Council may approve a final plat for a section or portion of a development that has received preliminary plat approval when it determines that it is impractical or undesirable to require the final plat(s) for the entire subdivision at one time. Such approval of a portion or section of the development in no way precludes final platting of the entire subdivision in accordance with the approved preliminary plat, provided that each final plat is submitted in proper sequence. Proposed subdivisions or developments to be developed in sections or stages shall delineate the specific proposed boundaries of each section to be developed and the plan and schedule for phasing development over time.
- (2) Final plats for portions or sections of subdivisions within the PUD-M district shall provide for the appropriate improvements, open space and other public amenities shown on the preliminary plat. When such sequential approval of a development in sections occurs, the Town may require a performance bond or other surety in a form suitable to the Town Attorney to assure completion of the improvements in the amount equal to 110% of the approved cost estimate for improvements associated with that section, plus an annual escalation to account for the costs of inflation during the construction period.
- (3) Where components of a development receive final plat approval in sections or phases and include commercial uses, no commercial uses may be constructed until 85% of the residential uses within that phase or section have been constructed or are under construction, unless the Town Commissioners determine that development of the commercial components are appropriate prior to construction of residential uses.

ARTICLE V. C-B Commercial Business District

§ 155-25. Permitted uses.

No building or premises shall be erected, structurally altered, enlarged or maintained nor shall any land be used, except for the following purposes:

- A. Retail stores under 20,000 square feet.
- B. Personal service establishments, such as, but not limited to, banks, barbershops, restaurants, florists, newspaper dealers, taverns, dressmaking, tailors, decorators and repair shops.
- C. Offices and office buildings, which may have a maximum height of three stories or 45 feet.
- D. Medical office buildings and clinics, which may have a maximum height of three stories or 45 feet.
- E. Semipublic and institutional uses, such as but not limited to service clubs, fraternal orders, boys clubs, girls clubs and scout clubs.
- F. Theaters, except drive-in theaters.
- G. Hotels and motels, guesthouses or tourist homes.
- H. Temporary exposition centers, fairgrounds, circus or carnival grounds, amusement parks or midways for a time period not to exceed 14 days.
- I. Funeral homes.
- J. Self-service laundry and dry-cleaning establishments.

K. Accessory buildings and uses.

L. Multiple-family dwellings, conditioned upon demonstration of strict compliance with the off-street parking requirements of Article XI.

§ 155-26. Special exception uses.

The following uses of land and buildings within the C-B District shall be allowed only by special exception to this chapter, granted only by the Board of Zoning Appeals. Standards and procedures for special exceptions are contained in Article XVII.

A. Filling stations, so long as the bulk storage of flammable liquids is underground and pumps are located at least 15 feet from the street line. The orientation of the building shall be such that the service bays are not facing the main street. Screen planting and walls shall be so located as to enhance the design of the building and lessen impact on neighboring structures.

B. Hospitals or clinics for small household pets and dog kennels, so long as odors and noise do not permeate beyond the premises and into the surrounding area.

C. Automobile-related uses, such as but not limited to new and used car lots, automobile repair shops, automobile storage lots and garages, automobile parts shops, automobile upholstery and paint shops and automobile body shops.

D. Bowling alleys and billiard parlors.

E. Retail stores 10,000 square feet and over must present a concept plan, market study, traffic study and any additional information requested.

F. Joint use of off-street parking facilities.

G. One or more dwelling units.

§ 155-27. Height, bulk and area requirements.

[Amended 8-9-2004 by Ord. No. 116]

All standards are summarized in Chart A, Height, Bulk and Area Requirements. Editor's Note: Chart A is included at the end of this chapter. The front yard setback shall be none. Freestanding buildings or structures shall have landscaping at the sides and in the rear of the lot. Where a group of businesses share a common wall, they shall be considered as one building occupying one lot. No building shall exceed a height of 45 feet or three stories, unless otherwise provided. Side and rear yard setbacks shall be three feet.

§ 155-28. Standards for site planning and building design.

The following standards for site planning and building design shall be applicable to all sites located adjacent to and/or fronting on the Route 5 Corridor/Point Lookout Road but shall not apply to redevelopment of sites currently developed along the corridor.

A. Site planning: internal relationships. Commercial buildings shall be so grouped in relation to parking areas that after customers arriving by automobile enter the shopping center, establishments can be visited with a minimum of internal automotive movement. Facilities and access routes for deliveries, servicing and maintenance shall, so far as reasonably practicable, be separated from customer access routes and parking areas. Areas where deliveries to customers in automobiles are to be made or where services are to be provided for automobiles shall be so located and arranged as to prevent interference with pedestrian traffic within the center.

(1) Sites should be developed in a coordinated manner to complement adjacent structures through placement, architecture and size or mass. Where possible, commercial uses requiring floor areas in excess of 10,000 square feet should be designed to appear as several distinct, albeit attached,

structures, each with a floor area no greater than 6,000 square feet to reduce the visual impact of a single, larger building mass in keeping with the scale of existing structures in Leonardtown.

(2) Whenever possible, commercial buildings on the same site should be clustered and incorporate plazas, courtyards, pocket parks, and other pedestrian use areas.

(3) Sites occupied by commercial uses should be designed to avoid the appearance of domination by automobiles. Positive methods to achieve this guideline include:

(a) Orienting buildings to fronting streets and placing some of the parking at the rear and/or sides;

(b) Designing the required parking area into a series of smaller, discrete, connected lots rather than a large uninterrupted parking lot(s);

(c) Providing well-defined pedestrian walkways through parking areas and from public sidewalks into the site. Well-defined walkways utilize pavers, changes in color, texture, and composition of paving materials and vertical plantings such as trees and shrubs. The minimum width of walkways should be five feet.

(d) Parking areas should be designed to be partially screened from view from adjacent streets and building occupants.

[1] Screening can be accomplished through a number of methods, including:

[a] Orienting buildings away from parking areas;

[b] Placing buildings between streets and parking lots/areas;

[c] Using extensive landscape screening, berms, and architecturally treated walls.

[2] Methods utilized should be designed to accomplish the intended screening while allowing adequate safety and surveillance of the parking areas.

B. Building design.

(1) Buildings should reflect an individual design that has considered site location, conditions, intended use, and the character/building mass of surrounding development. Building designs should reflect an individual style and form and not merely current trends.

(2) A consistent visual identity should be applied to all sides of buildings visible to the general public. All sides should have an equivalent level of quality of materials, detailing and window placement. Abrupt ending of architectural details should be avoided with no radical change in details, features or materials.

(3) Large buildings should avoid long, blank, uninterrupted walls. Positive methods to achieve this objective include building wall offsets regarding modulation, changes in colors and materials, placement of windows and doors, use of porches, porticos or canopies, changes in floor level, and projections that provide building shadows that visually break up long, flat building facades.

(4) Large buildings should avoid long, blank, uninterrupted roof planes. Positive methods to achieve this objective include height variations to give the appearance of distinct elements or offsets in the roof line to provide architectural interest and variety to the massing of the building and to relieve the effect of a single, long roof.

(5) Large buildings should use modulation (defined as a measured setback or offset in a building face) to reduce overall bulk and mass. The planes of exterior walls should not run in one continuous direction more than 50 to 60 feet without an offset or setback. Offsets should be a minimum of 3 to 5 feet.

(6) Large buildings should use articulation in a clear rhythm to reduce their perceived size. Articulation is the giving of emphasis to architectural elements (like windows, entries, balconies, etc.) that create a complementary pattern of rhythm, dividing large buildings into smaller identifiable pieces. Articulation in the form of doors, windows and other framed building openings that articulate architectural elements break up the look of a long, blank wall.

(7) Buildings facing streets should incorporate pedestrian-scaled entrances. Pedestrian-scaled entrances are those that provide an expression of human activity or use in relation to building size. Doors, windows, entrances and other features should be designed to respond to the size of the human body and not give the appearance of anonymity or overwhelming the building's users.

(8) Building design should incorporate traditional building materials such as masonry, stone, heavy timbers, brick or other natural-appearing materials.

(9) Building colors should accent, blend with, or complement surroundings. Bright or brilliant colors should be reserved for trim and accents.

(10) Outdoor storage areas, mechanical equipment and trash receptacles should not be visible from adjacent streets and pedestrian walkways. The method of screening such areas from view should be architecturally integrated with the building with respect to materials, shape and size.

(11) Materials used for site features such as fences, screen walls, and signs should be appropriate to the zone district where the development is located and should complement building design through materials, color, shape and size.

C. The Mayor and Council may modify the strict application of all the preceding standards where it is felt that such would further the objectives of this chapter.

ARTICLE VI. C-O Commercial Office District

§ 155-29. Permitted uses.

No building or premises shall be erected, structurally altered, enlarged or maintained nor shall any land be used, except for the following purposes:

- A. Offices and office buildings.
- B. Medical and dental office buildings and clinics.
- C. Public utility buildings and installations.
- D. Semipublic and institutional uses, such as but not limited to service clubs, fraternal orders, boys clubs, girls clubs and scout clubs.
- E. Religious institutions.
- F. Schools: business, art, music or others of a commercial nature, except trade schools.
- G. Off-street parking of motor vehicles in connection with any use permitted in this district need not be enclosed.
- H. Retail stores and personal service establishments and uses listed as permitted uses within the C-B district provided:

- (1) When such use is located in a structure existing at the effective date of this ordinance amendment, no such use shall make exterior alterations to the existing structure to accommodate the use excepting those necessary to satisfy building code requirements.

- (2) No such use or personal service establishment may occupy more than 25% of the total floor area of the building in which it is located.
- (3) Such use shall be limited to no more than three (3) employees including the business owner at any one time.
- (4) Such use shall be subject to any additional conditions that may be established by the Town Administrator to minimize impacts on surrounding properties occupied by permitted uses in the C-O District.

§ 155-30. Special exception uses.

The following uses of land and buildings within the C-O District shall be allowed only by special exception to this chapter, granted only by the Board of Zoning Appeals. Standards and procedures for special exceptions are contained in Article XVII.

- A Commercial parking lots, which shall conform to the regulations and standards for off-street parking

§ 155-31. Height, bulk and area requirements.

[Amended 8-9-2004 by Ord. No. 117]

All standards are summarized in Chart A, Height, Bulk and Area Requirements. Editor's Note: Chart A (155:A1) is included at the end of this chapter. The following area, yard and height requirements shall pertain to all buildings in the C-O District:

A. Area requirements. The sum total of the gross floor area of all structures on a lot, excluding the gross floor area of off-street parking garage space, shall not exceed three times the area of the lot on which the structure is located. In no case shall the footprint of individual building or structure exceed 10,000 square feet in floor area.

B. Yards.

(1) Yard (setback), front. None required.

(2) Yard (setback), side: none required, except if interior windows are provided, it shall be not less than 15 feet wide. When the lot adjoins a lot in a residential zone along its side lot line, and provided that such adjacent lot has not been recommended for the C-O Zone or a general or sectional proposed zoning plan duly adopted by the Town, there shall be a side yard having a minimum width equal to the height of the adjoining office building zone structure, but not less than 25 feet. At least 10 feet of this side yard shall be planted as a screen using suitable materials as approved by the Town. On corner lots, the side building line shall be the same as the front building lines of the majority of lots fronting on the same street, except that the side building line shall be no less than 50 feet from the center line of an abutting street or highway. All side yards shall be landscaped.

(3) Yards (setback), rear. No building shall be located less than five feet from the rear lot line, and all rear yards shall be landscaped.

C. Height requirements. No building in the C-O District shall exceed a height of 45 feet or three stories, unless otherwise provided.

ARTICLE VII. C-H Highway Commercial District

§ 155-32. Permitted uses.

No building or premises shall be erected, structurally altered, enlarged or maintained nor shall any land be used, except for the following purposes:

- A. Greenhouses and nurseries.
- B. Public utility installations.
- C. Automobile-related uses, such as but not limited to new and used car lots, automobile repair shops, automobile storage lots and garages, automobile parts shops, automobile upholstery and paint shops and automobile body shops.
- D. Food and beverage distributors.
- E. Animal hospitals and veterinary clinics, provided that such hospital or clinic and any treatment rooms, cages, pens or kennels are maintained within a completely enclosed, soundproof building and that such hospital or clinic be operated in such a way as to produce no objectionable odors outside its walls as determined by the Leonardtown Planning and Zoning Commission.
- F. Hotels or motels.
- G. Offices and office buildings.
- H. Medical office buildings and clinics.
- I. Accessory buildings and uses.
- J. Monument sales.
- K. Carpentry and woodworking shops.
- L. Printing, publishing and engraving shops.
- M. Sheet metal shops.
- N. Sign painting shops.
- O. Arts and crafts.
- P. Furniture and appliance sales and service.
- Q. Marine sales and service.
- R. Restaurants, cocktail lounges and refreshment stands.
- S. Fast-food establishments, including drive-through windows.
- T. Building supply, garden shops.
- U. Banks and financial institutions.
- V. Commercial services.
- W. Convenience stores.
- X. Multiple-family dwellings, conditioned upon strict compliance with the off-street parking requirements of Article XI.

§ 155-33. Special exception uses.

The following uses of land and buildings within the C-H District shall be allowed only by special exception to this chapter, granted only by the Board of Zoning Appeals. Standards and procedures for special exceptions are contained in Article XVII.

A. Amusement and recreational places, skating rinks, swimming pools, bowling alleys, billiard parlors, dancing halls, health clubs or tennis clubs.

B. Drive-in theaters, provided that they:

(1) Shall have no direct entrance or exit on a major highway.

(2) Shall provide automobile storage facilities between the ticket gates and the access street at the rate of 35% of the theater capacity.

(3) Shall have no structure other than an enclosed fence within 50 feet of any site boundary line and shall have the theater screen located not less than 100 feet from any major highway, arterial street or property in a residential district and not facing such highway, street or property, unless the face of the screen is not visible there because of natural or artificial barriers.

(4) Shall have individual car sound speakers, but low-volume horns may supply sound to refreshment stands and other service areas; and they may have accessory uses and structures incidental to the theater operation, including refreshment stands and toilet facilities, provided that they serve only the patrons within the theater enclosure.

C. Filling stations, so long as the bulk storage of flammable liquids is underground and pumps are located at least 15 feet from the street line. The orientation of the building shall be such that the service bays are not facing the main street. Screen planting and walls shall be so located as to enhance the design of the building and lessen the impact on the neighboring structures.

D. Material storage yards in connection with retail sales of products where storage is incidental to the approved occupancy of a store, provided that all products and materials used or stored are in a completely enclosed building or enclosed by a masonry wall, fence or hedge not less than six feet in height of the wall. Storage cars and trucks used in connection with the permitted trade or business are permitted within the walls, but not including storage of heavy equipment.

E. Enclosed light industrial uses, such as but not limited to wholesale establishments and warehouses, bottling works, painting shops, cleaning and dyeing works and laundries.

(1) No industrial building shall be higher than 45 feet. Each side yard must be at least 20 feet, with screen planting provided at sides and in the rear of the lot.

(2) Such uses shall emit no objectionable noise or pollution as determined by the Leonardtown Planning and Zoning Commission.

§ 155-34. Height, bulk and area requirements.

A. All standards are summarized in Chart A, Height, Bulk and Area Requirements. Editor's Note: Chart A (155:A1) is included at the end of this chapter. Not less than 10% of the gross lot area shall be devoted to landscaped green areas, including all side, front and rear yards.

B. All buildings constructed along Maryland Route 5 shall be set back 50 feet from the state-owned right-of-way to allow for the inclusion of service drives.

C. Site planning: internal relationships. Commercial buildings shall be so grouped in relation to parking areas that, after customers arriving by automobile enter the shopping center, establishments can be visited with a minimum of internal automotive movement. Facilities and access routes for deliveries, servicing and maintenance shall, so far as reasonably practicable, be separated from customer access

routes and parking areas. Areas where deliveries to customers in automobiles are to be made or where services are to be provided for automobiles shall be so located and arranged as to prevent interference with pedestrian traffic within the center.

(1) Sites should be developed in a coordinated manner to complement adjacent structures through placement, architecture and size or mass. Where possible, commercial uses requiring floor areas in excess of 10,000 square feet should be designed to appear as several distinct, although attached, structures, each with a floor area no greater than 6,000 square feet to reduce the visual impact of a single, larger building mass in keeping with the scale of existing structures in Leonardtown.

(2) Whenever possible, commercial buildings on the same site should be clustered and incorporate plazas, courtyards, pocket parks, and other pedestrian use areas.

(3) Sites occupied by commercial uses should be designed to avoid the appearance of domination by automobiles. Positive methods to achieve this guideline include:

(a) Orienting buildings to fronting streets and placing some of the parking at the rear and/or sides;

(b) Designing the required parking area into a series of smaller, discrete, connected lots rather than a large uninterrupted parking lot(s);

(c) Providing well-defined pedestrian walkways through parking areas and from public sidewalks into the site. Well-defined walkways utilize pavers, changes in color, texture, and composition of paving materials and vertical plantings such as trees and shrubs. The minimum width of walkways should be five feet.

(d) Parking areas should be designed to be partially screened from view from adjacent streets and building occupants.

[1] Screening can be accomplished through a number of methods, including:

[a] Orienting buildings away from parking areas;

[b] Placing buildings between streets and parking lots/areas;

[c] Using extensive landscape screening, berms, and architecturally treated walls.

[2] Methods utilized should be designed to accomplish the intended screening while allowing adequate safety and surveillance of the parking areas.

D. Building design.

(1) Buildings should reflect an individual design that has considered site location, conditions, intended use, and the character/building mass of surrounding development. Building designs should reflect an individual style and form and not merely current trends.

(2) A consistent visual identity should be applied to all sides of buildings visible to the general public. All sides should have an equivalent level of quality of materials, detailing and window placement. Abrupt ending of architectural details should be avoided with no radical change in details, features or materials.

(3) Large buildings should avoid long, blank, uninterrupted walls. Positive methods to achieve this objective include building wall offsets regarding modulation, changes in colors and materials, placement of windows and doors, use of porches, porticos or canopies, changes in floor level, and projections that provide building shadows that visually break up long, flat building facades.

(4) Large buildings should avoid long, blank, uninterrupted roof planes. Positive methods to achieve this objective include height variations to give the appearance of distinct elements or offsets in the roof

line to provide architectural interest and variety to the massing of the building and to relieve the effect of a single, long roof.

(5) Large buildings should use modulation (defined as a measured setback or offset in a building face) to reduce overall bulk and mass. The planes of exterior walls should not run in one continuous direction more than 50 to 60 feet without an offset or setback. Offsets should be a minimum of 3 to 5 feet.

(6) Large buildings should use articulation in a clear rhythm to reduce their perceived size. Articulation is the giving of emphasis to architectural elements (like windows, entries, balconies, etc.) that create a complementary pattern of rhythm, dividing large buildings into smaller identifiable pieces. Articulation in the form of doors, windows and other framed building openings that articulate architectural elements break up the look of a long, blank wall.

(7) Buildings facing streets should incorporate pedestrian-scaled entrances. Pedestrian-scaled entrances are those that provide an expression of human activity or use in relation to building size. Doors, windows, entrances and other features should be designed to respond to the size of the human body and not give the appearance of anonymity or overwhelming the building's users.

(8) Building design should incorporate traditional building materials such as masonry, stone, heavy timbers, brick or other natural-appearing materials.

(9) Building colors should accent, blend with, or complement surroundings. Bright or brilliant colors should be reserved for trim and accents.

(10) Outdoor storage areas, mechanical equipment and trash receptacles should not be visible from adjacent streets and pedestrian walkways. The method of screening such areas from view should be architecturally integrated with the building with respect to materials, shape and size.

(11) Materials used for site features such as fences, screen walls, and signs should be appropriate to the zone district where the development is located and should complement building design through materials, color, shape and size.

E. The Mayor and Council may modify the strict application of all the preceding standards where it is felt that such would further the objectives of this chapter.

ARTICLE VIIA. PIRD Planned Infill and Redevelopment District

[Added 2-12-2006 by Ord. No. 123]

§ 155-34.1. Statement of intent.

A. It is the purpose of the Planned Infill and Redevelopment District (PIRD) to encourage redevelopment of sites and buildings in situations where buildings or properties are located within the Town's designated PIRD area, and are in deteriorated or dilapidated condition, or are surrounded by residential or other incompatible uses.

B. This district is to be used as a floating zone classification to promote redevelopment and infill development where those buildings or properties have traditionally been used for residential, commercial or limited industrial purposes and in those circumstances where it is no longer economically or otherwise feasible to use those buildings or properties for the purposes for which they were intended, when constructed. PIRD is intended to allow the adaptive re-use of the site and buildings, and orderly and controlled expansion of commercial or residential uses within such buildings and upon such properties, including the construction of in-fill structures and additions to existing structures. It is also the purpose of this district to accommodate re-development of residential uses, and accommodate a mix of residential dwelling types, while protecting and preserving the residential character of any surrounding residential neighborhoods.

C. The Planned Infill and Redevelopment District is intended to be brought to land and supplement, but not eliminate, the existing zoning classification which it is put over. This district is also intended to:

- (1) Accommodate growth in the Town of Leonardtown by encouraging and facilitating new development on vacant, bypassed and underutilized land where such development is found to be compatible with the existing neighborhood.
- (2) Encourage efficient use of land and public services in the context of existing neighborhoods.
- (3) Stimulate economic investment and redevelopment in older established neighborhoods, where such redevelopment improves neighborhood character.
- (4) Provide developers and property owners flexibility so that they can achieve high-quality design and develop infill projects that strengthen existing neighborhoods.
- (5) Create high-quality neighborhoods compatible with the community environment.
- (6) Implement the goals, objectives, and policies of the Leonardtown Comprehensive Plan.
- (7) Encourage compact development that is pedestrian-scaled and, if applicable, transit-oriented.

D. The district standards encourage appropriate development of underutilized properties and consolidation of developable land where it will achieve a more efficient land use and improved site design. Design standards promote compatible infill and redevelopment by, among other things, allowing development on sites that may not meet the minimum land area and dimension requirements of the underlying zones.

§ 155-34.2. Applicability.

A. The location of this district shall be limited to parcels indicated on Exhibit A. Editor's Note: Exhibit A is on file in the Town offices. attached hereto and which are also zoned RMF, RSF, CB, CO, CH and IO, as designated on the official Zoning Map. All land uses and development, including buildings, drives, parking areas, landscaping, streets, alleys, greenways, tree protection, and pedestrian/bicycle ways, shall be located and developed in accordance with the applicable provisions of the zoning ordinance and all other applicable land development regulations, except as modified by this section.

B. If a proposed development does not meet the definition of "infill" or "redevelopment," the applicant may seek approval to develop land through the established zoning classification process or through the variance process, as applicable.

§ 155-34.3. Master development plan required.

A. The Planned Infill/Redevelopment District is intended to accommodate a wide range of land uses and redevelopment options on sites constrained by the form and characteristics of existing structures and residential character in surrounding areas. Specific land uses and specific development standards for each PIRD District shall be determined on a case-by-case (site-by-site) basis by approval of a master development plan filed concurrently with any proposal or request for Zoning Map amendment.

B. The Planned Infill and Redevelopment District classification request may be submitted by the property owner, concurrent with the required master development plan. In order to be eligible for consideration for PIRD classification there must be a finding by the Town Council that:

- (1) The development or redevelopment proposed for the subject property is consistent with the purpose and intent of this district;
- (2) The proposed development or redevelopment of the subject property(s) would be compatible with, and not adversely impact, the surrounding neighborhoods, including impacts from traffic, noise, light and glare, parking, and signs;

(3) The services and infrastructure for the site will be sufficient to accommodate the type and intensity of the proposed development;

(4) The proposed development would provide needed housing opportunities, services, jobs, or amenities and/or would improve or enhance the character of the site;

(5) The general performance standards and limitation established in § 155-34.6F can be met on the subject property, and;

(6) The granting of the Planned Infill and Redevelopment District classification will promote the general welfare of the Town and will not be detrimental to the health, safety and welfare of Town residents.

C. The master development plan for planned infill and redevelopment shall be designed to be compatible with existing neighborhood land uses. The development shall not result in or cause substantial adverse impacts on existing access, light, noise, parking, or traffic. The plan shall be designed with efficient land use and circulation patterns (both pedestrian and vehicular), and shall include infrastructure improvements and attractive site amenities compatible with the surrounding neighborhood.

§ 155-34.4. Elements of development plans.

A. Development plans shall incorporate the following elements to enhance compatibility with the surrounding community:

(1) Sidewalks that connect to the adjacent sidewalk system;

(2) Public streets that connect to the adjacent street pattern;

(3) Preservation of architecturally significant structures whenever feasible;

(4) Inclusion of, or relationship to, civic spaces;

(5) Street furniture, lighting and landscaping that is primarily oriented to pedestrian use; and

(6) Building types, setbacks, building envelopes, use and parking compatible with the surrounding community.

B. All new buildings (except accessory structures) shall have the primary entrance oriented to the street or public walkway, with direct, barrier-free and convenient pedestrian connections.

§ 155-34.5. Permitted uses.

Permitted uses shall be limited to those allowed in the underlying zone except as follows:

A. The Town Council may permit a mix of uses, including residential, small-scale commercial service and retail establishments.

B. The Town Council may permit the redevelopment, including tear down and rebuild, of any residential unit or units, provided such residential unit or units existed prior to the adoption of this section regardless of whether or not the units constitute a nonconforming use.

§ 155-34.6. Development standards.

A. General. Density, design, materials, use and scale should reflect local style, climate, heritage and materials unique to Leonardtown.

B. Flexible development standards to reduce lot areas, widths and yards and to increase building heights may be permitted for infill developments at the discretion of the Town Council, subject to proof of good cause and benefit to the development and the community, and to address difficult sites which incorporate

infill and redevelopment or rehabilitation. Building height and coverage may vary so long as the project average is consistent with the neighborhood scale and architectural rhythm and does not constitute a disruptive condition in the identity of the area. (See § 155-34.6G.)

C. Density. Density may exceed the underlying zone for the purpose of creating a neighborhood having a variety of housing types.

(1) Total number of dwelling units, as well as location, is to be established at the time of master development plan approval.

(2) Lot size. Lot areas established in the master development plan shall be dependent on proposed densities, floor area, setbacks, building heights and community compatibility.

D. Building height.

(1) Buildings are restricted to the height limit established for the district, or the average of adjacent buildings along the block face.

(2) If the average of adjacent buildings is greater than the maximum height allowed in the district, the proposed building or structure must meet the following criteria for community compatibility:

(a) Neighborhood scale.

(b) Privacy.

(c) Light and shadow.

(d) Views and view sheds.

(e) Architectural compatibility.

E. Building setback.

(1) For any location that is designated a PIRD, the Town Council may designate a build-to line based on the average established front yard setback along the block face in which the development is proposed. The build-to line shall establish the front yard setback for the lots on the block. Infill and redevelopment structures shall be located within two feet either side of the build-to line, except that no structure shall be located closer than five feet to the street or public right-of-way.

(2) The Town Council may relax side yard requirements to facilitate interesting and innovative design solutions, provided that the encroachment into the setback does not adversely affect storm drainage, privacy, sunlight or views of the adjacent property, nor restrain the potential of the adjacent property for future development.

F. Bulk and scale. Building bulk and scale shall be similar to and consistent with the surrounding neighborhood as evaluated by the bulk of buildings adjacent, abutting and surrounding the proposed development. Larger buildings should be designed to adhere to the existing architectural pattern of the surrounding neighborhood.

G. Compatibility standards.

(1) General: provides exemplary site design, architectural design and high-quality materials that are compatible with, and do not negatively alter the character of, the existing neighborhood.

(2) All permitted uses conform to the purpose of the PIRD and are compatible with existing uses in the general vicinity of the proposed development. The following requirements shall apply:

(a) Building size, height, bulk, mass, scale. Buildings should be similar in height and size or be designed in such way that they appear similar in height and size, creating an overall mass that is consistent with the prevalent mass of other structures in the area, e.g., by dividing walls into units of similar proportions to adjacent structures.

(b) Building orientation. Primary facades and entries face the adjacent street with a connecting walkway that does not require pedestrians to walk through parking lots or across driveways and that maintains the integrity of the existing streetscape.

(c) Privacy.

[1] Optimize privacy of residents and minimize infringement on the privacy of adjoining land uses by considering appropriate buffer yards, the placement of windows and door entrances.

[2] Create opportunities for interactions among neighbors in common pedestrian circulation areas of the project.

(d) Building materials shall be similar to materials of the surrounding neighborhood or use other characteristics, such as scale, form, architectural detailing, etc., to establish compatibility.

(3) All planned uses, building types, and landscaping will be included on the master development plan and will demonstrate the relationships of the proposed development with existing off-site development in the context of the adjacent community. Compliance with these requirements shall in and of itself be deemed to create a presumption of compatibility.

(4) All planned uses shall comply with the Leonardtown critical area and floodplain regulations. Editor's Note: See Ch. 60, Critical Areas, and Ch. 78, Floodplain Management.

H. Open space and landscaping.

(1) General. All open space, recreational amenities and landscaped areas shall be shown on the plan.

(2) Landscaping. Landscaping shall meet the standard for the underlying zoning district, where applicable, and may be required to exceed or allowed to reduce such standard where deemed necessary by the Town Council to satisfy the intent of this section.

I. Public facilities and utilities.

(1) General: Existing and planned public facilities should be shown on development plans.

(2) All public streets, walkways and alleyways shall be shown on development plans. All through streets and walkways must be public. The local street and walkway system shall be safe, efficient, convenient, attractive, and shall accommodate use by all segments of the population.

(3) The street and walkway system provides multiple, direct and continuous intra- and inter-neighborhood connections between destinations.

(4) The street network shall include sidewalks on both sides of the street.

(5) Closed street systems are prohibited, but short culs-de-sac (less than 120 feet long) that connect to the main grid system are allowed when consistent with the surrounding community.

(6) Street widths should be consistent with the surrounding community and sized to promote walkability and multimodal use (i.e., pedestrians, bikes, cars, trucks, buses, etc.).

(7) Roads, lighting, sidewalks, street furniture, utilities and other public facilities should enhance pedestrian circulation.

J. Parking.

- (1) General. Flexibility for the number of parking spaces shall be considered if the project is pedestrian-oriented.
- (2) Parking for private automobiles is provided based on considerations for safety, convenience, pedestrian and vehicular circulation.
- (3) The parking plan may provide a combination of off-street and on-street spaces.
- (4) Shared parking is encouraged. Shared drives serving more than two dwellings may be permitted.
- (5) As is practicable, at-grade off-street parking areas should be provided on the proposed development site. When possible, off-street parking should be located at the rear of the dwelling with alley access.
- (6) All parking spaces shall be shown on the site plan.
- (7) Bicycle spaces shall be provided for commercial/employment and mixed-use projects.
- (8) Parking requirements can be waived where adequate public parking is available in close proximity, and the new parking demand does not interfere with the established parking patterns in the neighborhood. If public parking is proposed as the means of providing any required parking, such arrangement shall first be approved by the Mayor and Council of Leonardtown.

K. Findings required. The Town Council may approve the Planned Infill or Redevelopment District as a floating zone which may be brought to land upon finding that:

- (1) The plan accomplishes the purposes, objectives and minimum standards and requirements of the overlay district;
- (2) The plan is in accordance with the Leonardtown Comprehensive Plan;
- (3) The plan is internally and externally compatible and harmonious with existing and planned land uses in the area;
- (4) Existing or planned public facilities are adequate to service the proposed development;
- (5) The development staging program is adequate in relation to the provision of public facilities and private amenities to service the proposed development; and
- (6) The plan is consistent with the purposes and provisions of the Smart Growth Area Act and other applicable smart growth legislation.

L. Application information and process.

- (1) Notice.
 - (a) Property or properties proposed for development or re-development under the terms of this article shall be posted by the applicant. This sign will advise the public of the purpose, time, place and date of the hearing. Such posting shall appear on the site at least 15 days prior to the application being considered by the Planning Commission. At the time of posting, all required application information, as outlined herein, shall be present and available for review in the Town office.
 - (b) The applicant shall notify all property owners adjacent to and within 300 feet of subject property by registered or certified mail at the last known address as reflected on the tax records. Such notice

shall be sent out at least 15 days prior to the Planning Commission meeting at which the application is to be considered for the first time.

(2) The applicant has the full burden of proof to demonstrate the proposed infill or redevelopment proposal meets or exceeds the development standards in § 155-34.6 herein.

(3) Application information should include adequate information to address this burden of proof requirement and shall, at a minimum, include the following:

(a) A description of the proposed development site, i.e., a plot plan or survey plot.

(b) A description of existing conditions in the vicinity of the site (e.g., block face on both sides of the street with 500 feet of the proposed development site). These descriptions shall include documenting photographs and an analysis of the prominent architectural features and shall address the following:

[1] Site location and topography.

[2] Street connections.

[3] Pedestrian pathways.

[4] Lot coverage.

[5] Impervious surfaces.

[6] Building orientation.

[7] Roof details.

[8] Massing and proportions.

[9] Entryways.

[10] Windows.

[11] Garage doors.

[12] Finishes and materials.

[13] Ornamentation.

[14] Color.

(c) A description of the proposed infill or redevelopment including:

[1] Elevations of all proposed buildings;

[2] A description of how the proposed infill or redevelopment is compatible with the features described in Subsection L(3)(b) above; and

[3] A statement of how the proposed infill or redevelopment meets the development standards and findings requirements as set forth in Section 155.34.6 above.

[4] Before taking action on any application, the Town Council shall submit such application to the Planning Commission for review and recommendation. The Planning Commission shall conduct a public meeting on the application prior to forwarding its recommendation to the Town Council,

who shall hold a public hearing. Following the public hearing, the Mayor and Council may approve, approve with modification or deny the application in whole or in part based upon the findings set forth in § 155-34.6K.

[5] After a PIRD application is approved, no deviation shall be permitted without reapproval. Any future change in use or change in structure(s) is required to follow § 155-34.6L, Application information and process.

ARTICLE VIII. C-M Marine Commercial District

§ 155-35. Purpose.

A. Breton Bay is an important and unique resource necessary to the economic viability of Leonardtown. This district is intended to promote the development and redevelopment of land along Breton Bay with a mixture of uses and activities which are either dependent upon or appropriate to the waterfront. To complement and strengthen the function of the waterfront area, certain recreation, shopping, business and residential uses are permitted.

B. The purpose of this district is to ensure compatibility with development in the downtown commercial and historic district, compatibility with architecture, landscaping and site design for development within the district and public access to the waterfront, with proper emphasis on pedestrian movement and its separation from vehicular traffic.

C. Coordination of site plans, landscaping and pedestrian and traffic movement is a necessary concern for review and approval of uses to assure that waterfront development uses can function harmoniously and compatibly with less-intensive uses permitted to complement and strengthen the waterfront area. Therefore, all uses permitted in this district shall be subject to procedures established for review and approval as identified in §§ 155-24, 155-39 and 155-40 of this chapter (see C-SC District provisions in Articles IV and Article IX) to assure compatibility among uses and to assure proposed uses achieve the purpose of the district. The applicant is encouraged to seek the advice of the Town's administrative staff, and/or professional designers, architects, planners, and engineers prior to the preparation of plans for any development within this district.

[Amended 11-12-2002 by Ord. No. 108]

§ 155-36. Permitted uses.

No building or premises shall be erected, structurally altered, enlarged or maintained nor shall any land be used, except for the following purposes:

- A. Restaurants and outdoor eating facilities;
- B. Specialty shops, under 5,000 square feet, such as art, gift, antique, import, health and natural goods, including uses of a more general commercial nature which do not detract from the purpose of the waterfront or which are necessary to its economic viability;
- C. Office buildings;
- D. Mixed use buildings: residential/retail/office;
- E. Social, cultural facilities, public parks and open space;
- F. Museums or similar interpretive facilities;
- G. Public facilities.

H. Publicly owned boat docking or slip facilities

§ 155-37. Special exception uses.

Unspecified uses of land, buildings or structures in the C-M District shall be permitted only after Planning and Zoning Commission review and recommendation and with the approval of the Board of Appeals based on their finding that such uses are consistent with the purposes for the C-M District.

§ 155-37. A Height, bulk and area requirements.

Standards for height, bulk and area are summarized in Chart A, Height, Bulk and Area Requirements. Editor's Note: Chart A (155:1A) is included at the end of this chapter. No single structure within the CM district may have a 1st floor greater than 10,000 square feet in floor area.

§ 155-37. B Site Planning and Design Standards

A. Site planning for commercial uses in the CM district: Commercial buildings shall be so grouped in relation to parking areas that establishments can be visited with a minimum of internal automotive movement. Facilities and access routes for deliveries, servicing and maintenance shall, so far as reasonably practicable, be separated from customer access routes and parking areas.

(1) Sites should be developed in a coordinated manner to complement adjacent structures through placement, architecture and size or mass. Commercial uses shall be designed to reduce the visual impact of a single larger building mass in keeping with the scale of existing structures in Leonardtown.

(2) Whenever possible, commercial buildings on the same site should be clustered and incorporate plazas, courtyards, pocket parks, and other pedestrian use areas.

(3) Sites occupied by commercial uses should be designed to avoid the appearance of domination by automobiles. Positive methods to achieve this guideline include:

(a) Orienting buildings to fronting streets and placing some of the parking at the rear and/or sides;

(b) Designing the required parking area into a series of smaller, discrete, connected lots rather than a large uninterrupted parking lot(s);

(c) Providing well-defined pedestrian walkways through parking areas and from public sidewalks into the site. Well-defined walkways utilize pavers, changes in color, texture, and composition of paving materials and vertical plantings such as trees and shrubs. The minimum width of walkways should be five feet.

(d) Parking areas should be designed to be partially screened from view from adjacent streets and building occupants.

[1] Screening can be accomplished through a number of methods, including:

[a] Orienting buildings away from parking areas;

[b] Placing buildings between streets and parking lots/areas;

[c] Using extensive landscape screening and/or architecturally treated walls.

[2] Methods utilized should be designed to accomplish the intended screening while allowing adequate safety and surveillance of the parking areas.

B. Building design for commercial uses.

(1) Buildings should reflect an individual design that has considered site location, waterfront presence, intended use, and the character/building mass of surrounding development.

(2) A consistent visual identity should be applied to all sides of buildings visible to the general public. All sides should have an equivalent level of quality of materials, detailing and window placement. Abrupt ending of architectural details should be avoided with no radical change in details, features or materials.

(3) Buildings should utilize features that celebrate their presence in a waterfront oriented district. Positive methods to achieve this objective include retaining views of the water in building placement and design, use of quality building materials, placement of windows and doors to maximize views of Breton Bay, use of porches, porticos or canopies, changes in floor level, and projections that provide building shadows that visually break up long, flat building facades.

(4) Buildings should avoid long, blank, uninterrupted roof planes that obscure views to the water from surrounding properties. Positive methods to achieve this objective include height variations to give the appearance of distinct elements or offsets in the roof line to provide architectural interest and variety to the massing of the building and to relieve the effect of a single, long roof.

(6) Large buildings should use articulation in a clear rhythm to emphasize architectural elements (like windows, entries, balconies, etc.) that create a complementary pattern of rhythm, dividing large buildings into smaller identifiable pieces.

(7) Buildings facing streets or the waterfront should incorporate pedestrian-scaled entrances. Pedestrian-scaled entrances are those that provide an expression of human activity or use in relation to building size. Doors, windows, entrances and other features should be designed to respond to the size of the human body and not give the appearance of anonymity or overwhelming the building's users.

(8) Building design should incorporate traditional building materials such as masonry, stone, heavy timbers, brick or other natural-appearing materials.

(9) Building colors should accent, blend with, or complement surroundings. Bright or brilliant colors should be reserved for trim and accents.

(10) Outdoor storage areas, mechanical equipment and trash receptacles should not be visible from adjacent streets and pedestrian walkways. The method of screening such areas from view should be architecturally integrated with the building with respect to materials, shape and size.

(11) Materials used for site features such as fences, screen walls, and signs should be visually attractive and designed and located to complement building design through materials, color, shape and size.

ARTICLE IX. C-SC Commercial Shopping Center District

§ 155-38. Intent.

This district is created to permit the development of commercial shopping centers in scale with surrounding market areas in accordance with the standards set forth herein. These centers shall serve areas not already conveniently and adequately provided with commercial service facilities of the kind proposed. It is intended to permit the establishment of such districts only where planned centers with carefully organized buildings, service areas, parking areas and landscaped open space will clearly serve demonstrated public needs, reduce marginal traffic friction below that which would result from strip commercial development along highways and protect property values in surrounding neighborhoods. It is further intended that commercial shopping centers shall provide a broad range of facilities and services appropriate to the general need of the area served.

§ 155-39. Concept development plan.

A. Any application or request for rezoning to a Commercial Shopping Center District shall be accompanied by a concept development plan, with drawings at a scale of not less than one inch equals 100 feet.

B. A concept development plan shall contain the following:

- (1) A vicinity map at a scale of not less than one inch to 2,000 feet.
- (2) Adjacent property owners and zoning districts.
- (3) Existing land uses of adjoining tracts.
- (4) Existing and proposed streets and highways, including names.
- (5) Locations, descriptions and analyses of present and projected utilities, such as water, sewers, refuse disposal and utilities which would serve the subject site.
- (6) Projected sale prices and estimated gross value of development.
- (7) A development schedule and projected market absorption, approximate dates for beginning and completion of each phase and estimated cost of each phase of development.
- (8) The percentage of the site devoted to buildings, open space, streets and parking area and estimated total floor area of all structures.
- (9) A plan showing proposed generalized parking arrangements.
- (10) A plan or report indicating the extent and timing of all off-site improvements, such as roads, sewer and drainage facilities necessary to the construction of the shopping center. Such plan or report shall relate to the sequence of development.
- (11) A report showing the fiscal impact of the proposed shopping center on the Town.

§ 155-40. Site development plan.

A. A site development plan, with drawings at a scale of not less than one inch equals 50 feet, must be submitted and approved prior to issuance of permits for construction. This plan may be submitted in phases with the approval of the Planning and Zoning Commission.

B. Site development plans shall contain the following:

- (1) A vicinity map at a scale of not less than one inch to 2,000 feet.
- (2) Adjacent property owners and zoning districts.
- (3) Existing land uses of adjoining tracts.
- (4) Existing and proposed streets and highways, including names, present and projected conditions and capacity of the street network.
- (5) The location, description and analysis of present and projected utilities which would serve the subject site.
- (6) Boundary survey and legal description of property, including total area of the site.
- (7) Topographic map with minimum contour intervals of two feet and a scale consistent with the site development plan.

(8) Evidence of marketable interest in the property, including title insurance policy or similar document showing owner or owners, marketable title and source of applicants' interest in property.

(9) Slope analysis.

(10) Watercourses and drainage area.

(11) Natural features, such as marshes, trees, general soil condition and similar conditions.

(12) On-site features, such as structures, roads, utilities, easements or rights-of-way.

(13) Projected sale prices and estimated gross value of development.

(14) Development schedule and projected market absorption, approximate dates for beginning and completion of each phase and estimated cost of each phase of development.

(15) Land use plan or plans showing location and arrangement of all proposed land uses, heights of buildings, setbacks and side yards, proposed internal and external traffic circulation (including widths, driveways and access), pedestrian circulation, lighting, proposed open space, dedication and easements.

(16) General landscaping and screening plan showing general types, location and design of landscaping and screening.

(17) Covenants, restrictions and conditions pertaining to the use, maintenance and operation of common open space.

(18) Percentage of site devoted to buildings, open space, streets and parking areas and total floor area of all structures.

(19) A plan showing proposed parking arrangements.

(20) Architectural sketches of typical proposed structures, typical landscaping and screening areas and typical development clusters.

(21) A plan or report indicating the extent, timing and estimated cost of all off-site improvements, such as roads and sewer and drainage facilities necessary to the construction of the planned development. Such plan or report shall relate to the sequence of development.

(22) A report or plan showing the adequacy of public facilities and services such as water, sewer, drainage, streets and roads to serve the proposed development.

(23) A report showing the fiscal impact of the proposed development on the Town.

(24) General plan for sedimentation and erosion control.

(25) Plan for stormwater management.

C. Any site development plan or any portion thereof involving the practice of engineering, architecture or land surveying shall be prepared and certified, respectively, by an engineer, architect, landscape architect or land surveyor duly authorized by the State of Maryland to practice as such. A site development plan may be prepared in one or more sheets to show clearly the information required by this section and to facilitate the review and approval of the plan. If prepared in more than one sheet, match lines shall clearly indicate where the several sheets join. Every site development plan shall show the name and address of the owner and/or developer, North point, date and scale of the drawing, the number of sheets and existing zoning.

§ 155-41. Permitted uses.

No building or premises shall be erected, structurally altered, enlarged or maintained nor shall any land be used, except for the following purposes:

- A. Retail sales and services.
- B. Offices and office buildings, theaters, banks and financial institutions, real estate, insurance, medical and dental offices.
- C. Eating and drinking establishments.
- D. Motels and hotels.
- E. Gas-and-go-type automobile filling stations.
- F. Automotive service centers, not to include sales of automotive fuels, major repair work such as engine overhauls, paint and body work or the outside storage of vehicles.
- G. Personal services such as beauty, barber, dry-cleaning establishments and drugstores.
- H. Grocery stores and variety stores.
- I. Similar uses which are customarily located in commercial shopping centers, subject to the approval of the Planning and Zoning Commission.

§ 155-42. Regulations.

- A. Minimum yard and lot requirements.
 - (1) Front yard. A minimum front yard of 30 feet shall be established from the street right-of-way line for all C-SC Districts. The front yard shall be landscaped and not utilized for any building, structure, use or parking area except for permissible identification signs.
 - (2) Side yard. A minimum side yard of 20 feet shall be maintained between any structure, use, parking area or driveway and the side lot of adjacent properties. When C-SC side yards adjoin residential districts, the minimum side yard shall be 100 feet.
 - (3) Maximum lot coverage. No more than 30% of the buildable area of any lot in any C-SC District shall be occupied by structures.
- B. Open space. Minimum landscaped open space on any individual lot shall be not less than 10% of the buildable area of the lot. Such landscaped open space may be used in part to buffer and shield adjoining residential districts from adverse effects of shopping center operation and to enhance landscaping in parking areas.
- C. Vehicular and pedestrian entrances and exits. Principal vehicular access for the general public shall be from major streets. Vehicular access from minor streets through residential neighborhoods shall generally be avoided but, where permitted, shall be so located, designed and controlled as to be primarily for convenience of residents of adjoining residential areas and not for general public access. Pedestrian access may be provided at any suitable location within the district but shall, as a general rule, be separated from vehicular access points in order to reduce congestion, marginal friction and hazards. Service drives, turnout lanes and merging lanes may be required at principal vehicular access points by the Planning and Zoning Commission, with length and width appropriate to the anticipated flow of traffic. Traffic separation devices may be required by the Planning and Zoning Commission at such entrances and exits and along service drives, turnouts or merging lanes.
- D. Access. C-SC Districts shall have frontage and access to major arterials and intermediate arterials.
- E. Site planning: external relationships.

(1) Commercial and service uses and structures and their parking areas shall be oriented toward major arterials, secondary arterials or collector streets and oriented away from adjacent minor streets in residential neighborhoods or adjacent residential neighborhoods that are not separated from the district by streets.

(2) Landscaping or other devices shall be used to screen surrounding residential districts from undesirable views into the C-SC Districts and to screen the C-SC Districts from undesirable external exposures.

(3) In particular, all service and loading areas shall be screened from view of public streets and from first-floor windows in adjacent residential districts. Parking areas for more than 10 automobiles shall, insofar as reasonably possible, be screened from similar view by landscaping, fences, walls or relation to buildings.

F. Site planning: internal relationships. Commercial buildings shall be so grouped in relation to parking areas that after customers arriving by automobile enter the shopping center, establishments can be visited with a minimum of internal automotive movement. Facilities and access routes for deliveries, servicing and maintenance shall, so far as reasonably practicable, be separated from customer access routes and parking areas. Areas where deliveries to customers in automobiles are to be made or where services are to be provided for automobiles shall be so located and arranged as to prevent interference with pedestrian traffic within the center.

(1) Sites should be developed in a coordinated manner to complement adjacent structures through placement, architecture and size or mass. Where possible, commercial uses requiring floor areas in excess of 10,000 square feet should be designed to appear as several distinct, albeit attached, structures, each with a floor area no greater than 6,000 square feet to reduce the visual impact of a single, larger building mass in keeping with the scale of existing structures in Leonardtown.

(2) Whenever possible, commercial buildings on the same site should be clustered and incorporate plazas, courtyards, pocket parks, and other pedestrian use areas.

(3) Sites occupied by commercial uses should be designed to avoid the appearance of domination by automobiles. Positive methods to achieve this guideline include:

(a) Orienting buildings to fronting streets and placing some of the parking at the rear and/or sides;

(b) Designing the required parking area into a series of smaller, discrete, connected lots rather than a large, uninterrupted parking lot(s);

(c) Providing well-defined pedestrian walkways through parking areas and from public sidewalks into the site. Well-defined walkways utilize pavers, changes in color, texture, and composition of paving materials and vertical plantings such as trees and shrubs. The minimum width of walkways should be five feet.

(d) Parking areas should be designed to be partially screened from view from adjacent streets and building occupants.

[1] Screening can be accomplished through a number of methods, including:

[a] Orienting buildings away from parking areas;

[b] Placing buildings between streets and parking lots/areas;

[c] Using extensive landscape screening, berms, and architecturally treated walls.

[2] Methods utilized should be designed to accomplish the intended screening while allowing adequate safety and surveillance of the parking areas.

G. Building design.

(1) Buildings should reflect an individual design that has considered site location, conditions, intended use, and the character/building mass of surrounding development. Building designs should reflect an individual style and form and not merely current trends.

(2) A consistent visual identity should be applied to all sides of buildings visible to the general public. All sides should have an equivalent level of quality of materials, detailing and window placement. Abrupt ending of architectural details should be avoided with no radical change in details, features or materials.

(3) Large buildings should avoid long, blank, uninterrupted walls. Positive methods to achieve this objective include building wall offsets regarding modulation, changes in colors and materials, placement of windows and doors, use of porches, porticos or canopies, changes in floor level, and projections that provide building shadows that visually break up long, flat building facades.

(4) Large buildings should avoid long, blank, uninterrupted roof planes. Positive methods to achieve this objective include height variations to give the appearance of distinct elements or offsets in the roof line to provide architectural interest and variety to the massing of the building and to relieve the effect of a single, long roof.

(5) Large buildings should use modulation (defined as a measured setback or offset in a building face) to reduce overall bulk and mass. The planes of exterior walls should not run in one continuous direction more than 50 to 60 feet without an offset or setback. Offsets should be a minimum of 3 to 5 feet.

(6) Large buildings should use articulation in a clear rhythm to reduce their perceived size. Articulation is the giving of emphasis to architectural elements (like windows, entries, balconies, etc.) that create a complementary pattern of rhythm, dividing large buildings into smaller identifiable pieces. Articulation in the form of doors, windows and other framed building openings that articulate architectural elements break up the look of a long, blank wall.

(7) Buildings facing streets should incorporate pedestrian-scaled entrances. Pedestrian-scaled entrances are those that provide an expression of human activity or use in relation to building size. Doors, windows, entrances and other features should be designed to respond to the size of the human body and not give the appearance of anonymity or overwhelming the building's users.

(8) Building design should incorporate traditional building materials such as masonry, stone, heavy timbers, brick or other natural-appearing materials.

(9) Building colors should accent, blend with, or complement surroundings. Bright or brilliant colors should be reserved for trim and accents.

(10) Outdoor storage areas, mechanical equipment and trash receptacles should not be visible from adjacent streets and pedestrian walkways. The method of screening such areas from view should be architecturally integrated with the building with respect to materials, shape and size.

(11) Materials used for site features such as fences, screen walls, and signs should be appropriate to the zone district where the development is located and should complement building design through materials, color, shape and size.

H. The Mayor and Council may modify the strict application of all the preceding standards where it is felt that such would further the objectives of this chapter.

ARTICLE X. Institutional/Office District (I/O)

§ 155-43. Intent.

The Institutional/Office (I/O) District is created to permit the development of institutional-type uses primarily for functions of government, together with medical facilities, schools and accessory uses as may be necessary or normally compatible with institutional-type offices. It is intended to permit the establishment of such facilities in planned centers with carefully organized buildings, service areas, parking areas and landscaped open space. Facilities in Institutional/Office Districts will serve demonstrated public needs while minimizing impacts on surrounding neighborhoods.

§ 155-44. Permitted uses.

No building or premises shall be erected, structurally altered, enlarged or maintained, nor shall any land be used, except for the following purposes:

- A. Governmental offices and office buildings.
- B. Public utility buildings and installations.
- C. Religious institutions.
- D. Schools and academies, both public and private.
- E. Day-care and child-care facilities.
- F. Libraries.
- G. Accessory buildings and uses.
- H. Medical offices (excluding drug and alcohol rehabilitation centers).
- I. Safety organizations (rescue squad, Fire Department).
- J. Adult day-care facilities.

§ 155-45. Special exception uses.

A. The following uses of land and buildings within the I/O District shall be allowed only by special exception to this chapter, granted only by the Board of Zoning Appeals. Standards and procedures for special exceptions are contained in Article XVII.

B. The Board of Appeals' approval is limited to the establishment of the special exception use in a particular location, though the Board may require a concept plan in making its determination. The approval of the site plan for development is the responsibility of the Planning and Zoning Commission.

C. Once a special exception use is established, it may be expanded or enlarged through the site plan approval process. Board of Appeals approval is not required for additions to an established special exception use. However, Board approval is required if another or different special exception use is proposed for a site.

D. Special exception uses existing at the time of the establishment of this zoning district, and the concurrent rezoning of certain parcels of land to the Institutional/Office District, shall be considered special exception uses approved by the Town Board of Appeals.

E. Special exception uses are as follows:

- (1) Nursing centers.
- (2) Detention centers.

- (3) Outside storage areas and impound lots.
- (4) Community colleges and institutions of higher learning.
- (5) Hospitals.
- (6) Drug and alcohol rehabilitation centers.
- (7) Communications towers (see § 155-48).

[Amended 8-9-2004 by Ord. No. 118]

§ 155-46. Height, bulk and area requirements.

- A. Minimum lot area. All uses, structures and buildings permitted in the I-O District shall be located on a lot having a minimum area of 10,000 square feet.
- B. Front yard. A minimum front yard of 70 feet shall be established from the street right-of-way line for I-O uses.
- C. Rear and side yards. A minimum rear and side yard of 20 feet shall be maintained between any structure, use, parking area or driveway and the side lot of adjacent properties. When the I-O side or rear yard adjoins a residential district, the minimum side or rear yard, as applicable, shall be 50 feet.
- D. Landscape.
 - (1) The front yard shall be maintained as landscaped open space and shall not be used for any building, structure, use or parking area except for access roads, driveways and permissible identification signs. Such side yards shall consist of a minimum landscaped buffer area as determined by the Planning and Zoning Commission.
 - (2) A minimum landscaped area, not less than 10% of the buildable lot, shall be provided. Such area can be used to meet the forest conservation requirement of the Forest Conservation Ordinance. Editor's Note: See Ch. 80, Forest Conservation.
- E. Buffering and screening. It is required that the buffering and screening be specifically addressed when the concept plan/site plan is submitted. Issues to be addressed:
 - (1) Buffering between parking lots and adjoining uses.
 - (2) Buffering between the institutional zone and residential zones and uses.
 - (3) Street trees.
- F. Height. A maximum height of three stories and 45 feet shall be established for any building or structure in the I-O Zone. Principal structures may be erected to a height not exceeding 100 feet when the required side and rear yards are each increased by at least one foot for each additional foot of building height above the height restriction.
- G. Location of parking. Parking facilities shall be located on the side and the rear yards of the property. No parking shall be permitted in the required front yard of the property. (This means all parking must be at least 70 feet from the street right-of-way.)

ARTICLE XA. Recreation and Parks District (R-P)

[Amended 10-13-2008 by Ord. No. 141]

§ 155-47. Intent and purpose; permitted uses.

A. It is the intent of these regulations to provide reasonable flexibility in the division and subsequent development of land when, in the judgment of the Commission, such flexibility shall ensure the conservation or preservation of natural or man-made features and related open space areas which contribute to the health, safety and general welfare of the Town of Leonardtown.

B. The purpose of establishing a Recreation and Parks (R-P) District is to preserve and protect natural features of land, including views, vistas, terrain, geological features, indigenous vegetation, inland wetlands and watercourses; preserve significant land areas for open space and recreational uses; and maintain the rural residential character of the Town of Leonardtown.

C. Permitted uses. No building or premises shall be erected, structurally altered, enlarged or maintained, nor shall any land be used, except for the following purposes:

- (1) Public parks.
- (2) Publicly owned open space.
- (3) Public recreational/community use buildings such as, but not limited to, pavilions, museums, boat ramps, wineries, and amphitheatres.

ARTICLE XB. Communications Towers

§ 155-48. Purpose; requirements.

A. In balancing the interests of Town residents, tower contractors, telecommunications providers and telecommunications customers, and for the general health, safety and welfare of the public, these regulations are intended to:

- (1) Provide for the appropriate location and development of communications towers by maximizing the use of any new and existing towers, minimizing the need for new towers, encouraging the use of alternative tower structures or tower sites, and minimizing the number of towers in the Town. (Note: The term "existing towers" includes towers already constructed and in use, as well as towers submitted to the Town/St. Mary's County Department of Planning and Zoning for review and approval. The Department of Planning and Zoning will continuously maintain a list of existing towers, including owner points of contact, and shall make this list available to all new tower applicants.)
- (2) Avoid potential damage to adjacent properties from tower or antenna failure through engineering and careful siting of tower structures and antennas; and
- (3) Minimize the adverse visual impacts of communications towers through careful siting, design, screening and camouflaging.
- (4) Ensure that proposed siting and development of communications towers is done in a reasonable manner, not to the detriment of the zone in which it is located, and is not contrary to the intent of the Comprehensive Plan.

B. General requirements.

- (1) All communications towers, structures and equipment shall meet or exceed current standards and regulations of the FAA and the FCC. Pursuant to Federal Communications Commission Regulations 1.1301 through 1.1319, as amended from time to time, communications towers shall be subject to the provisions of the National Environmental Policy Act (NEPA).

(2) Approval of proposals for tower construction shall be subject to satisfactory completion of an aeronautical study. Applicants shall file a notice of proposed construction or alteration, FAA Form No. 7460-1 (as amended from time to time) with the Federal Aviation Administration as required by the FAA or applicable federal law, and forward copies of the form and any FAA response received, via first-class mail, postage prepaid, to the Commissioners of Leonardtown/Planning and Zoning, P.O. Box 1, Leonardtown, Maryland 20650; to the Department of the Navy, Commanding Officer, Naval Air Station, 22268 Cedar Point Road, Unit NASAD, Patuxent River, Maryland 20670-1154; to St. Mary's County Department of Planning and Zoning, P.O. Box 653, Leonardtown, Maryland 20650; and to the County's Airport Manager, P.O. Box 653, Leonardtown, Maryland 20650.

(3) To the extent permitted by law, no tower or equipment or antennas attached thereto shall cause localized interference with reception of television and radio broadcasts, nor shall any tower or equipment or antennas attached thereto interfere with existing lines of communication used for public safety purposes.

C. Commercial communications towers.

(1) Commercial communications towers shall in all cases require special exception use approval by the Town Board of Appeals in the I-O Zoning Districts.

(2) The application submitted by the applicant to the Planning and Zoning Commission and to the Town Board of Appeals shall satisfactorily address the requirements of special exception use applications as defined by this Chapter 155 for any special exception whatsoever, as amended from time to time, and shall in addition include the following:

(a) A system design plan that shall include, at a minimum, radio frequency parameters, tower height, number and location of antennas on the tower, radio frequency output, effective radiated power and azimuth antenna type;

(b) Signal coverage/propagation map of the area to be served by the proposed tower;

(c) Signal coverage/propagation map showing coverage area available under existing towers, proposed towers already submitted for review and approval, and antennas/equipment installed on other structures (water towers, buildings, etc.);

(d) Evaluation of the tower's relationship to other antenna sites, existing buildings taller than 50 feet, communications towers and water tanks within a one-mile radius of the proposed tower;

(e) A detailed engineering analysis of the proposed new tower, including a summary of the proposed tower's capacity to provide space for future collocation by others;

(f) Federal Communications Commission review, evaluation and approval under the National Environmental Policy Act of 1969, applicable Federal Communications Commission regulations and standards through the Office of Engineering and Technology as required by federal law;

(g) Identification with specificity of the type of tower to be constructed and the proposed materials to be used in the construction of the tower;

(h) The design of the proposed tower shall be sealed by a licensed engineer licensed to practice in the State of Maryland;

(i) Identification of all noise, odor and other potential nuisance-producing facilities, appurtenances and/or outbuildings, or the like, that are associated with the proposed use;

(j) Identification of the maximum number of antennas that can be safely placed upon the tower;

(k) An elevation drawing, depicting the tower at its proposed height, with all planned antennas/equipment shown; and

(l) A visual impact study, including photo-simulations, demonstrating that a proposed tower shall not unreasonably interfere with the view of, or from, sites of significant public interest such as a public park, a state-designated scenic road, a structure on the historic sites survey, an historic district, or water views located within one mile of the proposed tower site. The Planning and Zoning Commission or the Town Board of Appeals may require the applicant to conduct balloon tests and to submit additional photo-simulations documenting the visual impact the proposed tower may have on surrounding sites.

(3) Collocation feasibility; alternatives analysis.

(a) The applicant for a new commercial communications tower shall demonstrate to the Planning and Zoning Commission/Board of Appeals that collocation on existing commercial towers, public safety towers, or other appropriate structures is not feasible. Feasibility shall be demonstrated by an analysis and explanation prepared by the applicant which identifies any reasonable, technically feasible, alternative locations and/or facilities which would provide the proposed communications service and a structural analysis indicating that no existing or proposed tower can be structurally modified to meet the applicant's needs. Replacement of an existing approved tower with a new tower on the same site shall be an alternative addressed in the analysis.

(b) The intention of the alternatives analysis is to present alternative strategies which would minimize the number, size and adverse environmental and public safety impacts of facilities necessary to provide the needed services to the Town/county. The analysis shall address the potential for collocation at an existing or a new site and the potential to locate facilities as close as possible to the intended service area. It shall also explain the rationale for selection of the proposed site in view of the relative merits of any of the feasible alternatives. Physical constraints may be considered, but will not be determinative. Approval of the project is subject to the Town Board of Appeals making a finding that the proposed site results in fewer or less severe impacts than any feasible alternative site.

(c) Collocation is not deemed possible if the Board of Appeals finds that:

[1] Planned equipment would exceed the structural capacity of existing and approved towers or towers proposed to be constructed, considering existing and planned use of those towers, and such towers cannot be structurally modified or reinforced to accommodate planned or equivalent equipment. In the case of existing towers owned by the applicant, the applicant shall have demonstrated to the Planning and Zoning Commission or the Board of Appeals that a new (replacement) tower cannot be constructed on the existing approved site to satisfy its new requirements;

[2] Planned equipment will cause interference with other existing or planned equipment for the tower, and the interference cannot be prevented;

[3] Existing, approved towers, or towers proposed to be constructed, do not have space on which planned equipment can be placed so as to function effectively; or

[4] Existing, approved towers, or towers proposed to be constructed, will not provide significant signal coverage sought by the applicant.

(4) The tower shall be constructed so as to provide adequate capacity for future collocation of other commercial and/or government-operated antennas, unless the applicant demonstrates why such design is not physically feasible. The system design plan shall delineate areas near the base of the tower to be used for the placement of additional equipment buildings for other users.

(5) No signals, lights or illumination shall be permitted on the tower unless required by the Federal Communications Commission, the Federal Aviation Administration or the Town.

(6) No commercial advertising or other signage shall be permitted on the tower.

(7) All obsolete or unused facilities, including buildings, towers, and all other improvements associated with the tower, shall automatically be deemed abandoned upon 24 months of continuous cessation of operations and shall be removed at such time without cost to the Town.

(8) Towers shall be constructed at the minimum height required to obtain significant signal coverage. Towers exceeding a height of 199 feet above existing grade shall require detailed engineering justification, documenting the basis for determining that a taller structure is required. Towers exceeding 199 feet above existing grade may also be justified by demonstrating that the existence of previously approved tower(s) in the vicinity of the proposed site serves to mitigate visual impacts, or that a single (taller) tower will reduce adverse visual impact by replacing multiple existing towers.

(9) The site shall be of sufficient size (at least 7,500 square feet) to protect adjacent properties from harmful effects, and of a size sufficient to meet Health Department standards if water and sanitary facilities are provided. The site plan shall depict the tower site and all adjoining properties; means of ingress/egress; and setback for collapse radius.

(10) Antennas or towers shall be at least a distance which is equal to 100% of the height of the tower from any residence, historic site, building or other facility not associated with the tower site. If the setback is to be on an adjoining property, a notarized statement of agreement must be obtained from the adjoining property owner. A reduced setback, equal to the designed radius for self-collapsing-type towers, may be authorized. A signed and sealed plan shall be submitted by a registered professional engineer, registered in the State of Maryland, in order to qualify for the reduced setback. The plan shall indicate the designed radius for collapse of the tower. The reduced setback shall be equivalent to the designed collapse radius or equal to 50% of the height of the tower, whichever is greater and approved by the Board of Appeals.

(11) The tower site shall be buffered from adjoining properties with at least a B buffer per Chart B, attached hereto. Editor's Note: Chart B, (155:A3) Bufferyard Standards, is included at the end of this chapter.

D. Public safety communications towers.

(1) Minimum site size, setbacks and buffers shall be identical to those required for commercial communications towers.

(2) Public safety communications towers shall be considered a permitted use in any zoning district as approved by the Town Council.

E. Noncommercial communications towers.

(1) The normal lot setbacks for each district shall apply.

ARTICLE XI. Off-Street Parking

§ 155-49. General provisions.

A. Except as otherwise provided in this chapter, when any building or structure is hereafter erected or structurally altered, or any building or structure is put into new use, parking shall be provided according to the requirements detailed in Section 155-55 Chart B, *Table of Required Parking Spaces*, or as required in subsequent sections of this article, unless such use is approved as a special exception subject to the provisions of § 155-101.C. Parking spaces do not include vehicle storage spaces.

B. General guidelines.

(1) Where fractional spaces result, the parking spaces required shall be the next highest whole number.

(2) The parking space requirements for a use not specifically listed on the chart shall be the same as for a listed use with similar characteristics of parking demand generation.

(3) Where a building or premises is occupied by more than one use, the parking spaces required shall equal the sum of the requirements for each separate use.

(4) Whenever a building or use constructed or established after the effective date of this chapter is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of 10% or more in the number of existing parking spaces, such spaces shall be provided.

§ 155-50. Design standards.

A. Each automobile parking space shall be not less than 180 square feet nor less than nine feet wide. In addition, there shall be provided adequate interior driveways and entrance and exit driveways to connect each public parking space with a public right-of-way.

B. All such off-street parking facilities shall be so drained as to prevent damage to abutting properties or public streets and shall be designed and installed in accordance with the following standards:

(1) Maximum gradient between vertical transitions shall be 1 3/4 inches per foot, 14%.

(2) Parking spaces shall be installed with a maximum gradient of 5/8 inch per foot, 5%.

(3) Commercial, industrial and all other than detached single-family driveways and parking areas shall be paved with a minimum of six inches of concrete, six inches of bituminous concrete or six inches of compacted gravel and two inches of bituminous concrete.

C. All parking spaces shall be separated from walkways, sidewalks, streets or alleys by curbing.

D. In addition, all parking areas shall comply with the following:

(1) Screening in the form of a solid fence or shrubbery shall be required to protect neighboring residences from all parking lots hereafter constructed to contain 10 or more spaces. The location and construction of such screening shall be approved by the Planning and Zoning Commission.

(2) Off-street parking facilities shall have adequate drainage. The off-street parking areas shall be fully maintained and not used for the sale, repair or dismantling or servicing of any vehicles, equipment, materials or supplies.

(3) Off-street parking spaces shall be separated from public ways by a wall, fence or curbing or other approved protective device or by distance so that vehicles cannot protrude over publicly owned areas. All *parking spaces*, aisles, and turning areas shall be located entirely within the served property's lot lines and shall not encroach upon or overhang any road, *driveway*, or other public right-of-way.

(4) Parking spaces in lots of more than 5 spaces shall be marked by painted lines or curbs or other means to indicate individual spaces. Signs or markers shall direct traffic flow. Off-street parking surfaces shall be maintained in good condition and *parking space* lines or markings shall be kept clearly visible and distinct.

(5) Adequate lighting of minimal glare shall be provided if off-street parking spaces are to be used at night.

E. Special Study. Where Section 155-55 Chart B, *Table of Required Parking Spaces*, indicates, or where a land *owner* opts to prove that less parking than required is actually necessary, a special study may be required. Any such study shall be prepared at the expense of the landowner and any town expense for professional review of such study shall be borne by the landowner. Such study may not be required if the Planning Commission is satisfied that less parking than required in Section 155-55 Chart B, is necessary to support the use or uses proposed.

(1) Contents of Study. The special study shall be conducted by a transportation planner or engineer that provides a peak parking analysis of at least five similar uses. The similarity of the uses shall be documented in detail, including location of the uses, size, transportation, use restrictions, or other factors that could affect the parking demand.

(2) Findings and Conditions. The Town may substitute or rely on the special study for that specific property. The Planning Commission may require space be reserved or land banked for additional parking if it finds that there is a high probability the use could change, thus, requiring the number of *parking spaces* in Chart B, *Table of Required Parking Spaces*.

(3) Mixed Uses and Shared Parking. Where a *building* is a *mixed use* structure or a *shopping center*, or where a combination of uses is such that there are very different parking requirements in the same complex or are designed to share parking areas, the off-street parking requirements shall be calculated individually. However, it is understood that the uses may have very different hours of operation and peak parking demand hours. The Town desires to encourage the sharing of parking and reduced *impervious surfaces*. Thus, where a reduced parking need exists, the Town may reduce the number of spaces required. In such cases a special study shall be conducted by a transportation planner or engineer that shall document the parking required for mixed uses by reviewing peak parking demand times for uses during a 24-hour day and designing for the peak hour demand. The study shall be prepared at the landowners expense and shall provide data on the following:

- (a) The recommended parking needs of the project.
- (b) The sensitivity of the proposed uses to change. For example, a center with no restaurant could have significant changes in parking if a restaurant was added.
- (c) The experience of similar mixes of uses in other areas of the community.
- (d) Degree of variability of parking for individual uses (average, range, and standard deviation).

(4) Reserved Space. The Planning Commission may require a reserved open area if it is felt that the risk of parking needs changing over time warrants reserved parking. Once the project is occupied and well established, if there is a surplus of parking, the applicant may *petition* for additional *development* capacity and parking using the reserved area.

(5) Multiple Ownership. When the reduction is to be applied to uses on several lots under different ownership, the following shall be met:

- (a) A *plan* that provides for interconnected lots; and
- (b) Places cross *easements* on the parking areas and connections that permit parking by the different uses anywhere in the connected properties.
- (c) A pedestrian circulation system that connects uses and parking areas making it easy and convenient to move between uses.

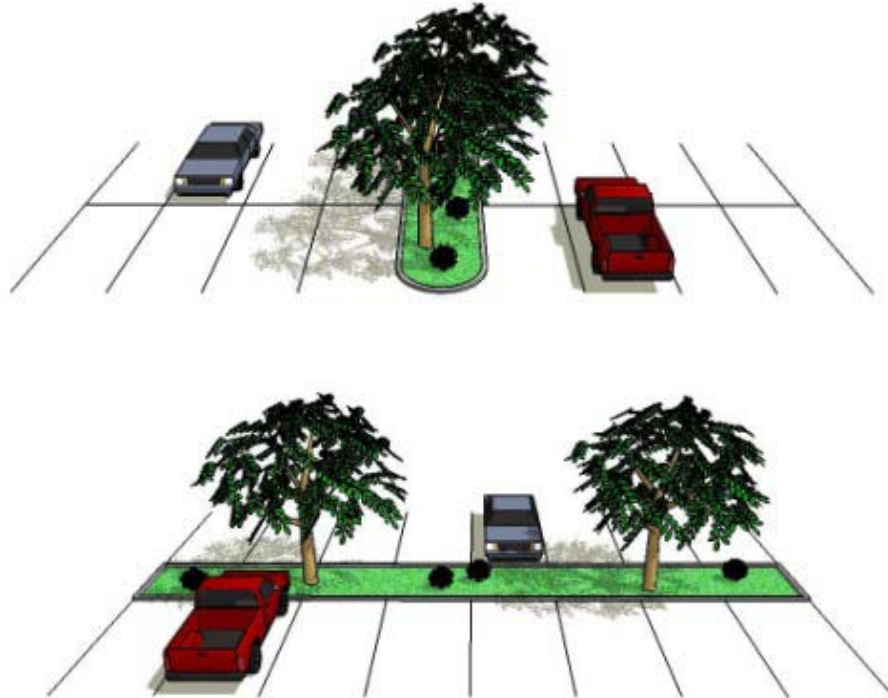
F. Landscaping. It is intended that the application of the landscape standards set forth below will reduce the visual and environmental impacts of large expanses of parking areas. Breaking up of paved parking areas with plantings will provide improved aesthetics and microclimatic benefits by reducing heat and glare. Parking facilities with more than 10 parking spaces shall comply with the requirements set forth below:

(1) Interior landscaping. For surface parking facilities, at least 10% of the parking facility shall be permanently landscaped. The net parking facility shall include the area occupied by parking stalls, access drives, aisles, walkways, dead spaces and required separations from structures, but shall not include required street setbacks or access driveways or walkways within such setbacks.

(2) Planting beds. All landscaping shall be contained in planting beds. Each planting bed shall have a minimum area of 25 square feet and shall be enclosed by appropriate curbing or similar device at least six inches wide and six inches in height above the paving surface.

(3) Plant materials. Surface parking shall contain at least one tree for each five spaces of required parking. Each 10 spaces shall require an interior planting bed island or median a minimum of eight feet in width and 160 square feet in area. Fifty percent of all interior parking aisles or bays shall end in a minimum eight-foot-wide planting island. In addition to required trees, each planting bed, island or median shall contain appropriate ground cover or shrubbery.

Parking lot planting to provide 1 tree per five parking spaces
Trees may be located in planting beds or medians as shown



(4) All plant materials that die within two years from the date of installation shall be replaced by the *developer*.

G. Access to parking areas and parking spaces.

(1) Access to parking lots. Parking lots shall be designed to prevent access at any point other than at designated access drives.

(2) Parking space location. Parking spaces shall not be located within 10 feet of an access driveway, measured from the property line. See Figure P-1 (Queuing Area).

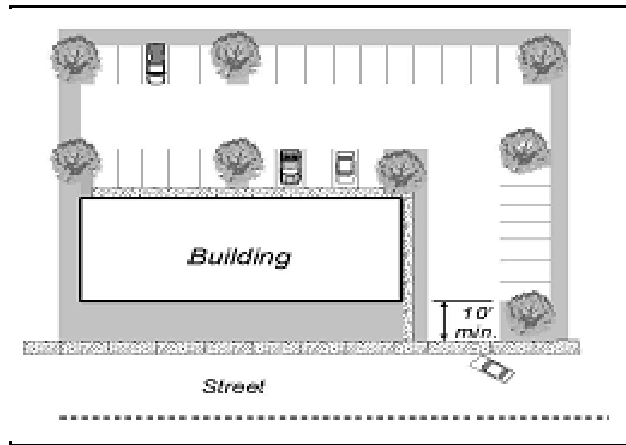


Figure P-1 Queuing Area

- (3) Internal maneuvering area. Parking areas shall provide suitable maneuvering room so that vehicles enter the street in a forward direction, except for single-family homes and duplexes.

- H. Access to adjacent sites. Applicants for nonresidential developments are encouraged to provide shared vehicle and pedestrian access to adjacent nonresidential properties for convenience, safety and efficient circulation. A joint access agreement guaranteeing the continued availability of the shared access between the properties and conveying with the land shall be recorded by the owners of the abutting properties, as approved by the Town Administrator.

- I. Parking space and aisle width dimensions and design.
 - (1) Parking spaces and Aisle dimensions shall be designed and constructed in compliance with the minimum dimensional requirements shown in Figure P-2 and Table P-1.
 - (2) All parking facilities shall comply with applicable federal and state requirements for accessibility and usability for those with disabilities. Spaces for those with disabilities may not be reduced in number or size or provided on parking surfaces that may hinder their access to any use.

Figure P-2: Parking Space and Drive Aisle Dimensions

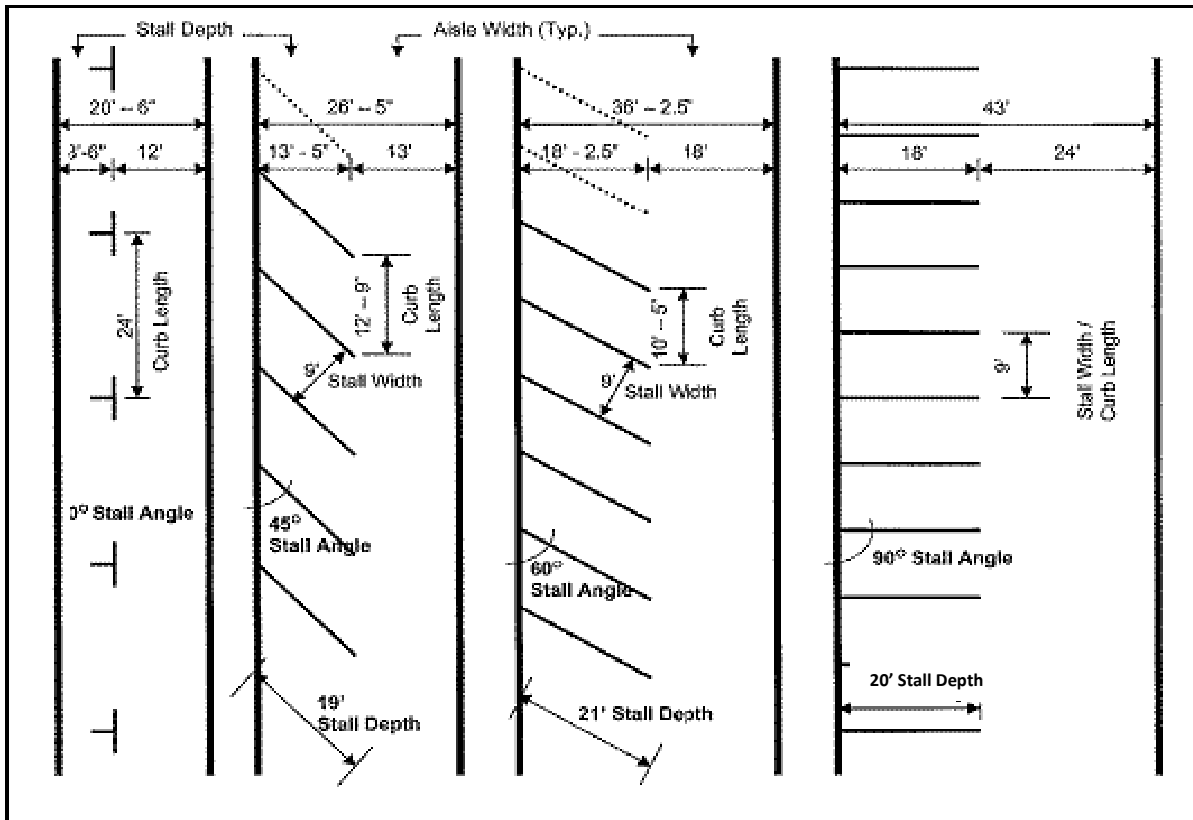


Table P-1: Parking Space and Drive Aisle Dimensions

Angle of Parking	Minimum Dimensions		
	Parking Space Depth	Parking Space Width	Aisle Width (1)
0 degrees (e.g. tandem or parallel parking)	24 ft	8.6 ft (2)	12 ft
30 to 45 degrees	19 ft	9 ft (2)	13 ft
46 to 60 degrees	21 ft	9 ft (2)	18 ft
61 to 90 degrees	20 ft	9 ft (2)	24 ft

Note: The Town may require greater aisle widths where slopes or other obstructions are encountered.

- (2) Drive aisles for 30 to 45 degree, and 46 to 60 degree angled parking shown in Figure P-2 and Table P-1 accommodate only one-way traffic and must provide access and egress from separate ends of each aisle.
- (3) Visibility. Drive aisles shall be designed and located so that adequate visibility is ensured for pedestrians, bicyclists, and motorists when entering individual parking spaces, circulating within a parking facility, and entering or leaving a parking facility.

§ 155-51. Alternate off-premises parking.

A. Within the C-B, C-O and C-M zoning districts, where practical difficulties, including the acquisition of property or undue hardships, are encountered in providing off-street parking areas for the premises, the Planning and Zoning Commission may recommend the Town Council accept, in lieu thereof, a payment by the applicant to offset the parking deficiency that would result. The amount of such payment shall be determined by the Mayor and Council of Leonardtown. The amount of such payment shall be based on actual costs of existing available lots or estimates for design and construction of proposed parking spaces including the fair market value of the land. Fees so paid shall be placed in a separate and sole account. The fee in lieu is intended for use in the downtown area where public parking would be available. (See map of downtown area – Appendix 155:A2).

B. Parking facilities paid for by applicants under this section shall not be reserved for the use of each applicant but shall be considered in the public domain, and the Town will not establish a user charge in excess of the cost of annual maintenance.

§ 155-52. Marina parking.

One parking space must be provided per two marina boat slips.

§ 155-53. Shopping center parking requirements.

A. For a shopping center of less than 50,000 square feet of gross area, the required number of spaces shall be calculated according to the particular types of tenants in the shopping center.

B. For a shopping center of 50,000 square feet or more of gross area, five parking spaces per 1,000 square feet of gross area shall be provided.

C. The following landscaping will be required for shopping center parking lots:

(1) Street frontage. A ten-foot-wide landscape strip wide enough for a sidewalk between the right-of-way and parking lot with a fence or wall two to four feet in height, or a berm 2 1/2 feet in height with a slope not to exceed 25%, or a hedge of non-deciduous species which shall be a minimum of two feet in height at the time of planting to form a screen a maximum of 2 1/2 feet in height shall be provided.

(2) Interior landscaping. To break up the visual expansiveness of lots and to reduce glare and heat, at least 5% of the interior vehicular area must be landscaped. To achieve this objective, one of the following alternatives must be utilized:

(a) Provide a continuous landscape strip between every four rows of parking. This should be a minimum of eight feet in width to accommodate a low hedge and shade trees;

(b) Create large planting islands (over 600 square feet) to be located throughout the lot and planted with shade trees, low shrubs and/or ground cover. These should preferably be located at the ends of parking rows; or

(c) Provide planting islands (a minimum of nine feet wide) between every 10 spaces to avoid long rows of parked cars. Each of these planting islands should provide at least one shade tree having a clear trunk height of at least six feet.

(3) Perimeter landscaping. An eight-foot-wide landscape strip shall be provided around the perimeter of the lot, to be planted with shade trees and low shrubs. A minimum of one shade tree per every 40 feet of lot perimeter shall be provided.

§ 155-54. Landscaping of parking facilities.

A. It is intended that the application of the landscape standards set forth below will reduce the visual and environmental impacts of large expanses of parking areas. Breaking up of paved parking areas with plantings will provide improved aesthetics and microclimatic benefits by reducing heat and glare.

B. Parking facilities with more than 10 spaces shall comply with the requirements set forth below:

(1) Interior landscaping. For surface parking facilities, at least 10% of the parking facility shall be permanently landscaped. The net parking facility shall include the area occupied by parking stalls, access drives, aisles, walkways, dead spaces and required separations from structures, but shall not include required street setbacks or access driveways or walkways within such setbacks.

(2) Planting beds. All landscaping shall be contained in planting beds. Each planting bed shall have a minimum area of 25 square feet and shall be enclosed by appropriate curbing or similar device at least six inches wide and six inches in height above the paving surface.

(3) Plant materials. Surface parking shall contain at least one tree for each five spaces of required parking. Each 10 spaces shall require an interior planting bed island or median a minimum of eight feet in width. Fifty percent of all interior parking aisles or bays shall end in a minimum eight-foot-wide planting island. In addition to required trees, each planting bed, island or median shall contain appropriate ground cover or shrubbery.

§ 155-55. Chart B: Required Parking Spaces.

Parking requirements shall be as follows:

Spaces Required Per Use or Category	Basic Measuring Unit
1- or 2-family dwelling	2 per dwelling unit
Multiple-family dwelling	2 per dwelling unit
Housing for the elderly	1.5 per dwelling unit
Church or temple, theater or place of assembly	1 per 4 seats or bench seating spaces in main auditorium
Private recreation area	1 per 5,000 square feet of park area, plus 1 per 100 square feet of pool, if any
Private educational facility	1 per 10 seats in main assembly room and 1 per classroom
Private club	1 per 5 members
Hospitals, sanitarium and nursing or convalescent home	1 per employee and 1 per 5 patient beds
Tourist court, motel, motor lodge, motor hotel or hotel	1 per sleeping room or suite
Rooming, boarding- or lodging house	1 per 2 sleeping rooms
Office or office building	1 per 300 square feet of floor area
Funeral home	1 per 3 seats in chapel
Restaurant, carry-out	1 space per 300 square feet of gross floor area, plus 1 space per delivery

Spaces Required Per Use or Category	Basic Measuring Unit
	vehicle
Restaurant, fast-food	1 space per 50 square feet of gross floor area, plus 5 stacking spaces per drive-through window
Restaurant, sit-down or other establishment for consumption of food or beverages on the premises	1 per 100 square feet of floor area
Retail store or personal service establishment, bank and shopping center	1 per 200 square feet of retail floor area
Furniture or appliance store, machinery, equipment and auto-mobile and boat sales and service, food storage locker	1 per 300 square feet of retail floor area
General service or repair establishment, such as printing, publishing, plumbing, heating	1 per employee on premises
Animal hospital	1 per 400 square feet of floor area
Manufacturing or industrial establishment	1 per 1 employee and 1 space for each truck or other commercial vehicle
Child-care and day-care facilities	1 per employee, plus 1 per 6 children
Library, museum, historic institution	2 per 1,000 square feet of gross floor area, plus 1 for each 4 employees
Detention centers	To be determined by the Planning Commission
Community colleges and/or institutions of higher learning	1 per 4 students per design capacity

ARTICLE XII. Off-Street Loading

§ 155-56. General provisions.

A. All buildings and premises other than those in single-family residential use shall provide off-street loading facilities.

B. Where the affected use is contained in a building of less than 10,000 square feet, one space shall be provided; above 10,000 square feet, one additional space for every 20,000 square feet or fraction thereof. For very large buildings or premises (above 50,000 square feet in building area), an extra space shall be provided for each additional 50,000 square feet.

C. In the case of a mixed use of a building, loading spaces shall be provided in relation to the area of the largest use.

§ 155-57. Design standards.

A. Loading docks for tractor-trailers shall be provided with minimum dimensions of 14 feet in height, for vertical clearance, 12 feet in width and 45 feet in length. A clear space of at least 40 feet from the face of the loading dock shall be allowed for parking the trailer.

B. Lighting, drainage and maintenance shall be the same as for off-street parking areas. Location and design of loading areas shall meet Town traffic regulations of entrance and exit.

ARTICLE XIII. Supplementary Height, Bulk, Density and Area Requirements

§ 155-58. Height.

The height regulations, as prescribed in this chapter, shall not apply to church spires, residential chimneys, agricultural buildings, elevator/stair towers not exceeding 12 feet and temporary amusement structures. Public buildings, hospitals or institutions and churches, when permitted in a district, may be erected to a height not exceeding 60 feet.

§ 155-59. Yards.

- A. Whenever a lot abuts upon a public alley, 1/2 of the alley width shall be considered as a portion of the required yard.
- B. Within any residential district, the least dimension of a yard upon which the principal entrances or exits of a multiple dwelling face shall be 20 feet.
- C. Where more than one building is located on a commercial lot, all such buildings shall have around them the open space required for that district.
- D. In multiple-dwelling groups, walls containing main window exposures or main entrances shall be oriented as to ensure adequate light and air exposure; shall be so arranged as to avoid undue exposure to nearby through-traffic ways or undue exposure to concentrated loading or parking facilities; and shall be oriented as to preserve visual and audible privacy between adjacent buildings. Minimum yard depths for walls containing living room windows shall be 1 1/2 feet per foot of building height, and minimum yard depth for walls not containing living room windows shall be one foot per foot of building height. In commercial areas, a group of buildings may not be so arranged that any permanently or temporarily occupied building is inaccessible by emergency vehicles.
- E. Where an official line has been established for the future widening or opening of a street or major thoroughfare upon which a lot abuts, then the depth of a front or side yard shall be measured from such official line to the nearest line of the building.
- F. All buildings in commercial districts, when located adjacent to a residential district, shall be set back an additional 15 feet, with fences and screen planting provided at the sides and in the rear.
- G. On through lots, the required front yard shall be provided on each street.
- H. Commercial district regulations for yards shall prevail where a residence is built above a commercial structure.
- I. For side yard regulations, a group of business or industrial buildings separated by common or party walls shall be considered as one building occupying one lot.
- J. The minimum depth of side yards for those churches, community houses and other semipublic buildings in residential districts shall be 25 feet, except where a side yard is adjacent to a business district, in which case the depth of that yard shall be as required in that district.

- K. Preservation of existing building setbacks. In all zones, on public ways, where, in the opinion of the Planning Commission, the location of existing buildings and structures creates a clearly defined setback line or front yard, a new building or structure may be located in such a manner as to preserve the existing setback line, even though such building or structure may not provide for the full yard required herein.

§ 155-59A. Special provisions and density adjustments for steep slopes

- A. Purpose. The purpose of this section is to maintain land and water quality by minimizing erosion and sedimentation, and by restricting or otherwise limiting development, excavation and vegetation removal in areas with constrained or steep slopes.
- B. Areas of Application. These provisions shall apply to all land within the Town of Leonardtown with slopes of 15 percent or greater. For purposes of this section, all areas in the Town where the slope of the land is between 15 and 24 percent shall be defined as “constrained” slopes. All land where the slope of the land is 25% or greater shall be defined as “steep” slopes. These areas are associated primarily, but not exclusively, with the streams and drainageways associated with Breton Bay. When the provisions of this section are in conflict with the regulations contained in Title 27 of the Annotated Code of Maryland, applicable to portions of the Town located in the Chesapeake Bay Critical Area, the more restrictive provisions shall apply.
- C. Delineation of Boundaries. Specific determination of Steep Slope and Constrained Slope areas shall be made at the time of a development proposal by the applicant for alteration or development for any properties within the Town. Land area in each slope category shall be calculated for all lands defined as steep or constrained slopes based on topographic map and field survey prepared by the applicant. The survey shall show trees or tree clusters and 2 foot contours, and shall be provided by the property owner or applicant for development approval.
- D. Residential Density Allowance and Transfer Provisions.
 - (1) The maximum density of residential development for those lands defined as areas with constrained slopes (15 to 24%) shall be 70 percent of the average density otherwise permitted in the underlying residential or PUD-M zoning district. No more than 50% or ½ the number of units permitted based on the 70 percent density adjustment may be located on those portions of the site defined as areas with constrained land. The remaining units available for development after application of the density reduction calculation may be constructed on those portions of the site where slopes are less than 15 percent and are located outside the 100-year floodplain.
 - (2) The maximum density of residential development for those lands defined as areas with steep slopes (25% or greater) shall be limited to 50 percent of the average density otherwise permitted in the underlying residential or PUD-M zoning district. All units available for development after application of the density reduction calculation may be transferred to buildable portions of the site (i.e., where slopes are less than 15 percent and outside the floodplain).
 - (3) The net increase in density as a result of all density transfers from portions of the site defined as constrained or steep slopes shall not exceed [50] percent of the base density that would otherwise be allowed on all portions of the site where slopes are less than 15 % and are not located in the floodplain.
 - (4) Exception: Each lot-of-record established prior to the effective date of this amendment, shall be permitted to construct one dwelling unit. No new lot shall be approved for development which is exclusively on slopes of 25 percent or greater.
- E. Development Standards.
 - (1) Where slopes are 25 percent or greater, grading, vegetation removal, site preparation and construction shall be prohibited, except where necessary to provide access or utilities to buildable lots or lots on slopes of 15 to 24 percent or less percent or less.
 - (2) Land with slopes of 25 percent or greater shall be conserved and maintained as open space. This may occur through private ownership, through private conditions, covenants

and restrictions, through conservation easements or other public or private nonprofit agency, subject to approval by the Town Council

- (3) At least half the constrained slope area (15 to 24 percent) shall remain in, or be planted in, approved native vegetation. The existing tree canopy shall be retained wherever possible, and shall be considered in meeting this standard.

§ 155-60. Accessory buildings and structures.

[Amended 5-20-2008 by Ord. No. 137]

Accessory buildings which are not a part of the main building, although they may be connected by an open breezeway, may be constructed in a rear yard.

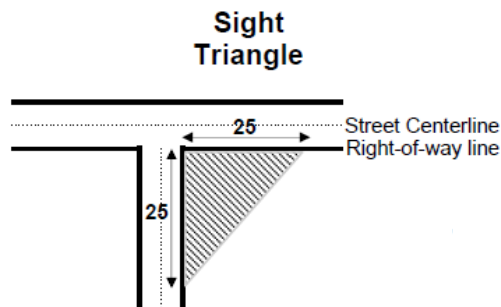
- A. Detached garages or carports. If the garage or carport will be larger than 100 square feet, or has plumbing or electric, a building permit will be required. Accessory structures or buildings may not be located on a lot unless a principal structure exists on the property. When a principal structure exists on the property the location of the detached structure must comply with the required setbacks of five feet to the rear lot line and three feet to a side lot line. If the structure is larger than one story, the setbacks will be increased to 10 feet from the rear lot line and 10 feet from the side lot line. Detached garages may not be larger than two stories, may not be located in the required front yard setback, and shall be separated from all other structures by a minimum of 10 feet. The structure and other permitted obstructions combined may not occupy more than 30% of a required side or rear yard (the area between the principal structure setback line and the property line). Recorded easements, or location within the Critical Area, may further restrict the location of a garage or carport.
- B. Sheds and gazebos. If the shed or gazebo will be larger than 80 square feet, or have plumbing or electric, a building permit will be required. The location of the structure must comply with the required setbacks of five feet from the rear property line and three feet to a side lot line and be separated from all other structures by 10 feet. A shed or gazebo may not be located in the required front yard setback. The structure and other permitted obstructions combined may not occupy more than 30% of a required side or rear yard (the area between the principal structure setback line and the property line). Recorded easements, or location within the Critical Area, may further restrict the location of a shed or gazebo. The maximum allowable height of a shed or gazebo is one story.
- C. Unenclosed decks. A building permit is required. The location of the structure must comply with the required setbacks of five feet from the rear property line and three feet from the side lot line. Recorded easements may further restrict the location of a deck. (Enclosed decks must comply with the principal dwelling setback requirements.)
- D. Fences.
 - (1). All fences shall be subject to the following standards:
 - (a) Fences may be erected right up to the *property line*, no *setback* required unless located adjacent to a street. An exception to this is when the fence placement would prevent the use of adjacent property or prevent the safe use of a *driveway*. In these cases, the fence to be set back a minimum distance of one foot from the driveway or property line.
 - (b) Fences can be no more than three (3) feet tall in the front yard area. Fences in the front yard area must be of open *construction*. A fence of open construction is one in which the ratio of the open portion to the closed portion is at least 1 to 1 per foot.
 - (c) Fences in the *rear yard* area and in the *side yard* area, can be no more than six (6) feet tall. Fences in the rear yard and side yard areas, may be of open or closed *construction*. A fence of closed construction is one in which the ratio of the closed portion to the open portion is more than 1 to 1 per foot.

E. Retaining Walls

- (1) A building permit shall be required for any retaining walls, as defined in this ordinance, over four feet in height. Plans may be required to be prepared by a professional engineer, registered in the State of Maryland.
- (2) Applicability. The requirements of this section shall apply to the construction, installation, extension and replacement of all retaining walls, as defined in this Ordinance, of more than four feet in height, measured from the final grade at lower-side of wall to the top of the wall, in all zoning districts, except as exempted in (3) Exemptions below.
- (3) Exemptions. Retaining walls that meet the following requirements shall be exempt from these standards.
 - (a) Retaining walls less than four feet in height.
 - (b) Retaining walls designed as part of the primary structure.
 - (c) Retaining walls shown on an approved large scale development plan or preliminary plat.
 - (d) Retaining walls designed as part of a public capital improvement project.
- (4) Standards and Requirements
 - (a) All retaining walls shall be located on private property and shall be built with the consent of the property owner. The retaining wall installer and/or property owner shall be responsible for correctly locating property boundaries.
 - (b) Retaining walls over three feet in height and constructed near street intersections, shall not be located in the "sight distance triangle", shown in Section 155-61 below, in order to provide a reasonable degree of traffic visibility.
- (5) *Inspection Required.* The applicant shall contact the appropriate inspection agency to request a final inspection upon completion of the retaining wall. If the inspector determines that the retaining wall is constructed in accordance with the ordinance requirements and the approved retaining wall permit, a Certificate of Compliance will be issued.

§ 155-61. Site Distance Triangle to Provide Visibility at Intersections.

No sign, fence, wall, hedge, planting or other visual obstruction erected, planted or maintained in a corner lot shall extend more than three feet above street grade. This shall pertain to that part of a corner lot included between the intersecting lines of the streets and 25 feet back from that intersection.



ARTICLE XIV. Nonconformities

§ 155-62. General provisions.

A. Lots existing prior to the adoption of this chapter and future amendments may contain buildings, structures or uses which would be prohibited, regulated or restricted under the terms of this chapter or future amendments.

B. It is the intent of this chapter to permit these nonconformities to continue until they are removed but not to encourage their survival. Such uses are declared by this chapter to be incompatible with permitted uses in the zones involved. Nonconformities shall not be enlarged upon, expanded or extended nor be used as grounds for adding other structures or uses prohibited elsewhere in the same zone.

C. A nonconforming use of a structure, land, or both, shall not be extended or enlarged after passage of this chapter, nor shall additional uses of a nature which would be prohibited in the zone involved be allowed.

D. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter and upon which actual building construction has been diligently carried on. ("Actual construction" is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.)

§ 155-63. Nonconforming lots of record.

A. Notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on a single lot of record at the effective date of adoption or amendment of this chapter, except in the Highway Commercial District. Such lot shall be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the zone, provided that yard dimensions shall conform to the following requirements:

(1) The sum of the side yards need not exceed 30% of the width of the lot, but in no case shall any side yard be less than 10% of the width of the lot.

(2) The rear yard need not exceed 20% of the depth of the lot, but in no case shall any rear yard be less than 10 feet.

(3) The front yard (setback) need not exceed that established by buildings on lots on both sides of the lot in question or by the majority of the lots in the block in which the nonconforming lot is located.

B. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter, the lands involved shall be considered to be an individual parcel for the purposes of this chapter. No portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this chapter, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this chapter.

§ 155-64. Nonconforming use of land.

Where, at the effective date of adoption or amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter, as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

A. No such nonconforming use shall be enlarged or increased, nor shall the lot be extended at the effective date of adoption or amendment of this chapter.

B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.

C. If any such nonconforming use of land ceases for any reason for a period of more than 90 days, any subsequent use of such land shall be a conforming use, meeting the regulations specified by this chapter for the zone in which such land is located.

§ 155-65. Nonconforming structures.

Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure shall be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No such structure shall be enlarged or altered in a way which increases its nonconformity.
- B. If the structure is destroyed by any means to an extent of more than 50% of its replacement cost at time of destruction, as determined by the Planning and Zoning Commission, it shall not be reconstructed except in conforming use, meeting regulations specified by this chapter for the zone in which such structure is located.
- C. If the structure is moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zone in which it is located after it is moved.

§ 155-66. Nonconforming use of structures.

If a lawful use of a structure or of a structure and premises in combination exists at the effective date of adoption or amendment of this chapter that would not be allowed in the zone under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No structure of nonconforming use, except dwellings, shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the structure to a conforming use.
- B. Any nonconforming use may be extended throughout any part of a building which was manifestly arranged or designed for use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.
- C. If no structural alterations are made, any nonconforming use of a structure or a structure and premises may be changed to another nonconforming use, provided that the Board of Zoning Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the zone than the existing nonconforming use. In permitting such change, the Board of Zoning Appeals may require appropriate conditions and safeguards in accord with the provisions of this chapter.
- D. Any structure or combined structure-and-land in nonconforming use replaced by a conforming use shall not thereafter revert to a nonconforming use. The new conforming use shall meet all district requirements.
- E. In any residential district, when a nonconforming use of a structure or premises, or both, is discontinued or abandoned for six consecutive months or for 18 months during any three-year period, the nonconforming use shall not be resumed.
- F. Where a structure and premises are in nonconforming use, voluntary removal or a destruction of the structure shall eliminate the nonconforming status of the land. Further use of the land shall conform to district regulations.
- G. Nothing in these regulations shall prevent the restoration of a nonconforming building or structure destroyed by fire, windstorm, flood and explosion or act of public enemy or accident or prevent the continuance of the use thereof as it existed at the time of such destruction, provided that a zoning certificate is obtained and restoration begun within one year of such destruction.

§ 155-67. Repairs and maintenance.

- A. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding 10% of the current replacement value of the

building, provided that the cubic content of the building, as it existed at the time of the passage or amendment of this chapter, shall not be increased.

B. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety upon order of such official.

§ 155-68. Effect on special exceptions.

Any use for which a special exception is permitted as provided in this chapter shall not be deemed a nonconforming use but shall, without further action, be deemed a conforming use in such zone.

§ 155-69. Registration.

All nonconforming uses shall be registered with the Commission within 12 months from the effective date of this chapter.

ARTICLE XV. LEONARDTOWN STORMWATER MANAGEMENT ORDINANCE

155-70 PURPOSE AND AUTHORITY

The purpose of this Ordinance is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures that control the adverse impacts associated with increased stormwater runoff. The goal is to manage stormwater by using environmental site design (ESD) to the maximum extent practicable (MEP) to maintain, after development, as nearly as possible, the predevelopment runoff characteristics, and to reduce stream channel erosion, pollution, siltation and sedimentation, and local flooding, and use appropriate structural best management practices (BMPs) only when necessary. This will restore, enhance, and maintain the chemical, physical, and biological integrity of streams, minimize damage to public and private property, and reduce the impacts of land development. The provisions of this Ordinance, pursuant to the Environment Article, Title 4, Subtitle 2, Annotated Code of Maryland, 2009 replacement volume, are adopted under the authority of the Town of Leonardtown Code and shall apply to all development occurring within the incorporated area of Leonardtown. The application of this Ordinance and provisions expressed herein shall be the minimum stormwater management requirements and shall not be deemed a limitation or repeal of any other powers granted by State statute. The Commissioners of Leonardtown shall be responsible for the coordination and enforcement of the provisions of this Ordinance. This Ordinance applies to all new and redevelopment projects that have not received final approval for erosion and sediment control and stormwater management plans by May 4, 2010.

155-71 Incorporation by Reference

For the purpose of this Ordinance, the following documents are incorporated by reference:

- A. The 2000 Maryland Stormwater Design Manual, Volumes I & II (Maryland Department of the Environment, April 2000), and all subsequent revisions, is incorporated by reference by the Commissioners of Leonardtown and shall serve as the official guide for stormwater management principles, methods, and practices.
- B. USDA Natural Resources Conservation Service Maryland Conservation Practice Standard Pond Code 378 (January 2000).

155-72 DEFINITIONS

A. The following definitions are provided for the terms used in this Ordinance:

- (1) "Administration" means the Maryland Department of the Environment (MDE) Water Management Administration (WMA).
- (2) "Adverse impact" means any deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or usefulness for human or

natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

- (3) "Agricultural land management practices" means those methods and procedures used in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.
- (4) "Applicant" means any person, firm, or governmental agency who executes the necessary forms to procure official approval of a project or a permit to carry out construction of a project.
- (5) "Approving Agency" means the entity responsible for the review and approval of stormwater management plans.
- (6) "Aquifer" means a porous water bearing geologic formation generally restricted to materials capable of yielding an appreciable supply of water.
- (7) "Best management practice (BMP)" means a structural device or nonstructural practice designed to temporarily store or treat stormwater runoff in order to mitigate flooding, reduce pollution, and provide other amenities.
- (8) "Channel protection storage volume (Cp_v)" means the volume used to design structural management practices to control stream channel erosion. Methods for calculating the channel protection storage volume are specified in the 2000 Maryland Stormwater Design Manual.
- (9) "Clearing" means the removal of trees and brush from the land but shall not include the ordinary mowing of grass.
- (10) "Concept plan" means the first of three required plan approvals that includes the information necessary to allow an initial evaluation of a proposed project.
- (11) "Design Manual" means the 2000 Maryland Stormwater Design Manual, and all subsequent revisions, that serves as the official guide for stormwater management principles, methods, and practices.
- (12) "Detention structure" means a permanent structure for the temporary storage of runoff which is designed so as not to create a permanent pool of water.
- (13) "Develop land" means to change the runoff characteristics of a parcel of land in conjunction with residential, commercial, industrial, or institutional construction or alteration.
- (14) "Direct discharge" means the concentrated release of stormwater to tidal waters or vegetated tidal wetlands from new development or redevelopment projects in the Critical Area.
- (15) "Drainage area" means that area contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridge line.
- (16) "Drainage Area Plan" means a plan developed to treat stormwater run-off at the natural low point of an area including one or more individual lots.
- (17) "Easement" means a grant or reservation by the owner of land for the use of such land by others for a specific purpose or purposes, and which must be included in the conveyance of land affected by such easement.
- (18) "Environmental site design (ESD)" means using small-scale stormwater management practices, nonstructural techniques, and better site planning to mimic natural hydrologic runoff characteristics and minimize the impact of land development on water resources. Methods for designing ESD practices are specified in the Design Manual.
- (19) "Exemption" means those land development activities that are not subject to the stormwater management requirements contained in this Ordinance.

- (20) "Extended detention" means a stormwater design feature that provides gradual release of a volume of water in order to increase settling of pollutants and protect downstream channels from frequent storm events. Methods for designing extended detention BMPs are specified in the Design Manual.
- (21) "Extreme flood volume (Q_t)" means the storage volume required to control those infrequent but large storm events in which overbank flows reach or exceed the boundaries of the 100-year floodplain.
- (22) "Fee In Lieu" means a fee paid to a stormwater utility capital improvement fund managed by the Town of Leonardtown in place of stormwater management to be used to retrofit existing stormwater management features. This fee may be allowed when the property will not support enough ESD features to meet the requirements for a particular site without reducing the density below the maximum allowable in the applicable zone.
- (23) "Final stormwater management plan" means the last of three required plan approvals that includes the information necessary to allow all approvals and permits to be issued by the approving agency.
- (24) "Flow attenuation" means prolonging the flow time of runoff to reduce the peak discharge.
- (25) "Grading" means any act by which soil is cleared, stripped, stockpiled, excavated, scarified, filled, or any combination thereof.
- (26) "Impervious area" means any surface that does not allow stormwater to infiltrate into the ground.
- (27) "Infiltration" means the passage or movement of water into the soil surface.
- (28) "Limits of Disturbance (LOD)" means the boundaries of the area that is disturbed during development or redevelopment projects.
- (29) "Maximum extent practicable (MEP)" means designing stormwater management systems so that all reasonable opportunities for using ESD planning techniques and treatment practices are exhausted and only where absolutely necessary, a structural BMP is implemented.
- (30) "Off-site stormwater management" means the design and construction of a facility necessary to control stormwater from more than one development.
- (31) "On-site stormwater management" means the design and construction of systems necessary to control stormwater within an immediate development.
- (32) "Overbank flood protection volume (Q_p)" means the volume controlled by structural practices to prevent an increase in the frequency of out-of-bank flooding generated by development. Methods for calculating the overbank flood protection volume are specified in the Design Manual.
- (33) "Permeable Paving" means paving material that will provide a firm surface but allow stormwater to infiltrate into the ground.
- (34) "Person" means the federal government, the State, any county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any other entity.
- (35) "Pervious Area" means any surface that allows stormwater to infiltrate into the ground.
- (36) "Planned Infill and Redevelopment District (PIRD)" means an overlay zone that provides enough flexibility to make redevelopment of small sites in existing urban areas economically viable.
- (37) "Planning techniques" means a combination of strategies employed early in the

project design to reduce the impact from development and to incorporate natural features into a stormwater management plan.

- (38) "Planned Unit Development (PUD)" means a mixed use zone intended to implement smart growth by using clustering and high density development to attain an overall density of 5 dwelling units per acre. This zoning district is characterized by a mix of residential housing types and commercial sites amid substantial acreage of preserved communal open green space and sensitive natural areas.
- (39) "Recharge volume (Re_v)" means that portion of the water quality volume use to maintain groundwater recharge rates at development sites. Methods for calculating the recharge volume are specified in the Design Manual.
- (40) "Redevelopment" means any construction, alteration, or improvement performed on sites where existing land use is commercial, industrial, institutional, or multifamily residential and existing site impervious area exceeds 40 percent or the proposed development is located in a PIRD zone.
- (41) "Retention structure" means a permanent structure that provides for the storage of runoff by means of a permanent pool of water.
- (42) "Retrofitting" means the implementation of ESD practices, the construction of a structural BMP, or the modification of an existing structural BMP in a previously developed area to improve water quality over current conditions.
- (43) "Sediment" means soils or other surficial materials transported or deposited by the action of wind, water, ice, or gravity as a product of erosion.
- (44) "Site" means any tract, lot, or parcel of land, or combination of tracts, lots, parcels of land that are in one ownership, or are contiguous and in diverse ownership, where development is to be performed as part of a unit, subdivision, or project.
- (45) "Site development plan" means the second of three required plan approvals that includes the information necessary to allow a detailed evaluation of a proposed project.
- (46) "Stabilization" means the prevention of soil movement by any of various vegetative and/or structural means.
- (47) "Stormwater" means water that originates from a precipitation event.
- (48) "Stormwater Capital Improvements Fund" means a fund established to pay for retrofitting existing stormwater facilities, building new facilities and replacing deteriorating portions of the town's stormwater management system.
- (49) "Stormwater management system" means natural areas, ESD practices, stormwater management measures, and any other structure through which stormwater flows, infiltrates, or discharges from a site.
- (50) "Stormwater Management Plan" means a set of drawings or other documents submitted as a prerequisite to obtaining a stormwater management approval, which contain all of the information and specifications pertaining to stormwater management.
- (51) "Stripping" means any activity that removes the vegetative surface cover including tree removal, clearing, grubbing, and storage or removal of topsoil.
- (52) "Variance" means the modification of the minimum stormwater management requirements for specific circumstances such that strict adherence to the requirements would result in unnecessary hardship and not fulfill the intent of this Ordinance.
- (53) "Waiver" means the reduction of stormwater management requirements by The Commissioners of Leonardtown for a specific development on a case-by-case review basis.
- (54) "Watercourse" means any natural or artificial stream, river, creek, ditch, channel,

canal, conduit, culvert, drain, waterway, gully, ravine or wash, in and including any adjacent area that is subject to inundation from overflow or flood water.

- (55) "Water quality volume (WQ_v)" means the volume needed to capture and treat 90 percent of the average annual rainfall events at a development site. Methods for calculating the water quality volume are specified in the Design Manual.
- (56) "Watershed" means the total drainage area contributing runoff to a single point.

155-73 APPLICABILITY

155-73.1. Scope

No person shall develop any land for residential, commercial, industrial, or institutional uses without providing stormwater management measures that control or manage runoff from such developments, except as provided within this section. Stormwater management measures must be designed to be consistent with the Design Manual and constructed according to an approved plan for new development or the policies stated in section 155-73.4 of this Ordinance for redevelopment.

155-73.2 Exemptions

The following development activities are exempt from the provisions of this Ordinance and the requirements of providing stormwater management:

- A. Agricultural land management practices;
- B. Additions or modifications to existing single family detached residential structures if they comply with section 155-73.2.C of this Ordinance;
- C. Any developments that do not disturb over 5,000 square feet of land area; and
- D. Land development activities that the Administration determines will be regulated under specific State laws, which provide for managing stormwater runoff.

155-73.3 Waivers/Watershed Management Plans

- A. The Town of Leonardtown shall grant stormwater management quantitative control waivers only to those projects within areas where watershed management plans have been developed consistent with section 155-73.3.F of this Ordinance. Written requests for quantitative stormwater management waivers shall be submitted that contain sufficient descriptions, drawings, and any other information that is necessary to demonstrate that ESD has been implemented to the MEP. A separate written waiver request shall be required in accordance with the provisions of this section if there are subsequent additions, extensions, or modifications to a development receiving a waiver.
- B. If watershed management plans consistent with section 155-73.3.F of this Ordinance have not been developed, stormwater management quantitative control waivers may be granted to the following projects provided that it has been demonstrated that ESD has been implemented to the MEP:
 - (1) That have direct discharges to tidally influenced receiving waters; or
 - (2) When the Town of Leonardtown determines that circumstances exist that prevent the reasonable implementation of quantity control practices.
- C. Stormwater management qualitative control waivers apply only to:
 - (1) In-fill development projects where ESD has been implemented to the MEP and it has been demonstrated that other BMPs are not feasible;
 - (2) Redevelopment projects if the requirements of section 155-73.4 of this Ordinance are

satisfied; or

- (3) Sites where the Town of Leonardtown determines that circumstances exist that prevent the reasonable implementation of ESD to the MEP.

D. Waivers shall only be granted when it has been demonstrated that ESD has been implemented to the MEP and must:

- (1) Be on a case-by-case basis;
- (2) Consider the cumulative effects of the Town of Leonardtown's waiver policy; and
- (3) Reasonably ensure that the development will not adversely impact stream quality.

E. If the Town of Leonardtown has established an overall watershed management plan for a specific watershed, then the Town of Leonardtown may develop quantitative waiver and redevelopment provisions that differ from sections 155-73.3.B and 155-73.4 of this Ordinance.

F. A watershed management plan developed for the purpose of implementing different stormwater management policies for waivers and redevelopment shall:

- (1) Include detailed hydrologic and hydraulic analyses to determine hydrograph timing;
- (2) Evaluate both quantity and quality management and opportunities for ESD implementation;
- (3) Include a cumulative impact assessment of current and proposed watershed development;
- (4) Identify existing flooding and receiving stream channel conditions;
- (5) Be conducted at a reasonable scale;
- (6) Specify where on-site or off-site quantitative and qualitative stormwater management practices are to be implemented;
- (7) Be consistent with the General Performance Standards for Stormwater Management in Maryland found in the Design Manual; and
- (8) Be approved by the Administration.

155-73.4 Redevelopment

A. Stormwater management plans are required by the Town of Leonardtown for all redevelopment, unless otherwise specified by watershed management plans developed according to section 155-73.3.F of this Ordinance. Stormwater management measures must be consistent with the Design Manual.

B. All redevelopment designs shall meet one or more of the following:

- (1) Reduce impervious area within the limit of disturbance (LOD) by at least 50 percent according to the Design Manual;
- (2) Implement ESD to the MEP to provide water quality treatment for at least 50 percent of the existing impervious area within the LOD; or
- (3) Use a combination of section 155-73.4.4.B (1) and (2) of this Ordinance for at least 50 percent of the existing site impervious area.

C. Alternative stormwater management measures may be used to meet the requirements in section 155-73.4.B (1), (2) and (3) of this Ordinance if the owner/developer satisfactorily demonstrates to Town of Leonardtown that impervious area reduction has been maximized and ESD implemented to the MEP. Alternative stormwater management measures include, but are not limited to:

- (1) An on-site structural BMP;
 - (2) An off-site structural BMP or ESD features to provide water quality treatment for an area equal to or greater than 50 percent of the existing impervious area; or
 - (3) A combination of impervious area reduction, ESD implementation, and an on-site or off-site structural BMP or ESD features for an area equal to or greater than 50 percent of the existing site impervious area within the LOD.
- D. The Town of Leonardtown may develop separate policies for providing water quality treatment for redevelopment projects if the requirements of section 155-73.4.B and C of this Ordinance cannot be met. Any separate redevelopment policy shall be reviewed and approved by the Administration and may include, but not be limited to:
- (1) Restoration of streams or existing stormwater facilities.
 - (2) Pollution trading;
 - (3) Design criteria based on watershed management plans developed according to section 155- 73.3.F of this Ordinance; or
 - (4) Fees paid in lieu of on site ESD measures that would reduce the density below the allowable maximum for development in the Commercial Business (C-B), PIRD or zones where stormwater management is provided off site, sufficient to meet the requirements of section 155-73.4.B. The fee in lieu of stormwater management will be based on the square foot area of the portion of the site within the LOD of the development, less the actual cost of any ESD features installed on the site.

- (a) The fee will be set and adjusted from time to time through the normal budget process of the Town.
 - (b) The fee in lieu is paid to the town in lieu of on-site ESD measures that would reduce the density below the allowed maximum for development in certain zoning districts. The stormwater utility capital improvement fund managed by the town in place of stormwater management will be used to retrofit existing stormwater management features. This fee may be allowed when the property will not support enough ESD features to meet the requirements for a particular site without reducing the density below the maximum allowable in the applicable zone.
- E. The determination of what alternatives will be available may be made at the appropriate point in the development review process. The Town shall consider the prioritization of alternatives in subsection C of this section after it has been determined that it is not practicable to meet the requirements of this chapter using ESD. In deciding what alternatives may be required, the Town may consider factors including, but not limited to:
 - (1) Whether the project is necessary to accommodate growth consistent with comprehensive plans; or
 - (2) Whether bonding and financing have already been secured based on an approved development plan; or
 - (3) Whether the project is in an area targeted for development incentives.
- F. Stormwater management shall be addressed according to the new development requirements in the Design Manual for any net increase in impervious area except in the CB or PIRD zones where a fee in lieu may be acceptable to the Town.
- G. The recharge, channel protection storage volume, and overbank flood protection volume requirements, specified in the Design Manual do not apply to redevelopment projects unless specified by the town.
- H. On-site or off-site channel protection storage volume requirements as specified in the Design Manual may be imposed if watershed management plans developed according to subsection 155-73.3.F of this section indicate that downstream flooding or erosion needs to be addressed.

155-73.5 Variance

The Town of Leonardtown may grant a written variance from any requirement of section 155-74, (Stormwater Management Criteria), if there are exceptional circumstances applicable to the site such that strict adherence will result in unnecessary hardship and not fulfill the intent of this Ordinance. A written request for variance shall be provided to the Town of Leonardtown and shall state the specific variances sought and reasons for their granting. The Town of Leonardtown shall not grant a variance unless and until sufficient justification is provided by the person developing land that the implementation of ESD to the MEP has been investigated thoroughly.

55-74 STORMWATER MANAGEMENT CRITERIA

155-74.1 Minimum Control Requirements

- A. The minimum control requirements established in this section and the Design Manual are as follows:
 - (1) The Town of Leonardtown shall require that the planning techniques, nonstructural practices, and design methods specified in the Design Manual be used to implement ESD to the MEP. The use of ESD planning techniques and treatment practices must be exhausted before any structural BMP is implemented. Stormwater management plans for development projects subject to this Ordinance shall be designed using ESD sizing criteria, recharge volume, water quality volume, and channel protection storage volume criteria according to the Design Manual. The MEP standard is met when channel stability is maintained, predevelopment groundwater recharge is replicated, nonpoint source pollution is minimized, and structural stormwater management practices are used only if determined to be absolutely necessary.

- (2) Control of the 2-year and 10-year frequency storm event is required according to the Design Manual and all subsequent revisions if the Town of Leonardtown determines that additional stormwater management is necessary because historical flooding problems exist and downstream floodplain development and conveyance system design cannot be controlled.
 - (3) The Town of Leonardtown may require more than the minimum control requirements specified in this Ordinance if hydrologic or topographic conditions warrant or if flooding, stream channel erosion, or water quality problems exist downstream from a proposed project.
- B. In residential developments with PUD zoning classification and in senior living communities, stormwater ESD features or BMPs may be clustered to treat runoff from multiple lots or parcels within the development to keep from reducing the overall density below the maximum allowed. Required green space, parks, forest conservation areas and other communal open spaces may be utilized to implement ESD features to meet the overall stormwater control requirements found in the Design Manual for specific multiple lot drainage areas.
- (1) Stormwater management requirements shall be met for each drainage area within the development.
 - (2) ESD shall be used to the MEP to meet the stormwater requirement in each drainage area.
 - (3) Alternative measures or BMP facilities will only be used when ESD is not able to meet stormwater management requirements.
- C. Alternate minimum control requirements may be adopted subject to Administration approval. The Administration shall require a demonstration that alternative requirements will implement ESD to the MEP and control flood damages, accelerated stream erosion, water quality, and sedimentation. Comprehensive watershed studies may also be required.
- D. Stormwater management and development plans where applicable, shall be consistent with adopted and approved watershed management plans or flood management plans as approved by the Maryland Department of the Environment in accordance with the Flood Hazard Management Act of 1976.

155-74.2 Stormwater Management Measures

The ESD planning techniques and practices and structural stormwater management measures established in this Ordinance and the Design Manual shall be used, either alone or in combination in a stormwater management plan. A developer shall demonstrate that ESD has been implemented to the MEP before the use of a structural BMP is considered in developing the stormwater management plan.

- A. ESD Planning Techniques and Practices.
- (1) The following planning techniques shall be applied according to the Design Manual to satisfy the applicable minimum control requirements established in section 155-74.1 of this Ordinance:
 - (a) Preserving and protecting natural resources;
 - (b) Conserving natural drainage patterns;
 - (c) Minimizing impervious area;
 - (d) Reducing runoff volume;
 - (e) Using ESD practices to maintain 100 percent of the annual predevelopment groundwater recharge volume;
 - (f) Using green roofs, permeable pavement, reinforced turf, and other

- alternative surfaces;
 - (g) Limiting soil disturbance, mass grading, and compaction;
 - (h) Clustering development; and
 - (i) Any practices approved by the Administration.
- (2) The following ESD treatment practices shall be designed according to the Design Manual to satisfy the applicable minimum control requirements established in section 155-74.1 of this Ordinance:
- (a) Disconnection of rooftop runoff;
 - (b) Disconnection of non-rooftop runoff;
 - (c) Sheetflow to conservation areas;
 - (d) Rainwater harvesting;
 - (e) Submerged gravel wetlands;
 - (f) Landscape infiltration;
 - (g) Infiltration berms;
 - (h) Dry wells;
 - (i) Micro-bioretenion;
 - (j) Rain gardens;
 - (k) Swales;
 - (l) Enhanced filters; and
 - (m) Any practices approved by the Administration.
- (3) The use of ESD planning techniques and treatment practices specified in this section shall not conflict with existing State law or local ordinances, regulations, or policies. The Town of Leonardtown shall modify planning and zoning ordinances and public works codes to eliminate any impediments to implementing ESD to the MEP according to the Design Manual.

B. Structural Stormwater Management Measures.

- (1) The following structural stormwater management practices shall be designed according to the Design Manual to satisfy the applicable minimum control requirements established in section 155-74.1 of this Ordinance:
- (a) Stormwater management ponds;
 - (b) Stormwater management wetlands;
 - (c) Stormwater management infiltration;
 - (d) Stormwater management filtering systems; and
 - (e) Stormwater management open channel systems.

- (2) The performance criteria specified in the Design Manual with regard to general feasibility, conveyance, pretreatment, treatment and geometry, environment and landscaping, and maintenance shall be considered when selecting structural stormwater management practices.
 - (3) Structural stormwater management practices shall be selected to accommodate the unique hydrologic or geologic regions of the Town.
- C. ESD planning techniques and treatment practices and structural stormwater management measures used to satisfy the minimum requirements in section 155-74.1 of this Ordinance must be recorded in the land records of St. Mary's County and remain unaltered by subsequent property owners. Prior approval from The Town of Leonardtown shall be obtained before any stormwater management practice is altered.
 - D. Alternative ESD planning techniques and treatment practices and structural stormwater measures may be used for new development runoff control if they meet the performance criteria established in the Design Manual and all subsequent revisions and are approved by the Administration. Practices used for redevelopment projects shall be approved by The Town of Leonardtown.
 - E. For the purposes of modifying the minimum control requirements or design criteria, the owner/developer shall submit to the Town of Leonardtown an analysis of the impacts of stormwater flows downstream in the watershed. The analysis shall include hydrologic and hydraulic calculations necessary to determine the impact of hydrograph timing modifications of the proposed development upon a dam, highway, structure, or natural point of restricted stream flow. The point of investigation is to be established with the concurrence of The Town of Leonardtown, downstream of the first downstream tributary whose drainage area equals or exceeds the contributing area to the project or stormwater management facility.

155-74.3 Specific Design Criteria

The basic design criteria, methodologies, and construction specifications, subject to the approval of The Town of Leonardtown and the administration shall be those of the Design Manual.

155-75 STORMWATER MANAGEMENT PLANS

155-75.1 Review and Approval of Stormwater Management Plans

- A. For any proposed development, the owner/developer shall submit phased stormwater management plans or waiver application to The Town of Leonardtown for review and approval. At a minimum, plans shall be submitted for the concept, site development, and final stormwater management construction phases of project design. Each plan submittal shall include the minimum content specified in section 155-75.2 of this Ordinance and meet the requirements of the Design Manual and section 155-74 of this Ordinance.
- B. The Town of Leonardtown shall perform a comprehensive review of the stormwater management plans for each phase of site design. Coordinated comments will be provided for each plan phase that reflects input from all appropriate agencies including, but not limited to the St. Mary's Soil Conservation District (SCD) and the Planning and Zoning and Public Works Departments of the Town of Leonardtown. All comments from the Town of Leonardtown and other appropriate agencies shall be addressed and approval received at each phase of project design before subsequent submissions.
- C. Notification of approval or reasons for disapproval or modification shall be given to the applicant within 30 days after submission of the completed stormwater plan. If a decision is not made within 30 days, the applicant shall be informed of the status of the review process and the anticipated completion date. The stormwater management plan shall not be considered approved without the inclusion of the signature and date of signature by the Town Administrator on the plan.

155-75.2 Contents and Submission of Stormwater Management Plans

- A. The owner/developer shall submit a **concept plan** that provides sufficient information for

an initial assessment of the proposed project and whether stormwater management can be provided according to section 155-74.2 of this Ordinance and the Design Manual. Plans submitted for concept approval shall include, but are not limited to:

- (1) A map at a scale specified by the Town of Leonardtown showing site location, existing natural features, water and other sensitive resources, topography, and natural drainage patterns;
- (2) The anticipated location of all proposed impervious areas, buildings, roadways, parking, sidewalks, utilities, and other site improvements;
- (3) The location of the proposed limit of disturbance, erodible soils, steep slopes, and areas to be protected during construction;
- (4) Preliminary estimates of stormwater management requirements, the selection and location of ESD practices to be used, and the location of all points of discharge from the site;
- (5) A narrative that supports the concept design and describes how ESD will be implemented to the MEP; and
- (6) Any other information required by the approving agency.

B. Following concept plan approval by The Town of Leonardtown, the owner/developer shall submit **site development plans** that reflect comments received during the previous review phase. Plans submitted for site development approval shall be of sufficient detail to allow site development to be reviewed and include but not be limited to:

- (1) All information provided during the concept plan review phase;
- (2) Final site layout, exact impervious area locations and acreages, proposed topography, delineated drainage areas at all points of discharge from the site, and stormwater volume computations for ESD practices and quantity control structures;
- (3) A proposed erosion and sediment control plan that contains the construction sequence, any phasing necessary to limit earth disturbances and impacts to natural resources and an overlay plan showing the types and locations of ESD and erosion and sediment control practices to be used;
- (4) A narrative that supports the site development design, describes how ESD will be used to meet the minimum control requirements, and justifies any proposed structural stormwater management measure; and
- (5) Any other information required by the approving agency.

C. Following site development approval by The Town of Leonardtown, the owner/developer shall submit **final erosion and sediment control and stormwater management plans** that reflect the comments received during the previous review phase. Plans submitted for final approval shall be of sufficient detail to allow all approvals and permits to be issued according to the following:

- (1) Final erosion and sediment control plans shall be submitted according to COMAR 26.17.01.05; and
- (2) Final stormwater management plans shall be submitted for approval in the form of construction drawings and be accompanied by a report that includes sufficient information to evaluate the effectiveness of the proposed runoff control design.
- (3) Any ESD features or BMPs included on a final stormwater plan must be readily available for inspection by the town and accessible for maintenance.

D. Reports submitted for **final stormwater management plan** approval shall include, but are not limited to:

- (1) Geotechnical investigations including soil maps, borings, site specific

recommendations, and any additional information necessary for the final stormwater management design;

- (2) Drainage area maps depicting predevelopment and post development runoff flow path segmentation and land use;
- (3) Hydrologic computations of the applicable ESD and unified sizing criteria according to the Design Manual for all points of discharge from the site;
- (4) Hydraulic and structural computations for all ESD practices and structural stormwater management measures to be used;
- (5) A narrative that supports the final stormwater management design; and
- (6) Any other information required by The Town of Leonardtown.

E. **Construction drawings** submitted for final stormwater management plan approval shall include, but are not limited to:

- (1) A vicinity map;
- (2) Existing and proposed topography and proposed drainage areas, including areas necessary to determine downstream analysis for proposed stormwater management facilities;
- (3) Any proposed improvements including location of buildings or other structures, impervious surfaces, storm drainage facilities, and all grading;
- (4) The location of existing and proposed structures and utilities;
- (5) Any easements and rights-of-way;
- (6) The delineation, if applicable, of the 100-year floodplain and any on-site wetlands;
- (7) Structural and construction details including representative cross sections for all components of the proposed drainage system or systems, and stormwater management facilities;
- (8) All necessary construction specifications;
- (9) A sequence of construction;
- (10) Data for total site area, disturbed area, new impervious area, and total impervious area;
- (11) A table showing the ESD and unified sizing criteria volumes required in the Design Manual;
- (12) A table of materials to be used for stormwater management facility planting;
- (13) All soil boring logs and locations;
- (14) An inspection and maintenance schedule;
- (15) Certification by the owner/developer that all stormwater management construction will be done according to this plan;
- (16) An as-built certification signature block to be executed after project completion; and
- (17) Any other information required by The Town of Leonardtown.

F. If a stormwater management plan involves direction of some or all runoff off of the site,

it is the responsibility of the developer to obtain from adjacent property owners any easements or other necessary property interests concerning flowage of water. Approval of a stormwater management plan does not create or affect any right to direct runoff onto adjacent property without that property owner's permission.

155-75.3 Preparation of Stormwater Management Plans

- A. The design of stormwater management plans shall be prepared by any individual whose qualifications are acceptable to the Town of Leonardtown. The Town of Leonardtown may require that the design be prepared by either a professional engineer, professional land surveyor, or landscape architect licensed in the State, as necessary to protect the public or the environment.
- B. If a stormwater BMP requires either a dam safety permit from MDE or small pond approval from the St. Mary's County Soil Conservation District, the Town of Leonardtown shall require that the design be prepared by a professional engineer licensed in the State.

155-76 PERMITS

155-76.1 Permit Requirement

Unless proposed development is exempt from the provisions of this chapter as set forth in section 155-73.2, a grading or building permit may not be issued for any parcel or lot unless final erosion and sediment control and stormwater management plans have been approved or waived by the Town of Leonardtown as meeting all the requirements of the Design Manual and this Ordinance. Where appropriate, a building permit may not be issued without:

- A. Recorded easements for the stormwater management facility and easements to provide adequate access for inspection and maintenance from a public right-of-way;
- B. A recorded stormwater management maintenance agreement as described in section 155-79.2 of this Ordinance; and
- C. A performance bond as described in section 155-77 of this Ordinance.
- D. Permission from adjacent property owners as necessary.

155-76.2 Permit Fee

Non-refundable permit fees will be collected at each phase of stormwater management plan submittal. Permit fees will provide for the cost of plan review, administration, and management of the permitting process, and inspection of all projects subject to this Ordinance. A permit fee schedule shall be established by The Commissioners of Leonardtown based upon the relative complexity of the project and may be amended from time to time.

155-76.3 Permit Suspension and Revocation

Any grading or building permit issued by the Town of Leonardtown may be suspended or revoked after written notice is given to the permittee for any of the following reasons:

- A. Any violation(s) of the conditions of the stormwater management plan approval;
- B. Changes in site runoff characteristics upon which an approval or waiver was granted;
- C. Construction is not in accordance with the approved plan;
- D. Noncompliance with correction notice(s) or stop work order(s) issued for the construction of any stormwater management practice; and
- E. An immediate danger exists in a downstream area in the opinion of The Town of Leonardtown.

155-76.4 Permit Conditions

In granting an approval for any phase of site development, The Town of Leonardtown may impose such conditions that may be deemed necessary to ensure compliance with the provisions of this Ordinance and the preservation of public health and safety.

155-77 PERFORMANCE BOND

The Town of Leonardtown shall require from the developer a surety or cash bond, irrevocable letter of credit, or other means of security acceptable to the Town Administrator prior to the issuance of any building and/or grading permit for the construction of a development requiring stormwater management. The amount of the security shall not be less than the total estimated construction cost of all stormwater management facilities. The bond required in this section shall include provisions relative to forfeiture for failure to complete work specified in the approved stormwater management plan, compliance with all of the provisions of this Ordinance, and other applicable laws and regulations, and any time limitations. The bond shall not be fully released without a final inspection of the completed work by the Town of Leonardtown or its authorized representative, submission of "as-built" plans, and certification of completion by the Town of Leonardtown or its authorized representative that all stormwater management facilities comply with the approved plan and the provisions of this Ordinance. A procedure may be used to release parts of the bond held by the Town of Leonardtown after various stages of construction have been completed and accepted by the Town of Leonardtown. The procedures used for partially releasing performance bonds must be specified by the Town of Leonardtown in writing prior to stormwater management plan approval.

155-78 INSPECTION

155-78.1 Inspection Schedule and Reports

- A. The developer shall notify the Town of Leonardtown or its authorized representative, at least 48 hours before commencing any work in conjunction with site development, the stormwater management plan, and upon completion of the project.
- B. Regular inspections shall be made and documented for each ESD planning technique and practice at the stages of construction specified in the Design Manual by the Town of Leonardtown, its authorized representative, or certified by a professional engineer licensed in the State of Maryland. At a minimum, all ESD and other nonstructural practices shall be inspected upon completion of final grading, the establishment of permanent stabilization, and before issuance of use and occupancy approval.
- C. Written inspection reports shall include:
 - (1) The date and location of the inspection;
 - (2) Whether construction was in compliance with the approved stormwater management plan;
 - (3) Any variations from the approved construction specifications; and
 - (4) Any violations that exist.
- D. The owner/developer and on-site personnel shall be notified in writing when violations are observed. Written notification shall describe the nature of the violation and the required corrective action.
- E. No work shall proceed on the next phase of development until the Town of Leonardtown or its authorized representative inspects and approves the work previously completed and furnishes the developer with the results of the inspection reports as soon as possible after completion of each required inspection.

155-78.2 Inspection Requirements During Construction

- A. At a minimum, regular inspections shall be made and documented at the following specified stages of construction:
 - (1) For ponds:
 - (a) Upon completion of excavation to sub-foundation and when required, installation of structural supports or reinforcement for structures, including but not limited to:
 - (i) Core trenches for structural embankments;

- (ii) Inlet and outlet structures, anti-seep collars or diaphragms, and watertight connectors on pipes; and
 - (iii) Trenches for enclosed storm drainage facilities;
 - (b) During placement of structural fill, concrete, and installation of piping and catch basins;
 - (c) During backfill of foundations and trenches;
 - (d) During embankment construction; and
 - (e) Upon completion of final grading and establishment of permanent stabilization.
- (2) Wetlands – at the stages specified for pond construction in section 155-78.2. A (1) of this Ordinance, during and after wetland reservoir area planting, and during the second growing season to verify a vegetation survival rate of at least 50 percent.
- (3) For infiltration trenches:
- (a) During excavation to subgrade;
 - (b) During placement and backfill of under drain systems and observation wells;
 - (c) During placement of geotextiles and all filter media;
 - (d) During construction of appurtenant conveyance systems such as diversion structures, pre-filters and filters, inlets, outlets, and flow distribution structures; and
 - (e) Upon completion of final grading and establishment of permanent stabilization.
- (4) For infiltration basins – at the stages specified for pond construction in section 155-78.2. A. (1) of this Ordinance and during placement and backfill of under drain systems.
- (5) For filtering systems:
- (a) During excavation to subgrade;
 - (b) During placement and backfill of under drain systems;
 - (c) During placement of geotextiles and all filter media;
 - (d) During construction of appurtenant conveyance systems such as flow diversion structures, pre-filters and filters, inlets, outlets, orifices, and flow distribution structures; and
 - (e) Upon completion of final grading and establishment of permanent stabilization.
- (6) For open channel systems:
- (a) During excavation to subgrade;
 - (b) During placement and backfill of under drain systems for dry swales;
 - (c) During installation of diaphragms, check dams, or weirs; and
 - (d) Upon completion of final grading and establishment of permanent stabilization.

B. The Town of Leonardtown may, for enforcement purposes, use any one or a combination of the following actions:

- (1) A notice of violation shall be issued specifying the need for corrective action if stormwater management plan noncompliance is identified;

- (2) A stop work order shall be issued for the site by the Town of Leonardtown or its authorized representative, if a violation persists;
 - (3) Bonds or securities shall be withheld or the case may be referred for legal action if reasonable efforts to correct the violation have not been undertaken; or
 - (4) In addition to any other sanctions, a civil action or criminal prosecution may be brought against any person in violation of the Stormwater Management Subtitle, the Design Manual, or this Ordinance.
- C. Any step in the enforcement process may be taken at any time, depending on the severity of the violation.
 - D. Once construction is complete, "as-built" plan certification shall be submitted by either a professional engineer or professional land surveyor licensed in the State of Maryland to ensure that ESD planning techniques, treatment practices, and structural stormwater management measures and conveyance systems comply with the specifications contained in the approved plans. At a minimum, "as-built" certification shall include a set of drawings comparing the approved stormwater management plan with what was constructed. The Town of Leonardtown or its authorized representative may require additional information.
 - E. The Town of Leonardtown or its authorized representative shall submit notice of construction completion to the Administration on a form supplied by the Administration for each structural stormwater management practice within 45 days of construction completion. The type, number, total drainage area, and total impervious area treated by all ESD techniques and practices shall be reported to the Administration on a site by site basis. If BMPs requiring SCD approval are constructed, notice of construction completion shall also be submitted to the appropriate SCD.

155-79 MAINTENANCE

155-79.1 Maintenance Inspection

- A. The Town of Leonardtown or its authorized representative shall ensure that preventative maintenance is performed by inspecting all ESD treatment systems and structural stormwater management measures. Inspection shall occur during the first year of operation and at least once every 3 years thereafter. In addition, a maintenance agreement between the owner and the Town of Leonardtown shall be executed for privately-owned ESD treatment systems and structural stormwater management measures as described in section 155-79.2 of this Ordinance. Any ESD features or BMPs included on a final stormwater plan must be readily available for inspection by the Town of Leonardtown and accessible for maintenance.
- B. Inspection reports shall be maintained by the Town of Leonardtown for all ESD treatment systems and structural stormwater management measures.
- C. Inspection reports for ESD treatment systems and structural stormwater management measures shall include the following:
 - (1) The date of inspection;
 - (2) Name of inspector;
 - (3) An assessment of the quality of the stormwater management system related to ESD treatment system efficiency and the control of runoff to the MEP;
 - (4) The condition of:
 - (a) Vegetation or filter media;
 - (b) Fences or other safety devices;
 - (c) Spillways, valves, or other control structures;
 - (d) Embankments, slopes, and safety benches;

- (e) Reservoir or treatment areas;
- (f) Inlet and outlet channels or structures;
- (g) Underground drainage;
- (h) Sediment and debris accumulation in storage and forebay areas;
- (i) Any nonstructural practices to the extent practicable; and
- (j) Any other item that could affect the proper function of the stormwater management system.

(5) Description of needed maintenance.

- D. Upon notifying an owner of the inspection results, the owner shall have 30 days, or other time frame mutually agreed to between the Town of Leonardtown or its authorized representative, and the owner, to correct the deficiencies discovered. The Town of Leonardtown or its authorized representative shall conduct a subsequent inspection to ensure completion of the repairs.
- E. If repairs are not properly undertaken and completed, enforcement procedures following section 155-79.2 C. of this Ordinance shall be followed by the Town of Leonardtown.
- F. If, after an inspection by the Town of Leonardtown or its authorized representative, the condition of a stormwater management facility is determined to present an immediate danger to public health or safety because of an unsafe condition, improper construction, or poor maintenance, the Town of Leonardtown or its authorized representative, shall take such action as may be necessary to protect the public and make the facility safe. Any cost incurred by the Town of Leonardtown shall be assessed against the owner(s), as provided in section 155-79.2 C. of this Ordinance.

155-79.2 Maintenance Agreement

- A. Prior to the issuance of any building permit for which stormwater management is required, the Town of Leonardtown shall require the applicant or owner to execute an inspection and maintenance agreement binding on all subsequent owners of land served by a private stormwater management facility. Such agreement shall provide for access to the facility at reasonable times for regular inspections by the Town of Leonardtown or its authorized representative, to ensure that the facility is maintained in proper working condition to meet design standards.
- B. The agreement shall be recorded by the applicant or owner in the land records of St. Mary's County.
- C. The agreement shall also provide that, if after notice by the Town of Leonardtown or its authorized representative, to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) within a reasonable period of time (30 days maximum), the Town of Leonardtown or its authorized representative, may perform all necessary work to place the facility in proper working condition. The owner(s) of the facility shall be assessed the cost of the work and any penalties. This may be accomplished by placing a lien on the property, which may be placed on the tax bill and collected as ordinary taxes by the Town of Leonardtown.

155-79.3 Maintenance Responsibility

- A. The owner of a property that contains private stormwater management facilities installed pursuant to this Ordinance, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all ESD practices, grade surfaces, walls, drains, dams and structures, vegetation, erosion and sediment control measures, and other protective devices in perpetuity. Such repairs or restoration and maintenance shall be in accordance with previously approved or newly submitted plans.
- B. A maintenance schedule shall be developed for the life of any structural stormwater management facility or system of ESD practices and shall state the maintenance to be completed, the time period for completion, and the responsible party what will perform the maintenance. This maintenance schedule shall be printed on the approved stormwater management plan.

155-80 APPEALS

Any person aggrieved by the action of any official charged with the enforcement of this Ordinance, as the result of the disapproval of a properly filed application for a permit, issuance of a written notice of violation, or an alleged failure to properly enforce the Ordinance in regard to a specific application, shall have the right to appeal the action to the Board of Appeals. The appeal shall be filed in writing within 30 days of the date of official transmittal of the final decision or determination to the applicant, state clearly the grounds on which the appeal is based, and be processed in the manner prescribed for hearing administrative appeals under Leonardtown Code.

155-81 SEVERABILITY

If any portion of this Ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such portion shall not affect the validity of the remaining portions of this Ordinance. It is the intent of the Commissioners of Leonardtown that this Ordinance shall stand, even if a section, subsection, sentence, clause, phrase, or portion may be found invalid.

155-82 PENALTIES

Any person convicted of violating the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than Five Thousand Dollars (\$5,000.00) or imprisonment not exceeding 1 year or both for each violation with costs imposed in the discretion of the court and not to exceed Fifty Thousand Dollars (\$50,000.00). Each day that a violation continues shall be a separate offense. In addition, the Commissioners of Leonardtown may institute injunctive, mandamus or other appropriate action or proceedings of law to correct violations of this Ordinance. Any court of competent jurisdiction shall have the right to issue temporary or permanent restraining orders, injunctions or mandamus, or other appropriate forms of relief.

155-83 TRANSITION PROVISIONS

A. In this section the following terms have the meanings indicated:

- (1) Administrative Waiver – A decision by an approving body to allow the construction of a development project to be governed by the stormwater management ordinance in effect as of May 4, 2009. An administrative waiver is distinct from a waiver granted pursuant to section 155-73.3 of the ordinance.
- (2) Approval – A documented action following a review to determine and acknowledge the sufficiency of submitted material to meet the requirements of a specified stage in the development process. Acknowledgement that submitted material has been received for review is not an approval of that material or the project reflected in that material.
- (3) Final Project Approval – Approval of the final stormwater management plan and erosion and sediment control plan required to construct a project's stormwater management facilities. Final sediment control plan required to construct a project's stormwater management facilities. Final project approval also includes securing bonding or financing for final development plans.
- (4) Preliminary Project Approval – An approval as part of a preliminary development or planning review process that includes, at a minimum:
 - (a) The number of planned dwelling units or lots;
 - (b) The project density;
 - (c) The proposed size and location of all land uses for the project;
 - (d) A plan that identifies:
 - i The proposed drainage patterns;
 - ii The location of all points of discharge from the site; and
 - iii The type, location and size of all stormwater management measures based on site-specific stormwater management requirement computations; and

- (e) Any other information required, including, but not limited to:
 - i The proposed alignment, location, and construction type and standard for all roads, access ways, and areas of vehicular traffic;
 - ii A demonstration that the methods by which the development will be supplied with water and wastewater service are adequate; and
 - iii The size, type and general location of all proposed wastewater and water system infrastructure.

- B. The requirements established in this chapter apply to all development and redevelopment projects, including those portions of previously approved but not yet constructed development projects that do not have erosion and sediment control and stormwater management plans finally approved by all required regulatory authorities by May 4, 2010. The Town of Leonardtown may grant an administrative waiver to a development that received a preliminary project approval prior to May 4, 2010. Administrative waivers expire according to subsection E of this section, and may be extended according to subsection F of this section.

- C. The requirements established in this chapter do not apply to any construction proposed pursuant to a valid permit with approved erosion and sediment control and stormwater management plans issued on or before May 4, 2010.

- D. Any portion of an approved development that does not have an approved sediment control and stormwater management plan on record prior to May 4, 2010 will have to comply with all provisions of this chapter.

- E. Expiration of administrative waivers.
 - (1) Except as provided for in subsection F of this section, an administrative waiver shall expire on:
 - (a) May 4, 2013, if the development does not receive final project approval prior to that date; or
 - (b) May 4, 2017, if the development receives final project approval prior to May 4, 2013.
 - (2) All construction authorized pursuant to an administrative waiver must be completed by May 4, 2017 or, if the waiver is extended as provided in subsection F of this section, by the expiration date of the waiver extension.

- F. Extension of administrative waivers.
 - (1) Except as provided in subsection F.(2) of this section, an administrative waiver shall not be extended.
 - (2) An administrative waiver may only be extended if, by May 4, 2010, the development:
 - (a) Has received a preliminary project approval; and
 - (b) Was subject to a development rights and responsibilities agreement, a tax increment financing approval, or an annexation agreement.
 - (3) Administrative waivers extended according to subsection F.(2) of this section shall expire when the development rights and responsibilities agreement, the tax increment financing approval, or the annexation agreement expires.

155-84 EFFECTIVE DATE

And be it further enacted, that this Ordinance shall take effect 20 days from the date it becomes adopted.

ARTICLE XV.A Public Dedication of Park and Recreation Land

§ 155-85 Recreation Land Dedication Required.

- A. Every proposed residential subdivision of land and/or residential land development regulated by the Leonardtown Zoning Ordinance or Land Subdivision Regulations located in the R-SF and/or R- MF districts shall provide suitable land for dedication as on-site park and/or recreation land.
- B. The amount of land required to be dedicated shall be 1,000 square feet of suitable land per buildable lot or dwelling unit (whichever number is greater) proposed by the approved plan. If at the time of preliminary plan submission the sub-divider and/or developer is domiciled on one of the lots in the proposed subdivision or development or domiciled in one of the dwelling units thereon, said lot or dwelling unit shall not be included in this calculation.
- C. Land suitable for dedication shall mean park and/or recreation land which:
 - (1) has an average slope of less than 7 percent
 - (2) does not constitute a “wetland” under Federal and/or State regulations;
 - (3) is not within the “100 year flood plan”;
 - (4) is not included in, or made a part of, stormwater management facilities, including detention/retention basins, swales, culverts and any associated appurtenances thereto; and
 - (5) is, or shall become part of, a contiguous tract, which contiguous tract may include adjacent, pre-existing or planned, park and/or recreation land.
- D. If all or part of the land proposed for dedication as park and/or recreation land is less than suitable for recreation use, then the amount of land required for dedication shall be 1,500 square feet per lot or dwelling unit, whichever number is greater.
- E. All land proposed for dedication as park and/or recreation land, shall be contiguous and topographically and spatially suitable for park and/or recreation purposes. If the adjoining property has previously been developed and recreational land has been provided at the boundary of that previously developed property, the Town Council may require that the recreational land required of the development shall be located adjoining the previously provided recreational land.
- F. The developer may request that the Town not require the dedication of land. Any such request shall be accompanied by an offer to pay a fee in lieu of dedication of the land. Any such proposal by the developer and/or sub-divider is subject to the approval of the Town Council.
- G. If the developer and/or sub-divider receives approval from the Town Council for the payment of a fee in lieu of dedication of all or some of the required park and/or recreation land, then the fee shall be equal to \$500 per unit or lot (whichever is greater), unless an appraisal prepared by the developer, and determined to be acceptable at the sole discretion of the Town Council, indicates that a different fee is more appropriate based on the fair market value of the property. In such cases the developer shall provide the Town with all information necessary to determine the fair market value of the land, including but not limited to:
 - (1) A copy of the agreement of sale if the developer is an equitable owner and has purchased the land within the past two (2) years, or,
 - 2). An appraisal of the property conducted by an MAI appraiser acceptable to the Town.
- H. The fee in lieu of land dedication to be paid shall be computed by dividing the total market value for the tract by the number of acres within the tract and then multiplying by the acreage of land that would have been required to satisfy dedication requirements.
- I. In the event the Town selects a combination of payment of fee-in-lieu and the dedication or reservation of park land or open space, the amount of the fee-in-lieu shall be prorated with the value of land provided.
- J. If the sub-divider and/or developer elect to pay a fee in lieu of the dedication of park and/or recreation land, then such payment, if approved by the Town Council, shall be deemed a condition of plan approval and shall be paid to the Town at the time of execution of the improvements agreement with the Town or if no improvements agreement is necessary, then prior to recording the approved plan.

- K. All fees paid pursuant to this Article shall be placed in an interest bearing account and accounted for separately from other Town funds, and such funds shall be maintained by the Town and used for obtaining future park or open space lands or purchase or construction of public recreation facility improvements.
- L. The requirements of this Article shall be in addition to, and not in lieu of, (a) open space which is required to be provided in connection with certain uses, developments, subdivisions and/or other residential living arrangements pursuant to the Zoning Ordinance and/or (b) any private park and/or recreation land provided by the developer and/or sub-divider in connection with any proposed, residential development.
- M. The developer shall enter into an agreement with the Town setting the fees to be paid, the facilities to be constructed, or the land to be privately reserved and the method of its maintenance. All such agreements shall be in a form satisfactory to the Town Attorney.

ARTICLE XVI. Signs

Note: This article is reserved for possible use at such time as the Town considers revision of existing sign regulations.

§ 155-86. through § 155-99. (Reserved)

ARTICLE XVII. Special Exceptions and Variances

§ 155-100. General provisions.

A. The Board of Zoning Appeals shall hear and decide appeals for special exceptions and variances to this chapter. Each application for approval of a special exception use shall be accompanied by a site plan, drawn at an appropriate scale, meeting the requirements of §§ 155-115 through 155-127 and such other information as may be required for a determination of the nature of the proposed use and its effect on the Master Plan, the neighborhood and surrounding properties.

B. Special exceptions to this chapter shall be granted when it is found that the neighboring and adjacent uses shall not be adversely affected and where the spirit and intent of this chapter is not violated. Special exceptions within each district are listed under the regulations for that district, Articles II through X of this chapter.

§ 155-101. Standards.

Standards for each special exception are as follows:

A. Private detached garage for three or more noncommercial vehicles, in the R-SF and R-MF Districts only.

- (1) Such garage shall be located on the same lot as the building, structure or land use it serves.
- (2) Such garage shall be located no less than five (5) feet from any lot line.
- (3) Such garage shall be provided with screen planting subject to review and approval by the Board.
- (4) Such garage shall be of sturdy wood or concrete construction. No outward metal walls shall be permitted.
- (5) Such garage shall have a paved driveway into it for access and egress.

B. Boardinghouse, in the R-MF District only.

(1) Such buildings shall be located on one lot and shall be the primary structure and use on that lot.

(2) Such buildings shall meet the height, bulk, area, off-street parking and off-street loading requirements of the district in which they are located.

C. Joint use of off-street parking in the C-B, C-O and C-H Districts only.

(1) Off-site parking facilities shall be allowed only in cases where such facilities are provided by two or more establishments jointly or:

(a) If the enlargement of a building or structure(s) located within the downtown takes up former parking spaces. (See Official Downtown Area Map – Appendix 155-A2)

(b) A change in use or mix of uses within a structure located within the downtown area requires additional parking that cannot be met on site.

(c) These off-site facilities are located no more than 300 feet from the building(s) served.

(2) Parking facilities may be jointly used by nonresidential buildings when one or more of such buildings or establishments operates or is open at different hours than the other(s). An example of this would be the joint use of parking facilities by a theater and a bank.

(3) In both above cases, a written agreement among all affected parties shall be properly drawn and executed, approved as to form by the Town Attorney and filed with the building permit applications assuring the parking requirements of the zoning ordinance can be satisfied.

(4) If a written agreement among all affected parties cannot be executed to assure the provision of parking under the terms of Section 155-101.C, and on-site parking cannot be provided, the building or structure located within the downtown may not be expanded nor the uses within the building changed to create a condition requiring more parking than the use established on the effective date of this amendment. (See Official Downtown Area Map – Appendix 155-A2)

D. One or more dwelling units in the C-B District only.

(1) One parking space for each dwelling unit shall be provided in addition to other required parking spaces.

(2) Joint use of off-site parking facilities shall be allowed, provided that these facilities shall be located no more than 300 feet from the building or buildings served. A written agreement among all affected parties shall be properly drawn and executed, approved as to form by the Town Attorney and filed with the building permit applications.

(3) No more than 50% of the total floor area shall be used for residential purposes.

§ 155-102. Types of special use exceptions allowed.

In order to provide for adjustment in the relative locations of uses and buildings of the same or different classifications, to promote the usefulness of this chapter as an instrument for fact-finding, interpretation, application and adjustment and to supply the necessary elasticity to its efficient operation, special use exceptions are permitted by the terms of this chapter. The following buildings and uses are permitted as special exceptions if the Board of Zoning Appeals finds that, in its opinion, as a matter of fact, such exceptions will not substantially affect adversely the uses of adjacent and neighboring property permitted by this chapter:

A. A multiple-family dwelling on a lot in a single-family residential district which sides upon a lot zoned for commercial or industrial purposes.

B. A nonconforming use now existing in any part of a building to be extended vertically or laterally to other portions of the building; in a building now occupied by a nonconforming commercial or industrial use, an additional use of the same classification in the remainder of the building.

C. The extension of an existing nonconforming building and the existing use thereof, upon the lot occupied by such building at the time of the passage of this chapter or erection of an additional building upon a lot occupied at the time of the passage of this chapter by a nonconforming commercial or industrial establishment and which additional building is a part of such establishment.

D. Where a use district boundary line crosses a lot, a use of either classification on the whole lot within 100 feet of said district boundary line.

E. A radio or television broadcasting tower.

F. Conversion of any building existing at the time of passage of this chapter so as to permit the housing of any number of families, provided that there is compliance with the lot area per family and off-street parking requirements of the district in which the building is located, and further provided that there is compliance with the yard requirements of the district in which the building is located.

G. Off-street parking areas adjacent to or at a reasonable distance from the premises on which parking areas are required by the parking regulations of this chapter, where practical difficulties, including the acquisition of property or undue hardships, are encountered in locating such parking areas on the premises and where the purpose of this chapter to relieve congestion in the streets would best be served by permitting such parking off the premises.

H. The waiver or reduction of parking and loading requirements in any district whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities or where such regulations would impose an unreasonable hardship upon the use of the lot.

I. Additions or structural alterations to a conditional use after having been approved by the Town Commissioners.

J. To determine, in cases of uncertainty, the classification as to district of any use not specifically named in this chapter; provided, however, that such use shall be in keeping with uses specifically named in the district regulations.

§ 155-103. Special yard exceptions.

The following special yard exceptions, limited as to location and especially in locations described below in this section, are permitted by this chapter if the Board of Zoning Appeals finds that, in its opinion, as a matter of fact, such exceptions will not substantially affect adversely the uses of adjacent and neighboring property permitted by this chapter and provided that such exceptions are approved by the Board:

A. An exception in the yard regulations on a lot where on the adjacent lot there is a front, side or rear yard that does not conform to such yard regulations.

B. An exception to the front yard requirements on a reversed frontage lot.

C. A yard exception on a corner lot or lots opposite or adjoining permanent open spaces, including parks and playgrounds.

D. An exception in the depth of rear yard on a lot in a block where there are nonconforming rear yard conditions.

E. An exception where there are irregularities in depths of existing front yards on a street frontage on the side of a street between two intersecting streets so that any one of the existing depths shall, for a building hereafter constructed or extended, be the required minimum front yard depth.

§ 155-104. Requests for special exceptions.

These provisions amplify those stated in § 155-133.

A. Petitions for the grant of special exceptions shall be filed with the Town Clerk on forms provided. The petitioner shall submit plans and specifications or other data or explanatory material stating the methods by which he will comply with the conditions specified for each grant of special exception. At the time of filing his request for a grant of special exception, the petitioner shall pay to the Town Clerk the fee required to cover the cost of advertising and of sending notices and other miscellaneous expenses in connection with this petition.

B. Within three days after the acceptance for filing of an application, the applicant shall erect a sign obtained from the Town Clerk. The sign shall be a flat wall sign or post sign, as defined in the Sign Regulations, not to exceed two square feet in area. The sign shall read: SPECIAL EXCEPTION APPLICATION NO. _____ PENDING FOR _____ HEARING DATE _____.

C. The Planning and Zoning Commission shall review a request for a special exception and forward its recommendations on the same to the Board of Zoning Appeals within 30 days of the receipt of such request.

D. The Board of Zoning Appeals shall review the application and shall hold a public hearing. After the public hearing, the Board shall grant or refuse the special exception and notify the petitioner, Planning and Zoning Commission and Town Commissioners. In cases where a special exception has been granted, said notice shall set forth the conditions, standards, safeguards or rules to which the special exception is subject. All signs posted by the applicant providing notice of the public hearing shall be removed by the applicant and returned to the Town Office no later than two weeks following the public hearing.

E. Upon receipt of notice of grant of special exception, the Planning and Zoning Commission shall indicate the same in the proper place on the Zoning Map by use of appropriate code number or symbol.

§ 155-105. Variances.

A. Subject to the provisions of Article XIX, the Board of Zoning Appeals shall have the power to grant a variance in the density, bulk, height or area requirements in any district so as to relieve practical difficulties or particular hardships when and where the strict application of each regulation or restriction would result in peculiar and exceptional practical difficulties to or exceptional hardship upon the owner of such property by reason of exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the enactment of such regulation or restriction or by reason of exceptional topographical conditions or other extraordinary situations or conditions of such piece of property. Such grant or variance shall comply, as nearly as possible in every respect with the spirit, intent and purpose of this chapter. The purpose of this provision is to authorize the granting of a variance only for reasons of demonstrable and exceptional hardship as distinguished from variations sought by applicants for the purpose or reasons of convenience, profit or caprice.

B. This provision shall not be construed so as to permit the Board, under guise of a variance, to change the use of land.

C. ADMINISTRATIVE VARIANCES:

[Added 5-20-2008 by Ord. No. 140]

(1) Purpose. The purpose of this section is to delegate to the Administrative Variance Review Committee approval authority to grant setback variances for single-family residences, accessory residential structures, and additions to residences and accessory structures. The Administrative Variance Review Committee shall consist of the Town Administrator, the Town Planner, and the Mayor.

(2) Application.

(a) An applicant seeking a variance may request the same of the Board of Appeals, pursuant to § 155-135 of the Leonardtown General Code, without first applying for an administrative variance.

(b) A person requesting an administrative variance must file the required application with the Town of Leonardtown.

(c) The application consists of the following:

[1] An application form;

[2] Application fee;

[3] Written documents bearing the signatures of all affected property owners demonstrating that they agree with the requested variance for the specific, proposed development activity. Affected property owners include all owners of all properties that abut the side or rear property line from which an administrative variance is sought; or in the case of an administrative variance request for front setback adjustment, all owners of all properties that abut a side property line of the subject property and those whose properties lie directly across the street from the subject property; and

[4] A scale drawing of the property showing the location and size of proposed structures and any additions to existing structures, as well as the distance between those structures and/or additions and all property boundaries.

(3) Procedure. The Administrative Variance Review Committee shall establish and publish procedures for the processing of applications, including, but not limited to, the following:

(a) Upon acceptance of the application, the Administrative Variance Review Committee shall mail a confirmatory notice to all affected property owners providing them with an opportunity to comment on the request within a specified time period.

(b) The applicant shall post the property with a notice of the variance request for a period of 10 days after acceptance of the application by the Administrative Variance Review Committee.

(c) If adverse comments are received from any property owners objecting to the variance request, the applicant shall be required to withdraw the application and submit a variance request to the Board of Appeals.

(d) Prior to making a decision, the Administrative Variance Review Committee may visit the property to verify information contained in the application.

(4) Criteria. The Administrative Variance Review Committee may grant setback variances only where it is demonstrated that peculiar and unusual practical difficulties exist on the parcel which warrant a setback variance, and such difficulties are created by exceptional narrowness, shallowness, or shape of the parcel, by reason of exceptional topographical conditions, or by other extraordinary situations or conditions affecting the property. The applicant shall demonstrate that the following additional criteria have been met:

(a) Amount of required setback reduction.

[1] Option A. The requested variance shall not reduce required setbacks by more than 50%.

[2] Option B. The requested variance shall not reduce required setbacks to less than five feet.

(b) The area of the proposed structure which lies outside the building restriction line (BRL) for which a variance is requested shall not exceed 100 square feet.

(c) Nothing in this section is intended to authorize the Administrative Variance Review Committee to grant variances to state or local requirements that are intended to protect environmentally sensitive areas, such as streams, slopes, wetlands, natural heritage areas, or critical areas.

(d) Administrative variances may not be granted for after-the-fact variance requests or to correct a zoning violation. Such variance requests shall be made to the Board of Appeals.

(5) Decisions. Unless delayed by actions of the applicant or affected property owners, the Administrative Variance Review Committee shall decide the issue raised by the application within 30 days of acceptance of the application. The decision shall be in writing and shall include findings of fact that support the decision. In granting an administrative variance, the Administrative Variance Review Committee may impose conditions that are reasonable or necessary for the protection of surrounding and neighboring properties. All signs posted by the applicant providing notice of the public hearing shall be removed by the applicant and returned to the Town Office no later than two weeks following the public hearing.

(6) Denials. If the application is denied, all future variance applications involving substantially the same proposal on the same property shall be submitted to the Board of Appeals.

(7) Appeals.

(a) Any applicant aggrieved by a decision made pursuant to this section may apply for a variance from the Board of Appeals.

(b) Any person or persons, other than the applicant, aggrieved by a decision made pursuant to this section may file an appeal with the Clerk to the Board of Appeals no later than 30 days from the date of the Administrative Variance Review Committee's decision. The Board of Appeals Clerk will schedule the appeal for the next available Board of Appeals public hearing.

(8) Fees. The Town of Leonardtown shall be responsible for establishing the fee schedule for administrative variances.

§ 155-106. Disapproval of application.

If the application for a special exception or variance is disapproved by the Board of Zoning Appeals, thereafter the Board shall take no further action on another application for substantially the same proposal on the same premises until after two years from the date of such disapproval. If an appeal to the Board is perfected and the public hearing date is set and duly advertised and properly posted and thereafter the applicant withdraws the appeal, he shall be precluded from filing another application for substantially the same proposal on the same premises for one year.

§ 155-107. Lapse of special exception or variance.

A special exception or variance so approved or granted by the Board of Zoning Appeals shall lapse after the expiration of one year if no substantial construction or change of use has taken place in accordance with the plans for which such special exception or variance was granted. The Board may, however, specify some longer period than one year for good cause shown, and the provisions of these regulations shall thereafter govern.

ARTICLE XVIII. Permits, Plans and Fees

§ 155-108. Zoning permit required.

A. No building, structure or land, or any part thereof, shall hereafter be used, created or enlarged until a zoning permit has been issued by the Town Administrator or Town Planner. The issuance of a zoning permit does not waive provisions of other laws, ordinances or requirements.

B. Certificate for other permits. If the proposed building, structure or use of land is in conformity with the provisions of this chapter or complies with decisions of the Board of Appeals or conditions of the Planning Commission, and the Town Commissioners, a zoning permit shall be issued by the Town Administrator or Town Planner. The issuance of a zoning permit shall serve as an authorization to secure other required or requested permits from various agencies.

§ 155-109. Time limits for permits and approvals; extensions.

[Amended 5-20-2008 by Ord. No. 135]

Any zoning permit, building permit, concept approval, preliminary approval or final approval shall become invalid if the authorized use, approval or construction for which the permit or approval was issued is not commenced within 12 months of the date of issuance for residential and two years for commercial. There must also be evidence of ongoing construction activity for the permit to remain valid. The Town Administrator or Town Planner may, upon good cause shown, extend a building permit for an additional period not exceeding 12 months. Extensions for any plans approved by the Planning Commission can only be granted by the Planning Commission. In granting an extension, the Commission may not impose additional requirements. After expiration, the project must go back through the approval process to obtain reapproval. If a project is developed in phases, each phase must be approved separately and each phase's approval will be valid for 12 months of the date of issuance for residential and two years for commercial.

§ 155-110. Occupancy permits.

A. An occupancy permit shall be required prior to any of the following:

- (1) Occupancy and use of a building hereafter erected or structurally altered.
- (2) Change in use of an existing building to a use of a different zone classification.
- (3) Occupancy or change in use of unimproved land.
- (4) Any permitted change in a nonconforming use.
- (5) Any change in ownership or tenancy of a commercial or industrial use.

B. Filing.

- (1) Written application for an occupancy permit shall be made at any time after all inspections have been completed. Said permit shall be issued within 10 days after a written request for the same has been made to the Planning and Zoning Commission and after the erection or alteration of such building or part thereof has been completed in conformity with the provisions of this chapter and any other law or ordinance.
- (2) Written application for an occupancy permit for the use of vacant land or a change in the use of land or of a building resulting in a change in a nonconforming use, as herein provided, shall be made to the Planning and Zoning Commission; if the proposed use is in conformity with the provisions of this chapter, the certificate of occupancy therefor shall be issued within 10 days after the application for the same has been made.
- (3) Each application for an occupancy permit shall be submitted on forms provided therefor, obtainable from the Commission.
- (4) The fee for such occupancy permits shall be determined by the Town Commissioners.

C. The Planning and Zoning Commission shall issue an occupancy permit upon a finding that:

- (1) All parking and other required facilities have been completed and are available for use.

(2) The building or the proposed use of a building or land complies with all provisions of the laws and regulations of Leonardtown.

§ 155-111. Building permits.

Editor's Note: See also Ch. 48, Building Construction, Art. I, Building Permits.

A. No building shall be erected, constructed, altered, moved, converted, extended or enlarged without the owner's or owners' first having obtained a building permit from the Commission. Such permit shall require conformity with the provisions of this chapter.

[Amended 5-20-2008 by Ord. No. 135]

B. No building permit lawfully issued prior to the effective date of this chapter or of any amendment hereto, which permit, by its own terms and provisions, is in full force and effect at said date, shall be invalidated by the passage of this chapter or any such amendment but shall remain a valid and subsisting permit subject only to its own terms and provisions and ordinances, rules and regulations appertaining thereto and in effect at the time of the issuance of said permit, provided that all such permits shall expire not later than 60 days from the effective date of this chapter, unless actual construction shall have theretofore begun and continued pursuant to the terms of said permit.

§ 155-112. Plats.

All applications for building permits shall be accompanied by a drawing or plat, in duplicate, or as required by the Commission, showing, with dimensions, the lot lines, the building or buildings, the location of buildings on the lot and such other information as may be necessary to provide for the enforcement of these regulations, including, if necessary, a boundary survey and a staking of the lot by a competent surveyor and complete construction plans. The drawings shall contain suitable notations indicating the proposed use of all land and buildings. A careful record of the original copy of such applications and plats shall be kept in the offices of the Planning and Zoning Commission, and a duplicate copy shall be kept at the building at all times during construction.

§ 155-113. Purpose of site development plans and standards.

The purpose of these site development standards is to assure detailed compliance with the applicable requirements of this chapter and/or subdivision regulations, Editor's Note: See Ch. 131, Subdivision Regulations. and to prescribe the standards for the preparation and submission of site plan drawings and for the design and construction of required improvements.

§ 155-114. Development or land use requiring site plan.

A site plan is required and shall be submitted for any development or land use involving:

- A. A planned unit development (excluding single-family dwellings).
- B. Any residential development, excluding single-family detached dwellings and one individual duplex unit.
- C. Commercial and industrial structures or changes of uses therein.
- D. Churches, temples, synagogues and similar institutions.
- E. Special exception uses.
- F. Public buildings or land, such as, but not limited to, schools, government offices and ancillary uses, recreational uses.

§ 155-115. Required information.

Every site plan that is submitted in accordance with this article shall contain the following information:

- A. Location of tract by an insert map such that the reviewer can easily identify location of the site and such information as the names and numbers of adjoining roads, streams and bodies of water, railroads, subdivisions, election districts or other landmarks sufficient to clearly identify the location of the property.
- B. A boundary survey of the tract.
- C. Certificate setting forth the source of title of the owner of the tract and the place of record or the last instrument in the chain of title, if such certificate has not been provided with a development plan or concept development plan.
- D. Location, dimensions, height and setbacks of all existing and proposed buildings.
- E. All existing and proposed streets and easements, their names, numbers and width; existing and proposed utilities; watercourses and their names; owners, zoning and present use of adjoining tracts if not previously submitted with a development plan; Tax Map/parcel number; current and proposed zoning; parking required/provided; structure use; plan preparer; percent landscaped, etc. should be provided in tabular form.
- F. Location, type and complete dimensions of vehicular entrances to the site and same for sidewalks and parkways and provisions for handicapped movement, including any off-site improvements such as traffic control devices and acceleration and deceleration lanes.
- G. Location, type, size and height of fencing, retaining walls, trash containers and screen planting where required under the provisions of this chapter.
- H. All off-street parking, loading spaces and walkways, indicating type of surfacing, size, angle of stalls, width of aisles and a specific schedule showing the number of parking spaces provided and the number required in accordance with Article XI of this chapter, including connection with adjacent developments and dimensions of landscaped areas, and type of curbing.
- I. All locations and sizes of proposed water and sewer installations or proposed additions to existing water and sewer installations, as well as any design features which are unusual or which deviate from normal design practices. The proximity to the nearest hydrant and its area of coverage shall also be shown.
- J. Provisions for the adequate disposition of natural and storm drainage in accordance with the duly adopted design criteria and standards of the Town as delineated in Article XV of this chapter indicating location, sizes, types and grades of ditches, catch basins and pipes and connections to existing drainage system. Copies of all pertinent calculations and assumptions relative to the storm drainage design (to include the delineation and consideration of the off-site contributing watershed and affected areas) and provisions for sediment control and/or stormwater management which are to be incorporated in all phases of construction shall accompany the site plan submissions for review.
- K. Description of all watercourses, impoundments and wetlands on or adjacent to the site or into which stormwater flows.
- L. Delineation of one-hundred-year floodplains, if applicable.
- M. Structure classification (SCS Pond Standard 378).
- N. Computations of hydrology; hydraulic and structural.
- O. Where deemed necessary by the approving authority, the developer shall submit to the approving authority an analysis of the impacts of stormwater flows downstream in the watershed. The analysis shall include hydrologic and hydraulic calculations necessary to determine the impacts of hydrographic timing modifications of the proposed development upon a dam, highway, structure or natural point of restricted

stream flow, established with the concurrence of the approving authority, downstream of a tributary of the following size:

- (1) The first downstream tributary whose drainage area equals or exceeds the contributing area to the pond; or
- (2) The first downstream tributary whose peak discharge exceeds the largest designed release rate of the pond.

P. Existing topography with a maximum of two-foot contour intervals; where existing ground is on a slope of less than 2%, either one-foot contours or spot elevations, where necessary, but not more than 50 feet apart in all directions. A drainage area map shall be to a usable scale.

Q. Proposed finished grading by contours supplemented where necessary by spot elevations.

R. All horizontal dimensions shown on the site plan shall be in feet and decimals of a foot to be closest to 1/100 of a foot; and all bearings in degrees, minutes and seconds to the nearest 10 seconds (closure to be within acceptable survey tolerances, minimum 1:10,000).

S. Plan for signage.

T. Other information required by the Planning Commission.

§ 155-116. Concept development plan.

A. A concept development plan may be submitted to the Planning Commission for approval prior to submission of a site plan or shall accompany a site plan or subdivision where application for plan approval is made for 75% or less of the land area of the parcel within which the development will occur.

B. The concept development plan shall contain the following information:

- (1) Accurate sketch of the property to scale.
- (2) Record owner of property.
- (3) Vicinity sketch.
- (4) Identification of adjacent property owners.
- (5) Topographic information in sufficient detail to determine drainage patterns and sedimentation or grading permit problems.
- (6) Proposed access to public rights-of-way.
- (7) Generalized identification of existing features on the site, including vegetation, drainage patterns, structures and other site improvements.
- (8) Proposed siting of water and sewage facilities for the entire parcel.
- (9) Proposed siting of structures and their uses.
- (10) Proposed siting of parking facilities.
- (11) Proposed siting of vehicular and pedestrian circulation facilities.

§ 155-117. Procedure for preparation.

A. Plans to be prepared by authorized persons. Any site plan or any portion thereof, including "as-built" site plans involving the practice of engineering, architecture or land surveying, shall be prepared and certified respectively by an engineer, architect, landscape architect or land surveyor duly authorized by the State of Maryland to practice as such. A site plan may be prepared in one or more sheets to show clearly the information required by this section and to facilitate the review and approval of the plan. If prepared in more than one sheet, match lines shall clearly indicate where the several sheets join. Every site plan shall show the name and address of the owner or developer, election district, North point, date and scale of drawing, number of sheets, existing zoning, Town Zoning Case Number and the Tax Map and parcel number. The date of originals and index of all previous revisions shall be provided with each revision. In addition, it shall reserve adequate space for the use of the approving authority.

B. Scale and sheet size. Site plans shall be prepared to a scale sufficient to show all required details; the sheet shall not exceed the dimensions of 36 inches by 48 inches.

C. Number of copies, submission deadlines and fees. Clearly legible, blue-line or black-line copies of a site plan shall be submitted to the Planning Director, together with the payment of any site plan fees for processing and approval. Fees for filing site plans shall be those as adopted by the Town Council. Copies shall be submitted in sufficient number to satisfy agency review requirements as determined by the Planning Director or designee. The number of copies and deadlines for submission shall be determined by the Planning Director and shall be listed as an appendix to this chapter. Editor's Note: This appendix is on file in the Town offices. This appendix may be changed as needed by the Planning Director without having to amend this chapter.

§ 155-118. Approval, extension or appeal.

A. Approval of a site plan submitted under the provisions of this article shall expire one year after the date of such approval unless building permits have been obtained for construction in accordance therewith.

B. A single one-year extension may be given by the Planning Director upon written request by the applicant to be made at least 30 days before the expiration of the approved site plan. The Planning Director shall act on the request within 15 days of receipt of the request.

C. An appeal of a Planning Commission decision regarding site plans is to the Circuit Court of St. Mary's County. An appeal must be made within 30 days of the Planning Commission decision.

§ 155-119. Revision and waiver.

Any currently valid site plan may be revised in the same manner as originally approved. Any requirement of this chapter may be waived by the Planning Commission in specific cases where such requirement is found to be unreasonable or unnecessary to evaluate the revision. No such waiver shall be adverse to the purpose of this section.

§ 155-120. Building permit: compliance with the plan.

No permit shall be issued for any structure or improvement in any area covered by the site plan that is required under the provisions of this article except as it is in conformity with such site plan which has been duly approved.

§ 155-121. Inspection and supervision during installation.

A. Unless specifically provided in this section, the construction standards for all off-site improvements and on-site improvements required by this article shall conform to the county design and construction standards. Appropriate authorities shall approve the plans and specifications for all required improvements and shall inspect the construction of such improvements to assure conformity thereto.

B. Inspection during the installation of the off-site improvements shall be made by the department responsible for such improvements as required to certify compliance with the approved site plan and applicable standards.

C. The owner shall notify the Town in writing three days prior to the beginning of all street, storm sewer or water and sewer facilities work shown to be constructed on the site plan.

D. Upon satisfactory completion of the required improvements and after having received verification by the appropriate approving authorities, the Planning Director or the Town Administrator shall have the authority on behalf of the Town Council to release any bond or other form of surety which may have been furnished for the guarantee of satisfactory installation of such improvements or parts thereof. This release may provide for 10% of the total bond to be retained for a period of 12 months after completion of all work. Said retainer shall be for the protection of the Town to cover failures, discrepancies, etc., in the previously approved improvements.

E. The installation of improvements as required in this article shall in no case serve to bind the Town to accept such improvement for the maintenance, repair or operation thereof.

§ 155-122. "As built" site plan.

Upon satisfactory completion of required improvements as shown on the approved site plan or a section thereof, the developer shall submit to the Planning Director the number of copies as required of the "as built" site plan, certified by the licensed professional as defined by COMAR for occupancy of any building, for the review and approval for conformity with the approved site plan by the Town as designated in this section. The Planning Director shall not process the occupancy permit until the appropriate "as built" site plan has been reviewed and approved by the appropriate agencies. If built as approved, said approved plan may be certified by the licensed professional as the "as-built."

§ 155-123. Procedure for processing.

A. Planning Director. The Planning Director or designee shall be responsible for checking the site plan for general completeness and compliance with such administrative requirements as may be established prior to routing copies thereof to reviewing departments, agencies and officials. The Planning Director shall see that all reviews are completed in a timely manner and that site plans are submitted to the Planning Commission within a reasonable period, except under abnormal circumstances, from the receipt thereof in the planning office.

B. All site plans shall be submitted for consideration by the Planning Commission after having been reviewed for completeness by the Planning Director and appropriate state or county departments, relative to the following requirements:

- (1) The location and design of the vehicular entrances and exits for streets giving access to the site and pedestrian traffic.
- (2) The concurrence of the State Department of Transportation or County Department of Public Works with the location and design of the vehicular entrances and exits to and from state- or county-maintained streets and highways.
- (3) Location and adequacy of automobile parking areas.
- (4) Adequate provision for traffic circulation and control within the site and for access to adjoining property.
- (5) Compliance with requirements of this chapter for setbacks and screening.
- (6) Adequacy of drainage, water supply, fire protection and sanitary sewer facilities.
- (7) Compliance with applicable established design criteria, construction standards and specifications for all improvements as may be required by the Town Council and Town ordinances.
- (8) Check for inclusion of erosion and sediment control measures.
- (9) Compliance with this chapter.

(10) Availability and adequacy of other public services.

(11) Reforestation plan.

§ 155-124. General site development standards.

In furtherance of the purposes of this chapter and to assure public safety and general welfare, the Town shall require the improvements as shown in the following standards section:

A. General site plan standards.

(1) Designation of pedestrian walkways so that patrons may walk on same from store to store or building to building within the site and to adjacent sites.

(2) Construction of vehicular travel lanes or driveways to the appropriate standard in the Leonardtown Road Ordinance Editor's Note: See Ch. 128, Streets and Sidewalks, Art. VIII, Road Construction and Specifications. which will permit vehicular travel on the site and to and from adjacent parking areas and adjacent property, provided that on any site bordering a state primary highway or adjacent to an existing service road in the arterial highway system, the developer of any site, in lieu of providing travel lanes or driveways in order to provide vehicular travel to and from adjacent parking areas and adjacent property, may dedicate, where necessary, and construct a service road under the appropriate Town, county or state specifications for such.

(3) Connection, wherever possible, of all sidewalks, walkways, travel lanes and driveways with similar facilities in adjacent developments.

(4) Screening, fences, landscaping, walls, curbs and gutters as are required by the provisions of this chapter and other ordinances of the Town.

(5) Easements or rights-of-way for all facilities to be publicly maintained. Such easement shall be clearly defined for the purpose intended.

(6) Adequate traffic control devices along such vehicular travel lanes or driveways to prohibit parking on such.

(7) Adequate drainage system for the disposition of storm and natural waters to include, when required, stormwater management devices.

(8) Temporary and permanent erosion and sediment controls measures.

B. Where not otherwise specified in this chapter, open space and recreation area designations and reservations may be required by the Planning Commission, upon recommendation by the staff to preserve natural areas, stream belts, historic sites, wetlands and other areas of critical concern to the Town, county and/or state. Such designations and reservations of open space and recreation area may be prescribed by easements, acquisitions, dedications or other appropriate means. Floodplains, flood hazard areas and areas within the regulatory flood zones may be included in such reservations and designations. The Planning Commission shall require in all cases that the applicant shall submit for appropriate approval specific arrangements for the perpetual management and responsibility of the designated open space and recreation area.

C. Solid waste disposal stations shall be provided in such numbers and at such locations so as to provide for the convenient storage and collection of garbage and trash.

D. Agricultural uses shall be exempted from those standards set forth in this section of this chapter.

E. Site developments that propose gated communities shall be prohibited since such development precludes opportunity to achieve the standard set forth in §155-124.A(3) of this subsection.

§ 155-125. Site access criteria.

A. The proposed development project shall be designed to minimize left turn movements or conflicts on the site and in the street. Driveways should be designed to achieve clear sight lines in accordance with the Leonardtown Road Ordinance standards. Editor's Note: See Ch. 128, Streets and Sidewalks, Art. VIII, Road Construction and Specifications.

B. Site access and circulation should conform to the following standards:

(1) Where reasonable access is available, the vehicular access to the site should be arranged to avoid traffic use of local residential streets situated in or bordered by residential districts.

(2) Where a site or lot has frontage on two or more roads, the access to the site should be provided to the site from the lower classified road, unless there is less potential for traffic congestion and for hazards to traffic and pedestrian movement from the higher classified road.

(3) The road giving access to the site should have traffic-carrying capacity and be suitably improved to accommodate the amount and type of traffic generated by the proposed development.

(4) Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, the Planning Commission may require that provisions shall be made for turning lanes, traffic directional islands, frontage roads, driveways and traffic controls when necessary within the road or on existing access roads. The Planning Commission may prohibit such traffic control devices it determines to be unnecessary or inappropriate, whether on the site or off-site.

(5) Access driveways should be designed with sufficient capacity to avoid queuing of entering vehicles on any road or street.

(6) Driveways into sites should have proper grades and alignments, as well as transition grades and sight distances, for safe, convenient and efficient access and should meet the road right-of-way and travelways of the road in such a manner as to conform to the standard cross section for the road or street as specified by the County Road Ordinance. Editor's Note: See also Ch. 128, Streets and Sidewalks, Art. VIII, Road Construction and Specifications.

(7) Where topographic and other conditions are reasonably usable, provision should be made for circulation driveway connections to adjoining lots of similar existing or potential use when such driveway connection will facilitate fire protection services or when such driveway will enable the public to travel between two existing or potential uses, open to the public generally, without need to travel upon a road.

(8) There should be no more than one driveway connection from any site or lot to any street, except where separate entrances and exit driveways may be necessary to safeguard against hazards and to avoid congestion. Additional driveways should also be considered for large tracts and uses of extensive scope, if traffic flow on adjacent roads will be facilitated by the additional connections.

(9) Where necessary to provide for suitable access or for extension or construction of planned highway system improvements, provisions should be made for appropriate continuation of such streets and roads terminating on a site.

§ 155-126. Approving authority.

A. The Planning Commission shall be the approving authority for all site plans. Such approval shall be based on recommendation of the Planning Director, and other appropriate agencies, and provisions contained in this chapter.

B. Where the requirements of this article are found to be unreasonable in specific cases, the Planning Commission may state specific findings and waive the requirement in favor of an alternative standard which is found to be consistent with this article. No such waiver shall be adverse to the purpose of this section.

§ 155-127. Filing fees.

The Town Commissioners shall establish by resolution a schedule of fees, charges and expenses and a collection procedure for occupancy permits, building permits and other matters pertaining to this chapter. The schedule of fees shall be posted in the office of the Planning and Zoning Commission and may be altered or amended only by the Town Commissioners after referral to the Commission

ARTICLE XIX. Planning and Zoning Commission

§ 155-128. Composition; appointment; term.

[Amended 2-9-2009 by Ord. No. 142]

A. The Mayor, with the approval of the Town Council, shall appoint a Planning and Zoning Commission consisting of five members, plus one alternate, one of whom may be a member of the Town Council, who shall serve concurrent with his/her Town Council term.

B. The terms of members who are not also members of the Town Council shall be three years, or until their successors are appointed. Appointed members shall live, work, be a property owner, or a business owner within the Town limits of Leonardtown.

§ 155-129. Removal; filling unexpired terms of office.

A. Any member of the Planning and Zoning Commission may be removed from office by the Town Council for neglect of duties, malfeasance, physical incapacity or a change of residence or work location such that the person no longer lives or works within the Town limits. Neglect of duties shall include failure to attend at least 75% of the Planning and Zoning Commission's regularly scheduled meetings during any twelve-month period. If the Town Council removes any member of the Planning and Zoning Commission prior to the expiration of his/her appointed term, the reasons for the removal shall be issued in a written report to the member removed.

B. If a member is removed or resigns from the Commission prior to the expiration of his/her term of office, the Mayor, with the approval of the Town Council, shall appoint a replacement to fill the remainder of the term.

§ 155-130. Officers; meetings; rules; records.

A. The Mayor, with the approval of the Town Council shall appoint a Chair and Vice-Chair from its appointed membership. Terms shall be for one year with eligibility for re-appointment.

B. The Commission shall meet at least once each month. However, if there is insufficient business in any month, the Chair may cancel the meeting. Three members shall constitute a quorum for the conduct of business. If neither the Chair nor Vice-Chair is present at a meeting, the remaining members shall elect a temporary Chair for that particular meeting.

C. The Commission shall adopt rules for the transaction of business and shall keep a record of its recommendations, decisions, findings and determinations, which record shall be a public record.

§ 155-131. Duties; responsibility; authority.

The Planning and Zoning Commission shall be responsible for the following:

A. Final approval authority on subdivision of land and site plans. Any appeal of the Planning and Zoning Commission's decision may only be taken to the Circuit Court of St. Mary's County, Maryland.

B. Waivers, modifications. The Planning and Zoning Commission may waive or modify provisions of the Zoning Ordinance, Subdivision Regulations, Editor's Note: See Ch. 131, Subdivision Regulations. Road Ordinance Editor's Note: See Ch. 128, Streets and Sidewalks, Art. VIII, Road Construction and Specifications. or any other ordinances over which it has authority, on a case-by-case basis. The Commission may allow

waivers or modifications only when it finds that such waiver or modification of a standard does not harm the environment or violate the spirit of Leonardtown's Development Regulations.

C. Approval authority on interpretation of the Subdivision Regulations, Zoning Ordinance, Road Ordinance, Stormwater Management Regulations; exterior architectural plans. Any appeal of the Planning and Zoning Commission's decision must be taken to the Town Council. Appeals of the Town Council's decisions may only be taken to the Circuit Court of St Mary's County, Maryland.

D. Recommendation to the Town Council required. Rules and regulations governing the development of land within the Town can only be adopted or modified by the Town Council. However, prior to final action by the Town Council, the Planning Commission must review and make recommendations to the Council on any adoption or amendment to the following:

(1) Comprehensive land use plan.

(2) Subdivision Regulations.

(3) Zoning Ordinance and Development Regulations, including, but not limited to, the Road Ordinance, Stormwater Management Regulations and Architectural Standards or any other land development regulations the Town may adopt.

ARTICLE XX. Board of Zoning Appeals

§ 155-132. General provisions; organization.

A. The Board of Zoning Appeals is hereby created.

B. The Board shall consist of five members, plus one alternate, all of whom shall be residents or own real property within the Town of Leonardtown.

[Amended 2-9-2009 by Ord. No. 142]

C. Members are to be appointed by the Town Commissioners and shall serve without compensation.

D. The Board shall have a Chairman, a Vice Chairman and a Secretary. The Chairman shall be appointed by the Town Council. The other officers shall be elected by the Board.

E. Members shall be removable for cause upon written charges and after public hearing.

F. Of the members first appointed, one shall serve for one year, two for two years and two for three years. Thereafter, members shall be appointed for terms of three years each.

G. Vacancies shall be filled by appointment for the unexpired term. The Board shall be organized and its rules shall be amended, if necessary, in accordance with the provisions of this chapter.

H. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine.

I. The Chairman or, in his absence, the Vice Chairman may administer oaths and compel the attendance of witnesses.

J. For assistance in reaching decisions relative to appeals, special exceptions or variances, the Board may request testimony at its hearings for purposes of securing technical aid or factual evidence from the Commission or any Town agency.

K. All meetings of the Board shall be open to the public. The Board shall keep minutes of all proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, which shall be immediately filed in the office of the Board and shall be a public record.

§ 155-133. Powers and duties.

A. The Board shall have the following powers:

- (1) Hear and decide appeals where it is alleged that there is an error in any order, requirements, decision or determination made by an administrative officer in the enforcement of this chapter or of any ordinance pursuant thereto;
- (2) Hear and decide special exceptions to the terms of an ordinance on which the board is required to pass under the ordinance.
- (3) Authorize, on appeal in special cases, a variance from the terms of an ordinance.

B. In exercising the above-mentioned powers, the Board may, in conformity with the provisions of law and this chapter and amendments thereto, reverse or affirm, wholly or partly, or may modify the order, requirements, decisions or determinations appealed from and may make such order, requirement, decision or determination as ought to be made.

C. The Board is also empowered to adopt and promulgate such rules and regulations as it shall deem necessary in the conduct of its hearings and the issuance of its decisions or testimony pertaining to its hearings.

§ 155-134. Appeals.

A. An appeal to the Board may be taken by any person aggrieved or by any officer, department, board, commission or bureau of the Town affected by any decision of the Planning and Zoning Commission. Such appeal shall be taken within 30 days after the decision by filing with the Commission and with the Board notice of appeal, specifying the grounds thereof. The Planning and Zoning Commission shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

B. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Zoning Appeals, after notice of appeal shall have been filed with him, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board of Zoning Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

§ 155-135. Special exceptions and variances.

Upon the filing of an application for a special exception or variance before the Board of Zoning Appeals, the following action shall be taken preparatory to holding a hearing thereon:

A. The Planning and Zoning Commission shall review all special exception applications or variances and shall forward its recommendations to the Board of Zoning Appeals within 30 days of submission of such application or appeal.

[Amended 8-9-2004 by Ord. No. 119]

B. The Board shall hold a public hearing within 60 days of submission of the application or appeal.

C. Notice of the hearing shall be advertised in two consecutive issues of a newspaper having general circulation in the Town. The first insertion shall appear in such newspaper at least 25 days prior to such hearing.

D. Property upon which the application or appeal is concerned shall be posted by the applicant conspicuously by a zoning notice at least 14 days before the date of the hearing. All signs posted by the applicant providing notice of the public hearing shall be removed by the applicant and returned to the Town Office no later than two weeks following the public hearing.

E. Notification by certified mail shall be made to the appellant or petitioner and to the owners of those properties and the addresses certified on the notice of appeals by the appellant or petitioner as being contiguous to the property with which the hearing is concerned.

F. The Board, upon application, in writing, by any interested party filed with the Board no less than 10 days prior to the date of scheduled hearing, shall visit the specific property involved prior to the hearing. The Board, in its discretion, may otherwise visit the specific property prior to or after the hearing.

G. Requests for postponement of a scheduled hearing shall be filed, in writing, with the Board not less than 10 days prior to the date of hearing and shall be accompanied by a sum of money sufficient to pay the cost of advertising the postponement and the rescheduled hearing. The granting of such requests shall be at the discretion of the Chairman of the Board.

H. Requests for postponement filed later than 10 days prior to the date of a scheduled hearing shall, in addition to the other requirements set forth in Subsection E above, be supported by an affidavit of the party making the request or of some other creditable person. The granting of such request shall be at the discretion of the Board in cases of extreme hardship or upon good cause shown.

I. The Board may, upon its own initiative, postpone a scheduled hearing at any time.

J. The Board may continue a hearing at another time and/or date once such hearing has been started; however, the Board shall announce the date and hour of continuance of such hearing while in session.

K. The Board, following such action above, shall hold such hearing. At the hearing, any party may appear to be heard in person or by agent or attorney.

L. The Board shall render a decision within a reasonable time, but in no instance more than 60 days following the hearing.

§ 155-136. Limits, guidelines and standards.

A. Where in these regulations certain powers are conferred upon the Board or an approval of the Board is required before a permit may be issued or the Board is called upon to decide certain issues, such Board shall study the specific property involved, as well as the neighborhood, and consider all testimony and data submitted and shall hear any person desiring to speak for or against the issuance of the permit. However, the application for a permit shall not be approved where the Board finds that the proposed building, addition, extension of building or use, sign, use or change of use would adversely affect the public health, safety, security, morals or general welfare or would result in dangerous traffic conditions or would jeopardize the lives or property of people living in the neighborhood. In deciding such matters, the Board shall give consideration, among other things, to the following:

- (1) The number of people residing or working in the immediate area concerned.
- (2) The orderly growth of a community.
- (3) Traffic conditions and facilities.
- (4) The effect of such use upon the peaceful enjoyment of people in their homes.
- (5) The conservation of property values.
- (6) The effects of odors, dust, gas, smoke, fumes, vibrations, glare and noise upon the use of surrounding property values.

(7) The most appropriate use of land and structure.

(8) Decisions of the courts.

(9) The purpose of these regulations as set forth herein.

(10) The types and kinds of structures in the vicinity where public gatherings may be held, such as schools, churches and the like.

B. In the approval of any special exception, variance or appeal which it is required to decide, the Board of Zoning Appeals may impose such conditional approvals as it may deem necessary to assure conformity with the intent and purpose of this article.

§ 155-137. Court review.

In accordance with the applicable provisions of Maryland law, any persons, jointly or severally, aggrieved by any decision of the Board of Zoning Appeals or any taxpayer or any officer, department, board or bureau of the municipality may present to the Circuit Court of the county a petition duly verified, setting forth that such decision is illegal, capricious or arbitrary in whole or in part, specifying the grounds. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Board.

ARTICLE XXI. Amendments

§ 155-138. General provisions.

The Commissioners may, from time to time, amend, supplement or change, by ordinance, the boundaries of the districts or the regulations herein established. Before taking any action on any proposed amendment, supplement or change, the Town Commissioners shall submit the same to the Planning and Zoning Commission for its recommendations and report, which shall forward the same, within 60 days of the request for amendment, back to the Town Commissioners.

§ 155-139. Meeting.

The Planning and Zoning Commission shall hold a public meeting thereon before submitting its report to the Commissioners. Notice of public hearings before the Planning and Zoning Commission shall be given by publishing the time, place and nature of the hearing at least once and at least 15 days prior to such hearing in a newspaper having general circulation in Leonardtown. In addition, the Planning and Zoning Commission shall cause the date, time, place and nature of the hearing to be posted as a sign conspicuously on the property involved for a period of not less than 10 days immediately preceding the hearing. The sign shall read: ZONING AMENDMENT NO. _____ PENDING FROM _____ TO _____ MEETING DATE _____.

§ 155-140. Hearing.

Within 90 days of application for a zoning text and map amendment, the Town Commissioners shall hold a public hearing. Where such amendment is not consistent with the Master Plan, a favorable vote of 80% of the total number of Town Commissioners is required; otherwise, a majority must vote in favor of the proposed amendment.

§ 155-141. Denial of petition.

Whenever a petition requesting an amendment, supplement or change has been denied by the Town Commissioners, such petition or one substantially similar shall not be considered sooner than two years after the previous denial.

§ 155-142. Effect on annexed land.

Under the provisions of Chapter 116 of the Code of Public General Laws of Maryland, Article 23A, § 19(c), as amended in 1971, no municipality annexing land may, for a period of five years following annexation, place that land in a zoning classification which permits a land use substantially different from the use for the land specified in the current and duly adopted Master Plan or Plans or, if there is no adopted or approved Master Plan, the adopted or approved General Plan or Plans of the county or agency having planning and zoning jurisdiction over the land prior to its annexation without the express approval of the Board of County Commissioners or County Council of the county in which the municipality is located.

ARTICLE XXII. Administration and Enforcement

§ 155-143. Interpretation.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity or general welfare. It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreement between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger open spaces than are imposed or required by other resolutions, ordinances, rules, regulations or by easements, covenants or agreements, the provisions of this chapter shall govern. If, because of error or omission in the Zoning District Map, any property in the jurisdiction of this chapter is not shown as being in a zoning district, the classification of such property shall be classified as "R-SF, single-family residential," until changed by amendment.

§ 155-144. Administration.

The administration of these zoning regulations shall be the responsibility of the Leonardtown Planning and Zoning Commission.

§ 155-145. Enforcement.

It shall be the duty of the Planning and Zoning Commission to enforce the provisions of this chapter and to refuse to issue any permit for any building or for the use of any premises which would violate any of the provisions of said chapter. It shall also be the duty of all officers and employees of the Town to assist the enforcing officer by reporting to him any seeming violations in new construction, reconstruction or land uses.

§ 155-146. Violations and penalties.

A. In case any building is erected, constructed, reconstructed, altered, repaired or converted or any building or land is used in violation of this chapter, the Planning and Zoning Commission is authorized and directed to institute any appropriate action to put an end to such violations.

B. Any person or corporation who shall violate or fail to comply with any of the provisions of this chapter or who shall build or alter any building in violation of any detailed statement of plan submitted and approved hereunder shall be guilty of a misdemeanor. A fine of not more than \$1,000 or imprisonment for a term not to exceed six months, or both, shall be imposed, and each day such violation shall be permitted to exist shall constitute a separate offense. The owner or owners of any building or premises or parts thereof where anything in violation of this chapter shall be placed or shall exist and any architect, builder, contractor, agent, person or corporation employed in connection therewith and who have assisted in the commission of any such violation shall be guilty of a separate offense and, upon conviction thereof, shall be so fined or imprisoned.

§ 155-147. Effect on other legislation.

Wherever the regulations made under authority of this chapter require a greater width or size of yards, courts or other open spaces or require a lower height of building or a fewer number of stories or require a greater percentage of the lot to be left unoccupied or impose other higher standards than are required in any other statute or local ordinance or regulation, the provisions of the regulations made under authority of this article shall govern. Wherever the provisions of any other statute or local ordinance or regulation require a greater width or size of yards, courts or other open spaces or require a lower height of building or a fewer number of stories or require a greater percentage of the lot to be left unoccupied or impose other higher standards than are required by the regulations made under authority of this article, the provisions of such statute or local ordinance, or regulations shall govern.

§ 155-148. Private Restrictions, Covenants and Community Associations.

Design, signage, use, management, maintenance, and cost sharing may be prescribed or limited by private covenants, conditions, or restrictions, provided that such restrictions are not in violation of the Town Code. The provisions of this Ordinance are not intended to replace any deed restriction, covenant, easement, or any other private agreement regarding a parcel of land. All such restrictions shall be enforced by the parties to the restriction. The Town shall not be a party to any such restriction or covenant, nor shall the Town enforce or become involved in the enforcement of such private restrictions, and, in the review of development proposals, the Town will apply only its regulations to evaluate the proposal. All landowners proposing deed restrictions, covenants or formation of a community association shall submit the proposed private restrictions to the Town before submitting the final plat. If there are private restrictions that conflict with the provisions of this Ordinance or the Town's Subdivision and Land Development regulations the Town shall require that they be modified prior to final plat approval. The Town's review, to assure such provisions do not conflict with the Town Code, in no way places responsibility on the Town for enforcement of such covenants or restrictions.