

TOWN OF GALENA, MARYLAND

ORDINANCE NO: 2020-01

AN ORDINANCE OF THE TOWN OF GALENA TO REPEAL THE TOWN’S ZONING ORDINANCE OF 1997 AS AMENDED FROM TIME TO TIME, TO REPEAL THE TOWN’S OFFICIAL ZONING MAP OF 1997 AS AMENDED FROM TIME TO TIME, AND TO ADOPT THE TOWN’S ZONING ORDINANCE OF 2020, AND TO ADOPT THE OFFICIAL ZONING MAP OF 2020.

WHEREAS, Section 1.1 of Article XV of the Town’s Zoning Ordinance authorizes the Mayor and Council to amend, supplement, or change by Ordinance, the regulations contained therein;

WHEREAS, the Town’s Zoning Ordinance provides that such amendment, supplement, or change may be initiated by a Resolution of the Mayor and Council;

WHEREAS, the Mayor and Council have initiated such a Resolution for the repeal of the existing Zoning Ordinance and Official Map, and to Adopt a new Zoning Ordinance and Official Map;

WHEREAS, the Town’s Planning Commission has reviewed the new Zoning Ordinance and Official Map and have given them a favorable recommendation; and

WHEREAS, the Mayor and Council have held a public hearing that has been duly advertised.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF GALENA AS FOLLOWS:

SECTION 1. The Document titled “Town of Galena Zoning Ordinance Adopted June 17, 2020” is adopted in its entirety, and is incorporated by reference as if fully set forth herein.

SECTION 2. The Town of Galena Zoning Ordinance Adopted August 4, 1997, as amended from time to time is hereby repealed in its entirety.

SECTION 3. The Document titled “Zoning District Map of Galena Maryland” is hereby adopted in its entirety as the official zoning map of the Town, and is incorporated by reference as if fully set forth herein.

SECTION 4. The Official Zoning Map Adopted August 4, 1997, as amended from time to time is hereby repealed in its entirety.

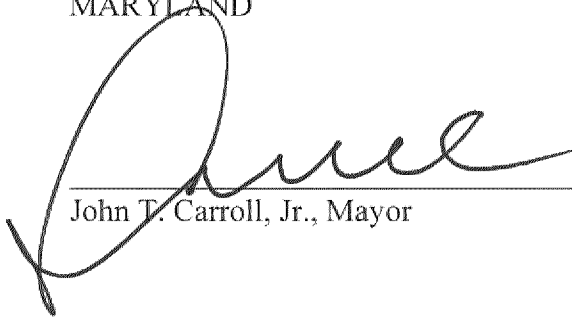
SECTION 5. If any section, subsection, or portion of this Ordinance shall be declared to by any competent court to be invalid for any reason, it is the intent of The Town of Galena that all other sections, subsections or portions of this Ordinance shall remain valid.

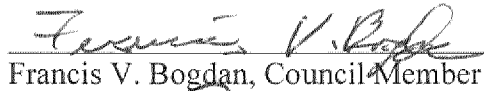
SECTION 6. The title of this Ordinance, or a condensed version thereof, shall be deemed to be, and is, a fair summary of this Ordinance for publication and all other purposes.

This Ordinance, having been introduced on March 2, 2020, and adopted on June 17, 2020, we hereby affix our signatures. Effective July 7, 2020. A summary of this Ordinance shall be published twice in a newspaper having general circulation within the Town of Galena.

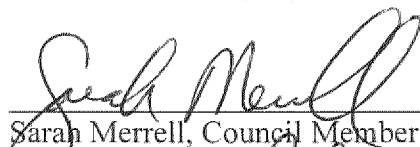
BY AUTHORITY OF THE
MAYOR AND COUNCIL OF
THE TOWN OF GALENA,
MARYLAND

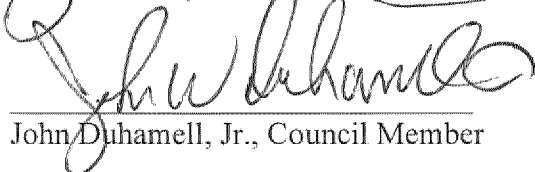

Kathleen Billmire, Zoning Coordinator
6.17.2020


John T. Carroll, Jr., Mayor


Francis V. Bogdan, Council Member


Albert H. Piasecki, Jr., Council Member


Sarah Merrell, Council Member


John Duhamell, Jr., Council Member

5

Ayes

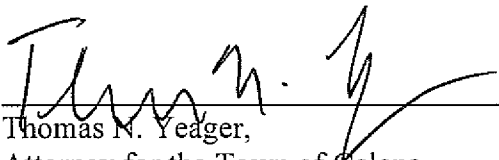
0

Nayes

0

Absent

Approved as to Form:



Thomas N. Yeager,
Attorney for the Town of Galena

**TOWN OF GALENA,
MARYLAND**



**TOWN OF GALENA ZONING
ORDINANCE**

and

**ZONING DISTRICT MAP OF
GALENA, MARYLAND**

**ADOPTED June 17, 2020
Ordinance No. 2020-01**

Table of Contents

ARTICLE I. TITLE AND APPLICABILITY.....	1
SECTION 1. Title	
SECTION 2. Applicability	
ARTICLE II. PURPOSE.....	1
ARTICLE III. DISTRICTS AND DISTRICT MAPS.....	2
SECTION 3. Establishment of Districts	
SECTION 4. Establishment of District Map(s)	
SECTION 5. Interpretation of District Boundaries	
ARTICLE IV. GENERAL PROVISIONS.....	3
SECTION 6. Compliance with Regulations	
SECTION 7. Location on a Lot Required	
SECTION 8. Accessory Structures: Prior Construction	
SECTION 9. Uses Not Permitted are Prohibited	
SECTION 10. Tables Are Part of this Ordinance	
SECTION 11. Certain Regulations not Reproduced Herein	
ARTICLE V. DISTRICT REGULATIONS	
PART I. ZONING DISTRICTS.....	4
SECTION 12. R-1 SINGLE FAMILY-FAMILY RESIDENTIAL DISTRICT.....	4
12.1 R-1 Purpose of District	
12.2 R-1 Permitted Uses	
12.3 R-1 Permitted Accessory Uses	
12.4 R-1 Height and Area Requirements	
SECTION 13. R-2 MULTI-FAMILY RESIDENTIAL DISTRICT.....	15
13.1 R-2 Purpose of District	
13.2 R-2 Permitted Uses	
13.3 R-2 Permitted Accessory Uses	
13.4 R-2 Height and Area Requirements	
SECTION 14. C-1 COMMERCIAL DISTRICT.....	20
14.1 C-1 Purpose of District	
14.2 C-1 Permitted Uses	
14.3 C-1 Permitted Accessory Uses	
14.4 C-1 Height and Area Requirements	
SECTION 15. C-2 COMMERCIAL DISTRICT.....	23
15.1 C-2 Purpose of District	
15.2 C-2 Permitted Uses	
15.3 C-2 Permitted Accessory Uses	
15.3 C-4 Height and Area Requirements	
SECTION 16. I INSTITUTIONAL DISTRICT.....	25
16.1 I Purpose of District	
16.2 I Permitted Uses	
16.3 I Permitted Accessory Uses	
16.4 Height and Area Requirements	

ARTICLE V. DISTRICT REGULATIONS	
PART II. PERMITTED USES IN ZONING DISTRICTS.....	27
SECTION 17. PERMITTED USE TABLE 17.1.....	28
ARTICLE V. DISTRICT REGULATIONS	
PART III. SUPPLEMENTARY USE REGULATIONS.....	33
SECTION 18. AGRICULTURAL USES (1.00).....	33
Farming (1.10)	
Roadside Stand (1.30)	
SECTION 19. COMMERCIAL SERVICES (2.00.....)	33
Animal Hospital (2.20)	
Pet Shops (2.23)	
Banks, Drive-in (2.30)	
Clubs, Private (2.35)	
Crematorium (2.50)	
Funeral Home (2.53)	
SECTION 20. COMMERCIAL RETAIL & WHOLESALE (3.00).....	35
Building Equipment Sales (3.25)	
Machinery & Equipment Sales, Service & Rental (3.50)	
Restaurant and Other Food Service (3.55)	
Shopping Center (3.60)	
SECTION 21. EMERGENCY SERVICES USES (4.00).....	36
SECTION 22. INDUSTRIAL (5.00).....	37
Section Storage Facilities & Mini Storage (5.10)	
SECTION 23. INSTITUTIONAL (6.00).....	37
Cemeteries (6.10)	
Government Buildings, Structure, and Uses (6.15)	
Places of Assembly (6.20)	
Hospital / Medical Facilities (6.25)	
Medical Facilities, Urgent Care < 7,500 sq. ft. (6.35)	
Nursing Care/Convalescent (6.40)	
School & College Public & Private (6.55)	
SECTION 24. MOTOR VEHICLE / BOAT (7.00).....	39
Car Wash 7.10	
Motor Vehicle filling Station 7.15	
Motor Vehicle / Boats Repair & Maintenance 7.30	
SECTION 25. PUBLIC FACILITIES: GOVERNMENT (8.00).....	41
Post Office 8.00.100	
SECTION 26. RECREATION (9.00).....	41
SECTION 27. RESIDENTIAL USES (10.00, 11.00, 12.00, 3.00).....	41
Dwelling – Accessory Apartment (10.40)	
Dwelling – Townhouse (10.50)	
Home Occupation (10.60)	
Group Home / Assisted Living (11.10)	
Group Home / Halfway House (11.20)	
Group Home, Private (11.30)	
Day Care Home (12.10)	
Day Care Center (12.20)	
Retirement Housing (12.30)	
Boarding & Rooming House (13.10)	
Bed & Breakfast (13.15)	
Conference Center (13.20)	
Hotel (13.30)	
Motel (13.40)	

SECTION 28. UTILITIES (14.00)	48
Electric, Gas, & Telecommunication (14.10)	
Neighborhood Essential Service (14.20)	
Satellite Dish Private (14.30)	
Solar Energy Systems (14.40)	
SECTION 29. MISCELLANEOUS SERVICE 15.00)	50
Christmas Tree Sales (15.10)	
Temporary Construction Building (15.20)	
ARTICLE V. DISTRICT REGULATIONS	
<i>PART IV. HEIGHT, AREA BULK, & DESIGN REQUIREMENTS</i>	51
SECTION 30. Lot Area	
SECTION 31. Yards & Open Space Generally	
SECTION 32. Front Yards	
SECTION 33. Side Yards	
SECTION 34. Rear Yards	
SECTION 35. Corner Visibility	
ARTICLE VI. PARKING, ACCESSIBILITY, LOADING, & THOROUGHFARE	
REGULATIONS	53
SECTION 36. General	
SECTION 37. General Parking Specifications	
TABLE 37.1 Required Parking and Shared Parking Ratios	
TABLE 37.2 Shared Parking Factors Table	
SECTION 38. Residential Parking Specifications	
TABLE 38.1 Commercial Vehicles Parking in Residential Table	
SECTION 39. Commercial Specifications	
SECTION 40. Mixed Uses in One Building	
SECTION 41. Joint Use of Off-Site Facilities	
SECTION 42. Design Standards	
TABLE 42.1 Design Standards Table	
SECTION 43. General Loading Specification	
SECTION 44. American with Disabilities Act (ADA)	
TABLE 44.1 American with Disabilities Table	
SECTION 45. Thoroughfare Standards	
TABLE 45.1 Allowable Street Type by Zone Table	
TABLE 45.2 Thoroughfare Dimensions Table	
ARTICLE VII. GENERAL SIGN REGULATIONS	62
SECTION 46. Statement of Intent	
SECTION 47. Definitions	
SECTION 48. Requirements	
SECTION 49. Enforcement	
SECTION 50. Permits & Fees	
ARTICLE VIII. SITE PLAN	71
SECTION 51. Statement of Intent	
SECTION 52. Requirements	
SECTION 53. Plot Plans	
SECTION 54. Minor Site Plan Review	
SECTION 55. Major Site Plan Review	
SECTION 56. Site Plans	
SECTION 57. Appeals	
SECTION 58. Fees	
SECTION 59. Site Plan Amendment	

ARTICLE IX. SPECIAL PROVISIONS.....	78
SECTION 60. THE TOWN OF GALENA, THE CODE OF ORDINANCE, FOREST CONSERVATION FEBRUARY 1, 1993	
SECTION 61. KENT COUNTY, MARYLAND, PLANNING AND ZONING, LAND USE ORDINANCE, EROSION & SEDIMENT CONTROL	
SECTION 62. KENT COUNTY, MARYLAND, PLANNING AND ZONING, LAND USE ORDINANCE, STORMWATER MANAGEMENT	
ARTICLE X. ENVIRONMENTAL STANDARDS AND OPEN SPACE.....	79
SECTION 63. Provision of common Open Space	
SECTION 64. Open Space Requirements	
SECTION 65. Common Open Space – Ownership	
SECTION 66. Management of Common Open Space Property	
SECTION 67. Bond for Open Space Improvements	
SECTION 68. Flexibility in Administration Authorized	
ARTICLE XI. LANDSCAPING REQUIREMENTS.....	81
SECTION 69. Landscaping Standards	
SECTION 70. Landscaping Plan Required	
SECTION 71. Street Tree Requirements	
SECTION 72. Buffer Yards	
SECTION 73. Bonding and Financial Security of Plantings	
SECTION 74. Modification to Buffer Yards from Collector of Arterial Roadways	
ARTICLE XII. NONCONFORMING USES.....	85
SECTION 75. Nonconforming Uses	
SECTION 76. Nonconforming Structures	
SECTION 77. Nonconforming Lots	
SECTION 78. Nonconforming Signs	
ARTICLE XIII. PERMITS AND APPROVAL PROCESS.....	87
SECTION 79. Approvals	
SECTION 80. Permit Application Requirements and Procedures	
SECTION 81. Zoning Application and Building Permits	
SECTION 82. Reconsideration of Board Action	
SECTION 83. Structures and Uses to be as provided in Building Permits, Plans, and Zoning Permits	
SECTION 84. Severability	
SECTION 85. Adequate Public Facilities	
SECTION 86. Maintenance of Common Areas and Facilities	
SECTION 87. Records of Zoning Coordinator	
SECTION 88. Interpretation, Purpose, and Conflict	
SECTION 89. Code Enforcement	
SECTION 90. Complaints Regarding Violations	
SECTION 91. Person Liable	
SECTION 92. Procedures upon Discovery of Violations	

ARTICLE IVX. BOARDS AND COMMISSIONS	
PART I. PLANNING COMMISSION.....	92
SECTION 93. Statement of Intent	
SECTION 94. Organization	
SECTION 95. Powers of Planning Commission	
ARTICLE IVX. BOARDS AND COMMISSIONS	
PART II. BOARD OF APPEALS.....	93
SECTION 96. Statement of Intent	
SECTION 97. Organization	
SECTION 98. Powers of Board of Appeals	
SECTION 99. Appeals to Court	
ARTICLE XV. SPECIAL EXCEPTIONS, VARIANCES, AND APPEALS	
PART I. SPECIAL EXCEPTION.....	94
SECTION 100. Statement of Intent	
SECTION 101. Procedure Special Exception	
ARTICLE XV. SPECIAL EXCEPTIONS, VARIANCES, AND APPEALS	
PART II. VARIANCE.....	95
SECTION 102. Statement of Intent	
SECTION 103. Procedures	
ARTICLE XV. SPECIAL EXCEPTIONS, VARIANCES, AND APPEALS	
PART III. APPEALS.....	97
SECTION 104. Statement of Intent	
SECTION 105. Procedures	
SECTION 106. Administration Appeals	
SECTION 107. Appeals to the Courts	
ARTICLE XV. SPECIAL EXCEPTIONS, VARIANCES, AND APPEALS	
PART IV. STANDARDS.....	98
SECTION 108. Statement of Intent	
SECTION 109. Limitations, Guides, and Standards	
SECTION 110. Conditions Attached to Approvals	
SECTION 111. Approval Valid for One Year	
SECTION 112. Lapse	
SECTION 113. Amendment	
SECTION 114. Reconsideration, One Year Limit	
ARTICLE XVI. OTHER ADMINISTRATION PROVISIONS.....	101
SECTION 115. Zoning Coordinator	
SECTION 116. Mayor and Council	
SECTION 117. Fees and Charges	
SECTION 118. Legal Counsel	

ARTICLE XVII. AMENDMENTS.....103

- SECTION 119. Amendments in General**
- SECTION 120. Initiation of Amendments**
- SECTION 121. Hearing Required; Notice**
- SECTION 122. Planning Commission Consideration of Proposed Amendments**
- SECTION 123. Mayor and Council Action on Amendments**
- SECTION 124. Changes and Amendments**

ARTICLE XVI. DEFINITION.....106

- SECTION 125. General Rules of Construction**
- SECTION 126. Definitions**

APPENDIX

- APPENDIX A – Height & Area Regulations.....117**
- APPENDIX B – Height, Area, Bulk, & Design Requirements.....118**
- APPENDIX C – Flags and Poles.....119**
- APPENDIX D – Standards for Buffer Yards Design.....120**
- APPENDIX E – Illustration Roof Line.....121**
- APPENDIX F – Plat Plan Information Requirements.....122**
- APPENDIX G – Thoroughfare Dimensional Illustrations.....126**
- APPENDIX H - MAP - Galena Transportation Plan 2020.....129**
- APPENDIX I – Zoning District Map of Galena, Maryland 2020.....130**

ARTICLE I. TITLE AND APPLICABILITY

SECTION 1. TITLE

This Ordinance shall be known as the Zoning Ordinance for Galena, Maryland.

SECTION 2. APPLICABILITY

This Ordinance shall apply to the incorporated Town of Galena, Maryland. It is the intent of this Ordinance that the extent of its applicability be automatically changed in accordance with the provisions hereof or provision of state law, which may affect the applicability of this Ordinance.

ARTICLE II. PURPOSE

The zoning regulations and districts as herein established have been made in accordance with the Galena Comprehensive Plan. They have been made with reasonable consideration, among other things, for the existing use of property, to the character of the district and its peculiar suitability for particular uses, to trends of growth or change, and with a view to conserving the value of land and buildings and encouraging the most appropriate use of land throughout the incorporated area of Galena, Maryland.

The regulations and districts are designed to:

1. Promote, in accordance with present and future needs, the safety, morals, order, convenience, prosperity, and general welfare of the citizens of Galena, Maryland.
2. Provide for efficiency and economy in the process of development, for the appropriate and best use of land, for convenience of traffic and circulation of people and goods, for the appropriate use of occupancy of buildings, for healthful and convenient distribution of population, for protection against destruction of or encroachment upon historic areas, for good civic design and arrangement, including the preservation and enhancement of the attractiveness of the community, and for adequate public utilities, public services, and facilities by regulating and limiting or determining the height and bulk of buildings and structures, the area of yards and other open spaces, and density of use.
3. Maintain the following visions of Galena as a community:
 - Galena's careful use and preservation of its small-town character are at the heart of its social and economic vitality.
 - Galena's residential areas are reminiscent of a "slower" era and reflect small-town neighborliness.
 - Galena is a year-round, full-service community with residences and local businesses forming its economic base.
 - Galena's downtown is a balanced mix of local service and regional businesses with a distinctive, pedestrian character.
4. Carry out the specific policies of the Comprehensive Plan:
 - Minimize the impact of destination and traffic on the community.
 - New and renovated structures in Galena should extend the characteristics of unity, variety, order, and balance that typify the community.
 - Maintain and establish the physical connections needed to enhance the walkable scale of the town.
 - Maintain and establish the physical connections needed to enhance the walkable scale of the town.
 - Maintain and improve the quality of the natural environment throughout the town.
 - Protect and enhance the community's investments in facility infrastructure by thorough advance planning and continuous maintenance.
 - Keep most of the activities of daily living, including dwelling, shopping, and recreation, within walking distance so that residents, particularly the elderly and the young, retain the independence of movement.

- Maintain and improve the quality of community services in the areas of recreation and education at the high level desired by town residents.
- Focus on all business development in the centralized downtown area.
- The scale and appearance of businesses must strongly reflect the small town, rural atmosphere of Galena.

These purposes apply throughout these regulations and shall be key factors where interpretation or amplification is thought necessary in the application of specific features of the regulations.

ARTICLE III. DISTRICTS AND DISTRICT MAPS

SECTION 3. ESTABLISHMENT OF DISTRICTS

In order to regulate and restrict the location and use of buildings and land for trade, industry, residence, and other purposes; to regulate and restrict the location, height and size of buildings hereafter erected or structurally altered, the size of yards and other open spaces and the density of population, the following zoning districts are hereby established:

Residential Districts

R-1 Single-Family Residential District (R-1)

R-2 Multi-Family District (R-2)

Commercial District

C-1 Commercial District (C-1)

C-2 Commercial District (C-2)

Institutional District

I Institutional District (I)

SECTION 4. ESTABLISHMENT OF DISTRICT MAP

Such land and the district classification thereof shall be as shown on the map or maps designated as the "Zoning District Map of Galena, Maryland," dated and signed by the Mayor and attested by the Clerk to the Mayor and Council upon adoption. This Zoning District Map or Maps, and all notations, dimensions, references, and symbols shown thereon pertaining to such districts shall be as much part of this Ordinance by the Clerk of the Circuit Court of Kent County. Said Map shall be available for public inspection in the Town Hall. Such Map shall be marked "Original Copy not to be altered or removed from the Recorder's Office except on Court Subpoena."

SECTION 5. INTERPRETATION OF DISTRICT BOUNDARIES

1. A district name of the letter-number combination shown on the Zoning District Maps indicates that the regulations pertaining to the district designated by that name or letter-number combination extend throughout the whole area in the town bounded by the district boundary lines within which such name or letter-number combination is shown or indicated, except as otherwise provided by this section.
2. When uncertainty exists with respect to the boundaries of the various districts as shown on the map accompanying and made part of these regulations, the following rules apply:
3. In cases where a boundary line is given a position within a street or alley or easement, it shall be deemed to be in the center of the right-of-way of the street, alley, or easement, slightly from the location as shown on the district map; then the actual location shall control.
 - a. In cases where a boundary line is shown as being located a specific distance from the street line or other physical features, this distance shall control.

- b. Where the district boundaries, as shown on the Zoning District Maps, approximately coincide with lot lines, the lot lines shall be construed to be the district boundary line unless otherwise indicated.
- c. In cases where district boundaries as shown on the Zoning District Maps do not coincide or approximately coincide with street lines, ally lines, or other lines, and no dimensions are shown, the location of such district boundary lines shall be determined by the use of the scale appearing on the map.

ARTICLE IV. GENERAL PROVISIONS

SECTION 6. COMPLIANCE WITH REGULATIONS

No structure or land shall hereafter be used, and no building or part thereof shall be erected, reconstructed, converted, enlarged, moved, or structurally altered unless conformity with the regulations as set forth in this Ordinance.

SECTION 7. LOCATION ON A LOT REQUIRED

Every structure hereafter erected, reconstructed, converted, moved, or structurally altered shall be located on a lot of records, and in no case shall there be more than one main structure on one lot unless otherwise provided for in this Ordinance.

SECTION 8. ACCESSORY STRUCTURES: PRIOR CONSTRUCTION

No accessory structure shall be constructed upon a lot for more than six months prior to beginning construction of the main structure. No accessory structure shall be used for more than six months unless the main structure on the lot is also being used or unless the main structure is under construction.

SECTION 9. USES NOT PERMITTED ARE PROHIBITED

For the purpose of this Ordinance, permitted uses are listed for the various districts. Unless the contrary is clear from the context of the lists or other regulations of this Ordinance, uses not specifically listed are prohibited.

SECTION 10. TABLES ARE PART OF THIS ORDINANCE

Height, area and bulk regulations applicable to each district are contained in Article V, Part IV, Section 35, Table 35.1 – Lot Requirements – Lot Coverage, Minimum Yard, Density, and Open Space. The table, and all of the notations and requirements which are shown in it or which accompany it shall be part of these regulations and have the same force and effect as if all of the notations and requirements were fully set forth or described herein. In general, the regulations applicable to a particular district are contained in the table to the right district name and between the same sets of horizontal lines, which include the district name. Regulations that apply to more than one district are indicated by extension across horizontal lines. The regulations contained in the table are supplemented or modified by regulations contained in other articles of these regulations.

SECTION 11. CERTAIN REGULATIONS NOT REPRODUCED HEREIN

Whenever reference is made in this Ordinance or any other ordinance, chart, table, schedule or regulation which itself is not copied herein, a copy of such ordinance, chart, table, schedule or regulation shall be kept on file in the office of the Zoning Coordinator, and available for inspection and reference.

ARTICLE V. DISTRICT REGULATIONS
PART I. ZONING DISTRICTS

SECTION 12. R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT

12.1 R-1 Purpose of District

The purpose of this district is to provide for R-1 Single-Family Residential development on well-planned lots, where sanitary sewers and public water supplies are available or will be available at the time of construction, together with such churches, recreational facilities, and accessory uses as may be necessary or are normally compatible with residential surroundings. The district is located to include the existing development of this character and contains vacant land considered appropriate for such development in the future. The grounds and exterior of all buildings shall be kept and maintained in conformity and with the prevailing standards and character of the community.

IMPORTANT: A Zoning Application must be submitted for approval and the Planning Commission is subjected to review the site plan for approval. Failure to obtain a permit shall be a violation of these regulations and shall be subject to penalties. Middle Department Inspection Agency (MDIA) Fees may apply.

12.2 R-1 Permitted Uses

See ARTICLE V, PART I, Zoning Districts

See ARTICLE V, PART II, District Regulations, Permitted Uses in Zoning Districts, Section 17, Permitted Uses Table 17.1

See ARTICLE V, PART III, Supplementary Use Regulations

See ARTICLE V, PART IV, Height, Area, Bulk, and Design Requirements

- * Accessory Building / Shed
- * Bed & Breakfast, Country Inn
- * Cemetery
- * Chickens
- * Christmas Tree Sales
- * Commercial Vehicles
- * Day Care
- * Dwelling – Single-Family
- * Dwelling - Duplex
- * Electric Power, Gas Transmission & Telecommunications Buildings
- * Emergency Services
- * Farming
- * Group Home
- * Home Occupation
- * Hospital/Medical Facilities
- * Hot Tubs
- * Libraries, Museums
- * Neighborhood Essential Services
- * Parks, Greenbelts, Open Space
- * Places of Assembly
- * Recreation Vehicle
- * Roadside Stand
- * Satellite dish
- * Schools and Colleges, Public and Private
- * Single boat/Trailer
- * Solar Energy System Small
- * Storage, Domestic
- * Swimming Pools
- * Temporary Construction Building
- * Utilities – Water & Sewer

12.3 R-1 Permitted Accessory Uses

For the purpose of this Ordinance, permitted uses are listed for the R-1 zoning district. Unless the contrary is clear from the context of the list permitted uses or other regulations contained within this Ordinance, uses not specifically permitted are prohibited.

No building or tract of land shall be devoted to any use other than a use permitted hereinafter in the zoning district in which such building or tract of land shall be located, with the exception of the following:

- a. Special Exceptions, approval by the Board of Appeals
- b. Planning Unit Developments approved as a Special Exception

Uses lawfully existing on the effective date of this Ordinance and rendered nonconforming by the provisions thereof shall be subject to the regulations of Article XII – Nonconforming Uses.

The following accessory uses are allowed in the R-1 Single-Family Residential District:

1. Farming - ten (10) acres or more:
 - a. Accessory structures for sale or processing of farm products raised on the premises.
 - b. Accessory open or enclosed storage of farm materials, products, or equipment.
 - c. Accessory farm buildings, including barns, cribs, stables, sheds, tool rooms, shops, bins, tanks, and silos.
2. Domestic storage in an accessory building or buildings must be located in the rear yard, the total square footage of which is not to exceed 15% of the total area of the required rear yard.
3. Garage, private, having a capacity of not more than four vehicles.
4. Keeping of small animals, insects, reptiles, fish, or birds, but only for personal enjoyment or household use and not as a business. This provision does not include edible fowl (except chickens), or swine.
5. Satellite dish, private with an antenna, in the rear yard only, provided:
 - a. No antenna shall exceed an overall diameter of twelve (12) feet or an overall height of fifteen (15) feet above grade;
 - b. The antenna shall be permanently mounted. No antenna shall be installed on a portable or movable structure;
 - c. The antenna should be totally screened along the non-receptive window axes and low-level ornamental landscaping around the reception window axes of the antenna's base. Screening may consist of a variety of plant types; and
 - d. The final installation should blend carefully with the surrounding landscape and not appear as an obvious attempt at camouflage.
6. Solar Panel Arrays.
7. Placement of a single boat and/or single boat trailer and/or single utility trailer, and/or a single recreational vehicle on a lot:
 - a. Titled under the name of the property owner.

- b. All boats, campers, boat trailers, camper trailers, utility trailers must be operable and have a current license if required.
- c. Storage - anywhere in the side or rear yard only, provided a minimum of two-foot is maintained from adjacent property lines in its entirety. Notwithstanding other set-back requirements of this Ordinance.
- d. House trailers are prohibited. See Article VI, Parking, Accessibility, Loading, & Thoroughfare Regulations.

8. Swimming Pools

- a. **Wading Pool:** a portable structure, capable of being filled to no more than a depth of 24 inches of water and used primarily younger children. No permit is needed.
- b. **Portable Pool:** a portable structure, LESS THAN a depth of 42 inches of water shall meet the following requirements:
 - 1. No permit is required
 - 2. Capable of being connected to a regular household electrical service of 120 volts 20-amp circuit with a GFCI connector.
 - 3. Are not permitted in the front yards.
 - 4. Seasonal use between and including the dates of May 1 through September 30.
 - 5. Shall not create any safety or health hazards. It is solely the responsibility of the property owner that these types of pools are not a safety hazard or do not become a health hazard.
- c. **Portable Pool:** a portable structure with a depth of 42 inches or more of water shall meet the following:
 - 1. Permits are required for installation, enlargement, or alteration of a pool.
 - 2. A permanent receptacle shall be installed. All electrical connections must meet the International Electrical Code and must be installed by a licensed Master Electrician, inspected and approved by the Middle Department Inspection Agency (M.D.I.A.).
 - 3. Plans must accurately show dimensions of the pool, distance from the boundary line, buildings, walks and fences, and in-ground or above ground pool.
 - 4. Pools are permitted in rear yards only and must be located no closer than ten (10) feet to the property line, buildings, walks, and fences.
 - 5. Portable pools shall meet the barrier requirements by installing a self-locking ladder.
 - 6. Plans and details must be submitted regarding the water supply, drainage, and water system pertaining to the pool. Water directly from the owner's meter may not be used to initially fill the pool. It is the owner's responsibility to purchase water from some external source for the initial fill.
- d. **Permanent Pool:** outdoor swimming, including an in-ground, above-ground, or on-ground pool.
 - 1. Permits are required for installation, enlargement, or alteration of a pool.
 - 2. A permanent receptacle shall be installed. All electrical connections must meet the International Electrical Code and must be installed by a licensed Master Electrician, inspected, and approved by the Middle Department Inspection Agency (MDIA).

3. Plans must accurately show dimensions of the pool; distance from the boundary line, buildings, walks and fences, and in-ground or above ground pool.
4. Pools are permitted in rear yards only and must be located no closer than ten (10) feet to the property line, buildings, walks, and fences.
5. Permanently installed pools shall meet the barrier requirements by installing a fence or a self-locking gate.
6. Plans and details must be submitted regarding the water supply, drainage, and water system pertaining to the pool. Water directly from the owner's meter may not be used to initially fill the pool. It is the owner's responsibility to purchase water from some external source for the initial fill.

e. **Hot Tubs and Spas**

1. **Portable:** No permit required. Capable of being connected to a regular household electrical service of 120 volts 20-amp circuit with a GFCI connector.
2. **Permanent:** Permit is required, and it must meet the same setback requirements as a permanent pool. All electrical connections must meet the International Electrical Code and must be installed by a licensed Master Electrician and inspected and approved by the Middle Department Inspection Agency (M.D.I.A.). Hot Tubs must be covered if left unattended and will not require fencing if a cover holding at least 100 lbs. load capacity is installed.

9. **Temporary Building:** The use of which is incidental to construction operations for the sale of lots during development being conducted on the same or adjoining tract or subdivision and which shall be removed upon completion or abandonment of such construction, upon the expiration of a period of two years of the time of the erection of such temporary buildings, whichever is sooner.

10. **Home Occupation** which is clearly subordinate to the residential use of the dwelling and subject to the following provisions:

- a. A home occupation shall be incidental to the use of a dwelling unit for residential purposes and shall be conducted only by members of the family residing in the dwelling unit, plus no more than one nonresident assistant or employee. No more than twenty-five (25%) percent of the floor area of the dwelling unit may be used in connection with a home occupation or for storage purposes in connection with a home occupation.
- b. No more than one home occupation shall be permitted within any single dwelling unit.
- c. A home occupation shall be carried on wholly within the principal building. No home occupation shall be allowed in accessory buildings or detached garages. There shall be no outdoor storage of materials or products on the premises.
- d. There shall not be conducted on the premises the business of selling stocks of merchandise, supplies, or products provided that orders previously made by telephone or at a sales party may be filled on the premises. That is, direct sales of products off display shelves or racks are not allowed, but a person may pick up an order placed earlier as described above.
- e. The home occupation shall not cause any significant effect associated with the home occupation, such as increased noise, excessive lighting, or offensive odor, which is incompatible with the characteristics of the residential district. There shall be no illegal discharge of any materials, fluids, or gases into the sewer system or any manner of discharging such items in violation of any applicable government code.
- f. No traffic shall be generated by such some occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.

- g. A home occupation shall limit any external evidence on an occupation to one identification sign not to exceed two (2) square feet in area.

11. **Commercial Vehicles**

A commercial vehicle is any type of self-propelled motor vehicle typically used for business, industrial, office, or institutional. Off-street parking of one commercial vehicle shall be permitted as an accessory use in residential properties located in R-1 and R-2 Districts subject to the following requirements:

- a. The commercial vehicle does not exceed nine (9) feet in height from the ground to the highest point on the roof structure, not including the ladder, rack, etc., or twenty-three (23) feet in length from bumper to bumper – excluding the hitch; and
- b. The commercial vehicle must be actively used by a full-time resident of the residential property which it is parked; and
- c. The commercial vehicle shall be parked completely within the boundary lines of the lot on which the dwelling exists; with a four (4) foot setback from the property line; and
- d. No major repairs are conducted on-site; and
- e. No engines may run when parked on-site; and
- f. Refrigeration units may run when powered by electricity not sourced by a running engine/generator; and
- g. Honey wagons, sanitation, garbage or other trucks used to transport odorous, flammable, or hazardous materials are prohibited; and
- h. The vehicle has a current license and is operable; and
- i. The vehicles shall be parked on stone or other surfaces acceptable for use as a driveway. Parking on grass or a dirt surface is prohibited. See Article VI - Parking, Accessibility, Loading, & Thoroughfare Regulations

12. **Backyard Chickens** for small scale non-commercial use in accordance with the regulations set forth below.

- A. In addition to the definitions set forth in Article XVIII of the Zoning Ordinance for Galena, the following terms and words are hereby defined:
 - i. **Chicken run or pen:** A fenced or another type of enclosure that is mostly open to the elements, to allow chickens to leave the henhouse or coop while remaining in a predator-safe environment. The chicken run or pen is typically attached to the henhouse or chicken coop.
 - ii. **Domesticated chicken:** A subspecies of the species Gallus gallus domesticus is defined as female backyard chickens.
 - iii. **Henhouse or Chicken Coop:** A structure providing shelter for female chickens, which is completely enclosed. A new and permanent chicken coop shall be considered an accessory structure and shall require a separate permit.
 - iv. **Lot Line:** the boundary line of a lot.

- v. **Backyard Chicken License:** A Backyard Chicken License issued under the provisions of this article for the keeping of Backyard Chickens, which must be renewed annually and can be revoked by the Zoning Coordinator.
- B. **Purpose.** The purpose of these regulations is to provide standards for the keeping of Backyard Chickens in the Town of Galena. These regulations enable residents in the R-1 District to keep chickens on a non-commercial basis as an accessory use to a residence while limiting the adverse effects of the activity on surrounding properties. Such adverse effects can include noise, odors, unsanitary conditions, the attraction of predators, chickens running at large, unsightly conditions, and similar adverse conditions.
 - C. **Backyard Chicken License Required.** A Backyard Chicken License for keeping Backyard Chickens will be required.
 - D. **Zoning Permit Required.** The construction of coops, henhouses, and runs may be permitted as an accessory use to a residential dwelling in the R-1 District. In addition, the following provision shall apply:
 - 1. If the property is a single-family, two-family, or multi-family home that is not owner-occupied, a written notification to the property owner and all residents of your dwelling unit are required. The owner must provide this documentation to the Zoning Coordinator.
 - 2. If the property is a school or daycare center, the applicant applying for a Backyard Chicken License must notify the owner or operator of the property, if the applicant is not the owner or operator. The owner must provide written permission to the Zoning Coordinator.
 - 3. If the property is an owner-occupied single home, no notification is required to the Zoning Coordinator.
 - 4. The principal use of the property is for a single-family, two-family, or multi-family dwelling.
 - 5. If the property is a rental, the landowner must give written permission to allow chickens on the property. The landowner's written permission to allow the housing of chickens on his/her property by the tenants must accompany the Backyard Chicken License Application.
 - E. **Periodic Inspection.** The Zoning Coordinator may periodically inspect the facility, upon reasonable notice, to ensure that all conditions of the permit are continuously met.
 - F. **Non-Commercial Use Only.** Backyard Chickens shall be kept for non-commercial purpose only. The sale of eggs is prohibited.
 - G. **Enclosure Structure Required.** Chickens shall be kept in an enclosed structure at all times. No chicken shall be permitted to roam freely.
 - H. **Backyard Chicken License and Permit Procedures.**
 - 1. The Mayor and Council, by resolution, shall determine the fee for the Backyard Chicken License required by this Section.
 - 2. Prior to obtaining chickens, the Property Owner shall apply for and obtain a Backyard Chicken License and a Zoning Permit.

3. **Site Plan.** To obtain a Zoning Permit, a site plan must be drawn at a legible scale and should include the following: (Please note a survey may be necessary.)
 - a) The location(s) of the coop(s).
 - b) Size, shape, & dimensions of the property.
 - c) Road names and abutting rights-of-way.
 - d) The area to be disturbed.
 - e) The dimension of the proposed accessory structure and associated penned run area.
 - f) Distance from the proposed structure and associated penned run area to all property lines, waterways, and wetlands measured from the outermost portion of your accessory structure.
 - g) Driveways and other entrances to the property.
 - h) The one hundred (100) foot buffer or expanded buffer, non-tidal wetlands, and the non-tidal wetland buffer, when applicable.
 - i) Areas where trees/vegetation will be removed and replanted, if applicable.
 - j) Easements where applicable.
 - k) All existing and proposed lot coverages such as decks, patios, walkways, and driveways.
 - l) The site plan shall be reviewed by the Planning Commission in accordance with Section 2,h. Backyard Chicken License and Permit Procedures.
4. A property owner must sign a statement in the Backyard Chicken License Application wherein the applicant/licensee will at all times keep the chickens in accordance with this ordinance and any modification thereof. Failure to follow such conditions will constitute a violation of the provisions of this section and grounds for cancellation of the Backyard Chicken License.
5. Housing for the chickens (coops) is not allowed to be any part of a home and/or garage or shed.
6. The person who has been issued a Backyard Chicken License shall submit the Backyard Chicken License for examination upon demand by a police officer or code enforcement official. Any chicken coop or run authorized by the Backyard Chicken License under this section may be inspected at any reasonable time by the Zoning Coordinator.

I. Conditions of the Backyard Chicken License. Backyard Chicken Licenses must be renewed annually, before January 1 of each year.

1. The written consent of seventy-five (75%) percent of the owners of all residentially and commercially districted adjacent properties within two hundred (200) feet of any portion of the proposed coop or run is required. The applicant shall forward the consent forms to the adjacent property owners within the two hundred (200) foot district. Written consent of an adjacent property owner may contain provisions requiring screening of the proposed coop and run from the view of the adjacent property owner. When screening is requested by an adjacent property owner, this screening is to appear on the site plan submitted with the application. Any work done would need to be in accordance with the criteria set forth in the zoning ordinance. The screening materials shall provide a minimum of sixty (60%) percent opacity and a height of at least four (4) feet. This screening shall be in place before chickens are introduced to the applicant's property.
2. Backyard Chicken Licenses expire at the end of the calendar year after the date of issuance. Application for a New Backyard Chicken License shall be under the procedures and requirements that are applicable at the time the person applies for a new Backyard Chicken License. A person who wishes to continue keeping chickens shall obtain a new Backyard Chicken License on or before January 1.

3. The Zoning Coordinator may refuse to grant or renew a Backyard Chicken License to keep or maintain chickens for the following reasons:
 - a) Failure to comply with the provisions of the section;
 - b) Submitting an inaccurate or incomplete application;
 - c) The conditions of the Backyard Chicken License are not met;
 - d) A nuisance condition is created;
 - e) Public health and safety would be endangered by granting or renewing the Backyard Chicken License;
 - f) If there are multiple violations throughout the Backyard Chicken License term; or
 - g) Or at the discretion of the Zoning Coordinator.

- J. **Complaints.** In the event a complaint has been filed with the Zoning Coordinator before the renewal of the Backyard Chicken License within the one (1) year period, the Zoning Coordinator will review the Backyard Chicken License if necessary. It will be at the Zoning Coordinator's discretion as to whether or not all property owners within the affected notification area of the property are asked to submit written consent in a manner similar to a new application and the seventy-five (75%) percent consent level is still in place. A licensing review that concluded with the continuance of the Backyard Chicken License does not change the end date of the one (1) year expiration date.

- K. **Cancellation of Backyard Chicken License.** The Zoning Coordinator may cancel the Backyard Chicken License due to violations. If the Zoning Coordinator cancels the Backyard Chicken License:
 1. The Backyard Chickens must be removed off of the property within seven (7) calendar days unless corrective action has been taken to correct the violation and the Zoning Coordinator may reissue the Backyard Chicken License at his/her discretion.
 2. If no corrective action has been taken within seven (7) calendar days and the Backyard Chickens are not removed, the Zoning Coordinator can contact the Kent County Animal Control and have the Backyard Chickens removed.
 3. Any associated fees will be the responsibility of the property owner.

- L. **Lot Size and Maximum Numbers of Backyard Chickens.**
 1. **Minimum lot size.**
No chickens are permitted on a lot of less than ½ acre or 21,780 square feet.
 2. **The Number of Backyard Chickens per lot.**
 - a) The keeping of males of the species is not permitted. No rooster shall be permitted on any lot of the Town of Galena.
 - b) The maximum number of chickens, four (4) months or older (no baby chicks), permitted on any lot is determined by the lot size.
 - c) No more than six (6) backyard chickens are permitted on a lot of ½ acre or 21,780 square feet to one (1) acre or 43,560 square feet.
 - d) No more than eight (8) backyard chickens are permitted on a lot of one (1) acre or 43,560 square feet or more.
 - e) All chickens must be contained within the property's boundary.

- M. **Setbacks. Location**
 1. Chicken runs, pens, henhouses, and chicken coops shall be set back from all adjacent residences that are not occupied by the applicant by not less than twenty-five (25) feet and not less than twenty-five (25) feet from any lot line.
 2. Chicken henhouses, coops, and runs shall be set back not less than twenty-five (25) feet from the applicant's residence.

3. All structures relating to chickens shall be located in the rear yard only.
4. The coops and runs for containing chickens must comply with conditions in this ordinance about accessory use structures.
5. Coops will have the same requirements as a shed. The plan for a chicken coop that is larger than 120 square feet is to be constructed on foundations to code and bear on undisturbed earth.
6. No facility for storing manure or feed shall be located within twenty-five (25) feet of any adjacent residence not occupied by the applicant and not less than twenty-five (25) feet from any lot line.
7. For coops that are over 200 square feet, two (2) sets of construction plans indicating the type of materials, size of structural materials, lumber, hardware, the spacing of material, and anchoring detail will be required for permits. MDIA Inspection may be required, and a fee may apply.

N. **Structures, Chicken Pens, Runs, and Coops.** Structures (coops) for the housing of Backyard Chickens shall meet the permitting requirements of the Ordinance.

1. **Enclosed and Predator Resistant Structure.** Chicken runs, pens, henhouses, and coops shall be enclosed, constructed of durable materials to prevent entry by predators or the escape of chickens, and must be well ventilated. All walls and ceiling and roof areas shall also be protected against entry by predators. No coop, pens, or henhouses may exceed seven (7) feet in height. Runs are required to be attached to the coop with a maximum size of 150 square feet.
 - a) The area for keeping backyard chickens must be enclosed in such a fashion that the chickens are confined and cannot leave the owner's property.
 - b) For movable coops, the permit application will show in the area in which the coop will be moved.
2. **Chickens shall be kept for personal use only.** The selling of chickens, chicken manure, chicken eggs, or the breeding of chickens for commercial purposes is prohibited.
3. **Construction Materials.** Chicken pens, henhouses, and chicken coops shall be constructed of weather-resistant materials that can readily be cleaned and maintained and kept in good appearance.
4. **Enclosure.** Backyard chickens will be provided with a covered, predator-proof coop or cage that is well ventilated. Hens shall have access to an outdoor enclosure that is adequately fenced to contain the birds on the property.
5. **Prevention of Entry by Burrowing.** Provisions should be made to deter burrowing predators from entering the coop and the run area. There are many solutions for deterring burrowing predators. At a minimum, a horizontal at-grade area not less than one (1) foot in width along with the interior or exterior perimeter of the chicken run, or pen shall be composed of hardware cloth or other heavy material to prevent entry by burrowing predators. Poultry fencing (chicken wire) is not adequate for this purpose.

6. **Elevation of Structures.** Henhouses and chicken coops shall be elevated at least eighteen (18) inches above grade, with an elevated floor that will prevent entry by predators. The applicant shall provide details of how manure will be properly cleaned from the henhouse and chicken coops floors.
7. **No External Illumination.** The exterior areas of henhouses and chicken coops shall not be illuminated.
8. **Minimum Area per Chicken in Henhouse or Coop.** The henhouse or chicken coop shall provide not less than two (2) square feet of area per chicken, as well as separate roosting or egg-laying areas per chicken.
9. **Minimum Area per Chicken Run or Pen.** A chicken run or pen shall be provided and be large enough to allow freedom of movement but shall provide not less than four (4) square feet per chicken.
10. **Feed and Water Required.** Adequate feed and water shall be continuously provided, with protection against freezing.

O. Conduct of the Owner.

1. **Description of how the Backyard Chicken Activity will be conducted.** During the Backyard Chicken License Application process, the applicant shall describe in writing how Backyard Chickens will be cared for and shall elaborate on the following:
 - a) How the facility will be maintained on a routine basis
 - b) Routine collection of eggs
 - c) Continuous provision of fresh food and water supplies.
 - d) Waste collection and removal plan.
 - e) Amounts of mulch or animal bedding.
 - f) How complaints from neighbors will be addressed
 - h) Other matters that the Town of Galena Planning Commission and Zoning Coordinator wishes to consider.
2. **Odor and Noise.** Odors shall not be perceptible at the lot line. Noise shall not be perceptible at lot lines to the extent that it results in a public nuisance or is in violation of The Town of Galena's noise ordinance.
3. **Pests.** Each coop shall be kept clean and free of odors and materials that can attract vermin. Feed must be kept in secure containers so as not to attract vermin.
4. **Waste and manure storage and removal.** A written waste storage and removal plan shall be submitted. All stored manure shall be placed within a fully enclosed container. No more than three (3) cubic feet of manure shall be stored. All other manure not used for composting or fertilizing shall be removed. Manure from the chickens can be recycled in a biodegradable way, on the owner's property as compost, plant food, or garden fertilizer. Chicken guano may not be bagged and put into The Town of Galena's waste. The henhouse, chicken run, and pen and surrounding area must be kept free from trash and accumulated manure.
5. **Mortality.** Deceased Backyard Chickens shall be disposed of promptly and consistent with applicable waste disposal regulation of the Town of Galena Ordinance.
6. **Slaughtering.** The slaughtering of chickens is not permitted.

- P. **No Nonconforming use.** In the event, these provisions allowing backyard chickens are repealed, or if backyard chickens are otherwise no longer permitted in the Town of Galena, a permit issued under this Section shall not be issued or renewed, and the keeping of backyard chickens shall not be considered a legal non-conforming use.

12.4 R-1 Height and Area Requirements

See APPENDIX A – Illustration, Height, and Area Requirements

See Article V, PART IV - HEIGHT, AREA, BULK, AND DESIGN REQUIREMENTS

Rear and Side Yard Setbacks – detached garages and accessory buildings may be erected within four (4) foot of the rear lot line and four (4) foot from the side lot line.

1. Height. No building shall be erected to exceed thirty-five (35) feet in height provided such height limitation shall not apply to belfries, chimneys, cupolas, domes, flag poles, monuments, spires, stacks, steeples, radio or television towers, poles, antennae and wires mounted to a building structure.

a. **Height - Ornamental Walls, Fences, or Hedges**

- (i) **Height Limitations:** Rear, front, and side yards. Fences shall be limited in height to four (4) feet for front and side yards. Fences in the rear of dwelling (excluding any porch projection) shall be limited to a maximum height of 6 feet. If approved by the Zoning Coordinator, privacy fences may be six (6) feet in height but shall not extend forward of the rear building line more than three (3) feet.
- (ii) **Location Restrictions:** Such walls, fences, or hedges may project into or enclose any yard provided and may be located on the property line with the approval of the adjacent property owners. Except no such walls, fences or hedges shall project into the right-of-way of any sidewalk, street, highway, road or alleyway, from front or sideline or the edge of a public walkway or street, and the fence shall be setback at least one (1) foot from a public walkway and five (5) feet from a street or alley.

Note: For corner lots, refer to Article V, District Regulations, Part IV, Height, Area, Bulk, and Design Requirements, Section 35, Corner Visibility. Barbed wire fences or electric fences shall not under any circumstances be permitted, except where farming is permitted.

2. Material and Composition

- a. Any fence, wall, or similar structure, which may cause a nuisance, a fire hazard, or a dangerous condition or an obstruction affecting public safety, is prohibited. Further, no fence shall be erected in a front yard in a residential district or along a public right-of-way unless the fence is uniformly less than fifty percent (50%) solid.
- b. The following fences and fencing materials are specifically prohibited:
- (i) Barbed wire.
 - (ii) Pointed fences less than three (3) feet in height.
 - (iii) Canvas fences.
 - (iv) Cloth fences.
 - (v) Electrical above ground charged fences.
 - (vi) Expandable fences and collapsible fences, except during construction of a building.

3. Porches. A porch height shall not exceed the height of the roofline of the main structure.

ARTICLE V. DISTRICT REGULATIONS (cont.)
PART I. ZONING DISTRICTS (cont.)

SECTION 13. R-2 MULTI-FAMILY RESIDENTIAL DISTRICT

13.1 R-2 Purpose of District

The purpose of this district is to encourage variety in housing types and provide for residential densities as might be appropriate for relatively spacious multi-family developments in areas appropriately located for such use, which areas are served by sanitary sewers and public water systems and which are well located with respect to major thoroughfares, shopping facilities, and centers of employment.

IMPORTANT: A Zoning Application must be submitted for approval and the Planning Commission is subjected to review the site plan for approval. Failure to obtain a permit shall be a violation of these regulations and shall be subject to penalties. Middle Department Inspection Agency (MDIA) Fees may apply.

13.2 R-2 Permitted Uses

See ARTICLE V, PART I, Zoning Districts

See ARTICLE V, PART II, District Regulations, Permitted Uses in Zoning Districts, Section 17, Permitted Uses Table 17.1

See ARTICLE V, PART III, Supplementary Use Regulations

See ARTICLE V, PART IV, Height, Area, Bulk, and Design Requirements

- * Bed & Breakfast, Country Inn
- * Boarding and Rooming House
- * Cemeteries
- * Christmas Tree Sales
- * Day Care
- * Dwelling – Single-Family
- * Dwelling – Duplex
- * Dwelling – Apartment
- * Dwelling – Townhouse
- * Electric Power, Gas Transmission& Telecommunications Buildings
- * Emergency Services
- * Group Home
- * Governmental Buildings and Structures
- * Home Occupation
- * House of Worship
- * Libraries, Museums
- * Neighborhood Essential Services
- * Nursing Care Facilities
- * Parks, Greenbelts, & Open Space
- * Places of Assembly
- * Post Office
- * Recreation
- * Retirement Housing Complex
- * Satellite Dish
- * Schools and Colleges, Public and Private
- * Solar Energy Systems, Small
- * Storage, Domestic
- * Temporary Construction Building
- * Townhouses
- * Utilities - Water & Sewer

13.3 R-2 Permitted Accessory Uses

A building or land shall be used only for the following purposes:

The following accessory uses are allowed in the Multi-Family Residential District:

1. Domestic storage in an accessory building or buildings must be located in the rear yard, the total square footage of which is not to exceed 15% of the total area of the required rear yard and no more than 600 sq. Ft.
2. Keeping of small animals, insects, reptiles, fish, or birds, but only for personal enjoyment or household use and not as a business. This provision does not include poultry, or edible fowl, or swine.
3. Satellite dish, private, in the rear yard only, provided:
 - a. No antenna shall exceed an overall diameter of twelve (12) feet or an overall height of fifteen (15) feet above grade;
 - b. The antenna shall be permanently mounted. No antenna shall be installed on a portable or movable structure;
 - c. The antenna should be totally screened along the non-receptive window axes and low-level ornamental landscaping around the reception window axes of the antenna's base. Screening may consist of a variety of plant types; and
 - d. The final installation should blend carefully with the surrounding landscape and not appear as an obvious attempt at camouflage.
4. Solar panel arrays.
5. Placement of a single boat and/or single boat trailer or single utility trailer, or a single recreational camper, and/ or a single recreational trailer on a lot:
 - a. Titled under the name of the property owner or occupant.
 - b. All boats, campers, boat trailers, and camper trailers must be operable and have a current license if required.
 - c. **Storage Single-Family Dwelling:** anywhere in the side or rear yard only provided a minimum of two-foot is maintained from adjacent property lines in its entirety. Notwithstanding other set-back requirements of this ordinance.
 - d. **Duplex and Town House:** storage shall be located in a designated lot, as shown on the site plan.
 - e. House trailers are prohibited.
See Article VI, Parking, Accessibility, Loading, & Thoroughfare Regulations
6. **Swimming Pools**
 - a. **Wading Pool:** a portable structure, capable of being filled to no more than a depth of 24 inches of water and used primarily younger children.
 - b. **Portable Pools:** a portable structure, LESS THAN a depth of 42 inches of water shall meet the following requirements:
 1. No permit is required.
 2. Capable of being connected to a regular household electrical service of 120 volts 20-amp circuit with a GFCI connector.
 3. Are not permitted in the front yards.

4. Seasonal use between and including the dates of May 1 through September 30.
 5. Shall not create any safety or health hazards. It is solely the responsibility of the property owner that these types of pools are not a safety hazard or do not become a health hazard.
- c. **Portable Pool:** a portable structure with a depth of 42 inches of water shall meet the following:
1. Permits are required for installation, enlargement, or alteration of a pool.
 2. A permanent receptacle shall be installed. All electrical connections must meet the International Electrical Code and must be installed by a licensed Master Electrician and inspected and approved by the Middle Department Inspection Agency (M.D.I.A.).
 3. Plans must accurately show dimensions of the pool, distance from the boundary line, buildings, walks, and fences, and in-ground or above ground pool.
 4. Pools are permitted in rear yards only and must be located no closer than ten (10) feet to the property line, buildings, walks, and fences.
 5. Portable pools more than a depth of forty-two (42) inches shall meet the barrier requirements by installing a fence or a self-locking gate.
 6. Plans and details must be submitted regarding the water supply, drainage, and water system pertaining to the pool. Water directly from the owner's meter may not be used to initially fill the pool. It is the owner's responsibility to purchase water from some external source for the initial fill.
- d. **Permanent Pool:** outdoor swimming, including an in-ground, above-ground, or on-ground pool.
1. Permits are required for installation, enlargement, or alteration of a pool.
 1. A permanent receptacle shall be installed. All electrical connections must meet the International Electrical Code and must be installed by a licensed Master Electrician and inspected and approved by the Middle Department Inspection Agency (M.D.I.A.).
 3. Plans must accurately show dimensions of the pool, distance from the boundary line, buildings, walks, and fences, and in-ground or above ground pool.
 4. Pools are permitted in rear yards only and must be located no closer than ten (10) feet to the property line, buildings, walks, and fences.
 5. Permanently installed pools shall meet the barrier requirements by installing a fence or a self-locking gate.
 6. Plans and details must be submitted regarding the water supply, drainage, and water system pertaining to the pool. Water directly from the owner's meter may not be used to initially fill the pool. It is the owner's responsibility to purchase water from some external source for the initial fill.
7. **Hot Tubs and Spas**
- a. **Portable:** Capable of being connected to a regular household electrical service of 120 volts 20-amp circuit with a GFCI connector. No permit required.

- b. **Permanent:** Permit is required. Must meet the same setback requirements as a permanent pool. All electrical connections must meet the International Electrical Code and must be installed by a licensed Master Electrician and inspected and approved by the Middle Department Inspection Agency (M.D.I.A.). Hot Tubs must be covered if left unattended and will not require fencing if a cover holding at least 100 lbs. load capacity is installed.
8. **Temporary Building:** The use of which is incidental to construction operations for the sale of lots during development being conducted on the same or adjoining tract or subdivision and which shall be removed upon completion or abandonment of such construction, upon the expiration of a period of two years of the time of the erection of such temporary buildings, whichever is sooner.
9. **Commercial Vehicles** A commercial vehicle is any type of self-propelled motor vehicle typically used for business, industrial, office, or institutional. Off-street parking of one commercial vehicle shall be permitted as an accessory use in residential properties located in R-1 and R-2 Districts subject to the following requirements:
- a. The commercial vehicle does not exceed nine (9) feet in height from the ground to the highest point on the roof structure, not including the ladder, rack, etc., or twenty-three (23) feet in length from bumper to bumper – excluding the hitch; and
 - b. The commercial vehicle must be actively used by a full-time resident of the residential property which it is parked; and
 - c. The commercial vehicle shall be parked completely within the boundary lines of the lot on which the dwelling exists; with a four (4) foot setback from the property line; and
 - d. No major repairs are conducted on-site; and
 - e. No engines may run when parked on-site; and
 - f. Refrigeration units may run when powered by electricity not sourced by a running engine/generator; and
 - g. Honey wagons, sanitation, garbage or other trucks used to transport odorous, flammable, or hazardous materials are prohibited; and
 - h. The vehicle has a current license and is operable; and
 - i. The vehicles shall be parked on stone or other surfaces acceptable for use as a driveway. Parking on grass or a dirt surface is prohibited.

13.4 R-2 Height and Area Requirements

See APPENDIX A – Illustration, Height, and Area Requirements

See Article V, PART IV - Height, Area, Bulk, and Design Requirements

Detached Rear and Side Yard Setbacks – detached garages and accessory Buildings may be erected within four (4) feet of the rear lot line and ten (10) feet from side lot lines.

1. **Height.** No buildings shall be erected to exceed forty (40) feet in height provided such height limitations shall not apply to belfries, chimneys, cupolas, domes, flagpoles, monuments, spires, stacks, steeples, radio or television towers, poles, antennae, and wires.
 - a. Ornamental Walls, Fences, or Hedges:
 - (i) Height Limitations - Rear, front, and side yards. Fences shall be limited in height to four (4) feet for front and side yards. Fences in the rear of dwelling (excluding any porch projection) shall be limited to a maximum height of six (6) feet. If approved by the Zoning Coordinator, privacy fences may be feet six (6) feet in height but shall not extend forward of the rear building line more than three (3) feet.
 - (ii) Location Restrictions - Such walls, fences, or hedges may project into or enclose any yard provided and may be located on the property line with the approval of adjacent property owners. Except no such walls, fences or hedges shall project into the right-of-way of any sidewalk, street, highway, road or alleyway, from front or sideline or the edge of a public walkway or street, and the fence shall be setback at least one (1) foot from a public walkway and five (5) feet from a street or alley.

Note: For corner lots, refer to Article V, District Regulations, Part IV, Height, Area, Bulk, and Design Requirements, Section 35, Corner Visibility. Barbed wire fences or electric fences shall not under any circumstances be permitted, except where farming is permitted.

2 Material and Composition

- a. Any fence, wall, or similar structure, which may cause a nuisance, a fire hazard, or a dangerous condition or an obstruction affecting public safety, is prohibited. Further, no fence shall be erected in a front yard in a residential district or along a public right-of-way unless the fence is uniformly less than fifty percent (50%) solid.
- b. The following fences and fencing materials are specifically prohibited:
 - (i) Barbed wire.
 - (ii) Pointed fences less than three (3) feet in height.
 - (iii) Canvas fences.
 - (iv) Cloth fences.
 - (v) Electrical above ground charged fences.
 - (vi) Expandable fences and collapsible fences, except during construction of a building.

3. Porches. Porches not over one story in height may project not over ten (10) feet into the front yard.

ARTICLE V. DISTRICT REGULATIONS (cont.)
PART I. ZONING DISTRICT (cont.)

SECTION 14. C-1 COMMERCIAL DISTRICT

14.1 C-1 Purpose of the District

The purpose of the C-1 Commercial District is to provide for a limited variety of small commercial retail, personal, and professional uses and other appropriate related commercial uses, activities, and combinations thereof without intruding on the general character of the surrounding area. These uses are not characterized by extensive floor area, warehousing, frequent heavy trucking activity, open storage of materials, or the nuisance factors of dust, odor, and noise.

IMPORTANT: A Zoning Application must be submitted for approval and the Planning Commission is subjected to review the site plan for approval. Failure to obtain a permit shall be a violation of these regulations and shall be subject to penalties. Middle Department Inspection Agency (MDIA) Fees may apply.

14.2 C-1 Permitted Uses

See ARTICLE V, PART I, Zoning Districts

See ARTICLE V, PART II, District Regulations, Permitted Uses In Zoning Districts, Section 17, Permitted Uses Table 17.1

See ARTICLE V, PART III, Supplementary Use Regulations

See ARTICLE V, PART IV, Height, Area, Bulk, and Design Requirements

A building or land shall be used only for the following purposes, as identified in Article V, District Regulations, Part II Permitted Uses by Zoning Districts Table 17.1. In all cases subject to site plan review by the Planning Commission. The grounds and exterior of all buildings shall be kept and maintained in conformity with the prevailing standards and character of the community.

- * Accessory Apartment
- * Animal Hospital
- * Antique Stores
- * Automotive Supplies
- * Banks, Drive-in
- * Barber / Beauty Shops
- * Bed & Breakfast, Country Inn
- * Building Materials Sales
- * Business Equipment Sales & Service
- * Cemeteries
- * Club, Private
- * Christmas Tree Sales
- * Communications
- * Crematorium
- * Day Care
- * Department Store
- * Drug Store
- * Dwelling – Accessory Apartment
- * Electric Power, Gas Transmission & Telecommunications Buildings
- * Emergency Services
- * Funeral Home
- * Grocery Store
- * Group Home
- * Government Buildings and Structures
- * Laundromat/Drycleaner
- * Libraries, Museums
- * Machinery & Equipment Sales, Service & Rental
- * Medical Facilities, Urgent Care
- * Motor Vehicle Filling Station
- * Motor Vehicle & Boat Repair and Maintenance
- * Neighborhood Essential Services

- * Nursing Care Facilities
- * Office Buildings
- * Parks, Greenbelts, & Open Space
- * Pet Shop
- * Post Office
- * Places of Assembly
- * Recreation
- * Retail Stores
- * Repair Shops
- * Retirement Housing Complex
- * Restaurants
- * Roadside Stand
- * Satellite Dish
- * Schools, Colleges
- * Shopping Center
- * Solar Energy Systems, Small
- * Specialty Shops
- * Studios
- * Temporary Construction
- * Utilities
- * Veterinarian Services
- * Wholesale Sales

14.3 C-1 Permitted Accessory Uses

1. Satellite dish, private with an antenna, in the rear yard only, provided:
 - a. No antenna shall exceed an overall diameter of 12 feet or an overall height of 15 feet above grade;
 - b. The antenna shall be permanently mounted. No antenna shall be installed on a portable or movable structure;
 - c. The antenna should be totally screened along the non-receptive window axes and low-level ornamental landscaping around the reception window axes of the antenna's base. Screening may consist of a variety of plant types; and
 - d. The final installation should blend carefully with the surrounding landscape and not appear as an obvious attempt at camouflage.
2. Solar panel arrays.
3. Outdoor Storage for automobile and boat repair shops. See 7.30 Accessory Use. See Article V, Part II. Vehicles & Boats & Article VI, Parking
4. A farm of ten (10) acres or more:
 - a. Accessory structures for sale or processing of farm products raised on the premises.
 - b. Accessory open or enclosed storage of farm materials, products, or equipment.
 - c. Accessory farm buildings, including barns, cribs, stables, sheds, tool rooms, shops, bins, tanks, and silos.
5. Displaying Merchandise - Retail stores may display merchandise on the property. However, the merchandise shall be no more than ten (10) feet from the front structure or the porch, shall be at least ten (10) feet from side and rear property lines; shall be outside any easement; shall not obstruct the sidewalk; shall be in accordance with Article VI. Off-Street Parking.
 - a. **Exemptions:** Merchandise bin labeling limited to a defining word, trademark, symbol, or design which is attached to and made part of the bin or storage unit that contains the

product defined by the label and provided that the bin or storage unit is located under the roof of the main structure.

14.4 C-1 Height and Area Requirements

See Article V, PART IV, Height, Area, Bulk, and Design Requirements
See APPENDIX C – Flags Poles

Height: No building may be erected to exceed a height of 40 feet, provided such height limitations shall not apply to belfries, chimneys, cupolas, domes, flagpoles, monuments, spires, stacks, steeples or radio or television towers, poles, antennae or wires.

ARTICLE V. DISTRICT REGULATIONS (cont.)
PART I. ZONING DISTRICTS (cont.)

SECTION 15. C-2 COMMERCIAL DISTRICT

15.1 C-2 Purpose of the District

The purpose of the C-2 Commercial District is to provide for commercial uses, activities, and combinations thereof of a general nature including retail, wholesale, and business generally serving the local region and located among existing major thoroughfares. These uses are not characterized by extensive, warehousing frequent heavy trucking activity, open storage of materials, or the nuisance factor of dust, odor, and noise.

IMPORTANT: A Zoning Application must be submitted for approval and the Planning Commission is subjected to review the site plan for approval. Failure to obtain a permit shall be a violation of these regulations and shall be subject to penalties. Middle Department Inspection Agency (MDIA) Fees may apply.

15.2 C-2 Permitted Uses

See ARTICLE V, PART I, Zoning Districts

See ARTICLE V, PART II, District Regulations, Permitted Uses In Zoning Districts, Section 17, Permitted Uses Table 17.1

See ARTICLE V, PART III, Supplementary Use Regulations

See ARTICLE V, PART IV, Height, Area, Bulk, and Design Requirements

A building or land shall be used only for the following purposes as identified in Article V, District Regulations, Part II, Permitted Uses by Zoning District 17.1Table. In all cases subject to site plan review by the Planning Commission. The grounds and exterior of all buildings shall be kept and maintained in conformity with the prevailing standards and character of the community.

- * Animal Hospital
- * Banks, Drive-in
- * Car Wash
- * Cemeteries
- * Conference Center
- * Crematorium
- * Day Care – More Than Eight
- * Department Store
- * Electric Power, Gas Transmission & Telecommunications Buildings
- * Farming
- * Grocery Store
- * Group Homes, Private at Least four (4) not more than sixteen (16)
- * Government Buildings and Structures
- * Hotel or Motel
- * Medical Facilities, Urgent Care
- * Motor Vehicle Filling Station
- * Neighborhood Essential Services
- * Nursing Care Facilities
- * Pet Shop
- * Places of Assembly
- * Post Office
- * Restaurant & Other Food Services with Drive-in
- * Roadside Stand
- * Satellite Dish
- * Solar Energy Systems, Small
- * Schools and Colleges
- * Shopping Center/Shopping Plaza
- * Storage Facilities & Mini Storage
- * Temporary Construction Buildings

15.3 C-2 Permitted Accessory Uses

3. Satellite dish, private with an antenna, in the rear yard only, provided:
 - a. No antenna shall exceed an overall diameter of 12 feet or an overall height of 15 feet above grade;
 - b. The antenna shall be permanently mounted. No antenna shall be installed on a portable or movable structure;
 - c. The antenna should be totally screened along the non-receptive window axes and low-level ornamental landscaping around the reception window axes of the antenna's base. Screening may consist of a variety of plant types; and
 - d. The final installation should blend carefully with the surrounding landscape and not appear as an obvious attempt at camouflage.
2. Solar panel arrays.
3. A farm of ten (10) acres or more:
 - a. Accessory structures for sale or processing of farm products raised on the premises.
 - b. Accessory open or enclosed storage of farm materials, products, or equipment.
 - c. Accessory farm buildings, including barns, cribs, stables, sheds, tool rooms, shops bins, tanks, and silos.

15.4 C-2 Height and Area Requirements.

See Article V, District Regulations, PART III, Height, Area, Bulk, and Design Requirements
See Appendix C - Flags Poles

1. **Height:** No building may be erected to exceed a height of forty-five (45) feet, provided such height limitations shall not apply to belfries, chimneys, cupolas, domes, flagpoles, monuments, spires, stacks, steeples or radio or television towers, poles, antennae or wires.

ARTICLE V. DISTRICT REGULATIONS (cont.)
PART I. ZONING DISTRICTS (cont.)

SECTION 16. (I) INSTITUTIONAL DISTRICT

16.1 (I) Purpose of the District

The purpose of the (I) Institutional District is established to recognize the Town's major governmental facilities and uses.

IMPORTANT: A Zoning Application must be submitted for approval and the Planning Commission is subjected to review the site plan for approval. Failure to obtain a permit shall be a violation of these regulations and shall be subject to penalties. Middle Department Inspection Agency (MDIA) Fees may apply.

16.2 (I) Permitted Uses

See ARTICLE V, PART I, Zoning Districts

See ARTICLE V, PART II, District Regulations, Permitted Uses In Zoning Districts, Section 17, Permitted Uses Table 17.1

See ARTICLE V, PART III, Supplementary Use Regulations

See ARTICLE V, PART IV, Height, Area, Bulk, and Design Requirements

Specific types of permitted uses are those which provide a public service or fill a public need as described in the purpose of the district. Uses similar to, or related to, those listed as permitted upon finding land-use policies. The criteria for such finding of similarity shall include but not be limited to the following:

1. The proposed use is appropriate and similar in characteristics to uses permitted in the area in which proposed;
2. The development standards for permitted uses can be met by the proposed use; and
3. A public need is served by the proposed use.

16.3 (I) Permitted Accessory Uses

- * Cemeteries
- * Government Buildings and Structures
- * Hospital
- * Libraries, museums, or similar cultural buildings
- * Medical Facilities, Urgent Care
- * Non-profit, philanthropic
- * Nursing Care Facilities/Convalescent
- * Parks, greenbelts, and open space
- * Places of Assembly
- * Public Utilities – electric, sewer, water, towers, & facilities

1. Satellite dish, private with an antenna, in the rear yard only, provided:
 - a. No antenna shall exceed an overall diameter of twelve (12) feet or an overall height of fifteen (15) feet above grade;
 - b. The antenna shall be permanently mounted. No antenna shall be installed on a portable or movable structure;
 - c. The antenna should be totally screened along the non-receptive window axes and low-level ornamental landscaping around the reception window axes of the antenna's base. Screening may consist of a variety of plant types; and
 - d. The final installation should blend carefully with the surrounding landscape and not appear as an obvious attempt at camouflage.
2. Solar panel arrays.

3. Storage of supplies, materials, and equipment associated with a primary use, and other activities incidental to the primary use such as:
4. Accessory parking garages and parking lots; or
5. Maintenance buildings and activities.
6. Residential use as an incidental use to the permitted use, such as caretaker's quarters, or rectory associated with a church.
7. Day Care Facilities.

16.4 (I) Height and Area Requirements

See ARTICLE V, PART IV- Height, Area, Bulk, and Design Requirements
 See Appendix C - Flags Poles

1. Height:

- a. The maximum height of a structure in the (I) District shall be limited to forty-five (45) feet, provided such height limitations shall not apply to belfries, chimneys, cupolas, domes, flagpoles, monuments, spires, stacks, steeples or radio or television towers, poles, antennae or wires.
- b. The Planning Commission may allow an increase in the height limit established in this section, provided that any such portion over forty (40) feet in height is located back from the required front, side and rear yards two (2) feet for each additional foot of height in excess of the forty (40) feet height limit. In no case may the height of buildings exceed sixty (60) feet.

2. Area: The minimum size and shape of the site shall be appropriate to the proposed use of the said site and its relationship to abutting properties and traffic patterns in the vicinity of the site.

3. Setback: Building setback requirements:

- a. If adjacent properties are in the same zoning district:
 - i. Side yard minimum zero (0) feet;
 - ii. Rear yard minimum three (3) feet.
- b. If adjacent properties are in any residential district:
 - i. Side yard minimum twelve (12) feet;
 - ii. Rear yard minimum fifty (50) feet.
- c. Front yard minimum setbacks from street right-of-way:
 - i. If a proposed structure fronts on a private street or drive, twelve (12) feet;
 - ii. If a proposed structure fronts on a public street, zero (0) feet.

16.6 (I) Special Parking Regulations:

The Planning Commission may approve the location of required off-street parking for institutional uses anywhere within the boundaries of the institutional overlay district if, in their opinion, the location of the proposed parking adequately services the proposed use.

ARTICLE V. DISTRICT REGULATIONS (cont.)
PART II. PERMITTED USES IN ZONING DISTRICTS

SECTION 17. PERMITTED USE TABLE 17.1

Permitted Uses in Table 17.1 lists the Zoning Districts and Uses which are permitted. If a Use is not listed or does not fall within any of the general use categories, it is not a permitted use in any district. If a Use is specifically listed in Table 17.1, it takes precedence over general use listings.

All Permitted Uses, Permitted Uses with Conditions, and Special Exceptions must have a zoning permit issued by the Zoning Coordinator.

P: Permitted Use - Use is permitted in the indicated district and a zoning application must be submitted for approval by the Zoning Coordinator.

PC: Permitted Use, subject to Conditions set by the Planning Commission and a zoning application must be submitted for approval by the Zoning Coordinator.

SE: Special Exceptions – the Board of Appeals may authorize conditional uses in particular districts in accordance with Article XIII.

Use: “Use by Right” refers to a property owner’s use of property and structures in manners consistent with that which is listed as permissible in the zoning district in which his or her property is located. **If a Use is not listed or does not fall within any of the general use categories, it is not permitted in any district.**

Change of Use: No change, conversion, or alteration of the use of any building, structure, or land, wholly or in part, shall be permitted until a Certificate of Use is obtained from the Zoning Coordinator.

MDIA: Middle Department Inspection Agency: Approves drawings and inspects all footer, foundation, electrical, mechanical and plumbing, framing, insulation, wallboard, and final inspections. MDIA Fees may apply.

Note: See Article V, Part III Supplementary Use Regulations for:
PC – Permitted USE with Condition
SE – Special Exceptions.
SE - Special Exception – Reviewed by Board of Appeals with Conditions

**PERMITTED USES TABLE 17.1
BY ZONING DISTRICT**

P: Permitted - Apply for Permit is required

PC: Permitted with Conditions - Apply for Permit is required

SE: Special Exception reviewed by Board of Appeals with Conditions

*MDIA Fees: Any structure, electrical, mechanical, plumbing changes requires approval and inspections.

SECTION	Land Use	ZONING DISTRICTS				
		R1	R2	C1	C2	I
1.00	AGRICULTURAL					
1.10	Farming	PC				
1.30	Roadside Stand	PC		PC	PC	
2.00	COMMERCIAL – SERVICES					
2.10	Service establishments with floor area < 7,500 sq. ft.			*P	*P	
2.15	Service establishments with floor area > 7,500 sq. ft.				*P	
2.20	Animal Hospital			*PC	*PC	
2.23	Pet Shops			*PC	*PC	
2.25	Veterinarian Services			*PC	*PC	
2.30	Banks, Drive-in			*PC	*PC	
2.35	Barber/Beauty Shop			*P	*P	
2.38	Business Services: plumbing & contractor			*P	*P	
2.39	Construction business or supplies				*P	
2.40	Club Private			*SE	*SE	
2.45	Drug Store			P	P	
2.50	Crematorium			SE	SE	
2.53	Funeral Home			SE	SE	
2.60	Laundromat/Drycleaner			P	P	
2.63	Office Building: attorney, dentist, finance, insurance, physicians, real estate, architects, or other similar services.			P	P	
2.65	Repair shops: computer, TV, radio, small appliances, or similar equipment.			P	P	
2.67	Studios: art, dance, photographer, or similar services.			P	P	

SECTION	Land Use	ZONING DISTRICTS				
		R1	R2	C1	C2	I
3.00	COMMERCIAL RETAIL & WHOLESALE					
3.10	Retail establishments with floor area < 7,500 sq. ft.			*p	*p	
3.15	Retail establishments with floor area > 7,500 sq.ft.				*p	
3.20	Antique Stores			p	p	
3.22	Automotive Supplies W/ No outside storage			p	p	
3.25	Building Material Sales			SE	SE	
3.30	Business Equipment Sales and Service			p	p	
3.35	Communications, Equipment Sales & Service, Internet Service, Provider & Technical Services			p	p	
3.40	Department Store			p	p	
3.45	Grocery Store			p	p	
3.50	Machinery & Equipment Sales, Service & Rental			*PC	*PC	
3.52	Retail Sale – apparel, appliance stores, book stores, convenience store delicatessens, gift shops hardware, variety, dry goods, or similar uses.			p	p	
3.55	Restaurant and other food service establishments (bakery convenience store, ice cream parlor) with no drive-in.			p	p	
3.57	Restaurant and other foodservice establishments with drive-in				* SE	
3.60	Shopping Center/Shopping Plaza			* SE	* SE	
3.63	Specialty Shops – carry only one type of interrelated goods			p	p	
3.65	Wholesales Sales and Establishments			p	p	
4.00	EMERGENCY SERVICES					
4.10	Civil Defense	P	P	p	p	p
4.20	Fire Station	P	P	p	p	p
4.30	Police Station	P	P	p	p	p
4.40	Rescue, Ambulance Service	P	P	p	p	p

SECTION	Land Use	ZONING DISTRICTS				
		R1	R2	C1	C2	I
5.00	INDUSTRIAL					
5.10	Storage Facilities & Mini Storage				* SE	
6.00	INSTITUTIONAL					
6.10	Cemeteries	* SE	* SE	* SE	* SE	* SE
6.15	Government Buildings, Structures and Uses		*PC	*PC	*PC	*PC
6.20	Places of Assembly	* SE	* SE	* SE	* SE	* SE
6.25	Hospital/Medical Facilities					* SE
6.30	Libraries, museums, or similar cultural buildings.	P	P	P	P	P
6.35	Medical Facilities, Urgent Care, Under 7,500 square feet			* SE	* SE	* SE
6.40	Nursing Care/Convalescent		* SE	* SE	* SE	* SE
6.45	Parks, greenbelts, and open space - publicly owned and operated	P	P	P	P	P
6.50	Public Utilities – electric, sewer, water, towers, & neighborhood facilities (See Utility)	*PC	*PC	*PC	*PC	*PC
6.55	Schools and Colleges – public and private	* SE	* SE	* SE	* SE	
7.00	MOTOR VEHICLE/BOATS: RELATED SALES & SERVICE OPERATIONS					
7.10	Car Wash				*PC	
7.15	Motor Vehicle Filling Station			* SE	* SE	
7.20	Motor Vehicle Sales			*PC	*PC	
7.25	Motor Vehicle Rental			*PC	*PC	
7.30	Motor Vehicle/Boats Repair and Maintenance			*PC	*PC	
8.00	PUBLIC FACILITIES: GOVERNMENT BUILDING & STRUCTURES					
8.10	Post Office – Local	*PC	*PC	*PC	*PC	
9.00	RECREATION					
9.10	Gym		P	P	P	
9.20	Parks - Publically and Privately Owned	P	P	P	P	P
9.30	Spa or Health Club			P	P	
9.40	Theatre, Indoors			P	P	

SECTION	Land Use	ZONING DISTRICTS				
		R1	R2	C1	C2	I
10.00	RESIDENTIAL					
10.10	Dwelling - Single-Family detached	P	P			
10.20	Dwelling - Duplex (See ADAPTED REUSE)	* SE	P			
10.30	Dwelling - Apartment		P			
10.40	Dwelling - Accessory Apartment			*PC	*PC	
10.50	Dwelling - Townhouse		*PC			
10.60	Home Occupation	*PC	*PC			
11.00	GROUP HOMES					
11.10	Group Home/Assisted Living not more than eight (8).	* SE	* SE	* SE		
11.20	Group Home/Halfway House, not more than eight (8).	* SE	* SE	* SE		
11.30	Group Home, Private not more than sixteen (16).		* SE	* SE	* SE	
12.00	DAYCARE					
12.10	Day Care Home: Eight (8) or less children	*PC	*PC			
12.20	Day Care Center: More than eight (8) children			* SE	* SE	
12.30	Retirement Housing Complex		*PC	*PC		
13.00	MISCELLANEOUS ROOMS FOR RENT SITUATIONS					
13.10	Boarding and Rooming House - less than five (5) guest rooms		* SE			
13.10	Bed and Breakfast, Country Inn	* SE	* SE	* SE		
13.20	Conference Center				* SE	
13.30	Hotel				* SE	
13.40	Motel				* SE	

SECTION Land Use			ZONING DISTRICTS			
			R1	R2	C1	C2
14.00	UTILITIES					
14.10	Electric power, gas transmission & telecommunication buildings and structures.	*PC	*PC	*PC	*PC	*PC
14.20	Neighborhood Essential Service	*PC	*PC	*PC	*PC	*PC
14.30	Satellite Dish Private – exceeding three (3) ft. in diameter	*PC	*PC	*PC	*PC	
14.40	Solar Energy Systems, Small	*PC	*PC	*PC	*PC	*PC
15.00	MISCELLANEOUS USES					
15.10	Christmas Tree Sales	P	P	P	P	P
15.20	Temporary Construction Building or structure	*PC	*PC	*PC	*PC	*PC
15.25	Additions or Renovation	*P	*P	*P	*P	*P
15.30	Permit Revision	*P	*P	*P	*P	*P
15.35	Demolition					
	Accessory (Shed)					
15.40	Accessory Building < 200 sq. ft.	P	P			
15.45	Accessory Building > 200 sq. ft.	*P	*P			
15.50	USE - Right of Use			*P	*P	
15.55	Home Occupancy	P	P			
	OTHER MISCELLANEOUS					
15.60	Breezeway, carport, deck, porch, handrail, & steps	*P	*P			
15.62	Chickens (Permit & License)	P				
15.64	Doors - Entrance	*P	*P	*P	*P	
15.66	Fence	P	P	P	P	P
15.68	Roof (if plywood is replaced)	*P	*P	*P	*P	*P
15.70	Sign	P	P	P	P	P
15.72	Solar Panels - Small	P	P			
15.74	Solar Panels - Utility Scale			*P	*P	*P
15.76	Swimming Pool	*P	*P			
15.78	Underground Tank	*P	*P			
15.80	Windows	*P	*P	*P	*P	*P

ARTICLE V. DISTRICT REGULATIONS (cont.)
PART III. SUPPLEMENTARY USE REGULATIONS

The following specific supplementary use regulations are applied to both specific uses permitted by right and to uses permitted by special exception as indicated in the Table of permissible Uses. All applications and permits shall be obtained by the Zoning Coordinator.

SECTION 18. AGRICULTURAL USES - 1.00

1.10 Farming on properties of 10 acres or more, including the necessary and customary farm uses and accessory buildings, shall be permitted with conditions (PC) in R-1 District provided:

1. No building (s) for housing animals or fowl shall, be erected or maintained within six hundred (600) feet of any property line.
2. Accessory fertilized and chemical storage, the assembly and repair of equipment normally used in agriculture, and accessory petroleum storage shall be located a minimum of two-hundred (200) feet from the property line.

1.30 Roadside Stand shall be permitted with conditions (PC) in the R-1, C-1 and C-2 Districts provided:

1. Roadside stands are limited to one thousand (1,000) square feet.
2. Off-street parking is provided at the ratio of one (1) space per two hundred (200) square feet of a roadside stand with a minimum of two (2) parking spaces.

NOTE: See Article VI Parking, Accessibility, Loading, & Thoroughfare Regulations.

3. May be opened from April 1 through December 31 of each year, provided, however; that such stands must:
 - a. Be removed from the premises or stored at the end of the season;
 - b. Be removed from the premises or stored if left vacant for fourteen (14) days.
4. A temporary zoning use permit for the roadside stand is approved by Zoning Coordinator.

SECTION 19. COMMERCIAL SERVICES - 2.00 – Site plan is required.

- a. C-1 District < **7,500** square feet per unit.
- b. C-2 District > **7,500** square feet per unit and > five (5) acres.

2.20 Animal Hospital – shall be permitted with conditions (PC) in C-1 and C-2 Districts provided:

1. Outdoor animal boarding places shall be prohibited in C-1.
2. Outdoor animal boarding in C-2 shall be located at least one hundred (100) feet from any street or the nearest property line.
3. Fire sprinkler systems must be provided and approved by Fire Marshall.
4. Parking is provided in accordance with Article VI, Parking, Accessibility, Loading, & Thoroughfare Regulations.

2.23 Pet Shops – shall be permitted with conditions (PC) in the C-1 and C-2 Districts provided:

1. The floor area is less than 7,500 square feet.

2. The actual store or premises in which the pet shop is located is at least seventy-five (75) feet from any lot in any residential district.
3. The proposed use shall not be incompatible with, or detrimental to, any existing uses on abutting lots in a C-1 or C-2 districts.
4. No animals may be kept for boarding; that no animals may be kept for breeding; that only animals for retail sale shall be maintained or kept on the premises; that all animal pens shall have adequate outside ventilating system or other appropriate air filtration system.
5. There shall be no space on the exterior of that building for the maintaining or for the use of the animals, and all animals shall be maintained within the pet shop.
6. Fire sprinkler systems must be provided and approved by Fire Marshal.
7. Parking is provided in accordance with Article VI, Parking, Accessibility, Loading, & Thoroughfare Regulations.

2.30 Banks, Drive-in - Drive-in banks shall be permitted with conditions (PC) in the C-1 and C-2 Districts provided:

1. Entrances and exits to drive-in banks shall be located at least fifty (50) feet from adjacent intersections.
2. Drive-through lanes shall be marked with distinctive pavement markings and/or special striping and shall not block exit or entry to buildings or to off-street parking spaces otherwise required on the site.
3. Adequate spaces for stacking (line-up) at drive-through facilities shall be provided.
4. Vehicular access shall not be by means of any street internal to a subdivision for single-family dwellings.
5. Parking is provided in accordance with Article VI, Parking, Accessibility, Loading, & Thoroughfare Regulations.

2.40 Clubs, Private - shall be permitted as a Special Exception (SE) by the Board of Appeals in C-1 and C-2 Districts.

1. No parking area shall be located in any required front yard
2. A buffer yard of at least ten (10) feet shall be provided along any boundary with an adjacent residential lot.
3. The Board may specify hours of operation or other conditions deemed necessary to adequately protect nearby property owners.
4. Parking is provided in accordance with Article VI Parking - Off-street parking requirements.

2.50 Crematorium - shall be permitted as a Special Exception (SE) by Board of Appeals in the C-1 and C-2 Districts provided:

1. Buffer yards shall be required by the Board of Appeals to adequately separate this use from adjacent uses or properties in order to eliminate or minimize potential nuisances such as dirt, litter, noise, the glare of lights, signs, and unsightly buildings or parking areas, or to provide spacing to reduce impacts of noise, odor, or danger from fires or explosions.
2. This use is only permitted when in conjunction with a funeral home or cemetery.
3. Any crematorium shall be located at least two hundred (200) feet from any residential lot line.
4. Parking shall be provided for employees.

2.53 Funeral Homes – shall be permitted as a Special Exception (SE) by the Board of Appeals in the C-1 and C-2 Districts provided:

1. No cremation will occur on-site.
2. The proposed use shall be located in a building that is residential in character and architectural style.
3. Parking is provided in accordance with Article VI, Parking, Accessibility, Loading, & Thoroughfare Regulations.

SECTION 20. COMMERCIAL RETAIL & WHOLESALE - 3.00 – Site plan is required.

3.25 Building Material Sales - shall be permitted as a Special Exception by the Board of Appeals in the C-1 and C-2 Districts provided:

1. Adequate access and parking shall be provided. Parking for storage and unloading purposes shall be provided.
2. Prohibits uses or any use that creates a nuisance due to noise, odor, dust, light, or electrical interference.
3. Signage will comply with Article VI Sign Regulations.
4. Outdoor display area shall be shown on the site plan
5. Outdoor storage area/stockyard as shown on the site plan
6. The parcel on which the outdoor storage is situated shall be enclosed with a continuous fence or evergreen shrubbery screen, as approved by the Planning Commission.
7. Outdoor materials shall not be stacked or piled so as to reach a height of six (6) feet.
8. No materials shall be collected, accumulated, or stored within twenty-five (25) feet of any lot line or right-of-way line. All materials shall be located within the fence or evergreen shrubbery screen. Storage located elsewhere may be open to the sky but shall be enclosed by a solid wall or fence eight (8) feet high, including solid doors or gates thereto.
9. Parking is provided in accordance with Article VI, Parking, Accessibility, Loading, & Thoroughfare Regulations. Also, adequate access and parking shall be provided. Parking for loading purposes shall be provided.

3.50 Machinery & Equipment Sales, Service & Rental - shall be permitted with conditions (PC) by Planning Commission in the C-1 and C-2 Districts provided:

1. Outdoor display area shall be shown on the site plan; displays shall not be on the sidewalk; areas will be limited to what can be displayed.
2. Signage will comply with Article VI, General Sign Regulations
3. Prohibits uses or any use that creates a nuisance due to noise, odor, dust, light, or electrical interference.
4. Parking is provided in accordance with Article VI, Parking, Accessibility, Loading, & Thoroughfare Regulations Specifications. Also, adequate access and parking shall be provided. Parking for loading purposes shall be provided.

3.55 Restaurant and other foodservice establishments with drive-in - shall be permitted as a Special Exception (SE) by Board of Appeals for C-2 District provided:

1. No drive aisle shall be located adjacent to a residential district. Location, maintenance, vehicle sight distance provision, advertising, and parking areas pertaining to screening shall be as provided for in this ordinance.
2. The ingress and egress of such establishments to or from a collector or arterial highway shall not be located nearer than four hundred 400 feet to each other in any direction.
3. When such use in the C-2 district abuts a residential district or institutional premises the use shall include a metal or vinyl screen of at least 3 ½ (3.5) feet in height and a buffer yard of at least ten (10) feet in width-
4. Drive-through lanes shall be marked with distinctive pavement markings and/or special striping and shall not block pedestrian exit or entry to a building or to off-street parking spaces otherwise required on the site.
5. Adequate spaces for stacking (line-up) at drive-through facilities shall be provided.
6. Vehicular access shall not be by means of any street internal to a subdivision for single-family dwellings.
7. A traffic impact study may be required.
8. The grounds and exterior of all buildings shall be kept and maintained in conformity with the prevailing standards of the community, architectural style, and character of the neighborhood.
9. Parking is provided in accordance with Article VI Parking, Accessibility, Loading, & Thoroughfare Regulations.

3.60 Shopping Center/Shopping Plaza – shall be permitted as a Special Exception (SE) by Board of Appeals in C-1 and C-2 Districts provided:

1. Retail establishment floor area
 - a. C-1 District < **7,500** square feet per unit.
 - b. C-2 District > **7,500** square feet per unit and > five (5) acres.
2. A traffic impact study is submitted with the site plan for the shopping center.
3. The shopping center/plaza will provide establishments of integrated and harmonious design, together with adequate and properly arranged traffic and parking activities and landscaping which will be attractive, efficient, convenient, pleasant, and safe, and which will fit harmoniously into, and will have no adverse impact upon the adjoining and surrounding development.
4. Parking is provided in accordance with Article VI, Parking, Accessibility, Loading, & Thoroughfare Regulations Specifications. All parking areas in the C-2 district shall include a vegetative screen of at least 3 ½ (3.5) feet in height and located at least ten (10) feet from any adjacent residential lot.

SECTION 21. EMERGENCY SERVICES - 4.00

See Article V, District Regulations, Part II Permitted Uses by Zoning Districts – Emergency Services

SECTION 22. INDUSTRIAL - 5.00 - Site plan shall be required.

5.10 Storage Facilities/Mini Storage - shall be permitted as a Special Exception (SE) by Board of Appeals with conditions in the C-2 District provided:

1. At least seventy-five (75) percent of the total on-site storage space shall be contained in individual enclosed stalls containing no more than five hundred (500) square feet each.
2. No activities other than the dead storage or transfer of non-volatile goods or leasing of storage space are permitted. Prohibited uses include, but are not limited to, miscellaneous sales; fabrication or repair of vehicles, equipment, or other goods; a transfer-storage business based on site; residential uses (other than the resident manager's apartment), or any use that creates a nuisance due to noise, odor, dust, light, or electrical interference.
3. An on-site manager or resident manager may be required and shall be responsible for the operation of the facility in conformance with conditions of approval.
4. Parking is provided in accordance with Article VI Parking Requirements

Adequate access and parking shall be provided. Parking for storage purposes shall be provided via a driving/parking lane adjacent to each storage space/stall, with a minimum twenty-five (25) foot width for one-way routes where accessed on one side of the land and a thirty (30) foot width for a two-way route or where accessed on both sides. All parking areas shall be located at least twenty-five (25) feet from any adjacent residential lot.
5. Any outdoor storage part of the mini-warehouse operation such as storage of recreational vehicles or boats shall be contained completely with the required screening and fencing required above.
6. A buffer yard of at least ten (10) feet and a screen of at least six (6) feet shall be provided at property boundaries when adjoining properties are used or districted for residential purposes.

SECTION 23. INSTITUTIONAL - 6.00 - Site plan shall be required.

6.10 Cemeteries - shall be permitted as a Special Exception (SE) by the Board of Appeals in the R-1, R-2, C-1, C-2 and I Districts provided:

1. A minimum parcel area of five (5) acres for cemeteries shall be established unless such uses are accessory to a house of worship.
2. Structures used for interment (including mausoleums and vaults) shall be set back not less than fifty (50) feet from any road bounding the cemetery, and not less than thirty (30) feet from any other lot line.
4. Satisfactory arrangements must be made for the perpetual maintenance of the cemetery.
5. A buffer yard of at least ten (10) feet provided between any burial plot and all lot lines.

6.15 Government Buildings and Structures - Government Buildings or Structures shall be permitted with conditions (PC) in R-2, C-1, C-2 and I Districts provided:

1. The proposed use will not affect adversely the health and safety of residents or workers in the area.
2. There is a public necessity for the proposed building, structure, or facility at the location selected.
3. The proposed use will have the least possible detrimental effect on the use or development of adjacent properties or the general neighborhood.
4. The proposed use does not have an adverse effect on the Comprehensive Plan for the development of the community.

6.20 Place of Assembly - shall be permitted as a Special Exception (SE) by the Board of Appeals in R-1, R-2, C-1, and C-2 Districts provided:

1. Structures used primarily for religious activities may be erected to a greater height than permitted in the district in which it is located, provided that the front, side, and rear setbacks shall be increased one foot for each foot by which such structure exceeds the height limitation established for the District in which such structure is located.
2. Outdoor public announcement systems and drive-in facilities are prohibited.
3. The Board specifically approves accessory uses. In no case shall an accessory use be of a type and scale that is normally found in commercial operations.
5. Parking is provided in accordance with Article VI, Parking, Accessibility, Loading, & Thoroughfare Regulations.

6.25 Hospital, Medical Facilities, and Urgent Care (I) District and other inpatient medical facilities, shall be permitted as a special exception (SE) by the Board of Appeals in I District provided:

1. The minimum site area shall be five (5) acres.
2. The minimum street frontage shall be two hundred (200) feet.
3. All structures shall be located at least two hundred (200) feet from any adjacent residential lot line.
4. Accessory uses may include recreational and educational services, therapy areas, personal and professional services, and health services.
5. A minimum of twenty (20) percent of the gross site area shall be open space. The open space shall be generally continuous, accessible to the residents, and protective of natural features.
6. Building height limit shall be as determined by the Board of Appeals but in no case more than forty-five (45) feet.
7. Access to use shall be from an existing major highway.
8. Parking is provided in accordance with Article VI, Parking, Accessibility, Loading, & Thoroughfare Regulations.
All parking areas shall be located at least ten (10) feet from any adjacent residential lot.
9. The applicant shall locate amenities such as lighting, seating, shelter, and landscaping into attractive groupings that provide for safe and unobstructed pedestrian movement.
10. All state permits and licenses required to operate the facility have been obtained.
11. A description of the medical services proposed to be rendered by the facility shall be provided with the application.

6.35 Medical Facilities and Urgent Care, under 7,500 square feet and other inpatient medical facilities shall be permitted as a permitted condition (PC) by Planning Commission in C-1 District provided:

1. The applicant shall locate amenities such as lighting, seating, shelter, and landscaping into attractive groupings that provide for safe and unobstructed pedestrian movement.
2. All state permits and licenses required to operate the facility have been obtained.
3. A description of the medical services proposed to be rendered by the facility shall be provided with the application.

6.40 Nursing Care Facilities - may be permitted as a Special Exception (SE) by the Board of Appeals in R-2, C-1, C-2, and I Districts provided:

1. The minimum lot size is one (1) acre.
2. All structures shall be located at least one hundred (100) feet from adjacent residential property lines.
3. A road front buffer yard of at least fifteen (15) feet shall be provided.
4. The proposed use shall be located in a building which is residential in character and an architectural style.
5. The applicant shall submit a detailed written statement discussing the type of facility proposed and the services to be offered.
6. The structure meets all applicable county and state codes, including the building code and Health Department requirements.
7. The proposed use shall be located in a building which is residential in character and an architectural style.
8. The applicant shall submit a detailed written statement discussing the type of facility proposed and the services to be offered.
9. Parking is provided in accordance with Article VI, Parking, Accessibility, Loading, & Thoroughfare Regulations.

6.55 Schools and Colleges, Public and Private - Private schools, including elementary and secondary schools, including pre-school, kindergarten, as well as colleges, community colleges, shall be permitted by Special Exception (SE) by the Board of Appeals in R-1, R-2, C-1, and C-2 Districts provided.

1. The Board shall consider the following factors:
 - a. Traffic patterns, including the impact of increased traffic on residential streets.
 - b. Noise or type of physical activity.
 - c. Character, percentage, and density of existing development zoning within the community.
2. Minimum lot area, street frontage, and lot line setbacks shall be specified in a Major Site Plan of development that in no event shall the standards be less than the area regulations for the district in which the school is proposed to be located. See Appendix F – Plot Plan Information Requirements.
3. Building coverage and screen shall be specified in a Major Site Plan of development.
4. Parking is provided in accordance with Article VI, Parking, Accessibility, Loading, & Thoroughfare Regulations.

All parking areas shall be located at least twenty-five (25) feet from any adjacent residential lot with at least a ten (10) foot buffer.

SECTION 24. MOTOR VEHICLE & BOATS – RELATED SALES AND SERVICE OPERATIONS - 7.00 - Site plan shall be required.

7.10 Car Wash - shall be permitted with conditions (PC) in the C-2 District provided:

1. Lighting shall be designed and controlled so that any light source, including the interior of a structure, shall be so shaded, shielded or directed that the light intensity or brightness shall not

adversely affect the safe vision of operators of vehicles moving on public or private roads, highways or parking areas. Such lighting shall not shine into residential structures.

2. Signage will comply with Article VII, General Sign Regulations.
3. A buffer/yard measuring not less than ten (10) feet in width shall be provided along the boundary with any road right-of-way or adjacent residential lot and include a screen of at least six (6) feet in height if adjacent to a residential lot.
4. Any outdoor storage or refuse area shall be fenced or screened from view and must be approved as to location and design.
5. Parking is provided in accordance with Article VI, Parking, Accessibility, Loading, & Thoroughfare Regulations. All parking areas shall be located at least 50 feet from any adjacent residential lot.

7.15 Motor Vehicle Filling Station - filling station, or service stations or facilities for the sale of gasoline and repair of vehicles but not the major body or fender repair auto salvage or junk, and any major repair of equipment or materials or damaged vehicles shall be inside a completely enclosed building shall be permitted as Special Exception (SE) by the Board of Appeals in C-1 and C-2 districts, provided:

1. Pump location:
 - a. Each pump shall be at least thirty (30) feet from any street line and fifty (50) feet from any residential property line.
 - b. No canopy over a pump island shall project within fifteen (15) feet from a street line.
2. In the C-1 district, the gasoline sales shall be accessory to a permitted use, and no service, repair, or storage of motor vehicles shall take place on the premises.
3. Lighting shall be designed and controlled so that any light source, including the interior of a structure, shall be so shaded, shielded or directed that the light intensity or brightness shall not adversely affect the safe vision of operators of vehicles moving on public or private roads, highways or parking areas. Such lighting shall not be arranged so as not to reflect or cause glare into any residential district
4. Any outdoor storage or refuse area shall be fenced or screened from view and must be approved as to location and design.
5. The establishment shall provide a minimum of three (3) spaces for each grease rack or working bay, plus one (1) space for each employee on duty, plus separate parking space for each accessory vehicle, such as tow trucks.
6. A motor vehicle filling station shall only be permitted if all adjoining properties adjacent to the filling station are served by public water.
7. A buffer yard of at least ten (10) feet in width shall be provided along the boundary with any road right-of-way or adjacent residential lot and include a screen of at least six (6) feet in height if adjacent to a residential lot. Any outdoor storage or refuse if approved shall be fenced from an adjacent property.
8. Outdoor storage of vehicles, tires, and equipment and the erection or location of accessory structures on the premises shall be prohibited unless approved by the Board.
9. The rental or storage of trailers, boats, or trucks shall be prohibited.
10. Major repair work such as motor replacement, body and fender repair, or spray painting shall be prohibited.
11. Parking is provided in accordance with Article VI, Parking, Accessibility, Loading, & Thoroughfare Regulations.

7.30 Motor Vehicle & Boat Repair and Maintenance - shall be permitted with conditions (PC) in the C-1 District provided:

Accessory Use: Outdoor Storage of up to five (5) automobiles as necessary to an automobile repair shop or up to five boats or trailers as an accessory to a boat repair and maintenance shop in the C-1 District, provided:

- a. No abandoned vehicle or boats are kept on the property; and
- b. No vehicle or boats may be stored for longer than ninety (90) days unless a written request for an extension is reviewed and approved by Planning Commission; and
- c. All vehicles or boats must be in the process of being repaired or serviced; and
- d. No automobile or boat bodywork or painting shall be permitted; and
- e. Site plan approval is required; and
- f. Screening may be required as determined by the Planning Commission; and
- g. Lighting shall be arranged so as not to reflect or cause glare into any residential district; and
- h. Parking requirements shall be in accordance with Article VI, Parking, Accessibility, Loading, & Thoroughfare Regulations.

SECTION 25. PUBLIC FACILITIES - 8.00 – Site plan is required.

Section 8.10 Post Office Local - Government Buildings or Structures shall be permitted with conditions (PC) in R-1, R-2, C-1, and C-2 districts provided:

1. The proposed use will not affect adversely the health and safety of residents or workers in the area.
2. There is a public necessity for the proposed building, structure, or facility at the location selected.
3. The proposed use will have the least possible detrimental effect on the use or development of adjacent properties or the general neighborhood.
4. The proposed use does not have an adverse effect on the Comprehensive Plan for the development of the community.

SECTION 26. RECREATION - 9.00 - See Article V, District Regulations, Part II Permitted Use by Zoning Districts

SECTION 27. RESIDENTIAL USES – 10.00, 11.00, 12.00, and 13.00

10.40 Accessory Apartment - Apartment is accessory to the principal commercial use. Accessory Apartment shall be permitted with conditions (PC) in the C-1 and C-2 Districts provided:

1. Minimum five hundred (500) square footage per apartment.
2. Maximum of two (2) bedrooms per apartment.
3. If an accessory apartment is located in the principal dwelling building, the entry to such unit and its design shall be such that, to the degree reasonably feasible, the exterior appearance of the

building will remain the same and that no external entrance that faces a road or street will be added.

4. Off-street parking shall be provided in accordance with the standards and requirements of Article VI, Parking, Accessibility, Loading, & Thoroughfare Regulations. With two (2) additional parking spaces for each accessory apartment.
5. Height and Area Requirements. Lot frontage to be measured at the building line. See Appendix B - Height, Area, Bulk, & Design Requirements

10.50 Town Houses – shall be permitted by Planning Commission with conditions (PC) in R-2 district provided:

1. Height and Area Requirements – See Article V, District Regulations, Part IV, Height, Area, Bulk, & Design Requirements and Appendix B. Lot frontage to be measured at the building line.
2. Site Plan Regulations – A site plan complying with the requirements of Article VIII shall accompany any application for approval of town development.
3. Subdivision Ordinance – See Appendix I - Town of Galena, Land Subdivision Ordinance.
4. For the purpose of the side yard requirement. A townhouse building shall be considered as one building on a lot with side yards required for end unit only in accordance with Article V. Part VI Table 35.1 Any side yard adjacent to the line of the lot occupied by a detached single-family dwelling or a lot in a single-family dwelling or a lot in a single-family residential district shall not be less than twenty-five (25) feet; and any rear yard not less than fifty (50) feet. Distance between townhouse buildings shall be not less than twenty (20) feet.
5. No detached garage or carport or other detached accessory building shall be permitted on the lot occupied by a townhouse.
6. Unless otherwise restricted by district regulations, not more than five (5) dwelling units shall be included in any one townhouse building.
7. The Façade s of building units in a townhouse shall be varied by changed front yards of not less than three feet and variations in materials or designs, so that no more than three abutting units will have the same front yard depth and the same or essentially the same architectural treatment of Façade s and roof lines. See APPENDIX E Illustration Roof Line.
8. Open Space provisions satisfactory to the Mayor and Council shall be made to secure those on public areas for the common use and enjoyment of occupants of townhouses, but not the individual ownership by such occupants, shall be maintained in a satisfactory manner without expenses to the General Public.
9. Required off-street parking space of not less than two spaces per dwelling unit shall be provided within one-hundred-fifty (150) feet of the lot.

10.60 HOME OCCUPATION - Use is clearly subordinate to the residential use of the building. An application shall be reviewed and approved by the Planning Commission with conditions (PC) in the R-1 and R-2 districts. Adjoining property owners shall be notified of the application and shall be notified by mail of the date, time of the Planning Commission Meeting. Home Occupation shall be subject to the following provisions provided:

1. A Site Plan/drawing is required.
2. No more than one home occupation shall be permitted within a single dwelling unit.
3. Home occupations are conducted on the same property as the residence and within the principal building. No home occupation shall be allowed in accessory buildings or detached garages. It does not change the residential character of the property.

4. A home occupation shall be incidental to the use of the dwelling unit for residential purposes and shall be conducted only by members of the family in the dwelling unit, plus no more than one non-residential assistant or employee. No more than twenty-five (25%) percent of the floor area of the dwelling unit may be used in connection with a home occupation or for storage purposes in connection with a home occupation.
5. The home occupation shall not cause any significant effect associated with the home occupation, such as excessive traffic, increased noise, excessive lighting, or offensive odor which is incompatible with characteristics of the residential district. There shall be no illegal discharge of any fluids, or gases into the sewer system or any manner of discharging such items in violation of any applicable government code and other possible effects of commercial uses being conducted in residential areas.
6. There shall be no outdoor storage of materials or products on the premises.
7. No equipment or process shall be used which creates noise, vibration, glare, fumes, odors, or electrical interference detectable from adjoining properties.
8. There shall not be conducted on the premises the business of selling stocks or merchandise, supplies, or products, provided that orders previously placed by telephone, e-mail, or at a sales party may be filled on the premises. That is direct sales of products off display shelves or racks are not allowed, but a person may pick up an order placed earlier as described above.
9. No type of advertisement for the home occupations shall be carried out on the property except as permitted in Article VII, General Sign Regulations – one (1) non-illuminated sign, limited in area to two (2) two square feet.
10. Parking is provided in accordance with Article VI, Parking, Accessibility, Loading, & Thoroughfare Regulations.
11. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood and any need for parking generated by the conduct of such home occupation shall be met off-street and other than in a required front yard.
12. Funeral homes, Group Home/Assisted Living, Group Home Halfway House, Group Home/Private, veterinary animal hospitals, grocery stores, private educational institutions, boarding houses, rooming houses, or tourist homes shall not be permitted as home occupations.

11.10 Group Home/Assisted Living not more than eight (8) may be permitted as a Special Exception (SE) by the Board of Appeals in R-1, R-2, and C-1 Districts provided:

1. A statement shall be submitted by the applicant explaining the character of the facility, the program's policies, goals, and means proposed to accomplish these goals, characteristics of the service population and number of residents to be serviced, operating methods and procedures, and any other aspects pertinent to the facility's program.
2. The facility is subordinate and accessory to the principal dwelling in size and appearance and is in the same structure as the principal dwelling unit.
3. The rooms for the use are not designed or constructed to be separate dwelling units and may not be sold as separate dwelling units.
4. The appearance of the structure and property remains that of a single-family dwelling so that the average neighbor is unaware of the group home or assisted living facility's existence.
5. The structure meets all applicable county and state codes, including the building code and Health Department requirements. A current copy of the State license shall be on file with the town.

11.20 Group Home/Halfway House not more than eight (8) - may be permitted as a Special Exception (SE) by the Board of Appeals in R-1, R-2, and C-1 Districts provided:

1. A statement shall be submitted by the applicant explaining the character of the facility, the program's policies, goals, and means proposed to accomplish these goals, characteristics of the service population and number of residents to be serviced, operating methods and procedures, and any other aspects pertinent to the facility's program.
2. The facility is subordinate and accessory to the principal dwelling in size and appearance and is in the same structure as the principal dwelling unit.
3. The rooms for the use are not designed or constructed to be separate dwelling units and may not be sold as separate dwelling units.
4. The appearance of the structure and property remains that of a single-family dwelling so that the average neighbor is unaware of the group home or assisted living facility's existence.
5. The structure meets all applicable county and state codes, including the building code and Health Department requirements.

11.30 Group Home, Private not more than sixteen (16)

May be permitted as a Special Exception (SE) by the Board of Appeals in R-2, C-1, and C-2 Districts provided:

1. A statement shall be submitted by the applicant explaining the character of the facility, the program's policies, goals, and means proposed to accomplish these goals, characteristics of the service population and number of residents to be serviced, operating methods and procedures, and any other aspects pertinent to the facility's program.
2. The facility is subordinate and accessory to the principal dwelling in size and appearance and is in the same structure as the principal dwelling unit.
3. The rooms for the use are not designed or constructed to be separate dwelling units and may not be sold as separate dwelling units.
4. The appearance of the structure and property remains that of a single-family dwelling so that the average neighbor is unaware of the group home or assisted living facility's existence.
5. The structure meets all applicable county and state codes, including the building code and Health Department requirements.

12.10 Daycare eight (8) or less children

The Planning Commission will review the site plans with conditions (PC) in R-1, and R-2 Districts provided:

1. A site plan must be submitted showing the existing or proposed building, play area, fencing, parking, ingress, and egress.
2. The applicant shall meet the requirements of state licensing and local health departments.
3. Outdoor play areas are fenced per any state licensing requirement.
4. Structured areas for active play or play structures shall not be in the front yard and shall be a minimum of ten (10) feet from the side or rear property line.
5. One drop-off/pickup space is provided.
6. Structural or decorative additions shall be designed to be compatible with the residential character of the neighborhood.
7. No type of advertisement for the Day Care shall be carried out on the property, except one (1) unlighted sign identifying the Day Care, limited to two (2) square feet.

8. Parking is provided in accordance with Article VI, Parking, Accessibility, Loading, & Thoroughfare Regulations.
9. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood and any need for parking generated by the conduct of such home occupation shall be met off-street and other than in a required front yard.

12.20 Day Care Center more than eight (8) children - may be permitted as a Special Exception (SE) by the Board of Appeals in C-1, and C-2 Districts provided:

1. A site plan must be submitted showing the existing or proposed building, play area, fencing, parking, ingress, and egress.
2. The applicant shall meet the requirements of state licensing and local health departments.
3. The Board may prescribe specific conditions determined necessary to minimize the effects of use on neighboring properties given the identification of concerns specific to a particular site.
4. The applicant shall provide seventy-five (75) square feet of usable outdoor recreation area per child for one-half (1/2) of the enrollment. Such usable outdoor recreation areas shall be identified on the site plan and shall include a buffer yard of at least five (5) feet from adjacent residential areas. Usable outdoor recreation areas shall be limited to the side and rear yard of the property. Recreational areas shall not include the required front yard of the property or any off-street parking areas. Outdoor play or activity areas shall include a fence of at least 3 1/2 (3.5) feet in height or otherwise enclosed on all sides. The maximum number of children permissible per building shall be based on the thirty-five (35) square feet per child of useable inside space available.
5. All such uses shall be located so as to permit the safe pickup and delivery of all people on this site. Such use shall not constitute a nuisance because of traffic, insufficient parking, number of individuals being cared for, noise, or type of physical activity.
6. No portion of the daycare center shall be located within five hundred (500) feet of gasoline pumps, underground storage tanks (UST's) or other storage of explosive materials, package store, bar or tavern, or other similar incompatible uses, or any facilities that produce, or use hazardous/toxic materials that endanger the welfare of children.
7. When a daycare facility is located in a shopping center or shares parking and/or access with other commercial uses, the parking area and drop-off areas shall function independently of and physically separate from the general parking and circulation pattern of the other stores or businesses. The daycare facility shall be in either the end unit of the multiple occupancy building or a separate structure.
8. The requirements of these sections shall not apply to child care facilities or centers that are operated by a non-profit organization in buildings, structures, or on-premises owned or leased by a religious organization and which premises are regularly used as a place of worship or are located on premises owned or leased by a religious organization adjacent to premises regularly used as a place of worship, or are used for private parochial educational purposes that are exempted under the provisions of this section for private educational institutions or are located in publicly owned school buildings.

12.30 Retirement Housing Complex - may be permitted with conditions (PC) in R-2 and C-1 Districts provided:

A development providing dwelling units specifically designed for needs of ambulatory elderly persons shall qualify for a twenty (20%) percent increase in allowable density, and yard requirements shall be modified accordingly to accommodate the increased density. To qualify as Retirement Housing shall meet the following:

1. A site plan is required to be reviewed by the Planning Commission.

2. Eighty (80%) percent of the occupied units must be occupied by at least one person who is minimum age fifty-five (55) years or older.
3. Density shall not exceed the base density for the zoning district. E.g., if the site is for townhouses, minimum area, and dimensions for townhouses in Appendix B, Height, Area, Bulk, & Design Requirements are used.
4. The minimum area of one (1) acre shall be subjected to underlining zoning.
5. There shall be off-street parking as required in Article VI, Parking, Accessibility, Loading, & Thoroughfare Regulations.

13.10 Boarding & Rooming House less than five (5) bedrooms - may be permitted as a Special Exception (SE) by the Board of Appeals in the R-2 district provided:

1. A site plan is required to be reviewed by the Planning Commission;
2. One off-street parking space shall be provided for each guest room and shall be located at the rear of the site. Further, parking areas shall be twenty-five (25) feet from any adjacent residentially districted property and shall be adequately screened with a ten (10) foot buffer.
3. Parking areas shall be adequately screened.
4. The establishment shall be the owner or manager occupied and managed.
5. Facilities for dining shall be in the location customarily used by a single-family in the structure.
6. No separate kitchen shall be provided.
7. Meals shall be provided for boarding house residents only.
8. The Board must find that the rooming or boarding house will not constitute a nuisance because of sidewalk or street traffic, noise, or type of physical activity and that the use will not tend to affect adversely the use and development of adjoining properties in the immediate neighborhood.

13.15 Bed & Breakfast, Country Inn – may be permitted as a Special Exception (SE) by the Board of Appeals in the R-1, R-2, & C-1 District provided:

1. A site plan is required to be reviewed by the Planning Commission;
2. The facility shall operate in accordance with all state and local health and fire code requirements.
3. Meals may be only served to a transient visitor, and it must not be provided, for compensation, to any other nonresident of the dwelling unit.
4. One off-street parking space shall be provided as in Article VI, Parking, Accessibility, Loading, & Thoroughfare Regulations for each guestroom and shall be located at the rear of the site.
5. Parking areas shall be adequately screened.
6. The establishment shall be the owner or manager occupied and managed.
7. Facilities for dining shall be in the location customarily used by a single-family in the structure.
8. No separate kitchen shall be provided.
9. The Board must find that the Bed & Breakfast will not constitute a nuisance because of sidewalk or street traffic, noise, or type of physical activity and that the use will not tend to affect adversely the use and development of adjoining properties in the immediate neighborhood.

13.20 Conference Center - may be permitted as a Special Exception (SE) by the Board of Appeals in the C-2 District provided:

1. A site plan is required to be reviewed by the Planning Commission;

2. No more than ninety (90) percent of the land may be occupied with buildings.
3. All buildings and parking lots shall be set back from all adjoining property lines, including publicly dedicated streets, roads, and highways, not less than fifty (50) feet, and the maximum height of any building shall be set by the Board of Appeals.
4. The land shall have direct access to a public highway of a collector or arterial classification designated on the Official State Roadway Classification Map. The major point of vehicular access to and from the lands shall be provided by this collector or arterial road.
5. Any retail business conducted on the premises shall be primarily for the use of the guests of the center, and there shall be no entrances directly from the road to such businesses, and no signs or other evidence indicating the existence of such businesses visible from the outside of the building.
6. Conference centers may provide food and beverages (both non-alcoholic and alcoholic) to guests of the center attending functions, meetings, conferences, and other events at the facility. Service of food and beverages shall only be provided to guests of the center and not to the general public.
7. Parking is provided in accordance with Article VI, Parking, Accessibility, Loading, & Thoroughfare Regulations. All parking areas shall be located at least fifty (50) feet from any adjacent residential lot.

13.30 Hotel - may be permitted with conditions (PC) in C-2 District provided:

1. A site plan is required to be reviewed by the Planning Commission;
2. Access is directly from a collector or arterial road;
3. A traffic analysis of the impacts of the proposed use on the surrounding transportation systems may be required of the applicant.
4. A buffer yard of at least ten (10) feet and a screen of at least 3 ½ (3.5) feet in height is provided
5. All outdoor storage and refuse areas shall be fenced from view; and
6. Lighting shall be designed and controlled so that any light source, including the interior of the structure, shall be so shaded, shielded, or directed that the light intensity or brightness shall not adversely affect the safe vision of operators of vehicles moving on public or private roads, highways or parking areas. Such lighting shall not shine into residential structures.
7. The applicant shall design the building roof to screen mechanical equipment from public view and to contribute to an attractive streetscape.
8. The applicant shall develop the public streetscape between the street-front building and the street curb as a safe and convenient pedestrian movement.
9. The applicant shall design and locate signs so that their illumination is directed away from adjacent neighbors.
10. Parking is provided in accordance with Article VI, Parking, Accessibility, Loading, & Thoroughfare Regulations. All parking areas shall be located at least ten 10 feet from any adjacent residential lot and include a screen of at least 3 ½ (3.5) feet in height.

13.40 Motel – may be permitted with the condition (PC) in C-2 District provided:

1. A site plan is required to be reviewed and approved by the Planning Commission;
2. Access is directly from a collector or arterial road;
3. A traffic analysis of the impacts of the proposed use on the surrounding transportation systems may be required of the applicant;
4. A buffer yard of at least ten (10) feet and a screen of at least 3 ½ (3.5) feet in height is provided and;

5. All outdoor storage and refuse areas shall be fenced from view; and
6. Lighting shall be designed and controlled so that any light source, including the interior of the structure, shall be so shaded, shielded, or directed that the light intensity or brightness shall not adversely affect the safe vision of operators of vehicles moving on public or private roads, highways or parking areas. Such lighting shall not shine into residential structures.
7. The applicant shall design the building roof to screen mechanical equipment from public view and to contribute to an attractive streetscape.
8. The applicant shall develop the public streetscape between the street-front building and the street curb as a safe and convenient pedestrian movement.
9. The applicant shall design and locate signs so that their illumination is directed away from adjacent neighbors.
10. Parking is provided in accordance with Article VI, Parking, Accessibility, Loading, & Thoroughfare Regulations. All parking areas shall be located at least ten (10) feet from any adjacent residential lot and include a screen of at least 3 ½ (3.5) feet in height.

SECTION 28. UTILITIES - 14.00 – Site plan is required.

14.10 Electric Power, Gas Transmission & Telecommunications Buildings and Structures – may be permitted with conditions (PC) in R-1, R-2, C-1, C-2 and I Districts provided:

1. A site plan is required to be reviewed by the Planning Commission.
2. The proposed use does not have an adverse effect on the Comprehensive Plan for the development of the community.
3. The proposed use will not affect adversely the health and safety of the residents or workers in the area.
4. There is a public necessity for the proposed building, structure, or facility at the location selected.
5. The proposed use will have the least possible detrimental effect on the use or development of adjacent properties or the general neighborhood.
6. Public utility buildings, whenever practicable, shall have the exterior appearance of residential buildings when in a residential district and shall have suitable landscaping, screen planting, and fencing.
7. Examples of electric power, gas transmission, and telecommunication buildings and structures are buildings and structures for the occupancy, use, support, or housing of switching equipment, regulators, stationary transformers, and other such devices.

In making these findings, the Board of Appeals shall consider the following factors and such other factors as the Board may find to be necessary or important to effectuate its review:

- a. Points at which the proposed utility crosses heavily traveled highways or streets, or other arteries of transportation, either existing or proposed;
- b. Proximity of the utility to schools, churches, theaters, or other places of assembly, either existing or proposed;
- c. Effect upon property values of those who will not be compensated for a taking under the laws of the state; and
- d. The proximity of the utility to historic sites and structures.

14.20 Neighborhood Essential Services - may be permitted with conditions (PC) in R-1, R-2, C-1, C-2, & I Districts provided:

1. All water and sanitary sewer pump stations, sewage treatment facilities, and/or wastewater treatment plants shall be placed in a soundproof building that utilizes the latest odor control techniques and shall be screened by a vegetative buffer at least ten (10) feet in width. The noise emitted from the structure shall not exceed sixty-five (65) DBA during the day and fifty-five (55) DBA at night at the nearest property line. The Buffer yard standard may be modified when it is demonstrated that the modification will not have an adverse effect on adjacent properties and that the modification will contribute to a better design. Water conveyance pipes and sewage collection pipes do not need to comply with this requirement;
2. The soundproof buildings will have an exterior façade that is harmonious and consistent with the character of the surrounding neighborhood.
3. A lighting plan shall be approved. Exterior lighting shall be so shaded, shielded, or directed that the light intensity or brightness shall not adversely affect adjoining properties or shine into residential structures;
4. The town shall notify all property owners within a five hundred (500) foot radius of the proposed location of the treatment plant and/or pumping station of the impending location of the facility.
6. These regulations shall only apply to any water treatment plant, wastewater treatment plant, or pump station constructed after the adoption of these regulations. Existing plants and pump stations will not be required to retrofit to meet these standards. Water treatment plants, wastewater treatment plants, or pump stations that are part of a project receiving final approval prior to the adoption of these regulations are exempt from these standards.

14.30 Satellite dish, private, with an antenna exceeding three (3) feet in diameter may be permitted with conditions in R1, R2, C1, and C2 Districts provided:

1. Antenna covered by the rule may be mounted on "masts" to reach the height to receive or transmit an acceptable quality signal (e.g. maintain line-of-sight contact with the transmitter or view the satellite. Masts higher than twelve (12) feet above the roofline may be subject to local permitting requirements for safety purposes. Note: Congressional Act 207 of the Federal Communications Act of 1996.
2. The antenna shall be permanently mounted. No antenna shall be installed on a portable or movable structure.
3. The antenna shall be totally screened along the non-receptive axis and low-level ornamental landscaping shall be installed along the reception window axis of the base of the antenna. Screening may consist of fencing or a variety of plant types. Screening may be waived when the antenna is located one hundred (100) feet from all property lines or the antenna is of a nature that is not visible or intrusive to the neighborhood.
4. The final installation should blend carefully with the surrounding landscape and not appear as an obvious attempt at camouflage.

14.40 Solar Energy Systems, Small – shall be reviewed by Planning Commission and may be permitted with conditions (PC) in R-1, R-2, C-1 & C-2 Districts provided:

1. All solar collection devices shall register with the Department of Emergency Services and shall submit a map noting the location of the solar collection devices and the panel disconnect.
2. The total height of solar collection systems shall comply with the height requirements.
3. Solar panels shall be approved by all agencies.

SECTION 29. MISCELLANEOUS USES – 15.00

15.10 Christmas Tree Sales allowed in all districts without a permit needed.

15.20 Temporary Construction Buildings or structures permitted with conditions R-1, R-2, C-1, C-2, and I District provided:

1. The use of which is incidental to construction operations for the sale of lots during development being conducted on the same or adjoining tract or subdivision or repair of existing building or structure.
2. The temporary building shall be removed upon completion or abandonment of such construction, or upon the expiration of a period of two (2) years of the time of the erection of such temporary building, whichever is sooner.

ARTICLE V. DISTRICT REGULATIONS (cont.)
PART IV. HEIGHT, AREA, BULK, AND DESIGN REQUIREMENTS

The appearance of open spaces, buildings, and structures visible from public streets has a material and substantial relationship to the property values and the taxable value of property value in Galena. Many neighborhoods in other communities have deteriorated in the past by reason of poor planning, neglect or proper design standards, and erection of buildings, and structures unsuitable to and incompatible with the character of the neighborhood resulting in poor design, possible reduction of property values, and impairment the public health, safety, and welfare. To avoid and prevent the possible deterioration as described and to preserve and enhance the property values, the visual character of the community and the public health, safety, and welfare of the Town; the Planning Commission will apply the following additional standards when reviewing uses proposed for the Residential and Commercial Districts:

- a. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal and any grade changes shall be in keeping with the general appearance of neighborhood developed areas;
- b. The proposed development shall be related harmoniously to the terrain and to the use, scale, and architecture of existing buildings in the vicinity that have a functional or visual relationship to the proposed buildings. Proposed buildings shall be related to their surroundings with respect to height, street façade, the spacing of buildings or signs, materials, color, roof slopes, and scale;
- c. All open space (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties;
- d. The size, location, design, color, texture, lighting and materials of signs and advertising devices shall be in harmony with significant architectural features of existing and proposed buildings and structures and with surrounding properties;
- e. The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized whether these exist on the site or on adjacent properties;
- f. All proposed commercial and multi-family uses shall demonstrate how they will physically connect with a pedestrian circulation system.

SECTION 30. LOT AREA

Minimum Lot Area - See Appendix B Height, Area, Bulk, and Design Requirements

1. If the owner of a lot in any district does not own a parcel or tract of land immediately adjacent to such lot, and if the deed or instrument under which such owner acquired title to such lot was of record prior to the application of any zoning regulations and restrictions to the premises, and if such lot does not conform to the requirements of such regulations and restrictions as to the width of lots and lot area per family, the provisions of such lot area per family and lot width regulations and restrictions shall not prevent the owner of such lot from erecting a single-family dwelling or making other improvements on the lot, provided such improvements conform in all other respects to applicable zoning regulations and restrictions.
2. Requirements for lot area per family do not apply to dormitories, fraternities, sororities and other similar living quarters which are accessory to a permitted use, and which have no cooking facilities in individual rooms or apartments.
3. Requirements for lot area per family do not apply to rental units in a hotel, motel, motor lodge or tourist home or rooms in a rooming, boarding or lodging house.

SECTION 31. YARDS AND OPEN SPACE GENERALLY

1. Whenever a lot abuts upon a public alley, one-half of the alley width may be considered as a portion of the required yard.
2. Where these regulations refer to side streets, the Zoning Coordinator shall be guided by the pattern of development in the vicinity of the lot in question in determining which one of the two streets is the side street.
3. Every part of a required yard shall be open to the sky, except as authorized by this Article, and except ordinary projections of sills, belt courses, window air conditioning units, chimneys, cornices, and ornamental features which may project to a distance not to exceed twenty-four (24) inches into a required yard.
4. More than one main building may be located upon a lot or tract in the following instances:
 - a. Institutional buildings;
 - b. Public or semi-public buildings;
 - c. Multi-family dwellings including apartments and townhouses
 - d. Commercial or industrial buildings;
 - e. Homes for the aged.

The provisions of this exception shall not be construed to allow the location or erection of any building or portion of a building outside of the buildable area of the lot.

SECTION 32. FRONT YARDS

1. 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 the front or side yard shall be measured from such an official line to the nearest line of the building.
2. On through lots, the required front yard shall be provided on each street.
3. On corner lots, there shall be two front yard setbacks.
4. Open, unenclosed porches, platforms, or paved terraces, not covered by a roof or canopy and which do not extend above the level of the first floor of the building, may extend or project into the front or side yard no more than six (6) feet. However, a roof or canopy structures shall meet the front yard setback. Refer to Appendix B Minimum Lot Area.

SECTION 33. SIDE YARDS

1. For the purpose of the side yard regulations, a group of business or industrial buildings separate by common or party walls shall be considered as one building occupying one lot.

SECTION 34. REAR YARDS

1. Open or lattice-enclosed fire escapes, outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues may not project into the required rear yard for a distance of not more than five (5) feet, but only where the same are so placed as not to obstruct light and ventilation.

SECTION 35. CORNER VISIBILITY

1. No fence, wall, hedge, planting or other obstruction to vision, extending to a height in excess of three (3) feet above the established street grade, shall be erected, planted or maintained within the area of a corner lot that is included between the lines of the intersection streets and a straight line connecting them at points twenty (20) feet distant from the intersection of the street lines.
2. No sign shall obstruct the traffic view.

ARTICLE VI. PARKING, ACCESSIBILITY, LOADING, & THOROUGHFARE REGULATIONS

SECTION 36. GENERAL

All Uses permitted shall be subject to the following minimum off-street parking requirements to ensure that parking within the Town is convenient and accessible, accommodates all land uses and supports the Comprehensive Plan's intended goals.

- a. Off-street **parking** spaces shall be reserved or available for the particular use of the structure for which they are required and shall conform to the specifications in Section 37, General Parking Specifications, Table 37.1, Required Parking, and Shared Parking Ratios.
- b. Off-street **loading** spaces shall be reserved or available for the particular use of the structure for which they are required and shall conform to the specifications in Section 37, General Parking Specifications, Table 37.1 Required Parking, and Shared Parking Ratios.
- c. Maintaining and improving the pedestrian-friendly environment by encouraging people to park once at convenient shared parking locations that provide access to a variety of commercial enterprises through a safe and convenient pedestrian network.
- d. Avoiding adverse parking impacts on residential neighborhoods adjacent to the commercial districts.
- e. Maximizing on-street parking.
- f. Limiting the location of surface parking to the rear of the property.
- g. Providing flexibility for the redevelopment of small sites, encouraging shared, complementary, and off-site parking facilities for development within the C1 District.

SECTION 37. GENERAL PARKING SPECIFICATIONS

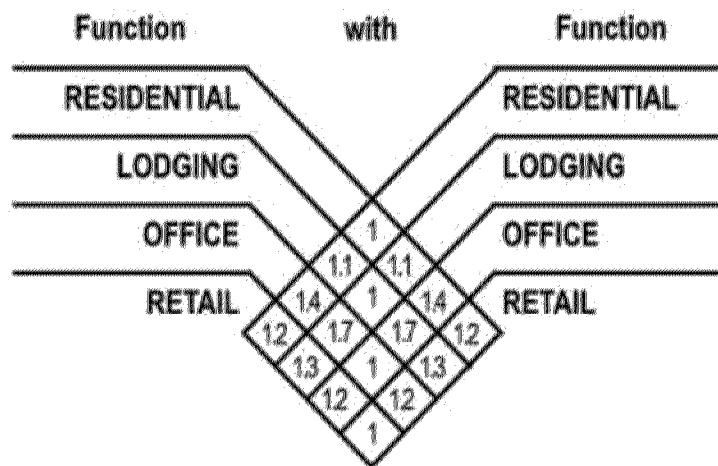
1. Required parking spaces for all zoning districts and uses shall conform with the requirements for that use as outlined in Table 37.1, Required Parking, and Shared Parking Ratios as described below.
2. Required parking may be provided off-site within the C-1 and C-2 Districts at the following required parking rates are shown in Table 37.1, Required Parking, and Shared Parking Ratios. Mixed-use developments may also utilize shared parking factors. The required parking space dimensions are nine (9) feet by eighteen (18) feet.
3. **Residential.** A minimum of 2.0 parking spaces per principal dwelling unit in R-1 District and 1.5 parking spaces per principal dwelling unit in the R-2, C-1, and C-2 Districts. The parking ratio may be reduced according to the shared-parking standard, as allowed by Article V, District Regulations, Part II Permitted Uses by Zoning Districts, Section 17, Permitted Use Table 17.1.
4. New on-street parking spaces provided for adjoining ground floor residential uses may be counted toward the minimum parking requirement for that property.
5. **Lodging.** A minimum of one parking space for every bedroom. The parking ratio may be reduced according to the shared-parking standard.
6. **Retail/Non-Residential.** A minimum of 2.0 parking spaces for every 1,000 square feet of gross floor area in the C-1 District, a minimum of 3.0 parking spaces for every 1,000 square feet of gross floor area in the C-2, and a minimum of 4.0 parking spaces for every 1,000 square feet of gross floor area in the Other District. The parking ratio may be reduced according to the shared-parking standard.
7. **Office.** A minimum of two parking spaces for every 1,000 square feet of gross floor area in the C-1 and R-2 Districts and a minimum of three parking spaces for every 1,000 square feet

of gross floor area in the C-2 District. The parking ratio may be reduced according to the shared-parking standard.

Table 37.1 Required Parking and Shared Parking Ratios

Required Parking and Shared Parking Ratios					
Use	R-1	R-2	C-1	C-2	I
Residential	2.0/dwelling	1.5/dwelling	1.5/dwelling	1.5/dwelling	
Lodging	1.0/bedroom	1.0/bedroom	1.0/bedroom	1.0/bedroom	
Office	2.0/1,000 sqft.	2.0/1,000 sqft.	2.0/1000 sqft.	3.0/1000 sqft.	
Retail/Non Res.	na	na	2.0/1000 sqft.	3.0/1000 sqft.	
Other	4.0 per 1,000 sqft. or Planning Commission approved parking study.				

Table 37.2 Shared Parking Factors



The actual parking required is calculated by adding the total number of spaces required by each separate function and dividing the total by the appropriate factor from the shared parking matrix above. An example of this calculation: The residential function requires ten (10) spaces while the office portion requires twelve (12) spaces. Independently they would require twenty-two (22), but when divided by the sharing factor of 1.4, (22/1.4) they would require only 15.7 or fifteen (15) spaces. When three or more function share parking, use the lowest factor so that enough parking is assured.

8. The off-street parking requirements in Table 37.1 Required Parking and Shared Parking Ratios are in addition to off-street spaces for storage of trucks or other vehicles used in connection with any use.
9. The floor area as used in Table 37.1 Required Parking and Shared Parking Ratios are defined in Article VIII Definitions.
10. The parking space requirements for a use not specifically listed in Table 37.1, Required Parking, and Shared Parking Ratios shall use the "Other" category or submit and gain the approval of a professionally acceptable parking study to the Planning Commission demonstrating the minimum parking requirements for the proposed use.
11. In the case of mixed uses, uses with different parking requirements occupying the same building or premises, or in the case of joint use of a building or premises by more than one use, the parking spaces required shall equal the sum of the requirements of the various uses computed separately and the applied sharing factor listed in Table 37.1, Required Parking and Shared Parking Ratios.

SECTION 38. RESIDENTIAL PARKING SPECIFICATIONS

1. Required off-street parking spaces shall be provided on the site with the proposed use, or on an off-site reserved parking area within walking distance of the proposed use.
2. Driveways and garages shall be considered as constituting off-street parking spaces for one and two-family dwellings in residential districts; provided that sufficient spaces are available on such driveways to meet the requirements of this article. Driveways shall measure not less than twelve (12) feet in width and twenty (20) feet in length for a single-space and twelve (12) feet in width and thirty-two (32) feet in length for two spaces, or twenty (20) feet in width and twenty (20) feet in length for two side-by-side spaces. For two-vehicle garages, add two (2) feet to the length and width.
3. The required minimum number of parking spaces for all residential uses shall conform with the requirements for that residential use as outlined in Table 37.1 Required Parking and Shared Parking Ratios.
4. Landscaping shall be provided as per Article XI, Landscaping Requirements.
5. All multi-family residential subdivision site plans shall include a parking plan that includes a lighting plan in conjunction with a safe bicycle, pedestrian, and vehicular circulation plan.
6. The maximum number of off-street parking spaces allowed shall be twenty (20) percent in excess of the minimum number required as outlined in 37.1, Required Parking and Shared Parking Ratios or submit and gain the approval of a professionally acceptable parking study to the Planning Commission demonstrating the minimum parking requirements for the proposed use(s), and those spaces required for compliance with the American's With Disabilities Act of 1990.

SECTION 38.5 COMMERCIAL VEHICLES PARKING IN RESIDENTIAL

A commercial vehicle is any type of self-propelled motor vehicle typically used for business, industrial, office, or institutional. Off-street parking of one commercial vehicle shall be permitted as an accessory use in residential properties located in R-1 and R-2 subject to the following requirements.

- a. The commercial vehicle does not exceed nine (9) feet in height from the ground to the highest point on the roof structure, not including the ladder, rack, etc., or twenty-three (23) feet in length from bumper to bumper - excluding the hitch; and
- b. The commercial vehicle must be actively used by a full-time resident of the residential property which it is parked; and
- c. The commercial vehicle shall be parked completely within the boundary lines of the lot on which the dwelling exists; with a four (4) foot setback from the property line; and
- d. No major repairs are conducted on-site; and
- e. No engines may run when parked on-site; and
- f. Refrigeration units may run when powered by electricity not sourced by a running engine/generator; and
- g. Honey wagons, sanitation, garbage or other trucks used to transport odorous, flammable, or hazardous materials are prohibited; and
- h. The vehicle has a current license and is operable; and
- i. The vehicle shall be parked on stone or other surfaces acceptable for use as a driveway. Parking on grass or a dirt surface is prohibited.

SECTION 39. COMMERCIAL SPECIFICATIONS

1. Required off-street parking spaces shall be provided on the site with the proposed use or on an off-site required parking area within six hundred twenty-five (625) feet walking distance of the proposed use.
2. Off-street parking in any non-residential district shall not be permitted closer than twenty (20) feet from state rights-of-way, ten (10) feet from doors, windows, easements, or alleyways and must be located outside of required buffer yards.
3. Each required parking space shall measure not less than ten (10) feet in width and not less than twenty (20) feet in length or as provided in Section 42, Table 42.1 Design Standards Table.
4. Landscaping shall be provided as per Article XI, Landscaping Requirements.
5. The parking requirement for two (2) or more uses on the same property shall be the sum of the individual requirements for each use and the applied sharing factor listed in Table 37.2 Shared Parking Factors.
6. Parking Plans shall be required for all commercial uses which shall show all required improvements as outlined herein.
7. Buffer yards shall be erected on the perimeter of all parking lots and designed and located to prevent parked vehicles from extending beyond property lines of parking areas and encroaching into buffer yards and setbacks from doors and windows. Metal or vinyl screens of at least 3 ½ (3.5) feet in height when adjoining a side or rear residential lot line.
8. On-street parking is encouraged and may be permitted in certain instances when design dictates, and a parking plan must be approved by the Planning Commission.
9. All commercial site plans shall include a parking plan. Large parking areas, with over twenty (20) spaces, shall be broken down into sections. Sections shall be separated by landscaped and curbed driveway strips of at least fifteen (15) feet in width and shall be designed to include a lighting plan in conjunction with a safe bicycle, pedestrian, and vehicular circulation plan. No parking area section shall exceed fourteen (14) spaces or one hundred forty (140) feet.
10. The maximum number of off-street parking spaces allowed shall be twenty (20) percent in excess of the minimum number required as outlined in Section 37, Table 37.1 Required Parking and Shared Parking Ratios except those spaces required for compliance with the Americans with Disabilities Act of 1990, or submit and gain the approval of a professionally acceptable parking study to the Planning Commission demonstrating the minimum parking requirements for the proposed use.

SECTION 40. MIXED USES IN ONE BUILDING

Where a building is used for more than one use or for different uses, and where the floor area used for each use for which loading space is required is below the minimum for required loading spaces but the aggregate floor area used is greater than such minimum, then off-street loading space shall be provided as if the entire building were used for that use in the building for which the most spaces are required. In such cases, the Zoning Coordinator may make reasonable requirements for the location of required loading spaces.

SECTION 41. JOINT USE OF OFF-SITE FACILITIES

1. All parking spaces required herein shall be located on the same lot with the building or use served, except the required spaces may be located and maintained at a distance not to exceed six hundred twenty-five (625) feet from a C-1 or C-2 districted property abutting a State Road right-of-way.
2. Up to one hundred (100) percent of the parking spaces required to be provided off-site require a written agreement which is properly executed and maintained in the Galena Town Office.
3. In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, such parking space shall be established by a recorded covenant or agreement as parking spaces to be used in conjunction with the principal use and shall be reserved as such through an encumbrance on the title of the property to be designated as required parking space, such encumbrance to be valid for the total period of use or uses for which the parking is needed are in existence Certificated of the recording will be furnished to the Zoning Coordinator.

SECTION 42. DESIGN STANDARDS

Off-street parking spaces and aisle ways shall be designed in accordance with the following dimensional standards:

Table 42.1 Design Standards Table

Parking Angle	Stall Width	Stall Length	Aisleway Width
90 degrees	10 ft.	20 ft.	24 ft. for one- or two-way traffic
60 degrees	10 ft.	19 ft.	18 ft. for one-way traffic 22 ft. for two-way traffic
45 degrees	10 ft.	18 ft.	16 ft. for one-way traffic 22 ft. for two-way traffic
Parallel	9 ft.	22 ft.	16 ft. for one-way traffic 22 ft. for two-way traffic

1. **Minimum Area:** For the purpose of these regulations, and off-street parking space, in the C-1, C-2 or I districts, are an all-weather surfaced area not in a street or alley and having an area of not less than thirteen (13) feet in width and twenty (20) feet in length and two hundred sixty (260) square feet, or sufficient to accommodate ADA accessibility, exclusive of driveways, permanently reserved for the temporary storage of one (1) vehicle and connected with a street or alley by a paved driveway which affords ingress and egress for an automobile without requiring another automobile to be moved.
2. **Drainage and Maintenance:** Off-street parking facilities shall be drained to eliminate standing water and prevent damage to abutting property and/or public streets and alleys and surfaced with erosion-resistant material in accordance with applicable County specifications. Off-street parking areas shall be maintained in clean, orderly, and dust-free conditions at the expense of the owner or lessee and not used for the sale, repair or dismantling or servicing of any vehicles, equipment, materials, or supplies.

3. **Separation from Walkways and Streets:** Off-street parking places shall be separated from walkways, sidewalks, streets, or alleys by a wall, fence, curbing or other approved protective device, or by distance so that vehicles cannot protrude over publicly owned areas.
4. **Entrances and Exits:** Location and design of entrances and exits shall be in accord with the requirements of the applicable county or state regulations and standards. Landscaping, curbing, or required buffers shall be provided along lot boundaries to control the entrance and exit of vehicles or pedestrians.
5. **Interior Drives:** Interior drives shall be of adequate width to serve a particular design arrangement of parking spaces as identified in this Section.
6. **Marking:** Parking spaces in lots of more than ten (10) spaces shall be marked by painted lines or curbs or other means to indicate individual spaces. Signs or markers shall be used as necessary to ensure efficient traffic operation of the lot.
7. **Lighting:** Adequate lighting shall be provided if off-street parking spaces are to be used at night. The lighting shall be arranged and installed to minimize glare on the property in a residential area.
 - a. Any luminaire emitting more than 1800 lumens (with 1,700 lumens being the typical output of a 100-watt incandescent bulb) shall be fully shielded so as to produce no light above a horizontal plane through the lowest direct light-emitting part of the luminaire. (Such fixtures usually are labeled Dark Sky Certified or compliant.)
8. **Screening:** When off-street parking for ten (10) or more automobiles are located closer than fifty (50) feet to a lot in a residential district, or to any lot upon which there is a dwelling as a permitted use under these regulations, and where such parking areas are not entirely screened visually from such lot by an intervening building or structure, there shall be provided along the lot a continuous, visual screen with a minimum height of six (6) feet. Such a screen may consist of a compact evergreen hedge; foliage screening, or a wall or fence.

SECTION 43. GENERAL LOADING SPECIFICATIONS

Loading spaces in the C-1 and C-2 Districts shall be available on-street, in parking areas, or in rear alleyways. Loading space shall be an all-weather surface area not be in a street travel lane or parking area aisleway and shall have an area of not less than nine (9) feet in width and sixty (60) feet in length, connected with a paved street, alley or aisleway which affords ingress and egress for a commercial vehicle without impeding access of vehicles through the parking area, or emergency vehicles accessibility.

SECTION 44. AMERICANS WITH DISABILITIES ACT (ADA)

Parking requirements pursuant to compliance with the Americans with Disabilities Act shall be as set forth in Table 44.1, American with Disabilities Act.

Table 44.1 American with Disabilities Act Parking Minimum

	Column A	Column B	Column C
Number of Parking Spaces Provided (per lot)	Total Minimum Number of Accessible Parking Spaces (60" & 96" aisles)	Van Accessible Parking Spaces with minimum 96" wide access aisle	Accessible Parking Spaces with min. 60" wide access aisle
1 to 25	1	1	0
26 to 50	2	1	1
51 to 75	3	1	2
76 to 100	4	1	3
101 to 150	5	1	4
151 to 200	6	1	5
201 to 300	7	1	6
301 to 400	8	1	7
401 to 500	9	2	7

SECTION 45. THOROUGHFARE STANDARDS

All new public streets shall be designed to accommodate a mix of travel modes including vehicles, buggies, bicycles, and pedestrians. Pedestrian sidewalks, multi-purpose paths, and trails shall be contiguous, direct, and convenient. The transportation system shall be designed to the multiple streets, bicycle lanes, sidewalks, and pedestrian paths connect to adjacent neighborhoods and development and continue to adjacent development properties. Dead-end streets are prohibited, except street stubs are allowed, where necessary, at the edge of development to provide future connections to adjacent undeveloped properties, if the adjacent land is within the development area and is not within a designated preserve.

Specifications:

1. Pedestrian ways shall be secure, well lighted, and have good visibility.
2. Sidewalks at least five (5) feet in width, except for the C-1 and C-2 districts.
3. Pedestrian-scale streetlights (twelve (12) feet high) shall be provided at no greater than two hundred (200) foot intervals.
4. Sidewalks at least thirteen (13) feet in width shall be provided the entire length of property fronting a street in the C-1 or C-2 districts. Sidewalks of at least 6 feet shall be maintained or expanded in existing C-1 districts along Principal Arterials and connect to existing or planned sidewalks and shall be provided where appropriate, as depicted in Table 45.2, Thoroughfare Dimensions.
5. Restaurants shall be permitted in the C-2 to operate outdoor cafes on sidewalks, including within the public right of way in courtyards provided that pedestrian circulation and access to store entrances shall not be impaired to less than 6 (six) feet of clearance or width.

6. Buildings shall be oriented to directly face the street, a square, a common, a park, a plaza, or green, with front entrances and commercial display windows oriented directly to face a street, a park, a plaza, or green at the street level.
7. Interconnected streets shall be designed in a predictable block pattern to encourage people to walk and provide a variety of route options.
8. All streets and alleys shall terminate at other streets with the neighborhood, or development, and where appropriate connect to existing and projected through streets outside of the development.
9. The average perimeter of all blocks within the neighborhood shall not exceed sixteen hundred (1,600) feet. No block face shall have a length greater than five hundred (500) feet without a dedicated alley or vehicular pathway providing through access.
10. The street design shall balance the needs of drivers, pedestrians, and bicyclists as permitted with each of the zoning districts in Table 45.1, Allowable Street Type By Districts.
11. The long axis of neighborhood streets shall have appropriate termination with either a public park, public plaza, specifically designed building façade, or gateway.
12. There shall be a continuous network of service lanes or alleys to the rear of land uses occupied by shop fronts and attached houses.
 - a. Shared driveways and parking arrangements are encouraged.

**Table 45.1
Allowable Street Type By District**

Street Types	Functional Classification	R-1	R-2	C-1	C-2
Neighborhood Low (NL)	Local	X	X		
Neighborhood (N)	Local	X	X		
Avenue (AV)	Collector	X	X		
Service Drive (SD)	Collector				X
Commercial Avenue (CA)	Collector			X	X
Boulevard (Blvd)	Collector	X	X	X	X
Mainstreet (MS)	Principal Arterial		X	X	X
Edge	Local	X	X		
Alley	Local	X	X	X	X
Lane	Local	X	X		
Trail	Local	X	X	X	X

Table 45.2 – THOROUGHFARE DIMENSIONS

Context	NL	N	AV	SD	CA	Bldv	MS	Edge	Alley	Lane	Trail
Speed (max mph)	20-25	20-25	25	20-25	25	30	20-25	20-25	10	15-20	NA
Number of Lanes	1-2	1-2	2	2	2	2	2	1-2	1-2	1-2	NA
Lane Widths	7'-10'	7'-10'	9'-11'	10'-12'	9'-11'	9'-12'	9'-12'	7'-10'	8'	7'-10'	6'
Sidewalk Width (min)	5'	5'	5'	6'	6'	5'-6'	6'-13'	5'	NA	5'	NA
Planting Strip (width)	0'-10'	5'-10'	5'-10'	0'-12'	5'-10'	5'-12'	0'-12'	5'-10'	>5'	4'-10'	NA
Streetlight (spacing)	<80'	<80'	<80'	<80'	<80'	<80'	<80'	<80'	NA	<80'	NA
Parking (on-street)	7'-9'	7'-9'	8'-9'	8'-9'	8'-9'	8'-9'	8'-9'	7'-9'	NA	NA	NA

Note:

Tree wells may be used in Main Street (MS) locations.

Median strip in Avenue (AV) locations must exceed thirteen (13) feet.

Median strips in Boulevard (Bldv) locations must exceed twenty-three (23) feet.

NL – Neighborhood Low

N – Neighborhood

AV – Avenue

SD – Service Drive

CA – Commercial Avenue

BLVD – Boulevard

MS – Main Street

ARTICLE VII. GENERAL SIGN REGULATIONS

SECTION 46. STATEMENT OF INTENT

The purpose of this section is to establish minimum regulations for the design and display of signs and to ensure that signage promotes the safety of persons and property, promotes the efficient transfer of general public and commercial information, and protects the public welfare by enhancing the overall appearance and economic value of the community.

SECTION 47. DEFINITIONS OF SIGNS

The purpose of this section is to define certain terms and words pertaining to signs.

1. **Abandoned Sign:** A permitted sign which was erected on the property in conjunction with a particular use which use has been discontinued for a period of thirty days or more, or a permitted temporary sign for which the permit has expired.
2. **Banners, Flags, Pennants, and Balloons:** Any animated, rotating, fluttering, on a non-stationary device made of flexible materials designed to attract attention.
3. **Detached Sign:** A sign not attached to or painted on a building, but which is affixed to the ground. A sign attached to a flat surface, such as a fence or wall not part of a building, shall be considered a detached sign.
4. **Directory Sign:** A sign not attached to or painted on a building, but which is affixed to the ground. A sign attached to a flat surface, such as a fence or wall not a part of a building shall be considered a detached sign.
5. **Double-Faced Sign:** A sign with two faces, back to back, which are usually, but not necessarily, parallel, and located not more than twelve (12) inches from each other.
6. **Existing Sign:** Any sign that was erected, mounted, or displayed prior to the adoption of this Article.
7. **Façade:** The entire building wall, including parapet, fascia, windows, doors, canopy, and roof on any street-facing elevation.
8. **Flashing Sign:** An illuminated sign on which the artificial or reflecting light is not maintained stationary and constant in intensity and color all times when in use. Any sign the revolves or moves shall be considered a flashing sign.
9. **Flat Sign:** A sign affixed directly to or painted on or otherwise inscribed on an exterior wall and confined within the limits thereof of any building and which projects from that surface less than twelve (12) inches at all points.
10. **Illuminated Sign:** Any sign designed to give forth artificial light, reflect light from another source, or back-lighted by spotlights or floodlights not a part of or attached to the sign itself.
11. **Lumen:** The unit of measure used to quantify the amount of light produced by a lamp emitted from a luminaire (as distinguished from "watt," a measure of power consumption).
12. **Luminaire:** The complete lighting unit (fixture), consisting of a lamp, or lamps and ballast(s) (when applicable), together with the parts designed to distribute the light (reflector, lens, diffuser), to position and protect the lamps, and to connect the lamps to the power supply.

13. **Marquee Sign:** Any sign attached to or hung from a marquee. For the purpose of this Article, a marquee is a covered structure projecting from and supported by the building with an independent roof and is erected over a doorway or doorways.
14. **Nonconforming Sign:** Any sign which has a valid permit, was erected or displayed prior to the effective date of this Article or any subsequent amendment hereto and does not conform with the provisions of this Article.
15. **Portable Sign:** Any sign which is not permanently affixed to a building, structure, or the ground, or which is attached to the mobile vehicle.
16. **Projecting Sign:** A sign, other than a wall sign, which projects from and is supported by a wall of a building or structure. The term projecting sign includes a marquee sign.
17. **Seasonal/Holiday Sign:** A sign, used for emphasizing the celebration of a local or historic American holiday, which is erected for a limited period of time.
18. **Sign:** Any letters, figures, design, symbol, trademark, or illuminating device intended to attract attention to any place, subject, person, firm, corporation, public performance, or merchandise, whatsoever for advertising purposes. However, this shall not include an official court or public notices nor the flag, emblem, or insignia of a government, school, or religious group when displayed for official purposes.
19. **Sign Area:** That area with a line including the outer extremities of letters, fixtures, characters, and delineations, or within a line including the outer extremities of the framework or background of the sign, whichever line includes the larger area. The support for the sign, whether it be columns, a pylon, or a building or part thereof, shall not be included in a computation of sign area. Only one side of a double-faced sign shall be included in a computation of sign area. The area of a cylindrical sign shall be computed by multiplying one-half of the circumference by the height of the sign.
20. **Temporary Sign:** Any sign or information transmitting structures intended to be erected or displayed for a limited period.
21. **Window Sign:** Any sign which is painted on, applied to, attached to, or projected upon or within the exterior or interior of a building glass area, including doors, or located within a distance equal to the greatest dimension of the window is obviously intended for viewing from the exterior.
22. **Window Sign, Temporary:** A window sign of a temporary nature used to direct attention to the sale of merchandise, or a change in the status of the business, including, but not limited to, sign for sales, specials, going out of business, and grand openings.

SECTION 48. REQUIREMENTS

48.1 General

No sign shall be erected, hung, placed, or painted in any District except as hereby provided. Submission of an application for a sign permit is required.

1. No sign shall obstruct the view of traffic.
2. No sign shall be erected, high, affixed, painted, or otherwise displayed or altered unless a permit has been issued by the Zoning Coordinator.
3. Any sign existing as of the effective date of this Article which does not have a valid permit from the Town is deemed to be an illegal sign.
4. Area available for changeable letters shall be limited to fifty (50%) percent of the total sign area.

48.2 Nonconforming Signs

1. Any sign existing as of the date of this Ordinance is hereby deemed a nonconforming sign. All nonconforming signs must be removed within ninety (90) days of the effective date of this Ordinance.
2. A nonconforming sign may be maintained only by painting or refinishing the surface of the sign face or sign structure so as to keep the appearance of the sign as it was when the prior permit was issued.
3. Nonconforming signs which are structurally altered, relocated, or replaced shall comply immediately with all provisions of this code.
4. Upon a determination by the Zoning Coordinator and notice to the permittee that a nonconforming sign has become dilapidated or structurally unsound, such sign shall be removed within thirty (30) days.
5. When a business changes ownership or when a change of use occurs, all signs deemed nonconforming shall be removed and may be replaced with legal signs.

48.3 Exemptions (no permit required)

The following signs are exempt from the provisions of this Article subject to the following conditions.

1. Public signs of a non-commercial nature and in the public interest, erected by, or on the order of the Mayor and Council such as safety signs, danger signs, trespassing, traffic, memorial plaques, signs of historic events, civic events, and the like.
2. Institutional signs setting forth the name or simple announcement for any public charitable, educational, or religious institution, located entirely on the premises of the institution, up to an area of fifteen (15) square feet.
3. Construction signs which identify the architects, engineers, contractors, and other individuals or firms involved in the construction, each limited in area to six (6) square feet. The sign shall be confined to the construction site and shall be removed within fourteen (14) days of the beginning of the intended use of the project.
4. Real estate signs are limited in area to six (6) square feet. The sign shall be removed upon settlement.

5. Signs on a truck, bus, or other vehicles while in use in the normal course of business. This section should not be interpreted to permit parking for a display of a vehicle to which signs are displayed in a District where such signs are not permitted.

6. Political - Signs of political parties and candidates seeking public office; provided that such signs are removed within ten (10) days after the election.

7. **Open Flag/Open Sign** – in C-1 and C-2 Districts any business may display the following:

- a. One (1) **“Open”** flag is permitted; the size shall not exceed 3 feet x 5 feet
AND
- b. One (1) **“Open”** professionally constructed sign made not to exceed two (2) square feet;
AND
- c. One (1) **“Open”** non-illuminated professionally constructed sign made not to exceed two (2) square feet;
AND
- d. Signage measurements are calculated on a rectangular footprint/perimeter;

8. **Corner Lot: Open Flag/Open Sign** in C-1 & C-2 District – a corner lot shall face two (2) major thoroughfares. The following signs may be displayed:

- a. Two (2) **“Open”** Flags are permitted; each size shall not exceed 3 ft. x 5 ft. One (1) Open Flag may be visible from each thoroughfare;
AND
- b. Two (2) **“Open”** professional constructed illuminated signs; each sign shall not exceed two (2) square feet;
AND
- c. Two (2) **“Open”** non-illuminated professionally constructed signs; each sign shall not exceed two (2) square feet.
- d. Signage measurements are calculated on a rectangular footprint/perimeter;

9. **“No Trespassing”** or **“No Hunting”** signs with a limitation of two (2) signs, and each sign shall be limited to no more than two (2) square feet.

48.4 Permitted Signs – Permit application required and approval required by the Zoning Coordinator.

1. The following signs are permitted in any district:

- a. One nameplate, limited in area to two (2) square feet, to identify the owner or occupant of a dwelling.
- b. One non-illuminated sign, limited in area to two (2) square feet, to identify a permitted home occupation.
- c. Permanent directional signs limited in area to two (2) square feet.
- d. One sign limited in area to ten (10) square feet to identify a farm or approved subdivision.

2. The following signs and amount of signage are permitted in the C-1 or C-2 Commercial Districts:

- a. Total Square Footage of Signage Allowed

The total combined square footage of flat, projecting, or detached signs and may not exceed ten (10%) percent of the street-facing façade of the building housing the establishment with a maximum combined square footage of twenty-five (25) square feet.

b. Calculation of Sign Area

That area within a line including the outer extremities of letters, fixtures, characters, and delineations, or within a line including the outer extremities of the framework or background of the sign, whichever line includes the larger area. The support for the sign, whether it be columns, a pylon, or a building or part thereof, shall not be included in a computation of sign area. Only one side of the double-faced sign shall be included in a computation of sign area. The area of a cylindrical sign shall be computed by multiplying one-half of the circumference by the height of the sign.

3. The following are permitted in R-2 District with Special Exception (SE) and reviewed by Planning Commission:

a. Electronic Sign

- i. LED & illuminated product sign
- ii. No sign shall obstruct the view of traffic

4. **Selection of Sign Types:**

A. FLAT SIGN

1. **STREET-FACING FAÇADE** - One (1) flat sign is allowed per business establishment on the premises.

- a. The Area of the sign shall be calculated by the linear footage of the building frontage. One (1) square foot for each linear foot of building frontage.
- b. The total square footage may not exceed fifty (50) square feet for an individual flat sign.
- c. MORE THAN ONE BUSINESS ON THE PREMISES – each sign shall not exceed twenty-five (25) square feet.

2. **CORNER LOT**

- a. Businesses having Façade on a corner lot facing two (2) major thoroughfares may have signs on two (2) Façades if both are visible from the thoroughfares.
- b. First Façade – Area of the flat sign shall be calculated by the linear footage of the building frontage. One (1) square foot for each linear foot of building frontage. The total square footage may not exceed fifty (50) square feet for an individual flat sign.
- c. Second Façade – Total square footage of the flat sign shall not exceed fifty (50%) percent of the first façade sign with a maximum size of twenty-five (25) square feet for individual flat sign.
- d. The applicant may install the larger sign on either front façade.

3. **SIDE FAÇADE**

ACCESSORY USE - Approved by Planning Commission with conditions. An application, site plan/drawing with size and location of the signage is required.

Conditions

- a. One (1) side façade flat sign per business establishment provided it is visible from a thoroughfare.
- b. Total square footage of side façade flat sign shall not exceed fifty (50%) percent of front façade signage with a maximum size of twenty-five (25) square feet for individual flat sign.
- c. The applicant may install the larger sign on either the front or side façade.

OR

B. PROJECTING SIGN

1. One (1) projecting sign is allowed per business establishment on the premises. The total square footage of all projecting signs may not exceed ten (10%) percent of the street-facing façade of a building housing the establishment with a maximum size of twenty-five (25) square feet for an individual projecting sign. However; businesses having Façade s facing two major thoroughfares may have signs on both Façade s not to exceed twenty-five (25) square feet per sign and not to exceed twenty-five (25) square feet per façade.

OR

C. DETACHED SIGN

1. The total square footage of all detached signs shall not exceed ten (10%) percent of the street-facing façade of the building housing the establishment with a maximum of twenty-five (25) square feet for an individual detached sign. The sign shall be erected so as not to obstruct driver vision or safety not interfere with the passage of pedestrians. The lower portion of the outer framework of the sign shall be within twenty-four (24) inches of the ground elevation. The upper portion of the outer framework of the sign shall not be higher than eight (8) feet above the ground elevation. However; businesses having Façade s facing two major thoroughfares may have signs on both Façade s not to exceed twenty-five 25 square feet per sign, and not to exceed twenty-five (25) square feet per façade.

D. WINDOW SIGNS

1. Window graphics (to include stationary flags), which otherwise comply with this Article, may be displayed provided no more than twenty-five (25%) percent of the area of any window may be occupied by signage. Window signage shall not be counted toward the total amount of signage allowed per building façade, and the total amount of window signage shall not exceed ten (10) square feet per building façade.

E. DIRECTORY SIGN – is permitted in a Shopping Center/Plaza pursuant to the following conditions:

1. The directory sign shall not exceed a maximum size of fifty (50) square feet (one side) and maybe a double-faced sign. The upper portion of the sign shall not be higher than fifteen (15) feet above ground elevation.
2. The directory sign shall be located at the entrance of the Shopping Center/Shopping Plaza and shall not impact the traffic sightlines.
3. The directory sign shall be a flat sign containing the name of the Shopping Center/Shopping Plaza and the names of the business establishments in the Shopping Center/Shopping Plaza only.
4. The location of each sign shall be reviewed and approved by the Planning Commission as part of the site plan review process.

F. ELECTRONIC SIGNS with Special Exception (SE) and reviewed by the Planning Commission:

1. LED & illuminated product signs
2. No sign shall obstruct the view of traffic

G. PORTABLE SIGNS – sidewalk signs – A-Frames are permitted in all districts with approval by the Zoning Coordinator:

1. Only one (1) per business
2. Must not block sidewalk passage and not allowed in the street.
3. Can only be visible during business hours and must be taken off the sidewalk when business is closed.
4. The sign cannot exceed 48" in height and 30" in width.

48.5 Temporary Signs – Permit required and subject to permit conditions.

1. The following types of signs are classified as "temporary signs" which shall be made in a professional manner – no cardboard or paper.
2. The total area of temporary signs shall not exceed twenty (20) square feet, except for real estate signs which shall not exceed six (6) square feet per sign face.

a. **Special events and holiday signs.**

Time Limits: Special events and holiday signs including banners may be erected twenty-one (21) days preceding a special event and shall be removed within twenty-four hours following the event. The same or similar special event shall not be advertised more frequently than four (4) times per year. One extension may be granted for good cause by the Zoning Coordinator. "Holiday Signs" shall not be advertised more frequently than six (6) times per year.

b. **"Grand Opening" or "Going out of Business," and "Sale" signs for Businesses and services.**

Time Limits: "Grand Opening" signs may be erected for a period not to exceed fourteen (14) days. "Going out of Business" signs may be erected for a period not to exceed thirty (30) days. "Sale" signs may be erected for a period not to exceed seven (7) days. "Sale" events shall not be advertised more frequently than six (6) times per year.

c. **Signs for "Work Under Construction."**

Time Limits: Signs for work under construction may be erected upon the issuance of a building permit and shall be removed within seven (7) days following the issuance of an occupancy permit.

d. **Signs announcing the subdivision or development of land.**

Time Limits: Signs announcing the subdivision or development of land may be erected on the land being developed for a period not to exceed six (6) months. One (1) three (3) month extension may be granted by the Zoning Coordinator with good cause shown.

e. **Signs advertising the sale or lease of the property upon which they are located.**

Time Limits: Signs advertising the sale or lease of property shall be removed at the completion of the transaction advertised.

f. **Political signs.**

48.6 Prohibited Signs - The following signs are prohibited in all districts except noted:

1. LED & illuminated product signs, exposed neon tubing, exposed glass tubing containing either neon, argon, or other materials are prohibited in R-1 District.
2. Signs that are of a size, location, movement, content, coloring, or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic or street sign or signal.
3. Signs advertising an activity, business, product, or service no longer conducted on the premises.
4. Signs which contain or consist of pennants, ribbons, streamers, strings of light bulbs, spinners, or other moving devices.
5. Roof signs are prohibited.
6. Outdoor advertising structures, poster panels, or billboards, or signs of any other type of advertising products or services not available on the premises.
7. A sign which contains any moving, flashing, animated lights, visible moving or movable parts, or giving the appearance of animation.
8. Any sign or sign structure, any portion of which extends above the parapet, building roofline at the soffit, or canopy against with the sign is located. See APPENDIX E.
9. Except as otherwise provided, no sign whether temporary or permanent, except by a public agency, is permitted within any street or street right-of-way.
10. Signs painted on or attached to trees, fence posts, rocks, or other natural features, telephone or utility poles.
11. Inflatable signs.

48.7 Illumination

1. The light from an illuminated sign shall be so shaded, shielded for directed that the light intensity or brightness will not be objectionable to the surrounding area.
2. No sign shall have blinking, flashing, or fluttering lights or other illuminating devices which has a changing light intensity, brightness or color. Beacon lights are not permitted.
3. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.
4. Neither the direct nor reflected light from primary light sources shall create a traffic hazard to operators of motor vehicles on public thoroughfares.
5. Any luminaire with a lamp or lamps rated at a total of MORE than 1800 lumens, and all flood or spot luminaires with a lamp or lamps rated at a total of MORE than 900 lumens, used to illuminate the exterior surface of any sign shall not emit any direct light above a horizontal plane through the lowest direct-light-emitting part of the luminaire.
6. No sign shall obstruct the view of traffic.

SECTION 49. ENFORCEMENT (Signs)

49.1 Inspection, Removal, and Safety

1. Signs for which a permit is required may be inspected periodically by the Zoning Coordinator for compliance with this and other codes of the municipality.
2. All signs and components thereof shall be kept in good repair and in safe, neat, clean, and attractive condition.
3. A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer conducted on the premises. If the owner or lessee fails to remove it, the Zoning Coordinator shall give the owner fifteen (15) days written notice to remove it. Upon failure to comply with this notice, the zoning Coordinator or his duly authorized representative may remove the sign at the cost to the owner.
4. When a successor to a defunct business agrees to maintain the signs as provided in this code, this removal requirement shall not apply.

SECTION 50. PERMITS AND FEES

1. To defray some to the administrative costs associated with processing permit applications and inspections of signs, at the time of submission of an application for a sign permit, a non-refundable fee shall be paid.
2. Upon compliance with the provisions of the Article, the Zoning Coordinator shall make a decision to issue, deny, or issue with conditions a permit for such application. Permits shall be numbered and shall contain the following information.
 - a. The type of sign as defined in this Article.
 - b. The street address to the property upon which the sign is proposed to be located and the proposed location of the sign on the property.
 - c. The amount of the fee paid for the permit.
 - d. The date of issuance.
 - e. In the case of a temporary sign, the date of the expiration of the permit.
3. Failure to erect or complete the otherwise approved work related to the permitted sign within such ninety (90) day period shall result in the expiration of such permit. A thirty (30) day extension may be granted by the Zoning Coordinator for good cause shown.

ARTICLE VIII. SITE PLANS

SECTION 51. STATEMENT OF INTENT

See Appendix F – Plot Plan Information Requirements

Site Development Plans are required to ensure that new development complies with the Comprehensive Plan, Land Use Ordinance, and other agency requirements, thereby promoting the health, safety, and general welfare of the residents.

SECTION 52. REQUIREMENTS

52.1 Principle Areas of Concern

These procedures are to protect the health, safety, convenience, and general welfare of the inhabitants of the Town. Review regulates the development of structures and sites in a manner which considers the following concerns and, where necessary, requires modification of development proposals to eliminate or minimize potential problems and nuisances. The principal areas of concern are:

1. The balancing of landowner's rights to use their land, with the corresponding rights of abutting and neighboring landowners to live without undue disturbances (e.g. noise, smoke, fumes, dust, odor, glare, stormwater runoff, etc.);
2. The safety of vehicular and pedestrian movement within the site, and in relation to adjacent areas or roads;
3. The adequacy of disposal methods and protection from pollution of surface or groundwater;
4. The protection of natural, and environmental features on the site under review and in adjacent areas.

52.2 Objectives – Finding of Facts

At each stage of review for Minor and Major Site Plan review, the Zoning Coordinator or designee shall review the site plan supporting documents and prepare a finding of fact taking into consideration the reasonable fulfillment of the following objectives:

1. Conformance with the Comprehensive Plan.
2. Conformance with the provisions of all applicable rules and regulations of the town, county, state, and federal agencies.
3. Convenience and safety of both vehicular and pedestrian movement within the site and its relationship to adjoining ways and properties.)
4. Provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishment, adequate lighting, and internal traffic control.
5. Reasonable demands placed on public services and infrastructure.
6. Adequacy of methods for refuse disposal, and the protection from pollution of both surface water and groundwater. This includes minimizing soil erosion both during and after construction.
7. Protection of abutting properties from undue disturbance caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, odors, glare, stormwater runoff, etc.
8. Minimizing the area over which existing vegetation is to be removed. When tree removal is required, attention shall be given to the planting of replacement trees.

9. The applicant's efforts to integrate the proposed development into the existing landscape through design features such as buffers, roadside plantings, and the retention of open space.
10. The building setbacks, area, parking location, architectural compatibility, signage, landscaping, and how these features blend with the character of the neighborhood.

SECTION 53. PLOT PLANS

53.1 General Information

The purpose of a plot plan is to review projects that have a minor impact and thus, require less information plot plan that does not have to be to scale. Plot plans are reviewed and approved by the Zoning Coordinator.

53.2 Certain Uses

A site plan for single-family dwellings, accessory uses, and structures to single-family dwellings, additions, alterations, and remodeling to single-family dwellings and agricultural structures.

53.3 Plot Plan Information Requirements

See Appendix F – Plot Plan Information Requirements

53.4 Application Procedures - Plot Plan Review

1. Applications for the Plot Plan review shall be filed with the Zoning Coordinator. The submittal shall include:
 - a) site plan review application form
 - b) two (2) copies of the site plan
 - c) construction plans
 - d) any filing and review fees (MDIA, Kent County Planning Commission)
 - e) any other supporting documents as required by this Ordinance.
2. On the application, the Zoning Coordinator shall certify that the proposed use is a permitted use.
3. The Zoning Coordinator or designee, shall review the application and supporting documents of the objectives as listed under Section 54.3 Minor Site Plan Review Information Requirements.
4. The Zoning Coordinator shall approve, approve with conditions, or disapprove the plot plan.

SECTION 54. MINOR SITE PLAN REVIEW

54.1 General Information

1. The purpose of minor site plans is to assure that certain minor improvements are consistent with the applicable requirements of this Ordinance. Development requiring a minor site plan shall only be permitted in accordance with the approved plan.
2. Minor site plans shall be approved by the Planning Commission and Zoning Coordinator. A proposed minor site plan may be attached by the applicant to the building permit application of the proposed improvement and shall be reviewed by the Planning Commission concurrently with the building permit.
3. Minor site plans shall be prepared and certified by an engineer, architect, landscape architect, or land surveyor duly registered to practice in the State of Maryland.

54.2 Certain Uses

The following uses and developments require Minor Site Plan Review. These projects have less impact on the community, require less information, and have a short review and approval process. The Kent County Technical Committee (TAC) shall review new projects. The Zoning Coordinator may require minor site plan review by the TAC for the following:

1. Multi-family - Duplexes
2. Non-residential buildings with a gross floor area less than 7,500 square feet.
3. Non-residential additions that increase the size of the existing building by a maximum of ten (10%) percent.
4. Change in Use that does not include additions that increase the size of each existing building by more than ten (10%) percent.
5. Change in vehicular access points in an existing non-residential or multi-family development.

54.3 Minor Site Plan Review Application Information Requirements

See Appendix F – Plot Plan Information Requirements

54.4 Application Procedures – Minor Site Plan Review

1. Applications for minor site plan shall be filed with the Zoning Coordinator. The submittal shall include a site plan review application form, along with ten (10) copies of the site plan, any filing and review fees, and any other supporting documents as required by this Ordinance. A pre-submission conference is recommended but not required.
2. On the application, the Zoning Coordinator shall certify that the proposed use is a permitted use.
3. The Zoning Coordinator or designee, shall review the site plan and supporting documents, taking into consideration and prepare findings of fact concerning the reasonable fulfillment of the objectives as listed under Section 52.2 Objectives, Finding of Facts
4. Kent County Technical Committee (TAC) may review the proposal.
5. The site plan application shall be placed on the appropriate Planning Commission Agenda.
6. The town shall notify the owner of the date and time of the Planning Commission Meeting.
7. The Zoning Coordinator may approve minor site plans. At his/her discretion a minor site plan may be submitted to the Planning Commission for approval, approval with conditions, or disapprove minor site plans.
8. The applicant shall submit to the Zoning Coordinator four (4) copies of the approved site plan for signatures. One (1) copy for the Town, one copy for the Kent County Health Department if applicable, one (1) copy for the owner, and one copy for other applicable agencies. Where deemed necessary, the Zoning Coordinator may require additional copies of the signed plat.

SECTION 55. MAJOR SITE PLAN REVIEW

55.1 General Information

1. The purpose of major site plans is to assure detailed compliance with applicable provisions of enacted regulations and to prescribe standards for the design and construction of site improvements.

2. Site plans for all residential development shall be prepared and approved as set forth to the requirements of this Ordinance.
3. Development requiring major site plan approval shall be permitted only in accordance with all specifications contained on an approved site plan and shall not be undertaken until the site plan is approved and all required construction permits have been obtained subsequent to such approval.
4. Upon determination by the Zoning Coordinator, in those cases where a field inspection indicates that the scope of the proposed building, addition, accessory use, or special exception is of such a nature that the provisions for the handling of natural and stormwater, sediment control, off-street parking, set-backs, water and sewerage, and other requirements cannot be adequately addressed with a building permit or minor site plan, a major site plan shall be required.
5. Major site plans shall be prepared and certified by an engineer, architect, landscape architect, or land surveyor duly registered to practice in the State of Maryland.
6. Information required to be included in a major site plan shall be shown in Appendix F, Plot Plan Information Requirements.
7. Major site plans shall be prepared and certified by an engineer, architect, landscape architect, or land surveyor registered to practice in the State of Maryland.
8. If such plans are prepared in more than one sheet, match lines shall clearly indicate where the several sheets join, and an index sheet shall be required.
9. An appropriate number of copies of all major site plans shall be submitted to the Zoning Coordinator. Such an office may require that additional copies be provided when necessary.
10. The Kent County Technical Advisory Committee (TAC) will be asked to review these projects.
11. The Planning Commission reviews and approves Major Site Plans.

55.2 Certain Uses – Major Site Plan

All commercial development, multi-family dwellings (townhouses, apartments), special exceptions, institutional, public facilities, and quasi-public facilities require a Major Site Plan. For multi-family development, the approved site plan shall be recorded in the office of the Zoning Coordinator. Prior to such recordation, a Public Works Agreement guaranteeing the construction of required improvements shall be executed between the developer and the Town.

55.3 Major Site Plan Application Information Requirements

See Appendix F - Plot Plan Information Requirements

55.4 Procedures – Major Site Plan

Applications for Major Site Plan shall be filed with the Zoning Coordinator.

1. There are three review steps – Concept, Preliminary, and Final.
 - a. The submittal shall include a site plan review application for each step along with ten (10) copies of the site plan, any filing and review fees, a narrative, and any other supporting documents as required by this Ordinance. A pre-submission conference is recommended but not required.
2. On the application, the Zoning Coordinator shall certify that the proposed use is a permitted use.

55.5. Concept – Major Site Plan Review

The concept plan review process will review at a conceptual level, the feasibility, design, and environmental characteristics of the proposal based on the standards set forth in this Ordinance, the Comprehensive Plan. Additional technical engineering design material, survey work, and preparation of other site plan documents will be submitted for review at a later step in the major site plan review process.

1. Concept application form, fees, and ten (10) copies of the plan shall be submitted to the Zoning Coordinator.
2. The Zoning Coordinator shall submit the completed application, the plat, and supporting documentation for the next meeting of the Kent County Technical Advisory Committee (TAC).
3. Technical Advisory Committee (TAC) reviews the concept major site plan application and submits comments to the Zoning Coordinator and applicant.
4. The Zoning Coordinator or designee shall review the concept, Major Site Plan.
5. Upon receipt of the TAC comments, the Zoning Coordinator or designee's review, then the town shall place the concept major site plan application on the appropriate Planning Commission Agenda for concept review.
6. The Town shall notify the owner of the date and time of the Planning Commission Meeting.
7. The Zoning Coordinator shall send notice of the proposed project to the adjacent property owners using the last known address found in the Maryland Assessment & Taxation Real Data Property Search. Notification of adjoining property owners shall be made by certified mail. The entity responsible for preparing the major site plan or owner shall submit reimbursement for the full cost of the notice to the Zoning Coordinator prior to the scheduled Planning Commission meeting.
8. The Planning Commission will comment and provide guidance as to the feasibility, design, and environmental characteristics of the proposal based on the standards set forth in this Ordinance.
9. There is no approval at this stage.
10. After a conceptual review of the site plan, the applicant shall submit to the Zoning Coordinator the preliminary plan and supporting documents required by this Ordinance.

55.6 Preliminary Plan Major Site Plan Review

The preliminary review process will review the project's compliance with the Zoning Ordinance and Comprehensive Plan. At this stage, the applicant must demonstrate adequate provisions for traffic and circulation patterns, internal and external relations to major thoroughfares, utilities, provisions for open space, fire protection, preliminary stormwater management which is reviewed and approved by Kent County, Forest Conservation Plans, harmonious, and appropriate use in accord with the objectives of the Comprehensive Plan.

1. Preliminary Plan application form, fees, and ten (10) copies of the preliminary plan with supporting documentation shall be submitted to the Zoning Coordinator or designee for review.
2. The Zoning Coordinator shall submit the completed preliminary major site plan application, the plat, and supporting documentation for the next meeting of the Kent County Technical Advisory Committee (TAC).
3. Technical Advisory Committee (TAC) reviews the preliminary major site plan application and submits comments to the Zoning Coordinator and applicant.

4. The Zoning Coordinator or designee shall review the preliminary major site plan for compliance with these regulations and the requirements of preliminary site plans.
5. Upon receipt of the Kent County Technical Advisory Committee (TAC) comments, and a completed preliminary application, the town shall place the preliminary major site plan application on the appropriate Planning Commission Agenda for preliminary review. The Planning Commission will comment and provide guidance as to the feasibility, design, and environmental characteristics of the proposal based on the standards set forth in this Ordinance.
6. The town shall notify the owner of the date and time of the Planning Commission meeting.
7. At least twenty (20) days prior to the scheduled meeting of the Planning Commission, the Zoning Coordinator shall send notice of the proposed project to the adjacent property owners using the last known address found in the Maryland Assessment & Taxation Real Data Property Search Notification of adjoining property owners shall be made by certified mail. The entity responsible for preparing the major site plan or owner shall submit reimbursement for the full cost of the notice to the Zoning Coordinator prior to the scheduled Planning Commission meeting. Property owners may send comments on the project or make comments at the Planning Commission meeting.
8. In the case where a project has not appeared before the Planning Commission for six (6) months, the entity responsible for preparation shall send notice of the proposed project to adjacent property owners using the last known address found in the Maryland Assessment & Taxation Real Data Property Search.
9. The Planning Commission may approve, approve with conditions, or disapprove the preliminary site plan.
 - a. Conditional approval shall include a complete list and a clear explanation of all conditions.
 - b. The denial shall include a listing of reasons for the denial.
 - c. If the Planning Commission determines that more information is required for a decision to be made on the proposal, they may table its consideration of the preliminary subdivision.
10. The Planning Commission may establish additional requirements for preliminary site plans, and in special cases, may waive a particular requirement if, and in its opinion, the inclusion of that requirement is not essential to a proper decision on the project.
11. After approval or approval with conditions of the preliminary major site plan, the applicant shall submit to the Zoning Coordinator, the final plat and supporting documents required by this Ordinance.

55.7 Final Major Site Plan Review

The final review process will review the final plat and supporting documents for compliance with all applicable regulations and shall include approved final improvement plans, deed restrictions, conservation easements, irrevocable letters of credit or other surety acceptable to the Mayor and Council.

1. Final application form, fees, and ten (10) copies of the plan with supporting documentation shall be submitted to the Zoning Coordinator or designee for review.
2. The Zoning Coordinator shall submit the completed final major site plan application, the plat, and supporting documentation for the next meeting of the Kent County Technical Advisory Committee (TAC).
3. Technical Advisory Committee (TAC) reviews the final major site plan application and submits comments to the Zoning Coordinator and applicant.
4. The Zoning Coordinator or designee shall review the final major site plan.

5. Upon receipt of the TAC comments, and the final application is complete, then the town shall place the final plat on the appropriate Planning Commission agenda for final review.
6. The town shall notify the owner of the date and time of the Planning Commission meeting.
7. In the case where a project has not appeared before the Planning Commission for six (6) months, the entity responsible for preparation shall send notice of the proposed project to adjacent property owners using the last known address found in the Maryland Assessment & Taxation Real Data Property Search.
8. The Planning Commission shall prepare Findings of Fact concerning the reasonable fulfillment of the objectives as listed under Section 103 Procedure.
9. After approval of the final site plan, the applicant shall submit to the Zoning Coordinator, four (4) copies of the approved site plan for signatures. One copy for the town, one copy for the Health Department if applicable, one copy for the owner, and other applicable agencies. Where applicable, the Zoning Coordinator may require additional copies of the signed plat.

55.8 Construction of Required Improvements

1. Upon approval of a site plan, the applicant shall then secure the necessary construction permits from appropriate agencies before commencing work. The applicant may construct only such improvements as have been approved by the Planning Commission.
2. After construction has been completed, an inspection of site improvements shall be made by the departments certifying to the applicable requirements as shown on the site plan. The applicant shall then secure a certificate of occupancy before use of the site may commence.
3. The installation of improvements as set forth in this Ordinance shall not bind the Town to accept such improvements for the maintenance, repair, and operation thereof; requirements for said improvements shall be in addition to (and not in lieu of) any other legal requirements.

SECTION 56. SITE PLANS

See Appendix F – Plot Plan Information Requirements.

1. Both Major and Minor shall expire after twelve (12) months unless otherwise extended. Site plans approved prior to the date of adoption of this Ordinance shall expire six (6) months after that date unless otherwise extended.
2. Site plans under appeal shall be automatically extended for twelve (12) months.
3. Extension - when the applicant can diligently show that the project is progressing, a site plan may receive an extension.
4. Major Preliminary Site Plan Approval – shall become null and void at the end of one (1) year from the date of approval. However, the Planning Commission at their regular monthly meeting may grant one six (6) month extension upon the written application of the applicant. A request for extension of preliminary site plan approval shall be filed thirty (30) days prior to the end of the one-year approval period. A disapproved or voided preliminary site plan has no status and any further consideration or review submission shall be treated as a new application.
5. Major Final Plat approval shall become null and void at the end of one (1) year from the date of approval if recordation has not taken place. However, the Planning Commission at their regular monthly meeting may grant one (1) six (6) month extension upon the written application of the applicant. A request for extension of final plat approval shall be filed thirty days (30) prior to the end of the one-year approval period. A disapproved or voided final plat has not status and any further consideration or review submission shall be treated as a new application.

SECTION 57. APPEALS

Within thirty days of the decision, any person aggrieved by a decision of the Planning Commission may file a notice of appeal with the Circuit Court.

SECTION 58. FEES

The Mayor and Council shall establish fees for the review of site plans.

SECTION 59. SITE PLAN AMENDMENT

A site plan approved under this Ordinance, including any conditions or guarantees attached to its approval, may be amended in accordance with this section. If the Planning Zoning Commission determines that the amendment does not represent a significant change from the use or character of the site plan as originally approved or in previously approved amendments, the Planning Commission may approve the amendment. Any site plan or site plan amendment previously reviewed by the Kent County Technical Advisory Committee (TAC) must be reviewed again by the (TAC).

If the Planning Commission determines that the amendment represents a significant change from the use or character of the original site plan and previously approved amendments or that the amendment requires more detailed review, the proposed amendment shall be regarded as an original application for a site plan and follow the procedures for review for a new site plan.

ARTICLE IX. SPECIAL PROVISIONS

SECTION 60. THE TOWN OF GALENA, THE CODE OF ORDINANCE, FOREST CONSERVATION ORDINANCE, CHAPTER VII, ARTICLE IV, SEPTEMBER 1, 1993 – Refer to APPENDIX J

SECTION 61. KENT COUNTY, MARYLAND, EROSION & SEDIMENT CONTROL COUNTY REVIEWS – Refer to APPENDIX K

SECTION 62. KENT COUNTY, MARYLAND, STORMWATER MANAGEMENT COUNTY REVIEWS – Refer to APPENDIX L

ARTICLE X. ENVIRONMENTAL STANDARDS AND OPEN SPACE

SECTION 63. PROVISION OF COMMON OPEN SPACE

1. Common open space shall be an integral part of all major subdivisions.
 - a. Unify the entire project.
 - b. Reduce conflicts between incompatible activities and uses.
 - c. Provide active recreation areas.
 - d. Provide passive recreation opportunities.
 - e. Provide for the protection of sensitive natural and/or cultural resources.
 - f. Provide for the protection of historically significant resources.
 - g. Avoid fragmentation of large areas of contiguous habitat.
2. Common open space (spaces designed and intended for the use and enjoyment of all residents of the development) may contain such complementary structures, improvements as are necessary and appropriate for the use, benefit, and enjoyment of residents of the development. Common open space areas shall meet the following requirements:
 - a. Be exclusive of road rights-of-way and parking areas.
 - b. Equal or exceed the percentages of the gross site area required in Minimum Yard Requirements, Density, and Open Space.
 - c. No more than forty (40) percent of the common open space required shall consist of those areas designated as nontidal or tidal wetlands.
 - d. At a minimum, fifteen (15) percent of the required open space shall not consist of perennial or intermittent stream buffers, nontidal wetlands or buffers, steep slopes, or habitats of rare, threatened and endangered species.
3. Common open space design shall consider all existing natural and culturally/ historically significant man-made features and plan for their protection and enhancement. These include, but are not limited to:
 - a. Watercourses or bodies and associated floodplain or floodway.
 - b. Rare, threatened or endangered species and associated habitat protection areas needed to ensure species survival.
 - c. Culturally and historically significant sites and/or structures as determined by guidelines established by the Planning Commission and the Maryland Historical Trust.
 - d. Applicants for any new development shall make every possible attempt to locate required open space next to any significant and permanent open space areas on-site or on adjacent or abutting sites.
4. Common open space may serve recreational purposes, preserve significant site features, and preserve open space. The uses authorized shall be appropriate to the purposes intended to be served. Open space designed to serve recreational purposes shall be appropriate to the scale and character of the development, considering its size, density, expected population, and the number and type of dwelling units proposed.
5. Common open space will be suitably improved for its intended use, except that common open space containing natural features worthy of protection may be left unimproved. The buildings, structures, and improvements to be permitted in the common open space must be appropriate to the uses which are authorized for the common space.

SECTION 64. OPEN SPACE REQUIREMENT

1. Common open space shall be provided in subdivisions in accordance with Article V, District Regulations, and Appendix I, Land Subdivision Ordinance May 4, 1998.
2. Open space shall be provided in apartment projects in accordance with Article V, District Regulations, and Appendix B, Height, Area, Bulk, and Design Requirements.

SECTION 65. COMMON OPEN SPACE - OWNERSHIP

1. Private Ownership. If common open space or open space areas or facilities are not dedicated to public use, they shall be protected by legal arrangements, satisfactory to the Planning Commission, sufficient to assure their maintenance and preservation for whatever purpose they are intended. Covenants or other legal arrangements shall specify the ownership of the open space, method of maintenance, maintenance taxes and insurance, compulsory membership and compulsory assessment provisions and guarantees that any association formed to own and maintain open space will not be dissolved without the consent of the Planning Commission. Nothing in this Ordinance shall be construed so as to prohibit a homeowner's association from leasing common open space for agricultural purposes and restricting access to common open space to promote agricultural operation.
2. It is the intent of this Ordinance that common open space in subdivisions be privately owned by those subdivisions' Homeowners' Associations, consistent with Maryland corporate law and in conformity with the requirements of the Corporate Charter Division of the Maryland Department of Assessment and Taxation.
3. It is the intent of this Ordinance that open space in apartment developments be privately owned by those developments' owners, consistent with Maryland corporate law.

SECTION 66. MANAGEMENT OF COMMON OPEN SPACE PROPERTY

1. The developer shall ensure that the common open space and improvements not dedicated and accepted for public ownership are maintained and cared for, and the developer shall provide for and establish an organization for the ownership, maintenance, and preservation of open space which shall conform to the following standards and procedures:
 - a. The organization shall be established by the developer before the sale or rental of lots or dwelling units in the development.
 - b. The financial and organizational structures, rules of membership, and methods of cost assessment of the organization shall be devised to ensure the successful fulfillment of the maintenance, preservation, and improvement responsibilities of the organization.
 - c. All property owners within the development shall be required to participate in such an organization and shall be responsible for maintenance, preservation, and improvement of common open space lands.
 - d. Areas set aside to meet the open space requirements hereof shall be adequately described. Instruments in the form of deed restrictions and/or covenants shall be provided to ensure the purpose for which the open space is provided will be achieved. Said instruments shall be approved by the Planning Commission counsel prior to recordation among the Land Records of Kent County.

SECTION 67. BOND FOR OPEN SPACE IMPROVEMENTS

Prior to the recordation of a final plat, there shall be delivered by the owner or developer some form of surety acceptable to the Town in an amount as specified by the Town, or the execution and recordation of a subdivision agreement, which shall be submitted with the final subdivision plat. The subdivision agreement or surety shall secure an agreement to construct such required physical improvements as identified in any proposed plan of development.

SECTION 68. FLEXIBILITY IN ADMINISTRATION AUTHORIZED

1. The requirements set forth in this article concerning the amount, size, location, and nature of recreational facilities in connection with residential developments are established by the Town as standards that presumptively will result in the provision of that amount of recreational facilities that is consistent with officially adopted Town plans. Nothing in this section shall be construed so as to allow a lesser open space percentage than required in Article V, District Regulations.

ARTICLE XI. LANDSCAPING REQUIREMENTS

SECTION 69. LANDSCAPE STANDARDS

For all Major Subdivisions, and commercial and industrial development required to file a "Major Site Plan" as prescribed by this Ordinance, the following shall apply:

1. Landscaping shall be provided as required in Article XI Landscaping Requirements.
2. Landscaping shall meet the standards outlined in the State Forest Conservation Regulations.

SECTION 70. LANDSCAPE PLAN REQUIRED

1. Landscape design and landscape planning shall be guided by an overall landscape plan, which may be approved in sections by the Planning Commission but must follow an overall harmonious theme designed to provide an aesthetically pleasing result.
2. The landscape plan shall be approved prior to final site plan and/or final subdivision plat approval. The plan shall show the information required for a planting plan.
3. Town of Galena, The Code of Ordinance, Forest Conservation Ordinance, Chapter VII, Article IV Appendix J.

SECTION 71. STREET TREES REQUIREMENTS

1. Along both sides of all newly created streets a developer shall plant or retain sufficient trees so that, for every fifty (50) feet of street frontage, there is at least one deciduous tree that has or will have when fully mature a trunk at least 12 inches in diameter.
 - a. A ten-foot-wide planting easement shall be established on each newly created lot for the purpose of permitting a developer to plant or retain sufficient trees to meet the street tree requirements.
 - b. The spacing between and/or actual placement of the street trees may be modified by the Planning Commission in order to create a more harmonious design or to achieve the land use goals of this ordinance and/or the Comprehensive Plan. Nothing in this section shall be construed so as to allow a lesser amount of street trees than otherwise required.
2. Street trees shall be included in a Landscape Plan and guaranteed by bond or other means acceptable to the Planning Commission and/or Zoning Coordinator.
3. Street trees and planted buffers may count towards the required minimum Open Space as determined by the Planning Commission and/or the Zoning Coordinator.

SECTION 72. BUFFER YARDS

1. Standards for Buffer yard design, where required, are contained in Appendix D, Standards for Buffer Yards Design

2. Required buffer yards are required as specified for various applications in this ordinance. They will separate different zoning districts from each other in order to eliminate or minimize potential nuisances such as dirt, litter, noise, the glare of lights, signs, and unsightly buildings or parking areas, or to provide spacing to reduce adverse impacts of noise, odor, or danger from fires or explosions.
3. As part of the overall site landscaping plan, buffer yards shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line. Buffer yards shall not be located on any portion of an existing or dedicated public or private street or right-of-way. No parking shall be permitted within any required buffer yard.
4. A buffer yard may be used for passive recreation or stormwater management. It may contain pedestrian, bike, or equestrian trails provided that:
 - a. The required planting units of the appropriate buffer yard in Appendix D are provided.
 - b. The total width of the buffer yard is maintained.
 - c. All other regulations of the Ordinance are met.
5. Where existing vegetation is to be used to meet the requirements contained herein, the surety requirement may be modified appropriately. However, to the extent that existing vegetation is or will be inadequate to meet the standards set herein, a landscape plan meeting all of the requirements herein must be submitted.
6. All plantings shall be inspected by the Town upon notification by the developer or owner, and shall be approved according to the following standards:
 - a. The planting shall adhere to the approved plan. Substitutions or revisions may be made in writing with the approval of the Town.
 - b. All plants shall be protected from vehicular encroachment by wheel stops, curbs, or other barriers unless distance provides adequate protection.
 - c. No planting shall result in vegetative growth exceeding thirty-six (36) inches in height, within thirty (30) feet of any street intersection or otherwise obstruct sightlines.
7. All service structures in attached housing projects shall be fully screened by a buffer yard at least five (5) feet in width. Dumpsters shall be fenced. All service structures in business or industrial districts shall be similarly, and fully, screened when located within one hundred (100) feet of a public right-of-way or residential district.
8. For the purposes of this Article, service structures shall include propane tanks, dumpsters, air conditioning units and condensers, electrical transformers, and other equipment or elements providing service to a building or a site.

SECTION 73. BONDING AND FINANCIAL SECURITY OF PLANTINGS

1. The landscape plan shall be accompanied by an estimate of the installation and maintenance costs for all landscape material.
2. Upon approval of the plan and cost estimate, the developer or owner shall enter into an agreement with the Town to provide plantings as required. The agreement shall be in form and substance as approved by the Town and shall be accompanied by a performance bond or other approved surety executed by the owner or developer in the amount of two hundred (200) percent of proposed plant materials, labor, and maintenance costs. The surety shall:
 - a. Assure that the buffer yard planting and maintenance is in accordance with the approved planting plan;
 - b. Be payable to the Town of Galena

- c. Be issued by a financial institution authorized to do business in Maryland;
 - d. Executed prior to recordation or final plan approval; and
 - e. May not be canceled by the surety, bank, or other issuing entity unless both of the following conditions are satisfied:
 - (1) The Town and the obligee are notified in writing by registered mail of the intent to cancel not less than ninety (90) days prior to the cancellation; and
 - (2) At least forty-five (45) days prior to the cancellation date indicated in the notice, the obligee files a commitment for a surety, bank, or other issuing entity to provide substitute security which will be effective on the cancellation date indicated in the notice.
 - f. Any surety, bank, or other issuing entity that cancels the financial security without meeting the requirements of the previous section shall be subject to penalties as outlined in Article XIX of this Ordinance.
3. The person required to provide financial security under this Section may request a reduction of the amount of the financial security by submitting a written request to the Zoning Coordinator with a justification for reducing the financial security amount, including estimated or actual costs to ensure requirements are met. The amount may be reduced by no more than fifty (50) percent of the initial financial security amount. At the time of the reduction request, the person may also change the type of guarantee with the approval of the Town.
4. The request for the release of a bond shall follow the schedule outlined below. The release dates given are the earliest dates from which any release may be granted. Releases are not guaranteed and shall reflect the success rate of the landscape plan being inspected.

<u>Plant Date</u>	<u>Partial Release</u>	<u>Full Release</u>
before 5/15	9/15 same year	9/15 following year
5/15 - 6/30	6/1 following year	9/15 following year
after 6/30	9/15 following year	9/15 second year

5. The Town will determine if a lesser amount of financial security is sufficient to cover the costs associated with the landscape plan, taking into account:
- a. Number of acres;
 - b. The proposed methods of planting and maintenance;
 - c. The cost of planting materials, labor, and maintenance replacement;
 - d. The types of material used; and
 - e. Other relevant factors.
6. If, after the dates for full release given in subsection four (4) above, the plantings associated with the planting plan meet or exceed the standards contained in the approved landscape plan, the amount of the cash bond or other financial security shall be released. The full or complete release of the financial security shall follow the procedure below:
- a. The financial security may be released on receipt of written notice from the Zoning Coordinator stating that all the planting requirements have been met.
 - b. Written notice shall be sent at the end of the required monitoring and maintenance period unless, as provided in Subsection 7 below or non-compliance with this Section is determined by the Zoning Coordinator.

- c. If Town fails to send written notice by the end of the monitoring and maintenance period, the financial security shall be automatically released unless as provided in Subsection 7.
7. Forfeiture of Bonding or Financial Security.
- a. Forfeiture of the bond or financial security may be required if the obligee fails to:
 - (1) Implement the landscape plan or any element thereof; or
 - (2) Implement a corrective action necessary to complete or carry-out the landscape plan as determined by the Zoning Coordinator.
 - b. The Town shall notify the obligee, by certified mail, of the intention of the Planning Commission to initiate forfeiture proceedings.
 - c. The obligee has thirty (30) days from the receipt of the notice of forfeiture to show cause why the bond or financial security may not be forfeited.
 - d. If the obligee fails to show cause, the bond or financial security shall be forfeited.
 - e. The Town shall use the forfeited bond or financial security to perform the planting plan.

SECTION 74. MODIFICATION TO BUFFER YARDS FROM COLLECTOR OR ARTERIAL ROADWAYS

Buffer yards are designed to lessen the impact of new development by providing screening and, as such, are required along with collector and arterial roadways in major subdivisions. It is recognized, however, that rural character and/or agriculture could be better preserved if the location and/or extent of the buffer yard is modified. Therefore, the Planning Commission may modify the location of the required buffer yards in major subdivisions to maintain open vistas and/or to better screen the new development from the adjacent collector or arterial roadways. The Planning Commission may also reduce or eliminate the buffer yard requirement to the extent that existing site conditions provide for adequate screening of the new development from the adjacent collector or arterial roadways. This section does not apply to buffer yards from agricultural uses.

ARTICLE XII. NONCONFORMING USES

SECTION 75. NONCONFORMING USES

Any use of land or building actually existing at the time of the passage of this Ordinance and which does not conform with the requirements of regulations of the District in which it is located shall be known as nonconforming.

1. **Continuance.** The lawful use of land existing on the effective date of this Ordinance, although such use does not conform to the regulations specified for the District in which such land is located, maybe continued provided that no such use shall be enlarged or increased, nor be extended to occupy a greater area than that occupied by such use at the time of the adoption of this Ordinance and that if any use ceases the subsequent use of such land shall be in conformity to the regulations specified for the District in which such land is located.
2. **Restoration after Damage or Reconstruction.** Nothing in these regulations shall prevent the continuance of use or the reconstruction of a structure occupied by a lawful nonconforming use destroyed by fire, explosion, an act of God or, an act of the public enemy, as it existed at the time of such destruction provided that a permit is obtained and reconstruction has begun within six (6) months after the occurrence unless an extension is granted by the Board of Appeals.
3. **Discontinuance of Nonconforming Use.** No building or portion thereof used in whole or part for a nonconforming use which remains idle or unused for a continuous period of one year, whether or not the equipment or fixtures are removed, shall again be used except in conformity with the regulations of the District in which such building or land is located.
4. **Intermittent Use.** The casual intermittent, illegal use of land or buildings shall not be sufficient to establish the existence of a nonconforming use, and the existence of a nonconforming use on a part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.
5. **Ordinary Repair and Maintenance**
 - a. The normal maintenance and repair of the replacement, installation, or relocation of non-bearing partitions, fixtures, wiring, or plumbing may be performed on any structure that is devoted in whole or in part to the nonconforming use or structure. Neither this nor any other provision of this section shall be interpreted to authorize an increase in the size or degree of the nonconforming use or structure in violation of the provisions of any other subsection of this section.
 - b. Nothing in this Section shall be deemed to prevent the strengthening or restoring of a structure to a safe condition by order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition.
6. **Existence of a Nonconforming Use of Land or Buildings.** Whether a nonconforming use exists shall be a question of fact and shall be decided by the Board of Appeals after public notice and hearing and in accordance with the rules of the Board. Those nonconforming uses validly existing prior to the adoption of the Ordinance may continue without Board of Appeals approval, if the property owner produces a permit which had been validly issued by the Town of Galena pursuant to the terms of the prior Ordinance.

SECTION 76. NONCONFORMING STRUCTURES

1. **Continuance.** A lawful nonconforming structure existing on the effective date of this Article may be continued, repaired, maintained, or altered, subject to the provision of this Section.
2. Additions or Enlargements to Nonconforming Structures
 - a. A lawful nonconforming structure may be altered or enlarged if the addition satisfies one or more of the following conditions:
 - 1) The proposed addition when considered independently of the existing structure complies with the standards and regulations of the Zoning Ordinance.
 - 2) The nonconforming building is not expanded beyond its current footprint, including adjoining patios, driveways, and sidewalks. Impervious surfaces on the site are not increased as a result of the addition. The building, after the addition, conforms to the height regulations applicable to its zoning district.
 - 3) The addition does not project any further into a required side yard setback than the existing building and the enlarged building complies with height regulations.
3. **Moving of Nonconforming Structures.** A lawful nonconforming building or structure shall not be moved in whole or in part to another location on its lot unless every part of the structure conforms to all site development regulations applicable to the applicable zoning district.
4. **Repair of Nonconforming Structures.** Nothing in these regulations shall prevent the repair or reconstruction of a lawful nonconforming building damaged by fire, explosion, an act of God or, an act of the public enemy provided that the degree of nonconformity is not increased, that a permit is obtained, and construction has begun within six (6) months after the occurrence unless an extension is granted by the Board of Appeals.

SECTION 77. NONCONFORMING LOTS

Nonconforming lots of record existing at the time of the adoption of this Ordinance shall be exempt, unless otherwise provided, from the minimum lot area and lot width requirements of each zoning district. Such lots may be developed with any use allowed by the regulations for the district and must comply with all other site development regulations set forth by this Ordinance.

SECTION 78. NONCONFORMING SIGNS

Refer to ARTICLE VII, GENERAL SIGN REGULATIONS

ARTICLE XIII. PERMITS AND APPROVAL PROCESS

SECTION 79. APPROVALS

1. All departments, officials of the Town of Galena that are vested with the duty or authority to grant approvals or to issue permits or licenses shall conform to the provisions of this Ordinance, and shall grant no approval nor issue any permit or license for any use, building, or purpose which would constitute a violation of this Ordinance. Any approval, permit, or license granted or issued in conflict with the provisions of this Ordinance shall be null and void.
2. Whenever, in the course of administration and enforcement of this Ordinance, it is necessary or desirable to make any administrative decision, then, unless other standards are provided in this Ordinance, the decision shall be made so that the result will not be contrary to the spirit and purpose of this Ordinance and the Comprehensive Plan.
3. Zoning applications and building permits are issued under this Ordinance only when a review of the application submitted, including the plans contained therein, indicates that the development will comply with the provisions of this Ordinance. Such plans and applications as are finally approved are incorporated into any permit issued, and all development shall occur strictly in accordance with such approved plans and applications.

SECTION 80. PERMIT APPLICATION REQUIREMENTS AND PROCEDURES

1. All applications for minor and major site plan permits shall be accompanied by such plans and information as the Town of Galena deems to be necessary to determine compliance and provide for enforcement of this Zoning Ordinance. The application materials listed in Appendix F shall be the minimum. Additional information may be required.
2. After reviewing the application materials, the Zoning Coordinator shall be marked either as "Approved" or "Disapproved" and attest to the same by signature on such a copy.

SECTION 81. ZONING APPLICATIONS AND BUILDING PERMITS

See Appendix F – Plot Plan Information Requirements.

1. No building, or other structure, or land shall be used, nor shall any building, structure, or land be converted, wholly or in part, to any other use, except for agriculture, permitted under the provisions of this Ordinance, until a Zoning Permit certifying compliance with these regulations, has been issued by the Zoning Coordinator.
2. No building or other structure, except public utility lines, shall be erected, constructed, demolished, converted, extended or enlarged, moved, or altered until a building permit is obtained from the Zoning Coordinator.
3. **CHANGE OF USE** – No change, conversion or alteration of the use of any building, structure, or land, wholly or in part, shall be permitted until a permit is obtained from the Zoning Coordinator.
 - a. The permit shall be valid six (6) months from the date issued.
 - b. A six (6) month extension may be granted by the Zoning Coordinator.
 - c. All buildings and structures shall comply with the yard and height requirements of this Ordinance.
 - d. Failure to obtain a permit shall be a violation of these regulations and shall be subject to Stop Work Order and penalties.
 - e. Permits issued on the basis of plans and applications approved by the Planning Commission or Zoning Coordinator authorizing only the specific activities set forth in such

approved plans and applications or amendments thereto. Use, arrangement, or construction of such specific activities that are contrary to that authorization shall be deemed a violation of these regulations

4. No zoning permit or building permit shall be issued which is not in conformity with the provisions of this Ordinance, or other applicable regulations, except after written order from the Board of Appeals.
5. All applications from a zoning permit and building permits shall be accompanied by a plot plan in duplicate, detailing the information required for plot plans in Appendix F, and any other information that may be required by the Zoning Coordinator to determine conformance with and to provide for enforcement of this Ordinance.
6. All applications for building and use permits shall include a scaled diagram showing the actual shape and size of the parcel, setbacks, the location and size of the building or structures, and such information which may be required by the Zoning Coordinator to assure compliance with and to provide enforcement of this ordinance.
7. If the work described in any zoning permit or building permit has not begun within six (6) months from the date of issuance thereof, said permit shall expire. Further, if the work described has not been substantially completed within one (1) year of the date of issuance, unless work is satisfactorily proceeding (in the opinion of the Zoning Coordinator), the zoning permit and building permit shall likewise expire. This shall not, in either instance, prevent the person affected from seeking a new zoning permit and building permit insofar as the proposed work complies with all laws regarding the application that are applicable at that time.
8. Any person aggrieved by any decision of the Zoning Coordinator may, within 30 days after such decision, appeal to the Board of Appeals.

SECTION 82. RECONSIDERATION OF BOARD ACTION

1. Whenever the Board of Appeals disapproves an application for a special exception or a variance, on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the respective Board at a later time unless the applicant clearly demonstrates that:
 - a. Circumstances affecting the property that is the subject of the application have substantially changed, or
 - b. New information is available that could not with reasonable diligence have been presented at a previous hearing.
 - c. A court of competent jurisdiction has ordered a remand.
2. Notwithstanding Subsection 1, the Board of Appeals may at any time consider a new application affecting the same property as an application previously denied. A new application is one that differs in some substantial way from the one previously considered.

SECTION 83. STRUCTURES AND USES TO BE AS PROVIDED IN BUILDING PERMITS, PLANS, AND ZONING PERMITS

1. Zoning permits or building permits issued on the basis of plans and applications approved by the Zoning Coordinator authorize only the use, arrangement, and construction set forth in such permits, plans, and permits, and no other. The use, arrangement or construction at variance with that authorized shall be deemed a violation of this Zoning Ordinance.
2. Permits are issued under this Ordinance only when a review of the application submitted, including the plans contained therein, indicates that the development will comply with the provisions of this Ordinance if completed as proposed. Such plans and applications as are finally approved are

incorporated into any permit issued and all development shall occur strictly in accordance with such approved plans and application.

SECTION 84. SEVERABILITY

1. Nothing in this section or other sections of the Zoning Ordinance shall be construed to exempt any applicant for a permit from compliance with all local, state, and federal codes, statutes, and regulations.
2. No building permit which was lawfully issued prior to the original effective date of this Ordinance and which is in full force and effect at said date shall be invalidated by the passage of this Ordinance.

SECTION 85. ADEQUATE PUBLIC FACILITIES

The Town of Galena maintains the authority to enact "Adequate Public Facilities" regulations, including but not limited to Water Supply, Sewer, Roads, Public Schools, Police, Fire and Rescue Services, Storm Drainage and Utilities.

SECTION 86. MAINTENANCE OF COMMON AREAS AND FACILITIES

The recipient of any zoning permit, building permit or another permit, or his/her successor, shall be responsible for maintaining all common areas, improvements, or facilities required by this Ordinance or any permit issued in accordance with its provisions, except those areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the Town of Galena. As illustrations, and without limiting the generality of the foregoing, this means that private roads and parking areas, water and sewer lines, and recreational facilities must be properly maintained so that they can be used in the manner intended, and required vegetation and trees used for screening, landscaping, or shading must be replaced if they die or are destroyed.

SECTION 87. RECORDS OF ZONING COORDINATOR

The Zoning Coordinator shall keep records of all zoning permits issued under this Ordinance; maintain permanent and current records related to the Ordinance, including zoning maps, amendments, special exceptions, variances, appeals, and planning unit development site plans.

SECTION 88. INTERPRETATION, PURPOSE, AND CONFLICT

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by this Ordinance to interfere with, or abrogate or annul any easements, covenants, or other agreements between parties, provided, however, that where this Ordinance 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 Ordinance shall govern. If, because of error or omission in the Zoning District Map, any property in the jurisdiction of this Ordinance is not shown as being in a zoning district, the classification of such property shall be classified as R-1 Single Family Residential District, until changed by amendment.

SECTION 89. CODE ENFORCEMENT

Zoning Permits and Building Permits issued on the basis of plans and applications approved by the Zoning Coordinator authorize only the use, arrangement, and construction set forth in such permits, plans, and no other. The use, arrangement, or construction at the variance with that authorized shall be deemed a violation of this Zoning Ordinance.

SECTION 90. COMPLAINTS REGARDING VIOLATIONS

Whenever the Zoning Coordinator receives a complaint alleging a violation of this Ordinance, he/she shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken.

SECTION 91. PERSON LIABLE

The owner, tenant, or occupant of any building or land or part thereof and any architect, building, contractor, agent, or another person(s) who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Ordinance may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

SECTION 92. PROCEDURES UPON DISCOVERY OF VIOLATIONS

1. It shall be the duty of the Zoning Coordinator / Code Enforcer to enforce the provisions of this Ordinance and to refuse to issue any permit which would violate the provisions of the Ordinance.
2. The Zoning Coordinator is authorized to institute any appropriate action to correct violations of this Ordinance.
3. The Owner, tenant, or occupant failures to obtain a permit shall be a violation of these regulations and shall be subject to penalties.
4. Notice of Violation and Stop Work Order. If the Zoning Coordinator determines that there has been a violation of any provision of these regulations, the Zoning Coordinator shall give notice of such violation to the owner, tenant, or occupant.
5. It shall be unlawful to erect, construct, reconstruct, improved, alter, demolition, repair, extended, converted, enlarged, or maintain any building or structure, or use any property, building, or sign in violation of any regulation in, or any provisions of this Ordinance, or any amendment or supplement lawfully adopted by the Mayor and Council, or to fail to comply with any reasonable requirement or condition imposed by the Board of Appeals. Any person, firm, corporation, or together legal entity violating any provision of this Ordinance, or any amendment thereto, will be deemed guilty of a zoning violation, and upon conviction shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or may be imprisoned for a period of not more than thirty (30) days, or may be subject to both fine and imprisonment in the discretion of the Court. Each and every day during which such violation occurs or continues may be deemed a separate offense.
6. Upon the finding by a Zoning Coordinator that any provision of this Ordinance is being violated, the Code Enforcer shall immediately send written notice to the person responsible for such violation, including the property owners(s), advising them of the nature of the violation and the action necessary to correct such violation. Such notice shall also advise that the decision of the Zoning Coordinator may be appealed to the Board of Appeals.
7. The Zoning Coordinator/Code Enforcer is authorized to treat any violation as a civil zoning violation, in which event, the Zoning Coordinator shall deliver a citation to the person believed to have committed a civil zoning. A copy of the citation shall be retained by the Zoning Coordinator / Code Enforcer and shall bear certification attesting to the truth of the matters set forth. The citation shall contain:
 - a. The name and address of the person charged.
 - b. The nature of the violation.
 - c. The place where and time the violation occurred.
 - d. The amount of the fine assessed.

- e. The manner, location, and time in which the fine may be paid.
 - f. The person's right to elect to stand trial for the violation.
8. A fine not to exceed Five Hundred Dollars (\$500.00) shall be imposed for each violation.
 9. The person who receives a citation may elect to stand trial for the offense by filing with the Zoning Coordinator a notice of intent to stand trial. The notice to stand trial shall be given at least five (5) days before the date of payment as set forth in the citation. Upon receipt of the notice of intent to stand trial, the Zoning Coordinator shall forward to the District Court of Kent County a copy of the citation and the notice of intent to stand trial. On receipt of the same, the District Court shall schedule the case for trial and notify the defendants of the trial date. All fines, penalties, or forfeitures collected by the District Court for zoning violations shall be remitted to the Mayor and Council of Galena.
 10. If a person who receives a citation for a violation fails to pay the fine by the date of payment set forth on the citation and fails to file a notice of intention to stand trial, formal notice of the violation shall be sent to the owner's last known address. If the citation is not satisfied within fifteen (15) days from the date of the notice, the person is liable for an additional fine not to exceed twice the original fine. If after thirty-five (35) days, the citation is not satisfied, the Zoning Coordinator may request adjudication of the case through the District Court. The District Court shall schedule the case for trial and summon the defendant to appear.
 11. Adjudication of a violation under Paragraph 4 through 7 of this section is not a criminal conviction nor does it impose any civil disabilities ordinarily imposed by a criminal conviction.
 12. In any proceeding before District Court, the violation shall be prosecuted in the same manner and to the same extent as set forth for municipal infractions under Article 23A, Section 3 (b) (8) through (15) of the Annotated Code of Maryland.
 13. The Mayor and Council may authorize either the Town Attorney or the Planning Commission Attorney to prosecute any zoning violation.
 14. If a person is found by the District Court to have committed a civil zoning violation, he shall be liable for the cost of the proceedings in the District Court. All zoning certificates and building permits shall be revocable subject to the continued compliance with all requirements and conditions of this and other applicable laws and regulations.
 15. The Zoning Coordinator, or his or her designee, is hereby authorized to enter upon open land within the corporate limits of Galena for the purpose of enforcing and implementing this Ordinance.

ARTICLE IVX. BOARDS & COMMISSIONS
PART I. PLANNING COMMISSION

SECTION 93. STATEMENT OF INTENT

It is the intent of this section to identify the duties of the Planning Commission. The Commission shall adopt rules of its business, such rules to be made available to the public.

SECTION 94. ORGANIZATION

1. As members of the Planning Commission, these citizen planners oversee the local comprehensive plan, recommend land use ordinances and regulations, create and apply implementation tools and implement the state's 12 planning visions in their jurisdictions.
2. The Planning Commission is hereby established with five members and one alternate member. The alternate may sit on the Planning Commission in the absence of any member of the Planning Commission. When the alternate is absent, the Mayor and Council may designate a temporary alternative to the site on the Planning Commission. Members and alternates are appointed by the Mayor and confirmed by the Council. One member of the Planning Commission may be a member of the legislative body who serves as an ex officio member. Member's terms are five years, and council members are three months.
3. The Planning Commission shall elect a Chairman from among the members appointed by the Mayor. The term of the Chairman shall be one year with eligibility for reelection.

SECTION 95. POWERS OF PLANNING COMMISSION

The Planning Commission shall have the following powers:

1. **Comprehensive Plan** – To develop and approve a plan which shall be recommended to the legislative body for adoption. The plan is the principle document outlining the Town direction, policy, and action regarding land use. While other plans and ordinances provide more detailed information and policy, all plans and laws shall be consistent with and conform to the Comprehensive Plan.
2. **Recommendations to Mayor and Council** – To make recommendations to the Mayor and Council on Zoning Ordinance text amendments, zoning map amendments, and courses of actions necessary to implement the Comprehensive Plan.
3. **Recommendations to the Board of Appeals** – To make recommendations to the Board of Appeals on variances and certain special exceptions as set forth in this Ordinance. The Planning Commission shall address the extent to which the variances or special exceptions comply with or deviates from the Comprehensive Plan. The Planning Commission may recommend conditions and limitations on the approval of variances and special exceptions.
4. **Minor and Major Site Plans** - To review and approve site plans of land as set forth in this Ordinance.
5. **Subdivision** – To review and approve subdivisions of land as set forth in this Ordinance.
6. **Conditions** – In the granting of subdivisions and site plans, the Planning Commission may limit the approval by such conditions as the case may require.
7. **Right of Entry** – The Planning Commission is hereby authorized to enter upon open land in the Town of Galena for the purpose of reviewing applications pending before the Planning Commission.

ARTICLE IVX. BOARDS & COMMISSIONS
PART II. BOARD OF APPEALS

The Planning Commission may recommend, and the Board of Appeals may impose such reasonable conditions, restrictions, and limitations on any applications approved under this ordinance as may be necessary for the protection of surrounding or neighboring properties and to ensure the peaceful enjoyment of people in their homes.

SECTION 96. STATEMENT OF INTENT

It is the intent of this section to identify the duties of the Board of Appeals.

SECTION 97. ORGANIZATION

1. As members of Boards of Appeals, they hear and decide on appeals of decisions made about the enforcement of land use ordinances, hear and decide on special exceptions to those ordinances and authorize variances.
2. The Board of Appeals is hereby established with three members and two alternates Members shall be appointed under provisions of Land Use Article of the Annotated Code of Maryland. The term of office is three years. They shall be removable for cause, upon written charges, and after a public hearing.
3. The Board of Appeals shall adopt rules of its business, such rules to be made available to the public.
4. Meetings of the Board of Appeals shall be at the call of the chairman and such other times as the Board made determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Appeals shall be open to the public.
5. **Recording:**
 - a. The Board of Appeals shall keep written minutes and a recording of all proceedings with a contemporaneous written record showing the vote of each member on each question, or the member's absence or failing to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.
 - b. If a recording or a transcript of a recording is not prepared in the normal course of the board's proceedings, the party who requests a copy of the recording or its transcript shall pay the cost of preparing the recording or transcript.

SECTION 98. POWERS OF BOARD OF APPEALS

Subject to the limitations, guides, and standards provided in Section 4, the Board of Appeals shall have the following powers:

1. **Administrative Appeals** - Hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Coordinator in the enforcement and administration of this Ordinance unless clearly specified otherwise in this Ordinance.
2. **Special Exceptions** - Hear and decide special exceptions as set forth in Article XV. Special Exceptions, Variances, and Appeals.
3. **Variances** - to authorize, upon application, variances from the yard (front, side, rear) setbacks, height, bulk, parking, and loading requirements as set forth in Article XV, Special Exceptions, Variances, and Appeals.
4. **Conditions** - In granting of variances, appeals, and special exceptions, the Board may limit the approval by such conditions as the case may require.

5. **Right of Entry** – The Board of Appeals is hereby authorized to enter upon open land in the Town of Galena for the purpose of reviewing applications pending before the Board of Appeals.

In exercising the above-mentioned powers, the Board of Appeals may reverse or affirm, wholly or partly, or may modify the order requirement, decision, or determination appealed from and make such order, requirement, decision, or determination as ought to be made and to that end shall have all the powers of the Zoning Coordinator.

SECTION 99. APPEALS TO COURT

Appeals to courts from a decision of the Board of Appeals may be filed in the manner prescribed by law. See Article XIV, Special Exception, Variance, and Appeals.

ARTICLE XV SPECIAL EXCEPTIONS, VARIANCES, APPEALS **PART I. SPECIAL EXCEPTIONS**

SECTION 100. STATEMENT OF INTENT

The purpose of this article is to provide for certain uses, which because of their unique characteristics cannot be distinctly listed as a permitted use in a certain Zoning District. Special exceptions may be approved by the Board of Appeals after consideration in each case of the impact of such uses upon neighboring uses, the surrounding area, and the public need for the particular use at the particular location. Limitations and standards are herein established to ensure the uses consistent with the character, uses, and activities in the Zoning District.

SECTION 101. PROCEDURES SPECIAL EXCEPTION

1. Special Exceptions (SE) will be listed under Article III. Districts and District Maps. Specific supplementary use regulations are listed in Article V, District Regulations, Part III Supplementary Use Regulations.
2. The Board of Appeals in accordance with the procedures and standards of this Ordinance may authorize buildings, structures, and uses as special exceptions in the specific instances and particular districts set forth provided that the location is appropriate, consistent with the Comprehensive Plan, that the public health, safety, morals, and general welfare will not be adversely affected, and that necessary safeguards will be provided to protect surrounding property, persons, and neighborhood values, and further provided that the additional standards of this Article are specified as a condition of approval. Unless otherwise specified in this Article or as a condition of approval, the height, yard, lot area, design, environmental, and sign requirements shall be the same as other uses in the district in which the special exceptions are located.
3. The application and fee for a special exception shall include a site plan together with such data and information as may be required for a determination of the nature of the proposed use, and its effect on the Comprehensive Plan, the neighborhood, and surrounding properties.
4. Upon receiving a completed application for a special exception, the Zoning Coordinator shall schedule a review by the Planning Commission. The Town shall notify the applicant of the date and time of the meeting. The Planning Commission shall send its recommendation to the Board of Appeals. In its comments, the Planning Commission may recommend that additional expertise is warranted.
5. After receiving comments from the Planning Commission and the Zoning Coordinator shall schedule the special exception application for review by the Board of Appeals.
6. Notice – The Town shall notify the applicant of the date and time of the Board of Appeals meeting. At least fifteen (15) days before the hearing, a public hearing shall be advertised in the local paper. The town shall post the property. Notices shall be sent to adjacent property owners using the most recent address found in the records.

7. The Board of Appeals may hire expertise, as shall be needed, to provide advice and assist in its decision-making.
8. **FINDING OF FACTS:** In order to grant a special exception, the Board of Appeals must find all of the following:
 - a. That the special exception will not cause a substantial detriment to adjacent or neighboring property.
 - b. That the special exception will not change the character of the neighborhood or district.
 - c. That the special exception is consistent with the Comprehensive Plan and the general intent of this Ordinance.
 - d. That the practical difficulty or other injustice was caused by the following:
 1. Some unusual characteristics of the size or shape of the property.
 2. Extraordinary topographical or other condition of the property.
 3. The use or development of the property is immediately adjacent to the property.
 - e. That the practical difficulty or other injustice was not caused by the applicants' own actions.
 - f. The Board of Appeals shall consider the reasonable use of the entire parcel or lot for which the variance is requested.
 - g. The Board of Appeals may consider the cause of the variance request and if the variance request is the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed.
9. **DECISION AND ORDER.** Each case shall be decided, and a decision and order issued no later than forty-five (45) days after the hearing is concluded. The decision and order granting or denying the special exception shall be in writing and shall be signed by the Chairman of the Board of Appeals. This decision and order shall contain a summary of the hearing testimony, finding of fact, conclusions of law, and the final order. The Zoning Coordinator shall mail a copy of the decision to the applicant. The decision and order shall be made a part of the public record of the proceedings on file.

ARTICLE XV. SPECIAL EXCEPTIONS, VARIANCES, APPEALS (cont.)
PART II. VARIANCES

SECTION 102. STATEMENT OF INTENT

The purpose of this section is to set forth the procedures for variances from certain enumerated provisions for this Ordinance.

Granting of a variance shall comply, as nearly as possible, in every respect to the spirit, intent, and purpose of this Ordinance; it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable practical difficulties as distinguished from variations sought by applicant for purposes or reasons of convenience, profit, or caprice.

SECTION 103. PROCEDURES

1. The Board of Appeals may authorize, upon application, variances from the yard (front, side,

or rear) setbacks, height, bulk, parking, loading and buffer requirements of this Ordinance so as to relieve practical difficulties or other injustices arising out of the strict application of the provision of this Ordinance.

2. The application and fee for a variance shall include a site plan together with such data and information as may be required for a determination of the nature of the proposed use, and its effect on the Comprehensive Plan, the neighborhood, and surrounding properties.
3. Upon receiving a completed application for a variance, the Zoning Coordinator shall schedule a review by the Planning Commission. The Town shall notify the applicant of the date and time of the meeting. The Planning Commission and send their recommendation to the Board of Appeals. In its comments, the Planning Commission may recommend that additional expertise is warranted.
4. After receiving comments from the Planning Commission, the Zoning Coordinator shall schedule the variance application for review by the Board of Appeals.
5. Notice – The Town shall notify the applicant of the date and time of the Board of Appeals meeting. At least fifteen (15) days before the hearing, a public hearing shall be advertised in the local paper. The town shall post the property. Notice shall be sent to adjacent property owners using the most recent address found in the records.
6. The Board of Appeals may hire expertise as shall be needed to provide advice and assist in its decision-making.
7. **FINDING OF FACTS.** In order to grant a variance, the Board of Appeals must find all of the following:
 - a. That the variance will not cause a substantial detriment to adjacent or neighboring property.
 - b. That the variance will not change the character of the neighborhood or district.
 - c. That the variance is consistent with the Comprehensive Plan and the general intent of this Ordinance.
 - d. That the practical difficulty or other injustice was caused by the following:
 1. Some unusual characteristics of the size or shape of the property.
 2. Extraordinary topographical or other condition of the property.
 3. The use or development of the property is immediately adjacent to the property.
 - e. That the practical difficulty or other injustice was not caused by the applicants' own actions.
 - f. The Board of Appeals shall consider the reasonable use of the entire parcel or lot for which the variance is requested.
 - g. The Board of Appeals may consider the cause of the variance request and if the variance request is the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed.
8. **DECISION AND ORDER.** Each case shall be decided, and a decision and order issued no later than forty-five (45) days after the hearing is concluded. The decision and order granting or denying the variance shall be in writing and shall be signed by the Board of Appeals. This decision and order shall contain a summary of the hearing testimony, finding of fact, conclusions of law, and the final order. The Zoning Coordinator shall mail a copy of

the decision to the applicant. The decision and order shall be made a part of the public record of the proceedings on file.

ARTICLE XV. SPECIAL EXCEPTIONS, VARIANCES, APPEALS (cont.)
PART III. APPEALS

SECTION 104. STATEMENT OF INTENT

Administrative – within thirty days of the decision, any person aggrieved by the Zoning Coordinator’s decision may appeal the decision to the Board of Appeals.

Board of Appeals - Within thirty days (30) of the decision, any person aggrieved by a decision of the Board of Appeals may file a notice of appeal with the Circuit Court.

SECTION 105. PROCEDURES VARIANCE

1. Appeals to the Board of Appeals may be taken by any person aggrieved, or by an officer, department, board or bureau of the town affected by a decision of the Planning Commission. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the Planning Commission and with the Board of Appeals a notice thereof, specifying the grounds thereof. The Zoning Coordinator shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
2. An appeal stays all proceedings in furtherance of the action appealed from unless the Zoning Coordinator certifies to the Board of Appeals after notice of appeal shall have been filed with him, that by reason of 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 Appeals or by a court of record on application, on notice to the Zoning Coordinator and on due cause shown.
3. The Board of Appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest and adjoining properties, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or attorney.
4. **DECISION AND ORDER** - Each case shall be decided, and a decision and order issued no later than 45 days after the hearing is concluded. The decision and order granting or denying the variance shall be in writing and shall be signed by the Board of Appeals. This decision and order shall contain a summary of the hearing testimony, finding of fact, conclusions of law, and the final order. The Zoning Coordinator shall mail a copy of the decision to the applicant. The decision and order shall be made a part of the public record of the proceedings on file.

SECTION 106. ADMINISTRATIVE APPEALS

To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Coordinator.

SECTION 107. APPEALS TO THE COURT

Appeals to courts from a decision of the Board of Appeals may be filed in the manner prescribed by law.

ARTICLE XV. SPECIAL EXCEPTIONS, VARIANCES, APPEALS (cont.)
PART IV. STANDARDS

SECTION 108. STATEMENT OF INTENT

The purpose of this section is to set forth the standards for special exceptions, variances, and appeals from certain enumerated provisions of this Ordinance.

SECTION 109. LIMITATIONS, GUIDES, AND STANDARDS

Where in this Article, the approval of the Board of Appeals is required before the issuance of a permit or where said Board of Appeals is authorized to make a variance to the provisions of this Article, the Board shall examine the property involved and the neighborhood, cause the property to be posted and hold a public hearing, at which any person shall be heard for or against the issuance of the permit. However, no such application for a permit shall be approved where the Board finds the proposed building, extension, addition, or use would constitute a serious fire hazard or would menace the public health, safety, security or morals, or would result in hazardous traffic conditions or would jeopardize the life or property of people living in the community.

In deciding these matters, the Board of Appeals shall give consideration, among other things, to the following information which must be provided by the applicant:

1. The nature of the proposed site, including its size and shape and the proposed size, shape, and arrangement of structures. The most appropriate use of land and structures as determined and indicated by the Comprehensive Plan and other neighboring uses.
2. Consistency with the Comprehensive Plan and Zoning Ordinance.
3. Design, environmental, and other standards of this Ordinance as outlined in Article V. District Regulations.
4. Availability of public services for sewer, water, trash collection and disposal, and the impact of the development or project on community facilities and services.
5. Availability of fire-fighting apparatus and water service for firefighting.
6. Traffic patterns and impacts including facilities for pedestrians, such as sidewalks availability of parking facilities, the impact of ingress and egress, and the level of service of nearby intersections.
7. Nature of the surrounding area and the effect of such use upon the peaceful enjoyment of the homes of people living nearby.
8. Conservation of property values.
9. The contribution, if any, such proposed use, building, or addition would make toward the deterioration or improvement of the neighborhood.
10. The proximity of dwellings, places of assembly, schools, public structure, and other places of public gathering.
11. The probable effect of odors, dust, gas, smoke, vibrations, glare, particulate matter, toxic matter, noise, fire, or explosion hazards, if any, upon the surrounding properties.
12. Proposed development impact on water quality, fish, wildlife, and plant habitat.
13. Preservation of cultural or historic landmarks and significant natural features and trees.

SECTION 110. CONDITIONS ATTACHED TO APPROVALS

In connection with the granting of special exceptions, variances, and appeals, the Board of Appeals may impose such conditions and restrictions upon the establishment, location, construction, maintenance and operation thereof as deemed necessary to reduce or minimize any effect of such use upon other property in the neighborhood.

The Board of Appeals may require the installation of such devices and methods of operation as may in its opinion, be reasonably required to prevent or reduce hazardous or congested traffic conditions, odor, dust, smoke, gas, noise, or similar nuisances, and it may impose such other conditions and requirements as may, in its opinion to protect adjacent properties and neighborhoods and prevent conditions which may become noxious or offensive. In authorizing a special exception or variance, the Board shall require such evidence and guarantee as it may deem necessary, that the conditions stipulated by it are being and will be complied with.

These conditions or restrictions may include but are not limited to the following:

1. Signage in accordance with Article VII. Article VII, General Sign Regulations Ordinance.
2. Hours of Operation.
3. Increased setbacks and screening.
4. Improvements to ingress/egress.
5. Improvements to the street frontage.
6. Location of parking, location of off-street parking, and loading space.
7. Accessory vehicles and storage.
8. Accessory uses.
9. On-premise sales.
10. Permitted expansion and/or prohibition against structural changes.
11. Building a connection or disconnection with other buildings.
12. Location of exits or entrances, doors, and windows.
13. Control or elimination of smoke, dust, gas noise, or vibration caused by operations.
14. Exterior display, lighting, storage, signs, and other items which distract from the general character of the neighborhood.
15. Amount, direction, and location of outdoor lighting.
16. Type and location of paving, shrubbery, landscaping, ornamental or screening fences, walls, or hedges.
17. Cleaning or painting of structure.
18. Roof type.
19. Building construction and materials.
20. Size and type of equipment
21. The number of clients allowed on the premises at one time.
22. Letters of credit, bonds, or other surety.

23. The Board of Appeals may require such evidence and guarantees as it deems necessary as proof that the conditions imposed in connection with a special exception or variance shall be implemented.
24. Requirements for termination of use, based on the lapse of time or such other conditions as the Board may specify. Failure to comply with such conditions or restrictions imposed shall constitute a violation of this Ordinance and the Zoning Coordinator may revoke permits issued under the special exception or variance.

SECTION 111. APPROVAL VALID FOR ONE YEAR

Approval of a special exception or variance granted under this Article shall be valid for one year after the date of approval or unless the Board of Appeals approves an extension before the expiration of the said one-year period. When provided with sufficient evidence, the Board of Appeals may grant an extension for a longer period.

SECTION 112. LAPSE

The special exception or variance granted shall lapse after the expiration of one year if no substantial construction has taken place in accordance with the plans for which such approval was granted or if the order does not specify a longer period than one year for good cause shown.

SECTION 113. AMENDMENT

The procedure for amendment of a special exception or variance already approved, or a request for a change of conditions attached to an approval, shall be the same as for a new application except that where the Zoning Coordinator determines the change to be minor relative to the original approval. He or she may transmit the same to the Board of Appeals with the original record without requiring that a new application be filed.

SECTION 114. RECONSIDERATION, ONE YEAR LIMIT

Whenever an application for a special exception or variance has been denied by the Board of Appeals, such application, or one substantially similar, shall not be reconsidered sooner than one year after the previous denial. However, the Board of Appeals may at any time consider a new application affecting the same property as an application previously denied if it is substantially different from the one previously considered.

ARTICLE XVI. OTHER ADMINISTRATION PROVISIONS

SECTION 115. ZONING COORDINATOR

1. The Zoning Coordinator shall perform such duties and responsibilities in the administration and enforcement of the Ordinance as are hereinafter set forth, and such other duties as may be assigned by the Mayor of Galena.
2. The Zoning Coordinator may be provided with such assistance in the carrying out of his/her responsibilities under this Ordinance as may be sanctioned by the Mayor of Galena.
3. It shall be the duty of the Zoning Coordinator to administer and enforce the provisions of this Ordinance. If the Zoning Coordinator shall find that any of the provisions of this Ordinance are being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; he/she shall order the discontinuance of any illegal work being done; and shall take any other action authorized by the Ordinance to ensure compliance with or to prevent violation of its provisions, including the issuance of Stop Work Orders.
4. He/she shall be empowered to enter properties and make inspections to determine compliance with this Ordinance; and shall, pursuant to such duties, have the right to apply for and receive search warrants when they may be necessary to carry out his/her duties.
5. It is the intent of this Ordinance that all questions of interpretation and enforcement shall first be presented to the Zoning Coordinator, that he/she shall render a decision thereon, and that such questions shall be presented to the Board of Appeals only on appeal from the decision of the Zoning Coordinator.
6. The Zoning Coordinator, or his/her representative, shall be required to attend all proceedings of the Planning Commission, Board of Appeals, and the Mayor and Council, at which matters of zoning are considered. He shall advise the Planning Commission on zoning matters related to the review, amending, or implementation of the Comprehensive Plan, on zoning implications of subdivision review, and on other matters as appropriate.
7. He/she shall issue Zoning Permits, shall maintain records of all permits issued under this Ordinance, and shall maintain other records pertaining to the Ordinance including zoning maps, amendments, variance, conditional uses, appeals, and decisions. He/she shall receive and keep records of written complaints of violations of this Ordinance, shall investigate and verify all such complaints, and shall take appropriate action regarding complaints without undue delay.

SECTION 116. MAYOR AND COUNCIL

1. The Mayor and Council are the local elected legislative body. The Mayor and Council's primary responsibility relative to the Ordinance shall be to make final decisions on the zoning amendment applications. In considering proposed changes in the text of this Ordinance or in the zoning map, the Mayor and Council acts in its legislative capacity and must proceed in accordance with the requirements of Article XVII.
2. The Mayor and Council shall make all appointments to the Boards and Commissions identified in this Ordinance. All appointments shall be approved by the Mayor and Council.

SECTION 117. FEES AND CHARGES

The Mayor and Council shall establish a schedule of fees, charges, and expenses and a collection procedure, for zoning permits, building permits, appeals, and other matters pertaining to the Ordinance. The schedule of the fee shall be posted in the office of the Zoning Coordinator and be altered or amended only by the Mayor and Council, upon recommendation of the Planning Commission.

SECTION 118. Legal Counsel

The Mayor and Council shall appoint legal counsel to the Board of Appeals and Planning Commission. Said legal counsel shall be present at all meetings as necessary to give such legal advice as needed and as directed by the Commission and Board Chairperson.

ARTICLE XVII. AMENDMENTS

SECTION 119. AMENDMENTS IN GENERAL

1. The regulations, restrictions, and boundaries set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed, provided, however, that no such action may be taken until after the Mayor and Council shall hold a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard.
2. Any application for a Comprehensive Plan or zoning amendment shall contain specific information setting forth the basis for the granting of the request.

SECTION 120. INITIATION OF AMENDMENTS

1. Proposed amendments may be originated by the Mayor and Council, Planning Commission, or the owner(s) of the property(s) for which a zoning change is sought.
2. Proposed amendments shall first be submitted to the Zoning Coordinator. The applicant shall then present the proposed amendment for review by the Planning Commission which shall submit its recommendations to the Mayor and Council for a public hearing.

SECTION 121. HEARING REQUIRED; NOTICE

All public hearings shall be conducted in accordance with the provision of Ordinance 97-03.

SECTION 122. PLANNING COMMISSION CONSIDERATION OF PROPOSED AMENDMENTS

1. The Planning Commission shall consider the application and shall conduct a public hearing regarding the application. The public hearing shall be conducted as follow:
 - a. The applicant shall be given ample time to present his/her case to the Planning Commission. In doing so the applicant may call on expert witnesses to support his/her request.
 - b. The Zoning Coordinator shall present a staff report representing a review of the applicant.
 - c. The Planning Commission shall ask such questions of either the applicant, any witnesses, or the staff as may be necessary for deciding its approval., denial, tabling, or continuance of the application.
 - d. The Public shall be given an opportunity to testify or ask questions of the applicant, his/her witnesses, or the planning staff. The Planning Commission may in turn question those testifying and may place a reasonable time limit for such testimony.
 - e. Within sixty (60) days from the Planning Commission's final hearing on the application, the Planning Commission shall transmit the application to the Mayor and Council together with its recommendations for approval or disapproval. The Planning Commission shall concurrently transmit this information to the applicant.
 - f. The Planning Commission's formal recommendation on the application shall be presented to the Mayor and Council at the hearing on the application.

SECTION 123. MAYOR AND COUNCIL ACTION ON AMENDMENTS

1. Before approving or disapproving any applications for amendment, the Mayor and Council shall hold at least one (1) public hearing in relation to the application, at which parties in interest and citizens shall have an opportunity to be heard.
2. The Mayor and Council shall hold a public hearing within sixty (60) days after receipt of the Planning Commission's recommendation.
3. In any action by the Mayor and Council to amend this Ordinance, the Zoning Coordinator shall be present during all deliberations by the Mayor and Council and shall answer such questions and render such advice and assistance as may be appropriate to the action being taken, but the

submitting of a recommendation from the staff and from the Planning Commission as to the action proposed to be taken in each case.

4. In evaluating the proposed amendment, the Mayor and Council shall make findings of fact in each specific case, including but not limited to the following matters, where applicable:
 - a. Population changes
 - b. Availability of public facilities
 - c. Present and future transportation and traffic pattern, character, and volume
 - d. Compatibility with existing and proposed developments in the area
 - e. Compatibility with the intent of the Comprehensive Plan
 - f. Compatibility with the purposes of any Special District in which they are requested to be redistricted is located

The Mayor and Council may grant the amendment on a determination that there was a substantial change in the character of the neighborhood where the property is located or that there was an error or mistake in the existing zoning regulations.

5. In the granting of any amendment pursuant to this Ordinance, the Mayor and Council shall solicit and consider the recommendations of the Planning Commission.
6. An amendment whereby any tract of land is redistricted shall allow for any uses that are permitted in that district.
7. An application for Zoning Amendment shall not be accepted by the Zoning Coordinator if the application is for a Zoning Amendment of the whole or any part of the land which has been denied by the Mayor and Council until twelve (12) months from the date of denial.
8. The applicant for a Zoning Amendment shall have the burden of proof (including the burden of going forward with the evidence and the burden of persuasion) of all questions of fact.
9. The record in all zoning cases shall include the application, all documents or communications submitted regarding the application, the recorded testimony received at the hearing, any reports or communications to or from any public officials or agency concerning the application and the final decision of the Mayor and Council. The record shall be open to public inspection and shall be maintained in the office of the Planning Commission.
10. The Mayor and Council shall approve or veto the decision within sixty (60) days of the receipt of the amendment. If no action is taken within the 60-day period, the amendment will be deemed approved.

SECTION 124. CHANGES AND AMENDMENTS

1. Initiation of Change

The Mayor and Council may, from time to time, amend, supplement, or change by ordinance, the boundaries of the districts, or the regulations herein established. Any such amendment may be initiated by a resolution of the Mayor and Council, or by a motion of the Planning Commission, or by petition of any property owner addressed to the Mayor and Council. Petitions for change or amendment shall be on forms and filed in a manner prescribed by the Planning Commission.

2. Report from Planning Commission

Before taking any action on any proposed amendment, supplement, or change, the Mayor and Council shall submit the same to the Planning Commission for its recommendation and report. Failure of the Planning Commission to report within 60 days after the first meeting of the Planning Commission after the proposal has been referred to and acknowledged by the Planning Commission, shall be deemed approval.

3. Notice and Hearings

The Planning Commission may hold a hearing on any proposed amendment, supplement, or change before submitting its report to the Mayor and Council, and for this purpose may request the submission of all pertinent data and information by any person concerned and may hold such public hearings as they deem necessary and in the event, they hold a public hearing, notice shall be made as set forth below.

Before approving any proposed change or amendment, the Mayor and Council shall hold a public hearing thereon. Notice of said hearing before the Council shall be given at least fifteen (15) days prior to the hearing by publishing the time, place, and nature of the hearing in a newspaper having general circulation in Kent County. In addition, the Mayor and Council shall cause the time, date, place and nature of the hearing to be posted conspicuously on the property in accordance with the rules of the Council. The published and posted notices shall contain a reference to the place or places within the Town where the plans, ordinances, or amendments may be examined.

4. **Reconsideration, One Year Limitation**

Whenever a petition requesting an amendment, supplement, or change has been denied by the Mayor and Council, such petition, or one substantially similar, shall not be reconsidered sooner than one (1) year after the previous denial.

ARTICLE XVII. DEFINITIONS

SECTION 125. GENERAL RULES OF CONSTRUCTION

The following general rules of construction shall apply to the regulations of this Ordinance.

1. The singular number includes the plural and the plural the singular unless the context clearly indicates the contrary.
2. Words us present.
3. The word "shall" is always mandatory. The word "may" is permissive.
4. The word "building" or "structure" includes any part thereof, and the word "building" includes the word "structure."
5. Words and terms not defined herein shall be interpreted in accordance with their normal dictionary meaning and customary usage.

SECTION 126. DEFINITIONS

For the purpose of this Ordinance, certain terms and words are hereby defined:

1. **Accessory Building** – An accessory building is a subordinate building or a portion of the main building, the use of which is clearly incidental to or customarily found in connection with, and (except as otherwise provided in this Ordinance) located on the same lot as the main building or principal use of the land.
2. **Accessory Use** – An accessory use is one which is clearly incidental to or customarily found in connection with, and (except as otherwise provided in this Ordinance) is located in the same lot as the principal use of the premises. When the term "accessory" is used in this ordinance, it shall have the same meaning as "accessory use."
3. **Administrator** – The Town Manager, Town Facilities, Zoning Coordinator, Code Enforcement, or in his/her absence, such person who is duly appointed.
4. **Aggregate Area or Width** – The sum of two or more designated areas or widths to be measured, limited, or determined under the provisions of this ordinance.
5. **Alley or Alleyways**– A narrow public thoroughfare not exceeding 16 feet in width, which provides only a secondary means of access to abutting properties and is not intended for general traffic circulation. Alleyways are typically used for access rear lot parking, service vehicle access, and temporary unloading.
6. **Apartment** – a part of a building containing cooking and housekeeping facilities, consisting of a room or suite of rooms intended, designed, and used as a residence by an individual or a single-family.
7. **Apartment Accessory** – a residence located above the principal commercial use.
8. **Apartment House** - Same as "Dwelling, Multi-Family."
9. **Arterial Street** – a street so designated on the Major Thoroughfare Plan of Kent County.
10. **Avenue (AV)** - a Thoroughfare of high vehicular capacity and low to moderate speed, acting as a short distance connector usually equipped with a landscaped median.
11. **Basement** – The portion of a building between the floor and ceiling, which is wholly or partly below grade and having more than one-half of its height below grade.

12. **Bed and Breakfast** – A building where for compensation and only by prearrangement for definite periods which lodging and meals are provided. Such uses are limited to three guest rooms excluding resident management quarters.
13. **Board** – The Board of Appeals of the Town of Galena.
14. **Boarding House** – Same as a rooming house.
15. **Boulevard (Blvd)** – a Thoroughfare designed for high vehicular capacity and moderate speed, usually equipped with a wide landscaped median.
16. **Buffer Yard** – is a combination of setbacks and a visual buffer, screen or barrier and is a yard or area together with landscaping that is used to eliminate or minimize potential nuisances such as noise, the glare of lights, and the view of an adjacent property.
17. **Buildable Areas** – The area of that part of the lot not included within the yards or open spaces or environmental areas herein required.
18. **Buildable Width** – The width of that part of a lot not included within the yards, open spaces, or environmental areas herein required.
19. **Building** – Any structure having a roof supported by columns or walls for the housing or enclosure of persons or property of any kind.
20. **Building Completely Enclosed** – Any building having no outside opening other than ordinary doors, windows, and ventilators.
21. **Building, Height, of** – The vertical distance from the average elevation of the finished ground surface around the building to the highest point of the roof. See Illustration Appendix E
22. **Building Line** – A line within a lot, so designated on a plat of subdivision, between which line and the street line of any abutting street, no building, or structure may be erected.
23. **Bulk** – A term used in this Ordinance to describe the size and shape of a building or structure and its relationship to other buildings to the lot area for a building, and to open spaces and yards.
24. **Business District** – See District, Commercial.
25. **Canopy** – A detachable, roof-like cover, supported from the ground, or deck floor, or walls of a building, for protection from sun or weather.
26. **Certificate of Occupancy of Use** – A permit to legally occupy or use a building for the intended purpose.
27. **Club, Private** – Building 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 benefits any individual and not primarily to render a service which is customarily carried on as a business.
28. **Collector Street** – A street which is intended to collect traffic from the minor local streets within a neighborhood or a portion thereof and to distribute such traffic to major thoroughfares or principal arterials, in addition to providing access to properties abutting.
29. **Commercial Avenue (CA)** – a Thoroughfare of high vehicular capacity in a commercial district.
30. **Comprehensive Plan** – A compilation of policy statements, goals, standards, maps, and pertinent data relative to the past, present, and future trends of the local jurisdiction including, but not limited to, its population, housing, economics, social patterns, land use, water resources and their use, transportation facilities, and public facilities, prepared by or for the Planning Commission, agency or office.
31. **Concept Plan** – The first review that includes information necessary to allow an initial evaluation of a proposed project.

32. **Convalescent Home/Nursing Home** – A building where regular nursing care is provided for more than one person that is not a member of a family who resides on the premises.
33. **Convenience Store** – An establishment that sells packaged and/or prepared foods and beverages and other convenience items for consumption off the premises by travelers and highway users. Sales of items are dependent upon the convenience of location, speed of service, and highway accessibility and are not dependent upon comparison shopping or pedestrian traffic within the site or on adjoining sites.
34. **Cross-walk** – a public way intended for pedestrian use and excluding motor vehicles, which cuts across a block in order to furnish improved access to adjacent streets or properties.
35. **Council** – Mayor and Council of the Town of Galena.
36. **Court** – An open space that may or may not have direct street access and around which is arranged a single building or a group of related buildings.
37. **Cul-De-Sac** – a minor local street having but one end open for vehicular traffic and with the other end permanently terminated by a turnaround or back around for vehicles.
38. **Daycare Home** – This is a daycare facility within a residential district for keeping for a part-time and/or instruction, whether or not for compensation, eight or fewer children at any one time within a dwelling, not including members of the family residing on the premises.
39. **Daycare Center** – This is for a daycare facility for more than eight (8) children within a commercial center.
40. **Demolition/demolish** – means the act of pulling down, destroying, removing, or razing a building or structure or commencing the work of total or substantial destruction intent of completing the same.
41. **Density** – the permitted number of dwelling units per acre of land to be developed.
42. **Developer** – a person, partnership, or corporation building more than one dwelling unit or building one dwelling unit for occupancy by other than the owner, or any type of commercial or industrial development or dividing of the land.
43. **Development** – any construction, reconstruction, modification, extension or expansion of buildings or structures; placement of fill; dumping; storage of materials; land excavation; land clearing; land improvement; a subdivision of land; or any combination thereof.
44. **District** – Any section of Galena in which the zoning regulations are uniform.
45. **District, Commercial** – Any district designated in these regulations as a business or commercial district or special commercial district under Articles III or V of this Ordinance or containing the words “Business” or “Commercial” in its title.
46. **District, Residential** – Any district designated in this ordinance as a residential district under Articles III, District and District Map or Article V, District Regulations.
47. **Dog, Kennel, Commercial** – The keeping of any dog or dogs, regardless of number, for sale, breeding, boarding, or treatment purposes, except in an animal hospital, dog beauty parlor, or pet shop as permitted by these regulations. The keeping of five or more dogs, six months or older for any purpose.
48. **Drive-In Restaurant** – Any place or establishment merchandising or dispensing food or during at which the customer is served:
 - a. While sitting in an automobile or other motor vehicle, or
 - b. Through an interior or exterior sales window, counter or serving area, and in which a substantial part of the food or drink merchandised and dispensed has been prepared and

packaged so as to facilitate its consumption outside the structure in which the food or drink is dispensed.

49. **Dwelling** – A building or portion thereof, designed or used exclusively for residential occupancy, but not including trailers, mobile homes, hotels, motels, motor lodges, boarding and lodging houses, tourist courts, or tourist home.
50. **Dwelling, Single-Family** - A building designed for or occupied exclusively by one family and may include accessory guest quarters not rented or otherwise used as a separate dwelling and have no cooking facilities or separate utility meter.
51. **Dwelling, Two-Family** – A building designed for or occupied exclusively by two families living independently of each other.
52. **Dwelling, Multi-Family** - A building designed for or occupied exclusively by three or more families living independently of each other.
53. **Dwelling Unit** – a room or group of rooms occupied or intended to be occupied as separate living quarters by a single-family.
54. **Easement** – a strip of land for which the owner grants a right of use to someone else for one or more designated purposes, which purposes are consistent with the general property rights of the owner.
55. **Edge Street** – a street that borders a major park, open space, greenbelt, or waterfront that generally has a generous park edge for recreational multi-use trails on the park side.
56. **Engineer** – A person with professional, technical, or practical training, ability, and experience in engineering and licensed in the State of Maryland to practice engineering. The Town Engineer of Galena is designated by the Mayor and Council.
57. **Erosion** – The process by which the ground surface is worn away by the action of wind or water.
58. **Excavation or Cut** – Any act by which the ground surface is cut into, dug, quarried, uncovered, removed, displaced, or relocated and shall include the conditions resulting therefrom.
59. **Family** – An individual or two or more persons who are related by blood or marriage living together and occupying a single housekeeping unit with single primary culinary facilities, or a group of not more than four persons living together by joint agreement and occupying a single housekeeping unit with single primary culinary facilities on a non-profit, cost-sharing basis.
60. **Farmer’s Market** – a retail market selling predominantly locally produced fruits, vegetables, crafts, and meats.
61. **Fence or Wall** – any structure regardless of composition, except a living fence, that is erected or maintained for the purpose of, marking a boundary, enclosing an area, providing screening or privacy, restricting access or egress, or dividing a piece of land into distinct portions.
62. **Fence Height** – the distance measured from the existing grade to the top of the fence at its highest point.
63. **Filing Station** – Any building, structure, or land used for the sale at retail, of motor vehicle fuels, lubricants, or accessories, or for the servicing major repair work such as motor replacement, body and fender repair, or spray painting.

64. **Floor Area –**
- a. Commercial and business buildings or buildings containing mixed uses; the sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two building 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; and
 6. Accessory off-street loading spaces.
 - b. 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.
65. **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.
66. **Garage, Private** – A garage used for storage purposes only and has a capacity of not more than four automobiles or not more than two automobiles per family housed in the building to which the garage is accessory.
67. **Grade** – Grade elevation shall be determined by averaging the elevations of the finished ground at all the corners and/or other principal points in the perimeter wall of the building.
68. **Grading/grade** – Any act by which soil is disturbed, including but not limited to, clearing, stripping, stockpiling, excavating, grubbing, scarified, filling, removing root mat or topsoil, or any combination thereof.
69. **Grandfathered** – the term describes the status accorded certain properties and development activities that are of record prior to the date of adoption of this Ordinance or provisions of this Ordinance.
70. **Group Home/Assisted Living** - A residence within a single dwelling unit for people who are physically or mentally handicapped or infirm, together with not more than two persons providing care or assistance to such persons, all living together as a single housekeeping unit. Persons residing in such homes, including the aged and disabled, principally need residential care rather than medical treatment.
71. **Group Home/Halfway House** – A home for people who have demonstrated a tendency toward alcoholism, drug abuse, mental illness, or antisocial or criminal conduct, together with not more than two people providing supervision and other services to such persons, all of whom live together as a single housekeeping unit. Such use may also provide case management services to help homeless households achieve stable, permanent housing and as a high level of economic self-sufficiency as possible.
72. **Group Home, Private** - a residence in which individuals who have been or are under treatment for a mental disorder may be provided care or treatment in a homelike environment.

73. **Health Officer** – The Health officer of Kent County.
74. **Home Occupation** – An occupation or business activity which is clearly incidental and secondary to use of the premises for dwelling and, which is carried on wholly within the main building by a member of a family residing on the premises. A home occupation includes, but is not limited to the following: (a) art studio; (b) dressmaking; (c) professional office of a physician, dentist, lawyer, engineer, architect, accountant, sales-person, real estate agent, insurance agent, or other similar occupation; (d) teaching, with musical instructions limited to 1 or 2 pupils at a time; however, a home occupation shall not be interpreted to include tourist homes, animal hospitals, child or daycare centers, tea rooms, or restaurants.
75. **Hospital** – A building or group of buildings, having room facilities for overnight patients, used for providing services for the in-patient medical or surgical care of sick or injured persons, and which may include related 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 operations.
76. **Hotel** – A building in which lodging or boarding is provided for more than fifteen (15) persons, primarily transient, or with more than ten (10) guest rooms, offered to the public for compensation. Ingress and egress to and from all rooms are made through an inside lobby or office supervised by a person in charge at all hours. A hotel may include restaurants, taverns, club rooms, public banquet halls, ballrooms, and meeting rooms.
77. **Junk** – Dilapidated vehicles and parts, untagged vehicles or trailers, scrap building material, or any other kind of scrap or waste material that is stored, kept, handled, or displayed.
78. **Jurisdiction** – Territory of a country or municipal corporation within which its powers may be exercised.
79. **Lane** – a narrow Thoroughfare connecting very low density or open space areas.
80. **Laundromat** – A business that provides washing, drying, and/or ironing machines.
81. **Linear Foot** – a linear foot is a straight-line measurement
82. **Loading Space** - An off-space or berth outside the main building for the standing or lot loading or unloading of vehicles.
83. **Lodging House** – Same as a rooming house.
84. **Lot** – A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or plat and which is recognized as a separate legal entity for the purposes of transferring title.
85. **Lot Area** – The total horizontal area within the lot lines of the lot.
86. **Lot, Corner** – A lot abutting upon two or more streets at their intersection.
87. **Lot Depth** – The average horizontal distance between the front and rear lot lines.
88. **Lot Interior** – A lot other than a corner lot.
89. **Lot Line** – The boundary line of a lot.
90. **Lot line Adjustment** – Boundary line agreement and/or plat is filed in land records showing the old lot lines being removed, the new lot lines being created, the acreage of each lot before the adjustment, and the acreage of each lot after adjustment is shown. Lot line adjustment cannot create a lot that is less than the minimum required size for the zoning district.
91. **Lot Through (Double Frontage)** – A lot having a frontage of two approximately parallel streets or places.

92. **Lot Width** – The horizontal distance between the side lot lines measured at the required building set back lines.
93. **Main Street (MS)** – A Thoroughfare serving principal commercial areas.
94. **Major Thoroughfare** – a street or principal arterial highway so designated on the Kent County Major Thoroughfare Map or Galena Traffic Plan.
95. **Medical Facility, Urgent Care** – A building or portion thereof designed for, constructed or under construction or alteration for or used by four or more physicians, surgeons, dentists, psychiatrists, physiotherapist or practitioners in related specialties, or a combination of persons in these professions, but not including lodging of patients overnight.
96. **Minor Street** – a local street other than a major thoroughfare or collector street and intended primarily for providing access to abutting properties.
97. **Motel, Motor Court, Tourists, Homes, or Motor Lodge** – a building in which lodging, or boarding and lodging, are provided and offered to the public for compensation. Buildings are usually designed to serve tourists traveling by automobile, ingress, and egress to rooms need not be through a lobby or office, and parking usually is adjacent to the rooms.
98. **Neighbor, Essential Services** – Any utility facility needed to provide basic services such as water, sewer, telephone, and cable television to the individual users.
99. **Neighborhood Street (N)** – a Thoroughfare of low vehicle capacity and low to moderate speeds.
100. **Neighborhood Low Street (NL)**- a Thoroughfare of low vehicle capacity and low speeds.
101. **Nonconforming Use** – a building, use, structure, or land which does not conform with the height, area, or use regulations of the district in which it is located.
 - a. **Nonconforming Lots** – A validly recorded lot which at the time it was recorded fully complied with all applicable laws and ordinances, but which does not fully comply with the lot requirements of this Ordinance concerning minimum density, area or dimension.
 - b. **Nonconforming Structures** – A structure or building, not including signs, which lawfully existed on the effective date of this Ordinance, but which does not comply with one or more of the development standards for the district in which it is located.
 - c. **Nonconforming Use** – A use or activity that was lawful prior to the effective date of this Ordinance but fails to comply with the present requirements of the Ordinance.
102. **Nursing Home/Convalescent Home** – A building where regular nursing care is provided for more than one person that is not a member of a family who resides on the premises.
103. **Open Space** – Those areas suitable for common recreational use or which provide visual relief to developed areas, exclusive of flood control channel rights-of-way, areas devoted to parking, vehicular traffic, or private land, and any other area which does not significantly lend itself to the overall benefit of either the particular development or surrounding environment. The boundaries of open space areas shall be treated as property lines in determining required rear and side yard setbacks.
104. **Ornamental or Decorative Pool** – Reflector pools, fishponds, or water gardens in excess of twelve (12) inches in depth and two hundred and fifty (250) square feet or more of water surface area.
105. **Parking, Off-Street** – An all-weather surfaced area not in a street or alley.
106. **Planning Commission** – The Galena Planning Commission.
107. **Plaza** – an open area especially a public square, surrounded by shops and/or other business establishments being owned and/or operated by a single entity.

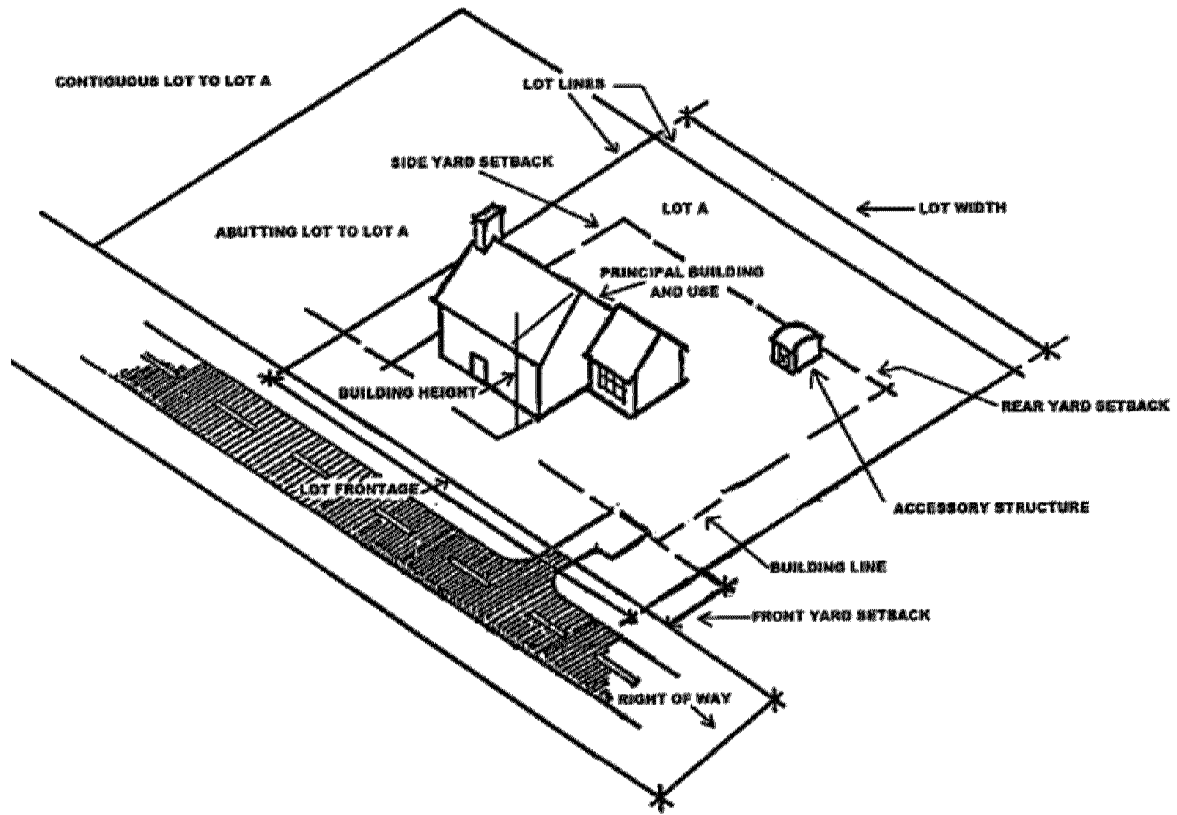
108. **Plot Plan** – A site plan for single-family dwellings, accessory uses, and structures to single-family dwellings, additions, and alterations to single-family dwellings and agricultural structures. These projects have a minor impact, require less information.
109. **Porch** - A roofed space outside the mains support walls of a building.
110. **Premises** – A lot, together with all the buildings and structures thereon.
111. **Public Utilities** – Uses or structures for the public purpose, transmission, and distribution; water treatment and distribution; sewerage collection and treatment.
112. **Recreation Vehicle** - A vehicular unit, other than a mobile home, whose gross floor area is less than three hundred and twenty (320) square feet, which is designed as a temporary dwelling for travel, recreational and vacation use, and which is either self-propelled, mounted on or pulled by another vehicle. Examples include, but are not limited to, a travel trailer, camping trailer, truck camper, motor home, fifth-wheel trailer or van.
113. **Regulations** – The whole body of regulations, text, charts, tables, diagrams, maps, notations, references, and symbols, contained or referred to in this Ordinance.
114. **Restaurant** – An establishment whose principal business is the sale of foods or beverages to the customer in a ready-to-consume state, and whose method of operation includes one or both of the following characteristics:
- a. Customers, normally provided with an individual menu, are served their foods or beverages by a restaurant employee at the same table or counter at which the items are consumed.
 - b. A cafeteria-type operation where foods or beverages are consumed within the restaurant building.
- This definition does not include food service establishments which include facilities designed for the serving of food directly to the occupants of motor vehicles.
115. **Retail Stores** – stores selling one kind or various kinds of goods, as distinct from services, such as but not limited to, drug stores, grocery stores, department stores, camera shops, bookstores, and record shops.
116. **Retirement Housing** - A development providing dwelling units specifically designed for needs of ambulatory elderly persons shall qualify for a 20% increase in allowable density and yard requirements shall be modified accordingly to accommodate the increased density.
117. **Roads, Arterial, Collector, Primary, Local, and Secondary** – As shown in Kent County’s and Appendix H - Town of Galena’s Transportation Plan 2020 Major Thoroughfare Map.
118. **Roadside Stand** – A temporary structure designed or used for the display or sale of local agricultural products.
119. **Roadway or Travel Lane Widths**– That portion of a street or highway available for and intended for use by motor vehicle traffic.
120. **Rooming or Boarding House** – A building where, for compensation and by prearrangement for definite periods, lodging and meals are provided for three or more persons but containing no more than five (5) guest rooms or rental units.
121. **Satellite Dish (Receive-Only Earth Station)** - A device or instrument, designed or used for the reception of television or other electronic communications signals broadcast or relayed from an earth satellite, typically up to twelve feet in diameter, in the shape of a shallow dish or parabola.
122. **Satellite Dish or Television** – A device or equipment used for the receiving of television or radio programming which is a subordinate use or structure customarily incidental to and located upon the same lot as the main structure.

123. **Screen** – A structure or planting consisting of fencing, berms, and/or deciduous or coniferous trees or shrubs providing a continuous view obstruction within a site or property.
124. **Service Drive** – A minor collector street that is parallel to and adjacent to a major thoroughfare, and which provides access to abutting properties and restricts access to the major thoroughfare.
125. **Setback** – The distance between the street right-of-way and the line of a building or any projection thereof.
126. **Shed** – A portable, non-permanent structure, installed without footers, used for the storage of items such as gardening equipment or home repair tools and supplies.
127. **Shopping Center/Plaza** – An integrated development of four or more commercial, retail, or service units, either connected or freestanding sharing common parking facilities and common access.
128. **Sign** – For definitions pertaining to signs, refer to Article VII, General Sign Regulations.
129. **Site** – Any tract, lot, or parcel of land or combination of tracts, lots, or parcels of land which are under one ownership, or are contiguous and in diverse ownership where development is to be performed as a part of a unit, subdivision, or project.
130. **Site Plan** – A drawing illustrating a proposed development and prepared in accordance with the specifications of Article VII, Site Plan
131. **Solar Energy System, Small** - Any device or combination of devices or elements which rely upon direct sunlight as an energy source, including but not limited to any substance or device which collects sunlight for generating energy for use on-site such as solar roof panels. Permit, structural plans certified by a structural engineer, and approval by all agencies shall be required.
132. **Special Exception** – Permission by the Board of Appeals to establish a specific use that would not be appropriate generally or without restriction throughout a zoning district, but which is controlled as to number, area, location, or relation to the neighborhood, would comply with the purpose and intent of this Ordinance.
133. **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, then the space between such floor and the ceiling next above it.
134. **Street** – A public or private thoroughfare which affords the principal means of access to abutting property.
135. **Street Line** – a dividing line separating a lot, tract, or parcel of land and a contiguous street, and also referred to as a right-of-way line.
136. **Structural Alteration** – Any change in the supporting members of a building, footings bearing walls or partitions, columns, beams, or girders, or any substantial change in the roof or exterior walls, excepting such repair as may be required for the safety of the building.
137. **Structure** – Anything constructed or erected, the use of which requires more or less permanent location on the ground, or attached to something having a permanent location on the ground, including but not without limiting the generality of the foregoing, trailers or mobile homes, signs, swimming pools, fences, backstops for tennis courts, and pergolas.
138. **Subdivision** – The division of a lot, tract, or parcel of land into two (2) or more plots, parcels, lots, or sites, or other divisions of land for the purpose, whether immediate or future, of transfer of ownership or of building development; provided, however, the sale or exchange of parcels between adjoining lot owners where such sale or exchange does not create additional building sites, shall be exempt from this definition. The term shall include re-subdivision.
139. **Swimming Pool** – Any portable pool or permanent structure containing a body of water 42 inches or more in a depth.

140. **Temporary Buildings** - the use of which is incidental to construction operations for the sale of lots during development being conducted on the same or 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 of the time of the erection of such temporary building, whichever is sooner.
141. **Theater** - A building designed or used primarily for the indoor commercial exhibition of motion pictures to the general public or a legitimate theater, including a dinner theater, including only those areas, buildings, or structures designed and used for plays, acts dramas, or histrionics by actors and actresses performing upon a stage.
142. **Thoroughfare** - a street, road, or trail forming a route between two places.
143. **Town House** - 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 the basement to roof and having roofs which may extend from one such dwelling unit to another.
144. **Trail or Multi-use Trail** - A Thoroughfare path physically separated from motor vehicle traffic to accommodate two-way non-motorized pedestrians and bicyclists.
145. **Trailer Home or Mobile Home** - Any vehicle, covered or uncovered, used for living, sleeping business, or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses, or skirting, and which is, has been or reasonably may be equipped with wheels or other devices for transporting the vehicle from place to place, whether by motive power or other means. The term trailer shall include a camp car and house car.
146. **Use** - Use by Right is a use permitted in a zoning district and is therefore not subject to special review and approval by a local government.
147. **Utilities**- Fixed structure that conveys or distribute resources, waste, or both, including, but not limited to electrical lines, and telecommunications.
148. **Variance** - A modification only of density, bulk, dimensional, or area requirements in the zoning law that is not contrary to the public interest, and where, owing to conditions peculiar to the property and not because of any action was taken by the applicant.
149. **Vehicle, Commercial** - is any type of self-propelled motor vehicle typically used for business, industrial, office, or institutional purposes.
150. **Veterinary Clinic** - A building or portion thereof designed for the keeping of domestic animals for medical examination and/or treatment by one or more licensed veterinarians provided that all such animals are confined inside the building and none are housed overnight except in cases of abuse, life-threatening injuries, or other medical necessities.
151. **Waterway** - Any body of water, including any creek, canal, river, lake, or bay.
152. **Yard** - An open space other than a court, on a lot, and unoccupied and unobstructed from the ground upward, except as otherwise provided in this Ordinance.
153. **Yard, Front** - A yard extending across the front of a lot between the side lot lines and being the minimum required horizontal distance between the street line and the main building or any projections thereof other than the projections of uncovered steps, uncovered balconies, terraces, or uncovered porches.
154. **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 buildings or any projections from there.
155. **Yard, Side** - A yard between the main building and the sideline of the lot and extending from the front yard to the rear yard and being the minimum horizontal distance between the side of the main buildings or any projections from there.

156. **Zoning Coordinator** –the zoning administrative officer who carries out duties as specified in this Ordinance, or the Town Manager or the Town Facilities and Zoning Coordinator in the absence of a Zoning Coordinator. The Zoning Coordinator is also known as the Coordinator.
157. **Zoning District** – an area within which certain uses of land and structures are permitted and certain others are prohibited; yards and other open spaces are required; minimum lot areas and dimensions; and other requirements are established.
158. **Zoning Permit** – a written statement issued by the Zoning Coordinator authorizing buildings, structures, uses consistent with the terms of this Ordinance.

Appendix A
Illustration Height and Area Requirements



Appendix B Minimum Lot Area

APPENDIX B - HEIGHT, AREA, BULK, & DESIGN REQUIREMENTS

DISTRICTS	MINIMUM LOT COVERAGE					MINIMUM YARD REQUIREMENTS FEET			MAX HEIGHT (feet)	LOT COVERAGE	DENSITY/INTENSITY Du/Per Acre	MIN OPEN SPACE	MIN TRACT SIZE Acres
	Lot Area Sq. Ft.	Per Du. Sq. Ft.	Width (feet)	Depth (feet)	Road Frontage (feet)	Front	Side	Rear					
R-1 Single-family													
Detached	9,000	9,000	75	120	40	35	10	30	35	50%	3.5	10%	
R-2 Multi-family													
Single-Family	6,500	6,500	65	100	40	20	10	20	35	60%	5	10%	
Multi-Family [10]	87,120 [3]	1,200 [6]	[3]	200 [3]	[3]	20	20 [9]	50	40	65%	14	30%	2
Duplex	9,600	1,800 [4]	80	120	40	20	10	40	35	60%	5	10%	
Townhouse [10]	2,200 [3]	1,200 [5]	20	110	40	20	[1][2][8][9]	40	40	65%	8	20%	2
C-1 Commercial	5,000		[3]	[3]	[3]	[3]	5 [2]	10 [2]	40	90%			
C-2 Commercial	33,300		165	200 [3]	100	50	10 [2]	15 [2]	45	85%			
I Institutional						0	0-3	12-50	45	85%			

[1] Setbacks shall be 15 foot for each end unit

[2] Setbacks are required from adjoining residential properties – side yard 25 feet and rear yard 50 feet.

[3] See Article VIII Site Plans – Minor and Major.

[4] Per Unit

[5] Per block 5 units

[6] Maximum number of units per building story six (6)

[7] Subjected to a 20% increase in density as set forth in Supplementary Use Regulations. Also, subjected to underlying zoning. For example: Townhouse development use townhouse minimum yard requirements.

[8] See Article V Supplementary Use Regulations.

[9] Distance between townhouses and apartment buildings 20 feet.

[10] Maximum length of building 100 feet.

APPENDIX C Flag Poles

Permitted in C-1, C-2, and (I) Districts

Flag Poles: The display of governmental flags is limited to 36 square ft. attached to a building or flown on a permanent pole. Anyone (1) flag over 24 sq. Ft. must be flown on a flag pole with approximate height vs. sq. Ft. as follows:

SQUARE FOOT FLAG	POLE HEIGHT
24' - 40'	25' - 30'
41' - 60'	30' - 35'
61' - 150'	35' - 40'
OVER 150'	50' - 60'

APPENDIX D STANDARDS FOR BUFFER YARD DESIGN

1. Buffer yard Specifications

The following illustrations graphically indicate the specifications for each type of buffer yard.

Buffer yard specifications are stated in terms of the width of the buffer yard and the number of plant units required per one hundred (100) linear feet of buffer yard. The required buffer yard shall be one of the options illustrated. The "plant unit multiplier" is a factor by which the basic number of plant materials recommended for a given buffer yard is determined given a change in the width of that yard.

The type and quantity of plant materials required for each type of buffer yard, and each buffer yard option, including berms, are specified in this section. Nothing in this section shall be construed so as to allow a lesser buffer yard type than that required in Article XI and/or other articles of this Ordinance.

Landscaping shall meet the minimum requirements of the State Forest Conservation.

The options within any buffer yard are designed to be equivalent in terms of their effectiveness in eliminating the impact of adjoining uses. Cost equivalence between options was attempted where possible. Generally, the plant materials which are identified as desirable are determined by the type(s) of soil present on the site. Each illustration depicts the total buffer yard located between two uses.

2. Plant Material

The following plant material substitutions may satisfy the recommendations of this section.

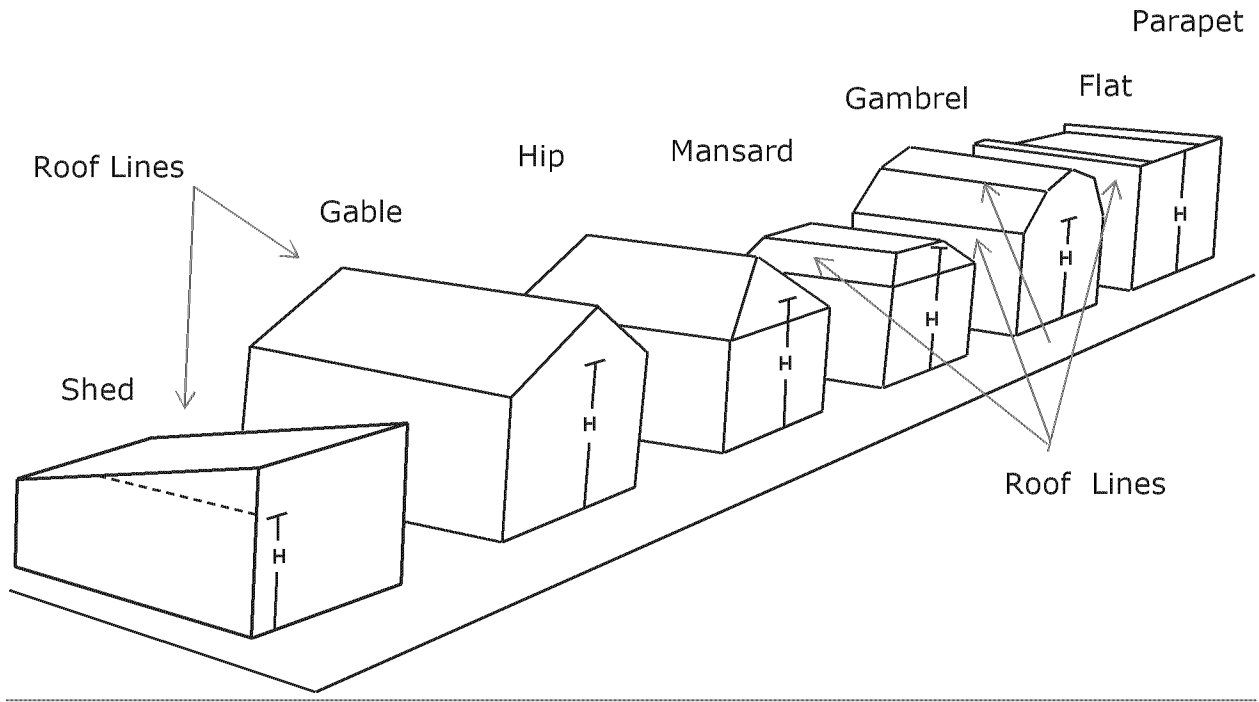
1. Canopy trees, planted at least every thirty (30) feet, may be substituted for deciduous canopy trees without limitation.
2. In the case of deciduous canopy trees, planted at least one (1) every three (3) feet, up to a maximum of fifty (50) percent of the total number of the deciduous canopy trees otherwise required.
 - a. In the case of the deciduous understory, without limitation.
1. In all buffer yards, evergreen or conifer shrubs may be substituted for deciduous shrubs without limitation.
2. In all buffer yards required of public service uses, the public service use may substitute evergreen canopy plant materials for deciduous canopy trees and understory plant materials, without limitation.

If the development of the adjoining parcel is existing, planned, or deed-restricted for solar access, understory trees may be substituted for canopy trees where canopy trees would destroy solar access. Any existing plant material which otherwise satisfies the requirements of this section should be used.

Although the exact placement of recommended plants and structures is the decision of each user the following is recommended. All buffer yard areas should be seeded unless the ground cover is already established.

APPENDIX E Illustration Roof Line

Note: Roof Line Designations refer to definitions projecting and Roofs Signs.



APPENDIX F Plot Plan Information Requirements

The following information may be required as determined by the Zoning Coordinator. The information shall be presented in a clear and legible manner but does not have to be to scale. A sketch plat prepared in accordance with the Town of Galena's Land Subdivision Regulations and this Ordinance shall be required for all applications for all developments.

	I. PLAT INFORMATION (1 of 3)	Sketch Plan	Minor Site Plan	Major Site Plan	Plat Plan	Environmental Assessment
1	Name, Address of Owner, Applicant's Name	X	X	X	X	X
2	Name, signature, license number, seal and address of engineer, land surveyor, architect, planner, and/or landscape architect involved in document preparation	X	X	X		X Qualified Professional
3	Title block denoting name and type of application, street location, parcel, lot, and tax map sheet and sheet number	X	X	X	X	X
4	A key map at a specified scale showing the location of the tract with reference to surrounding properties, streets, and landmarks.	X	X	X		X
5	Existing and proposed zoning of the tract and adjacent property	X	X	X	X	X
6	North arrow and scale	X	X	X	X	X
7	Appropriate signature block for Zoning Coordinator	X	X	X		
8	Appropriate certification blocks	X		X		
9	Monumentation	X		X		
10	One (1) of four (4) standardized sheets: 30" x 42" 24" x 36" 18" x 24" 8.5" x 22" (plot plans only)	X	X	X	X	X
11	Metes and bounds description showing dimensions, bearings, curve data, length of tangents, radii, arcs, chords, and central angles for all centerlines and rights-of-ways, and centerline curves on streets	X		X		
12	Acreage of tract	X	X	X	X	X
13	Date of original and all revisions	X	X	X		X
14	Size, location, and height of any existing or proposed structures with all setbacks dimensioned	X	X	X	X	X

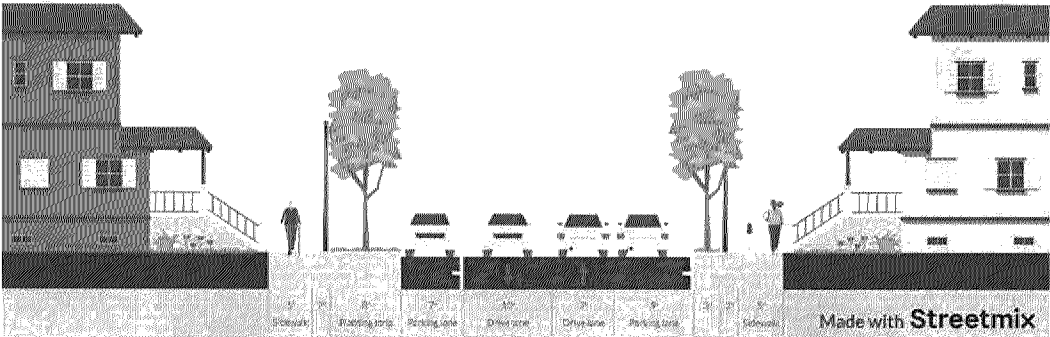
	I. PLAT INFORMATION (2 of 3)	Sketch Plan	Minor Site Plan	Major Site Plan	Plat Plan	Environmental Assessment
15	Location and dimensions of any existing or proposed roads or streets (for Plot Plans general location)	X	X	X	X (Approx.)	X
16	All existing or proposed lot lines and area of lots in square feet or lot dimensions	X	X	X	X	X
17	Copy and/or delineation of any existing or proposed deed restrictions or covenants	X	X	X		
18	Any existing or proposed easement or land reserved for or dedicated to public use	X	X	X		X
19	Development stages or staging plans	X		X		X
20	List of required regulatory approvals or permits	X		X		X
21	List of variances required or requested	X	X	X		X
22	Requested or obtained design waivers or exceptions	X		X		X
23	Specific use proposed	X	X	X		X
24	Any conditions or design standards required by the table of permissible uses (PC and SE)	X	X	X		X
25	Type of wastes or by-products to be produced and method of disposal of such waste	X	X	X		X
26	Payment of application fee	X	X	X		X
	II. SETTING - ENVIRONMENTAL INFORMATION		X	X		X
27	Adjacent property owners	X	X	X		X
28	All existing watercourses, perennial streams, floodplain, wetlands, or other environmentally sensitive areas on and within 200 ft of the site	X	X	X		X
29	Existing rights-of-way and/or easements on and within 100 ft of track	X	X	X		X
30	Topographical features of the subject property	X	X	X		X
31	Existing and proposed contour intervals based on USC&GS or County data. Contours shall extend at least 100 ft beyond the subject property.	X	X	X		X
32	Slope analysis areas > 15 & 25% shall be shaded and identified as steep slopes	X	X	X		X

33	Soils based on current Soil Survey	X		X		X
34	Boundary, limits, nature, and extent of wooded areas, specimen trees, and other significant physical features	X		X		X
35	If applicable, Critical Area and Flood Plain Boundaries	X		X		X
	I. PLAT INFORMATION (3 of 3)	Sketch Plan	Minor Site Plan	Major Site Plan	Plot Plan	Environmental Assessment
36	Forest Conservation Regulations - exemption or plan information	X		X		X
37	Non-tidal wetlands delineation based on NWI or County Maps		X	X		X
38	Disturbed areas only - non-tidal wetlands identification based on field analysis	X		X		X
39	Location of the area to be disturbed by construction and location of trees measuring greater than twelve (12) inches in diameter at four (4) feet five (5) inches.			X		X
40	Location of Habitat Protection Areas on the site or within 1/4 mile in the case of Bale Eagle habitat	X		X		X
41	Location of all contiguous forested areas on the site and adjacent to the site	X		X		X
	III. IMPROVEMENTS AND CONSTRUCTION INFORMATION			X		X
42	Construction details as required by ordinance	X		X		X
43	Water and Sewer capacity - EDUs	X		X		X
44	Lighting plan and details			X		X
45	Landscaping plan and details			X		X
46	Landscaping agreement and financial surety		X	X		X
47	Location, size, and type of all signs			X		
48	Vehicular and pedestrian circulation patterns			X		
49	Parking plan showing a number of spaces, size, and type; aisle width, curb cuts, drives, driveways, and all ingress and egress areas and dimensions		X	X		
50	Designated open space and/or planned recreational facilities	X		X		
51	Areas of outdoor storage			X		
52	Proof that the required utilities i.e. electric and telephone are available to the proposed development	X	X	X		

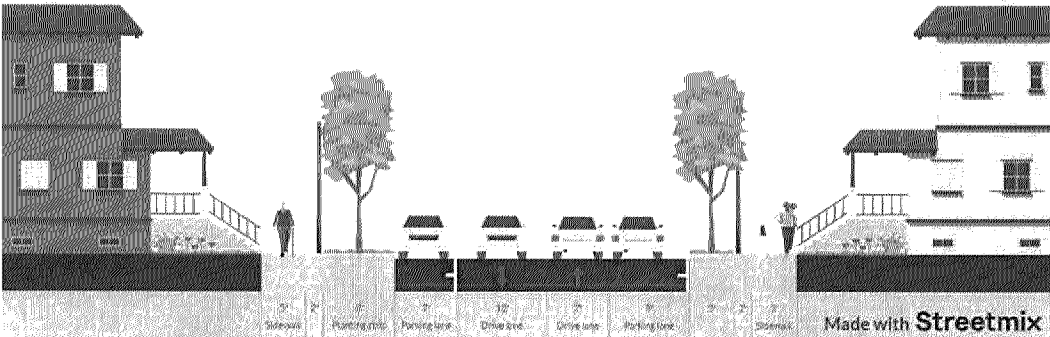
53	Statement of provisions for ultimate ownership and maintenance of all parts of development including streets, structures, and open spaces.			X		
54	Other information as may be necessary to assure compliance with applicable regulations	X	X	X	X	X
55	Other information as may be necessary to obtain the approval of other regulatory agencies i.e. Kent County Stormwater management & Soil Conservation District - Erosion and Sediment Control Health	X	X	X	X	X
56	An irrevocable letter of credit or any other surety required by the Mayor and Planning Commissioners	X	X	X	X	X

APPENDIX G – THOROUGHFARE DIMENSIONAL ILLUSTRATIONS

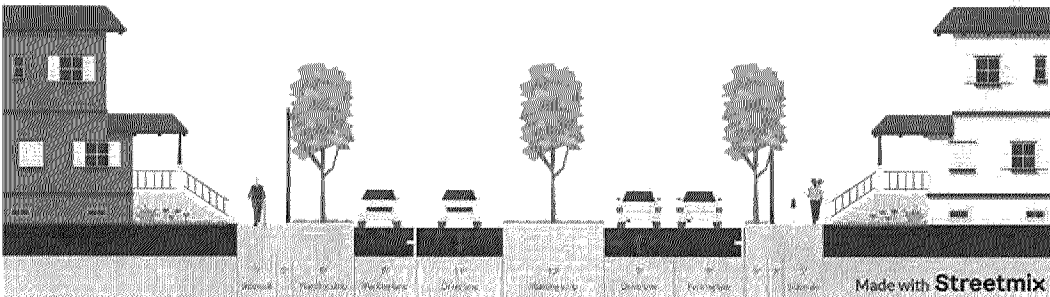
Neighborhood Low (NL) 42'-78' ROW



Neighborhood (N) 45'-81' ROW

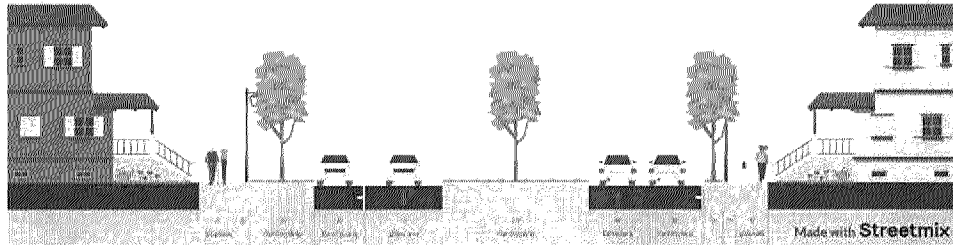


Avenue (AV) 65'-83' ROW

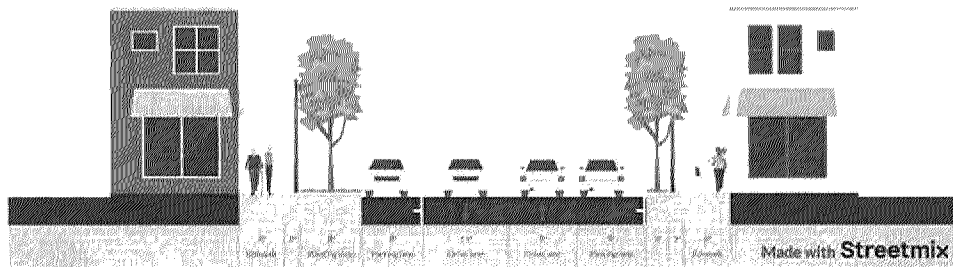


APPENDIX G - CONTINUED

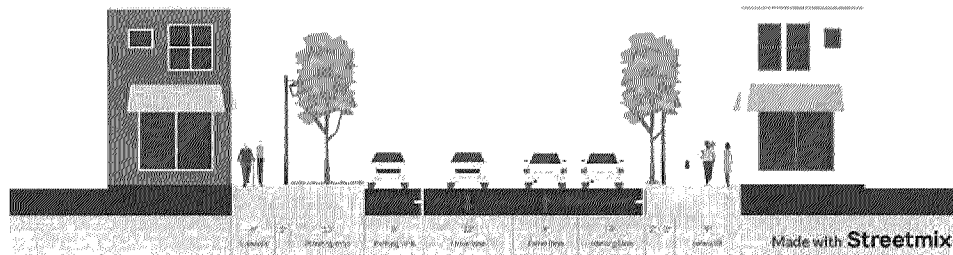
Boulevard (BLVD) 79'-100' ROW



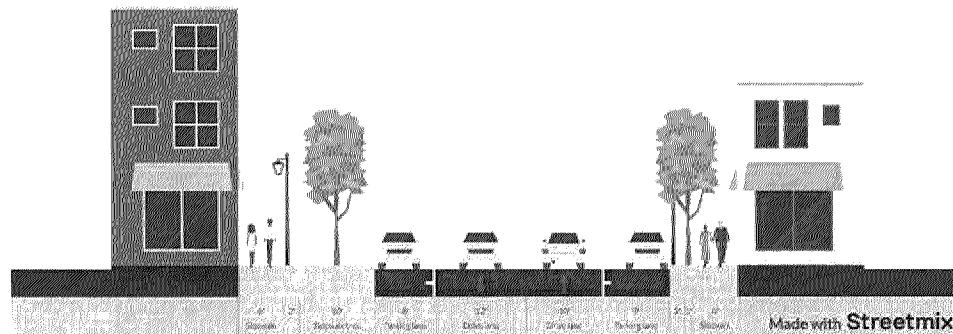
Commercial Avenue (CA) 54'-72' ROW



Main Street (MS) 56'-90' ROW

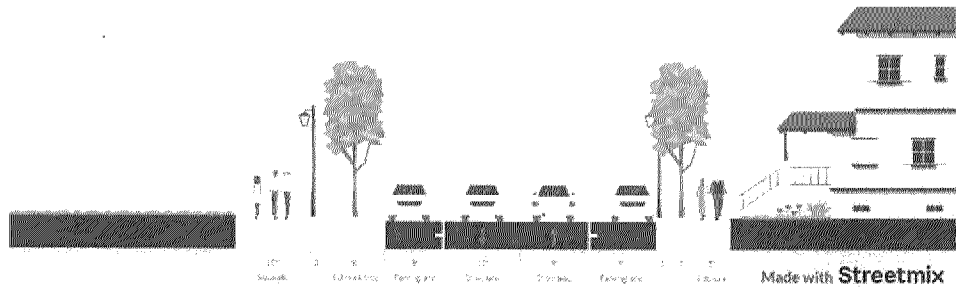


Service Drive (SD) 52'-78' ROW

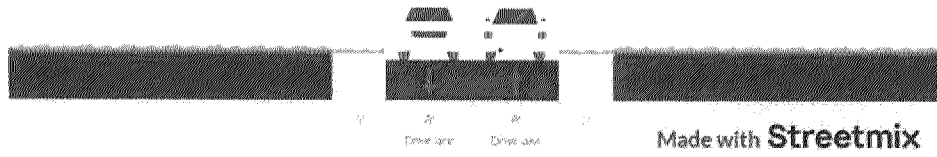


APPENDIX G - CONTINUED

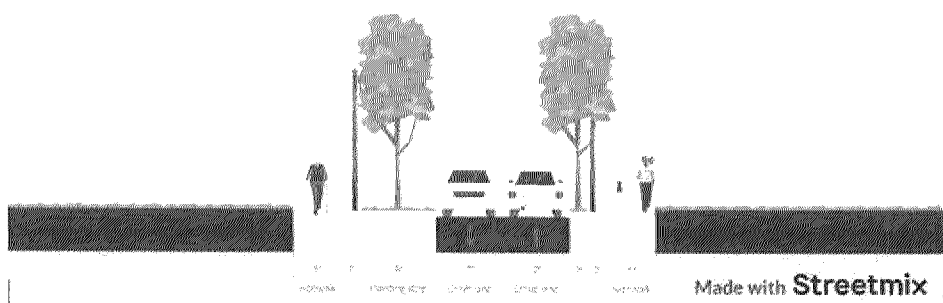
Edge 44'-78' ROW



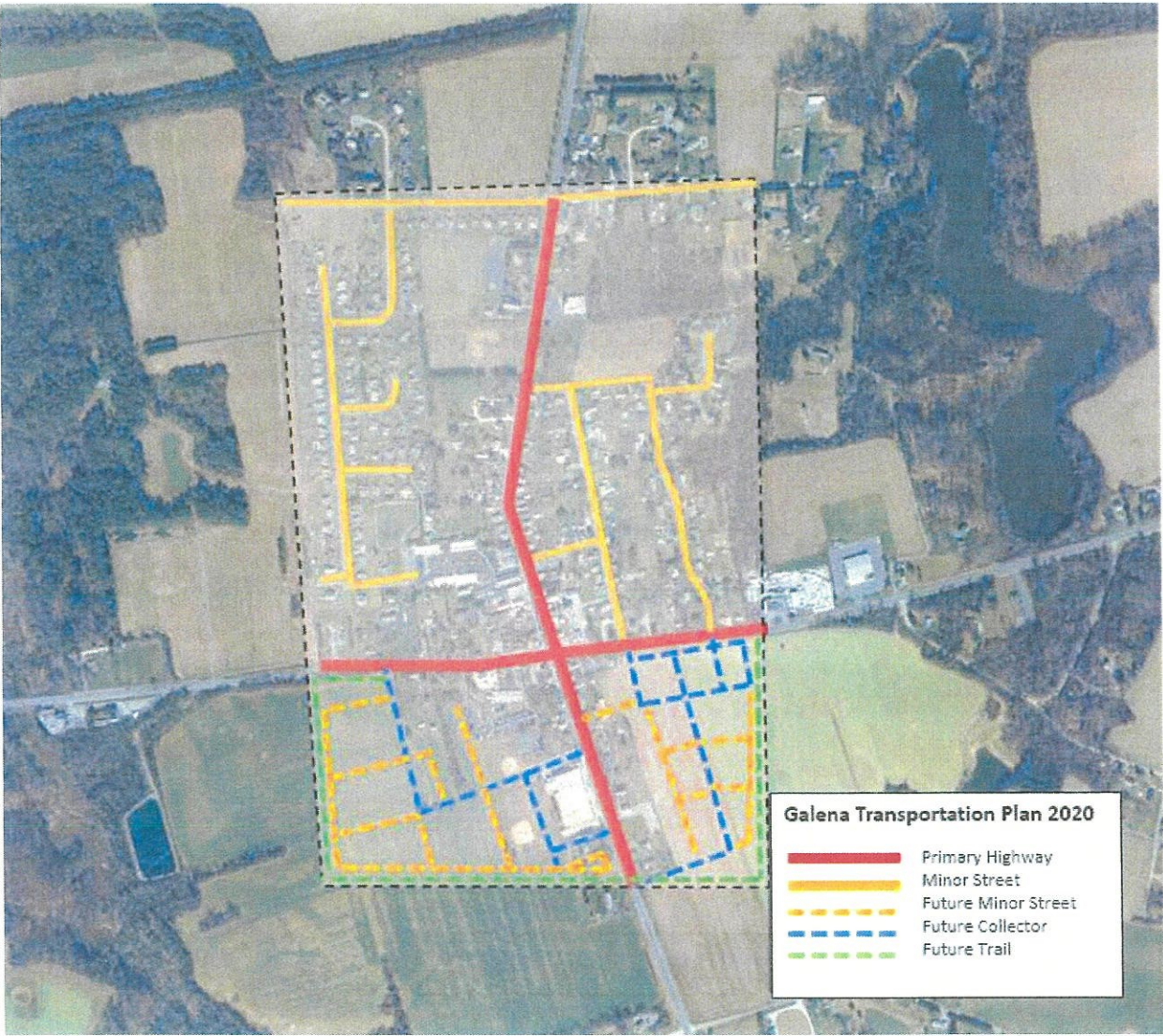
Alley 18'-24' ROW



Lane 25'-50' ROW



APPENDIX H – Galena Transportation Plan 2020



Zoning District Map of Galena, Maryland

MAYOR AND COUNCIL, TOWN OF GALENA

John T. Carroll, Jr., Mayor

John W. Duhamell, Jr., Council Member

Francis V. Bogdan, Council Member

Albert H. Piasecki, Jr., Council Member

Sarah E. Merrell, Council Member

ATTEST:

Pam McCoy, Clerk

This map supersedes and replaces the Official Zoning Map adopted August 4, 1997 (Ordinance No. 97-2)

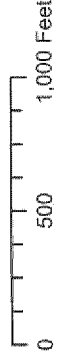
ADOPTED THE DAY OF _____

Ordinance No. _____

"Original Copy not to be altered or removed from the Recorder's Office except on Court Subpoena".



- Municipal Boundary
- Parcels
- Single Family Residential (R-1)
- Multiple Family Residential (R-2)
- Commercial (C-1)
- Commercial (C-2)
- Institutional (I)



Zoning District Map of Galena, Maryland



MAYOR AND COUNCIL, TOWN OF GALENA

John T. Carroll Jr.
John T. Carroll Jr., Mayor

John W. Duhamell Jr.
John W. Duhamell Jr., Council Member

Francis V. Bogdan
Francis V. Bogdan, Council Member

Albert H. Plasecki Jr.
Albert H. Plasecki Jr., Council Member

Sarah E. Merrill
Sarah E. Merrill, Council Member

ATTEST
Fern McCoy
Fern McCoy, Clerk

This map supersedes and replaces the Official Zoning Map adopted August 4, 1997 (Ordinance No. 97-2).

ADOPTED THE DAY OF June 17, 2020

Ordinance No. 9020-01

"Original Copy not to be altered or removed from the Recorder's Office except on Court Subpoena"

- Municipal Boundary
- Single Family Residential (R-1)
- Multiple Family Residential (R-2)
- Commercial (C-1)
- Commercial (C-2)
- Institutional (I)
- Parcels



THE CODE OF ORDINANCES

TOWN OF GALENA

CHAPTER VII, ARTICLE 4.

FOREST CONSERVATION ORDINANCE

FEBRUARY 1, 1993

ARTICLE 4. FOREST CONSERVATION ORDINANCE

SECTION	PAGE
7-401 TITLE	1
7-402 APPLICABILITY	1
7-403 PURPOSE	3
7-404 GENERAL PROVISIONS	3
7-405 FOREST STAND DELINEATION	5
7-406 FOREST CONSERVATION PLAN	7
7-407 AFFORESTATION AND RETENTION	10
7-408 RETENTION	11
7-409 REFORESTATION	12
7-410 PRIORITIES AND TIME REQUIREMENTS FOR AFFORESTATION AND REFORESTATION	12
7-411 PAYMENT INSTEAD OF AFFORESTATION AND REFORESTATION	14
7-412 RECOMMENDED TREE SPECIES	14
7-413 STANDARDS FOR PROTECTING TREES FROM CONSTRUCTION ACTIVITIES	15
7-414 ADMINISTRATION	15
7-415 DEFINITIONS	18
7-416 SEVERABILITY	24

ARTICLE 4. FOREST CONSERVATION ORDINANCE

7-401 TITLE

This Ordinance shall be known as the Forest Conservation Ordinance for Galena, Maryland.

7-402 APPLICABILITY

- (a) This Ordinance shall apply to all of the incorporated territory of the Town of Galena, Maryland, excluding those areas governed by the Chesapeake Bay Critical Area Protection Law, Natural Resources Article, Section 8-1801-8-1816, Annotated Code of Maryland. It is the intent of this Ordinance that the extent of its applicability be automatically changed in accordance with the provisions hereof or provisions of state law which may affect the applicability of the Ordinance.
- (b) This Ordinance applies, unless otherwise exempt under Section 3 of this Article, to a person or organization making application for:
- (1) Subdivision approval on units of land 40,000 square feet or greater
 - (2) Site plan approval on units of land 40,000 square feet or greater
 - (3) Grading and sediment control permits on units of land 40,000 square feet or greater
 - (4) Public utilities not exempt under Article I, Sections 3.D and 3.E of this Ordinance.
 - (5) Agencies of County or municipal government including public utilities and public works projects if making application for subdivision, site plan, or sediment control permits on units of land 40,000 square feet or greater.^b
- (c) This Ordinance does not apply to:
- (1) Highway construction - under Natural Resources Article, Section 5-103, Annotated Code of Maryland.
 - (2) Commercial logging and timber harvest operations, including harvesting conducted subject to the forest conservation and management program under Tax Property Article, Section 8-211, Annotated Code of Maryland, that are completed:
 - a) Before July 1, 1991; or
 - b) After July 1, 1992 on property which
 - i. Has not been the subject of application for a grading permit for development within five years after the logging or harvesting operation; and
 - ii. Is the subject of a declaration of intent as provided for in Article III, Section 2 of this Ordinance.
 - (3) Agricultural activities, not resulting in a land use change, including agricultural support buildings and other related activities constructed using best management practices provided that no more than 40,000 square feet of forest is cleared within a one year period. A person clearing 40,000 square feet or greater of forest within a one year period may not receive an exemption unless the person files a declaration of intent which includes:

- a) A statement that the landowner or the landowners' agent will practice agriculture on that portion of the property for five years from the date of the declaration; and
 - b) A sketch map of the property which shows the area to be cleared.
- (4) The cutting or clearing of public utility rights-of-way licensed under Article 78, Section 54A and 54B or 54-I, or land for electric generating stations licensed under Article 78, Section 54-A and 54-B or 54-I, Annotated Code of Maryland, provided:
- a) Certificates of public conveniences and necessity have been issued in accordance with Natural Resources Article 78, Section 5-1603(f), Annotated Code of Maryland; and
 - b) Cutting or clearing of the forest is concluded to minimize the loss of forest.
- (5) Routine maintenance or emergency repairs of the public utility rights-of-way licensed under Article 78, Section 54A or 54-I Annotated Code of Maryland.
- (6) Routine maintenance or emergency repairs of public utility rights-of-way not subject to Article I, Section 3.D of this Ordinance, provided:
- a) The right-of-way existed prior to the effective date of this Ordinance; or
 - b) The right-of-way's initial construction was approved under this Ordinance.
- (7) An activity conducted on a single lot of any size, provided the activity
- a) Does not result in the cumulative cutting, clearing or grading of more than 40,000 square feet of forest;
 - b) Does not result in the clearing, cutting, clearing of forest subject to the requirements of a previous conservation plan approved under this Ordinance.
 - c) Is subject to a declaration of intent filed with the Town of Galena as provided in Article III, Section 2, of this Ordinance and which states that the lot will not be the subject of a regulated activity within five year.
- (8) Noncoal surface mining regulated under Natural Resources Article, Title 7, Subtitle 6A, Annotated Code of Maryland.
- (9) An activity required for the purpose of constructing a dwelling intended for the use of the owner, or a child or a grandchild of the owner, if the activity:
- a) Does not result in the cutting, clearing, or grading of more than 40,000 square feet of forest; and
 - b) Is the subject of a declaration of intent filed in the Town of Galena, as provided in Article III, Section 2 of this Ordinance which states that the transfer of ownership may result in the loss of exemption.

- (10) A real estate transfer to provide a security, leasehold, or other legal or equitable interest, including a transfer of title, of a portion of a lot or parcel if:
 - a) The transfer does not involve a change in land use, or new development or redevelopment with associated land disturbing activities
 - b) Both the grantor and grantee file a declaration of intent.
- (11) A preliminary subdivision plan approved before July 1, 1991 unless the project has changed or approval expired.

7-403 PURPOSE

The purpose of this Ordinance is to conserve the forest of Galena. Forest and individual trees greatly contribute to the quality of life in the Town of Galena, the health of the natural ecosystem, and the health and welfare of the citizens of Galena. The Town's economic health depends heavily on its natural resources of which forests are a major component.

Forested areas play a critical role in the improvement and maintenance of water, soil, and air quality. In particular, forests absorb CO₂, reduce local air temperatures, filter particulates, absorb gaseous pollutants, hold soil in place, improves soil permeability, filters nutrients, sediment, and pollutants, prevent the heating of water in summer and rapid cooling of water in winter and provide habitat for wildlife. Forest along waterways play a particularly crucial role in maintaining water quality and a healthy aquatic community.

It is not the intent of the law to place unreasonable restrictions on development. Rather it aims to maximize the benefits of forest in a cooperative effort with development, thereby retaining forested land in Galena and improving the environment of both developed and undeveloped areas.

7-404 GENERAL PROVISIONS

COMPLIANCE WITH REGULATIONS

- (a) A person making application after the effective date of this ordinance for subdivision, site plan approval, and clearing and grading permits for an area 40,000 square feet or greater, shall:
 - (1) Submit to the Town of Galena a forest stand delineation and a forest conservation plan for the lot or parcel on which the development is located; and
 - (2) Use methods described in the Forest Conservation Technical Manual to protect retained forests and trees during construction.
- (b) State Funds:
 - (1) A local agency or persons using state funds applies to conduct a regulated activity shall submit the subdivision, construction, grading or sediment control plan to the Town of Galena who shall notify the Department of Natural Resources within fifteen (15) days of receipt of the plan or project.

- (2) Within fifteen (15) days of receipt of notice from the Town of Galena, the Department of Natural Resources shall:
 - a) Determine whether the project has impact on significant forest resources; and
 - b) Notify the local authority whether the project is subject to the State program.
- (3) If the Department of Natural Resources determines that the project is subject to the State program the:
 - a) Time limit for approval of the forest stand delineation and preliminary and final forest conservation plan shall begin when the Department receives the necessary documents from the Town of Galena;
 - b) The Planning Commission may not approve a subdivision or site plan or issue the grading or sediment control permit until the Town of Galena receives notice from the Department of Natural Resources that the standards and requirements of the State program have been satisfied.
- (4) If the Department of Natural Resources determines the project need not be reviewed under the state program, the time limit for approval of the forest standard delineation and forest conservation plan under the Kent County plan begins when the local authority receives notice from the Department of Natural Resources.

DECLARATION OF INTENT

- (a) The purpose of the declaration of intent is to verify that the proposed activity is exempt under Natural Resources Article, Subsection 5-103, Annotated Code of Maryland and this Ordinance.
- (b) A person seeking an exemption under Article I, Section 3B, 3C, 3G, 3H, and 3I of this article shall file a declaration of intent with the Town of Galena.
- (c) The existence of a declaration of intent does not preclude:
 - (1) An exempted activity on the property subject to a declaration of intent, if the activity:
 - a) Does not conflict with the purpose of any existing declaration of intent, and
 - b) Complies with the applicable requirements for an exempted activity;
 - (2) A regulated activity on the area covered by the declaration of intent, if the activity occurs within five years of the effective date of the declaration of intent, in which case:
 - a) There shall be an immediate loss of exemption, or

- b) There may be a noncompliance action taken by the Town of Galena, as appropriate, under this Ordinance; or
- (3) A regulated activity on that area of the property not covered under the declaration of intent if the requirements of this Ordinance are satisfied.
- (d) The Planning Commission may require a person failing to file a declaration of intent or found in noncompliance with a declaration of intent to:
 - (1) Meet the retention, afforestation and reforestation requirements established in Articles IV to XIII of this Ordinance;
 - (2) Pay a noncompliance fee of 30 cents per square foot of forest cut or cleared under the declaration of intent;
 - (3) Be subject to other enforcement actions appropriate under this Ordinance; or
 - (4) File a declaration of intent with the Town of Galena.
- (e) In its determination of appropriate enforcement action, the Town of Galena may consider whether failure to file a declaration of intent by a person required to file is a knowing violation of this Ordinance.
- (f) The declaration of intent is effective for five years.

7-405 FOREST STAND DELINEATION

SIMPLIFIED FOREST STAND DELINEATION

- (a) A simplified forest stand delineation may be submitted when no forest cover is disturbed during a construction activity and the area is under a long term protective agreement.
- (b) A simplified forest stand delineation shall be submitted at the time of concept site plan and concept subdivision review. A SFSD shall be used to determine the most suitable and practical areas for conservation.
- (c) A simplified forest stand delineation shall include:
 - (1) Topographic map delineating intermittent and perennial streams and steep slopes over twenty-five (25%) percent.
 - (2) Soils map delineating soils with structural limitations, hydric soils, or soils with a soil K value greater than 0.35 on slopes of fifteen (15%) percent, or more.
 - (3) Location of nontidal 100 year floodplains.
 - (4) Property boundaries.
 - (5) Map showing existing forest cover verified by field inspection.

- (6) Other information that the Town of Galena determines is necessary to implement the ordinance.
- (d) The delineation shall be prepared by a licensed forester, licensed landscape architect, or other qualified professional who meets the requirements of COMAR 08.19.06.01B.

FOREST STAND DELINEATION

- (a) A forest stand delineation shall be submitted at preliminary site plan and subdivision review, and before application for a grading and sediment control permit.
- (b) The delineation shall be prepared by a licensed forester, licensed landscape architect or other qualified professional who meets the requirements of COMAR 08.19.06.01B.
- (c) The delineation shall be used to determine the most suitable and practical areas for forest conservation.
- (d) A forest stand delineation shall include:
 - (1) Forest Stand Delineation Map which indicates:
 - a) north arrow
 - b) property boundaries
 - c) perennial and intermittent streams and their required buffer
 - d) topography
 - e) soils, highlighting hydric and soils with a K value over .35 on slopes of fifteen (15%) percent or more.
 - f) current forest and unforested areas, including species, location, size of trees, and showing dominant and co-dominant forest types
 - g) forest stand locations
 - h) tree lines extending off-site
 - i) steep slopes
 - j) field sampling points
 - k) prime agricultural soils
 - l) critical habitats
 - m) adjacent land uses
 - n) cultural features
 - o) historic sites as designated by the State, County, or Town
 - p) nontidal 100-year floodplain
 - q) nontidal wetlands
 - (2) Site vicinity map at a scale of 1:2000 which indicates major roads, land uses, and forest cover within a square mile of the site.
 - (3) Stand summary sheets which include summary of the data collected at individual sampling sites including the following:
 - a) dominant species and forest association
 - b) site class of dominant trees
 - c) total number of tree species
 - d) number of trees per acre
 - e) common understory species

- f) forest structure rating
- (4) A written summary of forest stand conditions which addresses:
 - a) Stand Condition:
 - i) stand structure (dominant species and understory species)
 - ii) forest structure
 - iii) retention potential
 - iv) comments on evidence of past management
 - b) Environmental Features:
 - i) nontidal floodplains
 - ii) hydric soils
 - iii) nontidal wetlands
 - iv) stream buffer
 - v) critical habitats
 - vi) steep slopes and soils with a K value which exceeds .35 on slopes of fifteen (15%) percent or more
 - vii) cultural features
 - viii) historic sites as designated by the state, county or town
 - ix) adjacent land uses
 - x) specimen trees and champion trees
- (5) Other information the Planning Commission determines is necessary to implement this Ordinance.

7-406 FOREST CONSERVATION PLAN

GENERAL PROVISIONS

- (a) In developing a forest conservation plan, the applicant shall give priority to techniques for retaining existing forest on the site.
- (b) If existing forest on the site subject to a forest conservation plan cannot be retained, the applicant shall demonstrate to the satisfaction of the Town of Galena:
 - (1) How techniques for forest retention have been exhausted;
 - (2) Why the priority forests and priority areas specified in Article VII, cannot be left in an undisturbed condition;
 - (3) If priority forests and priority areas cannot be left undisturbed, how the sequence for afforestation or reforestation will be followed in compliance with Article IX of this Ordinance;
 - (4) Where on the site in priority areas afforestation or reforestation will occur in compliance with Article IX of this Ordinance.
- (c) The applicant shall demonstrate to the satisfaction of the Planning Commission that the requirements for afforestation or reforestation onsite or offsite cannot be reasonably

accomplished if the applicant proposes to make a payment into the local forest conservation fund instead of afforestation or reforestation.

- (d) **Nontidal Wetland.** A regulated activity is subject to the following requirements:
- (1) For the purposes of delineation, permitting, and mitigation, areas determined to be nontidal wetlands under COMAR 08.05.04 shall be regulated under COMAR 08.05.04 or this ordinance, whichever is more stringent.
 - (2) For the purpose of calculating reforestation mitigation under this ordinance, a forested nontidal wetland permitted to be cut or cleared and required to be mitigated under COMAR 08.05.04 shall be shown on the forest conservation plan and subtracted on an acre for acre basis from the total amount of forest to be cut or cleared as part of a regulated activity.
 - (3) Nontidal wetlands shall be considered to be priority areas for retention and replacement.
 - (4) Forested nontidal wetland identification and delineation should be included at the earliest stage of planning to assist the applicant in avoidance and reduction of impacts to the nontidal wetlands and to avoid delay in the approval process.

PRELIMINARY FOREST CONSERVATION PLAN

- (a) At the time of application for preliminary subdivision and site plan review, the applicant shall submit a preliminary forest conservation plan. The review of the forest conservation plan shall be concurrent with the review of the preliminary subdivision or site plan. A preliminary forest conservation plan shall be prepared by a licensed landscape architect, license forester or an other qualified professional who meets the requirements of COMAR 08.19.06.01B.
- (b) The preliminary forest conservation plan shall include:
- (1) The approved forest stand delineation
 - (2) A table listing
 - a) net tract area
 - b) area of forest conservation required
 - c) area of forest conservation, both on and off site provided by the developer.
 - (3) Afforestation and reforestation plan
 - (4) Plat, drawn at the same scale as the preliminary plan, which indicates:
 - a) areas designated for forest retention
 - b) areas designated for reforestation
 - c) areas designated for afforestation
 - d) limits of disturbance
 - e) stockpile areas
 - (5) Construction schedule, showing the sequence of forest conservation

- (6) Two-year maintenance agreement
- (7) A narrative on how the general provisions found in Article V, Section 1 of this Ordinance have been addressed.
- (8) Forest Conservation Worksheet
- (9) Other information the Planning Commission determines may be necessary to implement this Ordinance.

(c) The preliminary forest conservation plan may be modified during the review process.

FINAL FOREST CONSERVATION PLAN

(a) A final conservation plan shall be submitted with:

- (1) Final subdivision plan
- (2) Final site plan
- (3) Application for a grading and sediment control permit

(b) The final forest conservation plan shall be prepared by a licensed forester, licensed landscape architect or other qualified professional who meets the requirements of COMAR 08.19.06.01B.

(c) A final forest conservation plan shall include:

- (1) The approved forest stand delineation
- (2) A forest conservation worksheet. A worksheet and instructions for its completion may be found in the Forest Conservation Manual.
- (3) A forest conservation map which clearly indicates the following:
 - a) forest retention areas (with priority rating)
 - b) reforestation areas
 - c) afforestation areas
 - d) protective devices, including specifications
 - e) limits of disturbance
 - f) stockpile areas
- (4) Construction Schedule, including the sequence of reforestation areas, afforestation areas, maintenance and protective measures to be employed at the site.
- (5) Forest Protection Plan which addresses:
 - a) preconstruction activities including stress reduction, temporary, and permanent protective devices.
 - b) future protection measures

- (6) Reforestation and Afforestation Plans, which include:
 - a) Narrative evaluation of sequential analysis of reforestation and afforestation methods
 - b) Planting plan which includes:
 - i) summary of site assessment and preparation
 - ii) target species for reforestation
 - iii) plant materials table including plant material source, species, number of plants, size of plants, using the methods found in the Forest Technical Manual to determine species selection, plant material selection and site stocking.

- (7) Incorporates a 2-year maintenance agreement which includes:
 - a) Watering plans
 - b) Fertilizing plans
 - c) Control of competing vegetation
 - d) Protection from disease, pest, and mechanical injury
 - e) Replanting provisions when survival goal falls below acceptable levels
 - f) Name of company or individual responsible for tree care

- (8) Long term binding protective agreement as specified in the Galena Forest Policy Document, that:
 - a) Provides protection for areas of forest conservation, including areas of afforestation, reforestation and retention, and
 - b) Limits uses in areas of forest conservation to those uses designated and consistent with forest conservation including recreational activities and forest management practices used to preserve forest.

- (9) A narrative on how the general provisions found in Article V, Section 1, of this Ordinance have been addressed:

- (10) Table listing:
 - a) Net tract area
 - b) Area of forest conservation required
 - c) Area of forest conservation provided both on and off-site.

- (11) Other information required by the Planning Commission which is necessary to implement this Ordinance.

7-407 AFFORESTATION AND RETENTION

AFFORESTATION

- (a) Afforestation shall be conducted in accordance with the following:
 - (1) A tract with less than fifteen (15%) percent of its net tract area in forest cover shall be afforested up to at least fifteen (15%) percent of the net tract area in the R-1, R-2, and C-1 Zoning District.

(b) When cutting into forest cover that is currently below the afforestation percentages described Article VI, Section 1 of this Ordinance.

- (1) The required afforestation level shall be determined by the amount of forest existing before cutting or clearing begins; and
- (2) Forest cut or cleared below the required afforestation level shall be reforested or afforested at a 2 to 1 ratio and added to the amount of afforestation necessary to reach the minimum required afforestation level.

7-408 RETENTION

(a) The following trees, shrubs, plants, and specific areas are considered priority for retention and protection and shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the Planning Commission, that reasonable efforts have been made to protect them and the plan cannot be reasonably altered:

- (1) Trees, shrubs, and plants located in sensitive areas including the nontidal 100-year floodplain, intermittent and perennial stream buffers, steep slopes, nontidal wetlands, and critical habitats;
- (2) Contiguous forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site;
- (3) Trees, shrubs, plants, determined to be a species in need of conservation, or rare, threatened, endangered under:
 - a) The federal Endangered Species Act of 1973 in 16 U.S.C. 1531--1544 and in 50 CFR Part 17
 - b) The Maryland Nongame and Endangered Species Conservation Act, Natural Resources Article, Section 10-2A-01--10-2A-09, Annotated Code of Maryland, and
 - c) COMAR 08.03.08;
- (4) Trees that:
 - a) Are part of a historic site as designated by the state, county, or town.
 - b) Are associated with a historic structure, or as designated by the state, county or town.
 - c) Have been designated by the state or the town as a national, state, or county champion tree; and
- (5) Any tree having a diameter measured at 4.5 feet above the ground of:
 - a) Thirty inches or more; or
 - b) Seventy-five (75%) or more of the diameter, measured at 4.5 feet above the ground, of the current State champion tree of that species as designated by the Department of Natural Resources.

7-409 REFORESTATION

FOREST CONSERVATION THRESHOLD

- (a) There is a forest conservation threshold established for all land use categories, as provided in Subsection B of this Article. The forest conservation threshold means the percentage of the net tract area at which the reforestation requirements changes from a ratio of 1/4 acre planted for each acre removed above the threshold to a ratio of 2 acres planted for each acre removed below the threshold.
- (b) After reasonable efforts to minimize the cutting or clearing of trees and other woody plants have been exhausted, the forest conservation plan shall provide for reforestation, or payment into the forest conservation fund, according to the formula set forth in Article VIII, Section 1.2 and 1.3, and consistent with Article V, Section 1 of this Ordinance, and the following forest conservation thresholds for the land zoned as follows:

<u>Zoning District</u>	<u>Threshold Percentage</u>
R-1 and R-2	20%
Commercial	15%

- (c) Calculations
 - (1) For all existing forest cover measured to the nearest 1/10th acre cleared on the net tract area above the applicable forest conservation threshold, the area of forest removed shall be reforested at a ratio of 1/4 acre planted for each acre removed.
 - (2) Each acre of forest retained on the net tract area above the applicable forest conservation threshold shall be credited against the total number of acres required to be reforested under paragraph (1) of this subsection. The calculation of the credit shall be according to the criteria provided in the Forest Conservation Technical Manual.
 - (3) For all existing forest cover measured to the nearest 1/10th acre cleared on the net tract area below the applicable forest conservation threshold, the area of forest removed shall be reforested at a ratio of 2 acres planted for each acre removed below the threshold and at a ratio of 1/4 acre planted for each acre removed above the threshold.

7-410 PRIORITIES AND TIME REQUIREMENTS FOR AFFORESTATION AND REFORESTATION

SEQUENCE FOR AFFORESTATION AND REFORESTATION

- (a) After techniques for retaining existing forest on the site have been exhausted, the preferred sequence for afforestation and reforestation, is as follows:
 - (1) Selective clearing and supplemental planting on site;
 - (2) Onsite afforestation or reforestation, if economically feasible, using transplanted or nursery stock that is greater than 1.5 inches diameter measured at 4.5 feet above the ground;

- (3) Onsite afforestation or reforestation, using whip and seedling stock;
 - (4) Landscaping of areas under an approved landscaping plan which establishes a forest that is at least 35 feet wide and covering 2,500 square feet or more of area;
 - (5) Offsite afforestation or reforestation, using transplanted or nursery stock that is greater than 1.5 inches diameter measured at 4.5 feet above the ground;
 - (6) Offsite afforestation or reforestation, using whip and seedling stock;
 - (7) Natural regeneration on site; and
 - (8) Natural regeneration offsite.
- (b) A sequence other than the one described in Article IX, Section 1.1 may be used for a specific project, if necessary, to achieve the objectives of the county land use plan or county land use policies, or to take advantage of opportunities to consolidate forest conservation efforts.
- (c) The following are considered a priority for afforestation and reforestation to:
- (1) Establish or enhance forest buffers adjacent to intermittent and perennial streams to widths of at least 50 feet;
 - (2) Establish or enhance nonforested areas on nontidal 100-year floodplains, when appropriate;
 - (3) Establish or increase existing forested corridors to connect existing forests within or adjacent to the site and where practical, forested corridors should be a minimum of 300 feet in width to facilitate wildlife movement;
 - (4) Establish or enhance forest buffers adjacent to critical habitats where appropriate;
 - (5) Establish plantings to stabilize slopes of twenty-five (25%) percent or greater and slopes of fifteen (15%) or greater with a soil K value greater than 0.35 including the slopes of ravines or other natural depressions;
 - (6) Establish forest areas adjacent to existing forests to increase the overall area of contiguous forest cover, when appropriate; and
 - (7) Establish buffers adjacent to areas of a differing land use adjacent to highways or utility rights-of-way.
 - (8) Use native plant materials for afforestation or reforestation, when appropriate.
- (d) A person required to conduct afforestation or reforestation under this article shall accomplish it within one year or two growing seasons, wherever is a greater time period, following development project completion.

7-411 PAYMENT INSTEAD OF AFFORESTATION AND REFORESTATION

FOREST CONSERVATION FUND

- (a) There is established a forest conservation fund in the Town of Galena.
- (b) If a person subject to this Ordinance, demonstrates to the satisfaction of the Town of Galena that requirements for reforestation or afforestation onsite or offsite cannot be reasonably accomplished, the person shall contribute money, at a rate of 10 cents per square foot of the area of required planting, into the county forest conservation fund.
- (c) Money contributed instead of afforestation or reforestation under this article shall be paid prior to final approval.
- (d) The county shall accomplish the reforestation or afforestation for which the money is deposited within one year or two growing seasons whichever is a greater time period, after receipt of the money.
- (e) Money contributed under this article shall remain in the account for a period of two year or three growing seasons, whichever is a greater time period. At the end of that time, any part that has not been used to meet the afforestation or reforestation requirements shall be returned to the person who provided the money.
- (f) Money deposited in the local forest conservation fund:
 - (1) May be spent on the costs directly related to reforestation and afforestation, including site identification, acquisition, and preparation;
 - (2) Shall be deposited in a separate forest conservation fund; and
 - (3) May not revert to the general fund.
- (g) Sites for Afforestation or Reforestation Using Fund Money:
 - (1) Except as provided herein, the reforestation or afforestation requirement under this article shall occur in the Town of Galena and watershed in which the project is located.
 - (2) If the reforestation or afforestation cannot be reasonably accomplished in the Town of Galena and watershed in which the project is located, then the reforestation or afforestation shall occur in the county or watershed in the state in which the project is located.

7-412 RECOMMENDED TREE SPECIES

RECOMMENDED TREE SPECIES LIST

- (a) Tree species used for afforestation or reforestation shall be native to the County, when appropriate, and selected from a list of approved species established by the Town of Galena.

- (b) The Planning Commission shall adopt a list of tree species to be used for any required afforestation or reforestation and incorporate it into the Forest Conservation Technical Manual.

7-413 STANDARDS FOR PROTECTING TREES FROM CONSTRUCTION ACTIVITIES

PROTECTION DEVICES

- (a) Protective device standards may be found in the Forest Conservation Technical Manual.
- (b) Before cutting, clearing, grading, or construction begins on a site, the applicant shall demonstrate to the Planning Commission that protective devices have been established.

7-414 ADMINISTRATION

REVIEW SCHEDULE

- (a) A forest stand delineation shall be submitted prior to application for a grading and sediment control permit, minor site plan, subdivision, and preliminary sit and subdivision plan.

A simplified forest stand delineation, shall be submitted at concept site and subdivision plan review and where applicable for minor subdivisions, site plans, grading, and sediment control permits.

- (1) Within thirty (30) calendar days after receipt of the forest stand delineation, the Galena Planning Commission shall notify the applicant whether the forest stand delineation is complete and correct.
 - (2) If the Galena Planning Commission fails to notify the applicant within thirty (30) days, the delineation shall be treated as complete and correct.
 - (3) The Galena Planning Commission may require further information or provide for an additional fifteen calendar days under extenuating circumstances.
 - (4) An approved forest stand delineation shall remain in affect for no more than five years and only if the conditions on the site have not changed since approval.
- (b) Forest Conservation Plan
 - (1) A preliminary forest conservation plan shall be submitted with the preliminary subdivision or site plan. It shall be reviewed concurrent with the preliminary plan and may be modified during the review process.
 - (2) A final conservation plan shall be submitted with minor subdivision applications, final site and subdivision plan, and application for a grading and sediment control permit.
 - (3) The Town of Galena review of a final forest conservation plan shall be concurrent with the review of the final plan or permit.

- (4) Within thirty (30) calendar days after receipt of the final forest conservation plan the Town of Galena shall notify the applicant whether the forest conservation plan is complete and approved.
- (5) If the Town of Galena fails to notify the applicant within thirty (30) days, the final conservation plan shall be treated as complete and correct.
- (6) The Town of Galena may require further information or extend the deadline for an additional fifteen calendar days under extenuating circumstances.
- (7) At the request of the applicant, the Town of Galena may extend the deadline under extenuating circumstances.

BONDS

- (a) A person required to conduct afforestation or reforestation under this article shall furnish financial security in the form of a bond, an irrevocable letter of credit, or other security approved by the Town of Galena. The surety shall:
 - (1) Assure that the afforestation, reforestation, and the associated maintenance agreement are conducted and maintained in accordance with the approved forest conservation plan;
 - (2) Be in an amount equal to the estimated cost, as determined by the Town of Galena, of afforestation and reforestation; and
 - (3) Be in a form and of a content approved by the Town of Galena.
- (b) After one growing season, applicant may request reduction of the amount of the bond or other financial security by submitting a written request to the Town of Galena with a justification for reducing the bond or other financial security amount, including estimated or actual costs to ensure afforestation or reforestation requirements are met.
- (c) The Town of Galena shall determine whether a lesser amount is sufficient to cover the cost of afforestation or reforestation, taking into account the following:
 - (1) The number of acres
 - (2) The proposed method of afforestation or reforestation.
 - (3) The cost of planting materials or replacement materials.
 - (4) The cost of maintenance of the afforestation or reforestation project, and
 - (5) Other relevant factors.
- (d) If, after two growing seasons, the plantings associated with the afforestation or reforestation meet or exceed the standards of the Kent County Forest Conservation Technical Manual, the amount of the cash bond, letter of credit, surety bond, or other security shall be returned or released.

VARIANCES

- (a) The Galena Zoning Board of Appeals may grant requests for a variance from the provisions of this Ordinance if it is demonstrated that strict application of this Ordinance would result in unwarranted hardship.
- (b) An applicant for a variance shall:
 - (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;
 - (2) Describe how enforcement of these rules will deprive the applicant of rights commonly enjoyed by others in similar areas;
 - (3) Verify that the granting of the variance will not confer on the applicant a special privilege that would be denied to other applicants;
 - (4) Verify that the variance request is not based on conditions or circumstances which are the result of actions by the applicant;
 - (5) Verify that the request does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; and
 - (6) Verify that the granting of a variance will not adversely affect water quality.
- (c) The Board shall make findings that the applicant has met the requirements of Article XIII, Section 3.1 and 3.2 before a variance may be granted.
- (d) Notice of a request for a variance shall be given to the Department of Natural Resources within fifteen days of receipt of a request for a variance.
- (e) There is established by this Ordinance the right and authority of the Department of Natural Resources to initiate or intervene in an administrative, judicial or other original proceeding or appeal in the state concerning an approval of a variance under this Ordinance.

ENFORCEMENT

- (a) The Planning Commission may revoke an approved forest conservation plan if it finds that:
 - (1) A provision of the plan has been violated;
 - (2) Approval of the plan was obtained through fraud, misrepresentation, a false or misleading statement, or omission of a relevant or material fact; or
 - (3) Changes in the development or in the condition of the site necessitate preparation of a new or amended plan.
- (b) The Town of Galena may issue a stop work order against a person who violates a provision of this Ordinance or a regulation, order, approved forest conservation plan, or maintenance agreement.

- (c) Before revoking approval of a forest conservation plan, the Town of Galena shall notify the violator in writing and provide an opportunity for a hearing.
- (d) **Noncompliance Fees**
 - (1) A person found to be in noncompliance with this Ordinance, regulations adopted under this ordinance, the forest conservation plan, or the associated two year maintenance agreement, shall be assess by the Town of Galena the penalty of thirty cents per square foot of the area found to be in noncompliance with required forest conservation.
 - (2) Noncompliance fees shall be deposited in the forest conservation fund as required by Section 7-411 of this Ordinance, and may be used by the County for purposes related to implementing this Ordinance.
- (e) **Violations**
 - (1) In addition to the provisions under noncompliance fees of this article, a person who violates a provision of this ordinance or a regulation or order adopted or issued under this ordinance is liable for a penalty not to exceed \$1,000, which may be recovered in a civil action brought by the Town of Galena.
 - (2) Each day a violation continues is a separate violation.
 - (3) The Town of Galena may seek an injunction requiring the person to cease violation of this ordinance and take corrective action to restore or reforest an area.
 - (4) Violations of this Ordinance may be treated as a municipal infraction.

7-415 DEFINITIONS

GENERAL RULES OF CONSTRUCTION

The following general rules of construction shall apply to the regulations of this Ordinance:

- 1) The singular number includes the plural and the plural includes the singular unless the context clearly indicates the contrary.
- 2) Words used in the present tense include the past and future tense, and the future the present.
- 3) The word "shall" is always mandatory. The word "may" is permissive.
- 4) The word "building" or "structure" includes any part thereof, and the word "structure" includes the word "building".
- 5) Words and terms not defined herein shall be interpreted in accord with their normal dictionary meaning and customary usage.
- 6) The word "Commission" refers to the Galena Planning Commission, a six member board appointed by the Mayor and Council.

- 7) The word "Board" refers to the Galena Board of Zoning Appeals, a three member board appointed by the Mayor and Council.

DEFINITIONS

For the purpose of this Ordinance, certain terms and words are hereby defined.

- 1) Afforestation
 - a) Establishment of a forest on an area from which forest cover has been absent for a long period of time;
 - b) Planting of open areas which are not presently in forest cover; or
 - c) Establishment of a forest according to procedures set forth in the Forest Conservation Technical Manual.
- 2) Agricultural activity Farming activities including plowing, tillage, cropping, installation of best management practices, seeding, cultivating, and harvesting for production of food and fiber products (except commercial logging and timber harvesting operations), the grazing and raising of livestock, aquaculture, sod production, orchards, nursery, lands in government set aside programs, and other products cultivated as part of a recognized commercial enterprise.
- 3) Agricultural and resource areas Undeveloped areas zoned for densities of less than or equal to one dwelling unit per five acres and does not correspond to any zoning districts in the Town of Galena.
- 4) Applicant A person who is applying for subdivision or project plan approval or a grading or sediment control permit, or who has received approval of a forest stand delineation or forest conservation plan.
- 5) Approved forest management plan means a document:
 - a) Approved by the Department of Natural Resources forester assigned to the county in which the property is located; and
 - b) Which operates as a protective agreement for forest conservation as described in the Natural Resources Article, Section 5-1607(e)-(f), Annotated Code of Maryland.
- 6) Caliper The diameter measured at two inches above the root collar.
- 7) Champion tree The largest tree of its species within the United States, the State, county, or municipality.
- 8) Champion tree of the State A tree which appears in the State Forest Conservation Manual list of State champion trees.
- 9) Commercial and industrial uses Manufacturing operations, office complexes, shopping centers, and other similar uses and their associated storage areas, yarding, and parking areas, and corresponds to the C-1 General Commercial Zoning District in the Town of Galena.
- 10) Commercial logging or timber harvest operations The cutting and removing of tree stems from a site for commercial purposes, leaving the root mass intact.
- 11) Critical habitat area A critical habitat for an endangered species and its surrounding protection area. A critical habitat area shall:

- a) Be likely to contribute to the long-term survival of the species;
 - b) Be likely to be occupied by the species for the foreseeable future; and
 - c) Constitute habitat of the species which is considered critical under Natural Resources Article, Subsection 4-2A-04 and 10-2A-06, Annotated Code of Maryland.
- 12) Critical habitat for endangered species A habitat occupied by an endangered species as determined or listed under Natural Resources Article, Subsection 4-2A-04 and 10-2A-04, Annotated Code of Maryland.
- 13) Declaration of intent
- a) A signed and notarized statement by a landowner or the landowner's agent certifying that the activity on the landowner's property:
 - i) Is for certain activities exempted under this ordinance or Natural Resources Article, Subsection 5-103, Annotated Code of Maryland.
 - ii) Does not circumvent the requirements of this ordinance or Natural Resources Article, Subsection 5-103, Annotated Code of Maryland, and
 - iii) Does not conflict with the purposes of any other declaration of intent; and
 - b) The document required under this ordinance.
- 14) Development project
- a) The grading or construction activities occurring on a specific tract that is 40,000 square feet or greater.
 - b) Redevelopment.
- 15) Development project completion For the purposes of afforestation, reforestation, or payment into a fund:
- a) The release of the development bond, if required;
 - b) Acceptance of the project's streets, utilities, and public services by the County; or
 - c) Designation by the County that a:
 - i) Development project has been completed, or
 - ii) Particular stage of a staged development project, including a planned unit development, has been completed.
- 16) Forest
- a) A biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater.
 - b) Includes:
 - i) Areas that have at least 100 live trees per acres with at least fifty (50%) percent of those trees having a two inch or greater diameter at 4.5 feet above the ground and larger; and
 - ii) Areas that have been cut but not cleared.
 - c) Orchards are not considered forest.
- 17) Forest Conservancy District Board The forestry board created for each State forest conservancy district under Natural Resources Article, Subsection 5-601--5-610, Annotated Code of Maryland.

- 18) Forest Conservation The retention of existing forest or the creation of new forest at the levels required by this Ordinance.
- 19) Forest Conservation and Management Agreement An agreement as stated in the Tax-Property Article, Section 8-211, Annotated Code of Maryland.
- 20) Forest Conservation Technical Manual The technical manual incorporated by reference, used to establish standards of performance required in preparing forest stand delineations and forest conservation plans.
- 21) Forest Conservation Plan A plan approved pursuant to the requirements of this Ordinance and the Galena Forest Technical Manual.
- 22) Forest cover The area of a site meeting the definition of forest.
- 23) Forest management plan A plan establishing best conservation and management practices for a landowner in assessment of the resource values of forested property.
- 24) Forest stand delineation The methodology for evaluating the existing vegetation on a site proposed for development, as provided in Kent County's Forest Conservation Technical Manual.
- 25) Growing season The period of consecutive frost-free days as stated in the current soil survey for Kent County published by the National Cooperative Soil Survey Program, 16 U.S.C. Section 590(a)--(f).
- 26) High density residential areas Areas zoned for densities greater than one dwelling unit per acre, including both existing and planned development and their associated infrastructure, such as roads, utilities, and water and sewer service, and corresponds to the R-1 and R-3, Residential Zoning Districts in the Town of Galena.
- 27) Intermittent stream A stream in which surface water is absent during a part of the year as shown on the most recent 7.5 minute topographic quadrangle published by the United States Geologic Survey as confirmed by field verification.
- 28) Landscaping plan
 - a) Drawn to scale, showing dimensions and details for reforesting an area at least 35 feet wide and covering 2,500 square feet or greater in size;
 - b) Using native or indigenous plants when appropriate; and
 - c) Which is made part of an approved forest conservation plan.
- 29) Local agency Each unit of local government in the executive, legislative, or judicial branch of a county or municipal government, including an office or department of public works.
- 30) Lot A unit of land, the boundaries of which have been established as a result of a deed or previous subdivision of a larger parcel, and which will not be the subject of further subdivision, without an approved forest stand delineation and forest conservation plan as defined by this Ordinance.
- 31) Maintenance agreement The short-term management agreement associated with afforestation or reforestation plans required by this Ordinance.

- 32) Medium density residential areas Areas zoned for densities greater than one dwelling unit per five acres and less than or equal to one dwelling unit per acre, including both existing and planned development and their associated infrastructure, such as roads, utilities, and water and sewer service, and does not correspond to any zoning districts in the Town of Galena.
- 33) Natural regeneration The natural establishment of trees and other vegetation with at least 400 woody, free-to-grow seedlings per acre, which are capable of reaching a height of at least twenty feet at maturity.
- 34) Net tract area
- a) Except in agriculture and resource areas the total area of a site, including both forested and nonforested areas, to the nearest 1/10 acre, reduced by the area found to be within the boundaries of the nontidal 100-year floodplain; and
 - b) In agriculture and resource areas, the part of the total tract for which land use will be changed or will no longer be used for primarily agricultural activities, reduced by the area found to be within the boundaries of the nontidal 100-year floodplain.
- 35) Nontidal wetlands
- a) An area that is:
 - i) Inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation; and
 - ii) Considered a nontidal wetland in accordance with the publication known as the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands, published in 1989 and as may be amended and interpreted by the U.S. Environmental Protection Agency.
 - b) Does not include tidal wetlands regulated under Natural Resources Article, Title 9, Annotated Code of Maryland.
- 36) Offsite Outside of the limits of the area encompassed by the tract.
- 37) Onsite Within the limits of the area encompassed by the tract, including an area classified as a 100-year floodplain.
- 38) 100-year flood A flood which has a one percent chance of being equalled or exceeded in any given year. Except for Class III waters (natural trout streams), a body of water with a watershed less than 400 acres is excluded.
- 39) 100-year floodplain An area along or adjacent to a stream or body of water, except tidal waters, that is capable of storing or conveying floodwaters during a 100-year frequency storm event, or a 100-year flood.

- 40) Perennial stream A stream containing surface water throughout an average rainfall year, as shown on the most recent 7.5 minute topographic quadrangle published by the United States Geologic Survey, as confirmed by field verification.
- 41) Person Includes the federal government, the State, a 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 of their affiliates, or any other entity.
- 42) Public utility
a) Transmission line or electric generating station; or
b) Water, sewer, electric, gas, telephone, and television cable service line.
- 43) Reforestation and Reforested
a) Creation of a biological community dominated by trees and other woody plants containing at least 100 live trees per acre, with at least fifty (50%) percent of those trees having the potential of attaining a two-inch or greater diameter measured at 4.5 feet above the ground, within seven years; or
b) Establishment of a forest according to procedures set forth in Chapter 3 of the Forest Conservation Technical Manual.
c) Includes landscaping of areas under an approved landscaping plan establishing a forest at least thirty-five feet wide and covering an area of 2,500 square feet or more.
- 44) Regulated activity Any of the following activities when that activity occurs on a unit of land which is 40,000 square feet or greater:
a) Subdivision
b) Grading
c) An activity that requires a sediment control permit; or
d) Project plan of a State or local agency.
- 45) Retention The deliberate holding and protecting of existing trees, shrubs or plants on the site according to established standards as provided in the Forest Conservation Technical Manual.
- 46) Sediment control permit The authorization of an activity regulated under a sediment control plan as provided in the Environment Article, Title 4, Annotated Code of Maryland.
- 47) Seedlings An unbranched woody plant, less than 24 inches in height and having a diameter of less than 1/2 inch measured at two inches above the root collar.
- 48) Selective clearing The careful and planned removal of trees, shrubs, and plants using specific standards and protection measures under an approved forest conservation plan.
- 49) Species in need of conservation Those fish, plants and wildlife whose continued existence are in question and which may be designated by regulation by the Secretary of Natural Resources as in need of conservation pursuant to the requirements of Natural Resources Article 10-2A-06 and 4-2A-03, Annotated Code of Maryland.

- 50) Stream buffer All lands lying with 50 feet measured from the top of each normal bank of a perennial or intermittent stream.
- 51) Subdivision Any division of a unit of land into two or more lots or parcels for the purpose, whether immediate or future, of transfer of ownership, sale, lease, or development.
- 52) Timber Harvest
- a) A tree cutting operation affecting one or more acres of forest or developed woodland within a one-year interval that disturbs 5,000 square feet or more of forest floor.
 - b) Does not include grubbing and clearing of root mass.
- 53) Tract Property or unit of land subject to an application for a grading or sediment control permit, subdivision approval, project plan approval, or areas subject to this subtitle.
- 54) Tree A large, branched woody plant having one or several self-supporting stems or trunks that reach a height of at least twenty feet at maturity.
- 55) Variance
- a) Relief from this ordinance.
 - b) Does not mean a zoning variance.
- 56) Watershed All land lying within an area described as a subbasin in water quality regulations adopted by the Department of the Environment under COMAR 26.08.02.08.
- 57) Whip An unbranched woody plant greater than twenty-four inches in height and having a diameter of less than one inch measured at two inches above the root collar.

7-416 SEVERABILITY

If any section, paragraph, subdivision, clause, phrase, or provision of this Ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any part of the provision thereof, other than the part so decided to be invalid or unconstitutional.

TOWN OF GALENA
FOREST POLICY

Approved:

February 1, 1993

Virginia H. Saw
Attest

Feb. 1, 1993.
Date

Harry J. Pisapia
Harry J. Pisapia, Mayor

Elizabeth Carroll
Elizabeth Carroll, Councilmember

Richard Powell
Richard Powell, Councilmember

Samuel Sessa, II
Samuel Sessa, II, Councilmember

Joseph Woodall
Joseph Woodall, Councilmember

TOWN OF GALENA FOREST POLICY DOCUMENT

2/1/93

I. Introduction

To conserve existing Forest and to promote reforestation is a stated policy in the Town of Galena. Galena recognizes that forest and individual trees greatly contribute to the quality of life, the health of the natural ecosystem, and the health and welfare of our citizens. The Town's economic health depends heavily on its natural resources of which forest area major component.

Forest play a critical role in the improvement and maintenance of water, soil and air quality. In particular, forest absorb CO₂, reduce local air temperatures, filter particulate, absorb gaseous pollutants, hold soil in place, improves soil permeability, filters nutrients sediments, and pollutants, prevent the heating of water in summer and rapid cooling of water in winter and provides for wildlife habitat. Forest along waterways play a particularly crucial role in maintaining water quality and a healthy aquatic community.

For these reasons, Galena is committed to the conservation and creation of forest. This overall policy will be considered when considering development plans, when proposing town capital improvements, and in the day to day operation of the Town of Galena.

It is not the intent of this policy to place unreasonable demands on development, county capital improvements, or the general operation of the Town. Rather it aims to maximize the benefits of forest in a cooperative effort with development, thereby retaining forest land and improving the environment of the Town of Galena.

II. Purpose

It is the purpose of this policy document to state the town's policy on the conservation and creation of forest and to outline policies necessary to implement the Forest Conservation Act of 1991.

III. Forest Stand Delineation

The key to forest conservation is the mapping and analysis of existing natural and man-made features prior to designing the actual development. The Forest Stand Delineation is a method designed to provide the applicant and the review staff with adequate site information. The delineation will be used during the existing development review process to determine the most suitable and practical areas for forest conservation.

The delineation consists of a map or maps with forest stand data and a narrative statement describing the forest stands and other physical site features. The map(s) must contain the following information: property boundaries, soils types, topographic features, steep slopes, wetlands, non-tidal 100-year floodplain, intermittent and perennial streams, man-made features, historic sites, and, most importantly, forest cover. The stand data and delineation narrative are recorded during the site visit. The on site reconnaissance will supply the necessary information to properly diagnose and characterize the forest stands. Additional information would include a detailed location map and the zoning classification for the property.

Anyone making an application for subdivision, grading permit, or sediment control plan on a tract containing 10,000 square feet or more shall submit a Forest Stand Delineation unless otherwise exempt. The delineation must be prepared by a licensed forester approved by the Town of Galena. Within 30 days from receipt of the delineation, the applicant will be notified whether the submittal is complete and correct, or if revisions are necessary. The delineation shall meet the minimum submittal requirements to be deemed adequate.

IV. Forest Conservation Plan

The Forest Conservation Plan is a document negotiated during the existing development review process. The plan is a site map delineating the forest areas to be saved and the text that details any general or specific requirements and necessary mitigation measures. The intent of these documents is to ensure that the applicant will carry out the forest conservation elements agreed to during the review and approval process.

A proposed Forest Conservation Plan shall be included with any project submittal that requires a Forest Stand Delineation. The conservation plan is a map drawn at the same scale as the site plan indicate how existing natural

features are going to be blended into the site design. The plan shall include the following: 1) map; 2) table listing net tract area, zoning category and all required calculations; 3) physical location of all forest retention areas; 4) anticipated construction time table; 5) afforestation/reforestation plans including species, size and spacing; 6) illustration of tree protection devices to be used; 7) limits of disturbance; 8) location of stock pile areas; 9) binding 2-year management plan for all tree planting areas; 10) protective agreements for all forest conservation areas, and 11) any additional information as required.

Net tract area is defined as the total tract area excluding non-tidal the 100-year floodplain and any portion of the tract remaining in agricultural production. The amount of afforestation/reforestation required on any given tract is determined by six factors.

1. Land Use Category
2. Afforestation Threshold
3. Conservation Threshold
4. Net Tract Area
5. Existing Forest Cover
6. Area of Forest to be Cleared

The afforestation threshold is the minimum amount of the net tract area that shall be retained as forest. The afforestation threshold in the Agricultural and Resource, or Medium Density Residential Area is 20%. In the other land use categories, the afforestation threshold is 15%. Areas which have less than the threshold amount must be brought up to that amount through afforestation.

The conservation threshold is the percentage of the net tract area that may be retained as existing forest cover. The reforestation requirement changes from a ratio of 1/4 acre planted for every acre cleared above the threshold to 2 acres planted for every acre cleared below the threshold.

The applicant shall have an approved Forest Conservation Plan prior to being issued a grading permit or approval of a sediment control plan. Tree protective devices shall be installed before any forests or trees are cleared and shall be maintained until all work in the vicinity has been completed. Protective devices, signs, utility boxes or other objects may not be nailed or attached to trees slated for retention. No debris or construction materials may be pushed into or stored with tree retention areas. The final record plat shall contain all off-site locations used for replanting, the protective agreement and management agreement for the site, and a statement that existing forests or planted trees are to be retained.

The Town should have 45 days to approve the finalized Forest Conservation Plan. The plan shall be treated as complete and correct if the reviewing authority fails to notify the applicant within that 30 day period or fails to extend the review deadline.

Any person who violates this Act by grading prior to approval of the Forest Conservation Plan will be assessed the penalty of 50 cents per square foot of the area found to be in violation. Other violations requiring this penalty would be for non-compliance with any portion of the Forest Conservation Plan, the Forest Conservation Act or the 2-year planting site management agreement.

V. Conservation Criteria

The Forest Stand Delineation shall be used as the basis for determining priority areas for forest retention. The areas listed below should be left in an undisturbed condition unless there is no reasonable alternative.

1. Trees, shrubs and plants in sensitive areas including:
 - a. Non-tidal 100-year floodplain
 - b. Stream corridors—intermittent and perennial streams and their buffers.
 - c. Steep slopes - 25% slope or greater or slopes of 15% with a soils K value greater than 0.35.
2. Contiguous forests - forested corridors that connect with other forested tracts.
3. Critical habitat - protection areas for threatened and endangered species.
4. Historic or champion trees - trees associated with historic sites or trees designated as champions by the state or local jurisdiction.
5. Specimen trees - trees 30 inches in diameter or larger, or trees with 75% or more of the diameter of the state champion tree.

Exceptions may be approved along with the Forest Conservation Plan approval process.

In addition, any parcel 10,000 square feet or greater in size shall comply with the following conservation thresholds, unless otherwise exempt.

Forest Conservation Thresholds

<u>Land Use Category</u>	<u>Retention Threshold</u>
Agricultural and Resource Areas	50%
Medium Density Residential Areas	25%
High Density Residential Areas	20%
Commercial and Industrial Use Areas	15%

Retention Incentive

As an added incentive to retain forest cover, there is a forest retention credit. Each acre of forest retained above the threshold will be credited against the total number of acres required for mitigation plantings. A break even point exists where clearing up to that point will not require mitigation.

Maintaining flexibility in design is primary goal of this plan. It will not always be possible to preserve all of the trees during development. When forest lands must be disturbed, forest conservation should follow a logical sequence from retention to restoration to replacement. The preferred sequence of restoration to replacement is as follows:

1. Selective clearing and supplemental planting
2. On-site afforestation or reforestation
3. Landscaping with an approved plan
4. Off-site afforestation or reforestation
5. Natural regeneration on or off-site

This sequence may be altered to take advantage of opportunities to consolidate forest conservation efforts.

Priority planting areas include buffers for streams, corridors to connect existing forests, buffers between differing land uses and expansion of existing forests. The use of native plant materials encouraged.

All afforestation, reforestation, landscaping and natural regeneration requirements shall be accomplished with one year or two growing seasons after completion of the development project. All mitigation areas shall have a binding 2-year management agreement to ensure proper establishment and survival. All mitigation and retention areas shall be legally protected to limit the use of these areas.

VI. Other Qualified Professionals

In Galena a licensed forester, licensed landscape architect or other qualified professional may prepare a forest stand delineation or forest conservation plan.

An other qualified professional shall:

1. Posses a 4-year degree in the natural resources sciences, natural resources management, or landscape or environmental planning.
2. Has:
 - a. 2 years of professional experience in natural resources sciences, natural resources management, landscape planning, environmental planning, or the equivalent as determined by the state, or
 - b. a graduate degree in natural resources and 1-year professional experience.
3. Has the ability to meet the obligations required by the Forest Conservation Manual to prepare a forest stand delineation and a forest conservation plan; and

4. Satisfactorily completes a forest conservation course offered by the Department of Natural Resources.

VII. Short-Term Protective Agreements

A. Maintenance Agreements

1. **Application.** A person required to conduct afforestation or reforestation by the Forest Conservation Ordinance shall include in the forest conservation plan, a binding maintenance agreement for the length of 2 years, as specified in the Forest Conservation Manual.
2. Approval procedures and timing shall be consistent with the procedures provided in Galena Forest Conservation Ordinance.
3. The maintenance agreement shall detail how the areas designated for afforestation or reforestation will be maintained to ensure protection and satisfactory establishment of forest and shall follow the standards provided in Chapter 3 of the Forest Conservation Technical Manual.
4. The person required to conduct the afforestation or reforestation, after this referred to as the "obligee", shall present evidence of a legal right to implement the proposed maintenance agreement on a selected site by providing:
 - a. An executed deed conveying title to a selected site to the obligee;
 - b. An executed conservation easement agreement;
 - c. Written evidence of the landowner's consent to the use of a selected site;
 - d. A fully executed option agreement, long-term lease agreement, or contract of sale for a selected site; or
 - e. Other written evidence of a possessory or ownership interest in a selected site.
5. The Galena Planning Office shall be a signatory to the maintenance agreement, or shall be designated a third-party beneficiary of the agreement.
6. Galena may not release financial security or end monitoring without receipt of a legally binding deed, long-term lease, or conservation easement agreement on those lands where afforestation or reforestation will occur.
7. The maintenance agreement shall provide for access by the town to the afforestation or reforestation site.

B. Bonding

1. **Application**
 - a. A person required to conduct afforestation or reforestation shall include a bond, letter of credit, or other financial security as an element of a forest conservation plan.
 - b. This section does not apply to agencies of any federal, state, county or municipal government.
2. **Requirements** - A financial security shall be furnished in the form of:
 - a. A bond which shall be made payable to the Town of Galena;
 - b. An irrevocable letter of credit which shall:
 - i) Be equivalent to the required bond,
 - ii) Be issued by a financial institution authorized to do business in Maryland,
 - iii) Expressly state that the total sum is guaranteed to be available and payable directly to the Town on demand

9. **Bond Release**
 - a. The bond shall be released on receipt of written notice from the Town, if applicable, stating that all afforestation or reforestation requirements have been met.
 - b. The written notice shall be sent at the end of the required two year monitoring and management period, as provided in the maintenance agreement.
 - c. If the Town fails to send written notice within sixty days after the end of the monitoring and management period, the bond shall be automatically released.

10. **Financial Security Forfeiture**
 - a. The bond or other financial security may be subject to forfeiture if the obligee fails to comply with:
 - i) Revocation of the forest conservation plan;
 - ii) An administration order; or
 - iii) An element of the afforestation or reforestation plan.
 - b. The department or local authority shall notify the obligee, by certified mail, of the intention of the Department or local authority to initiate forfeiture proceedings.
 - c. The obligee has thirty days from receipt of the notice of forfeiture to show why the bond or other financial security may not be forfeited.
 - d. If the obligee fails to show cause, the bond or other financial security shall be forfeited.

VIII. LONG-TERM PROTECTIVE AGREEMENTS

- A. An applicant shall have in effect at all times, approved long-term protective measures forest for all land forested, afforested, or reforested under the Forest Conservation Ordinance.

- B. **Approved Forest Management Plan**
 1. **Procedure for Approval**
 - a. An application for approval of a forest management plan shall include all the information required in the Town Forest Conservation Technical Manual

 - b. **The Forest Management Plan:**
 - i) Shall be legally binding from the date of approval
 - ii) Shall be prepared by a licensed professional forester;
 - iii) Shall be submitted to the Department of Natural Resources project forester for Town Forest Policy document.
 - iv) May be amended periodically, as provided in the Town Forest Policy document.

 - c. The Department of Natural Resources Forester shall review the plan to ensure that it is complete and consistent with the Town Forest Conservation Program.

 - d. The Town shall notify the applicant whether the Forest Management Plan has been approved.

- C. Procedure for Amendment of an Approved Forest Management Plan.**
- a. An approved forest management plan may be amended if there is a change in site conditions or landowner objectives.
 - b. Amendments shall be prepared by a licensed professional forester.
 - c. The amendment shall be submitted to the Department of Natural Resources project forester for the Town where the property is located.
 - d. The forester shall review the amendment to ensure that it is complete and consistent with the Forest Conservation Program.
 - e. The Town shall notify the applicant as to whether the amendment has been approved.
 - f. The applicant shall sign the amendment.
- D. Forest Conservation and Management Agreement.** An applicant may satisfy the requirement for long-term protection by executing a Forest Conservation and Management Agreement, as provided in Tax Property Article, Section 8-211, Annotated Code of Maryland, and COMAR 08.07.03
- E. Other Legally Binding Protective Agreements**
1. Other legally binding protective agreements include:
 - a. Covenants running with the land;
 - b. Deed restrictions;
 - c. Conservation easements; and
 - d. Land trusts
 2. Other legally binding agreements shall provide:
 - a. Protection for land forested, afforested, or reforested under the Forest Conservation Ordinance.
 - b. Limitation on the uses of forest to those that are consistent with forest conservation.
- F. An applicant may include in a forest conservation plan another long-term protective measure if the applicant demonstrates to the satisfaction of the Town that the measure will provide for the long term protection of the areas retained, afforested or reforested under the Forest Conservation Ordinance.**
- G. Procedure for a Timber Harvesting Plan**
1. An individual may harvest timber on forested, reforested, or afforested areas protected under an approved forest conservation plan provided that the harvest:
 - a. Is consistent with the intent of an approved forest management plan, forest conservation management agreement, or other long term protective agreement;
 - b. Is subject to a timber harvest plan:
 - i) Prepared by a licensed professional forester.
 - ii) Submitted to Kent County Forest Conservancy District Board for review and approval, and
 - iii) That remains in effect for two years;
 - c. Is consistent with the intent and requirements of the approved forest conservation plan.
 2. The Kent County Forest Conservancy District Board shall notify the individual whether the timber harvest plan under Sec. G(1) of this regulation has been approved.

- iv) Be in force until all mitigation for reforestation and afforestation and monitoring requirements have been fulfilled to the satisfaction of the Town; or
 - c. Other security approved by the Town.
- 3. The financial security shall:
 - a. Ensure that the afforestation, reforestation and associated maintenance agreements are conducted and maintained in accordance with the approved forest conservation plan;
 - b. Be in the amount equal to 125% of the estimated cost of afforestation, as determined by the Town; and
 - c. Be in a form and content approved by the Town.
- 4. The value of the financial security:
 - a. Shall be based on 125% of the cost of perform all work required by the afforestation or reforestation plan if the work had to be performed by or contracted out by the Town.
 - b. May be adjusted according to 125% of the actual cost of mitigation for afforestation and reforestation or, if the cost of future mitigation work changes, the Town shall notify the obligee of a proposed adjustment and provide an opportunity for an informal conference on the adjustment; and
 - c. May be reduced if the obligee proves to the Town that the costs to complete the mitigation project have been reduced.
- 5. A surety bond or other alternative form of security may not be canceled by the surety, bank, or other issuing entity unless both of the following conditions are satisfied:
 - a. The surety notifies the Town and the obligee of its intent to cancel the bond, or other surety in writing, by registered mail, not less than 90 days before cancellation; and
 - b. At least 45 days before the cancellation date indicated in the notice, the obligee files a commitment from a surety, bank, or other issuing entity to provide a substitute security which will be effective on the cancellation date indicated in the notice.
- 6. After one growing season, the person required to file a bond or other financial security under this regulation may request reduction of the amount of the bond or other financial security by submitting a written request to the Town with a justification for reducing the bond or other financial security amount, including estimated or actual costs to ensure that the afforestation or reforestation requirements are met.
- 7. The Town shall determine whether a lesser amount is sufficient to cover the cost of afforestation or reforestation, taking into account the following:
 - a. The number of acres;
 - b. The proposed method of afforestation or reforestation;
 - c. The cost of planting materials or replacement materials;
 - d. The cost of maintenance of the afforestation or reforestation project; and
 - e. Other relevant factors.
- 8. If, after two growing seasons or one year, whichever is greater, the planting associated with the afforestation or reforestation meets or exceeds the standards of the Forest Conservation Manual, the remaining amount of the cash bond, letter of credit, surety bond, or other security shall be returned or released.

IX. Annual Report

On or before the first of July of each year, the Town shall submit to the Department of Natural Resources a report on:

1. The number, location, and type of projects subject to the provisions of this ordinance.
2. The amount and location of acres cleared, conserved, and planted in connection with a development project;
3. The amount of reforestation and afforestation fees and non-compliance penalties collected and expended.
4. The costs of implementing the Forest Conservation Program.

X. Biennial Review

The Department of Natural Resources shall conduct a biennial review of the Town Forest Conservation Program. During the review the town shall provide documentation of:

1. The number, location, and types of projects;
2. The number and location of acres cleared, conserved and planted; and
3. The amount of reforestation and afforestation fees and noncompliance penalties collected and expended.

SECTION 9 EROSION AND SEDIMENT CONTROL

9.1 STATEMENT OF INTENT*

The purpose of this Ordinance is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with land disturbances. The goal is to minimize soil erosion and prevent off-site sedimentation by using soil erosion and sediment control practices designed in accordance with the Code of Maryland Regulations (COMAR) 26.17.01, the 2011 Maryland Standards and Specifications and the Stormwater Management Act of 2007. Implementing this Ordinance will help reduce the negative impacts of land development on water resources, maintain the chemical, physical, and biological integrity of streams, and minimize damage to public and private property.

The provisions of this Ordinance pursuant to Title 4, Environment Article, Subtitle 1, Annotated Code of Maryland are adopted under the authority of the Code of Public Local Laws of Kent County and shall apply to all land grading occurring within Kent County. The application of this Ordinance and the provisions expressed herein shall be the minimum erosion and sediment control requirements and shall not be deemed a limitation or repeal of any other powers granted by State Statute.

No person shall disturb land without implementing soil erosion and sediment controls in accordance with the requirements of this Ordinance and the Standards and Specifications except as provided within this section.

9.2 APPLICABILITY

1. A permit shall be obtained for any *grading, clearing, stripping, excavating, filling of land, or forest harvesting*. A permit shall also be obtained for the creation of borrow pits, spoil areas, quarries, material processing facilities, or any other facilities.
2. A permit shall not be required for the following, subject to compliance with the requirements of the Department of the Environment, relating to sediment control plans approved by the Kent Soil and Water Conservation District:
 - a. Outside the Chesapeake Bay *Critical Area, agricultural land management* operating according to *best management practices* in Maryland.
 - b. In the Chesapeake Bay *Critical Area, agricultural land management* operating according to an approved *soil and water conservation plan* approved by the Kent Soil and Water Conservation District. Landowners who have signed up as conservation district cooperators but do not have a conservation plan developed for them by the District shall be exempt from the requirements of this Section if *best management practices* are used.
 - c. *Clearing or grading of land*, provided that:
 - i. The aggregate of area(s) affected or bared at any one time does not exceed five thousand (5,000) square feet; and
 - ii. The *grading* does not involve a quantity of materials in excess of one hundred (100) cubic yards.
 - d. State and federal projects that are reviewed and enforced by the Maryland Department of the Environment.

9.3 PROCEDURES

A *person* making an application for a *Sediment Control Permit* shall submit to the Department of Planning and Zoning the following:

1. Application
2. One original and five copies of the erosion and sediment control plan, including specifications and timing schedules.*
3. Fee
4. A bond if required under Article VI, Section 9.10 of this Ordinance.

9.4 GENERAL REQUIREMENTS

1. Permits issued under this Section do not relieve the owner of responsibility for securing required permits for work to be done which is regulated by any other applicable code, act, or County ordinance. This Section shall not preclude the inclusion in other permits of more stringent *regulations* or requirements concerning sediment control.
2. Standard sediment control plans and provisions may be approved for *single family dwellings* and other minor projects. A plan shall be approved prior to the issuance of a *grading* or building permit.
3. The Kent County Soil and Water Conservation District may prepare sediment control plans for agricultural projects such as barns, chicken houses, dairy operations or other agricultural *buildings*.
4. A copy of the current approved plan shall be kept at the construction *site*.
5. Prior to the issuance of a *grading* permit, copies of the plan shall be referred by the Department of Planning and Zoning to the Kent Soil and Water Conservation District for approval. Where applicable, the Maryland Department of the Environment may also review any plans that may require a water resources permit. Where deemed necessary, the Maryland Department of the Environment may also serve Kent County and the Kent Soil and Water Conservation District as a technical authority in *erosion* and sediment control. The Soil and Water Conservation District shall notify the Department of Planning and Zoning of its recommendations and/or approval.
6. Major modifications of the approved *grading* plans shall be submitted to the Department of Planning and Zoning and reprocessed in the same manner as the original plan. Field modifications of a minor nature may be authorized by the Department of Planning and Zoning provided that written authorization is given to the applicant performing work pursuant to this Section, with copies forwarded in a timely manner to the Kent Soil and Water Conservation District.
7. The permit and inspection fee shall be paid to the Department of Planning and Zoning and shall be determined by the *Sediment Control Officer* after consultation with the Kent Soil and Water Conservation District. The fee for a permit authorizing additional work shall be the difference between the fee paid for the original permit and the fee required for the entire sediment control project.
8. If the land area for which the *grading* is proposed lies within the *floodway* of any stream or *watercourse*, the Kent County Department of Planning and Zoning shall deny a *sediment control permit*, unless such *grading* is authorized or permitted by the Maryland Department of the Environment in accordance with its rules and *regulations*.

9. In granting any permit pursuant to this Section, the Kent County Department of Planning and Zoning may impose conditions that may be reasonably necessary to prevent the creation of a nuisance or unreasonable hazard to *persons* or to public or private property. Such conditions include but are not limited to:
 - a. Improvement of any existing *grading* to meet the standards required under this Section for new *grading* and for sediment control.
 - b. Designation of *easements* for drainage facilities and for the maintenance of *slopes*, *erosion* control facilities, and storm water management *structures* or devices.
 - c. Adequate control of dust by watering or other control methods acceptable to the Kent County Department of Planning and Zoning and in conformance with applicable air pollution ordinances.
10. The Department of Planning and Zoning shall have the right to deny issuance of a *grading* permit when the proposed *grading* would cause hazards adverse to the public safety and welfare.
11. For steep banks along the shorelines that are actively eroding and ten feet in height or more, the Kent County Department of Planning and Zoning may elect not to issue a permit for the construction of a dwelling or any other substantial *building*.
12. *Sediment control permits* expire after one year unless construction of the project has begun.
13. Sediment control plans expire after two years.
14. Following initial disturbance or redisturbance, permanent or temporary *stabilization* on areas not under active *grading* shall be completed within:
 - a. Three calendar days as to the surface of all perimeter dikes, swales, ditches, perimeter *slopes*, and all *slopes* greater than three horizontal to one vertical (3:1).*
 - b. Seven days as to other disturbed or graded areas on the project *site*.*
15. The *permittee* shall fully perform and complete all of the work required to be done pursuant to the *grading* within the time limit specified in the *grading* permit. If an applicant is unable to complete the work in the specified time, the applicant shall submit a written request for an extension to the Department of Planning and Zoning that explains the need for the requested extension.
16. All permits issued for sand, gravel, or clay pits and rock quarries or any other mining or material processing operations involving *excavation* and/or stockpiling of *soil*, rock, or other materials shall lapse one year after termination of active, productive (i.e. actually removing material whether at a profit or not and whether stockpiled or sold) and continuous operations as determined by the Department of Planning and Zoning. Said permits shall be reviewed annually by the Department of Planning and Zoning for compliance in accordance with the approved *grading* plan.
17. Neither the issuance of a permit under the provisions of this Section nor the compliance with the provisions hereto or with any condition imposed by the Department of Planning and Zoning shall relieve any *person* from any responsibility for damage to *persons* and/or property.
18. During *grading* control operations the *permittee* shall be responsible for the prevention of damage to any *public utilities* or services within the limits of *grading* and along any routes of travel of equipment. No *person* shall grade on land so close to property lines as to endanger any adjoining public *street*, sidewalk, *alley*, or any other public or private property without supporting and

protecting such property from settling, cracking, or other damage. *Grading* can occur on adjacent property if *grading* rights are secured from the property owner. Storm drains must terminate in an *acceptable outfall*. Kent County, Maryland shall not be responsible for any drainage damage to downstream properties for failure of any work to be done pursuant to this Section.

19. No *soil*, miscellaneous debris, or other spilled or dumped material is to be deposited in floodplains, *watercourses*, public *streets*, highways, sidewalks, or other public thoroughfares during transit or operation.
20. The owner of any property on which *grading* or other work has been done under the provisions of this Section shall maintain and/or promptly repair or restore all graded surfaces, *erosion* control measures, vegetative covers and/or other protective measures if disturbed or destroyed during the course of operations. Repair and restoration shall be in conformance with the approved plans until permanent measures are accepted by the Department of Planning and Zoning.

9.5 STEEP SLOPE REQUIREMENTS

1. *Development* may occur within steep slope areas provided that a minimum of 30% of the *lot* or parcel upon which the principal *structure* is to be situated is less than 10% grade and is contiguous to a road meeting Kent County design standards. The extent of cutting and filling that will be permitted on any *lot* will be based on the *soil* conditions at the *site* and as determined by the Department of Planning and Zoning upon recommendation of the Kent Soil and Water Conservation District. Construction on piling and/or supports shall be permitted.
2. All *roads* and *streets* shall be placed as close to the contour as possible, to minimize cutting and filling.
3. The construction of all *structures* shall be preceded by the installation of storm drainage system(s) and *stabilization* measures.
4. In the case of a single *lot development* within such areas where no central storm drainage system exists, runoff from driveways, roofs, and other improved surfaces shall be diverted and carried to an acceptable outlet by one or a combination of the following methods: filtration beds, subsurface dry wells, storm drainage systems and/or underground conduit systems or other adequate or protected outlets.

9.6 VEGETATIVE REQUIREMENTS

Vegetative *erosion* and sediment control measures shall include, but not be limited to, the following:

1. Following initial *soil* disturbance or redisturbance, permanent or temporary *stabilization* on areas not under active grading shall be completed within:
 - a. Three calendar days as to the surface of all perimeter dykes, swales, ditches, perimeter *slopes*, and all *slopes* greater than three to one (3:1).*
 - b. Seven days as to all other disturbed or graded areas on the project *site*.*
2. Temporary Vegetative *Stabilization*. Areas where *grading* or cutting and filling operations are carried out in several stages that expose *soil* to *erosion* for six months shall be temporarily stabilized by seeding.* The necessary steps to be followed to attain adequate *erosion* control coverage with temporary seeding shall be as follows:
 - a. Necessary *erosion* control practices

- b. Seedbed preparation
 - c. Lime and fertilizer as required
 - d. Seeding
 - e. Mulching and mulch anchoring as required
3. Temporary Mulch *Stabilization*. The necessary steps to attain effective *erosion* control with mulch for short periods of time (less than six months) shall be as follows:
- a. Necessary *erosion* control practices
 - b. Mulching placed on a friable *soil*
 - c. Mulch anchoring as required
4. Mulching Final Grade. The necessary steps to protect *soil* from *erosion* after final *grading* where permanent seeding is delayed until the next season shall be as follows:
- a. Installation of *erosion* control practices as previously provided or required.
 - b. Application of required lime or fertilizer.
 - c. Preparation of final seedbed.
 - d. Mulching as required.
 - e. Mulch anchoring as required.
 - f. Secondary seeding shall be established during the first season following mulching.
5. Permanent Vegetative *Stabilization*. Adapted grasses, legumes, and other plants are available for stabilizing exposed areas. The final choice of species should be determined by considering such factors as adaptability to climate, *soils* and terrain and degree of maintenance. Steps necessary to establish permanent vegetative *stabilization* are as follows:
- a. Install required *erosion* control practices.
 - b. Apply required lime and fertilizer
 - c. Prepare adequate seedbed.
 - d. Seed or sod.
 - e. Apply mulch and anchor for seed and sod.

9.7 STRUCTURAL REQUIREMENTS

Structural *erosion* and sediment control measures shall include, but not be limited to, those described and depicted in the "Standards and Specifications for Soil Erosion and Sediment Control" booklet as approved, adopted, and as may be amended by the Maryland Department of the Environment.

1. Fills and Classifications. The *grading* plans and specifications shall specify and delineate the use and extent of fills in accordance with the following classifications:
- a. Type I *Fill*. *Load-bearing fills* proposed for support of *buildings*, walls, and other *structures*, the function thereof which would not be especially impaired by moderate settlement.
 - b. Type II *Fill*. *Load-bearing fills* proposed for support of *roadways*, pavements, utility lines and *structures* that would not be especially impaired by moderate settlement.
 - c. Type III *Fill*. Common fills proposed for landscaping or for other non-load bearing usage.
2. Materials. All *load-bearing fills* shall meet the following requirements:
- a. No inclusions of organic or other deleterious materials which may be subject to decay shall be permitted. All fills shall also be free of inclusions of ice or snow.
 - b. No rock or similar irreducible material with a maximum dimension greater than eight inches shall be buried or placed in any *load-bearing fill* within two feet of *finished grade* or within two feet of foundation base elevation. When such material is placed in fills, it shall be done under the direction and supervision of an *engineer*.

3. Preparation of Ground. The natural ground surface shall be prepared to receive *fill* by removing all organic surface materials, non-complying *fill* and unsuitable *soils* in accordance with the following provisions, except as otherwise approved by the Department of Planning and Zoning:
 - a. Prior to placing Type I and Type II fills, the ground surface, if within five feet of *finished grade* or foundation base, elevations shall be compacted so as to achieve a density of not less than 90% of maximum density as defined under Article VI, Section 9.6.4 of this Ordinance within the top six inches.
 - b. No Type I and Type II *fill* shall be placed on frozen ground.

4. *Compaction*. All fills will be compacted in accordance with the following provisions:
 - a. All Type I and Type II fills shall be compacted to a minimum of 95% and 90%, respectively, and maximum density as determined in the laboratory of *ASTM* Test Method D1557-66T, also known as the proctor test. Type III *fill* shall be compacted sufficiently so as to be stable and to prevent an *erosion* hazard.
 - b. In place (field) density shall be determined by *ASTM* Test of American Society of Highway Officials Equivalent Test Method D1556-64 or by an equivalent test approved by the Kent County Department of Planning and Zoning.
 - c. Fills shall be placed in approximately horizontal layers, each layer having a loose thickness of not more than eight inches.

5. Structural Rock. Fills constructed predominately of large rock (such as sandstone and iron concretions) will be permitted only if the specifications for such *fill* are prepared by and construction done under the direction and supervision of an *engineer*.

6. Maximum *Slope* for Fills.
 - a. No *fill* shall be made which creates an exposed surface steeper in *slope* than two horizontal to one vertical (2 to 1), unless special approval is granted by the Kent County Soil and Water Conservation District.
 - b. The Department of Planning and Zoning may require that the *fill* be constructed with an exposed surface with a grade flatter than 2 to 1 or may require such other measures it deems necessary for stability, vegetative establishment and maintenance, and safety.
 - c. Fills toeing out on natural *slopes* at a grade steeper than three horizontal to one vertical (3 to 1) shall not be made unless approved by the Department of Planning and Zoning.

7. Maximum *Slope* for Cuts.
 - a. Cuts shall not be made with a *slope* steeper than 2 to 1.
 - b. The Department of Planning and Zoning shall require at any time that the *excavation* be made with a *cut* face with a grade flatter than 2 to 1 or may require other such measures for stability, vegetative establishments, and safety.

8. *Cut and Fill Slopes - Bench terraces*.
 - a. *Cut* and *fill slopes* in excess of 30 feet but not more than 40 feet in vertical height shall be terraced at approximate mid-height. Terraces in *slopes* with a vertical height greater than 40 feet shall be made at equal vertical intervals not more than 20 feet apart. Depending upon *soil* conditions, terraces may be required of closer intervals by the Department of Planning and Zoning as it deems necessary for stability, vegetative establishment and maintenance, and safety. *Bench terraces* shall be a minimum of 6 feet wide with an absolute minimum invert gradient between 2 and 3%, with a six to one, or flatter, lateral *slope* towards the toe of the upper bank, and must convey water with minimum six inch free-board to an acceptable outlet.

- b. Cuts and fills shall be set back from property lines and *buildings* shall be set back from *cut* or *fill slopes* in accordance with the diagrams entitled “*Slope Setback From Property Line*” and a certified copy of which shall permanently be kept on file with the Department of Planning and Zoning.
 - c. *Fill* placed above the top of an existing or proposed surface with a *slope* steeper than three horizontal to one vertical shall be set back from the top of the *slope* a minimum distance of six feet.
 - d. The setbacks established by Article VI, Section 9.7.8 of this Ordinance are minimum and, depending on *soil* conditions, may be increased by the Department of Planning and Zoning if deemed necessary for safety or stability or to prevent damage from water, *soil*, or debris.
 - e. Notwithstanding anything to the contrary, the Department of Planning and Zoning may reduce the required setback where the necessity for the setback may be eliminated or reduced by the construction of retaining walls or if the owner has a letter of authorization to extend *slopes* onto the adjacent property.
9. Existing natural and man-made features, such as *streets*, *watercourses*, falls, beaches, vistas, historic or architecturally significant *buildings*, and similar irreplaceable assets, should be preserved through harmonious and careful *development*, insofar as possible.
10. Drainage. The following provisions apply to the conveyance and disposal of surface water runoff:
- a. Disposal - all drainage facilities shall be designed to convey surface water in such a manner as to prevent *erosion*, overflow or ponding. Said water shall be conveyed to an acceptable outlet in accordance with such applicable design, criteria standards and procedures as required by the Department of Planning and Zoning. The ponding of water shall not be permitted above the *cut* and *fill slopes* or on drainage terraces. Adequate drainage facilities shall be provided to prevent such ponding.
 - b. *Erosion* Prevention - The *permittee* and the owner shall make adequate provisions to prevent any surface and/or groundwater from materially damaging the face of any *cut* or *fill*. All *slopes* shall be protected from surface runoff from above by *berms*, swales, or brow ditches.
 - c. *Grading Around Buildings* - All areas shall be graded to provide for positive drainage away from the *building* toward the approved disposal area.
 - d. Retention and *Infiltration* - Subject to the requirements and recommendations of the Kent County Soil and Water Conservation District and the Department of the Environment, measures such as *infiltration* beds, dry walls, and retention ponds may be used to allow storm water runoff to percolate into the *soil*.

9.8 REVIEW AND APPROVAL OF EROSION AND SEDIMENT CONTROL PLANS*

- 1. A person may not grade land without an erosion and sediment control plan approved by the *approving agency*.
- 2. The *approving agency* shall review erosion and sediment control plans to determine compliance with this Ordinance and the Standards and Specifications prior to approval. In approving the plan, the *approving agency* may impose such conditions that may be deemed necessary to ensure compliance with the provisions of this Ordinance, COMAR 26.17.01, the Standards and Specifications, and the preservation of public health and safety.

3. At a minimum, a concept plan must include the mapping of natural resources and sensitive areas including highly erodible soils and slopes greater than 15% as well as information required under Stormwater Management. These areas are to remain undisturbed or an explanation must be included with either the concept or site development plan describing enhanced protection strategies for these areas during construction.
4. A site development plan submittal must include all concept plan information and indicate how proposed erosion and sediment control practices will be integrated with proposed stormwater management practices. The latter is to be done through a narrative and an overlay plan showing both Environmental Site Design (ESD) and erosion and sediment control practices. An initial sequence of construction and proposed project phasing to achieve the grading unit restriction should be submitted at this time.
5. An applicant shall submit a final erosion and sediment control plan to the *approving agency* for review and approval. The plan must include all of the information required by the concept and site development plans as well as any information in Section 9.9 not already submitted.
6. A final erosion and sediment control plan shall not be considered approved without the inclusion of the signature and date of signature of the *approving agency* on the plan.
7. Approved plans remain valid for three (3) years from the date of approval unless extended or renewed by the *approving agency*. **
8. Grandfathering of Approved Plans:
 - a. Any plans that receive final approval after January 9, 2013, must be in compliance with the requirements of this Section and the Standards and Specifications.
 - b. A plan that receives final approval by January 9, 2013, may be reapproved under its existing conditions if grading activities have begun on the site by January 9, 2015, with the exception of stabilization requirements.
 - c. Stabilization practices on all sites must be in compliance with the requirements of this Section and the Standards and Specifications by January 9, 2013, regardless of when an approved erosion and sediment control plan was approved.

9.9 CONTENTS OF EROSION AND SEDIMENT CONTROL PLANS*

1. An applicant is responsible for submitting erosion and sediment control plans that meet the requirements of the *approving agency*, this Section, Stormwater Management, and the Standards and Specifications. The plans shall include sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed grading on water resources, and the effectiveness and acceptability of measures proposed to minimize soil erosion and off-site sedimentation.
2. At a minimum, applicants shall submit the following information:
 - a. A letter of transmittal and/or application;
 - b. Name, address, and telephone number of:
 - i. The owner of the property where the grading is proposed;
 - ii. The developer; and
 - iii. The applicant;
 - c. A vicinity map indicating north arrow, scale, site location, and other information necessary to easily locate the property;

- d. Drainage area map(s) at a 1" = 200' minimum scale showing existing, interim, and proposed topography, proposed improvements, standard symbols for proposed sediment control features, and pertinent drainage information including provisions to protect downstream areas from erosion for a minimum of 200 feet downstream or to the next conveyance system;
- e. The location of natural resources, wetlands, floodplains, highly erodible soils, slopes 15% and steeper, and any other sensitive areas;
- f. A general description of the predominant soil types on the site, as described by the appropriate soil survey information available through the local soil conservation district or the USDA Natural Resources Soil Conservation Service;
- g. Proposed stormwater management practices;
- h. Erosion and sediment control plans including:
 - i. The existing topography and improvements as well as proposed topography and improvements at a scale between 1" = 10' and 1" = 50' with 2 foot contours or other approved contour interval. For projects with more than minor grading, interim contours may also be required;
 - ii. Scale, project and sheet title, and north arrow on each plan sheet;
 - iii. The limit of disturbance (LOD) including:
 - a) Limit of grading (grading units, if applicable); and
 - b) Initial, interim, and final phases;
 - iv. The proposed grading and earth disturbance including:
 - a) Total disturbed area;
 - b) Volume of cut and fill quantities; and
 - c) Volume of borrow and spoil quantities;
 - v. Storm drainage features, including:
 - a) Existing and proposed bridges, storm drains, culverts, outfalls, etc.;
 - b) Velocities and peak flow rates at outfalls for the two-year and ten-year frequency storm events; and
 - c) Site conditions around points of all surface water discharge from the site;
 - vi. Erosion and sediment control practices to minimize on-site erosion and prevent off-site sedimentation including:
 - a) The salvage and reuse of topsoil;
 - b) Phased construction and implementation of grading unit(s) to minimize disturbances, both in extent and duration;
 - c) Location and type of all proposed sediment control practices;
 - d) Design details and data for all erosion and sediment control practices; and
 - e) Specifications for temporary and permanent stabilization measures including, at a minimum:
 - (i) The "Standard Stabilization Note" on the plan stating:
 "Following initial soil disturbance or re-disturbance, permanent or temporary stabilization must be completed within:
 - (a) Three calendar days as to the surface of all perimeter dikes, swales, ditches, perimeter slopes, and all slopes steeper than 3 horizontal to 1 vertical (3:1); and
 - (b) Seven calendar days as to all other disturbed or graded areas on the project site not under active grading."
 - (ii) Details for areas requiring accelerated stabilization; and
 - (iii) Maintenance requirements as defined in the Standards and Specifications;

- vii. A sequence of construction describing the relationship between the implementation and maintenance of controls, including permanent and temporary stabilization, and the various stages or phases of earth disturbance and construction. Any changes or revisions to the sequence of construction must be approved by the *approving agency* prior to proceeding with construction. The sequence of construction, at a minimum, must include the following:
 - a) Request for a pre-construction meeting with the appropriate enforcement authority;
 - b) Clearing and grubbing as necessary for the installation of perimeter controls;
 - c) Construction and stabilization of perimeter controls;
 - d) Remaining clearing and grubbing within installed perimeter controls;
 - e) Road grading;
 - f) Grading for the remainder of the site;
 - g) Utility installation and connections to existing structures;
 - h) Construction of buildings, roads, and other construction;
 - i) Final grading, landscaping, and stabilization;
 - j) Installation of stormwater management measures;
 - k) Approval of the appropriate enforcement authority prior to removal of sediment controls; and
 - l) Removal of controls and stabilization of areas that are disturbed by removal of sediment controls.
- viii. A statement requiring the owner/developer or representative to contact the inspection agency or its agent at the following stages of the project or in accordance with the approved erosion and sediment control plan, grading permit, or building permit:
 - a) Prior to the start of earth disturbance;
 - b) Upon completion of the installation of perimeter erosion and sediment controls, but before proceeding with any other earth disturbance or grading;
 - c) Prior to the start of another phase of construction or opening of another grading unit; and
 - d) Prior to the removal of sediment control practices;
- ix. Certification by the owner/developer that any clearing, grading, construction, or *development* will be done pursuant to the approved erosion and sediment control plan. The certification must also require that the responsible personnel involved in the construction project have a Certificate of Training at an MDE approved training program for the control of erosion and sediment prior to beginning the project. The Certificate of Training for Responsible Personnel may be waived by the *approving agency* on any project involving four or fewer residential lots. Additionally, the owner/developer shall allow right of entry for periodic on-site evaluation by the *approving agency*, Department of Planning and Zoning, the inspection agency, and/or MDE; and
- x. Certification by a professional engineer, land surveyor, landscape architect, architect, or forester (for forest harvest operations only) registered in the State that the plans have been designed in accordance with erosion and sediment control laws, regulations, and standards, if required by the *approving agency* or the Maryland Water Management Administration.
 - i. Any additional information or data deemed appropriate by the *approving agency*.

3. All plans shall conform to the following terms and conditions:
 - a. The *development* shall be fitted to the *topography* and *soils* so as to create the least *erosion* potential.
 - b. *Natural vegetation* shall be retained and protected wherever possible.
 - c. Only the smallest practical area shall be exposed for the shortest practical period of time.
 - d. *Erosion* control practices (such as interceptor ditches, *berms*, terraces, contour ripping, *soil erosion* checks and sediment basins) shall be installed to minimize *soil* and water losses.
 - e. Temporary vegetation and/or mulching shall be used to protect critical areas exposed during the time of *development*.
 - f. During and after *development*, provisions shall be made to effectively accommodate the increased runoff caused by changeable *soil* and surface conditions and not cause siltation, destruction, or deterioration of the receiving stream.
 - g. Permanent vegetation and *structures* shall be installed in the *development* as soon as the season permits.

9.10 SECURITIES

1. Bonds.
 - a. A *grading* permit shall not be issued for *grading* involving the movement of more than 1,000 cubic yards of *soils* unless the *permittee* shall post with the Department of Planning and Zoning a performance bond, letter of credit or other surety. The bond, irrevocable letter of credit or other surety shall be in a form approved by the County Attorney and in an amount not less than the total estimated cost of the *erosion* control and *stabilization* of the *site*. Said estimated cost shall be that which is approved by the Department of Planning and Zoning or in consultation with the Kent Soil and Water Conservation District after reviewing the cost estimates proposed by the applicant's acceptable *engineer*, *land surveyor*, or *architect* and submitted with the *grading* permit application.
 - b. The bond, irrevocable letter of credit or other surety shall include the following provisions:
 - i. The applicant shall comply with all of the provisions of this Ordinance and all other applicable laws and ordinances.
 - ii. The applicant shall comply with all of the terms and conditions of the *grading* permit.
 - iii. Any extension of completion time under Article VI, Section 9.4.15 of this Ordinance shall not release the applicant or surety on the bond, irrevocable letter of credit, or other surety.
 - iv. Upon default, the applicant and surety shall continue to be firmly bound under a continuing obligation for payment of one of the following at the election of the surety:
 - a) All costs and expenses necessary to complete the work in accordance with the approved plans and specifications (or any approved modification thereof).
 - b) All necessary costs and expenses or liabilities which may be incurred to stabilize in accordance with a *stabilization* plan for *erosion* control presented by the surety and approved by Kent County.
 - c) Payment of the full amount of the bond to Kent County to perform the work necessary. If the cost for restoration of the *site* to meet the minimum requirements of this Section (with particular emphases on stability, safety, drainage, and *erosion* control) exceeds the amount of the bond, the *permittee* shall continue to be firmly bound under a continuing obligation for payment of all excess cost and expenses incurred by the county.

- c. The bond, irrevocable letter of credit or other surety shall remain in full force and effect until the completion of the work to the specifications required. If all work of the permit is not completed within the time specified therein, or as otherwise provided for in Article VI, Section 9.4.15 of this Ordinance or violates any other term or condition, payment in full to Kent County may be ordered. The funds so received shall be used by the County for defraying the cost of restoration of the *site*. Upon approval of a certificate of completion, the bond, irrevocable letter of credit or other surety shall be released.

9.11 HAZARDOUS CONDITIONS

1. If the Department of Planning and Zoning determines that an *excavation, embankment, or a fill* endangers or adversely affects the safety or stability of any public or private property, as determined from the guidelines of this Ordinance, the Planning Director, or the Planning Director's designee, shall promptly notify in writing the owner (or other *persons* in control) of the property upon which the condition exists.
2. If the correction is not commenced in accordance with the provisions of the Ordinance within the period of time specified in the notice, the owners (or other *persons* in control) shall be subject to the penalties set forth in Article XII of this Ordinance.

9.12 INSPECTIONS

1. All work shall be inspected by the Department of Planning and Zoning according to the following schedule.
 - a. *Clearing* and *grubbing* for those areas necessary for installation of perimeter controls.
 - b. Completion of perimeter controls.
 - c. Remaining *clearing* and *grubbing*.
 - d. Road *grading*
 - e. *Grading* for remainder of the *site*.
 - f. Utility and storm drain installation.
 - g. Final *grading*, landscaping, or *stabilization*.
 - h. Removal of controls and maintenance.
 - i. At other times determined by the Department of Planning and Zoning.
 - j. Every two weeks, for compliance with approved sediment control plans.
2. It shall be a condition of every *grading* or building permit that the inspection agency has the right to enter the property periodically to inspect for compliance with the approved erosion and sediment control plan and this Ordinance.
3. Inspection Procedure. Work approved shall not proceed until the Department of Planning and Zoning inspects the *site* and approves the work previously completed or notifies the *permittee* otherwise. Upon notification from the *permittee*, the Department of Planning and Zoning shall inspect the *site* and notify the *permittee* of its approval or rejection within forty-eight (48) hours (exclusive of Saturdays, Sundays, and Holidays). If the inspector does not make an inspection within the specified time period, work may proceed without presumption of approval at the risk of the *permittee*. The Department of Planning and Zoning shall have the right to waive inspections except final inspection as necessary.

4. Inspection Reports.
 - a. Written reports: Structural *erosion* and sediment control measures shall include, but not be limited to, those described and depicted in the booklet entitled "Standards and Specifications for Soil Erosion Control" as approved by the Maryland Department of the Environment. This booklet, as currently amended, is readily available at offices of the Kent County Department of Planning and Zoning, 400 High Street, Chestertown, Maryland; Kent County Soil and Water Conservation District, Chestertown, Maryland; Natural Resources Conservation Service, Chestertown, Maryland; and the Maryland Department of the Environment.
 - b. Written inspection reports shall be completed by the inspector for all inspections. The reports shall include, at minimum:
 - i. Date and location of *site* inspection
 - ii. Degree of plan implementation
 - iii. Deficiencies of plan or practice
 - iv. Enforcement action taken, if any
 - v. A time frame for corrective measures
5. When required by the Kent County Department of Planning and Zoning, inspections and testing shall be performed under the direction of an *engineer*, *land surveyor* or *architect* who shall certify all inspection reports and tests results. Such reports shall include *certification* by an *engineer* for the adequacy of:
 - a. Cleared areas and benched or keyed surfaces prepared to receive fills.
 - b. Removal of unsuitable materials.
 - c. Construction of *erosion* control or drainage devices, buttress fills, under-drains, retaining walls, and other *grading* appurtenances.
 - d. The degree of *compaction* where tests are performed.
6. All certified inspection reports and certified test results shall be periodically submitted to the Department of Planning and Zoning, during the performance of the work.
7. Final Reports. The Department of Planning and Zoning shall maintain permanent files on their respective inspections. Upon completion of permitted work, the Department of Planning and Zoning shall require the following for these files and shall also require copies for the Kent County Soil and Water Conservation District.
 - a. An as-built original plan by a *land surveyor* or *engineer* and showing all improvements and final grades with red line alterations allowed.
 - b. *Certification* by the owner that all *grading*, drainage, *erosion* control measures, and facilities and vegetative measures have been completed in conformance with the approved plans and specifications.
 - c. A report summarizing the inspection reports, field and laboratory tests and locations of tests.
8. Final Inspection Request
The *permittee* or the *permittee's* agent shall notify the Department of Planning and Zoning when the *grading* operation is ready for final inspection. Final approval shall be given in a timely manner when all work (including installation of all drainage *structures* and *erosion* protective devices) has been completed as well as the required vegetative *stabilization* and the required reports have been submitted.

THIS PAGE INTENTIONALLY LEFT BLANK

SECTION 10 STORMWATER MANAGEMENT *

10.1 INTENT

The purpose of this ordinance is to protect, maintain and enhance the public health, safety and general welfare by establishing minimum requirements and procedures to 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 (BMP)* 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.

10.2 AUTHORITY; EXPLANATION OF PROVISIONS

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 Code of Public Local Laws of Kent County and shall apply to all *development* or *redevelopment* occurring within the unincorporated area of Kent County. The application of this ordinance and the 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 County shall be responsible for the coordination and enforcement of the provisions of this Ordinance. Any *development* that has not received final approval for erosion and sediment control and *stormwater* management plans by May 4, 2010 shall comply with the 2010 revised Ordinance, unless the *development* or *redevelopment* is granted an administrative *waiver* under Article VI, Section 10.4 of this Ordinance.

10.3 INCORPORATION BY REFERENCE

The 2000 Maryland *Stormwater* Design Manual, Volumes I & II (Maryland Department of the Environment, April 2000 and as may be amended), shall be incorporated by reference and shall serve as the official guide for *stormwater* management principles, methods, and practices.

The USDA Natural Resources Conservation Service Maryland Conservation Practice Standard Pond Code 378 (January 2000 and as may be amended) shall be incorporated by reference.

10.4 GRANDFATHERING

A. DEFINITIONS APPLICABLE TO THE GRANDFATHERING

For the purpose of determining the grandfathering of development *stormwater* management plans as set forth in Article VI, Section 10.4B of this Ordinance certain words are hereby defined.

1. *Administrative Waiver*: A decision by Kent County pursuant to this Ordinance to allow the construction of a *development* 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 Article IX, Section 3.2 of this Ordinance.
2. *Approval*: A documented action by Kent County following a review to determine and acknowledge the sufficiency of submitted material to meet the requirements of a specified stage in a local development review process. Approval does not mean acknowledgment by Kent County that material has been received for review.

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 approval also includes securing the bonding or financing for final development plans if required as a prerequisite for approval.
4. Preliminary Project Approval: Approval of the preliminary development plan that includes at a minimum:
 - a. The number of planned dwelling units or lots
 - b. The proposed 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.
 - e. Any other information required by Kent County 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 services are adequate; and
 - iii. The size, type, and general location of all proposed wastewater and water system infrastructure.

B. ADMINISTRATIVE *WAIVERS*

Kent County may grant an administrative *waiver* to a *development* that received a preliminary project approval prior to May 4, 2010. Administrative *waivers* expire according to Article VI, Section 10.4C of this Ordinance and may be extended according to Article VI, Section 10.4D of this Ordinance. Kent County may impose such conditions upon the approval of an administrative *waiver* deemed necessary to secure compliance with the spirit and intent of this Ordinance.

C. EXPIRATION OF ADMINISTRATIVE *WAIVERS*

Except as provide for in Article VI, Section 10.4D of this Ordinance, an administrative *waiver* shall expire on May 4, 2013 if the *development* does not receive final project approval prior to May 4, 2013 or May 4, 2017 if the *development* receives final approval prior to May 4, 2013. All construction authorized pursuant to an administrative *waiver* must be completed by May 4, 2017 unless otherwise extended according to Article VI, Section 10.5D of this Ordinance. Administrative *waivers* which receive an extension shall expire according to the requirements of Article VI, Section 10.4D of this Ordinance.

D. EXTENSION OF ADMINISTRATIVE *WAIVERS*

1. In order to grant an extension to an administrative *waiver*, Kent County shall find the following:
 - a. The project received preliminary project approval prior to May 4, 2010; and
 - b. The project was subject to a Development Rights and Responsibilities Agreement, a Tax Increment Financing Approval, or an annexation agreement.
2. Administrative *waivers* which receive an extension shall expire with the expiration of the Developers Rights and Responsibilities Agreement, the Tax Increment Financing approval or the Annexation agreement.

10.5 SCOPE

No person shall develop any land for residential, commercial, industrial, or institutional uses or redevelop land without having provided for appropriate *stormwater* management measures that control or manage runoff from such developments, except as provided in this section. *Stormwater* management measures must be designed consistent with the Design Manual and constructed according to an approved plan for new *development* or polices stated in Article VI, Section 10.7 of this Ordinance for *redevelopment*.

10.6 EXEMPTIONS

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

1. Normally accepted agricultural land management activities and *BMPs*, (i.e. waterways, ponds, etc.)
2. Additions or modifications to existing single family detached residential *structures* provided that these additions or modifications do not disturb over 5,000 square feet of land.
3. Developments that do not disturb over 5,000 square feet of land.
4. Land development activities that the Maryland Department of the Environment determines will be regulated under specific state laws, which provide for managing *stormwater* runoff.

10.7 REDEVELOPMENT

This section applies to any construction, alteration, or improvement performed on sites where existing land use is commercial, industrial, institutional, or multi-family residential and existing *site* impervious area exceeds forty (40) percent.

1. *Stormwater* management plans are required by Kent County for all *redevelopment*, unless otherwise specified by *watershed* management plans developed according to this Ordinance. *Stormwater* management measures shall be consistent with the Design Manual.
2. All *redevelopment* designs shall:
 - a. Reduce *impervious surface* area within the limit of disturbance (LOD) by at least 50% according to the Design Manual;
 - b. Implement *ESD* to *MEP* to provide water quality treatment for at least 50% of the existing *impervious surface* area within the limit of disturbance; or
 - c. Use a combination of 10.7 2a and 2b of this Ordinance for at least 50% of the existing *site* impervious area.
3. Alternative *stormwater* management measures may be used to meet the requirements of Article VI, Section 10.7.2 of this Ordinance if the *applicant* satisfactorily demonstrates to the County that impervious area reduction has been maximized and *ESD* has been implemented to the *MEP*. Alternative *stormwater* management measures include, but are not limited to:
 - a. An on-site structural *BMP*;
 - b. An off-site *BMP* to provide water quality treatment for an area equal to or greater than 50% of the existing impervious area; or

- c. A combination of impervious area reduction, *environmental site design* implementation, and an on-site or off-site structural Best Management Practice for an area equal to or greater than 50% of the existing *site impervious surface* area within the limit of disturbance.
4. Kent County may develop separate policies for providing water quality treatment for *redevelopment* projects if the requirements of Article VI, Section 10.7.1 and 10.7.2 of this Ordinance cannot be met. Any separate *redevelopment* policy shall be reviewed and approved by the Maryland Department of the Environment and may include but not be limited to:
 - a. A combination of *ESD* and an on-site or offsite structural *BMP*;
 - b. *Retrofitting* including existing *BMP* upgrades, filtering practices and offsite *ESD* implementation;
 - c. Stream restoration in the same 12-digit *watershed* as the proposed *development* and an area restored equivalent to the area required for treatment.
 - d. Pollution trading with another entity.
 - e. Payment of a fee in lieu; or
 - f. A partial *waiver* of the treatment requirements if *ESD* is not practicable.
 5. The determination of alternatives available may be made by Kent County at the appropriate stage in the development review process. Kent County shall consider the prioritization of alternatives in Article VI, Section 10.7.4 of this Ordinance after it has been determined that it is not practicable to meet the 2009 regulatory requirements using *ESD*. In deciding the alternatives that may be required, Kent County may consider factors including but not limited to the following:
 - a. Whether the project is in an area targeted for development incentives such as a Priority Funding Area;
 - b. Whether the project is necessary to accommodate growth consistent with the Comprehensive Plan; or
 - c. Whether bonding or other financing mechanisms have been secured based on an approved development plan.
 6. *Stormwater* management shall be addressed according to the new *development* requirements in the Design Manual for any net increase in impervious areas.

10.8 STORMWATER MINIMUM CONTROL STANDARDS

Stormwater management shall be accomplished for all new *development* according to the minimum requirements established in this section and the Design Manual as follows:

1. All *planning techniques*, nonstructural practices, and design methods specified in the Design Manual shall be used to implement *ESD* to the *MEP*. The use of *environmental site design planning techniques* and treatment practices shall 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 10-year frequency storm event is required according to the Design Manual if the County determines that additional *stormwater* management is necessary because historical flooding problems exist and downstream floodplain development and conveyance system design cannot be controlled.

3. Kent County 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.
4. Alternate minimum control requirements may be adopted subject to approval by the Maryland Department of the Environment. The Maryland Department of the Environment 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.
5. *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.

10.9 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. The *applicant* shall demonstrate that *ESD* has been implemented to the *MEP* before the use of a structural Best Management Plan is considered in developing the *stormwater* management plan.

A. ENVIRONMENTAL SITE DESIGN 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 Article VI, Section 10.8 of this Ordinance:
 - a. Preserving and protecting natural resources
 - b. Conserving natural drainage patterns
 - c. Minimizing impervious areas
 - d. Reducing runoff volume
 - e. Using *ESD* practices to maintain 100% of the annual predevelopment groundwater *recharge volume*.
2. The following *ESD* practices shall be designed according to the Design Manual to satisfy the applicable minimum control requirements established in Article VI, Section 10.8 of this Ordinance.
 - a. Disconnection of rooftop runoff
 - b. Disconnection of non-rooftop runoff
 - c. Sheet flow to conservation areas
 - d. Rainwater harvesting, including rain barrels, rainwater tanks, and cisterns.
 - e. Submerged gravel wetlands
 - f. Landscape infiltration
 - g. Infiltration berms
 - h. Dry wells
 - i. Micro-bioretenion
 - j. Rain gardens

- k. Swales
- l. Enhanced Filters
- m. Any practice approved by the Maryland Department of Environment

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 County shall modify ordinances and 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 Article VI, Section 10.8 in this Ordinance:

- a. *Stormwater* management ponds
- b. *Stormwater* management wetlands
- c. *Stormwater* management infiltration
- d. *Stormwater* management filtering systems
- e. *Stormwater* management open channel systems

2. When selecting structural *stormwater* management practices, the *applicant* shall consider the performance criteria specified in the Design Manual with regard to general feasibility, conveyance, pretreatment, treatment and geometry, environment and landscaping, and maintenance.

3. Structural *stormwater* management practices shall be selected to accommodate the unique hydrologic or geologic regions of the State.

C. ALTERNATIVE PRACTICES AND MEASURES

Alternative *ESD planning techniques* and treatment practices and structural *stormwater* measures may be used for new development runoff control if the practices and measures meet the performance criteria in the Design Manual and all subsequent revisions and are approved by the Maryland Department of Environment. Practices used for *redevelopment* projects shall be approved by the County.

D. RECORDATION OF PRACTICES AND MEASURES

ESD techniques and treatment practices and structural *stormwater* management measures used to satisfy the minimum requirements in Article VI, Section 10.8 of this Ordinance must be recorded in the land records of Kent County and remain unaltered by subsequent property owners. Prior approval from the County shall be obtained before any *stormwater* management practice is altered.

E. MODIFICATION

For purposes of modifying the minimum control requirements or design criteria, the *applicant* shall submit an analysis to the County of the impacts of *stormwater* flows downstream in the *watershed*. The analysis shall include hydrologic and hydraulic calculations necessary to determine the impact of hydrographic timing modifications of the proposed *development* upon a dam, highway, *structure*, or natural point of restricted stream flow. The point of investigation shall be established with the concurrence of the County downstream of the first downstream tributary whose *drainage area* equals or exceeds the contributing area to the project or *stormwater* management facility.

10.10 SPECIFIC DESIGN CRITERIA

The basic design criteria, methodologies, and construction specifications, subject to the approval of Kent County and the Maryland Department of Environment shall be those of the Design Manual.

10.11 *STORMWATER* MANAGEMENT PLANS - REVIEW AND APPROVAL

1. For any proposed *development* a phased *stormwater* management plan shall be submitted to the County for review and approval. Unless otherwise determined by the County, plans shall be submitted for the concept, site design, and final *stormwater* management construction. When deemed appropriate by the County due to minor cumulative impacts of the *development* and when the *applicant* has demonstrated that *ESD* standards have been met to the *MEP*, the site design and final *stormwater* management construction may be combined. Site plans, subdivisions, and building permits with a total proposed lot coverage of 15% and total land disturbance less than 20,000 square feet may combine all review phases when the *applicant* has demonstrated that *ESD* standards have been met to the *MEP* using the Standard Plan. Sites Plans and building permits that meet the criteria outlined on the Standard *Stormwater* Plan may utilize the Standard *Stormwater* Management Plan.
2. Conceptual *stormwater* management plans should be submitted with conceptual site or subdivision plans and shall include sufficient information for an initial assessment of the proposed project and proposed *stormwater*. The concept review process will review at a conceptual level, the feasibility, design and environmental characteristics of the proposal with a goal to ensure that significant natural areas are protected and to determine if *stormwater* management can be provided according the *Stormwater* Management Measures identified in Article VI, Section 10.9 of this Ordinance.
3. Following conceptual approval and where applicable in conjunction with the preliminary site or subdivision plan, the *applicant* shall submit a *site development plan*. The *site development plan* shall include detailed designs for *stormwater* management and erosion and sediment control. The *site development plan* process will review the plan to ensure that all options for implementing *ESD* have been exhausted and comments received during conceptual review have been incorporated into the *site development plan*.
4. Following *site development plan* approval and where applicable in conjunction with the final site or subdivision plan and the sediment and erosion control plan, the *applicant* shall submit a *final stormwater management plan*. The *final stormwater management plan* shall include *stormwater* construction drawings accompanied by a report that includes sufficient information to evaluate the effectiveness of the proposed runoff control design. The final *stormwater* plan process will review the plan and supporting documents for compliance with all applicable regulations and to ensure that when structural practices are used, all reasonable options for implementing *ESD* have been exhausted.
5. The County shall perform a comprehensive review of the *stormwater* management plans for each phase of the site design. Coordinated comments will be provided for each plan phase that reflects input from all appropriate agencies including but not limited to the Kent Soil and Water Conservation District, the Department of Planning, Housing, and Zoning, and the Department of Public Works. All comments shall be addressed and reflected in the next phase of project design.

6. The *stormwater* management plan shall not be considered approved without the inclusion of the signature and date of the signature of the Kent County designee for approval of *stormwater* management plans.

10.12 CONTENTS OF *STORMWATER* MANAGEMENT PLANS

A. *CONCEPT PLAN*

A concept *stormwater* management plan shall include:

1. Scale of 1 inch = 100 feet or greater detail
2. Vicinity map with *site* location clearly marked
3. North arrow
4. Existing natural features, water and other sensitive resources
5. *Topography*
6. Natural drainage patterns
7. Anticipated location of all proposed impervious areas, buildings, roadways, parking, sidewalks, utilities, and other *site* improvements
8. Location of the proposed limit of disturbance, erodible soils, steep slopes, and areas to be protected during construction
9. 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*
10. A narrative that supports the concept design and describes how *ESD* will be implemented to the *MEP*
11. Any other information required by the County

B. *SITE DEVELOPMENT PLAN*

A *site development plan* shall include:

1. Scale of 1 inch = 100 feet or greater detail
2. Vicinity map with *site* location clearly marked
3. North arrow
4. All the information provided in the concept *stormwater* management plan
5. Final layout
6. Exact impervious area locations and acreages

7. Proposed *topography*
8. Delineated *drainage areas* at all points of discharge from the *site*
9. *Stormwater* volume computations for *ESD* and quantity control
10. Preliminary 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 showing the types and locations of *ESD* and erosion and sediment control practices to be used
11. 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 measures
12. Any other information required by the County

C. FINAL *STORMWATER* PLAN

A final *stormwater* plan shall be of sufficient detail to permit all *stormwater* management approvals and permits to be issued and shall include:

1. Final erosion and sediment control plans submitted according to COMAR 26.17.01.05
2. Include construction drawings
3. A report that includes sufficient information to evaluate the effectiveness of the proposed runoff and control design. The report shall include but is not limited to the following:
 - a. Geotechnical investigations including soil maps, borings, *site* specific recommendations, and any additional information necessary for the final *stormwater* management design
 - b. *Drainage area* maps depicting predevelopment and post development runoff flow path segmentation and land use
 - c. Hydrologic computations of the applicable *ESD* and unified sizing criteria according to the Design Manual for all points of discharge from the *site*
 - d. Hydraulic and structural computations for all *ESD* practices and structural *stormwater* management measures to be used
 - e. Narrative that supports the final *stormwater* management design
 - f. Any other information required by the County
4. Construction drawings that include but are not limited to the following:
 - a. Vicinity Map
 - b. North arrow
 - c. Existing and proposed *topography*
 - d. Proposed *drainage areas* including areas necessary to determine downstream analysis for proposed *stormwater* management facilities
 - e. Proposed improvements including the location of buildings and other *structures*, *impervious surfaces*, storm drainage facilities, and all grading
 - f. Location of existing and proposed *structures* and utilities
 - g. Existing and proposed *easements* and rights-of-ways
 - h. Delineation of 100 year floodplains and onsite *tidal* and *non tidal wetlands*, where applicable

- i. Structural and construction details including representative cross sections for all components of the proposed drainage system or systems and *stormwater* management facilities
 - j. All necessary construction specifications
 - k. h) Sequence of construction
 - l. Data for total *site* area, disturbed area, new impervious areas, and total impervious areas
 - m. Table showing the *ESD* and unified sizing criteria volumes required in the Design Manual
 - n. Table of materials to be used for *stormwater* management facility planting
 - o. All soil boring logs and locations
 - p. Inspection and maintenance schedule
 - q. Owner's certification that all *stormwater* management construction will be done according to the approved *stormwater* management plan.
 - r. As-built certification signature block to be executed after project completion
 - s. Any other information required by the County
5. When the *stormwater* management plan involves direction of some or all runoff off the *site*, it is the responsibility of the *applicant* to obtain from the 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 the property owner's permission.

10.13 PREPARATION OF *STORMWATER* MANAGEMENT PLANS

- 1. *Stormwater* management plans shall be prepared by a professional engineer, professional land surveyor, or landscape architect licensed in the State of Maryland.
- 2. If a *stormwater BMP* requires either a dam safety permit from the Maryland Department of the Environment or small pond approval by the Kent Soil and Water Conservation District, the *stormwater* management plan shall be prepared by a professional engineer licensed in Maryland.

10.14 PERMITS

A grading or building permit may not be issued for any parcel or lot unless final erosion and sediment control and *stormwater* management plan has been approved County as meeting all the requirements of this Ordinance and the Design Manual. Where appropriate, a building permit may not be issued without:

- 1. Recorded *easements* for the *stormwater* management facility and *easements* to provide adequate access for inspection and maintenance from a public right of way.
- 2. A recorded *stormwater* management *maintenance agreement* as described in Article VI, Section 10.22.B of this Ordinance.
- 3. A performance bond, an irrevocable letter of credit or other surety; as described in this Ordinance.
- 4. Permission from adjacent property owners, as may be required.

10.15 PERMIT AND REVIEW FEES

1. The County Commissioners shall establish a schedule of fees and collection procedure for *stormwater* management review and permits. Permits fees will be based on the relative complexity of the project and may cover the cost of plan review, administration and management of the permit process, and inspection of all projects subject to this Ordinance.
2. No permits shall be issued nor action taken on amendments or other matters pertaining to this Ordinance until the fee has been paid in full.

10.16 SUSPENSION AND REVOCATION

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

1. Any violation(s) of the conditions of the *stormwater* management plan approval.
2. Changes in *site* runoff characteristics upon which an approval or *waiver* was granted.
3. Construction is not in accordance with the approved plans.
4. Non-compliance with correction notice(s) or stop-work order(s) issued for the construction of the *stormwater* management practice.
5. An immediate danger exists in a downstream area in the opinion of the County.

10.17 CONDITIONS FOR APPROVAL

In granting the plan approval, the County may impose such conditions thereto as may be deemed necessary to ensure compliance with the provisions of this Ordinance and the preservation of the public health and safety.

10.18 PERFORMANCE BONDS

The developer is required to obtain a surety, irrevocable letter of credit, or other means of security acceptable to Kent County and payable to the County Commissioners of Kent County, prior to the issuance of any building and/or grading permit for construction of a *development* requiring *stormwater* management. The amount of the security shall not be less than 125% of the total estimated construction cost of all *stormwater* management facilities and practices. The security so 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 the provisions of this Section and other applicable laws and regulations, and any time limitations. The security shall not be fully released without a final inspection of the completed work by Kent County, submission of "as-built" plans, and certification of completion by the County, that all *stormwater* management facilities and practices as being in compliance with the approved plan and the provisions of this Section. A provision may be made for partial release of the amount of the bond pro-rata upon completion and acceptance of the various stages of *development* as specifically delineated, described, and scheduled on the required plans and specifications. The provision for partial release of the surety shall be specified by Kent County in writing prior to *stormwater* management plan approval. The developer shall notify the County upon completion of each stage that is ready for inspection.

10.19 INSPECTIONS

A. INSPECTION SCHEDULE AND REPORTS

1. The owner/developer shall notify the County at least 48 hours before beginning any work in conjunction with *site* development, the *stormwater* management plan and completion of construction.
2. 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 Kent County, its authorized representative, or a certified engineer license 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.
3. Written reports shall be prepared for every inspection and shall include:
 - a. The date and location of the inspection
 - b. Whether construction was in compliance with the approved *stormwater* management plan
 - c. Any variations from the approved construction specifications
 - d. Any violations that exist
4. 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.
5. Work shall not proceed until the work previously complete is approved by the appropriate inspector and the inspector furnishes the developer with the results of the inspection reports. The inspector should provide copies of the inspection report to the developer as soon as possible after completion of each required inspection.

B. INSPECTION REQUIREMENTS DURING CONSTRUCTION

At a minimum, regular inspections shall be made and documented at the following specific stages of construction:

1. 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
 - 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
 - e. Upon completion of final grading, establishment of permanent *stabilization*
2. *Wetlands* - At all stages specified for pond construction, during and after wetlands reservoir planting, and during the second growing season to verify a vegetation survival rate of at least 50%.

3. 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*
 - e. Upon completion of final grading and establishment of permanent *stabilization*

4. Infiltration basins - At all stages specified for pond construction, during placement of and backfill of under drainage system.

5. 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 diversion *structures*, pre-filters, and filters, inlets, outlets, and flow distribution *structures*
 - e. Upon completion of final grading and establishment of permanent *stabilization*

6. 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
 - d. Upon completion of final grading and establishment of permanent *stabilization*

7. *Environmental Site Design Practices* – At the stage of construction specified in the Design Manual for each *ESD* planning technique and practice and at a minimum upon completion of final grading, the establishment of permanent *stabilization* and before issuance of use and occupancy approval.

10.20 AS-BUILT PLANS

Once construction is complete, “as-built” plan certification shall be submitted by a professional engineer or professional land surveyor licensed in the State of Maryland to ensure that *ESD* techniques, treatment practices, and structural *stormwater* management practices and conveyance systems comply with the specifications contained in the approved plan. At a minimum, “as-built” certification shall include a set of drawings comparing the approved plan with what was constructed. Other information shall be submitted as required by the County.

10.21. NOTICE TO THE MARYLAND DEPARTMENT OF THE ENVIRONMENT

Within 45 days of construction, the County shall submit a notice of construction completion to the Maryland Department of the Environment on a form supplied by the Maryland Department of the Environment for each structural *stormwater* management practice. The type, number, total *drainage area*, and total impervious area treated by all *ESD* techniques and practices shall be reported to the Maryland Department of the Environment. A notice of construction completion shall be sent to the Kent Soil and Water Conservation District when *BMPs* requiring District approval are constructed.

10.22 MAINTENANCE

A. MAINTENANCE INSPECTION

1. The County shall ensure that preventive maintenance is performed by inspecting all *ESD* treatment systems and structural *stormwater* management measures. Inspections shall occur during the first year of operation and then at least once every three years thereafter. A *maintenance agreement* between the property owner and Kent County shall be executed for privately owned *ESD* treatment practices and structural *stormwater* management measures as described Article VI, Section 10.22B of this Ordinance.
2. Inspection reports shall be maintained by the County for all *ESD* treatment systems and structural *stormwater* management measures. Inspection reports shall include the following:
 - a. Date of inspections
 - b. Name of inspector
 - c. An assessment of the quality of the *stormwater management system* related to *ESD* treatment practice efficiency and the control of runoff to the *MEP*
 - d. The condition of:
 - i. Vegetation or filter media
 - ii. Fences or other safety devices;
 - iii. Spillways, valves, or other control *structures*
 - iv. Embankments, slopes, and safety benches
 - v. Reservoir or treatment areas
 - vi. Inlet and outlet channels or *structures*
 - vii. Underground drainage
 - viii. Sediment and debris accumulation in storage or forebay areas
 - ix. Any nonstructural practice to the extent possible
 - x. Any other item that could affect the proper function of the *stormwater management system*
 - e. Description of needed maintenance
3. After notification is provided to the owner of the inspection results, the owner shall have 30 days, or other time frame to which the County, and the owner mutually agree to correct the deficiencies. The County shall then conduct an inspection to ensue completion of the repairs.
4. Failure to complete the repairs or repairs found to be improperly completed shall be considered violations and subject to the provisions of Article XII, Section 4 of this Ordinance.
5. If, after an inspection by the County, the condition of a *stormwater* management facility presents an immediate danger to the public health or safety, because of an unsafe condition or improper construction, or poor maintenance, the County, shall take such action as may be necessary to protect the public and make the facility safe. Any cost incurred by the County shall be assessed against the owner(s).

B. *MAINTENANCE AGREEMENT*

1. Prior to the issuance of any building permit for which *stormwater* management is required, the County shall require the *applicant* or owner to execute an inspection and *maintenance agreement* binding on all subsequent owners of land served by the private *stormwater* management facility. Such agreement shall provide for access to the facility at reasonable times for regular inspection by

the County, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any provisions established.

2. The agreement shall be recorded by the *applicant* and/or owner with the Kent County Clerk of Court. A copy of the recorded agreement shall be returned to the Department of Planning and Zoning.
3. The agreement shall also provide that if, after notice by the County, to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) within a reasonable period of time (thirty (30) days maximum), the County, 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, and there shall be a lien on the property, which may be placed on the tax bill and collected as ordinary taxes by Kent County.

C. MAINTENANCE RESPONSIBILITY

1. The owner of the property on which work has been done pursuant to this Ordinance for private *stormwater* management facilities, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all *ESD* practices, state 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.
2. A maintenance schedule shall be developed for the life of any *stormwater* management facility or system of *ESD* practices and shall state the maintenance to be completed, the time period for completion and who shall perform the maintenance. This maintenance schedule shall be on the *stormwater* management plan.

10.23 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 Kent County Board of Appeals. The appeal shall be filed, in writing, within thirty (30) days of the date of official transmittal of the final decision or determination to the *applicant* and shall state clearly the grounds on which the appeal is based.

THIS PAGE INTENTIONALLY LEFT BLANK